

ENERGY LAWYERS MUST GIVE CLIENTS THE PROTECTION THEY NEED TO MAKE INVESTMENTS - MVA ASOCIADOS

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International investment funds are targeting greenfield projects in the Spanish renewables sector, a trend that could generate significant demand for legal advice

Energy lawyers must not only have in-depth knowledge of regulations and commercial issues – as well as an understanding of their client's business – they must also find ways to add value to clients and give them the protection they need to make investments, says Javier Montalvo, partner at MVA Asociados in Madrid.

However, in order to be able to do this, lawyers need to have significant experience and that only comes from “working in a law firm for a long time,” Montalvo adds. He says experience and “long-term and rounded advice” are appreciated by energy sector clients, which may include renewable power promoters and investors, industrial players such as power generators (under what was formerly known as the ‘ordinary regime’), transmission and distribution grid power and gas operators,

and power, gas and oil traders and suppliers.

Greenfield projects targeted

M&A deals and new projects in the Spanish renewable energy sector are creating many opportunities for law firms, but to give clients the best service it is necessary for firms to have an understanding of both the commercial and regulatory side of the industry, according to MVA Asociados partner Gervasio Martínez-Villaseñor.

Foreign investors, in particular, are targeting energy assets in Spain. "What we are seeing right now is international investment funds interested in Spanish renewables greenfield projects," says Martínez-Villaseñor. This is a trend that could generate significant demand for legal advice. Montalvo says: "We believe there are huge opportunities here for law firms that are able to deliver high quality advice not only in M&A, but in project development – advising clients during the entire process, from the very beginning to the commencement date of the operation."

Current trends in the Spanish renewables market include moves by traditional oil companies to acquire green technology assets, as well as the emergence of alternative forms of financing for renewables projects such as power purchase agreements (PPAs) with traders that are linked to the development of energy projects on a merchant basis [which involves selling directly into the market rather than under a long-term contract]. These trends are bringing about significant change in the sector. "New supply schemes, new financial schemes and widespread changes in technology are creating a new environment in relation to the operation phase of projects," says Martínez-Villaseñor. There are a significant number of new renewable energy projects currently in development, says Montalvo. However, he adds: "The opportunities for law firms are, at the same time, our clients' challenges, because with a lot of competition among bidders for projects, this huge interest has resulted in many investors turning their attention to projects in the very early stages of development, where previously they were inclined to wait until the development phase was more mature." Montalvo continues: "Now, they have to deal with this earlier phase, investors are facing more development-related risks."

Investors also having to contend with very complex regulations, says Martínez-Villaseñor. "It is a small sector but a very specialised one, so you need to keep updated in terms of regulatory changes, not only at a national level but also at a European level," he explains. Martínez-Villaseñor adds that it is inevitable that there will be further changes to Spain's regulatory framework when the current regulatory period comes to an end in 2020. "We believe there will be some further regulatory changes, but due to current political instability, it is hard to know at this stage when this is going to happen," says Montalvo.

In the meantime, clients require energy lawyers that are able to closely monitor their activities and utilise comprehensive knowledge. "It's not a case of just going to a lawyer when you are going to acquire another company and then not speaking to them for the next two years – in the energy sector, there is need for constant contact between client and legal adviser," says Martínez-Villaseñor. "There are many matters that arise on the regulatory side, as well as market-related issues," explains Montalvo. "Clients put their trust in us not just for one single transaction, but for their day-to-day-business and day-to-day activities."