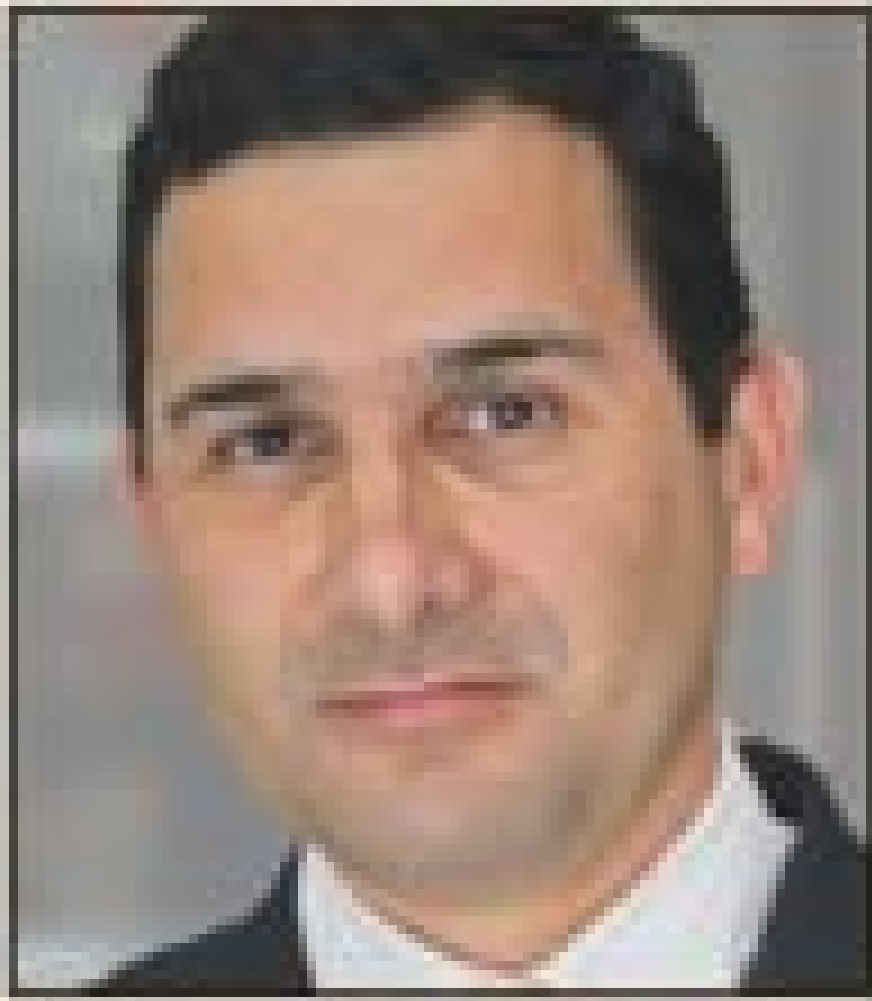


THE CONTINUING NEED FOR GUIDANCE IN LABOUR RESTRUCTURINGS - SAGARDOY ABOGADOS

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Labour restructurings are still being seen in Spain albeit the volume of activity may be down on last year, but companies remain apprehensive about what 2010 may bring

"We are still seeing significant restructuring activity by companies throughout the country and now across all business sectors, even many that were not initially affected at the start of the financial crisis," says Iñigo Sagardoy, managing partner of leading labour and employment boutique Sagardoy.

Notable, he says, has been an upturn in activity in the finance sector particularly as the country's savings banks (cajas) look to restructure or even merge – many having found themselves

significantly exposed to the collapse of the country's real estate sector. Generally however the level of restructuring activity, while ongoing, is notably slower than it was at the start of 2009.

"At the end of 2008 companies saw a clear need to take measures to help them adapt to, or even survive, the economic downturn. Many entered into very significant restructuring programmes at the start of this year but since the summer we have certainly seen the volume of activity lessen."

Nonetheless, he perceives a definite sense of caution among businesses as they plan for 2010.

Las reestructuraciones laborales se siguen viendo en España y a pesar de que la actividad ha bajado en el último año, las empresas son reticentes de cara al año que viene. Lo que es cada vez más requerido por el cliente es la experiencia necesaria para supervisar el proceso de reestructuración y ofrecer asesoramiento sobre la manera más realista de hacer las cosas, dice Iñigo Sagardoy, de Sagardoy Abogados.

"Next year remains a big question mark. Although many companies have already made provisions to reduce their scale or operations, and to make temporary lay-offs, we have yet to see whether they will prove realistic or whether further measures will still be required."

Among the notable major trends in labour relations of the past year, he believes, has been an increasing pragmatism on the part of employees and their representatives as companies look for flexibility in the face of reduced revenues and consumer spending, with a notable decline in salary demands.

"The unions have realised that they cannot make big demands, there has been a significant exercise of responsibility and acceptance that these are difficult times," says Sagardoy. In addition, he notes that new salary benchmarks are being used for what increases are being agreed.

"With the fall of the benchmark retail price index (RPI) into negative territory, we have seen employers agree more concrete percentage raises, based on previous years' levels, as well as more performance and productivity-based scales. These schemes may often be difficult to implement and to measure but they are nonetheless being introduced."

Sagardoy also notes a continuing trend towards reduced working hours, with the government also signalling a much stronger preference for such programmes over simple lay-offs, and even offering significant support for some schemes. What is also evident is that businesses are now much more willing to explore options and much less worried about the publicity or reputational issues that once surrounded company restructurings.

"The last year has changed many perceptions. Companies obviously do not like the negative headlines that surround redundancies or collective agreements, but such measures are now widely seen in more pragmatic terms. Many businesses rightly feel that it is in their best interest to endure short-term pain if it will help guarantee long-term survival."

Individual companies' situations are also being helped by the major unions keeping their silence. Having accepted the dramatic restructurings of 2009 it is more difficult for them to now rally against the much reduced scale of layoffs and redundancies, he says.

Nonetheless issues still recur for those businesses contemplating restructuring or collective negotiation agreements. "The regulation of collective redundancies still remains uncertain. Such processes require a consultation period with the employees and the approval of the Labour Authority, and even then there are no firm guarantees."

Increasingly what is required by clients therefore is the expertise to oversee the restructuring process and to offer guidance on the most realistic course of action.

"Clients can themselves very easily find out the law, are very willing to undertake their own negotiations, and understand the processes and practices involved in collective issues. What many

nonetheless still require is the expertise to manage the process, to highlight potential issues, and to help steer them towards the most positive outcome," says Sagardoy.