

AN ARAGONESE LAWYER IN BRUSSELS

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A Zaragozan lawyer, with more than 30 years in the European Union capital, José Rivas, head of Bird & Bird's Brussels' Competition practice, announces to Iberian Lawyer that he will now also lead the practice in Spain, promoting it from his position and experience together with Candela

Sotés. Among other things, this veteran tells us that he used to play Trivial with Boris Johnson. He confesses that he takes on the new challenge with great pride and joy, as it will bring him closer to Spanish clients. As a good Aragonese, he recognises that his stubbornness has helped him to achieve his objectives and to position his team as one of the main Competition Law benchmarks in Europe. Despite so many years abroad, Spain, he says, is still his home.



As a Zaragoza-born, was it clear to you from the beginning of your career that your future would be in the international arena?

Yes, I am the fifth or sixth generation of Rivas from Zaragoza. Most of them doctors, hardly any lawyers.

I became attracted to EU Law when during my degree in law at Zaragoza University, I attended a summer course on EU law at the University of Exeter.

Talking about doctors... with more than 30 years at the heart of the European Union, taking the pulse of businesses. How is the Spanish health business doing? What movements (or lack thereof) has COVID provoked in the European arena?

Your question makes me think of a song of my youth, "These are not good times for lyric poetry" The Covid-19 pandemic has caused Spanish businesses to go through one of the worse periods in history. As regards the interaction and presence of Spanish businesses in Brussels, again, due to the pandemic, we are witnessing the lowest mark that I remember.

We ask you to go back to when you first arrived in Brussels. What had the biggest impact on you personally and professionally? After more than 30 years, is it now in Spain where you feel like a foreigner?

I believe I am the Spanish lawyer that has been longest in private EU law practice in Brussels. I first came to Belgium to study European Law at the College of Europe in Bruges in 1986, the year Spain joined the European Economic Community, as it was called then.

In August 1987, I started working in Brussels in a set of UK Barristers, Stanbrook and Hooper. At the entrance of our premises, there was a board with the names of all of us. My name was the last and had a small asterisk under which was written "Abogado". In those days, I went with my boss to a hearing at the Court of Justice for the Woodpulp cartel and was flabbergasted. I could not believe my eyes and ears, such beautiful pleadings and interaction with the Court. Top-flight advocates like Michel Waelbroek, Mario Siragusa, Nicholas Forwood, Clive Stanbrook in action! Then and there, I found out I would not want to do anything else for the rest of my career. When Brexit occurred, I could not believe it! If UK people only knew the great influence their companies, professionals, officials... have had in the development of the EU, they would have voted differently.

Let me tell you an anecdote. One of my colleagues at the time was Marina Wheeler. An extremely sharp UK Barrister. She started going out with an eccentric journalist that would wait for her outside in the rain: Boris Johnson! We played Trivial Pursuit many times. What a memory and encyclopedic knowledge Boris had! Despite all that has been said and written about Boris, he is a true European, educated in Brussels, fluent in French, etc. I encourage you to read the column Boris wrote in the Telegraph after the Paris bomb attacks. It is a masterpiece of European feelings. I do not know where all his anti-EU sentiment came from.

No, I do not feel like a foreigner in Spain. Fortunately, my profession has kept me in constant regular contact with Spain. Besides, I have part of my family and my second residence there. Perhaps, local Spaniards see me as a foreigner, but I do not feel one. At times it helps to see your own country à la distance.

In this same position, you have been with Bird & Bird for almost 12 years, and in this time, you have managed to position your team as a reference in Competition Law. What are the keys to success? Are you working on giving continuity and a replacement to this team in the future?

The key to success? Honestly, I do not think we have reached (full) success yet. There are plenty of excellent competitors out there that make us keep on our toes.

One of the things I take the most pride in is in teaching younger colleagues to progress in the profession. I am particularly proud of two of the senior lawyers of our Competition practice who I closely work with, one of them from Brussels, Ana Manzaneque, who has been recognised as a "Recommended Lawyer 2021" by a prestigious international directory, and the other one from Madrid, Candela Sotés, recognised as "Key lawyer 2021" also by the same Legal directory.

You have litigated more than a hundred cases before the European courts in Luxembourg. What would you highlight from this part of your career? Which personality traits have helped you the most to stay on the front line for so long? What are the requirements for a good Competition lawyer who wants to work internationally?

I would highlight that I have been fortunate to represent private parties and EU institutions and agencies alike before the EU Courts. This has allowed me to see things from both sides of the fence. I feel particularly proud of three successful cases before the Grand Chamber of the Court of Justice despite having the Opinion of the Advocates General against. Of my career in Spain, I would highlight being instrumental in achieving the first *amicus curiae* intervention of the European Commission before our Supreme Court in the so-called cartel of insurance companies.

As a good "aragonés", I am stubborn, which, obviously, helps in achieving your goals.

There are many requirements to become a good competition lawyer. Above all, an interest in basic economics. Otherwise, it is difficult to understand the logic behind this area of Law. I often say a good competition lawyer is like a zoom lens. At times you need to zoom in and close up to the smallest detail, and at the same time, you need a wide-angle, take distance and see the full picture.

The Spanish community in Brussels, especially in the legal sector, is not so large. Do you collaborate with each other? In normal situations (not with the COVID), do you meet for get-togethers or social gatherings as happens in other countries?

In the old days, we used to meet. Nowadays, we meet at conferences and seminars together with lawyers of other nationalities.

Brussels has put in place tough restrictions to curb the health crisis. A city whose main activity is business will have been particularly hard hit in many respects. How does this impact the firm's business? In the recent period, which has increased more; Mergers or Unfair Competition claims?

Ironically, I do not think that Covid-19 has had such an adverse impact on the practice of EU

competition law in Brussels as it has had in other areas of practice. EU lawyers never had most of our clients based in Brussels; they are all over the world. Therefore, we have always been used to dealing with clients by telephone, email or video. I recall extreme situations where I met the client months physically after the case was over when they came to Brussels. By contrast, the pandemic has forced our colleagues in, say, corporate, employment, commercial, etc., to get used to online tools that we EU lawyers were forced to use well before Covid-19 arrived.

Compliance and risk prevention is a crucial part of successful cases once in Brussels. As a general rule, are employers used to consulting them at an early stage, or do they wait until the problem is on the table?

Fortunately, things have changed in recent years. The culture of Compliance and ex-ante control is much more widely spread nowadays. We, lawyers, have also changed in this respect and are keener to proactively alert and teach our clients how to minimise their business risks. At Bird & Bird, we are at the forefront of using digital tools to this effect. Bird & Bird's competition compliance toolkit just won the Concurrences' Antitrust Compliance Award. We are very proud that such a prestigious organisation recognised our efforts to develop legal tech solutions that make easier the life of our clients.

The European funds seem to be the breath of fresh air that many companies are waiting for. The main economies of the Eurozone are mainly committed to digitalisation and renewable energies. What role are professionals in your sector playing in the evolution and attainment of this aid?

Digitisation and sustainability are major EU objectives because this is what our society is demanding. Your question relates to the largest injection of State Aid in the history of EU law. We believe the practice of State Aid will flourish in the months to come. All private and public sectors in Spain must be fully aligned to ensure that such a huge potential for economic and social growth is fully exploited. Future generations will not forgive us if we do not maximise the full potential of these funds. State Aids is an area of practice where we have always been very active.

You are a member of the Working Groups on Competition Law and State Aid of the Confederation of European Business Associations (Business Europe) and sit on the Executive Committee of the Global Competition Law Centre (GCLC). What is the role of these groups?

Each institution is quite different. I have been a member of these Working Groups of Business Europe for as long as I can remember. It has always been an honour that CEOE entrusted me their representation in these two groups. I feel proud of being able to express the view of Spanish companies on equal footing to those of the major EU economies.

The GCLC is a place for thinking and reflection which organises seminars and conferences on competition law and economics in Brussels. The GCLC is linked to the College of Europe, where, besides graduating in European Law, I have been teaching competition and State Aid Law for over 21 years.

What are your short-term plans?

I have been co-head of the international competition practice of Bird & Bird for many years. Now, without abandoning my EU Competition practice in Brussels, I will also be heading the Spanish practice, promoting it from my position and my experience together with Candela Sotés. I take this new challenge with great pride and look forward to being closer to Spanish clients than I have been in the recent past. I would love to assist them in getting through the EU maze, whether DG Comp, the Commission or the EU Courts.

In the short term, I co-represent the European Commission in 17 of the Banco Popular cases. In mid-June, we have the hearing at the General Court in the test cases.

To read the interview in full please download issue [N.105](#)

By Desiré Vidal