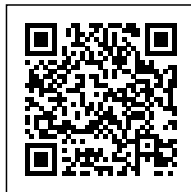


# THE GREAT ESCAPE

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**The economic downturn has put pressures on law firms few Managing Partners could have imagined in the summer of 2007 when the first tremors of the sub-prime crisis emerged. Practice growth has been restricted or non-existent and firms have had to reassess how they balance their size, shape and service offerings to the new “normal” market conditions.**

La recesión económica ha significado para los despachos una presión que pocos Socios Directores se hubieran imaginado en el verano de 2007, cuando surgieron los primeros signos de la crisis de las hipotecas “subprime” en Estados Unidos. El crecimiento de los despachos ha sido menor o incluso inexistente y han tenido que reevaluar sus estrategias sobre tamaño, forma y servicios ofrecidos para adaptarse a las nuevas condiciones del mercado. En la Península Ibérica, esto no ha implicado despidos masivos, pero ha intensificado el problema de la retención del talento, debido a las reducidas oportunidades de ascenso y la creciente competencia de los departamentos de asesoría jurídica de empresa.

Across Iberia this may not have meant mass redundancies along US or UK lines but talent retention

has become a major issue. If the "partnership tournament" fuelled the huge growth of law firms through the boom years what will now replace the motivation of lawyers with limited career progression opportunities and more demand for in-house positions?

In addition, there is now pressure on law firms to adopt a policy of glasnost, and make their decision-making processes more transparent if they are to avoid alienating the junior lawyers that comprise their futures.

Two and a half years on from the onset of the "credit crunch" Western Europe, the US and much of the rest of the world has been trapped in what some call a Great Recession, with a collapse in bank and corporate financing, stagnant capital markets and slow transactional markets. In Spain and Portugal matters have also been compounded by the collapse of the real estate and construction markets, and with the wider impact of a significant reduction in international investment and M&A activity and Government austerity packages that have reduced or halted public works programmes.

The result for many law firms has been a shift in their centres of gravity away from traditional M&A, private equity, and banking and finance practices, to areas such as restructuring and insolvency, labour and commercial disputes as clients have changed the focus of their own operations, or simply struggled to survive.

"The crisis and economic downturn did not truly impact us until 2009 when we finally saw like-for-like revenues and activity levels really drop," says Pedro Pérez-Llorca, Managing Partner of Madrid's Pérez-Llorca. "To some extent we had until then felt insulated from events even while the full effects of the crisis were clearly evident in the market."

As well as a reduction in international operations and investors, and the need for a greater domestic practice focus, law firm leaders have also had to contend with increasing fee pressure from clients facing their own budgetary constraints. In the face of less work and lower revenues, few Spanish or Portuguese law firms have admitted publicly to making significant numbers of lay-offs. Lawyers in Spain have been employees only since 2006, but the pro-employee nature of domestic labour legislation aside, most firms have been sensitive to inflicting self-damage to their market reputations and future recruitment prospects.

But most have felt the need to do more with less. If natural attrition is estimated at around 20% of associates in the largest firms, many have managed to slim down quickly and relatively painlessly by simply not replacing staff. Anecdotal evidence suggests that others have been encouraged to take roles with clients when they become available, while retirement policies – where they exist – are being more subtly enforced for senior partners.

The start of 2009 nonetheless saw Simmons & Simmons demerge from its Portuguese practice – which now operates as Sociedade Rebelo de Sousa Advogados (SRS Advogados) – reportedly over the Lisbon firm's reluctance to implement dramatic cuts.

The middle of 2010 also saw Linklaters in Lisbon make six associates redundant – a fifth of its junior lawyers – although reportedly on very favourable terms.

### **Breaking free**

Across Iberia, firms have however maintained the line that it will be the partners that will absorb the economic pain rather than their associates. Pérez-Llorca notably placed all its junior lawyers on permanent contracts in 2008 and has continued to make partner promotions. "We may have had to reassess what we do and how we do things but this does not extend to limiting the prospects of our junior lawyers. Externally it may seem strange that we are diluting the partners' equity further, but it sends an important internal message that we have faith in our strategic direction," says Pérez-Llorca.

For lawyers at one Spanish firm facing a 10-year battle for partnership, the Managing Partner

confesses that this has now risen closer to 15 years. Against this backdrop it is easy to see why Pérez-Llorca has opted to deliver their past promises although it inevitably hits profits.

But that is not to say that those lawyers that have survived the crisis are content with their situations. The downturn is helping to prompt the emergence of new smaller firms, founded by junior partners or managing associates from the major firms who have perhaps seen their own promotion prospects reduced as equity ownership has tightened.

Notable in Madrid has been the creation and growth of boutique firms, illustrated by Hernández-Echevarría (Heyd) formed by former Cuatrecasas and Clifford Chance senior associates.

"Depending on your point of view, it is either a great time or a crazy time to start a new firm, but what is evident is that clients are looking for lawyers with experience of doing complex transactions and who can offer new ways of working and present alternative fee structures. With significantly lower overheads we can offer all three," says Pedro Hernández-Echevarría.

But the downturn is also presenting opportunities for established firms looking to expand into new markets. Valencia-based Broseta has defied even its own expectations in Madrid where it has grown from a single lawyer to over 30, including five partners, in less than three years.

"We opened the office in 2007 right at the onset of the crisis. With hindsight we would perhaps not make the same decision today but the downturn has nonetheless enabled us to demonstrate not only that we can still build new services for our clients but also, and equally significantly, that we can attract very high quality people to the firm," says Jesús Avezuela, Managing Partner of Broseta in Madrid.

In Portugal too the crisis has seen new firms emerge, with Campos Ferreira Sá Carneiro Advogados perhaps the most high profile. Such a firm is clearly not the result of lawyers facing limited career opportunities but evidence of the internal pressures (or discomfort) felt by some even in those firms with the strongest brands or broadest practice spreads. Cracks have appeared as managers are being asked to change the way they manage their teams and offices.

### **Talent management**

Sally Woodward, a member of Sherwood PSF Consulting in London, notes that a recurring issue for many organisations is how to keep their best lawyers without the carrot of partnership, or even rewarding work. "The crisis has been a difficult time for many law firms, and lawyers, and morale has clearly become an issue as numbers have been reduced."

Revenue pressures, partners' desire to maintain profitability levels, and cuts in lawyer development programmes have all had an impact. "There is I think a genuine concern about firms' ability to keep their best talent, and to ensure the crisis hasn't 'burned' people out. The consensus is that firms have to invest in their futures but in some instances efforts to motivate lawyers are back-firing – some associates suggest that some are a cynical ploy to keep them busy," she says.

Her own research of the last downturn in London illustrates that once the crisis is over, significant numbers of excellent lawyers can decide to leave the profession. Significantly it is often the less brilliant individuals that stay.

Despite the relative ability of Spanish and Portuguese lawyers to re-orientate their practices – hyper-specialisation is not a traditional feature of the Iberian legal market – people are choosing to leave firms. For some, the crisis may have prompted a career reassessment but for many others the focus is turning to opportunities within company legal departments.

"The downturn has presented legal heads with a golden opportunity to attract some very good lawyers to their in-house teams, and to present a work environment in which there are not constant time-keeping demands or the petty politics or egos that characterise some law firms," says Jochi

Jiménez, General Counsel at HCC Global Financial Products in Barcelona.

Sally Woodward notes also that while many legal departments are facing budgetary pressures, they are having success in getting the financial backing to expand their teams if it means reducing external spends. "General Counsel nonetheless want to understand the motives of those making the move away from private practice – many are careful not to be perceived as the 'second-best' option for those escaping law firms."

Some companies have even introduced a committee approach to recruiting senior lawyers, albeit some suggest that this may be a contradiction. Lawyers are becoming ever more valuable to companies, as legal and regulatory oversight increases, yet those selecting them have less involvement with their day-to-day functions or recognition of their abilities.

Jiménez agrees with the general sentiment. "We want lawyers with a genuine interest and appetite for working within a business, and who can bring their experience to help us do our jobs and service the company better. But we have to be realistic. People may decide to move on, including back to private practice, but at least their new law firms will have a closer understanding of our needs – which presents new opportunities to both sides."

### **Openness**

The challenge for law firms is therefore both a short- and long-term one. The pressure of the current economic environment is forcing them to adapt their offerings and to make structural and strategic changes. Many have already implemented alternative ways of managing their operations through outsourcing, greater efficiencies and the increased hiring of locum or paralegal staff, and refocused their practice emphasis, that may last well beyond the crisis.

In attempting to streamline their practices and become more reflective of current client needs to ensure firms' own survival, they nonetheless have to be conscious of the dangers of alienating the very talent that they have now selected as representing the best chances of continued and future success. The danger is that a trickle becomes a flood of departures.

It is too early to say what the new "social contract" between lawyers and law firms will be but it is unlikely that a free gym pass will be enough to placate the most talented or ambitious. One leading firm has now created a lawyers' counsel to involve assistants in decision-making but Managing Partners admit, off the record, that managing career and financial expectations in the downturn is key. Law firms may never be democracies but we are seeing many break the chains from a Stalinist style of management towards a more Gorbachev style of openness.

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