

The Man at the Top

SPOTLIGHT ON URÍA
MENÉNDEZ'S SALVADOR
SÁNCHEZ-TERÁN

Outlook

WHAT THE FUTURE HOLDS
FOR SPAIN AND PORTUGAL'S
LAW FIRMS

M&A Market

AT WAR WITH
THE 'BIG FOUR'

In-house: Portugal

LEONOR PISSARRA
(NOVARTIS): TALENT
SPOTTING

In-house: Spain

FRANÇOISE PLUSQUELLEC
(CITI PRIVATE BANK):
BREAKING DOWN BARRIERS

LIVING A NIGHTMARE

Portugal's largest law firm, PLMJ, recently suffered the horror of a cyberattack that resulted in highly confidential information being published – with such attacks on the increase, what should law firms do to minimise the risk of becoming victims?

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EN EL SUR.



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A NEW ERA FOR THE IBERIAN LEGAL COMMUNITY

by ben cook

W

Welcome to the all-new Iberian Lawyer magazine! The aim of this new publication is to 'change the game' with regard to media coverage of the Spanish and Portuguese legal markets.

OUR EDITORIAL POLICY
IS TO COVER ALL THE
VIEWS, PERSPECTIVES
AND OPINIONS WE HEAR
AND, IN DOING SO,
ENSURE WE PROVIDE THE
MOST COMPREHENSIVE
COVERAGE OF THE IBERIAN
LEGAL MARKET AVAILABLE

Over a number of years, Iberian Lawyer has built a reputation for well-researched authoritative journalism. The new style magazine will aim to further build on this reputation, while, at the same time, combining in-depth analysis with the most up-to-date news from the Spanish and Portuguese legal sectors.

In addition, the Iberian Lawyer website will be enhanced in order to create the most up-to-date daily online information platform covering the Iberian legal market.

The re-launched magazine and website will breathe new life into what is our fundamental passion: high quality, insightful journalism. The new, re-shaped content will thoroughly modernise legal business writing and use a more innovative method of storytelling to convey ideas regarding the major issues that are affecting lawyers in Spain and Portugal.

Iberian Lawyer has always prided itself on the strong personal relationships it has with you, our readers. We aim to strengthen these relationships by paying closer attention to the people that make up the thriving Iberian legal sector. The concept of the Iberian 'legal community' is at the heart of all we do.

Together with you, our readers, the key protagonists in the story of the Iberian legal community, we will become the number one point of reference for the Spanish and Portuguese legal markets. Our editorial policy is to cover all the views, perspectives and opinions we hear and, in doing so, ensure we provide the most comprehensive coverage of the Iberian legal market available.

We hope this gives you an understanding of the unique nature of this project. Together with you, our readers, we are confident we will create a legacy of which we can all be proud.

We are very excited to be embarking on this new era for Iberian Lawyer. We are sure you will enjoy the results. Thank you all for your tremendous support and here's to an exciting future together! 🇪🇺



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N 83 | 04.04.2019

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The publisher and authors are not responsible for the results of any actions (or lack thereof) taken on the basis of information in this publication. Readers should obtain advice from a qualified professional when dealing with specific situations. Iberian Lawyer is published 11 times a year by Iberian Legal Group SL.
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Editorial policy

Iberian Lawyer provides a window on the Iberian legal profession for domestic and international law firms and general counsel. The magazine is funded by subscribers and advertisers, as well as sponsoring law firms that provide the Legal Updates and Profiles within the Special Reports.

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M-5664-2009



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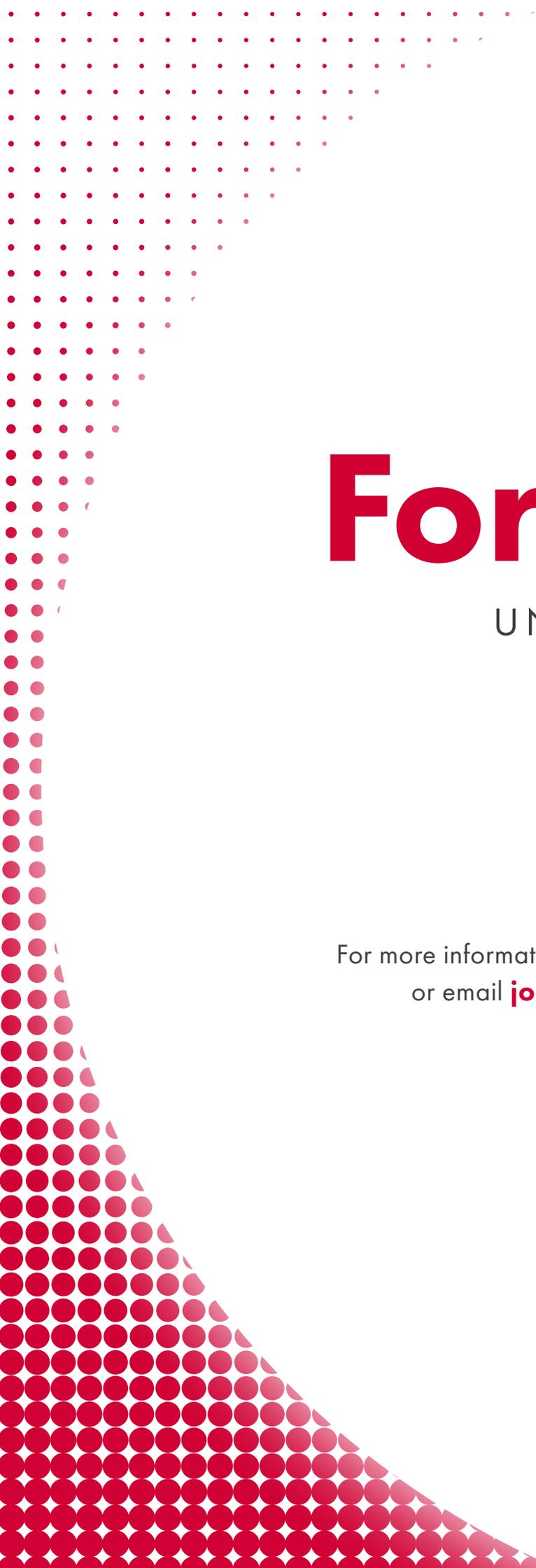
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COMPLIANCE

Former Spanish deputy PM joins Cuatrecasas

Former Spanish deputy prime minister **Soraya Sáenz de Santamaría** has joined Cuatrecasas as a partner.

Sáenz de Santamaría (pictured) will lead the firm's corporate compliance practice. With a law degree from the University of Valladolid, Sáenz de Santamaría joined the State Bar Association in 1999. In addition to being the former deputy prime minister, she has been a cabinet minister with responsibility for the Spanish territories. She said: "I am delighted to return to practicing law together with the magnificent team of Cuatrecasas professionals, from whom I hope to continue learning for years to come."

Cuatrecasas senior partner Rafa Fontana said Sáenz de Santamaría was "an exceptional lawyer who has shown her value and great management skills throughout her professional career. The partners of the firm are very happy that she has decided to renew her commitment to the legal profession with Cuatrecasas. We are convinced that her enormous talent will be highly valued by clients who need comprehensive advice in corporate compliance."



'BIG FOUR'

Two EY partners leave for Fieldfisher Jausas

Fieldfisher Jausas has recruited two partners from EY, banking and finance specialist **Jesús Estévez** (pictured) and tax lawyer **Elizabeth Malagelada**.

Estévez and Malagelada lead a team of seven professionals leaving EY for Fieldfisher Jausas.

Estevez was a partner at EY for four years, prior to that he spent four years as a partner at Baker McKenzie. His expertise includes advising financial institutions on structured finance deals.

Malagelada spent more than six years at EY. She specialises in providing tax advice to financial institutions.

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ABOGADOS



MANAGING PARTNER

Dentons appoints Jesús Varela as Spain managing partner

Dentons has appointed **Jesús Varela** as Spain managing partner for a three-year term.

Varela (pictured) is head of the firm's real estate practice in Madrid. His expertise includes real estate financing, real estate investment and M&A.

His clients include banks and other lenders, as well as real estate investors and debt traders. He has significant experience in debt portfolio trades, property financing and private equity deals in the real estate sector.

Varela takes over from José María Buxeda, who has served as Spain Managing Partner since 2007. A Dentons statement said that, under Buxeda's leadership, Dentons achieved "double-digit revenue growth in each of the last three years".

Varela will continue to advise clients in his new role. The Dentons statement added that Varela will "work closely" with Nieves Briz, Dentons' Barcelona office managing partner.

Tomasz Dąbrowski, chief executive officer of Dentons Europe, said: "As the EU's fifth largest economy, Spain offers not only exceptional opportunity for our clients, but also excellent growth potential for our firm – as part of our Europe market position strategy, we will focus intensively on investing in our presence in the Spanish market."

M&A

Garrigues recruits PLMJ partner

Garrigues' Oporto office has recruited PLMJ's corporate and M&A partner **Tomás Pessanha**.

Pessanha has been a partner at PLMJ since 2007. He has considerable expertise advising private equity funds, as well as having experience in restructuring and insolvency cases.

Pessanha began his legal career at José Maria Calheiros & Associados before moving to PMBGR - Pena Machete Botelho Moniz Nobre Guedes Ruiz. He later joined PLMJ and took up the role of head of the firm's office in Oporto in 2009.



MANAGING PARTNER

Andersen appoints Barcelona head

Andersen Tax & Legal has appointed **Carlos Salinas** as managing partner of its Barcelona office.

Salinas (pictured) takes over from Toni Prat, who will take on an international role with the firm, while continuing to manage the Barcelona office's tax department.

In addition to his new management role, Salinas will continue to manage the firm's commercial department.

Salinas specialises in commercial, banking and financial law. "To be able to collaborate actively in the strategic growth of the firm is a professional challenge – it is very exciting to be part of an international project from a key location like Barcelona, allowing our partner, Toni Prat, to carry out his international tasks with full dedication," Salinas said.

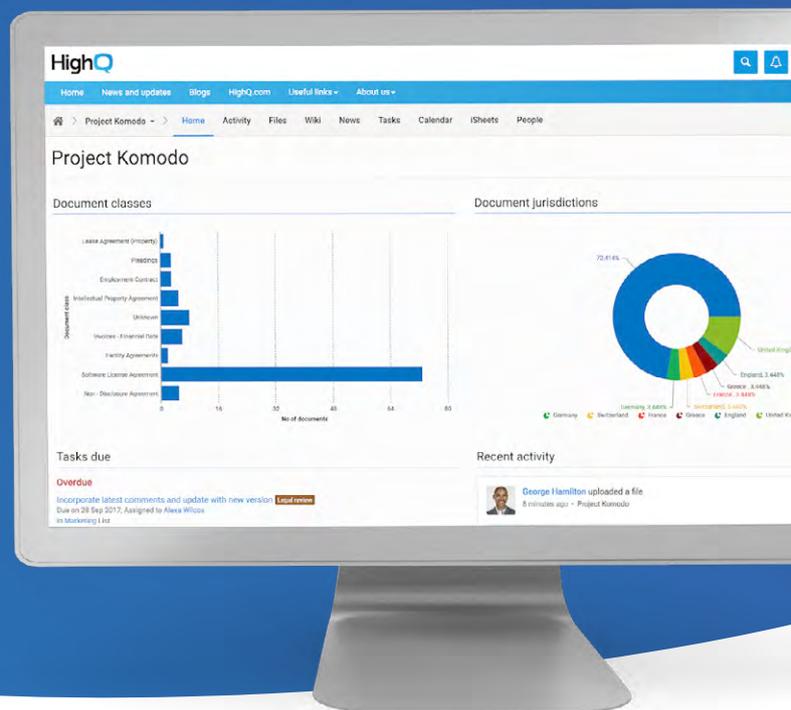
Prat has recently been appointed a member of the European regional board and advisory council of Andersen Global. "The appointment of Carlos as managing partner is, without a doubt, a success, because in addition to his extensive professional experience he has great organisational and management qualities that, surely, will help us to grow and be more efficient," he added.

Managing Partner of Andersen Tax & Legal in Spain, Jaime Ollerros, said: "Carlos' leadership will be key to the growth of the firm in Spain and around the world."

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BARCELONA

Sagardoy appoints Barcelona office managing partner

Sagardoy Abogados has appointed **David Isaac Tobía** as managing partner of its Barcelona office.

Tobía specialises in labour law and social security law.

He was previously a partner in Deloitte Abogados' Barcelona office. Prior to that, he was an associate at Cuatrecasas.

Sagardoy Abogados chairman Iñigo Sagardoy said: "David's appointment is part of our commitment to boost the presence of the firm in Catalonia. His experience and extensive knowledge in labour matters will help us to continue with our mission of offering each client a service with the utmost professionalism."

TAX

Andersen recruits former Garrigues partner

Andersen Tax & Legal has incorporated Álvaro Silva as of counsel in its Sevilla office.

A tax specialist, Silva has previously been a partner at Arthur Andersen and Garrigues, where he held the position of managing partner of Andalusia, the Canary Islands and Extremadura.

Silva has extensive experience in tax litigation and corporate taxation. He also has expertise in M&A and corporate restructuring. He has advised food sector businesses, as well as public entities and family businesses.

The managing partner of Andersen Tax & Legal in Spain, Jaime Olleros, said: "Álvaro Silva's experience and knowledge, as well as his long career and recognition in the practice of law in Andalusia, will give new impetus to our firm both in the office in Seville and throughout Spain."



DISPUTE RESOLUTION

Broseta recruits Jesús Carrasco as partner

Broseta has recruited specialist dispute resolution lawyer **Jesús Carrasco**, who will join the firm as a partner. Experienced in arbitration and litigation, Carrasco has particular expertise in the real estate and construction sectors, as well as the distribution and transport, media, entertainment and sport sectors. He also specialises in intellectual and industrial property and bankruptcy proceedings.

Prior to joining Broseta, Carrasco worked for law firms including Squire Patton Boggs, Hammonds and NautaDutilh. He also practiced as a judge in the Provisión Temporal from 1997 to 2000.

Rosa Vidal (pictured with Carrasco), managing partner of Broseta, said: “The incorporation of Jesus consolidates and boosts our advisory capacities in an area in which we have significant expertise. Additionally, his experience in arbitration will also be very valuable in promoting this practice.”



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PROMOTION

Latham & Watkins promotes Fernando Colomina to partner

Latham & Watkins' Madrid office has promoted banking and finance lawyer **Fernando Colomina** to partner. Colomina was previously a counsel with the firm.

In addition to expertise in the areas of banking and finance, Colomina is also a member of the firm's restructuring, insolvency and workouts practice. His experience includes advising financial institutions and borrowers on cross-border acquisition finance, restructuring, and high yield debt offerings.



"The promotion of Fernando to partner is a new milestone for the Madrid office, which maintains its progression and expansion plan with this announcement," said Juan Picón, managing partner of Latham & Watkins in Spain and co-global director of the Latin American practice. "His experience in such a complex field as banking law – both the Spanish and English aspects – will enable us to broaden our offering to our clients, and complement the other services we offer, particularly commercial, capital markets and real estate."



IN-HOUSE

AVM Advogados hires Efacec in-house counsel

Portuguese law firm AVM Advogados has recruited Efacec senior in-house counsel **Francisco Goes Pinheiro** as a managing associate.

He had spent around 18 months at the Portuguese energy company.

Prior to that, Goes Pinheiro had his first spell at AVM Advogados from 2011 to 2017.

Earlier in his career he spent time at Gómez-Acebo & Pombo as a junior associate. In addition to energy-related experience, Goes Pinheiro also has banking, finance and insurance expertise.



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LISBON

CMS Rui Pena & Arnaut appoints two new partners

CMS Rui Pena & Arnaut has announced the appointment of two new partners, **Fernando Cruz Trinca** and **Nuno Figueirôa Santos**.

Cruz Trinca specialises in commercial law, dispute resolution and finance law and has specialist expertise in advising credit finance institutions on their relationships with regulators.

Figueirôa Santos specialises in tax and has significant experience in the areas of tax restructuring, compliance, litigation, VAT/customs, real estate tax and transfer pricing.

José Luís Arnaut, managing partner of CMS Rui Pena & Arnaut, said the appointment of the new partners was a recognition of their “remarkable professional career and technical quality”. He added: “It is clear to us that sustainable and long-term growth depends on convening the new generation of lawyers for the continued implementation of our vision.”



PROMOTIONS

CCA Law appoints three new partners

CCA Law has announced the appointment of three new partners: **Martim Bouza Serrano**, **Marta Duarte** and **Pedro Antunes**.

It takes the total number of partners at the firm to 11. Bouza Serrano is part of the TMT team, Duarte specialises in litigation, while Antunes is part of the employment and litigation team.

Domingos Cruz, managing partner of CCA Law, said: “With these appointments, CCA renews its commitment to the professional progression and recognition of its lawyers. In doing so, we recognise their personal qualities and professional merits and we bet on their important contribution to strengthening our efficiency, innovation and quality of service delivery.”

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ARBITRATION

White & Case recruits Allen & Overy arbitration specialist

White & Case's Madrid office has recruited Allen & Overy arbitration specialist **Ignacio Madalena**. Madalena will have the task of helping to build up White & Case's arbitration practice in Spain. He will join White & Case as counsel, he was also counsel at Allen & Overy.

A White & Case statement said: "Arbitrations involving Spanish clients have been growing steadily in recent years, particularly cases related to Latin America. This is because, in addition to the significant presence of Spanish companies in the region, it is a practice that avoids the need to resolve disputes in the local courts, as well as being a more effective way of obtaining an award.

Madalena spent eight years at Allen & Overy, prior to that he was a lawyer at B. Cremades y Asociados.

Juan Manuel de Remedios (pictured, right, with Ignacio Madalena), managing partner of White & Case in Spain, said: "Arbitration is the preferred method throughout the world for solving international commercial disputes and it is a practice that our clients are increasingly demanding in Spain."



PROMOTIONS

Caiado Guerreiro appoints five partners, including four women

The promotions increase the number of partners at Caiado Guerreiro from eight to 13.

The new partners are: real estate specialist **Maria Margarida Torres** (pictured); immigration lawyer **Sara Sousa Rebolo**; commercial, labour and energy specialist **Jorge Ribeiro Mendonça**; litigation and arbitration lawyer **Sandra Jesus**; and tax specialist **Tatiana Cardoso**.

Managing partner Joao Caiado Guerreiro said the promotions were made to "accompany the firm's rapid growth – it makes sense to promote lawyers with experience and expertise in their respective areas, thus creating new dynamics in the work teams".



All eyes on TELECOM

Law firms in Spain and Portugal are profiting from telecommunications companies' drive to find new markets for their products



The Iberian telecommunications sector continues to expand a rapid rate. As companies seek to take ever more innovative products into new markets, law firms are benefitting from their need for advice on obtaining new sources of financing. Recent developments saw Davis Polk advising Telefónica on a €1.25 billion notes offering, while Linklaters acted for Cellnex in relation to the company's €1.2 billion capital raising. Meanwhile, broadcasters efforts to strike deals with telecommunications companies for the distribution of their content is also driving significant demand for legal advice. For example, in Portugal, PLMJ recently advised Eleven Sports on a deal related to the broadcasting of its channels via telecommunications companies. The booming telecommunications sector is also driving demand for legal services from companies that provide services to the industry. In one recent deal Allen & Overy advised Intermediate Capital Group on the acquisition of Grupo Konectanet, which offers contact centre services to the telecommunications sector.

TELEFÓNICA INSTRUCTS DAVIS POLK ON €1.25BN NOTES OFFERING

A Davis Polk team led by Madrid office managing partner **Michael J. Willisich** advised Telefónica on an SEC-registered notes offering by Telefónica Emisiones. The offering comprised \$1.25 billion aggregate principal amount of 5.250 per cent fixed-rate senior notes due 2049. Telecommunications group Telefónica reported revenues of €52 billion in 2017. The company provides fixed-line telephone services, wireless communications, internet access and data transmission services across Spain and Latin American. The Davis Polk team also included counsel **Ester del Valle**

Izquierdo and associate **Paula Querol**. Counsel **Alon Gurfinkel** and associates **Omer Harel** and **Veronica Davis** provided tax advice. Associate **Jennifer Wang** provided 1940 Act advice.

Practice area

Capital markets

The matter

Telefonica notes offering

Firm

Davis Polk

Partner

Michael J. Willisich

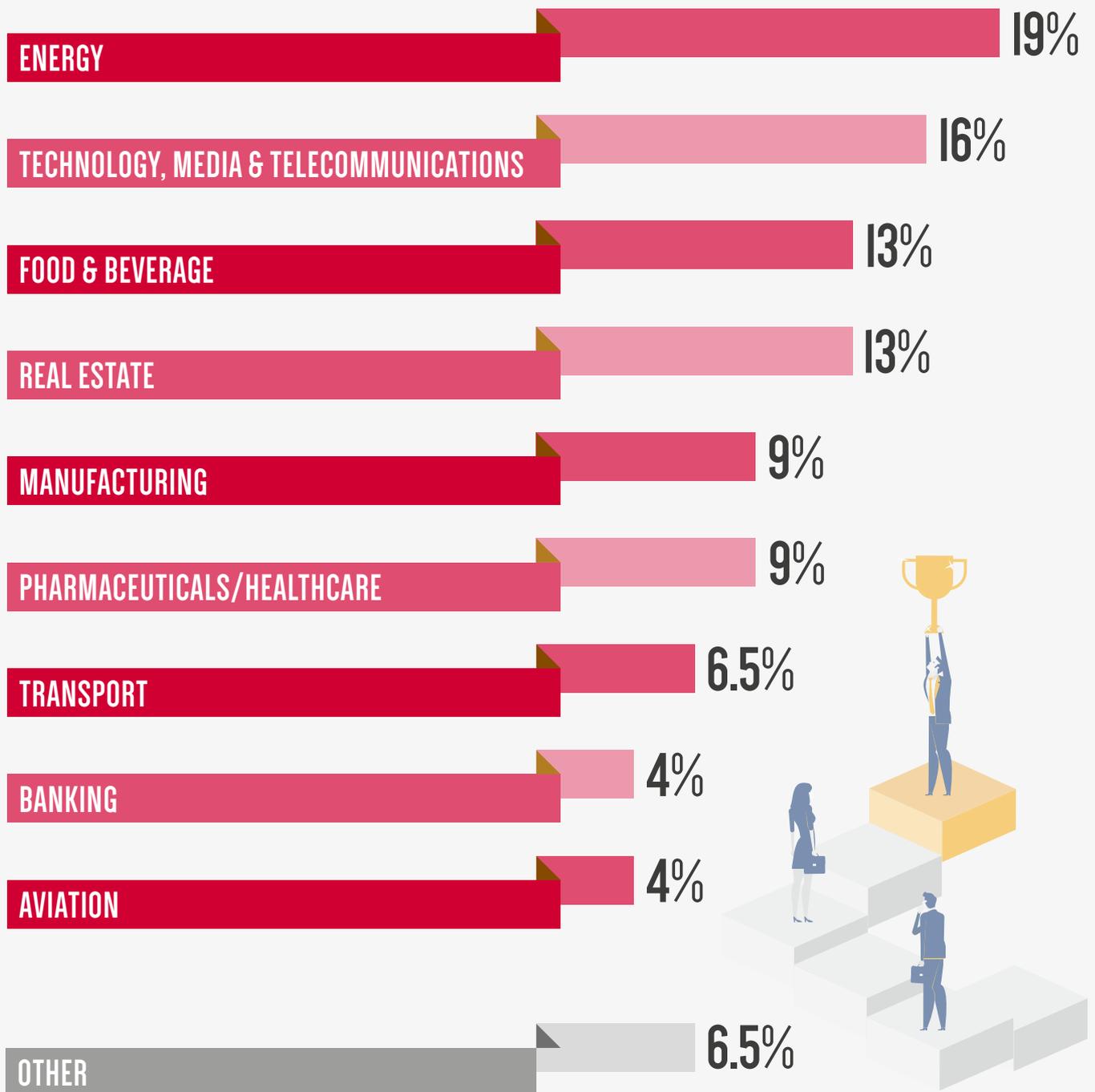
Value

€1.25 billion

LINKLATERS AND URÍA MENÉNDEZ ADVISE ON €1.2BN CELLNEX CAPITAL-RAISING

A Linklaters team led by partner **Federico Briano** advised Spain's Cellnex on a €1.2 billion capital-raising, which will be used to fund the telecoms company's expansion. The capital increase involved the issue of 66.9 million new shares, equivalent to just

Iberian M&A: **KEY SECTORS**



Period 28 February - 27 March 2019 (Source iberianlawyer.com)

under 29 per cent of its current total. Cellnex has indicated that it is planning to expand its presence in the United Kingdom and the Netherlands this year.

Cellnex reported revenues of €901 million in 2018, up 14 per cent on the 2017 figure of €792 million. The Linklaters team also included managing associates **Pablo Medina** and **Alberto García Linera**, US senior associate **Emma Lance**, and associates **Borja Oñoro** and **Héctor Garrido**. Cellnex was also advised by Uría Menéndez, whose team included partners **Alfonso Ventoso** and **David López Pombo**, senior associate **Beatriz Camilleri**, and junior associate **Susana Serrano de Frutos**.

Practice area

Capital markets

The matter

Cellnex capital-raising

Firm

Linklaters, Uría Menéndez

Partners

Federico Briano (Linklaters), Alfonso Ventoso (Uría Menéndez) and David López Pombo (Uría Menéndez)

Value

€1.2 billion

**ALLEN & OVERY
INSTRUCTED ON
INTERMEDIATE-GRUPO
KONECTANET DEAL**

A Madrid-based Allen & Overy team including partners **Iñigo del Val**, **Juan Hormaechea**, **Ignacio Hornedo** and **Adolfo Zunzunegui** advised Intermediate Capital Group on the acquisition of Grupo Konectanet. Grupo Konectanet offers contact centre services to telecommunications, utilities, banking, insurance, and public administration sectors. Grupo Konectanet reported revenues of



Michael J. Willisch



Federico Briano



Iñigo del Val



Ricardo Oliveira

€770 million in 2017.

The company was acquired from Banco Santander and PAI Partners, as reported by Mergermarket.

Practice area

M&A

The deal

Intermediate Capital Group's acquisition of Grupo Konectanet

Firm

Allen & Overy

Partners

Iñigo del Val (pictured), Juan Hormaechea, Ignacio Hornedo and Adolfo Zunzunegui

**PLMJ INSTRUCTED
BY ELEVEN SPORTS
ON DISTRIBUTION DEAL**

PLMJ advised Eleven Sports on negotiations regarding the broadcasting of its channels via all Portuguese telecommunications companies. Each year, Eleven Sports offers more than 30,000 hours of live sports coverage to more than 17 million subscribers in 11 countries.

The new deal means Eleven Sports' coverage of the Champions League, as well as the Spanish, German and French football leagues, in addition to the NFL, will be available to Portuguese telecommunications companies' customers.

The PLMJ team included PLMJ partners **Ricardo Oliveira** (pictured) and **Inês Pinto da Costa**, as well as managing associate **Miguel Marques de Carvalho**.

Practice area

M&A

The deal

Negotiation of Eleven Sports broadcasting rights

Firm

PLMJ

Partner

Ricardo Oliveira and Inês Pinto da Costa



LOCONTE & PARTNERS

THE NEW ITALIAN FAVORABLE TAX REGIME FOR FOREIGN PENSIONERS

Italy launched a new tax regime in order to attract foreign investors into the Country.

After two years from the introduction of the flat tax regime for the new residents (art. 24-bis of the Italian Code of Income Direct Taxation, so called "TUIR"), which provided a substitutive tax of euro 100.000,00 per year on the foreign income for the individuals who move their tax residence to Italy, the 2019 Italian Budget law addressed the new tax relief to the pensioners who receive pension income from a foreign country and want to move to the Southern Italy.

In order to benefit from the new regime, indeed, the taxpayer should transfer his residence to the South of Italy and, more specifically, to a municipality with a population less than 20.000 inhabitants, belonging to the following Regions: Sicilia, Calabria, Sardegna, Campania, Basilicata, Abruzzo, Molise and Puglia.

The provision, introduced by the art. 24-ter of the TUIR, is aimed to incentivize foreign wealthy people to invest their money in the South of Italy, which is an area characterized by beautiful landscapes, tourism and high quality of life, but also by a large emigration of young people, who move abroad looking for a job.

Applying for the above tax regime, the new Italian residents, who should have necessarily lived abroad for the last 5 years before transferring their residence to Italy, can benefit from a **reduced tax rate of 7%**, rather than a progressive tax rate up to 43%, both on the pension income and on all the income produced abroad during the period of the validity of the tax regime.

The option can last for a **maximum of 6 years**, starting from the first fiscal year for which the election is made (through the related annual tax return) and it can be surrendered at any time by the taxpayer.

As well as it has been provided for the new residents' flat tax regime, the taxpayer can request the exclusion of income generated in certain countries from the option, so that they will be subject to the ordinary taxation and the tax credit may be granted.

Moreover, also the new regime for pensioners grants the possibility to the taxpayers, who opt for the substitutive tax, to be **exempted from the reporting obligation** for the asset held abroad, and so they are not required to file the so-called RW form with the Italian Tax Authority.

In addition, they are also **exempted from the quite high Italian wealth tax on the financial asset (IVAFE) and real estates (IVIE) held abroad**, which is 0,2% on the balance of the movable asset and 0,76% on the purchase price of the properties abroad.

However, even though the two regimes introduced by the articles 24-bis and 24-ter of TUIR have many similarities, the option available for foreign pensioners appear to have significant differences.

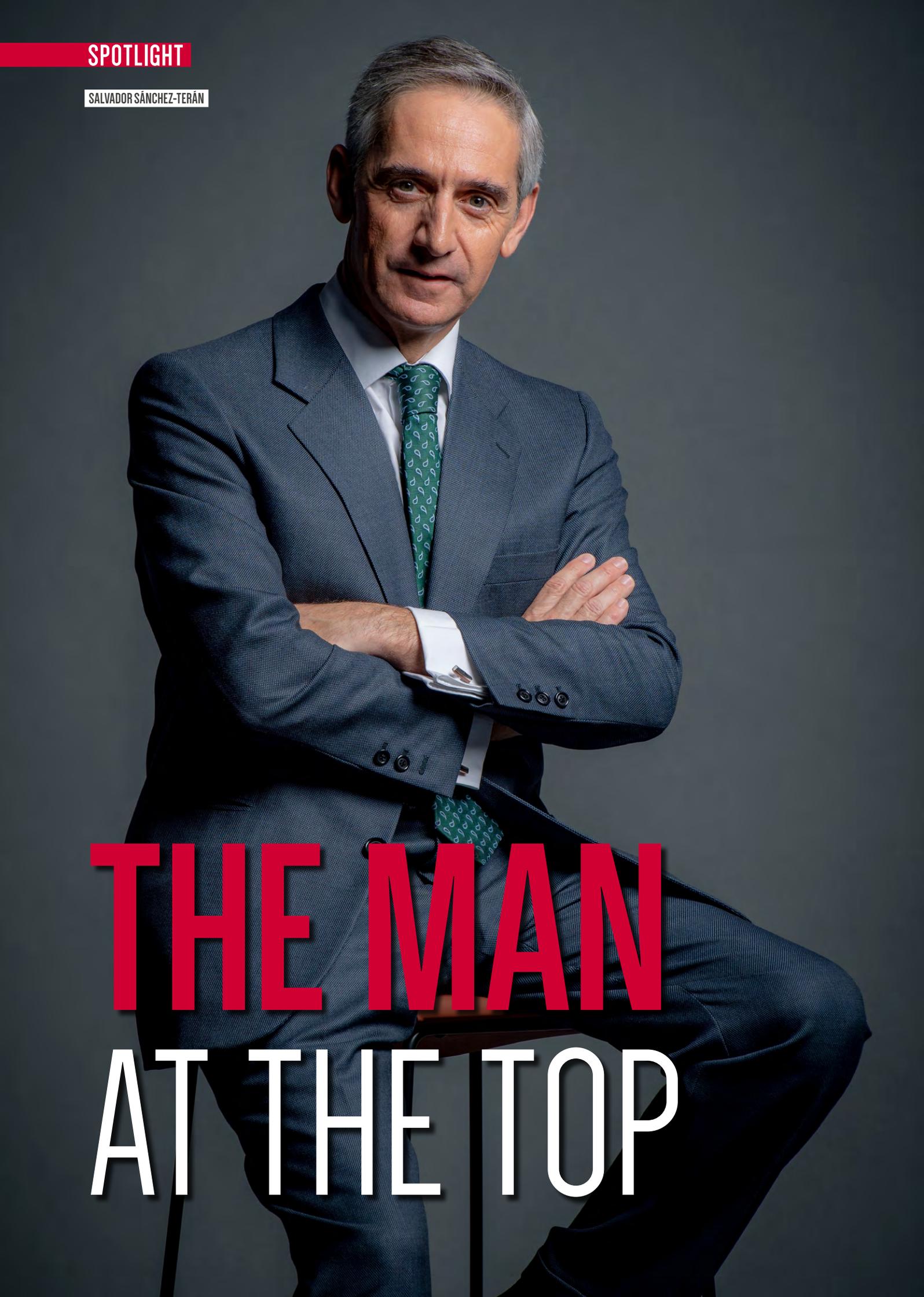
Among all, it should be noticed that the new scheme for retired people does not exempt the taxpayers from the payment of the inheritance tax and the gift tax on the asset held abroad. This is a relevant point that has been brought to the attention of the Italian legislator, since the pensioners are generally interested at an accurate wealth planning and a careful generational transfer.

On the other hand, there is another important difference that deserves to be underlined. While the new residents' regime expressly excludes from the taxable base of flat tax capital gains derived from disposal of qualified capital shares in foreign companies if realized within the initial 5 years of the validity of the option, the new regime for pensioners does not say anything about that, so capitals gains realized abroad are also taxed applying the 7% tax rate.

The above consideration should be considered indeed very carefully by all those who are thinking about a wealth planning, considering that the two regimes are not incompatible with each other: it means, for instance, that a pensioner can opt for the regime of 24-ter of TUIR and benefit from the 7% tax rate on capital gains from qualified shares held abroad and, the following year, he can choose the new residents' regime (if he meets the criteria) and benefit from the exemption of the inheritance tax.

SPOTLIGHT

SALVADOR SÁNCHEZ-TERÁN

A professional portrait of Salvador Sánchez-Terán, a middle-aged man with grey hair, wearing a grey suit, white shirt, and a green patterned tie. He is sitting on a stool, leaning forward with his arms crossed, looking directly at the camera with a serious expression. The background is a plain, dark grey.

THE MAN **AT THE TOP**

The new managing partner of Uría Menéndez, Salvador Sánchez-Terán, leads what is arguably Iberia's most highly esteemed law firm – while he can rely on the support of some highly accomplished lawyers, rivals are attempting to snatch some of the firm's most prized assets

Salvador Sánchez-Terán is the man who is, arguably, at the very top of the Spanish legal profession. As managing partner of Uría Menéndez, he leads what many consider to be the most prestigious law firm in Spain. After all, this is a firm that has consistently been seen as having the most powerful brand in the country. So, what route has Sánchez-Terán taken to the top? He is a lawyer who is steeped in the traditions of the firm – he joined Uría Menéndez more than 30 years ago when he completed a law degree and an economics and business administration degree at the Universidad Pontificia Comillas in Madrid in 1988. In that time, he has built up a reputation as one of the best corporate and M&A lawyers in Spain and this has won him the respect of not only his peers in the market but, equally importantly, the respect of his colleagues at Uría. Sánchez-Terán took over as Uría Menéndez managing partner in January this year, with

his predecessor Luis de Carlos taking the role of senior partner, following the retirement of José María Segovia at the end of last year. There was overwhelming support for the appointment of Sánchez-Terán, which demonstrated the high esteem in which he is held by his colleagues at the firm. Another significant factor in his promotion was his close relationship with De Carlos. Not only have the two been friends for around 30 years, but their families are also close. This fraternal atmosphere at the top is indicative of the culture of the firm as a whole, according to Sánchez-Terán. “The ambience is good here, there is a proud sense of belonging,” he says. However, it is known that this sense of belonging has been severely tested in recent times. It is known that US firms, such as Latham & Watkins, have been trawling the market looking to poach top legal talent from some of Spain’s leading law firms by offering huge remuneration packages. However, despite these temptations, those lawyers at Uría Menéndez that have been targeted by rivals, have so far stayed loyal.

UNITED FIRM

Sánchez-Terán has been elected managing partner for a four-year term, with the selection process involving the creation of a screening committee as well as ‘one-to-one’ meetings with all the firm’s partners. Sánchez-Terán says there were no other candidates for the position. “We have internal cohesion, this is a united firm, there was no power struggle,” he explains. How has Sánchez-Terán’s life changed since he became managing partner? “In the morning, I get bombarded for requests for meetings, we have more than 1,100 people altogether in the firm – I also travel more, to Barcelona, Valencia, Bilbao, Lisbon, London, New York, Beijing, Brussels and Latin America, twice a year I will be visiting PPU (Uría’s Latin American arm Philippi, Prietocarrizosa, Ferrero DU & Uría), which has offices in Chile, Colombia and Peru.” And Sánchez-



THE AMBIENCE
IS GOOD HERE,
THERE IS A
PROUD SENSE
OF BELONGING



I WISH WE HAD
MORE FEMALE
PARTNERS AND
MORE WOMEN
MANAGING
THE FIRM

Terán’s travelling could be set to become even more extensive, with PPU hoping to open an office in Mexico in the near future.

However, there are no plans to open any other offices. Uría Menéndez is proud to describe itself as an Iberian firm, with partners referring to it as a “Spanish and Portuguese firm”. The firm is content with its presence in Portugal, considering the practice to be the “best in terms of quality” in the country, according to some insiders. There is also a feeling that the firm’s Portuguese operation – which has more than 120 lawyers – is adequately sized to handle the “premium work” it is targeting.

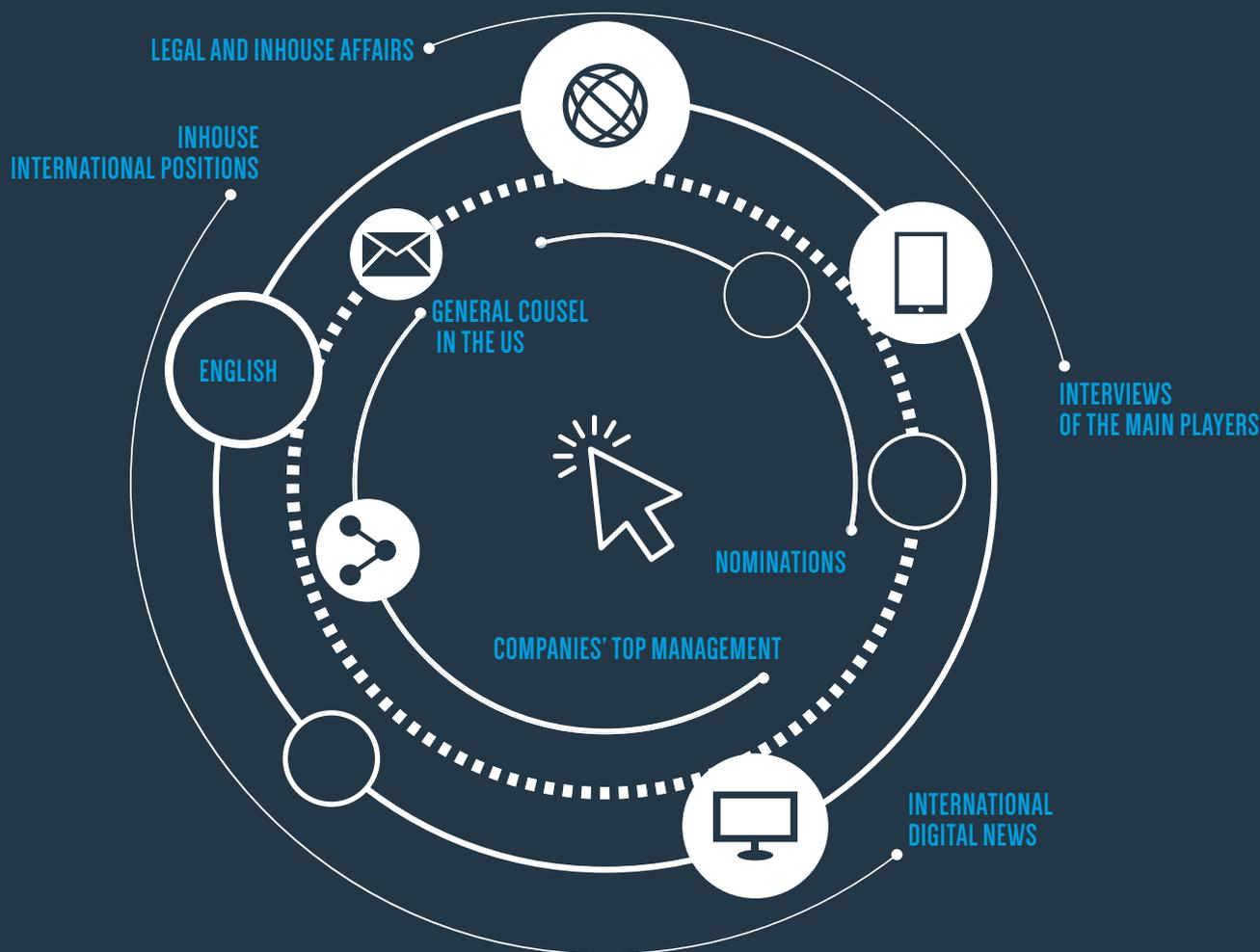
Sánchez-Terán has two key priorities in his new role. The first is to strengthen its new digital practice group. “We will co-ordinate our new technology practice, this has implications for many areas, whether that is cybersecurity, criminal law, or data protection, for example,” he says. Sánchez-Terán adds that, when Uría Menéndez trains its lawyers, the firm “increasingly values technological capabilities and we are increasingly training lawyers in such skills”.





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FEMALE TALENT

The second priority is “female talent”, according to Sánchez-Terán. “I wish we had more female partners and more women managing the firm – we want to send a message to female associates that they are not forced to choose between family and work life,” he says. There seems to have been some success in this respect. In the last two years, 45 per cent of new partners at Uría Menéndez have been female. However, Sánchez-Terán says ensuring women progress in the firm is a task that can be fraught with challenges. “It can be difficult to combine a strict meritocracy with the fostering of diversity,” he explains. Sánchez-Terán acknowledges that in jurisdictions such as the UK there is an increasing trend for clients to demand evidence of law firms’ diversity policies as a condition of doing business with them. However, he adds that this is not a significant trend in Spain. “We seek to promote female



FIRST, WE’RE
LOOKING FOR
BRAINS AND
SECOND, WE’RE
LOOKING FOR A
GOOD PERSON
AS THIS IS
IMPORTANT
FOR INTERNAL
COHESION

talent as a matter of principle rather than business need,” he says.

So what does it take to become a lawyer at arguably Iberia’s most prestigious law firm? “In candidates, we are looking for two things,” says Sánchez-Terán. “First, we’re looking for brains and second, we’re looking for a good person as this is important for internal cohesion – if they are not good people, this will change the environment,” he argues. “Also important is having a broad range of interests as this often indicates that someone is more open-minded – all the rest can be taught.” Sánchez-Terán says that Uría Menéndez can afford to be very selective when it comes to recruiting new lawyers. “We receive 5,000 applications every year and we take 70 or 80 applicants,” he says. Sánchez-Terán claims that Uría Menéndez also offers the “best training, not only legal training, but also in soft skills, accounting, negotiation and management”. He adds that the firm guarantees new recruits at least two years at the firm. “New recruits get the opportunity to work in smaller teams and have a lot of contact with partners,” he says.

EUROPEAN LEGAL ADVISER LEAGUE TABLE, FULL YEAR 2018 (by value US\$m)

FIRM	Value (US\$m)
Uría Menéndez & 'Best Friends'	361,295
Freshfields Bruckhaus Deringer	301,309
Linklaters	280,372
Allen & Overy	207,079
Davis Polk & Wardwell	202,687
Clifford Chance	172,943
Herbert Smith Freehills	145,724
Latham & Watkins	134,245
Sullivan & Cromwell	118,635
DLA Piper	86,019

Source: Mergermarket

FIND BETTER LAWYERS

And what qualities must Uría Menéndez lawyers demonstrate in order to become a partner? “They need to be good at creating teams, creating succession and finding lawyers even better than those we currently have,” says Sánchez-Terán. “They need to be good managers of young lawyers, the ideal partner develops a team of good young lawyers.” He adds that Uría Menéndez lawyers need to be able to generate business, though they are not set targets. Sánchez-Terán continues: “Our partners are technically sound, they know law, but also a huge number of partners have double degrees in business administration and law. We are proud of our academic roots. We have top scholars, around 70 to 80 per cent of our partners teach at universities.” He also says that Uría Menéndez lawyers need social



SALVADOR SÁNCHEZ-TERÁN

PARTNERS NEED TO BE GOOD MANAGERS OF YOUNG LAWYERS, THE IDEAL PARTNER DEVELOPS A TEAM OF GOOD YOUNG LAWYERS

skills and be able to “think outside the box, we are creative lawyers and we are innovative”.

Sánchez-Terán expects the Spanish legal market to become even more competitive. “More US firms could come,” he says. Some market observers fail to see how the Madrid office of a US firm could be sustainable, but there is a view among others in the sector that a US firm’s Spanish operation could survive on referral work. However, Sánchez-Terán is confident Uría Menéndez will be able to compete successfully with any potential new arrival in the market. “We’ve always been in competition with firms like Clifford Chance, Freshfields and Linklaters,” he adds.

Uría Menéndez is a firm that seldom makes lateral hires, preferring to instead nurture its own talent. “We made 26 appointments [of partners, counsels and associates] in January and all of them were homegrown,” says Sánchez-Terán. However, the firm did make a rare lateral

hire earlier this year when it recruited Jesús R. Mercader from Sagardoy Abogados as counsel.

One of Sánchez-Terán’s areas of expertise is M&A, and he says the performance of the firm in this segment of the market has been good. The firm advised on 50 deals with an approximate value of \$70 billion. Major deals included advising on the €32 billion Abertis takeover bid. “We are doing very well,” Sánchez-Terán says. “I don’t know whether there will be a recession – in M&A, there is a lot of liquidity, though the price of assets is high, however, that said, fund managers are under a lot of pressure to acquire assets.” He adds that the political uncertainty in Catalonia has had limited impact on the firm’s business. “Our Barcelona office generates 12-13 per cent of the firm’s total revenues – 2017 was a record year for the Barcelona office and 2018 was close to it.” The firm’s total revenue in 2018 was around €240 million, approximately a 2 per cent increase on the previous year.

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WE DON'T TAKE WORK THAT WILL HAVE AN IMPACT ON OUR REPUTATION

CHOOSING WISELY

Sánchez-Terán says that one of the reasons Uría Menéndez has managed to preserve its strong brand is that it has been very selective in terms of the cases it takes and the people it represents. “We don’t take work that will have an impact on our reputation,” he says. “We don’t advise on criminal proceedings involving politicians and corruption.”

Uría Menéndez has a ‘best friends’ network that consists of “close but non-exclusive relationships” with Slaughter and May in the UK, BonelliErede in Italy, Bredin Prat in France, Hengeler Mueller in Germany, and De Brauw Blackstone Westbroek in the Netherlands. Data from Mergermarket shows that Uría Menéndez and its best friends advised on deals with a total value of \$361 billion in 2018 (see table). Sánchez-Terán says: “We have learnt a lot from Slaughter and May – however, it’s a non-exclusive relationship.” He adds that the firm has no desire to have a ‘best friend’ in the US and prefers to continue working with a number of the leading firms. Sánchez-Terán does not mention names, but it is believed that US firms with which Uría frequently works, include Cravath, Sullivan & Cromwell, Simpson Thacher and Davis Polk. Sánchez-Terán is not plotting any dramatic alterations to the firm, and instead will be seeking to ensure the firm maintains its reputation for providing high quality legal services. “It’s about maintaining the good things, we don’t want to make radical changes, we want to maintain the firm’s cohesion and improve profitability – we’re not complacent and we want to keep evolving.” As someone who has spent three decades at the firm, Sánchez-Terán has a thorough knowledge of Uría Menéndez and, consequently, the firm appears to be in very safe hands. ■



THE PREDECESSOR: LUIS DE CARLOS

The man Salvador Sánchez-Terán replaced as managing partner of Uría Menéndez was **Luis de Carlos**, who spent 13 years as managing partner. “Luis was the most reputed capital markets lawyer in Spain,” says Sánchez-Terán. “Luis, along with [former senior partner] José María Segovia kept the firm at the highest level after the death of the founding partner Rodrigo Uría – they confirmed the institutionalisation of the firm.” Sánchez-Terán says that, in the 13 years under De Carlos’ [and Jose María Segovia’s] leadership, the firm grew significantly and that De Carlos was an impressive CEO who demonstrated significant expertise in finance and accounting. He adds: “They also maintained the quality and internal cohesion with many partners rejecting offers from other firms for more money, we have excellent premises and top-notch technology – we continued the firm that Rodrigo Uría created, we stuck to our values and our principles.” ■

At war with THE 'BIG FOUR'

New data shows PwC was the second best performing law firm in Iberian M&A in 2018, while Deloitte and KPMG were also ranked in the top ten



The presence of the 'Big Four' in the Iberian legal market has always provoked fierce debate. Their supporters say they have tremendous resources that enable them to make massive investments in back office technology, which allows them to provide more efficient services for clients. It is also claimed that this more efficient service delivery enables the 'Big Four' to charge much more competitive fees than their rivals. However, their detractors say they are rarely involved in the biggest M&A transactions, and due to their additional roles as auditors, they face a multitude of conflicts that restrict them from fully penetrating all parts of the market.

But these are opinions. The facts are that the 'Big Four' are becoming an increasingly powerful force in the Iberian M&A market, which was dominated by mid-market deals in the last year, as new data confirms. While Mergermarket statistics show that Garrigues – under the leadership of managing partner **Fernando Vives** – advised on the most Iberian deals in 2018 (the firm was instructed on 96 deals with a total value of \$53.8 billion), PwC Legal was the second ranked law firm by deal volume. Of all the leading M&A law firms in Spain, it was PwC Legal, which is headed by managing partner **Joaquin Latorre**, that experienced the most dramatic growth in the last 12 months by deal volume. PwC's M&A practice more than doubled in 2018 – the firm advised on 86 deals (up from 36 the previous year) with a total value of \$6.5 billion.

Among the deals on which PwC advised last year was private equity firm L Catterton's €120 million acquisition of Spanish restaurant chain Goiko Grill (which was advised by another 'Big Four' firm, EY). In addition, PwC advised Varde Partners on the acquisition of a 49 per cent stake in WiZink Bank from Banco Santander (which instructed Pérez-Llorca). As an M&A lawyer at one law firm put it, "if you're going to do mainstream work, medium-sized M&A, of course, they [PwC] are very serious competitors to watch in the future". The source added that PwC had undergone dramatic expansion in recent years and was also in the middle of a fierce recruitment drive. Another member of the 'Big Four', Deloitte Legal, was the fifth-ranked law firm in Iberia by deal count, advising on 48 deals with a total value of \$5.2 billion. Meanwhile, KPMG Abogados was ranked eighth, advising on 31 deals with a total value of \$8.3 billion.

138%

Increase in the number of M&A deals handled by PwC Legal in Iberia in 2018, according to mergermarket

PWC LEGAL: RECENT KEY DEALS IN IBERIA

FEBRUARY 2019

Advising **Platina Energy Partners** on the sale of a 30MWp (megawatt peak) solar plant portfolio in Spain to investment manager Q-Energy

JUNE 2018

Advising private equity firm **L Catterton** on the acquisition of Spanish restaurant chain Goiko Grill (which was advised by EY)

APRIL 2018

Advising **Varde Partners** on the acquisition of a 49 per cent stake in WiZink Bank from Banco Santander (which instructed Pérez-Llorca). Financial details undisclosed

With regard to future M&A activity, **Javier Mateos Sánchez**, a director at PwC Legal, says that the real estate sector in particular will continue to offer many opportunities for investors. “Transactions such as the sale of the real estate business of Caixabank, purchase of Testa or the takeover bid on Hispania, have been key deals during 2018,” he says. “Another area that has been particularly active has been energy, transport and infrastructure, with transactions such as the sale of 20 per cent of Gas Natural, the takeover bid on EDP and the sales of Acciona Termosolar, Eolia, Redexis and Itinere.”

THE WRONG PERCEPTION

The head of PwC Legal’s M&A practice in Spain is **Javier Gómez**. He rejects suggestions made by some lawyers at rival firms, who argue that PwC are not at the forefront of M&A deals and are instead providing ancillary advice on tax and due diligence. Gómez, whose previous firms include Garrigues and Stephenson Harwood, says such a perception is wrong. “There have been a great number of transactions in which PwC legal has been involved in 2018 and it was full legal advice on the transaction including due diligence, SPA (sales and purchase agreement) advice and post-deal advice – PwC Spain is one of the largest law firms in Spain very focused on the middle market, and bear in mind that Spanish legal business is mainly focused on middle market transactions.”

Though the ‘Big Four’ performed well, the market leader is Garrigues, which advised on 96 deals – with a total value of \$53.8 billion – in 2018. This included providing advice on the multi-billion euro acquisition of Abertis, while other reported deals included advising fast-food businesses Alsea and Zena in relation to the acquisition of Spain’s Grupo Vips, which operates



JAVIER GÓMEZ

in more than 450 locations in the country. “Spain is still a hospitality (hotel and services) and real estate (construction) driven economy,” Garrigues partner **Álvaro López-Jorrín** says. “These sectors show the largest asset stock for investors.”

It was a record year for foreign private equity fund investment in Spain, with €4.35 billion recorded in the first nine months of 2018. While the number of deals was not particularly high, Spain saw a spate of so-called “megadeals”, particularly in the energy and real estate sectors. “The major private houses have closed the biggest funds in recent years – Apollo, CVC and KKR and alike,” says **Esteban Arza**, managing associate at Linklaters. “They’ve got tons of money to invest across the globe, but certainly there is a good focus now in Iberia.”

Ashurst partner **Jorge Vazquez** says Spain has benefited from a combination of stable domestic conditions and global turmoil. “If you look at the

IBERIA LEAGUE TABLE BY DEAL COUNT 2018

2018 Ranking	2017 Ranking	Firm	2018	2018	Count change	2017
			Value (US\$m)	Deal count		Deal count
1	1	= Garrigues	53,812	96	-2	98
2	8	▲ PwC Legal	6,556	86	50	36
3	2	▼ Cuatrecasas	15,084	79	-14	93
4	3	▼ Uria Menendez	69,998	50	-14	64
5	4	▼ Deloitte Legal	5,286	48	3	45
6	11	▲ Perez-Llorca	29,080	38	14	24
7	15	▲ Allen & Overy	56,451	31	10	21
8	10	▲ KPMG Abogados	8,337	31	2	29
9	9	= Gomez-Acebo & Pombo	1,352	29	-1	30
10	7	▼ Baker McKenzie	4,590	25	-11	36

Source: Mergermarket

stock market, it looks like bingo, really," he says. "It's so volatile and difficult to predict – people are looking for ways they can create value, and where."

POLITICAL UNCERTAINTY

Other sectors in which there has been considerable M&A activity in Iberia include infrastructure, finance, pharmaceuticals, retail, transport, food, and tourism, lawyers say. However, with regard to the outlook for the coming year, there is much uncertainty as significant volatility is expected due to Brexit, elections in Spain, interest rates, the US and China. "I think it will be a decent year in terms of M&A activity," says Hogan Lovell partner **José Balaña**. However, he adds that 2019 will be "nothing compared to 2018, because of these political risks in the pipeline." Meanwhile, Garrigues partner **Mónica Martín de Vidales** says private equity funds "amazing amounts of dry power may lead to an increase of M&A activity in general". However, she adds that "market volatility, political uncertainty, restrictive trade policies and a weak US dollar may limit foreign investors' appetite for Spain."

That said, the general feeling among lawyers is one of optimism. "We are very positive with regard to 2019 M&A activity," says Allen & Overy partner **Ignacio Hornedo**. "Our work in progress and pipeline in the first quarter is really strong and we anticipate another very solid year ahead." ■

PWC LEGAL'S MAIN MAN: JOAQUIN LATORRE

PwC Legal Spain managing partner **Joaquin Latorre** says one of the reasons the firm was so active in the Iberian M&A market was that there was a considerable number of mid-market deals in the last year. "Investment is not only done by private equity funds, though they do a lot, many of our clients are entrepreneurs with whom we have had a long relationship and have helped to develop business strategies," he explains. Latorre, who has been with PwC in Spain for 22 years (after joining the firm from KPMG), says the firm's network of offices has also been key. "We have tax and legal experts in 20 different cities in Spain, where there are a lot of important mid-sized companies and we are in close proximity to these players," he explains. "We have become their 'trusted advisers', we have built a relationship with entrepreneurs and we have invested in order to improve our knowledge of their industry sectors." ■



JOAQUIN LATORRE

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2019 Edition – Draft Program - last update April 2019

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MONDAY 10 JUNE		Partners	Address
9:00am 1:00pm	■ Conference - followed by light lunch: "Innovation and legal tech"*		Excelsior Hotel Gallia Piazza Duca d'Aosta 9, 20124 Milan
2:30pm 4:30pm	■ Roundtable		LED Taxand Via Dante 16, 20121 Milan
4:00pm 6:00pm	■ Roundtable - followed by cocktail: "Workshop on integrated compliance"	 	Studio Legale Associato Carnelutti Via Principe Amedeo 3, 20121 Milan
From 6:30pm	■ Corporate Counsel Cocktail		Gatti Pavesi Bianchi Piazza Borromeo 8, 20123 Milan
7:00pm 8:30pm	Roundtable on Real Estate – followed by cocktail		<i>To be disclosed shortly</i>
9:30pm 11:30pm	■ Informal welcome dinner for International Guests		<i>To be disclosed shortly</i>
TUESDAY 11 JUNE			
9:00am 1:00pm	■ Conference - followed by light lunch: "Doing Business in Africa and the Middle East"*	 	Excelsior Hotel Gallia Piazza Duca d'Aosta 9, 20124 Milan
1:00pm 3:30pm	■ Business lunch and roundtable: "Are you ready for sharing? The sharing economy from the inside"		<i>To be disclosed shortly</i>
4:00pm 6:00pm	■ Roundtable on Arbitration followed by cocktail		The Westin Palace Milan Piazza della Repubblica 20, 20124 Milan
5:00pm 7:00pm	■ Roundtable: "Safeguarding secrets: how employment law can help companies to protect their most valuable assets - trade secrets"	 	Toffoletto De Luca Tamajo Via San Tomaso 6, 20121 Milan
6:00pm 8:00pm	■ Roundtable - followed by cocktail: "Milan/Paris business relationships"		CastaldiPartners Via Savona 19, 20144 Milan
7:00pm 8:30pm	■ Best PE Deal Makers Cocktail		Freshfields Bruckhaus Deringer Via dei Giardini 7, 20121 Milan
From 8:00pm	Cocktail		<i>To be disclosed shortly</i>

The draft program continues on the next page...

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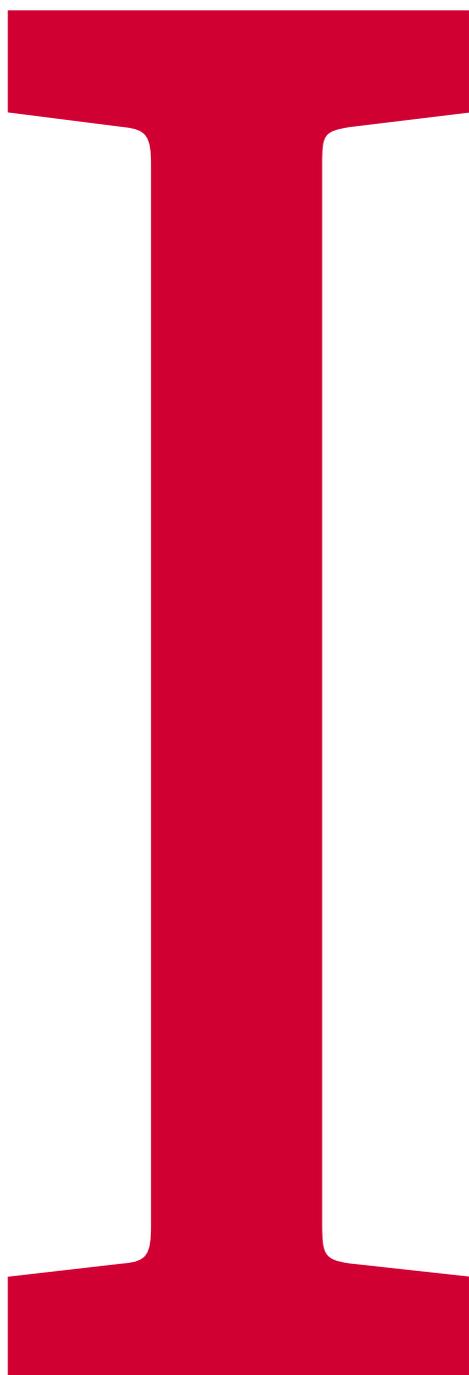
WEDNESDAY 12 JUNE		Partners	Address
6:00am 8:00am	■ Corporate Run & Walk*	 	To be disclosed shortly
9:00am 11:00am	■ Conference - followed by closing coffee break: "Brexit: consequences and opportunities"		Dla Piper Via della Posta 7, 20123 Milan
12:30pm 2:30pm	■ Business Lunch: "The perspective of the circular economy in Italy"		Pavia e Ansaldo Via del Lauro 7, 20121 Milan
5:00pm 7:00pm	■ Roundtable & light cocktail for General Counsel & IP Counsel: "Maximising the efficiency of your IP portfolio"		Brandstock Via Foro Buonaparte 12, 20121 Milan
6:00pm 7:30pm	■ Discussion: "Cross-border M&A" followed by cocktail		Legance - Palazzo Legance Via Broletto 20, 20121 Milan
7:30pm 11:30pm	■ Corporate Music Contest*	  	Fabrique Via Gaudenzio Fantoli 9, 20138 Milan
THURSDAY 13 JUNE			
8:00am 9:30am	■ Breakfast on Finance		Gianni Origoni Grippo Cappelli & Partners Piazza Belgioioso 2, 20121 Milan
9:30am 1:30pm	■ Conference on International M&A followed by light lunch*	CHIOMENTI	Excelsior Hotel Gallia Piazza Duca d'Aosta 9, 20124 Milan
3:00pm 5:00pm	■ Compliance & Sport Management		Aspria Harbour Club Milano Via Cascina Bellaria 19, 20153 Milan
7:15pm 11:30pm	■ Corporate Awards and Gala Dinner*		WJC Square Viale Achille Papa 30, 20149 Milan
FRIDAY 14 JUNE			
10:00am 12:00pm	■ Roundtable: "New professionalisms, organization and industrial relations"		LabLaw Studio Legale Corso Europa 22, 20122 Milan

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CYBERATTACKS

LIVING A NIGHTMARE

Portugal's largest law firm, PLMJ, recently suffered the horror of a cyberattack that resulted in highly confidential information being published – with such attacks on the increase, what should law firms do to minimise the risk of becoming victims?



It must be a nightmare scenario for any law firm. Hackers break into your firms' computers, access confidential information about your clients and the correspondence you have had with them and then publish it. But for leading Lisbon law firm PLMJ, this nightmare became reality. In January, the firm's systems were hacked and information was published on the "Mercado de Benfica" blog. Prior to the newspapers getting hold of the story, PLMJ went through the drama and anxiety of trying to obtain an injunction, but the efforts failed. The secrets were out. The stress for those involved must have been unimaginable. What clients want when they appointed a lawyer is a trusted adviser, but in this case that trust had been broken, though it is hard not to feel sorry for PLMJ, which was the victim of a crime perpetrated by some very sophisticated hackers.

Perhaps unsurprisingly, PLMJ was unwilling to provide any official comment when asked for an update on the fallout from the attack. Lawyers at the firm will want people to stop talking about it in the hope that the story, and the negative publicity that surrounds it, will go away. Meanwhile, partners at rival law firms are breathing a huge sigh of relief that it wasn't their organisation that had its name tarnished by such a worrying security breach.

WARNING CLIENTS

Despite the absence of official comment from PLMJ, sources close to the firm say that the management took a series of steps when they realised their systems had been compromised. "The firm found out just before the press did, all the IT guys were called and a specialist US cybersecurity specialist was instructed to analyse everything," says one source. There is speculation that an employee from a specialist IT company that provides services to the firm may have allowed, deliberately or unwittingly, a password to fall into the hands of a hacker, though this is unconfirmed and police are investigating. "It's a very sensitive issue," says another source. "Clients were warned, the firm took the lead on that and contacted all the clients, it was taken very seriously. However, there are issues, and the firm does not want to talk openly about the matter."

It's no real surprise that it was a Portuguese law firm that was the victim in this case. Data shows that, when comparing EU

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countries, Portugal is the third biggest victim of cyberattacks (see table). In light of the horror experienced by PLMJ, firms are being warned that they have to face up to this new threat and act now. “Law firms of all sizes should be worried,” says SRS Advogados partner **Luis Neto Galvão**, who specialises in advising companies on data protection. “Even small law firms can be vulnerable to cyberattacks – acquiring a cybersecurity culture takes time and resources,” he says. “Therefore, law firms should start immediately addressing the matter.”

In one of the most famous law firm cyberattacks, the “Panama Papers” scandal in 2015, 11.5 million documents – containing detailed financial and attorney-client information – were leaked from a Panamanian law firm in an event that shook the legal world. **Martim Bouza Serrano**, a partner at CCA Ontier, says such attacks represent an unsettling window into the future when hackers will become much more sophisticated and be able to carry out attacks on a larger scale. “We have been seeing an increasingly number of cyberattacks and I am certain that during 2019 we will see bigger and more damaging threats than in previous years,” he says.



LUIS NETO GALVÃO

“LAW FIRMS OF ALL SIZES SHOULD BE WORRIED”

SRS Advogados partner Luis Neto Galvão

BIGGEST CYBERCRIME VICTIMS IN THE EU

			Percentage of population who have experienced cybercrime	Annual average malware encounter rate	Cybercrime Victimhood Rating
1		Romania	18%	28%	23%
2		Netherlands	27%	14%	21%
3		Portugal	15%	24%	20%
4		Poland	16%	23%	20%
5		Italy	17%	21%	19%

Source: www.websitebuilderexpert.com (based on data from European Union, ITU Global Cybersecurity Index, Microsoft and Rapid7)



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welcome cocktail

1,00^{PM}
Awards
Ceremony

2,15^{PM}
Lunch

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MARTIM BOUZA SERRANO

“I AM CERTAIN THAT DURING 2019 WE WILL SEE BIGGER AND MORE DAMAGING THREATS THAN IN PREVIOUS YEARS”

CCA Ontier partner Martim Bouza Serrano

ENORMOUS DAMAGE

Given that they handle large volumes of confidential information, law firms are an obvious target for hackers, and once an attack has happened, the results can be devastating. “There is one feature that everyone expects from a priest, a doctor or a lawyer and that is confidentiality,” says Bouza Serrano. He adds: “The damage caused by a cyberattack to a law firm is enormous and it may cause irreversible consequences to the trust between firms and their clients.”

It is unclear how often cyberattacks really happen, because businesses often handle them discreetly. Culprits are hard to trace and motives often unclear. It may be criminal organisations with a focus on extortion, or whistle-blowers, according to **Cláudia Martins**, a senior associate at Macedo Vitorino. Meanwhile, on rarer

occasions, hurting the firm, or its clients, could even be the primary goal, according to Galvão.

Whatever the reasons behind a cyberattack, there are various steps firms can, and should, take to minimise the risk. Martins recommends evaluating systems for weak points before preparing formal cybersecurity policies, incident response plans, backup and restoration procedures. She also advocates the use of two-factor authentication, and encryption. Meanwhile, Galvão says formal cybersecurity policies are essential, while also stressing the importance of training and specialist outside support. However, he acknowledges that there is no “definitive formula” for effective cybersecurity.

HUMAN ERROR

Raising awareness of cybersecurity policies and procedures across organisations is vital, according to Bouza Serrano. He also says sensitive information should only be accessible to the lawyers working on a given case. “Cybersecurity by itself is not enough to keep information safe,” Bouza Serrano says. “Many of the security breaches come from mistakes made by people.”

So, what should firms do if a cyberattack is successful? Firms must be ready for action, with cybersecurity insurance, a detailed action plan, and a crisis communication plan in place. Clients and the relevant data protection authority must be notified immediately, and firms should consider making a public statement – in this instance, pre-prepared draft media statements and client letters could prove useful, lawyers say. Meanwhile, external cyber professionals should work alongside internal IT teams to stop any active threat and also protect against future attacks using the same method. With any luck your law firm will never have to put such an action plan into practice, but with cyberattacks on the increase, it’s best to be prepared. ■

PREDICTING THE FUTURE

Lawyers in Iberia are confident their firms will grow in the next 12 months, with increases in fees and profits expected, but overall there are significant doubts about economic prospects



Most law firms in Iberia expect to grow in the coming year due to greater volumes of work, the creation of new service lines, the recruitment of more lawyers and increases in legal fees, according to new research by *Iberian Lawyer*.

There was, overall, a positive outlook among lawyers in Spain and Portugal, despite the fact that there is less confidence regarding economic prospects compared to a year ago.

Iberian Lawyer's annual law firm growth survey showed that almost all (99 per cent) of lawyers in Spain and Portugal thought their firms would grow in the coming year. Three-quarters (74 per cent) of respondents thought growth at their firm would be driven by a greater volume of work. This was slightly down on the result for last year's survey, when 77 per cent of lawyers were anticipating increased workflow.

A total of 45 per cent of lawyers in this year's survey expect their firm to grow as a result of the creation of new service lines. This suggests firms are planning a more innovative approach to the way they serve clients, given that only 36 per cent of lawyers in last year's survey were anticipating the development of new services.

The results of the research also suggest there could be plenty of opportunities for legal recruiters. Almost 39 per cent of survey participants said their firm would grow as a result of recruiting more lawyers, a slight increase on last year's result when only 35 per cent were anticipating more hires. Lawyers are frequently bemoaning the fact that clients are putting a lot of pressure on fees,

but there are reasons for law firms to be more confident that they will be able to charge more for their services in the coming year. One in four respondents (25 per cent) said that fee increases would drive growth at their firm in the next 12 months, this compared to only 16 per cent of participants in last year's survey.

Profits going up?

The vast majority (92 per cent) of lawyers in Spain and Portugal who responded to the survey said they expected their firm's profits to increase in the coming year, they were asked: By how much?

Expected increase in profits	Percentage of respondents providing this answer
1-2%	15%
3-4%	21%
5-6%	26%
7-8%	12%
9-10%	13%
More than 10%	13%

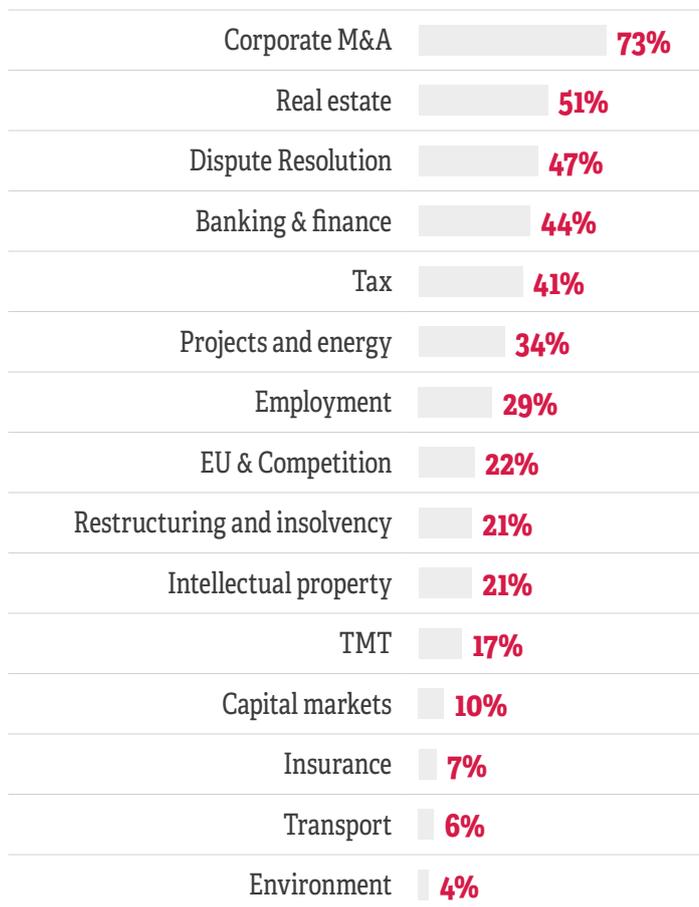
International work will be the main driver of growth at law firms in Spain and Portugal in the next 12 months. The majority of respondents (54 per cent) said most of the growth at their firm would be generated by inbound work from clients outside their jurisdiction. This represented no change on the result in last year's survey. However, only 19 per cent of survey participants said growth at their firm would be a result of a "more positive economic outlook", this represented a massive drop compared to last year's result when 71 per cent of respondents were anticipating better economic prospects.

SPAIN: LAW FIRM PROFITS EXPECTED TO RISE, BUT REAL ESTATE PROSPECTS DIMINISHING

Around half (52 per cent) of lawyers in Spain expect their firm to increase its headcount in the coming year, a slight increase on last year's result of 45 per cent. A total of 55 per cent of those respondents that think their firm will grow its headcount expect the growth to amount to more than 5 per cent. There is also considerable optimism that profits will increase. Two-thirds (67 per cent) of respondents expect their firm's profits to increase in the coming year, compared to 62 per cent in last year's survey. Around 63 per cent of those respondents that anticipate an increase in profits in the coming year expect the increase to be more than 5 per cent.

Survey respondents in Spain expect more dispute resolution, employment, environmental, projects and energy, restructuring and insolvency, tax and transport work than they did a year previously. However, capital markets work is expected to decrease quite dramatically – only 7 per cent of

Lawyers in Spain and Portugal were asked: In which practice areas do you anticipate growth



respondents expect this area of work to grow in the coming year, compared to 28 per cent in the previous year's survey.

Worryingly for Spanish law firms, there appears to be less optimism about prospects in the real estate market – traditionally a key generator of work for law firms in Spain – compared to last year. A total of 37 per cent of participants in this year's survey expect an increase in real estate work for their firm, compared to 55 per cent in last year's survey. Lawyers are also anticipating less TMT work than they were one year ago. However, there are

54%

Proportion of survey respondents from Spain and Portugal that expect most of the growth at their firm to be driven by inbound work from clients outside their jurisdiction

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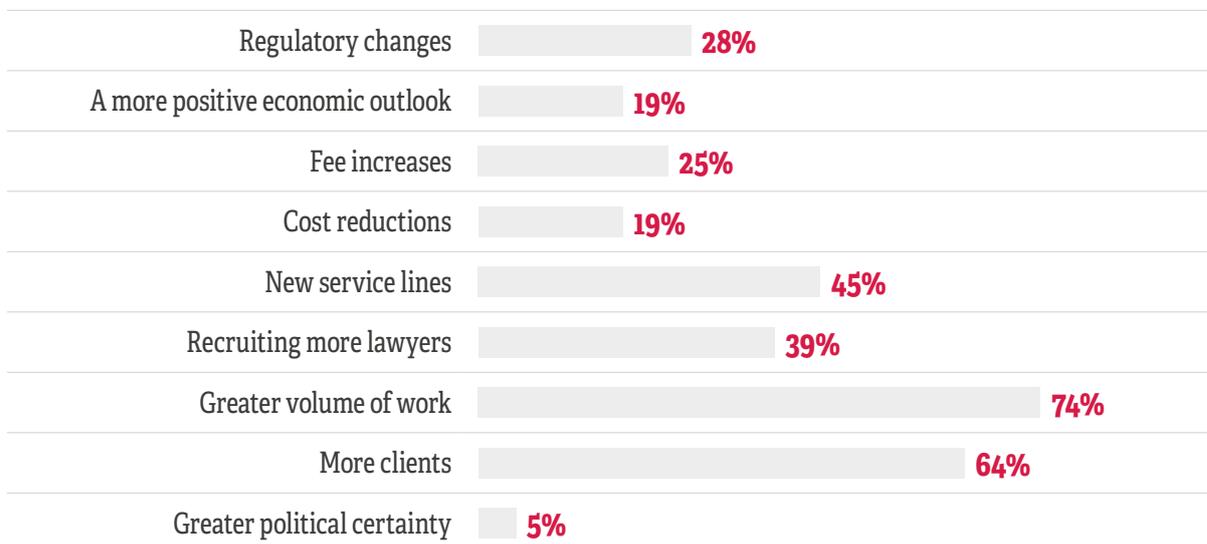
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7th November 2019
Madrid

Lawyers in Spain and Portugal were asked: If you expect your firm to grow, what will drive this growth?



similar levels of optimism regarding the outlook for corporate/M&A practices and banking work as there were 12 months ago.

Meanwhile, fewer survey respondents in this year's survey expect their firm to open new foreign offices in the coming year. A total of 11 per cent respondents in Spain expect their firm to open a new foreign office in the coming year, compared to 16 per cent who thought the same last year. Meanwhile, there are more survey respondents who anticipate their law firm merging compared to last year's survey, while there are fewer this year expecting their firm to increase its intake of trainees.

PORTUGAL: LEGAL FEES EXPECTED TO RISE, BUT WORRIES ABOUT ECONOMIC OUTLOOK INCREASE

There is more optimism among lawyers in Portugal that legal fees will increase than there was a year ago. Almost 30 per cent of respondents said they expected higher legal fees to drive growth at their firm, compared to only 15 per cent in last year's research. In addition, lawyers think their firms are more likely to recruit more lawyers – 46 per cent of respondents anticipated this, compared to 34 per cent in the previous year's survey. Of those lawyers expecting their firm to increase its headcount, almost two-thirds (65 per cent) said they thought

their firm would increase its headcount by at least 5 per cent.

However, lawyers are much less confident about the economic outlook than they were a year ago (only 31 per cent thought a more positive economic outlook would drive growth at their firm, compared to 87 per cent a year ago), while there is also more uncertainty about the country's political situation.

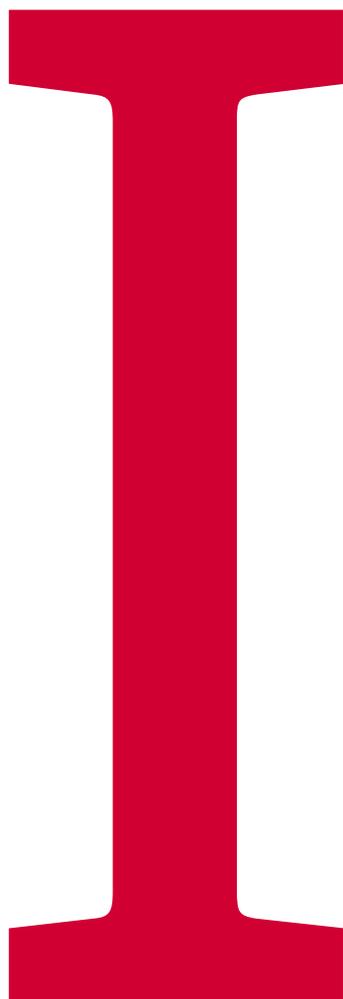
In what will be disappointing news for recruiters, lawyers in Portugal are generally slightly less confident their firms will make lateral hires in the coming year. However, compared to a year ago, survey respondents are more confident that their firm will increase its intake of trainees.

Compared to last year's survey, lawyers in Portugal are more confident that there will be growth in their real estate, TMT, employment, restructuring and EU and competition practices. However on the downside, there is generally less confidence about the growth prospects of firms' banking and finance, corporate and dispute resolution practices. However, more lawyers in Portugal are confident that their firm will open a new foreign office in the coming year – 18 per cent of respondents to this year's survey expect the opening of a new foreign office, compared to just 3 per cent in last year's research. International work will be key for Portuguese firms, with more than two-thirds (68 per cent) of respondents saying inbound work from foreign jurisdiction will be the key driver of growth. ■

IN-HOUSE: SPAIN

BREAKING
DOWN
BARRIERS

FRANÇOISE PLUSQUELLEC



Citi's head of investment finance legal Françoise Plusquellec says law firms' policies on diversity are among the factors taken into account when choosing external legal advisers

It comes as no surprise that the person running Citi Private Bank's initiative to promote the careers of women within the organisation's Spanish operation is **Françoise Plusquellec**. As a woman and a lawyer, she is well-qualified to handle the extra responsibility that being a member of the steering committee of Citi Women Spain involves, a task she performs in addition to her primary role as the bank's global head of investment finance legal. "Life balance is a challenge that men and women face in a variety of industries, but women lawyers must deal with gruelling and but, more importantly, often unpredictable hours, while still faced with the challenge of trying to have a family or a social life and that takes a lot of very careful juggling," she says. Citi Women Spain – which is part of the global Citi Women network – is focussed on improving gender diversity

and equality within the organisation. Plusquellec, who is the mother of two young daughters, says the aim of the initiative is to address the issues of fairness and inclusivity in the workplace and provide staff, whether they are male or female, with opportunities to come up with ideas for staff to develop and thrive "without gender bias". Around half of Citi's Spanish employees have bought into the idea. More than 50 per cent of Citi's employees in Spain are members of the Citi Women Spain network, and 30 per cent of those are men. "Promoting an environment where talent, not gender, should be the measure for recognition and development, you are more likely to attract the best professionals in the market," Plusquellec says. "Creating an environment where people know they can strive based on their merits, rather than be held back based on gender, allows us



ENGAGE WITH SENIOR MANAGEMENT AT THE OUTSET – THE SUPPORT AND INVOLVEMENT OF MANAGEMENT IN INITIATIVES LIKE CITI WOMEN SPAIN IS FUNDAMENTAL





FRANÇOISE PLUSQUELLEC

“
FOR LAW FIRMS, THE ABILITY TO DEMONSTRATE A PRACTICAL AND SENSIBLE APPROACH TO PROBLEM SOLVING, AS WELL AS BEING ABLE TO SECURELY AND SOUNDLY STRUCTURE A TRANSACTION, IS KEY

”

to bring out the best in people by making them more confident and productive, and possibly the best versions of themselves they can be, not to mention reduce the cost of [staff] turnover.”

Citi has set itself a target in terms of the amount of women it wants to see in positions of power within the organisation. By 2021, the bank wants at least 40 per cent of its mid-level and senior employees to be women, which would represent a slight increase on the current level of 37 per cent. Plusquellec says it is vital that more organisations try to replicate the Citi Women programme. She makes reference to a McKinsey Global Institute report that concluded that \$12 trillion could be added to global GDP by 2025 by advancing women's equality. “The report shows that if women – who account for 50 per cent of the world's working-age population – do not achieve their full economic potential, the global economy will suffer,” Plusquellec says. “I think it is important to emphasise that women's networks are about promoting gender equality, that is giving equal access to professional opportunities to men and women, especially at the more senior levels, as long as, and I think this should be emphasised, a woman is the most qualified person for the position.”

She adds: “In other words, it is about not missing out on career opportunities because you are woman, rather than being given those opportunities because you are one.”

PREDICTING SUCCESS

Citi also expects the law firms it uses to take the issue of diversity seriously. Indeed, Plusquellec says that law firms' “engagement with respect to diversity” is one of the factors taken into consideration when Citi is selecting external lawyers. However, there are, of course, a number of other factors that are taken into account. “Considering the practical facts and circumstances of the matter, we consider the risk to Citi, the subject matter expertise and experience of the external firm, the strength of the actual lawyers that advise us, the firm's history with Citi, and the overall cost of representation,” Plusquellec says. She adds: “In my experience, subject matter expertise and practical experience are perhaps the most important factors in predicting success. In addition, the ability to demonstrate a practical and sensible approach to problem solving, as well as being able to securely and soundly structure a transaction, is key.”

Plusquellec says that it is a prerequisite that all law firms the business engages with are members of the Citi Legal Network. “This is a global collection of firms that have been thoroughly evaluated by our operations unit, Citi Global Legal Solutions, to ensure that our lawyers have ready access to recognised expertise by both practice area and geography,” she explains. “From the onset of any matter, this structure allows our lawyers to focus on selecting counsel based on the needs at hand, knowing that network firms have met Citi's strict standards of engagement, which are the product of best practices across Citi and are consistent with Citi Legal's strategy to implement processes and systems that are global, uniform and straightforward.” Citi's investment finance legal team,

FRANÇOISE PLUSQUELLEC CV

2017

Citi Private Bank Global Head of
Investment Finance Legal

2009

Citi Private Bank EMEA Head of
Investment Finance Legal

2006

Citi Private Bank Legal Counsel for
Southern Europe

1999-2005

Associate at Simpson Thacher & Bartlett

Education

1998-1999

1998-99
Columbia Law School LL.M

which Plusquellec leads, consists of ten regional lawyers located in Madrid, Singapore, Hong Kong, New York, Miami, London, Geneva and Dublin. "It is very much a global team," Plusquellec says. "We are dedicated to the legal support of our investment finance product within the private bank." The investment finance legal team is part of the legal department led by general counsel **Akiko Yamahara**, who is based in New York and manages all of the private bank's lawyers globally. Citi uses a wide range of law firms, with the selection of adviser depending on the nature of the expertise required, the jurisdiction in question, and the relevant practice area. "Panel firms run the gamut from very large to very small, multinational to highly localised or specialised, and top-of-the-market to much smaller firms, but all are firms that have been deemed to provide the required expertise at the right value to Citi," Plusquellec says.

However, in addition to having the relevant experience, expertise, and problem-solving skills, law firms must also demonstrate a commitment to diversity if they want to win Citi's business. If a law firm, or any other organisation, feels it is weak in this area, what practical steps can it take to improve? "The first piece of advice I would give is to engage with senior management at the outset – the support and involvement of management in initiatives like this one is fundamental to its success," Plusquellec says. "The other key to success I think is putting together a group of employees that can lead by example, with drive, conviction and passion – these initiatives take years of effort and dedication and they are very time consuming, not to mention they come on top of your day job so the leaders of the initiative need to be truly committed." It is also important to always come up with new concepts to drive the programme forward, Plusquellec says. "Do not be afraid to go outside your comfort zone to come up with innovative and creative ideas." It's sound advice for law firms, and especially for those firms hoping to win Citi as a client. ■

“

CREATING AN ENVIRONMENT WHERE PEOPLE KNOW THEY CAN STRIVE BASED ON THEIR MERITS, RATHER THAN BE HELD BACK BASED ON GENDER, ALLOWS US TO BRING OUT THE BEST IN PEOPLE

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TALENT SPOTTING

Finding lawyers with expertise in the pharmaceutical sector can be difficult, says Novartis' Leonor Pissarra

LEONOR PISSARRA



earching for the best talent is never easy. Talk to **Leonor Pissarra**, country chief legal officer for Portugal at pharmaceutical company Novartis, and she will tell you that recruiting lawyers with an in-depth knowledge of the sector is tricky. And the problems don't end there. Pissarra says that finding external lawyers with experience of the pharmaceutical business is also challenging. Indeed, while some law firms claim to specialise in this area, on closer examination it appears that not all are able to back-up such claims. Pissarra heads a team of four lawyers in Portugal, though she hopes to soon increase that to five. The Novartis legal department currently has a vacancy that Pissarra is looking to fill, though she admits it has been difficult to find a suitable candidate with pharmaceutical expertise. If the search for a pharma-expert proves fruitless, Pissarra says the company will instead look to recruit "someone with potential who can be developed".

Pissarra has worked at Novartis for seven-and-a-half years. In that time the legal department has grown significantly. When she joined the company from Vieira de Almeida (where she was a managing associate) back in 2011, the department had one lawyer and one trainee. But, since then the company has become increasingly reliant on its legal department. Novartis' legal team is, in general, having to deal with an expanding workload. "All of the departments in the company see legal as a key function," says Pissarra. "They often need us to check wordings, for example if they are sending a letter to a client."

Another reason that the company's legal team has grown in recent years is that it is having to grapple with an increasing number of compliance requirements. "There are a lot of regulations from government," Pissarra says. But the team has also grown because it needs to respond to demands more quickly and, in this scenario, it helps if the members of the legal department have the experience and expertise to fully understand what is at stake.

WE WANT EXPERTS

The fact that Novartis' lawyers are increasingly seen as business partners means they handle a lot of corporate matters and work closely with the company's marketing department and finance department as well as handling a lot of regulatory matters. However, there are a number of matters that are outsourced, according to Pissarra. "If we lack expertise or time, we'll outsource work," she says. "This could be litigation, particularly complex matters, employment matters such as collective dismissals, or intellectual property litigation, of which we have a lot." Novartis' preferred firm in Portugal is Pissarra's former employer Vieira de Almeida. The company reviews its law firms every three years when it invites five law firms to participate in the bidding process. Among the firms



ALL OF THE DEPARTMENTS IN THE COMPANY SEE LEGAL AS A KEY FUNCTION

Legal Day

Iberian Lawyer's In House & Compliance Club will launch LEGAL DAY 2019, a series of sessions to tackle the issues that businesses are facing in the global environment. Modern day companies now expect their in house teams to be effective leaders and managers, while still being excellent lawyers.

LEGAL DAY is a one day program designed to provide knowledge and know how on how to navigate in today's corporate and legal environments. The day will consist of roundtable debates with the opportunity to gather market intelligence, benchmark as well as networking with peers at leading companies and law firms.

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Every company has a maximum of 5 spaces for their lawyers, HR, IT or business people.

For more information on how to register please contact:

jon.bustamante@iberianlegalgroup.com

IMPORTANT NOTICE:

Law firms and external lawyers can only attend as sponsors. Please contact elizabeth.desevo@iberianlegalgroup.com for further information.

Leading In House Lawyers and Compliance Officers discuss challenges in the market and share best practices in Iberian Lawyer's launch of Legal Day 2019.

28 May 2019, Lisbon

THE TOPICS FOR 2019 LEGAL DAY AGENDA INCLUDE:

OPENING: In-house counsel: drivers of business sustainability in times of change

Keynote speaker

Miguel Matos, Director General, Tabaqueira

SESSION 1: How can traditional sectors adapt to the fast changing digital environment?

A digital platform economy is emerging. Companies such as Amazon, Google or Uber are creating online structures that enable a wide range of business activities. This opens the way for radical changes for traditional sectors and the way they interact with their clients. What are the legal and businesses concerns and how to prepare your business for the digital era?

SESSION 2: Building a culture of ethics & compliance in transforming businesses

CEOs and HR leaders now recognize that culture drives people's behavior, innovation, and customer service. To build an ethical organization, compliance officers are expected to instill ethics and compliance into the organization. However ever changing organisations require a change in attitudes and behaviours, what are the most innovative models to influence change in your work-force.

NETWORKING LUNCH

SESSION 3: Legal management. Using technology for collaboration, effective management & delivery

There was a feeling among GCs that technology will change the face of how both legal departments and law firms operate. But now we know that it's the careful application of technology that can help to reduce departmental inefficiencies strategic and higher-value application of their skills. What are the opportunities and how are businesses embracing those?

SESSION 4: GDPR : one year on, what have we learnt?

It is now one year since General Data Protection Regulation (GDPR) became compliant on 25th of May 2018. In this talk we will be discussing the most complex and troublesome issues for organisations and businesses in the process of GDPR compliance and the lessons which we learnt from.

CONCLUSIONS

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that made a bid was a very prestigious international firm, which quoted what Novartis considered to be expensive fees. However, the firm did not make Novartis' preferred list of providers because it did not have the required level of pharmaceutical expertise.

When Novartis is inviting bids from law firms, it requests details about the number of lawyers who will be involved in the work and their level of seniority. The company also assesses the law firms' expertise and experience in the relevant discipline. "We want experts in our field, they should be experienced and they should address our needs," says Pissarra. "They also need to reply to our questions effectively and on time."

PICK UP THE PHONE

Pissarra is keen to give law firms feedback on the services they are providing. "If I have feedback, I pick up the phone," she says. Often the feedback

Novartis gives to law firms might relate to issues such as undue delays in receiving responses to enquiries, or even not receiving a response at all. "Sometimes the email doesn't come," Pissarra says. Other problems may concern emails that are too long and merely highlight potential problems rather than offering solutions. When Novartis reviews the performance of its legal service providers, the process is relatively informal. "We conduct reviews on a case-by-case basis," says Pissarra.

After a period of time in which the company's legal budget was reduced, the cuts have stopped, for the time being at least, and Pissarra has managed to keep the budget at the same level this year as it was in the previous 12 months. However, if there was an unexpected piece of litigation, Pissarra would go to the company's chief financial officer and request a special budget. "The budget is getting smaller, but this is partly because we've brought in more lawyers," she adds. One of the biggest challenges the Novartis legal department faces is being a "true business partner" to the other parts of the company. Pissarra is confident that this task has been achieved because the legal team, she says, has a "solutions mindset, rather than just raising issues". Pissarra says that one of her biggest frustrations with some external law firms is their "lack of a sense of urgency". She adds that the company needs advice as soon as possible and it can be frustrating when "you are expecting to receive clear advice but you receive a long email". Pissarra says another problem with some law firms is a lack of expertise in pharmaceutical law. She adds that law firms should ask firms for feedback on the services they provide because, she says, "constructive feedback" is useful and acts as a performance barometer. Any law firms looking to win Novartis as a client can be in no doubt regarding what they need to do to be successful. ■



THE BUDGET IS GETTING SMALLER, BUT THIS IS PARTLY BECAUSE WE'VE BROUGHT IN MORE LAWYERS"



**LEONOR
PISSARRA**
CV

2018

Novartis country chief legal officer, Lisbon, Portugal

2011-2018

Novartis chief legal officer and country compliance head, Lisbon, Portugal

1998-2011

Vieira de Almeida managing associate

EDUCATION

Lisbon University – Law School

WOMEN INSPIRING CHANGE

The Iberian Lawyer InspiraLaw Top 50 Women were honoured at a recent ceremony in Madrid

More than 250 members of the Spanish and Portuguese legal profession gathered at the Auditorio Casa America in Madrid to celebrate the 50 most inspiring women lawyers in Iberia. It was the second time the annual event had been held. The 50 winners were announced after nominations were made by more than 1,000 lawyers in Spain and Portugal. InspiraLaw is an initiative that aims to inspire and promote women lawyers in Spain and Portugal. The winners included in-house counsel from Google, Amazon, IBM and PepsiCo as well as managing partners of local and global firms in Spain and Portugal. Winners were recognised for their technical expertise, leadership skills, problem-solving skills, work ethic, personality and communication skills, client service and industry knowledge. Congratulations to all the winners.





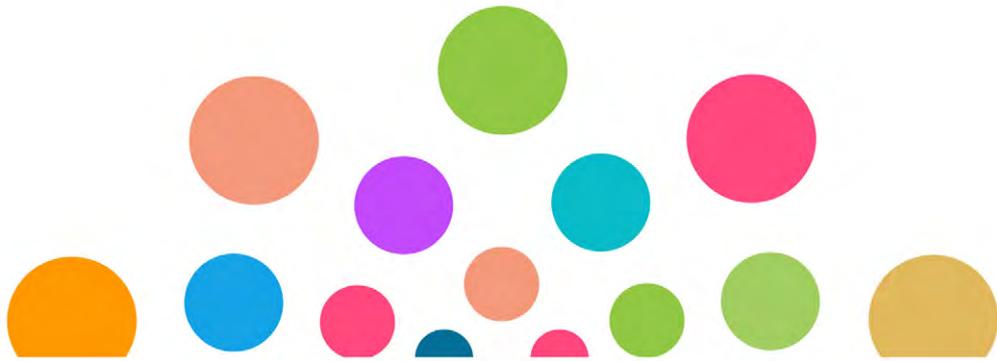






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IN-HOUSE: TRAINING

UPPING YOUR GAME

by ilaria iaquinta

GIUSEPPE MARLETTA



As in-house lawyers increasingly take a more strategic role in the companies they work for, the need for more managerial and professional training is paramount – this will be one of the main priorities for the new European headquarters of the Association of Corporate Counsel (ACC)



The burden being placed on in-house lawyers is growing significantly. In the past, a company may have largely only consulted its legal department when it needed to resolve compliance or regulatory matters for example, but now companies also want their general counsel to advise them on ways to grow the business. Taking on a more strategic role may be daunting for some in-house lawyers, but help is at hand. From its new European headquarters, the Association of Corporate Counsel (ACC) will aim to serve the needs of members in Europe.

Resisting the charm of ‘The Old Continent’ proved impossible for the US-headquartered Association of Corporate Counsel. After 25 years of activity in Europe – conducted with the help of volunteers – the ACC, which represents more than 45,000 in-house counsel employed by more than 10,000 organizations in 85 countries, announced the opening of its first European office in Brussels.

The ACC views the new office as a hub from which it can direct and coordinate all the organisation’s activities in Europe. The office has been established in Brussels, at the beating heart of the continent’s institutions. The office will be led by managing director **Giuseppe Marletta**, who was formerly general manager at AIJA, the International Association of Young Lawyers. Born in 1979 in Catania, Italy, Marletta has worked for a number of international associations. “For several years I worked for associations from Italy, managing



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European projects on cultural exchanges, training young people in the field of tolerance and intercultural dialogue,” he says. In 2008, he moved to Brussels and started working for Epto (European Peer Training Organisation), an association that deals with intercultural training. He later moved to Interel, a global association management consultancy, before joining AIJA. Marletta explains that, at AIJA, he was on the “opposite sides of the barricades, dealing with outside counsel and now, at ACC, I will work with in-house counsels”. We met him in order to better understand his role and discuss the main challenges and priorities for European in-house lawyers.

Why did ACC choose to open an office in Europe?

For a couple of years ACC was showing that it wanted to be more involved in the European market. After several small steps, the association decided to establish a permanent headquarters in Brussels, where I will work as managing director.

What will you do in your new role?

I will serve as a bridge between ACC’s headquarters in Washington D.C. and the European members, bringing them closer to each other. The goal of the association is precisely to respond to our members’ need for a real physical presence and geographical proximity. It is a cultural rapprochement between Europe and the needs of its members, and the international association.

CHIEF LEGAL OFFICERS ARE, AS WELL AS TECHNICIANS, **PART OF THE STRATEGIC MANAGEMENT OF A COMPANY**

Where will you start? What specific projects are you pursuing?

First of all, I need to get to know our members and establish a relationship with them. I will conduct an analysis of their needs. We have plenty of data regarding the demographics of our members and we would like to take another step to understand how what we offer can be even more relevant for Europe, if we can do something different and if we can collaborate with other organisations or associations.

IN-HOUSE LAWYERS **MUST KEEP UP WITH TECHNOLOGY** – THE ABILITY TO HARNESS TECHNOLOGICAL TOOLS IS CRITICAL

How will you work? How will you choose future projects?

This is going to be a team effort. I will work both with colleagues in the US who deal with international membership, and in collaboration with ACC Europe’s board. I will report directly to ACC in Washington, but I will also work with volunteers in Europe to identify the best projects to develop.

GIUSEPPE MARLETTA



ENERGY & INFRASTRUCTURE

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SAVE THE DATE

**24th October 2019
Mexico City**

Why did ACC choose Brussels as its European headquarters? Does the association, which so far has been involved in networking and educational activities in Europe, intend to increase its lobbying efforts?

Not necessarily. Networking, education and professional training activities remain at the very heart of ACC. Brussels has been chosen due to its accessibility, that is, being a European city which hosts over 3,000 international associations. Moreover, Brussels is easily accessible because there are direct international flights that connect it with other capitals in Europe and around the world. Having said that, advocacy, a term we prefer more than 'lobbying', is an important element for ACC. Legal professional privilege is, and will continue to stay, at the top of the list of our priorities. Of course, our footprint in Brussels will strengthen our position in this area – for example we have already registered the association in the official register for advocacy organisations.

What are the top priorities for in-house lawyers in Europe in your opinion?

There are several. First of all, managerial and professional training. A point on which ACC insists a lot, considering that chief legal officers are, in addition to being technicians, part of the strategic management of a company.

IN-HOUSE LAWYERS CANNOT JUST HANDLE COMPLIANCE OR REGULATORY AFFAIRS, THEY SHOULD MANAGE CYBERSECURITY AND OTHER ASPECTS THAT MAY NOT HAVE BEEN SO CENTRAL BEFORE

What else?

Technology. In-house lawyers must keep up with it. The ability to harness technological tools is critical to ensuring that a team and company do not hang back with innovation.

Any other priorities?

The real top priority is to have a multidisciplinary approach helping the company to stay competitive from different points of view. In-

house lawyers today cannot just handle compliance or regulatory affairs, they should manage cybersecurity and other aspects that may have not been so central before.

Management orientation and technology are also two of the biggest challenges for general counsel,

I WILL SERVE AS A BRIDGE BETWEEN THE HEADQUARTERS OF ACC AND THE EUROPEAN MEMBERS, BRINGING THEM CLOSER TO EACH OTHER

are there any others?

The generational challenge. Very soon, companies will have millennials at the top of their management teams. The new generation is different in its way of working, methods of collaboration, decision-making processes, and structuring of hierarchies. All things that are likely to change. We do not fully realise it. Obviously, there will be a transition, not a sudden disruption. ■

HOW ACC WORKS

Within the association there is a staff of around 100 people working from headquarters in Washington, Hong Kong and Australia and reporting to the ACC global board, made up of association members.

The staff work in different departments: *International membership*, which deals with the recruitment of new members, both individuals and companies; *Legal resources*, which collects and takes care of content offered to members through the website (more than 40,000 resources including articles, executive summaries, reports, contracts and templates); *Legal operation*, which supervises and optimises legal services delivery and helps mitigate risks; *Marketing and Events*; and *Public relations and communication*.

The association is divided into separate "chapters" at a regional level. ACC Europe, while reporting to the head office in Washington, independently manages its budget and has its own board, which directly coordinates national representatives. ■



REVOLUTION IN THE AIR

Is it time to change the rules for international arbitration? Nearly 30 countries believe it is – but the new rules they have proposed have caused controversy with some lawyers in Spain saying they will lead to worry and uncertainty for clients

by *laura morelli*

The world of international arbitration could be set for a revolution. For the last twenty years, many international arbitration practitioners have been applying the International Bar Association (IBA) rules on the taking of evidence in international arbitration in their cases. The IBA rules – which are often thought of as a compromise between civil law and common law traditions – are commonly adopted as a benchmark for dealing with evidence and oral hearings. But now a challenge to this approach has emerged. Last year, on the 14th of December, a working group formed by representatives from 29 countries – predominantly civil law jurisdictions, such as Russia, Slovenia, Ukraine and the Czech Republic – launched ‘Rules on the Efficient Conduct

of Proceedings in International Arbitration’, known as the “Prague Rules”. This new set of rules is designed to offer an alternative to the IBA Rules and promote procedural efficiency in international arbitration, in order to reduce its time and cost. However, many professionals are not convinced that the new rules will be effective.

SOURCE OF THE PROBLEM

Efficiency has been a buzzword in international arbitration for a number of years. “For a long time, arbitration practitioners have been discussing the possible tools to reduce the duration and the cost related to international arbitration”, says Laurence



Shore, partner and leader of the International Arbitration department at the Italian law firm BonelliErede. “The Prague Rules proponents believe that proceedings have become extremely lengthy and expensive – they identify the source of the problem as the extensive document production, the numerous witnesses called by the parties, as well as the oral hearings featuring cross-examination of witnesses,” he explains.

One of the key features of arbitration is that, unlike litigation, it may, to a large extent, be shaped in accordance with the will and needs of the parties. However, nowadays, many clients are worried about how much they are spending on cases and how long it takes to get a result. Although it is not easy to estimate the duration of arbitral proceedings, in general a commercial arbitration could last between 12 and 18 months, according to Shore. “Even though arbitration is quicker than most court proceedings, 12 to 18 months to reach a decision could be considered not good enough to meet the parties’ need for a quick and efficient solution of the dispute.”

Costs are also difficult to determine because they depend on the complexity and value of the dispute. Clients’ expenses are usually related to the costs of the legal counsel preparing the case – which constitute the main portion of parties’ expenses – the costs of the arbitrators, as well as the fees of the arbitral institution administering

the case. “The Prague Rules proponents believe that entrusting the arbitrators with a more active role will help reduce the costs of the arbitral proceedings,” Shore says. However, despite the concerns expressed about the arbitral process, international arbitration is still a very vibrant and growing area. “These complaints do not seem to have discouraged the parties from choosing arbitration,” Shore says. “Given the complexity of some cases, especially in cross border disputes, arbitration is the only real option – additionally, there are more high value cases going to arbitration than 15 years ago and a wider range of industries that resort to arbitral tribunals, everything is more complicated now.”

LIMITING WITNESSES

In this context, the drafters of the Prague Rules believe that, by adopting procedures more akin to a civil law inquisitorial style, procedural efficiency in international arbitration will be enhanced. Indeed, the working group has identified three features of evidence taking in arbitration which are largely responsible for the time and costs of arbitration proceedings: excessive document production requests, too many witnesses, and lengthy hearings featuring cross examination. Basically, the eleven articles of the draft cover these points, among other, and encourage arbitral tribunals to severely limit, if not disallow entirely, document production to restrict the number and examination of witnesses, and to promote dispute resolution on a ‘documents-only’ basis to eliminate oral hearings. The arbitral tribunal is also free, under the Prague rules, to “apply legal provisions not pleaded by the parties if it finds it necessary” following the conclusion of a hearing.

The Prague rules provide explicitly for the arbitration tribunal to help the parties reach an “amicable settlement” at any stage of the proceedings. The tribunal can also be asked, if all parties agree, to give preliminary views on the “respective positions” of the parties and to act as a mediator. “The possibility for an arbitrator to act as mediator is troublesome for a common law trained practitioner,” says Shore. “Mediation involves *ex parte* communications between the parties and the mediator – during this process the mediator can, thus, become aware of certain confidential information.” Shore continues: “If mediation fails and the mediator resumes their

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role within the arbitral tribunal, they are required to base their decision solely on the evidence produced by the party, disregarding instead what she has learned during mediation, this is not an easy task.”

OPINIONS SPLIT

The main problem is that the Prague Rules appear to be a reaction to concerns voiced by some practitioners from civil law countries, who consider the IBA rules as being too common law-oriented. “For many years now, civil law trained practitioners have complained about a perceived ‘Americanisation’ of international arbitration”, Shore explains. “Common law is thought to permit extensive disclosure of documents and prolonged cross-examination of witnesses, which are not typical features of the conduct of proceedings in civil law jurisdictions”. However, Shore adds: “Civil law, like common law, is not a monolith – civil law jurisdictions are not all the same. Many civil



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“NOBODY FROM SPAIN WAS CONSULTED AND ALMOST ALL LATIN AMERICAN COUNTRIES WERE EXCLUDED – THE PRAGUE RULES PRETEND TO BE INTERNATIONAL BUT ONLY A FEW COUNTRIES PARTICIPATED.”

Alberto Fortún, Cuatrecasas

lawyers have, in fact, lamented that the Prague Rules are not representative of all civil law jurisdictions, and instead speak only to a certain segment of civil law practitioners.” He continues: “Prague Rules want to ‘make arbitration great again’ by giving many more responsibilities to arbitrators, like some judges in civil law jurisdictions, on the wrong assumption that all civil law practitioners have the same mind set.”

Alberto Fortún, partner of Spanish law firm Cuatrecasas, says: “Any potential soft law initiative requires a transnational nature, this is something that the Prague Rules do not satisfy.” He continues: “Nobody from Spain was consulted and almost all Latin American countries were excluded – the Prague Rules pretend to be international but only a few countries participated, therefore the Prague Rules will therefore only fit those countries.” Fortún does not see the rules as an improvement because, for example, the International Chamber of Commerce (ICC) measures for “controlling time and costs make very similar suggestions”.

Rather, in Fortún’s view, the Prague rules might create confusion. “If the client is well-accustomed to the IBA Rules, the application of the Prague Rules instead may be worrying as the client might not know what to expect from the trial,” he says. According to article one of the draft, the rules shall apply if the parties agree on their application. “Failing the parties’ agreement, it falls upon the tribunal to decide whether, and to what extent, the Prague Rules will be applied,” Shore says. “However, arbitrators coming from different jurisdictions might not agree on the matter – this has the potential to create conflict among arbitrators with the result that valuable time will be wasted.” Additionally, according to Fortún, it also puts a “lot of pressure on the arbitrators to take decisions at an early stage”.

The main concern is about justice. By limiting discovery and the evidence phase how can a sounder decision be obtained? Shore says: “How much justice do we want?” Shore and Fortún agree that arbitration does not need new set of rules, but instead better-trained and more diligent arbitrators. Fortún concludes: “The question should be whether or not we need professional arbitrators with expertise and training in specific matters.” It’s a debate that seems destined to continue for some time. ■

IBERIAN LAWYER SPECIAL REPORTS

TAX

AFRICA





DANGEROUS **LIAISONS**

Lawyers must exercise caution when advising clients on tax matters, but businesses' increasing need for 'trusted advisers' means there are significant opportunities for law firms to grow their revenue streams

Tax lawyers must take extreme care when engaging with their clients. While businesses have serious concerns about incurring the wrath of the tax authorities, there is also widespread concern among lawyers about the possibility of being seen as facilitating crimes if inspectors consider companies to have underpaid on their tax. As one partner succinctly puts it, tax planning is now considered a "hazardous sport". However despite these fears, there is a wealth of opportunities for law firms with accomplished tax practices, because, in this risky environment, clients need the assurance of being able to rely on a "trusted adviser" more than ever. In particular, clients want lawyers with an in-depth understanding of international tax issues, especially given the ongoing internationalisation of Spanish businesses and foreign investors' growing appetite for investment in Portugal.

Ashurst partner Eduardo Gracia says that tax authorities are not only adopting a "very aggressive approach towards corporates and funds" but also, increasingly, towards tax lawyers. He adds: "Tax lawyers must be

more cautious than ever under the threat of being entangled in civil or even criminal proceedings because of the reassessment made to the tax payer and client (as another way to put pressure on the taxpayer to accept the reassessment).” Gracia continues: “The upcoming legislation implementing DAC 6 in Spain (the amendment to the Directive on Administrative Cooperation which obliges all sorts of ‘tax intermediaries’ to report to the tax authorities what the Directive deems as ‘tax aggressive arrangements’ as soon as put at the disposal of the client) will only enhance the aforementioned trend.” Tax planning has now become a “hazardous sport”, according to **Diego de Miguel Hernando, partner at CMS Albiñana**



“THERE NEEDS TO BE AN URGENT CLARIFICATION OF THE REAL ESTATE FUNDS’ CAPITAL GAINS TAX REGIME BECAUSE SEVERAL BIG INVESTORS ARE WAITING FOR THIS.”

Tiago Marreiros Moreira,
Vieira de Almeida



& Suárez de Lezo. He adds: “Nowadays, the biggest challenge for tax lawyers would be to protect themselves and their clients’ interest in a scenario full of legal uncertainty, where the rules continuously change, sometimes even retroactively.” Another major challenge currently faced by tax lawyers is the “increasing complexity of tax regulations and their interpretation”, says **Uriá Menéndez tax partner Rafael García Llana**. He adds: “Regulations have expanded from domestic codes of law to an international standard of ‘soft law’, well represented by the OECD’s BEPS initiative.” García Llana continues: “Also, there will be a higher level of review and scrutiny of certain transactions by tax authorities and by tax courts which will be, in certain cases and considering the changing environment, difficult to foresee.” Consequently, tax lawyers will need to be more experienced and better prepared to challenge the “uncertainty of complex matters in an evolving international environment”, he says. **Garrigues partner Eduardo Abad** says the current tax environment requires companies “not to engage in tax-driven transactions and to adopt a socially-responsible tax policy, especially at the time of allocating profits to Spain”. In this context, Abad says transfer pricing has become a common source of concern for clients, which are responding by “increasing functions (and profits) attributable to the Spanish entities”. Tax frameworks at a national and international level are becoming increasingly complex and challenging for taxpayers,



“TAX LAWYERS MUST BE MORE CAUTIOUS THAN EVER UNDER THE THREAT OF BEING ENTANGLED IN CIVIL OR EVEN CRIMINAL PROCEEDINGS.”

Eduardo Gracia,
Ashurst



according to **Allen & Overy senior associate Ishtar Sancho.** He adds: “The huge amount of information which is now being shared with the competent authorities and among the tax authorities of different jurisdictions has made the tax audits and investigations much more complex, making the role of the tax adviser key.” Sancho adds that, in such an environment, the role of ‘trusted adviser’, in the sense of providing “ongoing advice and assistance to clients, with a deep understanding of the client’s business and needs”, has become more important than ever. Consequently, a “strong tax practice at a law firm can achieve and develop, strengthen and consolidate long term relationships with clients,



“LAWYERS NEED TO CHANGE THE CLIENT’S MIND ON HOW TAXES SHOULD BE APPROACHED.”

Enrique Ortega,
Gomez Acebo & Pombo



providing clients not only with the tax advice required on a project, deal or investment, but also adding value to their day to day activities and to the business’ success.”

The impact of legislative and digital tax changes has an “important correlation with a company’s reputational needs”, says **Deloitte partner Brian Leonard**. He adds: “This gives a platform of opportunity to law firms to help such companies establish and maintain a transparent reputation in terms of regulatory compliance and to avoid reputational risk when they are faced with tax inconsistencies or discrepancies.” New rules coming into force during 2019, such as UNE 19602, DAC 6, CbC, ATAD I and II, will make lawyers jobs more difficult, according to **Enrique Ortega, partner at Gomez Acebo &**

Pombo. These new measures will mean existing corporate tax structures will need to be adapted, and it will also involve “changing the client’s mind on how taxes should be approached, providing certainty to clients and anticipating any possible change that could make a tax impact,” he says.

While political uncertainty can pose challenges for tax lawyers and their clients, it also represents a significant opportunity, says **Marta Esteban, of counsel at Herbert Smith Freehills**. “It’s an opportunity for law firms to approach clients regarding tax and ensure that they are aware of potential changes in their tax position and properly consider all alternatives when analysing a transaction,” she explains.

Alberto Ruano, partner at King & Wood Malleons, says anticipating the changing social and political circumstances will be a key challenge for lawyers. “In this regard, the tax compliance obligations pursuant to Council Directive (EU) 2018/822 of 25 May 2018 (amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements) will be a critical challenge.”

Advising clients on the digital transformation of tax functions is a significant opportunity for law firms, according to **Alberto Estrelles, managing partner at KPMG Abogados**. “There will also be significant opportunities arising from the internationalisation of Spanish companies – these opportunities will be related to tax controversy, transfer-pricing, BEPS, tax governance, Brexit and ex-pat issues.”

PORTUGAL: TAX ADVISERS IN DEMAND

Morais Leitão partner

Bruno Santiago says there is considerable appetite for investment in Portugal among foreign private equity houses and investors. He adds that, the fact they need “efficient corporate structures”, represents an opportunity for lawyers in terms of finding the most adequate structure and incorporating it. In addition, the transposition of the EU anti-tax avoidance directive will also generate significant work for firms because “existing solutions will no longer be valid”, Santiago says. He also says that the government proposal to allow taxpayers to appeal arbitral decisions in the Supreme Court “could also be a rich source of work for lawyers”.

Clients are reluctant to go to arbitration when it comes to resolving tax disputes because



“UNFORTUNATELY THERE IS A LACK OF COMMUNICATION BETWEEN TAXPAYERS AND THE TAX AUTHORITIES.”

Alexandra Courela,
Abreu Advogados



GUIDE TO LEADING LAWYERS

there is uncertainty as similar cases in the past have resulted in different decisions, according to **Abreu Advogados partner Alexandra Courela**. However, she adds that there are considerable opportunities for tax lawyers related to Brexit, for example, particularly with regard to the restructuring of “banking activity within the EU”. In addition, the application of tax to digital business, as well as the tax issues affecting cryptocurrency and blockchain are other trends that lawyers will be following closely, according to Courela. She adds that “unfortunately there is a lack of communication between taxpayers and the tax authorities as the tax authorities generally refuse to communicate”. The large number of private clients moving to Portugal represents a major opportunity for tax lawyers, says **Vieira de Almeida partner Tiago Marreiros Moreira**. “Private clients are owners of businesses and they are incorporating new companies in Portugal, which means there are a lot of start-ups,” he adds. Meanwhile, the new legal framework for Portuguese real estate investment trusts (SIGIs) in Portugal is also generating work for lawyers but “there needs to be an urgent clarification of the real estate funds’ capital gains tax regime because several big investors are waiting for this”, Marreiros Moreira says. He adds that the signing of the Portugal-Angola double tax treaty provides a platform for investment and a further source of work for tax lawyers. **Diogo Bernardo Monteiro, partner at FCB Sociedade de Advogados** also



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highlights the tax issues related to REITs, as well as the Portugal-Angola tax treaty as significant opportunities for lawyers. With regard to rivalry in the market from the 'Big Four', Monteiro says that they are not direct competition in the sense that law firms are able to differentiate themselves by offering more strategic advice. Meanwhile, he adds that businesses often have to deal with the "prejudice with which the tax authorities approach clients". Monteiro continues: "The tax authorities can be rude and this is unacceptable."

João Maricoto Monteiro, partner at SRS Advogados says a key concern for tax lawyers is the issue of money laundering and specifically the interpretation of the courts: "If there is a suspicion of a crime, there can be an investigation, there will be lots of checking of the origin of funds." Another problem is the expectation that lawyers, when handling client matters, should analyse and make a decision on whether a financial crime has taken place: "This violates lawyer-client privilege." Maricoto Monteiro adds that such trends mean that lawyers are increasingly becoming more like auditors in the role they play.

Increasingly tax work is intersecting with work for private clients, according to **Garrigues partner Tiago Cassiano Neves**. "In the old days, you would not see tax teams involved with individuals," he says. Cassiano Neves adds that this is an opportunity for lawyers to develop their understanding of international tax. Real estate-related tax is also a significant source of work for law firms, he adds. "There

was €3 billion worth of real estate transactions last year [in Portugal], there's a lot of interest in changing fund structures to REITs," Neves says.

Filipe Romão, partner at Uría Menéndez says firms with offices in both Spain and Portugal face a "double issue" with regard to compliance rules in terms of what to report in each country when disclosing tax planning. He adds that, in Portugal, one of the issues is: "Do we have to only disclose according to Portuguese rules?" Another challenge for law firms is the need to better integrate economic and legal expertise when tackling issues such as transfer-pricing. However, Romão says that Portugal is an attractive country in terms of investment, which means there is lots of work for all legal practitioners.

DLA Piper partner António Moura Portugal says frequent changes in tax law are a concern for clients, who are seeking stability. He adds that there is increasing demand from clients for law firms that are able to offer an integrated global tax advisory service. He adds that competition from the 'Big Four' is a big challenge for law firms because the auditors have an in-depth knowledge of their clients business.

Clients' biggest concerns with regard to tax relate to tax planning and the protection of tax-related data, says **Inês Pisco Bento, associate at Linklaters**. She adds: "Clients are increasingly worried about public opinion regarding their businesses and their 'tax behaviour' and therefore seem to be adopting a much more conservative approach to business decisions that may impact their reputation." ■

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**JAVIER GONZÁLEZ
CARCEDO**

MULTINATIONALS INCREASINGLY USING TECHNOLOGY TO MANAGE TAX FUNCTIONS

Technology is increasingly being harnessed by multinationals to manage their tax functions, says Madrid-based PwC Tax & Legal partner Javier González Carcedo, and lawyers need to stay ahead of the curve to keep adding value for their clients.

“This technology is not only making things more efficient, it’s also providing certainty on what’s going on in different jurisdictions,” he says. “That’s become increasingly valuable, because one way or another, the board is being held responsible for any tax problem that may arise.” One driving force behind the trend is the increase in tax regulation and the associated criminal liability due to the introduction of new Spanish and EU legislation in recent years.

González Carcedo says automising processes like compliance saves considerable time and manpower. In addition, it also offers greater centralised control to multinationals,

allowing them to manage more effectively and protect their brands in the process.

Though careful thought is needed when automising compliance, Carcedo says it is a process that offers numerous benefits. “Using more technology in these kinds of practices is not increasing the risk,” he says. “On the contrary, it’s clearly decreasing it because it takes away human error – provided it has been well designed, with the necessary human intervention. In our experience, it really increases efficiency, but also safety and risk control.”

Increased digitisation of tax functions also offers the opportunity to harness huge amounts of data and look for trends, helping to predict the future and analyse past outcomes. PwC has already begun working on data analytics products to assist clients, Carcedo explains. “We are just beginning to do this, but we are working on how to put all the data together to provide greater insights for our clients.”



**JORDI
CAPELLERAS**

TAX AUTHORITIES PLACING GREATER EMPHASIS ON INSPECTION

The tax authorities in Spain are upping the pressure on taxpayers by placing a greater emphasis on inspection, says Jordi Capelleras, partner de Fieldfisher Jausas.

“Tax area work is strongly linked to the procedures of the tax administration,” he says. “In our jurisdiction, the tax administration is increasing the pressure on tax payers in two directions: by using computerised methods to focus the activity of inspection, and by forcing the interpretation of the law against the taxpayer to find sources of increasing tax collection.”

As a result, there are significant opportunities for lawyers who specialise in tax litigation, Capelleras adds. He says this is because “the rate of success in tax courts is growing to reach almost 50 per cent”, according to official sources.

However, tax planning work is in decline, according to Capelleras. “Tax planning, often based on aggressive interpretations of the regulations, will present less opportunities and more professional risks.” In addition, “classical ordinary tax advice will become more appreciated – and valued – by the clients in the future, because of the increasing pressure exerted by the tax administration,” he says.

One of the main challenges tax lawyers face is adapting their activity in accordance with how the approach of the tax authorities has evolved. In short, tax lawyers should be less aggressive and more conservative, and communicate to clients the increasing risk of facing penalties and “all kinds of adverse consequences” in the event of a tax inspection, Capelleras says.

Another challenging issue for law firms is recruiting. Capelleras explains: “The incentives for talented young lawyers to join tax practices have to be carefully balanced, by combining good long-term salaries and brilliant professional careers with other intangible incentives such as reasonable schedules that reconcile work and family life, stability, and satisfaction for a job well done.”



**RAÚL
SALAS LÚCIA**

MORE INTERNATIONAL COORDINATION BETWEEN TAX AUTHORITIES NEEDED

There must be more international coordination among tax authorities to prevent an increase in fraud, says Raúl Salas Lúcia, partner at Roca Junyent and head of the firm's tax department in Madrid. "Tax authorities worldwide are looking for more income to cope with administrations being in deficit, however they are not properly using the tools since they follow an international approach to tackle a domestic problem," he says.

Salas Lúcia adds: "Tax authorities are using tools such as the transfer pricing documentation and the country-by-country report but with the main purpose of increasing domestic revenues that reduce the local deficit – they barely consider the whole picture and almost never consider that the taxes paid in their country is fair enough." He continues: "In other words, there is only one cake but if you add all the pieces every single tax

authority wanted it would equal more than the whole cake."

Salas Lúcia says tax authorities have an excessive amount of information that they do not have time to understand. "Sometimes it does not make sense to provide the tax inspector with a worldwide picture of a multinational group if the tax inspector does not coordinate with their colleagues in other countries," he explains. "If they are thinking just locally, the information should be local only; if they are going to work with a multinational in a coordinated way with colleagues it would make sense to enter into the details of the taxes paid globally."

It is not a question of not providing information, according to Salas Lúcia. "Rather, it is simply that, when analysing that information every single tax inspector would end up thinking that the taxes paid in their country should have been higher, because they are focused on solving the local deficit."



**JAVIER
FERNÁNDEZ CUENC**

SPANISH BUDGET WILL HAVE SIGNIFICANT IMPLICATIONS FOR THE COUNTRY'S TAX REGIME

If passed, Spain's 2019 Budget will have huge implications for the country's tax regime, says Lener partner Javier Fernández Cuenc.

"Unfortunately, the new trend is to increase what we have and to create new taxes where there were none," he says. "The government says that the 2019 Budget Law is going to increase tax collections by approximately €20 billion, which is something that has never happened – if Spain has ever been near such a tax collection increase, it was at the peak of the real estate bubble, more than a decade ago, and that is by no means the current situation."

As Spain's economic growth is slowing, Cuenc fears this strategy will lead to an increased public deficit. Accommodating the proposed changes is quite a task for Spanish business, Cuenc adds. He recommends companies start adjusting planning strategies and existing structures now, to be ready for the "foreseeable new tax scenario". In fact, Cuenc anticipates that keeping up to date with all the changes could be one of the biggest tax challenges many companies will face in the coming year.

Real estate is among the sectors that will keep Spanish tax teams busy this year, with changes occurring in the Socimi tax scheme. Meanwhile, energy companies will face new taxes as well as hikes in existing ones. In addition, other imminent taxes that will affect financial transactions and international trade will also require special consideration, Cuenc says.

Other changes will see clients facing increased criminal liability in tax matters. Meanwhile, Cuenc says tax lawyers are increasingly exposed to their clients' tax-related decisions. He continues: "Therefore, I believe that the challenges for tax lawyers are pretty much the same as those of their clients."



**TIAGO
CAIADO GUERREIRO**

AGGRESSIVE TAX AUTHORITIES MAKING IT DIFFICULT FOR TAXPAYERS TO COMPLY WITH RULES

With the tax administration in Portugal adopting a very aggressive stance, taxpayers face huge obstacles when trying to adapt to, and comply with, Portuguese tax rules, according to Tiago Caiado Guerreiro, partner at Caiado Guerreiro in Lisbon.

“Due to budget problems, the tax administration is extremely aggressive,” Guerreiro says. As a result, there has been an uptick in tax litigation. Indeed, the tax environment in Portugal has become much more litigious than it was in the past, Guerreiro observes, and frequent changes to the law have made complying with tax rules difficult for taxpayers.

Guerreiro says there are several ways in which taxpayers can adapt to the complexities of the Portuguese tax environment. “First, they must be very careful in what they are doing, and always try to understand the position of the tax administration,” he says.

Guerreiro adds that, given the reasonably high level of taxation, tax liabilities can be huge, while fines, he notes, can be “disproportionately high”.

Taxpayers must also stay up to date with changes in the law. However, this is complicated by the interpretation of the tax rules by the administration, which may diverge from the original spirit of the law. Finally, where an issue arises in which a taxpayer disagrees with a tax rule or assessment, speed is the key. “They must be swift in choosing between litigating on the subject or accepting the tax position and paying accordingly, without risking the heavy fine.”

Meanwhile, Guerreiro also sees “enormous economic opportunities and enormous tax challenges” associated with the rise of artificial intelligence (AI). He explains: “For example, how are you going to treat a situation – in terms of taxation – in which one artificial being is speaking to, or doing transactions with, a Portuguese artificial being? How are you going to tax these entities? It’s fascinating, and the tax work in this field is going to explode.”



**IGNACIO
GOYTISOLO**

MAJOR TAX DISPUTES INCREASING, WHILE CLIENTS FACE NEW COMPLIANCE REQUIREMENTS

High level tax litigation is on the increase, while new tax compliance requirements are posing a challenge for clients, says Ignacio Goytisolo, partner at Toda & Nel-lo law firm. “Contentious tax matters are a notable trend, particularly litigation concerning sophisticated tax claims”, says Goytisolo. However, though such matters represent a significant opportunity for law firms, there is significant pressure on legal fees, Goytisolo adds.

Tax law is constantly changing, and this can pose problems for lawyers, explains Goytisolo. One of the most significant developments facing tax lawyers is the implementation of UNE 19602, a tax compliance standard for all corporate taxpayers. “Despite it not being mandatory for companies yet, the sanctions a company faces will be completely different if a company has obtained such certification because it provides an indication

of the quality of the company’s governance,” according to Goytisolo. He adds that critics of UNE 19602 say it is putting unnecessary additional regulatory burdens on businesses.

There is also concern about new measures approved by the Spanish Government related to technology and the financial sector, specifically taxes on certain digital services, known as the ‘Google rate’ – which taxes companies with total annual revenues of at least €750 million and revenues in Spain of more than €3 million – and the tax on financial transactions known as the ‘Tobin rate’. Goytisolo says: “These taxes could be harmful for the Spanish market, with devastating consequences that will create a competitive disadvantage since many EU countries have not yet applied a similar tax and it could motivate companies to move their business abroad.”

He says that industry sectors with large numbers of clients seeking tax litigators include the recycling industry, given that a large number of companies perceive there to be a lack of transparency in this sector.



**LOURDES
PÉREZ-LUQUE**

IMPOSING MORE REPORTING OBLIGATIONS ON TAXPAYERS IN SPAIN IS 'UNFAIR'

"When talking with tax colleagues from other countries, the tax administration in Spain always seems to have a greater level of control," says Lourdes Pérez-Luque, partner at Ventura Garcés López-Ibor in Madrid, who adds that "this is because the Spanish tax administration is imposing a lot of reporting obligations on the taxpayer." She continues: "The idea that the burden of the work is being transferred onto the taxpayer, who at the same time may be fined if they do not report properly is completely unfair."

According to Pérez-Luque, companies are not only continuously facing changing tax laws which makes it difficult for clients to do proper tax planning, but they also have to file an increasing number of tax reports that essentially are aimed at facilitating the "controlling work of the tax administration". They also have to contend with an increasing number of tax inspections at a lower level with no possibility of dialogue.

Larger companies are not the only ones increasingly under pressure to implement tax reporting standards, as there is also pressure on almost all medium-sized enterprises in the country, argues Pérez-Luque. For instance, initiatives such as the SII are mandatory for all companies with a turnover of more than €6m. "It not only means that they have to devote a lot of human resources to compliance, and invest in specific software, but that the fines for not doing this are huge," says Pérez-Luque.

Furthermore, there is a new reporting requirement coming into force related to international tax planning in transactions that may be potentially "tax aggressive". In Pérez-Luque's view, this may involve the risk of tax officials misinterpreting information reported by the clients. "When it comes to tax, the tax administration is always thinking there's bad faith involved – while this may be true in some cases, in my experience, for the majority it's not the case."

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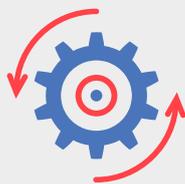
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LEGAL UPDATE



PORTUGAL – REAL ESTATE

THE LEGAL FRAMEWORK FOR PORTUGUESE REITS

On January 28, Decree Law No. 19/2019 approved the legal regime for the Portuguese Real Estate Investment Trusts (REITs), known as *Sociedades de Investimento e Gestão Imobiliária* (SIGI) in Portuguese.

SIGI are a new vehicle for promoting the investment in the Portuguese real estate market, particularly the leasing market, diversifying at the same time the Portuguese capital markets. They are responding to a deeply felt need among investors in the sector, both Portuguese and foreign.

We will describe below the main characteristics and features of SIGI. Social Purpose: SIGI are Portuguese based investment companies, in the form of public limited companies, whose object is the acquisition of property rights or other rights with equivalent content over real estate, for leasing purposes or for other forms of economic exploitation, the acquisition of participations in other SIGI or companies established in another EU member state or European Economic Area with a similar object to a SIGI and the acquisition of units or shares in real estate...

Pedro Pinto is a partner at PBBR. He can be reached at pedro.pinto@pbbr.pt

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SPAIN - CORPORATE

TIS IT WORTH JOINING THE MAB?

During the life of many companies, there is a point where they have to choose a path that will take them to another 'league'. Generally, it is a combination of many factors that make such companies think that it is time to plan for a change in the company in areas such as financing, visibility, and share liquidity under certain circumstances.

Many years ago, taking these companies into consideration, the MAB (Mercado Alternativo Bursátil), granted certain companies access to what the Spanish Code of Commerce called "contracting bags". Therefore such companies were able to obtain good financing and achieve some publicity and prestige, which meant more visibility for the company. It would now be considered a listed company, although on a smaller scale. If it fulfils all the requirements, a company has new prestige, and knows at any time the value of its shares.

I would like to focus on the pros and cons of the companies listed on the MAB, especially the ones named "Company in Expansion", or "Entities of Public Interest"...

Fernando Gómez y Gómez-Calcerrada is a lawyer at Grupo RLD. He can be reached at fernandogc@gruporld.com

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PORTUGAL - TAX

THE DOUBLE TAX CONVENTION BETWEEN PORTUGAL AND ANGOLA

The Portuguese and Angolan Authorities have recently approved the text of the Double Tax Treaty (hereinafter "DTC PT-AO") negotiated last year.

Although the completion of all the formalities for the agreement is yet to be confirmed, the first DTC of Angola is now a reality and should constitute a very important landmark in cross-border operations between both Countries.

The majority of the provisions of the DTC PT-AO follows the OECD Model Tax Convention, even though there are also provisions influenced by the UN Model Tax Convention.

For instance, the royalties provision of the DTC PT-AO, by granting taxing jurisdiction to the Source State (rather than granting exclusive taxing jurisdiction to the residence state of the beneficial owner) deviates from the OECD Model and follows closely the UN Model.

One could think that that this was a demand from the Angolan Authorities, more eager to tax at source foreign entities....

Tiago Marreiros Moreira is tax group executive partner at Vieira de Almeida. He can be contacted at tm@vda.pt

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THE WAITING GAME

Corruption and repatriating profits are among the major problems facing investors in Africa, but with governments attempting to address these issues, investors with a long-term outlook are likely to make handsome profits in the longer term

Despite issues related to corruption, the need for greater transparency and the problems facing businesses looking to repatriate profits, Africa remains a land of opportunity for Portuguese law firms. For investors that are committed for the longer term, the rewards are there. Countries such as Angola and Mozambique are taking steps to tackle corruption in an effort to better attract investors, and to an extent, it is having the desired effect. Asian investors in particular are eagerly eyeing African energy assets, while there are also plans to sell off more than 70 state-owned companies in Angola.

“It is easy to feel daunted by the challenges [in Africa],” says **Jorge Brito Pereira** of Uría Menéndez. “But at the end of the day, that is the other side of the huge opportunities of a continent that is larger than India, China and the United States combined.” Generally speaking, investment in Africa is most likely to pay-off in the longer term. “Given the volatility of some African markets, clients need to have the financial strength to go through the less favourable periods and not expect high returns in the short term,” says Linklaters’ **Diogo Plantier Santos**.

OPTIMISTIC OUTLOOK

Lawyers also say that recent political developments – such as efforts by governments to improve transparency – in addition to new opportunities in a wide range of sectors means there are many reasons for optimism. While Angola and Mozambique remain the main focus for Portuguese firms, other Lusophone territories, such as Cape Verde, São Tomé e Príncipe and Guinea-Bissau are also well served by Portuguese lawyers. There is also increasing activity in French-speaking countries such as Congo, Cameroon and Gabon.



LUIS GAGLIARDINI GRAÇA

Given high fertility rates in Africa, in addition to rising child survival rates, the World Economic Forum estimates that, in the next 30 years, 40 per cent of the world's under-fives and more than a third of under-18s will be African. This population explosion promises not only greater manpower in the continent, but also unprecedented new demand. "I think the biggest investment will be food," says Viera de Almeida partner **Raúl Mota Cerveira**. "In Angola, the population is expected to double within five years, so investments in agribusiness are increasing." Cerveira also predicts a rise in demand for land planning advice, particularly in Angola, Mozambique, São Tomé e Príncipe and Guinea. Meanwhile, with regard to Angola, Cerveira highlights growing demand for residential housing. Water sanitation, infrastructure and education are other sectors set for significant development in the coming years, and all of this means big opportunities for lawyers.

CMS Rui Pena & Arnaut associate **Tiago Machado Graça** says: "We have seen political stabilisation in Angola and Mozambique in the last year and a major effort on the part of the governments of both countries to align with international standards of transparency in doing business."

REVOLUTION IN THE AIR

Angolan President João Lourenço's "legislative revolution" is creating a far more positive business environment, according to many lawyers, while the country established the Competition Regulatory Authority in May last year. "We are hopeful that this will help enhance Angola's economic performance and attractiveness in international markets," says **Luis Gagliardini Graça**, partner at MLGTS.

As well as addressing corruption, the wide-reaching regulatory changes have generated significant potential workflow for lawyers, as well as opportunities for investors. "The Angolan Government's development plans are clearly aimed at diversifying the economy, and this will trigger a wide range of new business opportunities spanning agriculture, waste and sanitation, health, energy and infrastructure, just to name a few," says **Rita Correia**, partner at Miranda & Associados.

There are plans to privatise 74 state companies in Angola in the next few years, while **André Duarte Figueira**, senior associate at Cuatrecasas, highlights the recent overhaul

of the country's tax system. "We foresee a large increase in business related to tax consultancy and litigation, namely from international companies and particularly Portuguese companies operating in Angola," he says.

LOANS SCANDAL

Mozambique is also making significant regulatory changes following the Credit Suisse loans fraud scandal, which involved the arrest of the country's former finance minister. Since then, the Mozambique government has made what lawyers describe as "huge efforts" to comply with international standards on transparency. The government's future agreements with creditors will, in particular, "promote transparency in the management of its future natural gas revenues", according to MLGTS consultant **Claudia Santos Cruz**.

Currency instability is an issue throughout Africa, and particularly in Angola and



RITA CORREIA



JORGE BRITO PEREIRA

Mozambique. It is an especially acute problem in Angola, where the kwanza's devaluation, combined with a lack of euros and dollars coming into the country, make it extraordinarily difficult, and expensive, to get money out of the country. All of this has led to a decline in the number of international investors coming to the country.

The Angolan government is trying to tackle the problem by incentivising businesses that cannot get their profits out of the country to reinvest. A new private investment law, approved in June, reduces minimum capital requirements, facilitates profits' repatriation and removes the previous requirement that local investors must have a 35 per cent stake.

Though reactions to the new law have been mixed, **João Robles**, partner at *FCB Sociedade de Advogados*, believes the legislation is

helping to make Angola "more attractive". He continues: "The significant changes to the law include reducing the time it takes to incorporate a company from a few months to a matter of weeks."

ENERGY INVESTMENT

Given the fact that Africa is a country rich in natural resources, energy and mining projects are a major source of legal work and, despite the problems already outlined, major oil projects remain a lucrative business. In Machado Graça's view, Mozambique is taking steps to "position itself as one of the biggest gas producers of Africa". Last year, there was a landmark moment when Exxon Mobil signed exploration agreements with the Mozambican Government. Meanwhile, there have been other major investments from Anadarko and Eni.

Angola is continuing to attract high-grade strategic energy investors, such as Total, while the new government's overhaul of the regulatory powers of Sonangol (a state-owned enterprise that oversees petroleum and natural gas production in the country) is making the jurisdiction more attractive to international energy companies. In addition, there is growing interest in developing renewable energy sources, particularly in Angola and Nigeria, Africa's two largest oil producers.

Machado Graça says renewable energy is crucial if Africa wants to fully satisfy its growing energy demands. "The complete electric

grid will not happen and the growing demand for power in these countries – and in neighbouring countries – will require an answer from governments," he says. "The answer will be off-grid projects based on renewables."

'HARD CURRENCY'

Asian investors are particularly keen on deals in Africa, especially in Angola and Mozambique. "The competition in Portuguese-speaking African countries – particularly in Angola – from Chinese companies is very strong," Cerveira says. "It's very difficult to compete with China's companies because they enter into the countries with specific lines of credit provided by China's export-import banks – basically, bringing into the country what is missing, which is hard currency." Meanwhile, Korea (one of the world's largest gas consumers) and Japan are also continuing to invest heavily in the region.

In addition to activity in the energy sector, a number of Chinese construction projects are underway in Mozambique. Law firms with offices in Hong Kong and Macau are leveraging such resources to tap into this growing demand for construction-related advice. *MLGTS'* Cruz says: "We have worked over the past year to strengthen the bridge between the *Morais Leitão Legal Circle* Asian offices in Macau and Hong Kong and its teams in Angola and Mozambique," says Cruz. "We are seeing heavy interest from Asia in both counties." While there may be many potential pitfalls facing clients investing in Africa, the shrewdest investors that are prepared to exercise patience will reap dividends in the longer term ■.



RAUL MOTA CERVEIRA

NO SHORT-TERM PROFITS TO BE FOUND IN ANGOLA

Investors looking for short-term profits in Angola will be disappointed, according to Vieira de Almeida partner Raul Mota Cerveira. “Nowadays investors cannot look at Angola as an immediate cash machine,” he says. “It was in the past, but right now, the homework will have to be done carefully.”

It has been a tough year in Africa, particularly in Angola. Falling oil and gas international prices profoundly affected a national market dependant on natural resources. Meanwhile, the ongoing currency crisis is making it almost impossible to take profits out of the country. Though prices are stabilising, and growth is expected, Cerveira says investors need to change their mindset.

“Africa, and particularly Angola, is traditionally anchored on fast revenue from projects – oil and gas, real estate and big infrastructure projects like roads and ports,” he says. “But due to the fact countries are short of hard currency – dollars and euros – and international investors are not keen to receive services and goods with local money, we are focusing on long-term investments.”

The lack of international currency means countries are keen to export, not import, he adds. As a result, law firms are increasingly focusing on new industries like agribusiness, where they advise clients on long-term investments, backed by the state, that will take some time to yield profits.

Some investors can be naïve about Africa and see it as a “cash machine”, according to Mota Cerveira. However, thinking Africa will provide you with immediate revenue is a mistake, he adds. “You should be thinking of Africa, right now, as a medium and long-term investment destination,” he explains. “If you have the time to implement your project that way, it will surely be a success.”



JOÃO ROBLES

MAJOR OPPORTUNITIES FOR LAWYERS IN ANGOLAN IT SECTOR

Angola’s IT industry offers huge opportunities for lawyers and investors alike due to President João Lourenço’s comprehensive privatisation plans, says FCB partner João Robles.

“Angola is potentially Africa’s new technology superstar,” says Robles. “The IT sector is a priority for the new government and will arguably generate a lot of investment, due to the need for infrastructure and services.”

Among the 74 state companies being privatised over the coming years, Robles believes the IT sector will play a significant role in diversifying Angola’s economy and reducing the nation’s reliance on natural resources. The agriculture and infrastructure sectors will also play a key role in the diversification process, while PPP [public-private partnerships] could be a vital tool in following through with Angola’s ambitious privatisation programme.

The country has faced hard times in recent years, with one of the main reasons being a scarcity of foreign currency and the associated challenges posed to overseas investors. The new government responded with a new private investment law in June 2018, which Robles feels has achieved a lot, given that it has made it easier to take money out of Angola, as well as reducing the time it takes to incorporate a company.

Doing business in Angola is still far from simple, however, with matters such as acquiring visas presenting huge challenges. This issue is expected to be mitigated by plans for an ‘investor visa’. Challenges like choosing the right local business partners, or navigating Angola’s legal system, on the other hand, may take a little longer to solve.

Robles says that often “what is written in the law and what happens in practical terms are two very different things”. He adds that this can create uncertainty and confusion, especially for those new to practising law in the country.

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