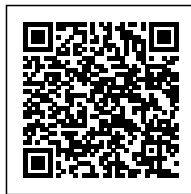


# MADRID REPORT 2009: A TIME FOR NEW THINKING

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## **Despite reports of green shoots in the Spanish economy, many of Madrid's law firms remain sceptical, but nonetheless optimistic that they can weather the economic storm.**

The key issue for Madrid's law firms in the face of Spain's continuing economic difficulties is to focus on the specialisation and diversification of their practices and to get closer to their clients, say managing partners in the Capital. Simply put, it is the ability to respond in order to meet clients needs, and to maintain their future success.

'This year presents itself as full of questions and difficulties,' says José Ramon Martinez, Madrid-based Practice Director of Garrigues, Spain's largest firm. 'But that doesn't necessarily imply that it will be a bad year for law firms. Without a doubt, it is wise and even mandatory to undertake a conservative costs policy, but without giving up too realistic and reasonable ambitious goals, not only to continue our current upward trend, but also to boost our practices.'

El mercado legal madrileño ha actuado en muchos aspectos como un barómetro del mercado legal español en general. A pesar de la preocupación evidente por la magnitud de la crisis financiera, sobre las previsiones del mercado, los despachos han reaccionado con destreza – reorientando el área de transacciones hacia reestructuración, refinanciación y procesal. Sin embargo muchos socios directores ponen en duda esto y sugieren que el 2010 será tan complicado como el 2009.

## **Adaptability**

In light of the difficult economic situation, and the need therefore to adapt to clients changing, often complex and highly strategic, needs flexibility is key, says Isabel Dutilh Carvajal, Managing Partner of one of Madrid's leading medium-size firms, Dutilh Abogados.

'In the current scenario the most important task for a law firm is to stay close to its client's needs and to adapt to their new situation. This will allow us to align the interest of the firm with the interest of

the client and of our lawyers.'

A question for many of the Capital's firms however is how to maintain consistent work levels across their different practice areas and to keep the machine running, suggest some.

'Right now, we can say the crisis is not affecting the volume but the type of work. The economic environment is different from the one we had a year and a half ago and that has meant a clear shift of workload from some areas to others,' says Manuel Martín, Managing Partner of Spain's fourth largest firm Gómez-Acebo & Pombo.

Work has clearly decreased in areas related to investment and M&A, but anything to do with company restructuring, labour, tax, litigation and public law has experienced significant growth, he says. 'The transfer of work from one area to another is not bad in itself. The bottom line, where the work is tough, is adapting to market demands and to do so smoothly.'

But on top of the acute issues being presented by the crisis, firms continue to experience many of the same management issues as in the 'good times: recruiting and retaining the right fee earners, managing costs and winning the best work, says Javier López Antón, Managing Partner of DLA Piper in Spain. 'But clearly the way to deal with each of these objectives is now different, and probably the current situation will remain similar in the year ahead.'

The likely outcome, he believes, is that firms will be more demanding in their recruitment, and more flexible in the way they price their services.

'Market conditions have caused more aggressive pricing policies among certain firms, raising competition, and in light of the difficulties of matching historic revenue increases, cost management has become a major issue in order to maintain profit levels.'

Firms may be re-balancing their practice areas but this does not however demand that resources be focused only on the most in-demand practice areas, says Juan Barona, partner with Allen & Overy in Madrid. 'It is important to also not lose sight of the long term and continue to invest in areas that may currently be less busy but will for sure re-emerge in the near future.'

Fundamental to this is the need to maintain the correct staffing levels for the economic environment, but also to maintain motivation in light of the strategic challenges many firms face, agrees Ílvaro Ercija Bernal, co-Managing Partner of Madrid's Ercija Abogados.

'We have always strived to find the right balance between headcount and workforce costs while always focusing on strategic talent issues, ensuring that high-performing employees and other critical contributors within the company feel supported and motivated. Regardless of the current economic climate and conditions our vision in that regard remains unchanged.'



“ Naturally, clients are more sensitive to the risk implications of international expansion and, indeed, limited access to funding – investments have become more selective. ”  
Jaime Folguera, Uría Menéndez

## Green shoots

As for the capital's economic outlook, the summer continued to see Spain's registered unemployment level rise as the tourism sector suffered in line with the rest of the economy. Official unemployment figures now stand at around 3.6 million, up 1.1m on the same time last year, although unofficial figures stand at 4.1m – around 18.5% of the workforce, the highest rate in the EU. The

Government has sought to stimulate the economy in numerous ways, most obviously in Madrid through its Plan E public works programme, with entire sections of the city's central road network now under reconstruction. Nonetheless unemployment is expected to continue to rise and to exceed 20% of the workforce by the end of the year.

Many Madrid managing partners therefore question the reality of claims of green shoots (brotes verdes) and not merely because of the amount of concrete being poured across the city. 'I don't see any green shoots, even though I'd be delighted to see them,' says Francisco García Gómez de Mercado, Managing Partner of specialist firm EJ Gomez de Mercado.

For some it is too early to assess whether Spain yet has an economic environment conducive to growth considering rising unemployment, a 4% drop in GDP and a public deficit close to 10% of GDP by the end of 2009. 2010 may look no less bright, but nonetheless many managing partners remain optimistic that their firms will weather the economic storm.

'The Spanish legal sector has performed quite well in 2009, even if the activity has shifted from the huge investments and financings of the last years to the recapitalisations, restructurings, and litigation that are seen nowadays,' says Luis de Carlos, co-Managing Partner of Uría Menéndez.

Others are looking beyond Spain for positive developments. The flotation of Banco Santander's Brazilian subsidiary, is just one example that a sense of stability seems to be returning to some markets in which Spanish companies are active, and which can only benefit their domestic situations.



'There is evidently an appetite to do transactions and the market is definitely there for the strongest blue chip companies. The IBEX-35 has done well in recent months and companies and banks are beginning to see success and potential in the debt and perhaps even the equity markets,' says Michael Willis, resident partner with Davis Polk & Wardwell in Madrid.

## **Continuing pressure**

If the capital's law firms are facing challenging times this is only however a reflection of the difficulties facing their clients. The economic situation has brought new and increased budgetary pressure on General Counsel who are now questioning the added value their advisers bring, and demanding new approaches to fees, billing and the sharing of know how.

'Pressures are here to stay. It will take a while before individuals in charge of buying legal services at corporations believe the crisis is behind us (even if the results at their companies show so),' says José María Balaña, Managing Partner at Lovells in Madrid.

There may be an emerging consensus that law firms have to adapt to clients needs for greater added value in the services they require, and for more flexibility in terms of sharing knowledge, but when it comes to fees, for some, firms have to stand firm in the face of such evident challenges.

'Whether the pressure fades depends on the overall attitude of law firms. If they get nervous and do

not stand the pressure it will continue to apply,' says Carlos Pazos, Managing Partner of the Madrid office of SJ Berwin.

Firms are though adapting and many demonstrate a willingness to accept reduced rates in the belief that they will reap rewards in the long-term.

'Our work consists in serving our clients and our trend is in a certain manner linked to theirs. When they are going through difficult times we still have to provide them with the same top quality advice while adjusting our fees to match their economic situation. We always have to be side by side with our clients,' says David Arias, Head of Litigation at Madrid's Perez-Llorca.

The relative lack of specialisation of the capital's largest law firms may have helped cushion many from the collapse of the international debt and equity markets, and added to their ability to adapt to changing client needs, but the Capital is also seeing renewed confidence among many smaller firms.

Many of which believe that their size is an advantage, reflected not only in lower costs to clients but also closer – less institutional – relationships.

'The top boutiques not only offer high quality services, as their lawyers have invariably been trained at major international firms – and have perhaps a greater hunger for work – but can also operate on very competitive terms because of their smaller teams and lower overheads,' says Gerard Pérez Olmo, one of the three founding partners of Madrid-based GOLD Abogados.

Formerly all Managing Associates at DLA Piper, they are indicative of a latent trend among ambitious young lawyers within many of the Capital's major law firms, some suggest, to step out on their own while drawing on their international experience and insight.

Likewise, niche areas of practice continue to see steady even increasing demand, say some.

'In our own sector, intellectual property, most businesses have seen that they need to manage their issues even more than in the 'good years' – we are seeing investment in IP rights and, where necessary. Litigation levels have been maintained even increased,' says Patricia Koch, head of Litigation at the Madrid office of national firm Herrero & Asociados.

For others, the issue is fundamentally one of maintaining quality levels. Client pressure has always been there, and General Counsel have an obligation to obtain the best quality at the best price.

'Corporations are now more aware than ever of the importance of receiving the most qualified legal advice. This 'flight to quality' entails that such companies will turn to the best firms in search of the best solutions to their problems. However, the current outlook obliges firms, of course, to adapt in order to provide the best and most innovative advice with tools such as flexible billing methods and specialised working groups,' says Luis de Carlos at Uría Menéndez.

Others note that the same economic issues are facing clients and law firms alike. 'The situation has brought to the minds of all law firm directors that we are, above all, a company. We also have to face issues concerning good financial control and investments in the right marketing and IT. Our clients have brought about these pressures and all the measures adopted will, from my point of view, have to be maintained,' says Rafael Alonso, Managing Partner of Hammonds in Madrid.

## **Going for growth**

Almost two years into the financial crisis, some firms are however looking to ride out the economic storm in other ways. The past year has also seen a number of mergers within the Madrid legal market among small and medium-size firms – with varying motivations, including seeking comfort in practice and geographic spread – as well as the arrival in Madrid of two new international firms.

Evidence, some say, of a steady restructuring of the Capital's legal market and of continuing long-term confidence in the Spanish economy as a whole. 'There have always been mergers (and acquisitions) in the legal sector, and in times of crisis, several law firms will have to merge or to look for a foreign white knight, if any,' says David Arias at Perez-Llorca.

Dutilh is among the Capital's mid-size firms to have continued to expand over the past year, adding wider expertise to its core venture capital and private equity niche. It absorbed labour boutique Bufete Caldevilla in June 2008 and added a team of five senior lawyers earlier this year the arrivals bringing the total number of lawyers at the firm to 38 including 10 partners.

'Regardless of other more conservative views that may exist, we believe that law firms should bet on growing, not only to try to readjust to the present economy by having a stronger position to confront the recession, but also because its an opportunity to diversify their services and be able to give their clients a better and more complete service,' says Isabel Dutilh Carvajal.



But larger firms have also been growing. Gómez- Acebo & Pombo added the Barcelona offices of tax firm Padrol Munté and corporate boutique Rodés & Sala earlier in the year. 'Markets never stop adjusting, and I think we will see more combinations. There are good opportunities in the market for a firm to add on strategic practice areas and strengthen those which already exist,' says Manuel Martin.

Likewise, Valencia-based Broseta has expanded its Madrid office, also adding on Rodés & Sala partners in the first six months of 2009.

Madrid has also seen the arrival of two new international firms this year, some predict more to come and further domestic growth among those already established.

Herbert Smith launched in June – following the ending of its relationship with Cuatrecasas Goncalves Pereira – with the lateral hire of a team of four senior partners from Linklaters, and has since added three more partners. US firm Dewey & LeBoeuf also opened during the summer, preferring however to relocate Spanish-qualified lawyers from across its existing network to be closer to its major domestic clients, among them communications giant Telefónica.

Reports also now suggest that UK-based Lovells – which has a Madrid office led by José Maria Balana – is now exploring merger talks with US giant Hogan & Hartson, while the usual rumours persist of more US arrivals. Madrid currently has over 25 UK firms but only a handful of established US players.

Mergers might have been accelerated by the financial situation but they were foreseeable even without it, says Patricia Koch at Herrero & Asociados. 'The same holds true with the arrival of international firms. I do not think they have arrived in Madrid due to the crisis. An expansion to Spain, an important market in the EU in any case, is logical for international firms, independently of the

specific financial situation in the country.'

## National practice

An issue of significance for many of Madrid's firms is however how much of a national practice they can offer, in what is an almost federal country, from a single central location.

For some the issue is a non question: 'We offer a national Spanish practice from our Madrid office, and are fully convinced that this is realistic,' says Pedro Rueda, founding partner of Araoz & Rueda.

Others however disagree. 'I do not think that is a realistic view, Madrid is without doubt one of the key 'epicentres of the Spanish market, but in the same way Barcelona is another 'epicentre' in its own right,' says ilvaro í%cija Bernal of Madrid's í%cija Abogados, which has to date however foregone national expansion in favor of a recently established Miami office.

For others, the question is related more to firms client focus and strategy. Ignacio Ojanguren, Managing Partner of Clifford Chance, has recently questioned the ability of international firms to be leading players in Spain without at least a second office in Barcelona – where it operates – and where Bird & Bird say they would like to open.

'I think we can continue to provide national coverage for the bulk of trade issues. It is true that in certain areas (for example, criminal law) it may be necessary to have local support, but this is a situation that is not new and that is not likely to change,' says Francisco Prol, Managing Partner at boutique Madrid firm Prol & Asociados.

Among Spain's leading national firms the view is clearly that Madrid is not enough – Garrigues and Cuatrecasas have a broad and diverse national spread, while Uría Menéndez is present in the major economic centres.

'Given the idiosyncrasy of the Spanish legal market it is easier for firms to be present locally with their own people on the ground. Nevertheless, Madrid remains the city where major companies are based and therefore decisions are taken, it all depends on the business model of each law firm and its clients,' says Uría Menéndez's Luis de Carlos.



## National practice

The challenge for the capital's law firms therefore is, despite the economic uncertainty facing Spain, to continue reacting to client demands and investing in their own futures – to manage acute short-term issues while still preparing for the medium and long-term.



'Those firms that are being over-defensive will not be able to take full advantage of the inevitable economic recovery,' says Carlos Pazos at SJ Berwin.

Indicative of the confidence of Cuatrecasas Goncalves Pereira in the Madrid economy, and of its strategic position, was the firm's recent announcement of a move to larger offices. A move that will not only bring all of the professionals in the city under the same roof, but which also leaves room for further growth.

'The new headquarters represents a strategic bid, not only for the increase in the working space but for the better integration of our people,' says Julián García Rubí, Director of the firm's Madrid office.

The Capital's firms have not made redundancies on the same scale as seen elsewhere across Europe, but firms are known to be managing out underperforming lawyers at all levels, while others have seen departures for other reasons.

Miguel Moscardó, the former Head of Arbitration and Litigation at Garrigues has left to establish a specialist three-partner firm Moscardó & Stampa, while the decision of former Clifford Chance Senior Partner Jaime de San Román to join Uría Menéndez in Madrid as a partner is seen by many as the most significant development in the market of the year.

The leading UK firms in Madrid have felt the effects of the crisis in different ways. Clifford Chance recently underwent a restructuring of its partnership in Spain, in which San Román was appointed Of Counsel. Real estate partner Juan Antequera also withdrew from the partnership but remains with the firm as a consultant. Linklaters has felt the effects of its global 'New World' restructuring and seen departures to Herbert Smith, while Simmons & Simmons has seen the repatriation of the former Madrid Managing Partner Simon Armitage in favor of local leadership, in line with the prevailing strategy among most other local UK offices.

“In 2008 there was a significant increase of litigation cases related to insolvency and unfortunately there is no reason to believe that this trend will alter during 2009.”

Vicente Sierra, Freshfields Bruckhaus Deringer



Investment must however continue and extend to maintaining recruitment even at the most junior levels, say many. Clients may be demanding more senior lawyers now handle their issues but firms futures (and profits) are built on their ranks of junior lawyers.

'Cutting recruitment will prove to be a big mistake. You cannot follow a route map without petrol in your engine. Recruiting the best candidates every year is essential for the success of any law firm, no matter how adverse the economical situation may be,' says David Arias at Perez-Llorca. The firm changed the short-term contracts of its own junior lawyers into full-time contracts early in the crisis in order to demonstrate confidence and to offer more job security.

Ignoring recruitment, some say, means that when the good times return there may be a generational gap within the firm which may prove both difficult and expensive to fill.

'Controlling costs is for us one of the key management issues, but on the other hand, being prepared for the end of the crisis time also involves maintaining levels of recruitment and investing in training of our lawyers. In the end, there must be a balance that each firm has to measure, considering their own situation,' says Rafael Montejo at Lener. The number of first year graduate lawyers can be fine tuned, of course, but this is not the way to manage cost savings, emphasise some. Well-managed firms should be able to ride out the crisis, even one lasting another year.

'Whatever the circumstances, it is of great importance to maintain the investments in knowledge and talent. Only a structure with great professionals will allow a firm to tackle all short term issues and to lead, in the medium-long term, the recovery of the legal sector, as well as contribute to

improve the overall economic conditions – human resources are our most important asset and as such they must remain for the years to come, concludes Luis de Carlos of Uría Menéndez.