

EUROLATAM LEX

International Journal for Lawyers

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ITALIAN
LABOR
POLICIES.

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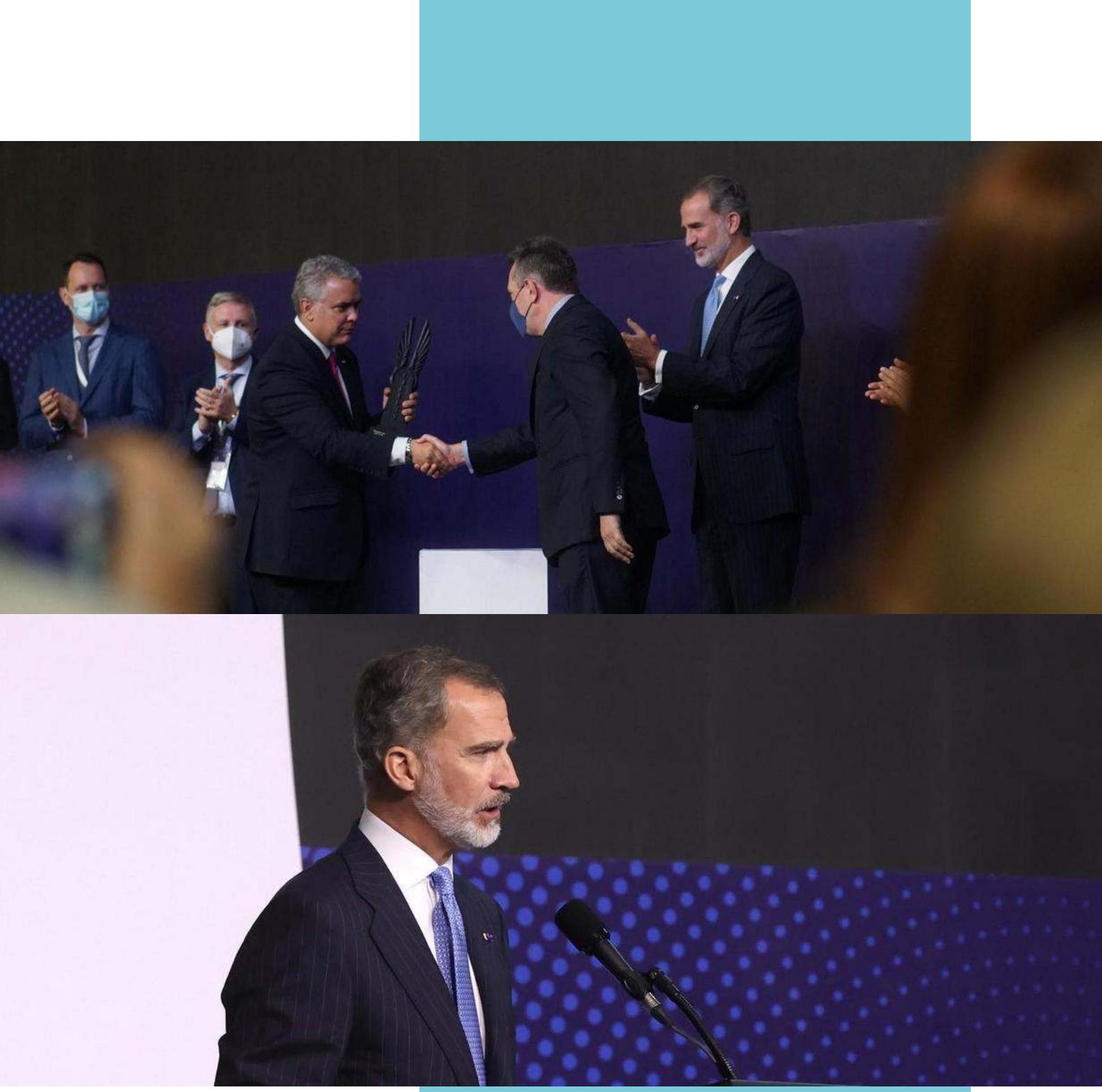
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Editorial Note



Letter from the Editors

Dear Euro Latam Lex members and friends,

Dear Euro Latam Lex members and friends, As you know our network participated as co-organizer of the Colombia World Law Congress, The World law congress was held in Colombia Barranquilla, on December 2 and 3. The congress began with a panel on equality, led by Maria Juliana Ruiz, the first lady of Colombia. Also in attendance will be the mayor of the city and the Nobel Peace Prize winner, Rigoberta Menchú. Approximately 40 round tables were part of the congress program, with the interaction of 150 panelists.



On Thursday, the talks began at 9 in the morning. Among the topics discussed were: constitutional jurisdictions during a state of emergency; artificial intelligence in a State of Law; financing and security of investments in a global world; evolution and challenges in Africa and Mexico; transnational crime and corruption; legal system and technology; development in the era after the coronavirus and the quality of higher education, among others. At the end of the afternoon, the World Peace & Liberty Award monument was inaugurated in the Plaza de la Paz, in the presence of King Felipe VI of Spain and the former Mayor of Los Angeles (United States), Antonio Villaraigosa.

The meeting ended on Friday with the presentation of the World Peace & Liberty Award. This was the first time that a collective, that is, the Colombian society, received the award in honor of the preservation of the 1991 Constitution. The award was presented to President Duque.

The Puerta de Oro Convention Center received distinguished guests such as King Felipe VI of Spain, who visited the country for the first time, and an approximate number of 3000 jurist that attended the congress. The program also included the participation of Tedros Adhanom,

Como saben, nuestra red participó como coorganizadora del Congreso Mundial de Derecho de Colombia. El Congreso Mundial de Derecho se celebró en Colombia Barranquilla, los días 2 y 3 de diciembre. El congreso comenzó con un panel sobre la igualdad, dirigido por María Juliana Ruiz, la primera dama de Colombia. También asistieron el alcalde de la ciudad y la Premio Nobel de la Paz, Rigoberta Menchú. Alrededor de 40 mesas redondas formaron parte del programa del congreso, con la interacción de 150 panelistas.

El jueves, las charlas comenzaron a las 9 de la mañana. Entre los temas que se trataron están: las jurisdicciones constitucionales durante un estado de emergencia; la inteligencia artificial en un Estado de Derecho; la financiación y la seguridad de las inversiones en un mundo global; la evolución y los retos en África y México; el crimen transnacional y la corrupción; el sistema legal y la tecnología; el desarrollo en la era posterior al coronavirus y la calidad de la educación superior, entre otros. Al final de la tarde se inauguró el monumento del Premio Mundial de la Paz y la Libertad en la Plaza de la Paz, con la presencia del Rey Felipe VI de España y del ex alcalde de Los Angeles (EEUU), Antonio Villaraigosa.

La reunión finalizó el viernes con la entrega del Premio Mundial Paz y Libertad. Era la primera vez que un colectivo, es decir, la sociedad colombiana, recibía el premio en honor a la preservación de la Constitución de 1991. El premio fue entregado al Presidente Duque.

El Centro de Convenciones Puerta de Oro recibió a distinguidos invitados como el Rey Felipe VI, que visitó el país por primera vez, y un número aproximado de 3000 juristas que asistieron al congreso.



the director of the WHO; the president of the International Association of Attorneys General, Cheol-Kyu Hwang, and the secretary general of the OAS, Luis Almagro.

En el programa también participaron Tedros Adhanom, director de la OMS; el presidente de la Asociación Internacional de Fiscales Generales, Cheol-Kyu Hwang, y el secretario general de la OEA, Luis Almagro.

For nearly 60 years, the World Law Congress has been an open forum where judges, lawyers, professors, political leaders, and legal professionals from more than 140 countries work in cooperation to strengthen the rule of law. Within the framework of the World Law Congress, Euro Latam Lex, as in previous occasions, hosted its own working sessions.

Durante casi 60 años, el Congreso Mundial de Derecho ha sido un foro abierto en el que jueces, abogados, profesores, líderes políticos y profesionales del derecho de más de 140 países trabajan en cooperación para fortalecer el Estado de Derecho. En el marco del Congreso Mundial de Derecho, Euro Latam Lex, como en ocasiones anteriores, acogió sus propias sesiones de trabajo.



The first panel, entitled TECHNOLOGY & LAW: TECHNOLOGICAL CONTRACT, was chaired by James M.Black II (USA) Partner at Silverman Acampora, and Euro Latm Lex member.

The panelists were: Robert Taylor, Reino Unido (UK), Managing Partner at Law 360, Irving Bruckstein (USA) Chief Information Officer and CISO at Salve Regina University, Kim Quarles, (USA) Senior Vice-President of Willis Towaers Watson, Juan Pablo Moncada Flórez (Colombia) Manager and founding partner of Legal Shield, Víctor Manuel Muñoz Rodriguez (Colombia) Director of the Administrative Department of the Presidency of the Republic of Colombia, José Estévez (Spain) Attorney and Vice-President of Cremades & Calvo-Sotelo.

The second panel, entitled COMPETITION, ENERGY AND COMMUNICATIONS LAW. VIEW FROM THE POINT OF VIEW OF INTERNATIONAL ARBITRATION was chaired by Teodora Toma, (Romania) Asociated attorney Cremades & Calvo- Sotelo and Deputy Director of Euro Latam Lex.

El primer panel, titulado TECNOLOGÍA Y DERECHO: CONTRATO TECNOLÓGICO, fue presidido por James M.Black II (EE.UU.) Socio de Silverman Acampora, y miembro de Euro Latm Lex.

Los panelistas fueron: Robert Taylor, Reino Unido (UK), Socio Director de Law 360, Irving Bruckstein (USA) Director de Información y CISO de la Universidad Salve Regina, Kim Quarles, (USA) Vicepresidente Senior de Willis Towaers Watson, Juan Pablo Moncada Flórez (Colombia) Gerente y socio fundador de Legal Shield, Víctor Manuel Muñoz Rodriguez (Colombia) Director del Departamento Administrativo de la Presidencia de la República de Colombia, José Estévez (España) Abogado y Vicepresidente de Cremades & Calvo-Sotelo.

El segundo panel, titulado DERECHO DE LA COMPETENCIA, ENERGÍA Y COMUNICACIONES. VISTA DESDE EL PUNTO DE VISTA DEL ARBITRAJE INTERNACIONAL fue presidido por Teodora Toma, (Rumanía) Abogada asociada de Cremades & Calvo- Sotelo y Directora Adjunta de Euro Latam Lex.



The speakers that integrated this panel were:
Juan Domingo Alfonzo Paradisi, (Venezuela)
Managing Partner at Torres Plaz & Araujo,
Santiago Solines, (Ecuador) Partner at Solines & Asociados,
Mónica Jiménez (Colombia) General Counsel Ecopetrol, Sok Siphana (Camboya)

Former Advisor of the Royal Government of Cambodia and Advisor to the Supreme National Economic Council, Partner at Sok Siphana & Associates, Luis Sanmiguel (USA), Chairman of the lawfirm PRO CORP, Sandra Ortiz Laverde, (Colombia) Professor of Law and Telecommunications at the University of Externado (Colombia), Juan Sebastián Naranjo, (Ecuador) Partner of Grupo Svar, Vice President of the World Compliance Association Ecuador Chapter, Professor of Jurisprudence at Universidad San Francisco de Quito

We want to thank all the members that participated for their greatly appreciated Contributions.



Los ponentes que integraron este panel fueron: Juan Domingo Alfonzo Paradisi, (Venezuela) Socio Director de Torres Plaz & Araujo, Santiago Solines, (Ecuador) Socio de Solines & Asociados, Mónica Jiménez (Colombia) Asesora General Ecopetrol, Sok Siphana (Camboya) Ex Asesor del Gobierno Real de Camboya y Asesor del Consejo Económico Nacional Supremo, Socio de Sok Siphana & Asociados, Luis Sanmiguel (EE.UU.), Presidente del bufete de abogados PRO CORP, Sandra Ortiz Laverde, (Colombia) Profesora de Derecho y Telecomunicaciones en la Universidad del Externado (Colombia), Juan Sebastián Naranjo, (Ecuador) Socio del Grupo Svar, Vicepresidente de la World Compliance Association Capítulo Ecuador, Profesor de Jurisprudencia en la Universidad San Francisco de Quito

Queremos agradecer a todos los miembros que participaron por sus apreciadas contribuciones.



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Weir & Associates is a Hong Kong law firm geared to provide comprehensive legal solutions through access to a wide range of resources.

Representing over 50 financial institutions in Asia, Weir & Associates has a well-earned reputation as a business-minded, transaction-oriented law firm. Their team of lawyers has multi-jurisdictional qualifications and consists of several teams each skilled in a different branch of law. The work of their clients is handled not only on a basis to ensure the success of the matter at hand but also with regard to their client's long term interests. This results-orientated approach enables Weir & Associates to build bridges and not roadblocks for our clients' transactions. They also have long standing relationships with multinational law practices worldwide.

Weir & Associates es un bufete de abogados de Hong Kong orientado a brindar soluciones legales integrales mediante el acceso a una amplia gama de recursos.

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COMMENTS ON THE PREVENTION OF CRUELTY TO ANIMALS ORDINANCE (PCAO)

COMENTARIOS SOBRE LA ORDENANZA DE PREVENCIÓN DE LA CRUELDAD CONTRA LOS ANIMALES

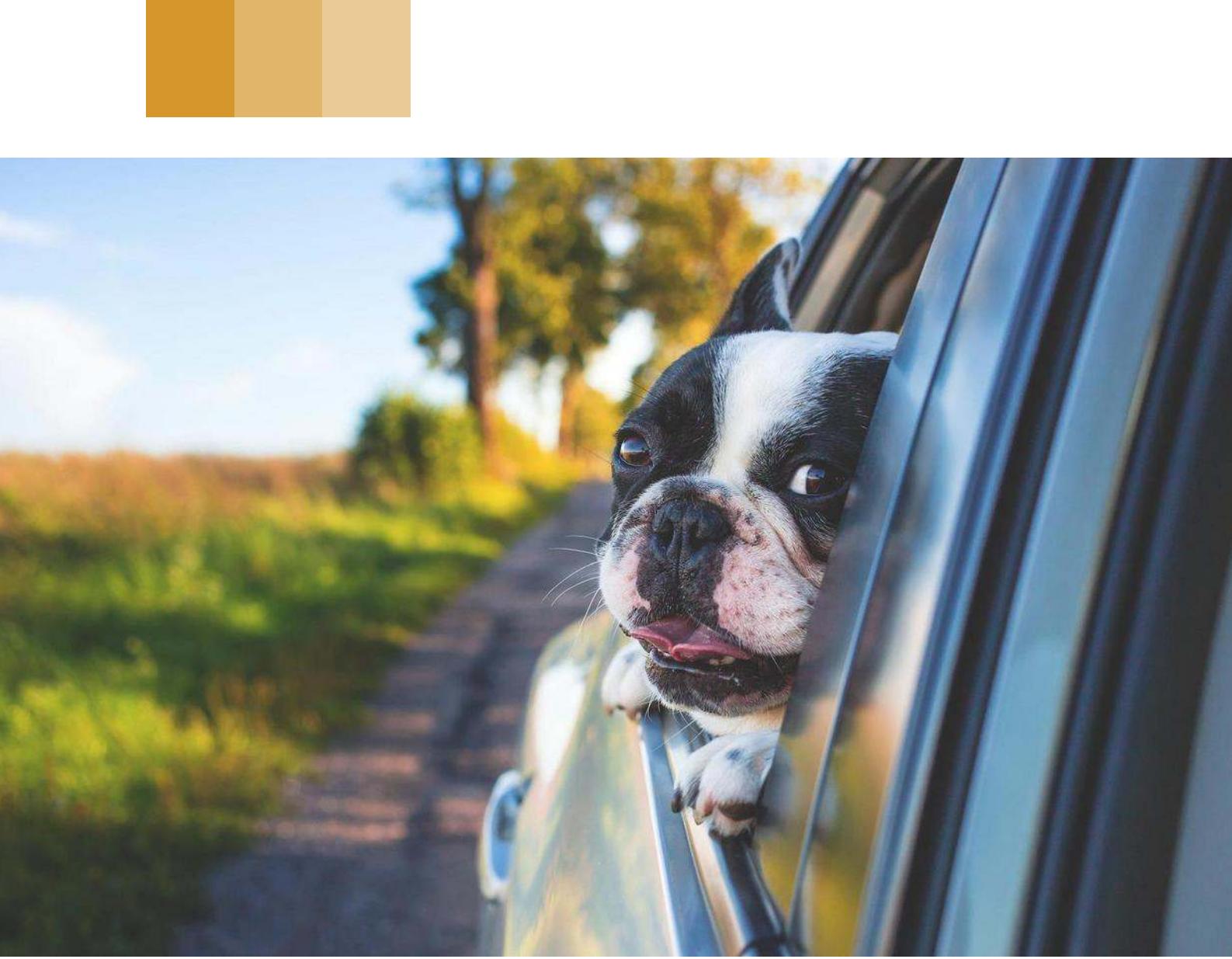
Weir & Associates

This year marks the centenary of the inauguration of the Society for the Protection of Cruelty to Animals (“SPCA”) in Hong Kong. The establishment of the animal protection organization reflected the growing sentiment in the Hong Kong population that animal rights and welfare should be protected. Since its conception, the SPCA has supported animal welfare through a variety of methods, from rescuing abandoned and sick animals, to assisting the Hong Kong Police Force with investigating and monitoring animal welfare standards.

Despite a positive change in public perception towards animal welfare, several widely reported instances of animal abuse shocked the public. Reports of individuals wrapping kittens in cling-film and overcrowded puppy mills and animal shelters dominated news cycles, and the general public urged the Government of Hong Kong to review and amend the current major legislation which governs this area of law: the Prevention of Cruelty to Animals Ordinance Cap 169 (“PCAO”).

Este año marca el centenario de la inauguración de la Sociedad para la Protección de la Crueldad contra los Animales ("SPCA") en Hong Kong. El establecimiento de la organización de protección animal reflejó el creciente sentimiento en la población de Hong Kong de que los derechos y el bienestar de los animales deben ser protegidos. Desde su concepción, la SPCA ha apoyado el bienestar animal a través de una variedad de métodos, desde el rescate de animales abandonados y enfermos, hasta la asistencia a la Fuerza de Policía de Hong Kong con la investigación y el monitoreo de las normas de bienestar animal.

A pesar de un cambio positivo en la percepción pública hacia el bienestar animal, varios casos ampliamente reportados de abuso animal conmocionaron al público. Los informes de individuos que abandonaban gatitos en fábricas de cachorros y refugios de animales abarrotados dominaron los ciclos de noticias, y el público en general instó al Gobierno de Hong Kong a revisar y enmendar la principal legislación actual que rige esta área de la ley: la Ordenanza de Prevención de la Crueldad contra los Animales Cap 169 ("PCAO").



Overview of the PCAO

The PCAO was enacted in 1935, 14 years after the SPCA's establishment in Hong Kong. The groundbreaking legislation was later amended in 2006, which increased the maximum penalty for the offence of cruelty six-fold to HK\$200,000 (US\$25,641) and imprisonment of up to 3 years. However, the Legislation has remained untouched until April 2019, when the Secretary for Food and Health commenced a review of the efficacy of the PCAO, proposed amendments, and initiated a three-month consultation period.

Proposed Amendments

The current regulation regulates positive and negative acts of cruelty towards animals. For example, any person who cruelly beats an animal or unreasonably omits from preventing the ill-treatment of an animal is liable under the PCAO. The proposed amendments set out by the Legislative Council Panel on 19 April 2021 seek to strengthen the deterrent effect of the Legislation against animal cruelty by imposing a "duty of care" on persons responsible for animals.

Descripción general de la PCAO

La PCAO fue promulgada en 1935, 14 años después del establecimiento de la SPCA en Hong Kong. La legislación pionera se enmendó más tarde en 2006, lo que aumentó la pena máxima por el delito de残酷 seis veces a 200,000 dólares (US \$ 25,641) y prisión de hasta 3 años. Sin embargo, la legislación ha permanecido intacta hasta abril de 2019, cuando el Secretario de Alimentación y Salud comenzó una revisión de la eficacia de la PCAO, propuso enmiendas e inició un período de consulta de tres meses.

Enmiendas propuestas

La normativa vigente regula los actos de残酷 positivos y negativos hacia los animales. Por ejemplo, cualquier persona que golpee cruelmente a un animal u omita irrazonablemente prevenir el maltrato de un animal es responsable en virtud de la PCAO. Las enmiendas propuestas por el Panel del Consejo Legislativo el 19 de abril de 2021 buscan fortalecer el efecto disuasorio de la Legislación contra la残酷 animal mediante la imposición de un "deber de cuidado" a las personas responsables de los animales.

The duty of care is proposed to include welfare needs of animals, appropriate nutrition, and the ability to express normal patterns of behavior. Such guidance will be promulgated through Codes of Practice to be issued by the Agriculture, Fisheries and Conservation Department ("AFCD"), which commonly investigates reports of suspected animal cruelty with the Police.

In response to the common practice in Hong Kong to abandon or irresponsibly surrender animals, the proposed amendment seeks to expand the definition of "cruelty to animals" under the PCAO to include the abandonment of an animal which causes it to suffer.

El deber de cuidado se propone para incluir las necesidades de bienestar de los animales, la nutrición adecuada y la capacidad de expresar patrones normales de comportamiento. Dicha orientación se promulgará a través de Códigos de Práctica que emitirá el Departamento de Agricultura, Pesca y Conservación ("AFCD"), que comúnmente investiga los informes de sospecha de crueldad animal con la Policía.

En respuesta a la práctica común en Hong Kong de abandonar o entregar irresponsablemente animales, la enmienda propuesta busca ampliar la definición de "crueldad hacia los animales" bajo la PCAO para incluir el abandono de un animal que lo hace sufrir.

In Hong Kong, more than one-tenth of families keep pets. The Prevention of Cruelty to Animals Ordinance is the key legislation on animal protection in Hong Kong. Enacted in 1935, PCAO focuses on prohibiting and punishing cruelty to animals.

Additional extensions to the definition of "cruelty" proposed include the unnecessary and often cosmetic operations of tail docking, ear cropping, debarking, declawing etc. have been recommended.

Finally, there have been several proposals regarding deterrent measures in the PCAO. The proposed amendments introduce an indictable offence in cases with serious animal cruelty to ensure law enforcement officers have adequate time to investigate such cases. In addition to even heavier penalties, the proposal also suggests empowering courts to disqualify a person who has been convicted of the offence of animal cruelty or breach of duty of care from keeping animals temporarily or even permanently.

Se han recomendado extensiones adicionales a la definición de "crueldad" propuestas que incluyen las operaciones innecesarias y a menudo cosméticas de acoplamiento de la cola, recorte de orejas, descorте, declawing, etc.

Por último, ha habido varias propuestas relativas a las medidas disuasorias en la PCAO. Las enmiendas propuestas introducen un delito imputable en los casos de crueldad animal grave para garantizar que los agentes del orden tengan tiempo suficiente para investigar esos casos. Además de las penas aún más severas, la propuesta también sugiere facultar a los tribunales para descalificar a una persona que haya sido condenada por el delito de crueldad animal o incumplimiento del deber de cuidado para mantener animales temporal o incluso permanentemente.

Amid the development of scientific knowledge about animal welfare and changing public attitudes towards animals, some overseas places have reviewed their animal welfare legislation. The new legislative approach adopted by these places emphasizes the physical and mental needs of animals on top of preventing animals from cruelty acts.

Public Response

Public outcry continues to echo after each incident of animal abuse makes headlines. In 2020, two Hong Kong men were arrested on suspicion of throwing almost 30 domestic pets from an apartment window, killing 18 pets. Due to the statute of limitations allowing for charges to be brought within 6 months of the alleged offence, the owners avoided prosecution. This incident spurred the public to call for an increase to the time limitation to allow investigators to collect adequate evidence, and for harsher penalties for animal abuse. The proposed amendments are a step in the right direction, and illustrates how the Government of Hong Kong continues to listen to the public to ensure that legislation reflects societal values.

Respuesta del público

La protesta pública continúa resonando después de que cada incidente de abuso animal llega a los titulares. En 2020, dos hombres de Hong Kong fueron arrestados bajo sospecha de arrojar casi 30 mascotas domésticas desde la ventana de un apartamento, matando a 18 mascotas. Debido al estatuto de limitaciones que permite que se presenten cargos dentro de los 6 meses posteriores al presunto delito, los propietarios evitaron el enjuiciamiento. Este incidente estimuló al público a pedir un aumento de la limitación de tiempo para permitir que los investigadores recopilen pruebas adecuadas, y sanciones más severas para el abuso animal. Las enmiendas propuestas son un paso en la dirección correcta e ilustran cómo el Gobierno de Hong Kong sigue escuchando al público para garantizar que la legislación refleje los valores sociales.





MICHAL JACKOWSKI

Partner director and founder of **DSK Kancelaria** Law Firm. Law professor, lawyer, tax advisor, legal advisor in several dozen large entities in the IT sector. Expert in the field of new technology law, intellectual property law, personal data protection, e-privacy. Additionally, he is an arbitrator of the Internet domain arbitration court of the Polish Chamber of Information Technology and Telecommunications (PIIT) and the author of several dozen publications in the field of law.

MICHAL JACKOWSKI

*Socio director y Fundador de la Firma de Abogados **DSK Kancelaria**. Profesor de derecho, abogado, asesor fiscal, asesor legal en varias decenas de grandes entidades del sector de TI. Experto en el campo del derecho de nuevas tecnologías, derecho de propiedad intelectual, protección de datos personales, e-privacidad. Adicionalmente, es árbitro del tribunal de arbitraje de dominios de Internet de la Cámara Polaca de Tecnología de la Información y Telecomunicaciones (PIIT) y autor de varias decenas de publicaciones en el campo del derecho.*

TECHNOLOGY 5G - IMPLEMENTATION STATUS AND CYBERSECURITY REGULATIONS IN POLAND

TECNOLOGÍA 5G - ESTADO DE IMPLEMENTACIÓN Y REGULACIONES DE CIBERSEGURIDAD EN POLONIA

By Michal Jackowski

Partner in DSK Kancelaria
Socio de DSK Kancelaria

Both the implementation of 5G technology in Poland and its institutional security face significant problems. 5G technology will affect not only digital communication, but also other key sectors, such as energy, transport, banking, and health. The 5G network will be a carrier of sensitive information. Therefore, ensuring its adequate security is of fundamental importance and requires cooperation and implementation of appropriate solutions - at the national and European level. The responsibility for the proper functioning and protection of the 5G network rests with both economic entities and EU Members. Below, in a few points, I present the current state of preparation for this next digital revolution in Poland.

Strategy:

The basic document in this regard is the government document "5G Strategy for Poland". It was prepared in 2019 but has not been adopted to this day and has become partially outdated. The strategy assumed the implementation of the 5G network in one large agglomeration by 2020 - which has not been done so far. It also assumed uninterrupted access to the 5G network in all urban areas and major land transport routes in Poland until 2025 - which is highly endangered.

Tanto la implementación de la tecnología 5G en Polonia como su seguridad institucional se enfrentan a importantes problemas. La tecnología 5G afectará no solo a la comunicación digital, sino también a otros sectores clave, como la energía, el transporte, la banca y la salud. La red 5G será portadora de información sensible. Por lo tanto, garantizar su seguridad adecuada es de importancia fundamental y requiere la cooperación y la aplicación de soluciones adecuadas, a nivel nacional y europeo. La responsabilidad del correcto funcionamiento y protección de la red 5G recae tanto en las entidades económicas como en los Miembros de la UE. A continuación, en algunos puntos, presento el estado actual de preparación para esta próxima revolución digital en Polonia.

Estrategia:

El documento básico en este sentido es el documento del Gobierno "Estrategia 5G para Polonia". Se preparó en 2019, pero no se ha adoptado hasta el día de hoy y se ha quedado parcialmente desfasado. La estrategia suponía la implementación de la red 5G en una gran aglomeración para 2020 -algo que no se ha hecho hasta ahora-. También asumió un acceso ininterrumpido a la red 5G en todas las áreas urbanas y las principales rutas de transporte terrestre en Polonia hasta 2025, lo que está en grave peligro.

At the European level, in July 2020, the European Commission, with the support of ENISA and EU Member States, published the "5G Toolbox Implementation Report". The main objective of this report was to present the progress in the implementation by the Member States of the "Toolbox for the security of 5G networks". Toolbox was published in January 2020. It sets out several measures and actions to effectively reduce risk and ensure the implementation of secure 5G networks throughout Europe.

A nivel europeo, en julio de 2020, la Comisión Europea, con el apoyo de la ENISA y los Estados miembros de la UE, publicó el «Informe de implementación de la caja de herramientas 5G». El principal objetivo de este informe era presentar los avances en la aplicación por parte de los Estados miembros de la "Caja de herramientas para la seguridad de las redes 5G". Toolbox se publicó en enero de 2020. Establece una serie de medidas y acciones para reducir eficazmente el riesgo y garantizar la implementación de redes 5G seguras en toda Europa.

"Poland is working on security measures to safely implement the 5G Toolbox"

Network and operators:

All new frequencies provided for 5G network face problems. One requires a difficult cooperation with Russia, Belarus, and Ukraine. The auction for operators of the second one has been started in late 2019, subsequently cancelled in 2020 and pending changes to the EU Toolbox implementation act. The third requires releasing of over 700 old permits and reservations blocking it until 2023.

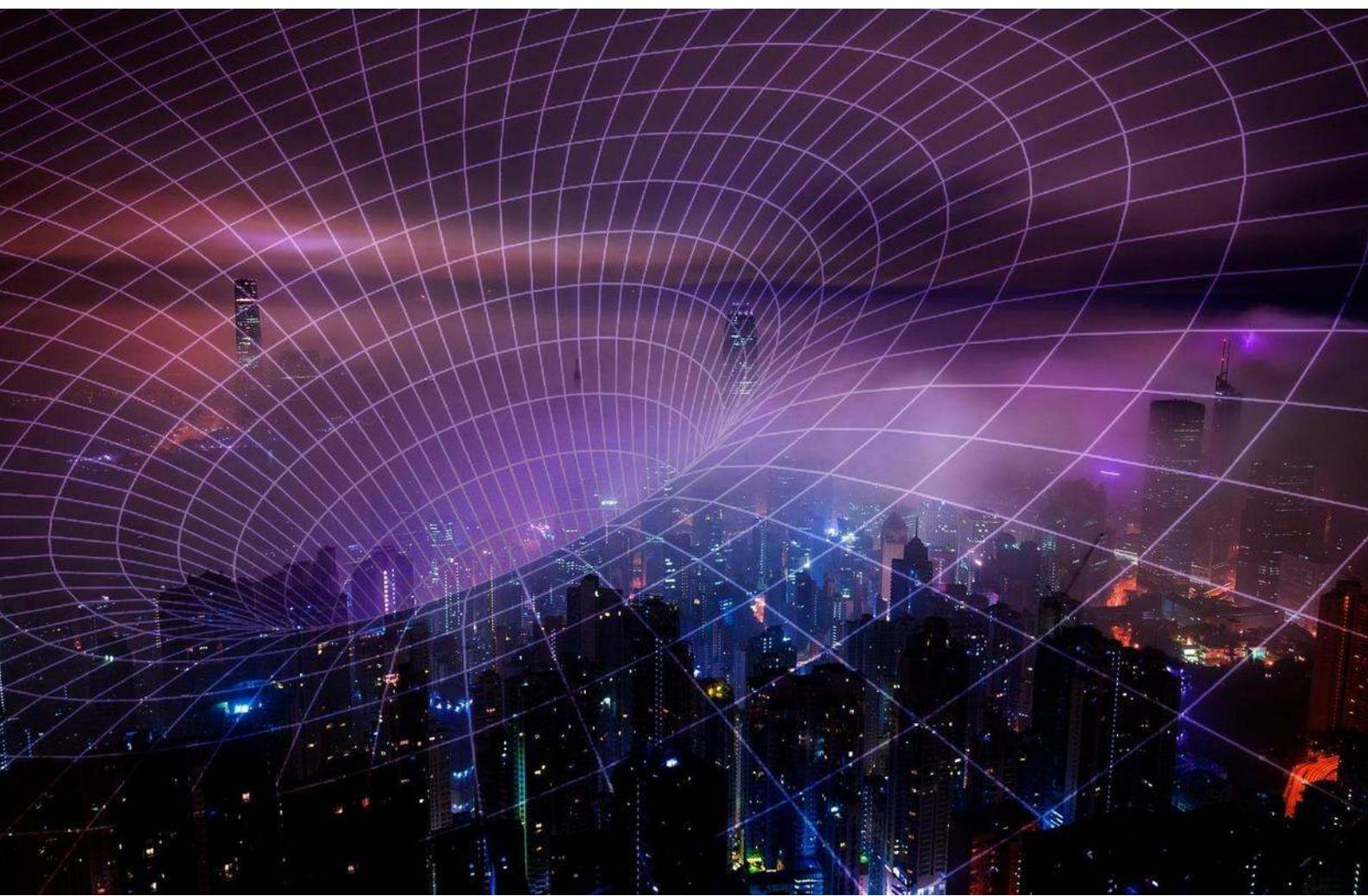
National regulations:

Since 2020, work has been underway in Poland to amend the act on the national cybersecurity system to implement the 5G Toolbox. However, the entry into force of the law is significantly delayed for several reasons.

Firstly, the Polish authorities decided to use the implementation of Toolbox 5G to seal the entire National Cybersecurity System, significantly extending the scope of the act beyond the requirements resulting from Toolbox 5G, e.g., with elements of telecommunications law or regulations regarding e-service providers. This raises significant opposition from these entities - strong in lobbying.

Red y operadores: Todas las nuevas frecuencias proporcionadas para la red 5G enfrentan problemas. Una de ellas requiere una difícil cooperación con Rusia, Bielorrusia y Ucrania. La subasta para los operadores de la segunda se inició a finales de 2019, posteriormente se canceló en 2020 y está pendiente de cambios en la ley de aplicación de la Caja de Herramientas de la UE. La tercera requiere la liberación de over 700 antiguos permisos y reservas que lo bloquean hasta 2023.

Normativa nacional: Desde 2020, se ha estado trabajando en Polonia para modificar la ley sobre el sistema nacional de ciberseguridad con el fin de implementar la Caja de Herramientas 5G. Sin embargo, la entrada en vigor de la ley se ha retrasado considerablemente por varias razones. En primer lugar, las autoridades polacas decidieron utilizar la aplicación de Toolbox 5G para sellar todo el Sistema Nacional de Ciberseguridad, ampliando significativamente el alcance de la ley más allá de los requisitos derivados de Toolbox 5G, por ejemplo, con elementos de la ley o reglamentos de telecomunicaciones relativos a los proveedores de servicios electrónicos. Esto plantea una oposición significativa de estas entidades - fuerte en el cabildo.



Secondly, there is a dispute between bodies controlled by several governmental factions over control of a strategic operator - a new company that should control one of the 5G frequencies.

Third, discussions are ongoing on reducing dependence on high-risk suppliers, developing strategies for mobile network operators, and monitoring foreign direct investment.

High-risk supplier:

Finally, there is significant discussion about the procedure for recognizing a high-risk supplier.

The Polish authorities indirectly acknowledge that the purpose of these provisions is to exclude supplies from China, primarily Huawei. This can cause serious problems because, according to available studies, around 60% of the current 4G / LTE network is built on the infrastructure provided by Huawei, and over 80% of the electronic equipment most often used to build all networks in Poland comes from China, Korea and Taiwan. An example may be broadband networks built with EU funds, which in approx. 70-80% are equipped with Huawei infrastructure. Likewise, the networks used by the education sector - 90% of equipment from outside the EU.

En segundo lugar, existe una disputa entre organismos controlados por facciones gubernamentales por el control de un operador estratégico -una nueva empresa que debería controlar una de las frecuencias 5G.

En tercer lugar, se están celebrando debates sobre la reducción de la dependencia de los proveedores de alto riesgo, el desarrollo de estrategias para los operadores de redes móviles y el seguimiento de la inversión extranjera directa.

Proveedor de alto riesgo :

Por último, existe un debate significativo sobre el procedimiento para reconocer a un proveedor de alto riesgo. Las autoridades polacas reconocen indirectamente que el objetivo de estas disposiciones es excluirlos suministros de China, principalmente de Huawei. Esto puede causar graves problemas porque, según los estudios disponibles, alrededor del 60% de la red 4G / LTE actual está construida sobre la infraestructura proporcionada por Huawei, y más del 80% de los equipos electrónicos más utilizados para construir todas las redes en Polonia provienen de China, Corea y Taiwán. Un ejemplo pueden ser las redes de banda ancha construidas con fondos de la UE, que en aproximadamente el 70-80% están equipadas con infraestructura de Huawei. Del mismo modo, las redes utilizadas por el sector de la educación - el 90 % de los equipos de fuera de la UE.

The regulations do not apply only to the 5G network and its elements, but to all elements of the cybersecurity infrastructure (and therefore also to previous generation networks). Additionally, they are not limited to critical or key resources and theoretically all hardware, software and even ICT processes pertaining to cyber security system entities could be considered high risk. As a funny fact I must mention that also Wi-Fi routers may be included.

The provisions would operate in such a way that, upon issuance of the decision, purchases of hardware and software identified in the decision from such a vendor would be excluded, and existing infrastructure would have to be withdrawn within 5 or 7 years. At the same time, however, freezing orders could be issued for 2+2 years, under which prohibitions could be imposed immediately. And public authorities are not restricted in any way here.

La normativa no se aplica solo a la red 5G y sus elementos, sino a todos los elementos de la infraestructura de ciberseguridad (y por tanto también a las redes de generación anterior). Además, no se limitan a recursos críticos o clave y, por lo tanto, todos los procesos de hardware, software e incluso TIC relacionados con las entidades de sistemas de seguridad cibernetica podrían considerarse de alto riesgo. Como dato curioso debo mencionar que también se pueden incluir routers wifi.

Las disposiciones funcionarían de tal manera que, tras la adopción de la decisión, se excluirían las compras de hardware y programas informáticos identificados en la decisión de dicho proveedor, y la infraestructura existente tendría que retirarse en un plazo de 5 o 7 años. Al mismo tiempo, sin embargo, las órdenes de congelación podrían ser dictadas por un período de 2+2 años, en virtud de los cuales las prohibiciones podrían imponerse inmediatamente. Y las autoridades no están restringidas en modo alguno en este caso.

"Work is expected to resume soon to implement 5G in Poland as soon as possible"

Polish regulations do not provide for any compensation for the above limitations. They are treated as restriction of economic activity (compared by the authorities to licensing economic activity) and not as expropriation. Consequently, unlike, for example, in Finland, there are no grounds for compensation in the proposed act. It is a very dubious regulation, certainly on the verge of the right to property and the freedom of economic activity. In connection with it, I would expect claims based on the European Convention of Human Rights or European law and the recovery of damages. It is estimated that the cost of replacing the current 4G infrastructure alone would cost around EUR 1 billion.

The provisions for considering an entity as a high-risk provider are quite general and provide for both technical and non-technical criteria, with significantly more emphasis on non-technical criteria such as non-EU and NATO state control, ownership structure, restrictions on business freedom and degree of state interference. Throughout the legislative process, arguments have been raised that these are concepts leave full discretion to state authorities.

Los reglamentos polacos no prevén ninguna compensación por las limitaciones mencionadas. Se tratan como una restricción de la actividad económica (comparada por las autoridades con la concesión de licencias de actividad económica) y no como una expropiación. Por consiguiente, a diferencia, por ejemplo, de Finlandia, en el acto propuesto no hay motivos para la indemnización. Se trata de un reglamento muy dudoso, sin duda al borde del derecho a la propiedad y de la libertad de actividad económica. En relación con él, esperaría reclamaciones basadas en el Convenio Europeo de Derechos Humanos o la legislación europea y la recuperación de daños y perjuicios. Se estima que el coste de la sustitución de la infraestructura 4G por sí sola costaría alrededor de 1 000 millones de euros. Las disposiciones para considerar a una entidad como proveedor de alto riesgo son bastante generales y prevén criterios tanto técnicos como no técnicos, con un énfasis mucho mayor en criterios no técnicos, como el control estatal no pertenecientes a la UE y la OTAN, la estructura de propiedad, las restricciones a la libertad empresarial y el grado de interferencia estatal. A lo largo del proceso legislativo, se han planteado argumentos de que se trata de conceptos que dejan plena discreción a las autoridades estatales.

"There have been so many technological advances in recent years that many people did not expect another revolution. At this time, the 5G network will allow not only to improve the processes already in operation based on Internet technology. It will also accelerate the emergence of new inventions, solutions, and advancements"

All discussions prolonged the entry into force of the regulations, which are extremely important for the development of not only the 5G network, but also the entire IoT system in Poland. For 2 years I have been working in a government team of experts on the development of Polish IoT regulations. As part of this work, we recognized that the certification, including security and cybersecurity of IoT products, is one of the most serious barriers to the development of IoT.

Despite we formulated these demands in 2018, to date our proposed specific actions of the Government have not been met. I hope that after reactivating our expert group in June 2021 works speed up.

Todas las discusiones prolongaron la entrada en vigor de las regulaciones, que son extremadamente importantes para el desarrollo no solo de la red 5G, sino también de todo el sistema IoT en Polonia. Durante 2 años he estado trabajando en un equipo gubernamental de expertos en el desarrollo de regulaciones polacas de IoT. Como parte de este trabajo, reconocimos que la certificación, incluida la seguridad y ciberseguridad de los productos de IoT, es una de las barreras más serias para el desarrollo de IoT.

A pesar de que formulamos estas demandas en 2018, hasta la fecha no se han cumplido nuestras acciones específicas propuestas por el Gobierno. Espero que después de reactivar nuestro grupo de expertos en junio de 2021 los trabajos se aceleren.



wkk law attorneys at law



Lisa Maria Polster. Associate at WKK LAW

She works as an Associate in WKK LAW specialized in professional areas such as General civil law Litigation, Real estate law and Real estate development law, Contract law, Inheritance law and probate. She acted as a lawyer in the field of Vienna Higher Regional Court before enter in WKK LAW in 2021. She has participated in numerous international events thanks to his communication skills in three languages.

Trabaja como Asociada en WKK LAW especializada en áreas profesionales tales como Derecho civil general Litigios, Derecho inmobiliario y derecho de desarrollo inmobiliario, Derecho contractual, Derecho sucesorio y testamentario. Ha actuado como abogada en el ámbito del Tribunal Regional Superior de Viena antes de ingresar en WKK LAW en 2021. Ha participado en numerosos eventos internacionales gracias a sus habilidades comunicativas en tres idiomas.



Harald Czermak. Partner at WKK Law

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He also acts as Licensed Escrow Agent and he has work as a notary for many years. He is partner in WKK LAW from 2016. He has participated in numerous international events thanks to his communication skills in four languages.

Socio en WKK LAW, notario y abogado de reconocido prestigio especializado en Fideicomisos, Family Office, Protección patrimonial, sucesiones, Sucesiones internacionales, Transacciones inmobiliarias, Promoción inmobiliaria, Contratos de arrendamiento comercial.

También actúa como agente de custodia autorizado y ha trabajado como notario durante muchos años. Es socio de WKK LAW desde 2016. Ha participado en numerosos eventos internacionales gracias a sus habilidades comunicativas en cuatro idiomas.

THE FREE MOVEMENT OF PERSONS – ONE OF THE GREAT ASSETS OF THE EUROPEAN UNION?

LA LIBRE CIRCULACIÓN DE PERSONAS, ¿UNO DE LOS GRANDES ACTIVOS DE LA UNIÓN EUROPEA?

By Mag. Harald Czermak & Mag. Lisa Maria Polster

Partner and Associate at WKK Law
Socio y Asociada en WKK Law

THE RIGHT OF THIRD COUNTRY CITIZENS WHO HOLD A RESIDENT PERMIT TO BE ISSUED A FOREIGNER'S PASSPORT

In a recent decision, the Austrian Federal Administrative Court dealt with a third-country citizen who had been granted a residence permit in Austria. As the third-country citizen's passport expired, he – despite his repeated urging – failed to obtain a new passport from the consulate of his home country in Vienna. The third-country citizen then applied to the Federal Office for Immigration and Asylum for the issuance of a foreigner's passport. After the dismissal decision by the Federal Office for Immigration and Asylum, the Austrian Federal Administrative Court overturned the decision and ruled that all the requirements for issuing a foreigner's passport were met, since the third-country citizen is in fact unable to obtain a travel document from his home country.

According to Article 21 (1) of the Schengen Convention, foreigners holding a valid residence permit and a travel document issued by one of the Contracting states have the right to move freely in the territory of the other Contracting States.

DERECHO DE LOS CIUDADANOS DE TERCEROS PAÍSES TITULARES DE UN PERMISO DE RESIDENCIA A QUE SE LES EXPIDE UN PASAPORTE DE EXTRANJERÍA

En una decisión reciente, el Tribunal Administrativo Federal de Austria se ocupó de un ciudadano de un tercer país al que se había concedido un permiso de residencia en Austria. Como el pasaporte del ciudadano del tercer país expiró, él, a pesar de sus reiteradas insistencias, no pudo obtener un nuevo pasaporte del consulado de su país de origen en Viena. El ciudadano del tercer país solicitó a la Oficina Federal de Inmigración y Asilo la emisión de un pasaporte extranjero. Tras la decisión de despido de la Oficina Federal de Inmigración y Asilo, el Tribunal Administrativo Federal de Austria revocó la decisión y dictaminó que se cumplían todos los requisitos para expedir el pasaporte de extranjería, ya que el ciudadano del tercer país no puede obtener un documento de viaje de su país de origen.

De conformidad con el apartado 1 del artículo 21 del Convenio de Schengen, los extranjeros titulares de un permiso de residencia válido y de un documento de viaje expedido por uno de los Estados contratantes tienen derecho a circular libremente por el territorio de los demás Estados contratantes.

An Austrian foreigner's passport is a travel document as required by Article 21 (1) of the Schengen Convention and therefore enables the holder of such passport – as already mentioned – to move freely in the territory of the other Contracting states for up to three months. The territory includes the entire European Union and therefore ensures the practice of one of the European Union's great asset: the free movement of persons.

The Contracting States must send the EU Executive Committee a list of the documents they issue as residence permits and travel documents. In accordance with this provision, the Contracting States are therefore obliged to not only issue residence permits but documents – such as a foreigner's passport – as well. Only then the principle of the free movement of persons can be granted.

Un pasaporte austriaco es un documento de viaje exigido por el apartado 1 del artículo 21 del Convenio de Schengen y, por lo tanto, permite al titular de dicho pasaporte, como ya se ha mencionado– circular libremente por el territorio de los demás Estados contratantes durante un máximo de tres meses. El territorio incluye toda la Unión Europea y, por lo tanto, garantiza la práctica de uno de los grandes activos de la Unión Europea: la libre circulación de personas.

Los Estados contratantes deben enviar al Comité Ejecutivo de la UE una lista de los documentos que expedan como permisos de residencia y documentos de viaje. De conformidad con esta disposición, los Estados contratantes están obligados no sólo a expedir permisos de residencia, sino también a documentos, como el pasaporte de extranjería. Sólo entonces podrá concederse el principio de la libre circulación de personas.

The Austrian foreigner's passport is a travel document as required by Article 21 (1) of the Schengen Convention and therefore enables the holder of such passport to move freely in the territory of the other Contracting states for up to three months.

According to Article 2 of the Treaty on European Union (TEU) one of the great objectives of the European Union is to maintain and develop the EU as an area of freedom, security and justice. Within the EU, the free movement of persons shall be ensured in conjunction with appropriate measures regarding external border controls, asylum, immigration and combating crime.

The Schengen system, which consists of the Schengen Agreement and the Schengen Convention, is of particular importance for the creation of an area of freedom, security and justice. With the entry into force of the Treaty of Amsterdam in May 1999, the Schengen system was incorporated into the EU and since then the Member States of the EU are obliged to adhere to the rules of the Schengen system.

In Article 9 of the Schengen Convention, the Contracting States undertake to pursue a common policy on the movement of persons, to provide one another with mutual assistance and to continue to harmonize national laws in this area.

Según el artículo 2 del Tratado de la Unión Europea (TUE), uno de los grandes objetivos de la Unión Europea es mantener y desarrollar la UE como un espacio de libertad, seguridad y justicia. Dentro de la UE, la libre circulación de personas se garantizará junto con medidas adecuadas relativas a los controles en las fronteras exteriores, a los estudios, la inmigración y la lucha contra la delincuencia.

El sistema de Schengen, que consiste en el Acuerdo de Schengen la Invención de Schengen C, es de particular importancia para la creación de un espacio de libertad, seguridad y justicia. Con la entrada en vigor del Tratado de Amsterdam en mayo de 1999, el sistema de Schengen se incorporó a la UE y, desde entonces, los Estados miembros de la UE están obligados a adherirse a las normas del sistema de Schengen.

En el artículo 9 del Convenio de Schengen, los Estados contratantes se comprometen a buscar una política común sobre la circulación de personas, a prestarse asistencia mutua y a seguir armonizando las legislaciones nacionales en este ámbito.



Taking the provisions of Article 21 as well as the objective of further harmonizing the free movement of persons laid down in Article 9 of the Schengen Convention into consideration, the other Member States of the European Union must follow Austrians legal position and implement corresponding laws. On the basis of this unified system, in order to guarantee the free movement of persons, the Member States that authorized the residence of third-country citizens in their country, must also issue a foreigner's passport to them, whenever they are refused the issue of a passport by the consulate of their home country.

Teniendo en cuenta las disposiciones del artículo 21, así como el objetivo de armonizar aún más la libre circulación de personas prevista en el artículo 9 de la Convención de Schengen, los demás Estados miembros de la Unión Europea deberían seguir la posición jurídica austriaca y aplicar las leyes correspondientes. Sobre la base de este sistema unificado, con el fin de garantizar la libre circulación de personas, los Estados miembros que autorizaron la residencia de ciudadanos de terceros países en su país también deberían expedir un pasaporte de extranjero, siempre que el consulado de su país de origen les niegue la expedición de un pasaporte.



BOUGARTCHEV — MOYNE ASSOCIÉS

Bougartchev Moyne Associés AARPI is a French law firm formed by trial lawyers, recognized in the profession, who assist public or private companies such as banking and financial institutions, insurance companies and their managers in all the disputes they face, whether in law business criminal law, civil and commercial law or regulatory matters. Either on a daily basis, in the event of a crisis or to help them comply with the legal and regulatory obligations imposed on them. They also work alongside them as part of their internal investigations and training programs.

Well versed in emergency, complex, plural, transnational or multi-jurisdictional procedures, as well as negotiated justice, in France and internationally and accustomed to working as a team, they provide legal assistance throughout the world together with international and specialized firms. Their areas of specialization are crisis management and damage to reputation, advice on Compliance and in criminal, civil, commercial or regulatory litigation.

Bougartchev Moyne Associés AARPI es un despacho de abogados francés formado por abogados litigantes, reconocidos en la profesión, que asisten a empresas públicas o privadas como instituciones bancarias y financieras, compañías de seguros y sus gerentes en todas las disputas que enfrentan, ya sea en derecho penal empresarial, en derecho civil y comercial o en materia regulatoria. Ya sea a diario, en caso de crisis o para ayudarles a cumplir con las obligaciones legales y reglamentarias que les imponen. También trabajan junto a ellos como parte de sus investigaciones internas y programas de capacitación.

Bien versados en procedimientos de emergencia, complejos, plurales, transnacionales o multijurisdiccionales, así como en justicia negociada, en Francia e internacionalmente y acostumbrados a trabajar en equipo, aportan asistencia jurídica en todo el mundo junto con firmas internacionales y firmas especializadas. Sus áreas de especialización son gestión de crisis y daño a la reputación, asesoramiento en Compliance y en litigios penales, civiles, mercantiles o regulatorios.

BIRTH OF THE EUROPEAN PUBLIC PROSECUTOR'S OFFICE: ASSESSMENT OF THE SITUATION

NACIMIENTO DE LA FISCALÍA PÚBLICA EUROPEA: EVALUACIÓN DE LA SITUACIÓN

Bougartchev Moyne Associés AARPI

The European Public Prosecutor's Office (EPPO), created by the European Regulation dated 12 October 2017 and, in France, by the Law dated 24 December 2020 , started its activities on 1st June 2021.

A two-level supranational Prosecutor's office

• The central level of the EPPO, located in Luxembourg and headed by Mrs Laura Codruța Kövesi, former General Prosecutor in Romania and Chief Prosecutor of the Romanian National Anticorruption Directorate, comprises the European Chief Prosecutor and a College of 22 European Prosecutors, one per each participating Member State. In October 2021, Mrs Laura Codruța Kövesi called for an urgent increase in the human resources of the EPPO, including financial investigators, IT specialists and auxiliary staff, in addition to the current 120 positions.

The European Prosecutors, in charge of the supervision and coordination of criminal investigations and forming the College of European Prosecutors, were appointed by the Council of the European Union on 27 July 2020. For France, Mr Frédéric Baab, former representative of France at Eurojust, was appointed for a 6-year not renewable term.

La Fiscalía Europea, creada por el Reglamento Europeo de 12 de octubre de 2017 y, en Francia, por la Ley de 24 de diciembre de 2020, inició sus actividades el 1 de junio de 2021.

Una Fiscalía supranacional de dos niveles

• *El nivel central de la Fiscalía Europea, con sede en Luxemburgo y dirigida por la Sra. Laura Codruța Kövesi, ex Fiscal General de Rumanía y Fiscal Jefe de la Dirección Nacional Anticorrupción de Rumanía, comprende el Fiscal General Europeo y un Equipo de 22 Fiscales Europeos, uno por cada Estado miembro participante. En octubre de 2021, la Sra. Laura Codruța Kövesi pidió un aumento urgente de las recursos humanos de la Fiscalía Europea, incluidos investigadores financieros, especialistas en TI y personal auxiliar, además de los 120 puestos actuales. Los fiscales europeos, encargados de la supervisión y coordinación de las investigaciones penales y de la formación del Colegio de Fiscales Europeos, fueron nombrados por el Consejo de la Unión Europea el 27 de julio de 2020. Por Francia, el Sr. Frédéric Baab, antiguo representante de Francia en Eurojust, fue nombrado por un período no renovable de 6 años.*



- The EPPO also has a decentralised level made up of European Delegated Prosecutors (EDP) located in each of the participating EU countries and in charge of investigating, prosecuting and bringing to judgement cases where the financial interests of the European Union are at stake in compliance with their national procedural law. Only Slovenia has not yet proposed EDPs to be appointed.

Among the 88 EDPs already appointed, 4 were appointed for France : Mr Emmanuel Chirat, former Deputy Prosecutor of the French Financial Prosecutor's office (PNF); Mrs Cécile Soriano, former Administrator at the European Commission's financial crime unit; Mr David Touvet, former Advocate General at the Court of Appeal in Nancy; and Mrs Mona Popescu, former Deputy Prosecutor at the Judicial Court in Bordeaux. In France, an unprecedented procedural framework was created, mixing investigations (enquête) and judicial inquiry (instruction préparatoire) and granting French EDPs superpowers.

- *La Fiscalía Europea también tiene un nivel descentralizado compuesto por fiscales europeos delegados (PED) ubicados en cada uno de los países participantes de la UE y encargados de investigar, enjuiciar y llevar a juicio los casos en los que los intereses financieros de la Unión Europea están en juego de conformidad con su derecho procesal nacional. Sólo Eslovenia aún no ha propuesto el nombramiento de fiscal que la represente*

De los 88 PED ya nombrados, 4 fueron nombrados para Francia: el Sr. Emmanuel Chirat, ex adjunto de la Fiscalía Financiera de Francia (PNF); la Sra. Cécile Soriano, ex administradora de la unidad de delitos financieros de la Comisión Europea; el Sr. David Touvet, antiguo Abogado General del Tribunal de Apelación de Nancy; y la Sra. Mona Popescu, ex Fiscal Adjunta del Tribunal Judicial de Burdeos. En Francia, se creó un marco procesal sin precedentes, que mezcla investigaciones comunes (enquête) e investigaciones judiciales (instruction préparatoire), garantizando grandes poderes a los PED.

An extensive jurisdiction

The EPPO shall be responsible for investigating, prosecuting and bringing to judgment the perpetrators of, and accomplices to, criminal offences affecting the financial interests of the European Union which are provided for in Directive (EU) 2017/1371, such as misappropriation of European funds, active and passive bribery, transnational VAT fraud when it involves at least two Member States and when more than EUR 10 million are at stake, custom offences and related money laundering.

Una extensa jurisdicción

La Fiscalía Europea será responsable de investigar, y enjuiciar a los autores y cómplices de infracciones penales que afecten a los intereses financieros de la Unión Europea previstas en la Directiva (UE) 2017/1371, como la malversación de fondos europeos, el soborno activo y pasivo, el fraude transnacional del IVA cuando implique al menos a dos Estados miembros y cuando estén en juego más de 10 millones de euros, delitos aduaneros y blanqueo de capitales conexo.

European Public Prosecutor's Office (EPPO) is an institution provided for in the Lisbon Treaty for the protection of the financial interests of the European Union that began to operate officially on June 1, 2021.

What can already be said about the beginnings of the EPPO?

On 14 September 2021, the EPPO announced that it received more than 1,700 alerts of offences transmitted by authorities of the Member States since its launch and opened 300 investigations involving a total damages of 4.5 billion euros. For instance, an investigation on transnational VAT fraud led to search warrants in Germany, the Netherlands, Slovakia, Bulgaria and Hungary. An investigation was also opened in July against four Croatian nationals, prosecuted for active and passive bribery and abuse of power.

Recently, in November 2021, the EPPO seized 23 million euros in the framework of investigations led in the Czech Republic, Romania, Slovakia and Italy on tax fraud and misuse of EU funds. Besides, it seized 900,000 euros of assets in Italy. This sum had originally been granted by the EU to six entrepreneurs who claimed to develop tourism in the Calabria region. As part of their project, the suspects had bought large catamarans and sailing boats, which never arrived at their destination but ended up in Sicily.

¿Qué podemos decir sobre los inicios de la Fiscalía Europea?

El 14 de septiembre de 2021, la Fiscalía Europea anunció que había recibido más de 1.700 descripciones de infracciones transmitidas por las autoridades de los Estados miembros desde su puesta en marcha y abrió 300 investigaciones que implicaban un total de 4 daños. 5.000 millones de euros. Por ejemplo, una investigación sobre el fraude transnacional del IVA dio lugar a órdenes de registro en Alemania, los Países Bajos, Eslovaquia, Bulgaria y Hungría. En julio también se abrió una investigación sobre cuatro ciudadanos croatas, procesados por soborno activo y pasivo y abuso de poder.

Recientemente, en noviembre de 2021, la Fiscalía Europea incautó 23 millones de euros en el marco de las investigaciones dirigidas en la República Checa, Rumanía, Eslovaquia e Italia sobre fraude fiscal y uso indebido de fondos de la UE. Además, se apoderó de 900.000 euros de activos en Italia. Esta suma había sido concedida originalmente por la UE a seis empresarios que afirmaban desarrollar el turismo en la región de Calabria. Como parte de su proyecto, los sospechosos habían comprado grandes catamaranes y veleros, que nunca llegaron a su destino pero terminaron en Sicilia.

The European Public Prosecutor's Office can carry out the investigations and acts of the criminal action and can exercise the functions of accusation at the competent jurisdictional bodies of the Member States, until the case in question is definitively concluded.

On a domestic level, beginnings of the EPPO are cautious. For the time being, the Paris branch of the EPPO is in charge of 5 cases, which represents a lower volume than that envisaged in the impact assessment carried out at the request of the French Government, namely from 60 to 100 cases per year. The first case was brought by a German EDP, asking for information on suspect companies in the context of VAT fraud. "Without the EPPO, this German magistrate would have had to issue a European investigation decision, with a significant delay in the transmission of information" said David Touvet, who believes he has now enough hindsight to say that the EPPO works. Nonetheless, he hopes to rapidly increase the volume of cases handled by French EDPs.

A nivel nacional, los inicios de la Fiscalía Europea son cautelosos. Por el momento, la sucursal de París de la Fiscalía Europea se encarga de 5 asuntos, lo que representa un volumen inferior al previsto en la evaluación de impacto realizada a petición del Gobierno francés, es decir, de 60 a 100 casos por año. El primer caso fue presentado por un German EDP, solicitando información sobre empresas sospechosas en el contexto del fraude del IVA. "Sin la Fiscalía Europea, este magistrado alemán habría tenido que emitir una decisión de investigación europea, con un retraso significativo en la transmisión de información", dijo David Touvet, quien cree que ahora tiene suficiente retrospectiva para decir que la Fiscalía Europea funciona. No obstante, espera aumentar rápidamente el volumen de casos tramitados por los PDE franceses.



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ENZO PISA

Enzo Pisa is partner in the Menichetti Law Firm since 1991. He joined the Verona Bar Association in 1998 and he acts as a lawyer in the Supreme Court since 2012. He is also organizer and speaker in numerous conferences, seminars and workshops on major legislative and jurisprudential developments in labor law.

ENZO PISA

Enzo Pisa es socio del Bufete de Abogados Menichetti desde 1991. Se incorporó al Colegio de Abogados de Verona en 1998 y se desempeña como abogado en el Tribunal Supremo desde 2012. También actúa como organizador y ponente en numerosos congresos, seminarios y talleres de las principales legislaciones y jurisprudenciales. novedades en derecho laboral.



GILDA PISA

Labor lawyer and partner at Studio Legale Menichetti since 2018. She joined the Verona Bar Association in 1995 acting as a cassation lawyer at the Supreme Court since 2011. She organizes numerous conferences on the most important legislative and jurisprudential innovations in labor law. She is a member of numerous legal associations and coordinator of the training commission of the Verona Bar Association in the field of labor law.

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THE COVID-19 CERTIFICATION IN THE ITALIAN LABOR POLICIES

LA CERTIFICACIÓN COVID-19 EN LAS POLÍTICAS LABORALES ITALIANAS

Por Enzo Pisa & Gilda Pisa

Socios en STUDIO LEGALE MENICHETTI
Socios de STUDIO LEGALE MENICHETTI

La Certificación Verde Covid-19 (similar a la Certificación COVID Digital de la UE en Europa y también conocida como "Green Pass") ha sido un instrumento legal fundamental dentro del sistema italiano para lograr los objetivos del gobierno relacionados con la campaña de vacunas.

En concreto, con el D.L. n. 127/2021, el Gobierno ha establecido que, a partir del 15 de octubre de 2021, la certificación verde es una condición necesaria para acceder a los centros de trabajo, tanto en el sector público como en el privado. La condición involucra a todos los trabajadores, incluidos los propietarios, socios y administradores que realizan, por cualquier motivo, su trabajo, capacitación (pasantías y etapas) o trabajo voluntario en el lugar de trabajo incluso en base a contratos externos, incluidos los trabajadores autónomos (profesionales, artesanos) y colaboradores no clasificados como empleados.

El Green Pass se considera válido para aquellos que tienen:

- i) dio negativo con una prueba PCR en las 72 horas anteriores al control
- ii) dio negativo con una prueba rápida en las 48 horas anteriores al control
- iii) completó un ciclo completo de vacunación
- iv) realizó la primera dosis de vacuna o vacuna de dosis única (J&J) desde al menos 15 días
- v) recuperado de la infección por covid desde no más de 6 meses.

La Certificación Verde Covid-19 (similar a la Certificación COVID Digital de la UE en Europa y también conocida como "Green Pass") ha sido un instrumento legal fundamental dentro del sistema italiano para lograr los objetivos del gobierno relacionados con la campaña de vacunación. En concreto, con el D.L. n. 127/2021, el Gobierno ha establecido que, a partir del 15 de octubre de 2021, la certificación verde es una condición necesaria para acceder a los centros de trabajo, tanto en el sector público como en el privado. La condición involucra a todos los trabajadores, incluidos los propietarios, socios y administradores que realizan, por cualquier motivo, su trabajo, capacitación (pasantías y etapas) o trabajo voluntario en el lugar de trabajo incluso en base a contratos externos, incluidos los trabajadores autónomos (profesionales, artesanos) y colaboradores no clasificados como empleados.

El Green Pass se considera válido para aquellos que:

- i) hayan dado negativo con una prueba PCR en las 72 horas anteriores al control
- ii) hayan dado negativo con una prueba rápida en las 48 horas anteriores al control
- iii) hayan completado un ciclo completo de vacunación
- iv) realizado la primera dosis de vacuna o vacuna monodosis (J&J) desde al menos 15 días
- v) se recuperó de la infección por covid en los 6 meses anteriores.



According to the current regulations, this obligation will remain in force until December 31st, 2021, although the government is currently considering its extension probably until June 2022.

A worker, public or private, that when accessing the workplace does not present the green certification will be considered as an unexcused absence, without the right to salary until he/she presents the green pass.

From an operational point of view, the employer must prepare a document, prior to the start of the controls, which must contain the appointment of the persons authorized to control and verify the green certificate.

At the same time, it's fundamentally important to prepare the protocol through which the employer must identify the organizational and operational procedures, with respect to the checks that will be carried out to verify the validity of the green pass.

First of all, it will be necessary to indicate which subjects are involved in the control: not only employees, as we already said, but every person that, for work-related reasons, has to access the workplaces.

De acuerdo con la normativa vigente, esta obligación permanecerá hasta el 31 de diciembre de 2021, aunque el Gobierno está considerando actualmente su prórroga probablemente hasta junio de 2022.

Un trabajador, público o privado, que al acceder al lugar de trabajo no presente la certificación verde será considerado como una ausencia injustificada, sin derecho a salario hasta que presente el pase verde.

Desde el punto de vista operativo, el empleador debe preparar un documento, previo al inicio de los controles, que debe contener el nombramiento de las personas autorizadas para controlar y verificar el certificado verde. Al mismo tiempo, es fundamental preparar el protocolo a través del cual el empleador debe identificar los procedimientos organizativos y operativos, con respecto a los controles que se llevarán a cabo para verificar la validez del pase verde.

En primer lugar, será necesario indicar qué sujetos están involucrados en el control: no solo los empleados, como ya dijimos, sino todas las personas que, por razones relacionadas con el trabajo, tienen que acceder a los lugares de trabajo.

Therefore, it's critical to foresee the modalities through which the controls will be carried out, in the light of what is established by the decree-laws (for example, a control can be performed on every worker at the entrance of workplaces; alternatively, the employer can opt for a sample check).

With regard to the sanctioning consequences, the defaulting employer will be charged with an administrative sanction from 400 to 1,000 €; the worker, on the other hand, incurs the risk of a sanction consisting in the payment of an amount ranging from 600 to 1,500 € in the event that he/she enters the workplace in violation of the obligations to possess and exhibit the certification.

Por lo tanto, es fundamental prever las modalidades a través de las cuales se llevarán a cabo los controles, a la luz de lo establecido por los decretos-leyes (por ejemplo, se puede realizar un control a cada trabajador en la entrada de los lugares de trabajo; alternativamente, el empleador puede optar por un control de muestra).

En cuanto a las consecuencias sancionadoras, el empleador que incumpla será multado con una sanción administrativa de 400 a 1.000 €; el trabajador, por su parte, incurre en el riesgo de una sanción consistente en el pago de una cantidad que oscila entre los 600 y los 1.500 € en el caso de que entre en el centro de trabajo incumpliendo las obligaciones de poseer y exhibir la certificación.

Italy imposes "green pass" restrictions on all unvaccinated people, resident in Italy or not.

Disciplinary sanctions, if any, provided by the collective agreements of the sector also apply. In the case of repeated violations, the administrative sanction is doubled.

Also, for a complete view it's necessary to make a mention about the mandatory vaccination, introduced by D.L. 44/2021, for "the exercise of health professions and health care professionals who carry out their activities in health, social and health care and social-assistance facilities, public and private, in pharmacies, parapharmacies, and professional offices". The vaccination in this case "constitutes an essential requirement for the exercise of the profession and for the performance of work services rendered by those obliged"; In addition, with the D.L n.122/2021 the vaccination requirement has been extended to anyone who enters social welfare and/or health care.

También se aplican las sanciones disciplinarias, en su caso, previstas en los convenios colectivos del sector. En el caso de infracciones reiteradas, la sanción administrativa se duplica.

Asimismo, para una visión completa es necesario hacer una mención sobre la vacunación obligatoria, introducida por el D.L. 44/2021, para "el ejercicio de las profesiones sanitarias y los profesionales sanitarios que realizan su actividad en centros sanitarios y asistenciales, públicos y privados, en farmacias, parafarmacias y despachos profesionales". La vacunación en este caso "constituye un requisito esencial para el ejercicio de la profesión y para el desempeño de los servicios laborales prestados por los obligados"; Además, con el D.L n. 122/2021 se ha extendido el requisito de vacunación a cualquier persona que ingrese a la asistencia social y/o asistencia sanitaria.



Michał Jackowski

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"ANYLAWYER" - THE ROAD TO AUTOMATION OF LEGAL SERVICE PROCESSES

"ANYLAWYER" - EL CAMINO HACIA LA AUTOMATIZACIÓN DE LOS PROCESOS DE SERVICIO LEGAL

This article has been written by Piotr Bączyk, part of the AnyRobot team project implemented by the DSK KANCELARIA law firm and led by lawyers Michał Jackowski and Mikołaj Wiza.

Este artículo ha sido redactado por Piotr Bączyk, parte del proyecto AnyRobot team implementado por el despacho DSK KANCELARIA y que dirigen los abogados Michał Jackowski y Mikołaj Wiza.

A group of DSK experts and "AnyRobot" developers analysed activity patterns and support areas in the work of lawyers to identify opportunities for AI to bring tangible benefits in terms of saving time, workload and - ideally - reducing the human factor to a minimum. Then they decided to lean into this in a joint project to see to what extent AI is able to work on legal texts.

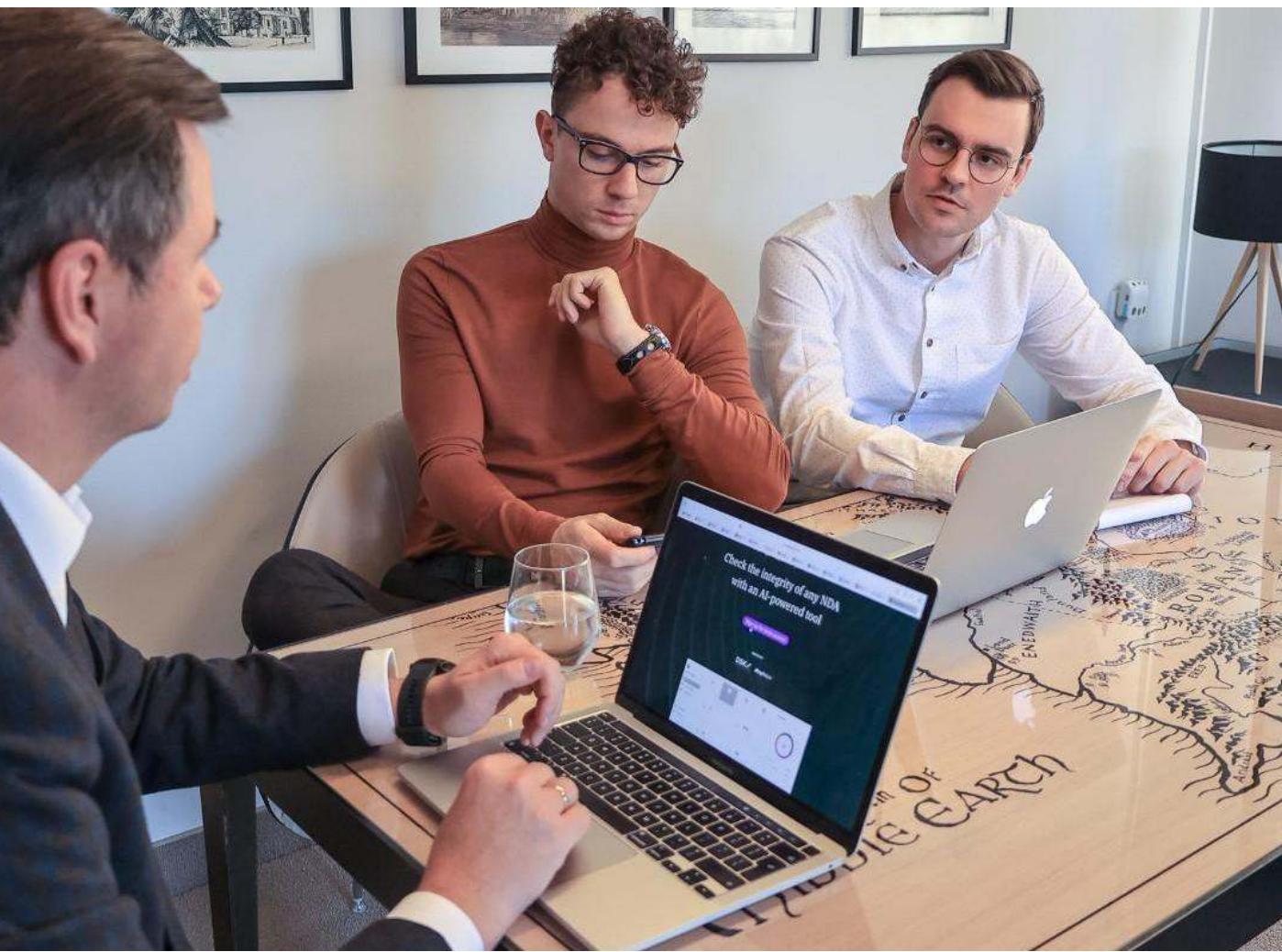
Artificial intelligence (AI) is entering more and more boldly into various areas of everyday life. The dynamic development of machine learning and the resulting benefits mean that AI used correctly and optimally can be a very valuable support in many fields - including the daily work of a lawyer.

In the legal industry, the circulation of documents between parties operating in the market - both professional and individual - involves many repetitive documents that are based on a similar construction. The construction of contracts, the clauses contained therein and the permissible solutions, neutral or beneficial to one of the parties tend to replicate certain patterns. Of note in this respect is the non-disclosure agreement / confidentiality agreement (NDA), which is currently one of the most popular and standard documents appearing in legal transactions - especially between entrepreneurs.

El grupo de expertos de DSK y desarrolladores de "AnyRobot" analizaron los patrones de actividad y las áreas de apoyo en el trabajo de los abogados para identificar oportunidades para que la IA aporte beneficios tangibles en términos de ahorro de tiempo, carga de trabajo e, idealmente, reducción del factor humano al mínimo. Por ello, decidieron apoyarse en esto en un proyecto conjunto para ver hasta qué punto la IA es capaz de trabajar en textos legales.

La inteligencia artificial (IA) está entrando cada vez más audazmente en diversas áreas de la vida cotidiana. El desarrollo dinámico del aprendizaje automático y los beneficios resultantes significan que la IA utilizada de manera correcta y óptima puede ser un apoyo muy valioso en muchos campos, incluido el trabajo diario de un abogado.

En la industria legal, la circulación de documentos entre las partes que operan en el mercado, tanto profesionales como individuales, implica muchos documentos repetitivos que se basan en una construcción similar. La construcción de los contratos, las cláusulas contenidas en los mismos y las soluciones permisibles, neutrales o beneficiosas para una de las partes tienden a replicar ciertos patrones. A este respecto, cabe destacar el acuerdo de confidencialidad (NDA), que actualmente es uno de los documentos más populares y estándar que aparecen en las transacciones legales, especialmente entre empresarios.



Clients often ask for the analysis of such documents. Their large number, in several variants, entails a lot of work and at the same time generates relatively low revenues from such an analysis. In turn, on the part of the client, the submission of such a contract also entails certain costs, above all the waiting time for the result. It often exceeds a single day - and causes the suspension of all business processes.

Therefore, our team (lawyers from DSK), with the support of "AnyRobot" developers, decided to create a model of AI functionality within the "AnyLawyer" project to address this issue. We wanted not only to speed up the NDA analysis processes (results are obtained in less than a minute), but also for the users of the tool (often decision makers) to be able to make their own decisions on how to proceed based on the obtained result.

Los clientes a menudo solicitan el análisis de dichos documentos. Su gran número, en varias variantes, implica mucho trabajo y al mismo tiempo genera ingresos relativamente bajos a partir de dicho análisis. A su vez, por parte del cliente, la presentación de dicho contrato también conlleva ciertos costes, sobre todo el tiempo de espera para el resultado. A menudo excede un solo día y causa la suspensión de todos los procesos comerciales.

Por lo tanto, nuestro equipo (abogados de DSK), con el apoyo de los desarrolladores de "AnyRobot", decidió crear un modelo de funcionalidad de IA dentro del proyecto "AnyLawyer" para abordar este problema. Queríamos no solo acelerar los procesos de análisis de NDA (los resultados se obtienen en menos de un minuto), sino también que los usuarios de la herramienta (a menudo tomadores de decisiones) puedan tomar sus propias decisiones sobre cómo proceder en función del resultado obtenido.

The analysis carried out by AI, which learns clauses and legal language on many standards as well as non-standard NDA documents through machine learning, is intended to identify any risky elements and non-standard clauses that appear in the processed contract. As a result, the user is expected to receive a verified document, with the above-mentioned areas properly flagged and commented. With this awareness gained, the user can decide to continue negotiations, accept the agreement, or alternatively - ask a lawyer for advice and guidance for possible changes.

The tool is currently undergoing internal testing to improve the detection rate of risky clauses and the accuracy of the results. And soon - with a planned launch in early 2022 - "AnyLawyer" will be available as a BETA version, allowing you to test the tool for free and give your feedback on how it works.

El análisis realizado por AI, que tiene en cuenta cláusulas y lenguaje legal en muchos estándares, así como documentos NDA no estándar a través del aprendizaje automático, tiene como objetivo identificar cualquier elemento de riesgo y cláusulas no estándar que aparezcan en el contrato procesado. Como resultado, se espera que el usuario reciba un documento verificado, con las áreas mencionadas anteriormente debidamente marcadas y comentadas. Con esta conciencia adquirida, el usuario puede decidir continuar las negociaciones, aceptar el acuerdo o, alternativamente, solicitar asesoramiento y orientación a un abogado para posibles cambios. La herramienta se encuentra actualmente en pruebas internas para mejorar la tasa de detección de cláusulas de riesgo y la precisión de los resultados. Y pronto, con un lanzamiento planificado a principios de 2022, "AnyLawyer" estará disponible como una versión BETA, lo que le permitirá probar la herramienta de forma gratuita y dar sus comentarios sobre cómo funciona.

Join us in the adventure of AI-based legal tool development!

Non-disclosure agreements are just the first step AI can take in supporting the day-to-day work of lawyers. The potential success of the project supports the vision of extending its functionality to other areas of law as well - especially in the field of popular contracts used in everyday life. The benefits of the tool can be reaped not only by legal practitioners, but also by the broader business development of large market players and individuals in need of fast and effective analysis of their documents.

AnyLawyer is a visionary project that aims to use cutting edge AI technology tools to change the face of the legal world. If you, the reader, are interested in the project concept and would like to see how the solution looks today - sign up for BETA tests via the form on:

anylawyer.com

And see for yourself!

Los acuerdos de confidencialidad son solo el primer paso que la IA puede dar para apoyar el trabajo diario de los abogados. El éxito potencial del proyecto apoya la visión de extender su funcionalidad a otras áreas del derecho también, especialmente en el campo de los contratos populares utilizados en la vida cotidiana. Los beneficios de la herramienta pueden ser cosechados no solo por los profesionales del derecho, sino también por el desarrollo comercial más amplio de los grandes actores del mercado y las personas que necesitan un análisis rápido y efectivo de sus documentos.

"AnyLawyer" es un proyecto visionario que tiene como objetivo utilizar herramientas tecnológicas de IA de vanguardia para cambiar el mundo legal. Si usted, el lector, está interesado en el concepto del proyecto y le gustaría ver cómo se ve la solución hoy, regístrese para las pruebas BETA a través del formulario en:

anylawyer.com

Y compruébalo usted mismo.



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A WIDER SCOPE FOR FREE TRADE ZONES IN GUATEMALA

UN ÁMBITO MÁS AMPLIO PARA LAS ZONAS DE LIBRE COMERCIO EN GUATEMALA

By Eduardo Mayora.

**Partner and founder of Mayora & Mayora
Socio y fundador de Mayora & Mayora**

The Republic of Guatemala ("Guatemala") has organized free trade zones for about a half century now.

These have had different characteristics and purposes such as (i) developing service hubs to support international trade and/or regional sub-distribution of merchandises; (ii) packaging and repackaging, and labeling; (iii) manufacturing and/or ensemble processes for foreign markets; and (iv) the drawback and maquila industries. Usually, the several models implemented have included tax incentives for a certain period such as 10-year Income Tax and Value Added Tax holidays and the exemption of import duties for capital goods and or reexport activities.

As Guatemala became a party, first to the Uruguay Round, and subsequently to the World Trade Organization and, also, as it entered into regional and international free trade agreements , its legislation on free trade zones has become adjusted comply with their rules.

Additionally, at each point the Tax Administration has been keen not to erode the tax base and, thus, tax incentives have been offered to promote exports to markets other than the domestic and/or regional markets and to attract new investments.

La República de Guatemala ("Guatemala") ha organizado zonas de libre comercio desde hace aproximadamente medio siglo.

Estos han tenido diferentes características y propósitos como (i) el desarrollo de centros de servicios para apoyar el comercio internacional y/o la sub-distribución regional de mercancías; (ii) el empaque y re-empaque, y el etiquetado; (iii) los procesos de manufactura y/o ensamble para los mercados extranjeros; y (iv) las industrias de drawback y maquila. Por lo general, los diversos modelos implementados han incluido incentivos fiscales por un período determinado, como las vacaciones de 10 años del Impuesto sobre la Renta y del Impuesto sobre el Valor Añadido y la exención de los derechos de importación para los bienes de capital y/o las actividades de reexportación.

A medida que Guatemala pasó a ser parte, primero en la Ronda Uruguay, y posteriormente en la Organización Mundial del Comercio y, también, al celebrar acuerdos regionales e internacionales de libre comercio , su legislación sobre zonas francas se ha ido ajustando a las normas.

Además, en cada momento la Administración Tributaria se ha esforzado por no erosionar la base imponible y, por lo tanto, se han ofrecido incentivos fiscales para promover las exportaciones a mercados distintos de los mercados nacionales y/o regionales y para atraer nuevas inversiones.



At this point in time, the three most important regimes in this context are:

- (1) the drawback and maquila activities under Act of Congress 29-89 (as amended);
- (2) the “ZOLIC” free trade system, including the “Special Economic Development Zones”, under Act of Congress 22-73 (as amended); and
- (3) the Free Trade Zones under Act of Congress 65-89 (as amended).

The latest amendment to the Free Trade Zones regime through Act of Congress 6-21, promulgated last month, has given greater scope to the activities that can be carried out in a Free Trade Zone, with an interesting set of tax incentives that should attract business.

The range of activities has become expanded under Act of Congress 6-21. Thus, users can carry out any activity or process any product or merchandise other than the following “excluded” products and/or activities:

En este momento, los tres regímenes más importantes en su contexto son:

- (1) las actividades de reintegro y maquila bajo la Ley del Congreso 29-89 (modificada);*
- (2) el sistema de libre comercio "ZOLIC", incluidas las "Zonas Especiales de Desarrollo Económico", en virtud de la Ley del Congreso 22-73 (modificada); y*
- (3) las Zonas Francas en virtud de la Ley del Congreso 65-89 (modificada).*

La última modificación al régimen de Zonas Francas a través de la Ley 6-21 del Congreso, promulgada el mes pasado, ha dado mayor alcance a las actividades que se pueden realizar en una Zona Franca, con un interesante conjunto de incentivos fiscales que deberían atraer a las empresas.

La gama de actividades se ha ampliado en virtud de la Ley del Congreso 6-21. Así, los usuarios pueden llevar a cabo una actividad o proceso de cualquier producto o mercancía que no sean los siguientes productos y/o actividades "excluidos":

- Travel agencies and air carriers.
- Land, sea, or air freight services.
- Activities subject to the banking and financial laws of Guatemala.
- Services not related with international trade.
- Oil drilling and storage.
- Alcoholic beverages, except for wines and ciders.
- Bottled water, soda drinks, and beer brewing.
- Fishing and fish farming.
- Silviculture, lumbering and trading in lumber.
- Sugar from sugar cane, refined or not, molasses and their derivatives.
- Coffee beans.
- Cardamom beans.
- Cotton.
- Fresh banana.
- Sesame seeds.
- Rubber in its natural state.
- Cattle, sheep, or goat raising.
- Mining extraction activities.
- Explosives or radioactive materials.
- Protected vegetable or living species.

- Agencias de viajes y compañías aéreas.
- Servicios de carga terrestre, marítima o aérea.
- Actividades sujetas a las leyes bancarias y financieras de Guatemala.
- Servicios no relacionados con el comercio internacional.
- Perforación y almacenamiento de petróleo.
- Bebidas alcohólicas, excepto vinos y sidras.
- Agua embotellada, refrescos, y elaboración de cerveza.
- Pesca y piscicultura.
- Silvicultura y comercio de madera.
- Azúcar procedente de caña azúcar, refinada o no, melaza y sus derivados.
- Granos de café.
- Frijoles cardamomo.
- Algodón.
- Plátano fresco.
- Semillas de sésamo.
- Cauchó en su estado natural.
- Cría de ganado vacuno, ovino o caprino.
- Actividades de extracción minera.

"All these activities are excluded and cannot be carried out in the free trade zones of Guatemala"

- Products that generate pollution.
- Manufacturing or packaging of products subject to export/import quotas.
- Planting of agricultural products.
- Manufacturing of cigarettes or other tobacco products.
- Cement and clinker.
- Construction materials (for the "grey" stage).
- Importation of motor vehicles destined to the national customs territory.
- Mineral or metallic products from mining activities, and scrap metal.
- African palm and nuts.
- The supply of food to the employees of the users of a free trade zone or to the user.
- Financial or banking services.
- Electric power generation or distribution to other than the users of a free trade zone.
- Telecommunications services including satellite telecommunications.
- Open, cable, or satellite TV broadcasting.
- Jewelry and precious stones.

- Explosivos o materiales radiactivos.
- Especies vegetales o vivas protegidas.
- Productos que generan contaminación.
- Fabricación o envasado de productos sujetos a contingentes de exportación/importación.
- Plantación de productos agrícolas.
- Fabricación de cigarrillos u otros productos del tabaco.
- Cemento y Clinker.
- Materiales de construcción (para la etapa "gris").
- Importación de vehículos automotores destinados al territorio aduanero nacional.
- Productos minerales o metálicos de actividades mineras, y chatarra.
- Palma africana y nueces.
- El suministro de alimentos a los empleados de los usuarios de una zona franca o al usuario.
- Servicios financieros o bancarios.
- Generación o distribución de energía eléctrica a usuarios distintos de los usuarios de una zona franca.
- Servicios de telecomunicaciones, incluidas las telecomunicaciones por satélite.
- Transmisión de TV abierta, por cable o vía satélite.
- Joyas y piedras preciosas.



The following imports are prohibited:

- Firearms, powder, and war supplies.
- Jewels, wrist watches, and nonindustrial cameras.
- Industrial waste.
- Merchandise from out of the Central American region for the use or consumption of those who live, work, or enter a free trade zone.

As mentioned above, all those activities can only be set to export or reexport the corresponding products or services to countries other than those belonging to the Central American Economic Integration Treaty, except that industrial user are allowed to export to the domestic market up to 20% of their output on the same conditions applicable to imports from non-Central American countries.

Those business firms approved to operate as a user in a free trade zone generally enjoy the following tax incentives:

Quedan prohibidas las siguientes importaciones:

- Armas de fuego, pólvora y suministros de guerra.*
- Joyas, relojes de pulsera y cámaras no industriales.*
- Residuos industriales.*
- Mercancías provenientes de la región centroamericana para uso o consumo de quienes viven, trabajan o ingresan a una zona franca.*

Como se mencionó anteriormente, todas estas actividades sólo pueden ser fijadas para exportar o reexportar los productos o servicios correspondientes a países distintos de los que pertenecen al Tratado de Integración Económica Centroamericana, excepto que los usuarios industriales pueden exportar al mercado interno hasta el 20% de su producción en las mismas condiciones aplicables a las importaciones de países no centroamericanos.

Las empresas comerciales aprobadas para operar como usuarios en una zona de libre comercio generalmente disfrutan de los siguientes incentivos fiscales:

-Income Tax: on the income derived exclusively from the user's activity directly connected with the free trade zone for a period of 10 years from date that notice of authorization has been given to the user, this, subject to the condition that foreign users cannot apply for a tax credit in their home jurisdiction for income tax paid abroad.

-Value Added Tax: for merchandises transferred within and between free trade zones.

-Import Duties: on the importation of machinery, equipment, tools, raw materials, semi processed goods, containers, packages, components, and merchandise used in the manufacturing of goods or in the provision of services.

-Stamp tax: where applicable on the transfer of real estate used in the manufacturing process of an industrial user.

-Impuesto sobre la Renta: sobre las rentas derivadas exclusivamente de la actividad del usuario directamente relacionada con la zona franca durante un período de 10 años a partir de la fecha en que se haya dado aviso de autorización al usuario, esto, sujeto a la condición de que los usuarios extranjeros no puedan solicitar un crédito fiscal en la jurisdicción de origen para el impuesto sobre la renta pagado en el extranjero.

-Impuesto al Valor Agregado: para mercancías transferidas dentro y entre zonas francas.

-Derechos de Importación: sobre la importación de maquinaria, equipo, herramientas, materias primas, bienes semiprocesados, contenedores, paquetes, componentes y mercancías utilizadas en la fabricación de bienes o en la prestación de servicios.

-Impuesto de sellos: en su caso sobre la transmisión de bienes inmuebles utilizados en el proceso de fabricación de un usuario industrial.

"HOW TO QUALIFY TO OPERATE IN A FREE TRADE ZONE"

According with Article 4 of Act of Congress 65-89 (as amended) there are two kinds of users:

(a) **Industrial users:** which focus their activity into manufacturing, transformation, ensemble, and the processing of products to provide them with characteristics, uses, or functions other than their original ones or if they carry our research and development activities; or

(b) **Commercial users:** which provide services to support international trade activities, including commercial activities (service users).

To be qualified to operate in a free trade zone, the interested party must be first authorized to do business in Guatemala (usually through a local corporation or a branch of a foreign corporation). Then, an application must be filed with the free trade zone administration ("the FTZ") where the interested party wishes to operate. The FTZ then transfers the file to the Department of Industrial Policy of the Ministry of Economy and Foreign Trade.

De acuerdo con el artículo 4 de la Ley del Congreso 65-89 (en su forma enmendada) hay dos tipos de usuarios:

(a) **Usuarios industriales:** que centran su actividad en la fabricación, transformación, ensamble y procesamiento de productos para proporcionarles características, usos o funciones distintas de las originales o si llevan a cabo nuestras actividades de investigación y desarrollo; o

(b) **Usuarios comerciales:** que prestan servicios para apoyar las actividades negociales internacionales, incluidas las actividades comerciales (usuarios de servicios).

Para estar calificado para operar en una zona de libre comercio, la parte interesada debe estar autorizada para hacer negocios en Guatemala (generalmente a través de una corporación local o una sucursal de una corporación extranjera). A continuación, se debe presentar una solicitud ante la administración de la zona franca ("FTZ") en la que el interesado desee operar. La zona franca transfiere entonces el expediente al Departamento de Política Industrial y del Ministerio de Economía y Comercio Exterior.

The Tax Administration and the Department of Industrial Policy shall issue their respective opinions on the whether the applicant fulfills the legal requirements based on a detailed report of the nature and characteristics of the activity that the applicant proposes to carry out in the free trade zone. There are presently 14 free trade zones of all kinds authorized to operate in the country. In addition, the applicant must submit:

- A certified copy of the bylaws of the applicant.
- The certificate of incumbency of the officer that bears the power to act on behalf of the applicant.
- The certificate of good standing of the applicant and of its registration with the Commercial Registry.
- The last receipt of the payment of applicant's contribution to the Social Security Institute and that of the applicant's employees.

La Administración Tributaria y el Departamento de Política Industrial emitirán sus respectivos dictámenes sobre si la aplicación cumple con los requisitos legales basados en un informe detallado de la naturaleza y características de la actividad que el solicitante se propone realizar en la zona franca. Actualmente existen 14 zonas francas de todo tipo autorizadas para operar en el país. Además, el solicitante debe presentar:

- Una copia certificada de los estatutos del solicitante.*
- El certificado de ocupación del funcionario que tiene la facultad de actuar en nombre del solicitante.*
- El certificado de buena reputación del solicitante y de su inscripción en el Registro Comercial.*
- El último recibo del pago de la cotización del solicitante a la Seguridad Social y la de los empleados del solicitante.*

"To operate in a Free Trade Zone, it is enough to request an administrative authorization"

-A certificate to the effect that the applicant, its legal representative, and its shareholders do not owe any taxes nor does the applicant have any pending fines with the Social Security Institute.

-A certified copy of the shareholder's record.

-A certified and sworn statement to the effect that the applicant does not and has not operated under the regimes regulated under Acts of Congress 29-89, 65-89 or 22-73 or in the ZOLIC free trade zone.

-A certified and sworn statement to the effect that the applicant is not the beneficiary of any tax incentives.

It is very important to note that, to be qualified to operate in a free trade zone it must be a new investment and not the transfer of an existing operation to a free trade zone nor those who have had any benefits under Acts of Congress 29-89 or 22-73 revoked or operate within the ZOLIC free trade regime. If every report and formal requirement are in order, the authorization process should not take longer than four months from filing.

-Un certificado en el sentido de que el solicitante, su representante legal y sus accionistas no adeudan impuestos ni el solicitante tiene multas pendientes con el Instituto de la Seguridad Social.

-Una copia certificada del registro del accionista.

-Una declaración certificada y jurada en el sentido de que el solicitante no opera ni ha operado bajo los regímenes regulados por las Leyes del Congreso 29-89, 65-89 o 22-73 o en la zona de libre comercio ZOLIC.

-Una declaración certificada y jurada en el sentido de que el solicitante no es el beneficiario de ningún incentivo fiscal.

Es muy importante señalar que, para estar calificado para operar en una zona franca, debe ser una nueva inversión y no la transferencia de una operación existente a una zona de libre comercio ni aquellos que han tenido algún beneficio bajo las Leyes del Congreso 29-89 o 22-73 revocadas u operan dentro del régimen de libre comercio ZOLIC. Si todos los informes y requisitos formales están en orden, el proceso de autorización no debe tomar más de cuatro meses desde la presentación.



Alberto Parés Sánchez has been a lawyer at Cremades & Calvo -Sotelo since 2018. Specialized, among other areas, in Commercial Law, Corporate Law, Corporate Governance, Public Law, Energy Law, Regulated Sectors and Foundations. He is the coordinator of activities for Euro Latam Lex and directs, together with the rest of the Euro Latam Lex team, the organization of its numerous International Congresses.

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A BRIEF ANALYSIS OF ROYAL DECREE-LAW 17/2021

BREVE ANÁLISIS DEL REAL DECRETO-LEY 17/ 2021

By Alberto Parés Sánchez

Lawyer at Cremades & Calvo-Sotelo Abogados
Abogado en Cremades & Calvo-Sotelo Abogados

On September 16, 2021, Royal Decree-Law 17/2021, of September 14, on urgent measures to mitigate the impact of the rise in natural gas prices in the retail gas and electricity markets (hereinafter, "Royal Decree-Law" or the "RDL"). The Government has undertaken one of the most far-reaching regulatory changes in the electricity sector with the purpose - as stated in its explanatory memorandum - of "immediately stopping the effect that the increase in the price of electricity is having on the rest of the world sectors of the economy" that is generating "growing social alarm and are cause for obvious concern".

Thus, the Executive has approved this norm with the force of law - pending its validation or not - while they are being processed in the Congress of Deputies: (i) the Bill by which the Fund is created National for the Sustainability of the Electricity System and (ii) the Bill to act on the remuneration of CO₂ not emitted from the electricity market.

Leaving aside two tax measures adopted (the temporary reduction of the tax rate of the Special Tax on Electricity and the also temporary suspension of the Tax on the value of electricity production), and having established the above considerations, and in relation to the specific content of the RDL, the main measures adopted are:

El 16 de septiembre de 2021 entró en vigor el Real Decreto-ley 17/2021, de 14 de septiembre, de medidas urgentes para mitigar el impacto de la escalada de precios del gas natural en los mercados minoristas de gas y electricidad (en lo sucesivo, "Real Decreto-ley" o el "RDL"). El Gobierno ha acometido uno de los cambios regulatorios en el sector eléctrico de mayor calado con la finalidad -como señala en su exposición de motivos- de "frenar de manera inmediata el efecto que el incremento del precio de la electricidad está teniendo en el resto de sectores de la economía" que está generando "una creciente alarma social y son motivo de una evidente preocupación".

Así las cosas, el Ejecutivo ha aprobado esta norma con rango de ley -a la espera de su convalidación o no- mientras se encuentran en tramitación en el Congreso de los Diputados: (i) el Proyecto de Ley por el que se crea el Fondo Nacional para la Sostenibilidad del Sistema Eléctrico y (ii) el Proyecto de Ley por el que se actúa sobre la retribución del CO₂ no emitido del mercado eléctrico.

Dejando de lado dos medidas fiscales adoptadas (la reducción temporal del tipo impositivo del Impuesto Especial sobre la Electricidad y la suspensión también transitoria en el Impuesto sobre el valor de la producción de energía eléctrica), y sentadas las anteriores consideraciones, y con relación al concreto contenido del RDL, las principales medidas adoptadas son:



1.- Auction of manageable and non-emitting inframarginal energy.

The Royal Decree-Law in its article 3 establishes the obligation for the dominant operators of the generation market -that is, for the Endesa, Iberdrola, Naturgy and EDP groups-, to participate in a long-term energy auction, where the amount of The energy to be auctioned has been set at a maximum of 25% of the value of the lowest annual energy generated in the last ten years of the inframarginal manageable and non-emitting facilities that do not receive specific remuneration and that have not been awarded in the development auctions of renewable energies. The first call for this auction is also set in the RDL for December 31, 2021, as well as the amount to be auctioned at 15,830.08GWh. The Government intends - as the explanatory memorandum of this regulation indicates - to contribute to better liquidity and competition in the forward markets.

1.- Subasta de energía inframarginal gestionable y no emisora.

El Real Decreto-ley en su artículo 3 establece la obligación para los operadores dominantes del mercado de generación -es decir para los grupos Endesa, Iberdrola, Naturgy y EDP-, de participar en una subasta de energía a largo plazo, donde la cantidad de energía a subastar ha sido fijado como máximo en un 25% del valor de la energía anual generada más bajo de los últimos diez años de las instalaciones inframarginales gestionables y no emisoras que no perciban retribución específica y que no hayan resultado adjudicatarias en las subastas de desarrollo de energías renovables. Se fija también en el RDL la primera convocatoria de esta subasta para el 31 de diciembre de 2021, así como la cantidad a subastar en 15.830,08GWh. El Gobierno pretende -como señala la exposición de motivos de esta norma- contribuir a mejorar la liquidez y competencia de los mercados a plazo.

2.- Mechanisms for reducing excess remuneration.

The key provision and the one that so far has generated the most controversy between the Executive and the electricity companies is the measure of reduction of the excess remuneration that certain facilities are receiving as a result of the internalization in the price of electricity in the wholesale market, from increase in the price of natural gas in international markets.

According to its article 5, the subjective scope of the reduction measure extends to all the production facilities of technologies that do not emit greenhouse gases in the peninsular territory, with a power greater than 10 megawatts and that are not covered by no specific remuneration framework nor have they been awarded in any of the renewable auctions held, otherwise, the reduction does not apply to generation facilities that emit polluting gases, such as coal plants or gas combined cycle plants.

2.- Mecanismos de minoración del exceso de retribución.

La disposición clave y la que hasta ahora ha generado mayor controversia entre el Ejecutivo y las compañías eléctricas es la medida de minoración del exceso de retribución que determinadas instalaciones están percibiendo como consecuencia de la internalización en el precio de la electricidad en el mercado mayorista, del incremento del precio del gas natural en los mercados internacionales. De acuerdo con su artículo 5, el ámbito subjetivo de la medida de minoración se extiende a todas las instalaciones de producción de tecnologías no emisoras de gases de efecto invernadero en el territorio peninsular, con una potencia superior a 10 megavatios y que no estén acogidas a ningún marco retributivo específico ni hayan sido adjudicatarias en alguna de las subastas de renovables celebradas, de otro modo, la minoración no se aplica a las instalaciones de generación emisoras de gases contaminantes.

The RDL 17/2021 contains a battery of measures in different areas aimed at containing the rise in the price of electricity in the Iberian wholesale market and mitigating its effects on the most vulnerable groups.

Likewise, this reduction measure also applies to energy subject to forward contracting in accordance with the fifth additional provision of the RDL.

As for the amount of the reduction, this will be an amount proportional to the higher income obtained by these facilities as a consequence of the incorporation of the value of the price of natural gas in the wholesale market by the emitting technologies.

For the rest, with regard to the procedure, monthly the system operator -Red Eléctrica- will notify the companies that own the facilities the amounts resulting from the application of the reduction corresponding to the previous month and they must make the payment of this amount to Electric Network. These amounts are considered as payable income of the system destined to finance the costs of the electricity system. At the same time, the Government, through Additional provision 3, a reduction in the charges of the electricity system for the period from September 16, 2021 to December 31, 2021.

Asimismo, esta medida de minoración se aplica también a la energía sometida a la contratación a plazo de acuerdo con la Disposición adicional quinta del RDL.

En cuanto a la cuantía de la minoración, esta será una cantidad proporcional al mayor ingreso obtenido por estas instalaciones como consecuencia de la incorporación a los precios de la electricidad en el mercado mayorista del valor del precio del gas natural por parte de las tecnologías emisoras.

Por lo demás, con respecto al procedimiento, mensualmente el operador del sistema -Red Eléctrica- notificará a las empresas titulares de las instalaciones las cantidades que resulten de la aplicación de la minoración correspondientes al mes anterior y éstas deberán hacer el pago de esta cantidad a Red Eléctrica. Estas cantidades son consideradas como ingresos liquidables del sistema destinados a financiar los costes del sistema eléctrico. Paralelamente el Gobierno, mediante la disposición Adicional 3^a una reducción de los cargos del sistema eléctrico para el periodo comprendido entre el 16 de septiembre de 2021 al 31 de diciembre de 2021.



3.- Creation of a minimum vital supply.

Title I of the Royal Decree-Law modifies the Electricity Sector Law to create a vital minimum supply, extending the period of suspension of the supply cut by 6 months when vulnerable consumers have defaulted on their bills after four months have elapsed. During this period of time, a limit power will be established that will guarantee minimum comfort conditions and that cannot be overcome by the vulnerable consumer during those six months.

4.- Management of reservoirs.

Article 10 of the RDL modifies the Water Law in terms of the criteria for the rational use of water resources, in this way for reservoirs with a total capacity of 50 hm³ the following measures are established:

- (i)** a minimum and maximum regime of average monthly flows to be discharged for situations of hydrological normality and prolonged drought,
- (ii)** a regime of minimum volumes of reservoirs stored for each month and
- (iii)** the minimum monthly reserve that must remain in storage to avoid unwanted environmental effects.

3.- Creación de un suministro mínimo vital.

El título I del Real Decreto-ley modifica la Ley del Sector Eléctrico para crear un suministro mínimo vital, extendiendo 6 meses el periodo de suspensión del corte del suministro cuando los consumidores vulnerables hayan incurrido en impago de sus facturas una vez hayan transcurrido cuatro meses. Se establecerá durante ese periodo de tiempo una potencia límite que garantizará unas condiciones mínimas de confort y que no podrá ser superada por el consumidor vulnerable durante esos seis meses.

4.- Gestión de embalses.

El artículo 10 del RDL modifica la Ley de Aguas en cuanto a los criterios de utilización racional de los recursos hídricos, de esta manera para los embalses mayores de capacidad total de 50 hm³ se establecen las siguientes medidas:

- (i)** un régimen mínimo y máximo de caudales medios mensuales a desembalsar para situaciones de normalidad hidrológica y de sequía prolongada,
- (ii)** un régimen de volúmenes mínimos de reservas embalsadas para cada mes y
- (iii)** la reserva mensual mínima que debe permanecer almacenada para evitar efectos ambientales indeseados.

All this, the approval of the decree, the extra comments on how the reduction of income is going to be applied or not and the difficulty of applying it, only contribute to increasing and lengthening the legal insecurity that is one of the main enemies of the energy transition.

Leaving aside the description of the measures adopted, we can conclude that the RDL has had adverse effects on the electricity market in the short time it was in effect, especially with regard to the increase in regulatory risk that affects the profitability of investments in renewable projects to political decisions. This is so, because as we have indicated previously, the energy affected by the reduction is the energy generated from renewable sources, with fossil fuels being the most favored of the reduction measure. In this way, the principles of legal certainty and legitimate confidence are undermined, which may put at risk achieving the decarbonisation and electrification objectives set in the PNIEC.

Despite this pessimistic analysis, there are some signs for hope, such as the probable rectification or modification of the RDL in its parliamentary process and the call for the public consultation of October 1, 2021 by the Ministry of Ecological Transition for the modification of the tariff regulated electricity, that is, the Voluntary Price for the Small Consumer (PVPC). It cannot be ignored that the regulated tariff is linked to the fluctuation in the price of the wholesale electricity market, and it is the consumers supplied in PVPC who are suffering the most intensely from the rise in the price of electricity.

Dejando de lado la descripción de las medidas adoptadas, podemos concluir que el RDL ha tenido en el poco tiempo de vigencia efectos adversos en el mercado de electricidad, especialmente en lo que se refiere al incremento del riesgo regulatorio que supone condicionar la rentabilidad de las inversiones en proyectos renovables a decisiones políticas. Esto es así, porque como hemos señalado anteriormente, la energía afectada por la minoración es la energía generada a partir de fuentes renovables, siendo los combustibles fósiles los más favorecidos de la medida de minoración. Se socaban así, los principios de seguridad jurídica y confianza legítima que pueden poner en riesgo alcanzar los objetivos de descarbonización y electrificación fijados en el PNIEC. Pese a este análisis pesimista, existen algunas señales para la esperanza, como la probable rectificación o modificación del RDL en su tramitación parlamentaria y la convocatoria de la consulta pública de 1 de octubre de 2021 por el Ministerio de Transición Ecológica para la modificación de la tarifa regulada de la electricidad, es decir del Precio Voluntario para el Pequeño Consumidor (PVPC). No puede desconocerse que la tarifa regulada se encuentra vinculada a la fluctuación del precio del mercado mayorista de la electricidad, y son los consumidores suministrados en PVPC los que más intensamente están sufriendo el alza del precio de la luz.



CREMADES & CALVO-SOTELO

ABOGADOS



Teresa del Riego

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Abogada del Departamento de
Relaciones Institucionales y Asuntos
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CORPORATE SOCIAL RESPONSIBILITY IN LAW FIRMS IN 2022.

LA RESPONSABILIDAD SOCIAL DE LAS EMPRESAS EN LOS DESPACHOS DE ABOGADOS EN 2022.

We live in a globalized world of profound changes in which the concept of "sustainability" seems to have become widespread and today it means both a model for understanding the management of an economic and social system and a corporate strategy.

“Lorem ipsum dolor sit amet, si dici consecetur adipisci elit integre.”

The term sustainable development (sustainability) was first used in the Brundtland Report (1987) as "development that meets the needs of the present without compromising the needs of future generations".

The company's management of sustainability comprises three dimensions: social, environmental and governance (economic). The objective is to ensure that all three dimensions are sufficiently balanced to achieve sustainable development. These considerations facilitate the delimitation of the scope of environmental accounting information.

From the point of view of law firms, this is a lasting opportunity to concretize the conviction, commitment and loyalty, as it is done in matters, in front of clients.

While the environmental aspect remains emblematic of Corporate Social Responsibility (CSR), it is based on two other pillars: the social and governance.

Vivimos en un mundo globalizado de profundos cambios en el que el concepto de "sostenibilidad" parece haberse generalizado y hoy significa tanto un modelo para entender la gestión de un sistema económico y social como una estrategia empresarial. El término desarrollo sostenible (sostenibilidad) se utilizó por primera vez en el Informe Brundtland (1987) como "desarrollo que satisface las necesidades del presente sin comprometer las necesidades de las generaciones futuras".

La gestión de la sostenibilidad en la empresa comprende tres dimensiones: social, medioambiental y de gobernanza (económica). El objetivo es garantizar que las tres dimensiones estén suficientemente equilibradas para lograr un desarrollo sostenible. Estas consideraciones facilitan la delimitación del alcance de la información contable medioambiental.

Desde el punto de vista de los bufetes, se trata de una oportunidad duradera para concretar la convicción, el compromiso y la lealtad, como se hace en los asuntos, frente a los clientes.

Si bien el aspecto medioambiental sigue siendo emblemático de la responsabilidad social de las empresas (RSE), ésta se basa en otros dos pilares: el social y el de la gobernanza.



For example, the ISO 26000 standard, which is voluntary, provides guidance for organizations and sets out the definitions, principles and basic materials of Corporate Social Responsibility. It defines the scope of CSR around seven central issues: organizational governance; human rights; labor relations and working conditions; the environment; fair practices; consumer issues; communities and local development.

At the European level, the Bar Council of Europe: an association of Bar Associations from 31 countries in Europe (those belonging to the European Union, the European Economic Area and Switzerland), as well as a dozen associated or observer countries, has been working since 2013, until today, on the development of CSR guidelines for law firms through various guides.

Corporate Social Responsibility of the Legal Profession poses several challenges for law firms:

- Greater attractiveness. An assumed social commitment seems to be a tool for differentiation and visibility in a competitive market. This is an important element when we know that a high percentage of consumers are willing to reward companies with a socially responsible approach.

Por ejemplo, la norma ISO 26000, que es voluntaria, ofrece orientación a las organizaciones y establece las definiciones, los principios y los materiales básicos de la responsabilidad social de las empresas. Define el alcance de la RSE en torno a siete temas centrales: gobernanza de las organizaciones; derechos humanos; relaciones laborales y condiciones de trabajo; medio ambiente; prácticas justas; cuestiones relativas a los consumidores; comunidades y desarrollo local.

A nivel europeo, el Bar Council of Europe: asociación de Colegios de Abogados de 31 países de Europa (los pertenecientes a la Unión Europea, el Espacio Económico Europeo y Suiza), así como una docena de países asociados u observadores, trabaja desde 2013, hasta la actualidad, en el desarrollo de directrices de RSC para los despachos de abogados a través de diversas guías.

La Responsabilidad Social Corporativa de la Abogacía plantea varios retos a los despachos de abogados:

- Mayor atractivo. Un compromiso social asumido parece ser una herramienta de diferenciación y visibilidad en un mercado competitivo. Este es un elemento importante cuando sabemos que un alto porcentaje de consumidores está dispuesto a premiar a las empresas con un enfoque socialmente responsable.*



At a time when the legal profession is increasingly open to advertising and marketing, this trend, expressed by consumers, should be taken into account.

- A new field of expertise. Lawyers are thus destined to become partners in the development of social responsibility in companies, helping them to implement CSR tools and reports, to meet compliance requirements and to manage the various legal risks and, in particular, litigation that may arise from their commitments in this area.

- Loyalty of human capital. This retention is achieved through objective recruitment, integration of diversity, promotion of parity, transparency of development prospects and also through work-life balance.

CSR is a tool for strategic differentiation, which ultimately generates a different vision of how the company operates, involving action on four elements, such as customer relations, the internal workings of the company, pro bono issues and the environment.

In short, in 2022, is it possible not to integrate environmental, social and governance aspects into the evolution of the profession? Like LegalTech, so-called "predictive justice", open data and interprofessional, corporate social responsibility is knocking on the door of lawyers.

En un momento en que la profesión jurídica está cada vez más abierta a la publicidad y al marketing, hay que tener en cuenta esta tendencia, expresada por los consumidores.

- Un nuevo campo de experiencia. Los abogados están así destinados a convertirse en socios del desarrollo de la responsabilidad social en las empresas, ayudándolas a poner en marcha herramientas e informes de RSE, a cumplir con los requisitos de cumplimiento y a gestionar los diversos riesgos legales y, en particular, los litigios que puedan surgir de sus compromisos en este ámbito.

- Fidelización del capital humano. Esta retención se consigue mediante la contratación objetiva, la integración de la diversidad, la promoción de la paridad, la transparencia de las perspectivas de desarrollo y también mediante la conciliación de la vida laboral y familiar.

La RSE es una herramienta de diferenciación estratégica que, en definitiva, genera una visión diferente del funcionamiento de la empresa, que implica la actuación sobre cuatro elementos, como son la relación con el cliente, el funcionamiento interno de la empresa, los temas pro bono y el medio ambiente.

En definitiva, en 2022, ¿es posible no integrar los aspectos medioambientales, sociales y de gobernanza en la evolución de la profesión? Al igual que la LegalTech, la llamada "justicia predictiva", los datos abiertos y la interprofesional, la responsabilidad social corporativa está llamando a la puerta de los abogados.



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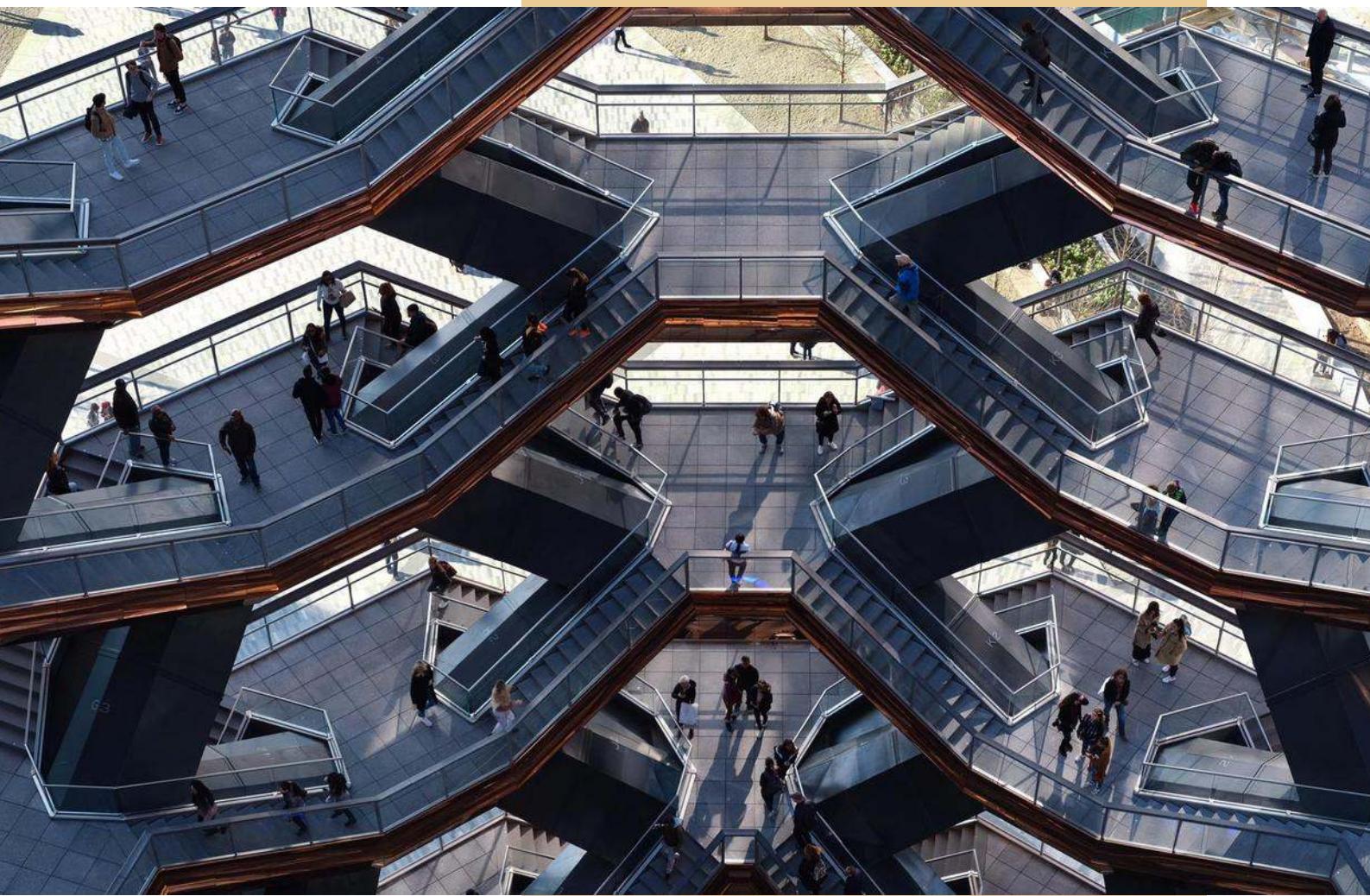
KIRBY MCINERNEY LLP

USA

Kirby McInerney LLP (“KM”), founded over 65 years ago, represents institutional investors, governmental entities, and individuals in securities, antitrust, and corporate governance litigation. The firm traces its lineage to the dawn of U.S. securities law – the firm’s founder was in the first generation of securities lawyers and rendered service to the Securities and Exchange Commission in its earliest years.

Our attorneys benefit from wisdom that has been accumulated and passed down throughout the entire history of securities class action law, and over this time we have recovered billions of dollars for our clients.

Today, KM has leveraged its early and ongoing success in the securities arena to build numerous other robust practices, including antitrust and commodities. KM leads some of the largest and most significant securities, commodities and antitrust actions.



SILVERMAN ACAMPORA

USA

Silverman Acampora is a New York based Law Firm, that businesses regularly face. By understanding companies, they can tailor their advice and solutions, to the individual needs of each client in order to reach a resolution quickly and efficiently.

In a global competitive environment where the difference between success and failure is razor thin, law firms need to be efficient and equally competitive. By providing the exceptional service needed to protect and grow the business, the firm is able to achieve results when others fail. The difference lies in their simple philosophy - their success is measured against the big picture. "SilvermanAcampora- where business meets common sense".

The firm's main areas of expertise include: Business Law; Real Estate; Corporate Restructuring; Labor and Employment Law; Litigation and Government Contracts and Compliance.





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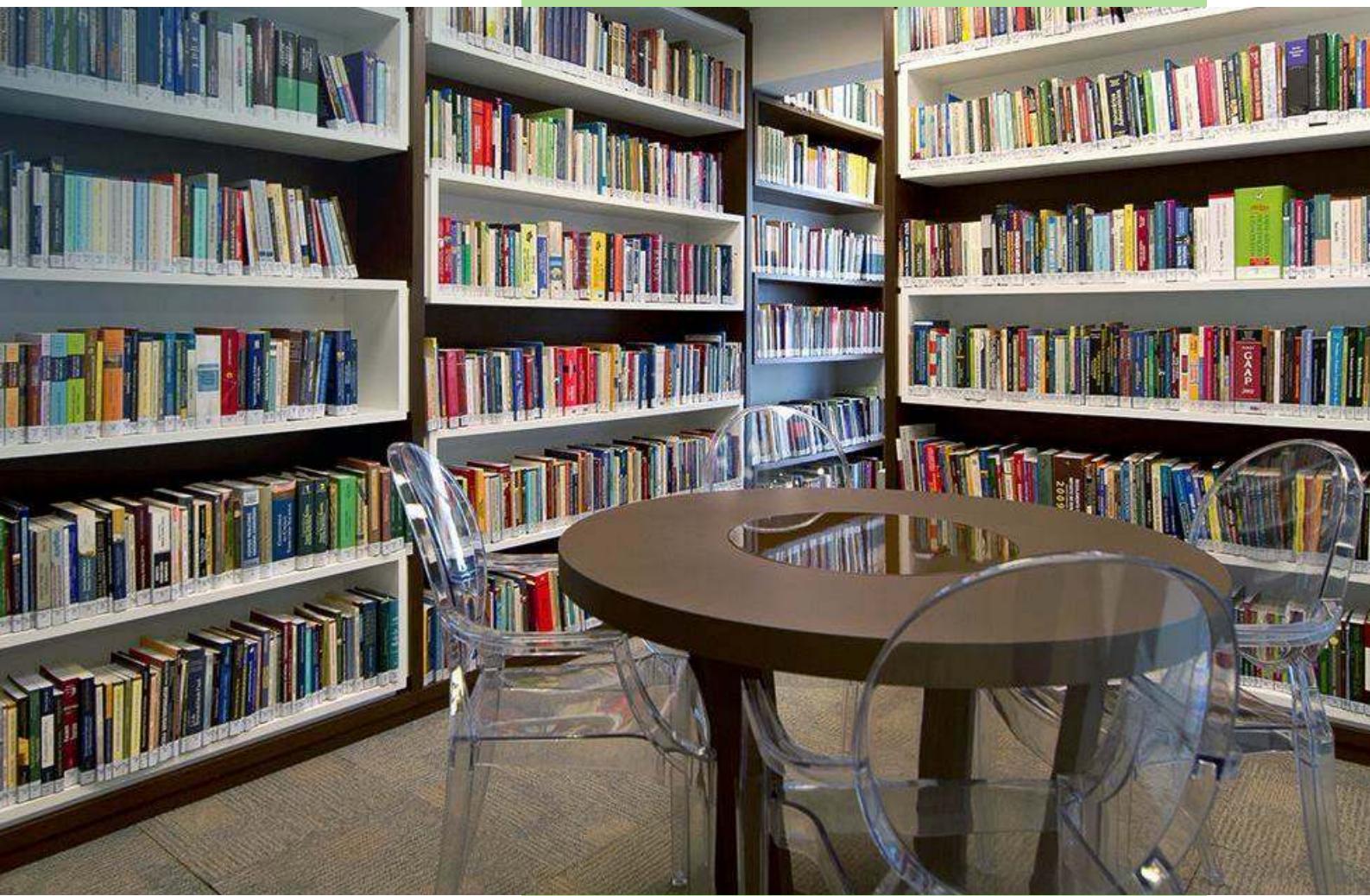
DA FONTE ADVOGADOS

BRAZIL

Da Fonte Advogados, aims to provide its clients with strategic counsel, typical of small offices with the sophistication of major firms. The firm currently operates across Brazil's Northeast region with headquarters in Recife and branch offices in Salvador, Brasilia and São Paulo.

Over the years, Da Fonte Advogados has expanded its team, professionalized its management system and consolidated the values that support its corporate culture-transparency, focus and commitment to quality. Currently, the firm has a team of more than sixty lawyers, divided into fifteen areas of legal practice. Each lawyer has experience with companies of various magnitudes and economic segments. Aligned with clients' business interests and technical knowledge, the team at Da Fonte Advogados is able to provide services of the highest quality.

The firm's main areas of expertise include among others: Arbitration, Corporate, Tax, Labour, Civil, Administrative, Environmental, Real Estate, IP, Energy Law as well as Infrastructure.



FERNANDES, FIGUEIREDO, FRANÇOSO E PETROS ADVOGADOS - FF

BRAZIL

Since the beginning of our activities in 2003, Fernandes, Figueiredo, Françoso e Petros Advogados - FF is focused on the practical application of law, however making sure all advice is solidly based on strong theoretical grounds. FF works in partnership with its clients, making sure our team is well versed in the client's business. It is necessary to know the business in focus, its history, its characteristics and its evolution in the market.

At FF, we are highly focused on the technical and academic qualifications and well-being of our professionals. The motivated and highly skilled team of lawyers and support staff result in a more dynamic and cooperative personal environment, which increases the efficiency of professional results.



SOLINES & ASOCIADOS

ECUADOR

Solines & Asociados was founded in 1973 by Dr. Carlos Solines Coronel and Dr. Ximena Moreno Echeverría. Its services focus mainly on legal advice to companies. Since its beginning, the firm has considered professional practice to be an instrument at the disposal of individuals and companies. The firm has constantly implemented a wide range of mechanisms that protect clients, avoid confrontation and litigation, and promote good relations, preparing clients for the legal challenges of the future.

Because of the experience and prestige of the founding lawyers, and with the incorporation of young, highly educated lawyers trained in new areas of law, the firm has acquired important recognition at both national and international level due to the experience and prestige of its founders, and the incorporation of young, highly educated lawyers. The innovative firm responds to the demands of a globalized world in which science, technology, and the environment have taken on greater importance.

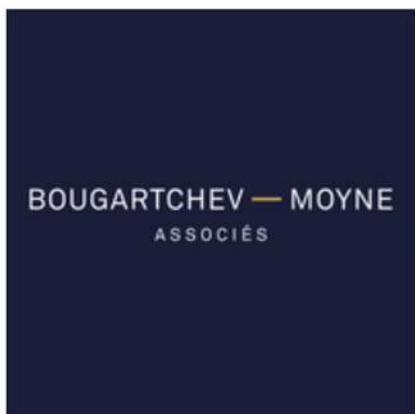


CABEZAS & CABEZAS-KLAERE ECUADOR

The law firm Cabezas & Cabezas-Klaere began in 1913 when Dr. Isaac Cabezas Villalba became a lawyer with the highest honors before the Court of the Superior Court of Justice of Riobamba. He later served as President of the Superior Court of the Judicial District which comprised four of the then nineteen provinces of the Republic.

Cabezas & Cabezas-Klaere is established on solid moral principles: honor, justice and law. Its mission, therefore, is to offer the professional service of the legal profession with total diligence, reliability and ethics. The delivery of legal knowledge of the firm is justly valued. Inspired by deontological principles and the historical teachings of morality, she has never rejected dedication to assignments with merely symbolic retributions. The company name of the firm headed today by Dr. Luis A. Cabezas Parrales is comprehensive of its tradition.

Cabezas & Cabezas-Klaere
Abogados



BOUGARTCHEV MOYNE ASSOCIES

FRANCE

After 30 and 20 years, respectively, of professional practice in major firms and hundreds of trials, we have chosen to create an ambitious firm for our clients, where the hallmarks are independence, liberty, versatility and flexibility.

We are litigation lawyers who are recognised by the profession, and we assist public or private companies, banks and financial institutions, insurance companies and their officers in all proceedings they are facing, whether involving white collar crime, civil law, commercial law or regulatory matters. We assist them on a daily basis, during crises or to aid them in meeting their legal and regulatory obligations. We also work with our clients in connection with their internal enquiries and training programmes.

We have extensive experience in emergency, complex, multi-party, transnational and multi-jurisdictional proceedings, as well as in negotiating settlement agreements, in France and internationally, and are accustomed to working in teams. We assist our clients worldwide, alongside international firms and specialised firms.



BÜSING MÜFFELMANN & THEYE GERMANY

Büsing Müffelmann & Theye is a law firm specializing in business and commercial law and offering comprehensive services in all fields of law. With its five offices in Germany (in Bremen, Bremerhaven, Frankfurt am Main, Berlin and Munich), Büsing Müffelmann & Theye has a nationwide presence.

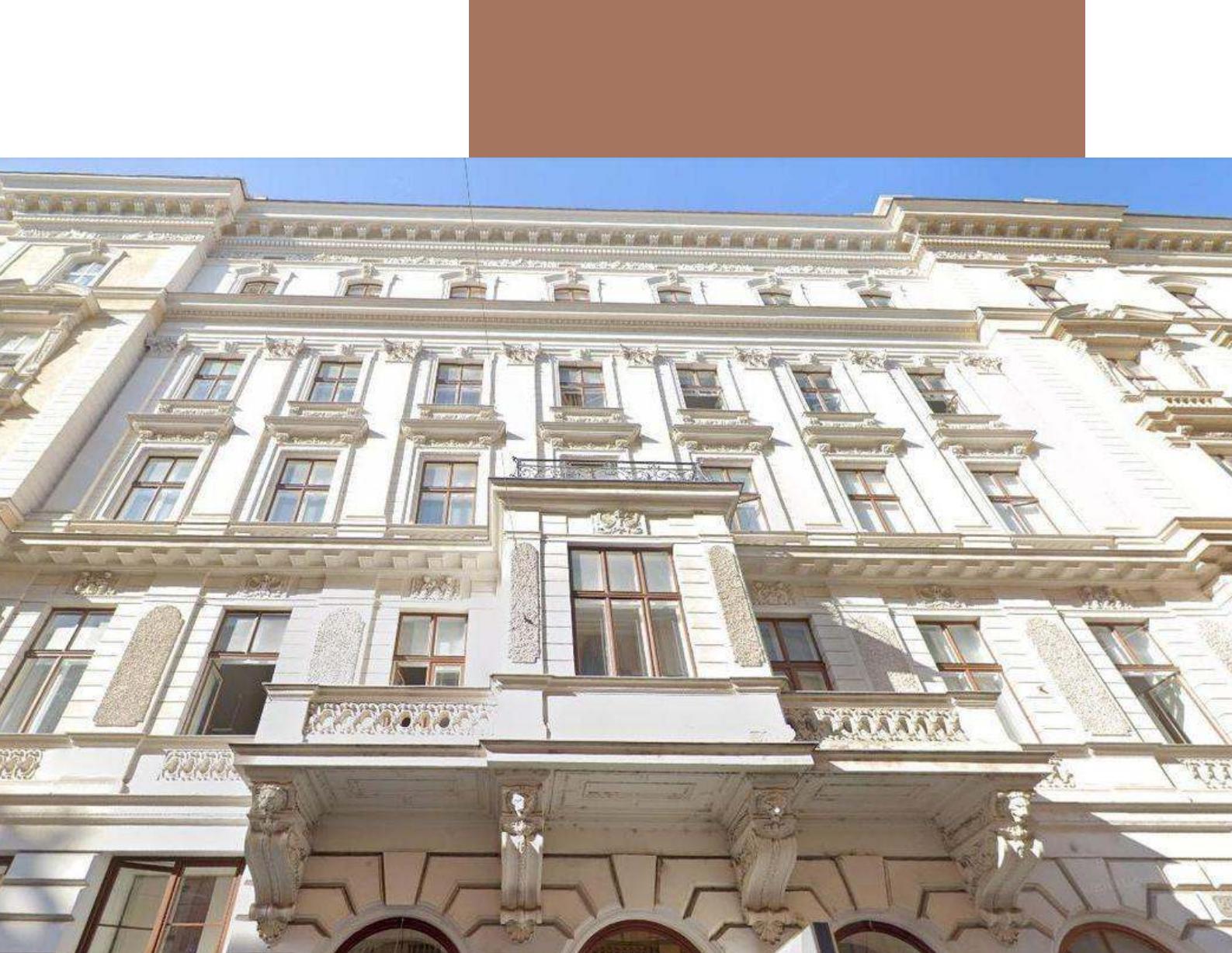
Büsing Müffelmann & Theye advises medium-sized businesses as well as corporations quoted on the stock exchange, national and multi-national trade and service providers and industrial businesses, whose activities range from media, pharmaceuticals, technology, research and development, banking, insurance to public authorities.

Büsing Müffelmann & Theye provides individual and personal advice to its clients who seek tailor-made solutions for their complex issues, using its own expertise and in-depth knowledge acquired through individual specializations as well as an international long-standing network of partners.

In its roughly sixty years of existence, Büsing Müffelmann & Theye has accompanied many outstanding projects, developed cases of precedence and created legal pioneering work. Anyone who ever work with Büsing Müffelmann & Theye will be confident in confirming the following: Commitment is decisive.



**BÜSING
MÜFFELMANN
& THEYE**
RECHTSANWÄLTE
UND NOTARE



wkklaw attorneys at law

WKK LAW

AUSTRIA

WKK LAW is a full service commercial law firm based in Vienna with offices in Salzburg and Berlin with special focus on White Collar Crime and Corruption, Real Estate law, Banking and Capital Markets law, Litigation and Arbitration as well as Private Clients, Family Office and Foundation law. The firm advises and represents companies, institutional investors and banks, governmental entities, family offices and individuals in all legal areas and is highly recognized by various international legal rankings.



MAYORA & MAYORA S.C. ABOGADOS

GUATEMALA

Mayora & Mayora S.C. founded more than 50 years ago, is a Central American law firm for international business transactions and finance. The law firm has existed for more than 50 years.

MAYORA & MAYORA, S.C.
ABOGADOS
EST. 1966

The firm covers various practice areas, including: Corporate; Labour; Banking and Finance; Foreign Investment and Trade agreements; Litigation; Arbitration; Telecommunications; Energy; Infrastructure; Mining; Oil public and private biddings and international structures for the adequate protection of investments of corporate and /or of personal assets.

Through the course of its existence, Mayora & Mayora, S.C. has been a pioneer in the representation of foreign international banks; oil companies; international air carriers; securities exchange; telecommunications and other sectors of the economy; international capital markets. The partners and associates of Mayora & Mayora are firmly committed to providing the highest quality legal services, in an ethical manner, in the pursuit of justice for their clients.



WEIR & ASSOCIATES

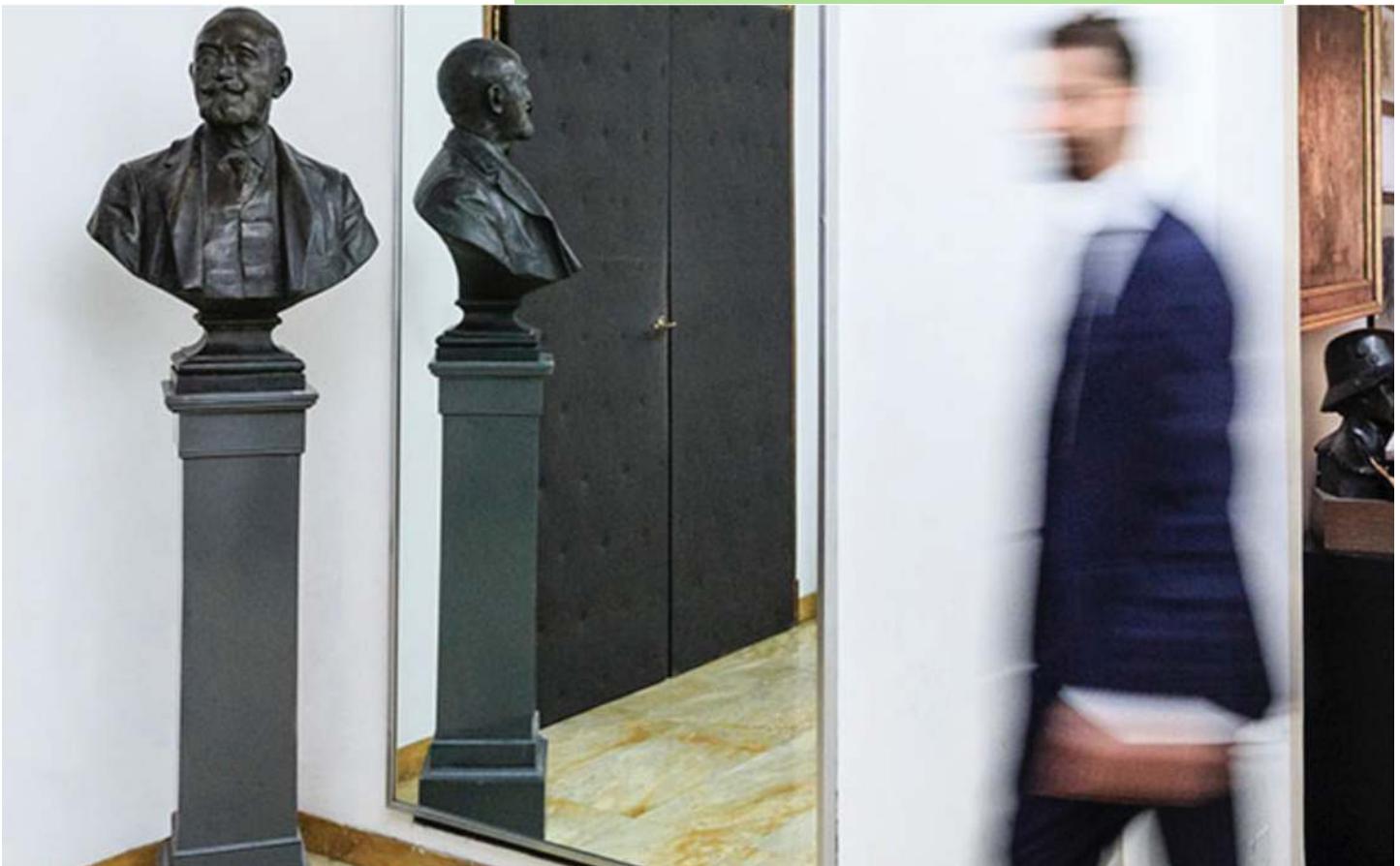
HONG KONG

Representing over 50 financial institutions in Asia, Weir & Associates has a well-earned reputation as a business-minded, transaction-oriented law firm.

Weir & Associates is a "business law firm" with years of experience providing legal services relevant to businesses including: Commercial transactions in Hong Kong, Mainland China and internationally in areas including retail, licensing, manufacturing, entertainment, construction and trading.

Our team of lawyers has multi-jurisdictional qualifications and consists of several teams each skilled in a different branch of law. The work of our clients is handled not only on a basis to ensure the success of the matter at hand but also with regard to our client's long term interests. This results-orientated approach enables Weir & Associates to build bridges and not roadblocks for our clients' transactions.

WEIR



STUDIO ISOLABELLA

ITALY

Studio Isolabella was founded by Lodovico Isolabella at the beginning of the 1960's and operates exclusively in the field of criminal law, with particular focus on corporate criminal law.

The specialisation in the corporate world, both at a national and international level, started with Lodovico Isolabella's assignments in some of the first cases of Corporate, Financial, Tax, Bankruptcy and Environmental criminal cases that occurred in Italy in that period: from the collapse of the Voltri bridge, to pollution problems for industrial and oil plants such as the Codelfa plants, to transnational taxation and currency issues for banks such as Banca del Gottardo, to the defence of journalists and newspapers such as Avvenire, to the winning defence of Vittorio Emanuele di Savoia from the accusation of having shot someone on the island of Cavallo, to the bankruptcy of Banca Privata del Veneto first and Banco Ambrosiano later, and on to the "Mani Pulite" (clean hands) period of the first half of the 90's (with the defence of pharmaceutical multinationals such as Bayer, SmithKline Beecham, Sandoz, Ciba Geigy; or advertising firms such as Young & Rubicam).

STUDIO ISOLABELLA



THE MENICHETTI LAW FIRM

ITALY



Set in the historical Verona, the Menichetti Law Firm has been practicing law for over 40 years in the fields of labour law, social security law, trade unions and industrial relations law, and commercial distribution agreements.

Throughout the years the firm has increasingly implemented their own experiences both in the field of Labour law and Social Security law, carrying out activities such as collective redundancies, transfers of business contingency procedures, ordinary and extraordinary chambers integration.



GONZALEZ LUNA ABOGADOS

MEXICO



González Luna is a team of professionals whose goal is to provide legal services with excellent technical quality and high ethical standards.

Our mission is to give form and legal certainty to the transactions of our clients, in order to achieve the desired results, for which we try to contribute our experience of over 20 years in very varied fields. Always exploring new fields and opportunities, being in constant change and update, GL Abogados is today an ambitious and consolidated project that pretends the recognition that only a satisfied client would provide.

Our areas of expertise are: Corporate Law, Mergers and Acquisitions, Real Estate, Legal Audit, Contracts, Government Contracts, Administrative Law, Anti-Money Laundering Act, Estate Planning, Protection of Personal Data, Administrative Litigation and Foreign Investment.



FIDASmart

ROMANIA

FIDASmart is a fast-growing young firm, established in 2016 by two partners with a vast Insolvency and M&A expertise: Florin Dobre and Selena Stan. Besides their lengthy experience in the legal field, the partners of FIDASmart have attended financial and tax training and are proficient in advising and managing complex national and international projects.

Throughout the years, FIDASmart has built a diversified and select portfolio of clients, ranging from high-net worth investors to investment funds and from reputable companies to NGOs. FIDASmart is a one-stop-shop, acting as a liaison between all the professionals required for the proper set-up and running of a company in Romania and keeping close to its clients from incorporation up to the difficult moments of restructuring and insolvency.

FIDASmart has gained international recognition starting 2018, when it was awarded "The Times Legal Innovation" M&A award.



MGC Legal

Turkey

MGC Legal is an Istanbul based law firm that mainly focuses on business law. MGC Legal aims to be available to clients 24/7 – allowing for a hands on approach through an operating network of experts and professionals.

MGC Legal is also active in Ankara, the capital city, and Bursa. Through their domestic network of local law firms, MGC has connections in Gebze, Canakkale, Izmir, Bodrum, Marmaris, Fethiye, Antalya, Adana, Gaziantep and Diyarbakir. This domestic network enables MGC Legal to act swiftly in many locations simultaneously.

Besides its domestic network, MGC Legal collaborates with a number of reputable law firms in EMEA region, including Berlin, Rome, Baku, Tehran, Erbil and Dubai. MGC Legal is the exclusive legal advisor to AYD (Shopping Mall Investors Association in Turkey) which is associated with ICSC (International Council of Shopping Centers). In recent years, MGC Legal has helped a wide range of international investors with their ventures Turkish real estate. MGC works with its Turkish and multinational clients who have activities in both Turkey and EMEA countries providing first class services.



BOULOS
LAW OFFICE
SINCE 1980

BOULOS LAW OFFICE

LEBANON

Founded in 1980 by Mr. Hachem Boulos, the Boulos Law Office (BLO) has became one of the most well-respected law offices in Lebanon providing quality legal services in wide range of practice areas for both local and international clients while observing the highest standards of integrity and ethics at all times. Prior to establishing his own law office, Mr. Boulos earned broad knowledge and experience during several years of practice in Europe, mainly Paris-Brussels, and in Beirut as well.

Being a carrier of a Lebanese-Belgian dual nationality and a lawyer at Beirut Bar Association, Mr. Boulos is also an exclusive member at GEIE Eurolaw, the Association of European network of business lawyers, and at Euroshareholders, the organization of European shareholders associations in Brussels. Close-working client relationships with an emphasis on results have been BLO's hallmark since its founding, and remain at the core of its services today. Mr. Hachem Boulos has been elected as a Chairman for the Advocacy Committee of the World Federation of Investors (WFI) in September 2012.



Icaza
González-Ruiz
Alemán

**ICAZA, GONZÁLEZ-RUIZ & ALEMÁN
PANAMA**

Icaza, González-Ruiz & Alemán was founded in 1920. Many of the founders and partners of the firm contributed to the creation of the legal structure of Panama.

The firm has since evolved and expanded alongside the International Services Centre of Panama, delivering services of the highest calibre to clients on a national and international level—enjoying an unrivalled reputation.

The firm provides tailor-made, sophisticated solutions to key corporate clients, international institutions and public entities, while remaining committed to offering a partner-led, individualized legal service and advice to our private clients. The firm's main areas of expertise include among others: Capital markets, Banking Law and Finance, Corporate law, Energy, Mergers and Acquisitions, as well as Trust Services.



DR&R ABOGADOS Y CONSULTORES FISCALES

DOMINICAN REPUBLIC

DR&R Abogados y Consultores Fiscales is widely known for its expertise in dispute resolution, corporate and commercial law, mergers and acquisitions, trusts, taxation, labour, employment, and real estate. The firm partners' backgrounds are well recognized throughout the country and even in the Central American-Caribbean area, with over 100 years of combined experience providing legal advice and assistance in all sectors in Dominican Republic. The firm capitalizes on its strategic locations in Santo Domingo and Punta Cana, to assist both local clientele and foreign investors in the country.

In DR & R we are committed to providing valuable and timely services, with practical and creative solutions to complex financial and business matters in Dominican Republic. We are focused on our client's needs by understanding their business, anticipating, and reacting to the changes in legislation and business climate and having a team of experienced, insightful, and innovative people who add value to every transaction.



LIVIERES GUGGIARI ABOGADOS

PARAGUAY



Founded in 1990, by a professional group of attorneys, Livieres Guggiari Abogados, is a Paraguayan law firm which provides assistance to enterprises, institutions, and individuals both locally and internationally, in different legal areas.

In order to advice clients in a personalized way, Livieres Guggiari's professional team uses an internal system of information exchange and knowledge. This allows the firm to find the best strategy for the defence of the rights and interests of their clients. The firm also has the technological infrastructure necessary to meet the demands of clients.

Livieres Guggiari main areas of practise include: Commercial and Corporate Law; Investment and Tax Law; Banking and Finance; Administrative Law and Tenders; Environmental law and Intellectual Property Law, as well as Medical; Energy and Mining Law.



DSK DEPA SZMIT KUŽMIAK JACKOWSKI POLAND

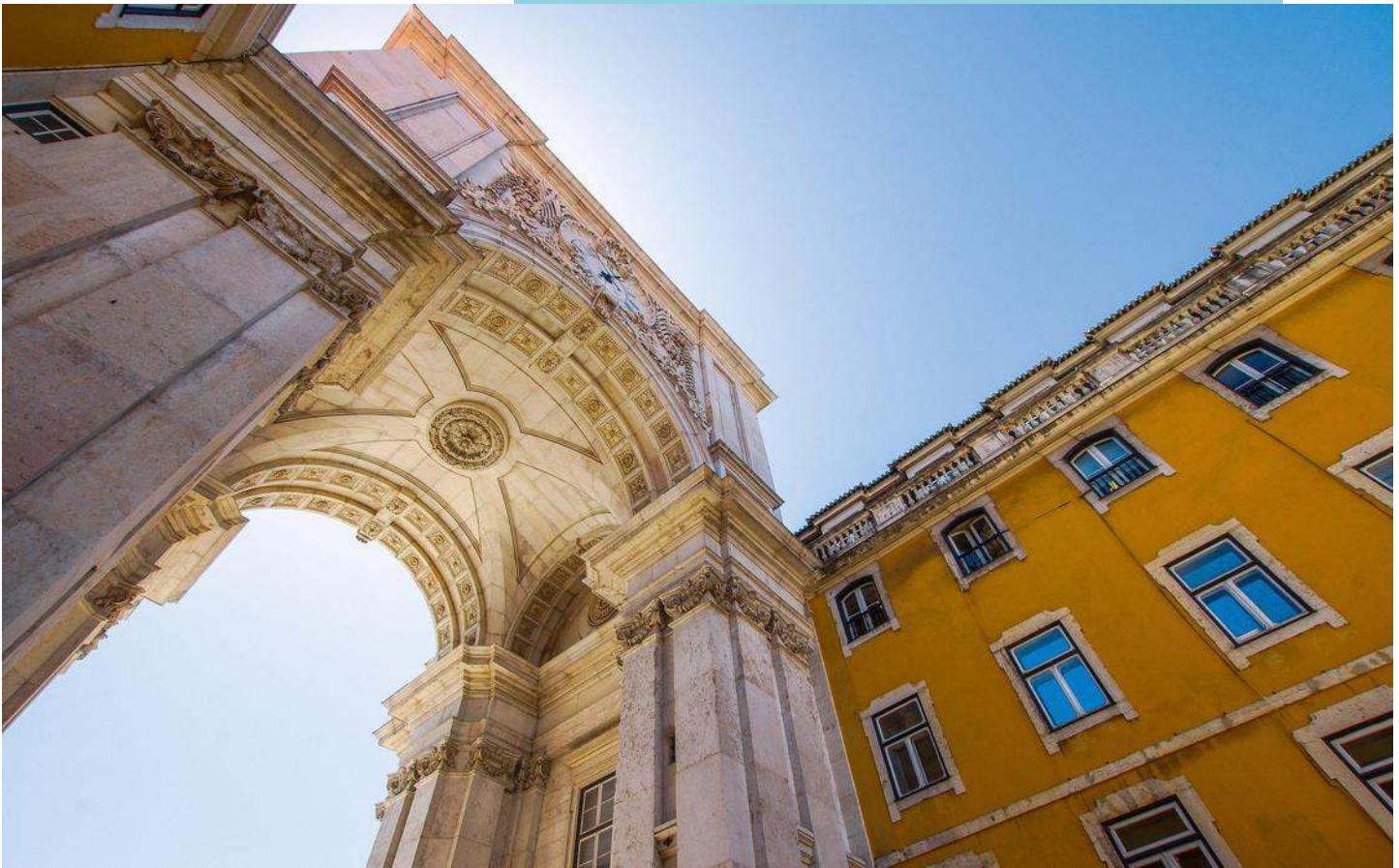
DSK /
KANCELARIA

DSK is a modern law firm providing legal and tax advice. Our team consists of over 60 experts: attorneys-at-law, advocates, lawyers, tax advisors and other specialists in various disciplines.

DSK's main areas of law expertise are: Building and Infrastructure Investment Support, Public Procurement, Corporate Services, Compliance, IT and Tax Law.

The founding partners: Jakub Depa, Łukasz Szmit, Paweł Kuźmiak and professor Michał Jackowski are ensuring comprehensive and highly efficient tax and legal advisory services, leading

DSK to be the Top 3 Law Firm in Greater Poland Region. DSK represents and advises Polish and international public and private businesses, as well as private individuals. Our clients include firms from the following sectors: building and construction, IT, SSC & facilitation, food production, loan and financial services, transportation and other.



CAIADO GUERREIRO
SOCIÉDADE DE ADVOGADOS, SP, RL

CAIADO GUERREIRO

PORtUGAL

Caiado Guerreiro, previously named Franco Caiado Guerreiro, was founded in 1979 and practices all areas of law. However, the firm is better known for its services in areas of: Commercial and Corporate Law; Mergers and Acquisitions; Banking; Finance Tax and Fund Law; Labour and Social Security Law; Real Estate Law and Intellectual Property; as well as Telecommunications, Media and Technology (TMT).

Their clients include industrial and commercial companies from all business sectors, banks, financial institutions, insurance companies, professional firms, public bodies, and individuals.

Caiado Guerreiro is ranked by Chambers and Partners, Legal 500, IFLR and International Tax Review directories among Portugal's leading law firms.



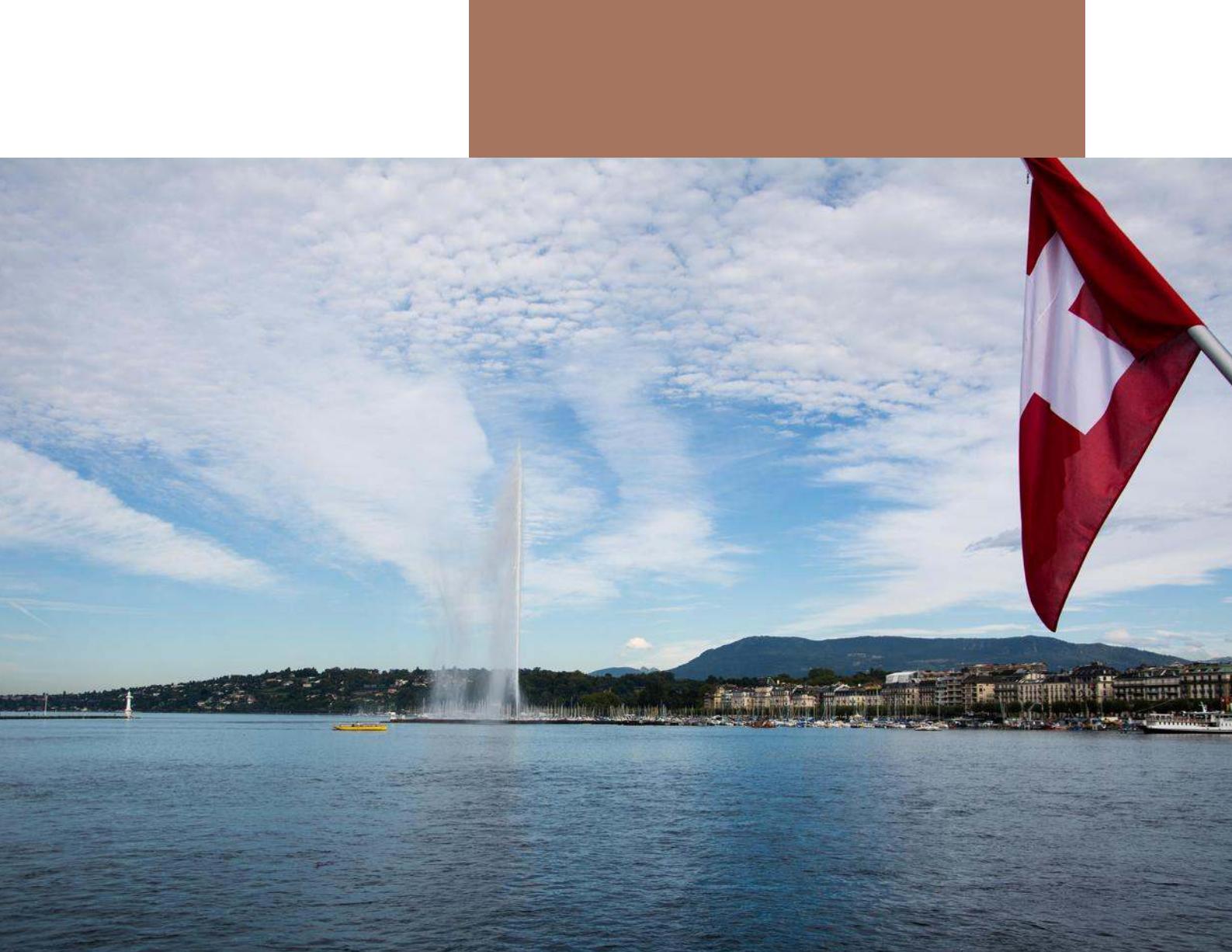
CREMADES &
CALVO-SOTELO
ABOGADOS

CREMADES & CALVO-SOTELO SPAIN

Within a short period of time, Cremades & Calvo-Sotelo has established itself as one of the top Spanish law firms, evolving alongside our society. Founded during the start of the digital era as a boutique law firm in Telecommunications Law, we recognize the phase of rapid evolution that technology has provoked, and confront the same challenges faced by individuals, businesses and institutions.

Our Firm responds to the current era of evolution. Our clients have a team of renowned lawyers at their disposal, whose experience & expertise span a wide variety of disciplines across the legal, business and industrial sectors.

Our Advisory and Academic Boards are composed of specialists from the spheres of business, academia, politics, culture and communication, offering unique and renewed perspectives and facilitating an active presence in the most dynamic social sectors.



NEVES AVOCATS

SWITZERLAND

At NEVES Avocats we devote ourselves with passion and commitment to meet the needs of our clients and ensure that they have access to justice and receive high quality advice. In particular, we pay attention to the observance of the rules of professional conduct, especially independence and confidentiality.

NEVES Avocats provides a comprehensive range of legal services to corporate and private clients, based in Switzerland and abroad. In addition, our firm has developed an extensive network of distinguished professionals, which allow us to assist our clients in complex cross-border matters.

We are conscious of the advantages of alternative methods for conflict resolution and we favour a constructive approach with the aim to reach sustainable solutions in the best interest of our clients. Therefore, the members of our team strive to establish a preferred relationship with each one of our clients, based on mutual trust, transparency and meticulous attention to detail.



SokSiphana&associates
www.sok-siphana.com.zm

SokSiphana&associates

CAMBODIA

SokSiphana&associates was founded in 1998 by Dr Sok Siphana, one of the most respected lawyers and corporate figures in Cambodia. Soon after that, he was invited by the government to serve as the Secretary of State, Ministry of Commerce, Royal Government of Cambodia from 1999 to 2005. In 2009, he resumed practice and the firm was reconstituted.

Since then, the firm has quickly risen to be one of the most prominent legal firms in the country. We are now a full service legal firm, providing the whole spectrum of corporate and commercial work. Our clients range from leading international corporate entities to progressive local businesses and banks.

A unique value add we offer is our deep connection to the development of our country and economic trends, combined with a keen appreciation of regional and global issues.



TORRES PLAZ & ARAUJO

VENEZUELA

Originally established as a tax boutique in 1972 in Venezuela, Torres Plaz & Araujo (TPA) is now an interdisciplinary firm. The firm has positioned itself as one of the leading general-service firms in Venezuela, as recognised by clients and peers around the country and overseas. TPA's drive for innovative solutions and a commitment to its clients has allowed the firm to maintain its position as one of Venezuela's top firms.

Over the years, TPA has strived to provide professional excellence, creativity, integrity and, above all, a professional culture, oriented to the comprehensive and financial analysis of the cases, the law and the potential effects on clients. A number of its members are renowned professors, lecturers and speakers in the national and international arena.

The firm's main areas of expertise include among others: Tax Law; Real Estate and Construction; Banks and Financial Institutions; Antitrust; Commercial and Corporate Law; Project Finance and Capital Markets.



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STUDIO ISOLABELLA

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a member of ZICO law

FIDASMART



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LAW OFFICE
SINCE 1980

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