

# A PRO-DIRECTOR APPROACH TO LIABILITY - URÍA MENÉNDEZ

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Ariadna Cambronero

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## **Barcelona's courts have taken a strict liability albeit less dogmatic approach to directors' liability in contrast to the view taken by Judges in Madrid**

Los tribunales barceloneses tienen por costumbre realizar una interpretación pragmática de las normas mercantiles, especialmente respecto a la responsabilidad de los Consejeros, afirma Ariadna Cambronero, Socia Directora de la oficina de Barcelona de Uría Menéndez

Barcelona has long had a reputation for pragmatic business rules and not many have a better understanding of this than Ariadna Cambronero, Partner and Head of Uría Menéndez in Barcelona. An example is the attitude of the city's judges towards director liability, which has never been more pertinent than over the past few years, when Spain has experienced a dark economic period with thousands of companies falling into insolvency.

Cambronero says that although the Barcelona courts apply a consistently strict approach to liability, it is one that nonetheless favours the director.

“Since the late 1990s, the Regional Appeal Court of Barcelona (Audiencia Provincial de Barcelona) has developed a very consistent line of jurisprudence in relation to the responsibility of directors of public and private corporations that has consequently limited the liability of the managers for serious breaches.”

The same line has significantly been imposed in the interpretation of liability under bankruptcy proceedings that, since 2004, has been regulated by the Insolvency Act. The Regional Appeal Court of Barcelona, argues Cambroneró, maintains a “restrictive application of the responsibility of directors” in insolvency situations.

“By contrast, the Regional Appeal Court of Madrid (Audiencia Provincial de Madrid), has maintained much less of a strict liability stance as regards the liability of directors, but has nonetheless been less ‘pro-director’ than what we have seen applied in Barcelona,” she says.

This interpretative gap is however narrowing, believes Cambroneró, with the capital’s Judges moving towards the more relaxed approach seen in Catalonia.

“The Madrid Courts are however no more ‘director friendly’ than those in Barcelona, and are actually extending their jurisprudence further into cases where they consider that director responsibility is an issue.”