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LABOUR AND EMPLOYMENT

SEVENTH AMENDMENT TO THE EMPLOYMENT CODE

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This new law amends the wording of articles 501 and 502 on the survival (continuing in force after the end of the agreement), expiry and termination of the validity of collective agreements.

The new wording of article 501 changes the period for expiry of the clause of the agreement that makes the termination of its validity dependent on its substitution by another instrument of collective regulation of employment. This period changes from five years to three, counted from one of the following events: last publication in full, termination or presentation of a proposal for revision of the agreement which includes the revision of the said clause.

As was the case under the previous wording, in the event of termination, the agreement remains in force during the period of the negotiations, including conciliation, mediation or voluntary arbitration, or for a minimum of twelve months, as opposed to the previous period of eighteen months.

Law 55/2014 of 25 August also provides that, within one year of the date of its entry into force (that is, by 1 September 2015), the Employment Code must be amended to reduce the two periods of three years and twelve months mentioned above respectively to two years and six months. However, that

amendment will only be made after a positive assessment by the social partners on the Permanente Committee for Social Consultation.

Furthermore, this seventh amendment to the Employment Code includes the suspension of the period the collective agreement remains in force after it ends whenever the negotiation referred to above is interrupted for a period exceeding thirty days. This negotiation period, including any suspension, may not exceed the maximum period of eighteen months.

Once the above mentioned periods of twelve and eighteen months have expired, and after communication by any of the parties to the minister responsible for employment matters and to the other

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party that the negotiation process has come to an end, the agreement remains in force for forty-five days. This is a change from the sixty days established under the previous wording. Once that period comes to an end, the collective agreement will expire.

It is also important to note that under Law 55/2014 of 25 August, the new wording of article 501 will not apply to collective agreements terminated up to 31 May 2014.

In turn, besides addressing the termination of the validity of the collective agreement, the new wording of article 502 provides for the possibility to suspend its application or part of its application temporarily. This possibility arises in the event of business crisis caused by market, structural or technological factors, catastrophes or other occurrences that seriously affect the normal activity of the company. However, this measure only applies

if it is crucial to the viability of the company and to maintaining workers' jobs.

In order to suspend the agreement, it is necessary to have a written agreement between the employers' associations and the trade unions that are party to it. This written agreement must expressly state the grounds, period and effects of the suspension.

As was already the case in respect of revocation, (i) the rules on the deposit and publication of the collective agreement apply to any suspension and (ii) the suspension of the collective agreement prejudices the rights arising from it, except if those rights are expressly safeguarded by the parties.

The amendments introduced by Law 55/2014 of 25 August come into force on 1 September 2014 (the first day of the month following its publication).

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