



AI in the  
pharmaceutical sector

External lawyers? We want  
them to be our partners

11<sup>th</sup> Celebrative Edition

# Forty40

UNDER

The 3.7 million  
followers' attorney



## Focus on the under 40

More than half of the lawyers in the Iberian legal market are Under 40. Of these, the majority are women. KPMG Abogados is the firm that employs the youngest professionals. Ayuela Jiménez is the firm with the most partners under 40. And tax is the practice with the highest number of young people under 40


# Editorial

Michael Heron

## Forty under 40

From post-Covid normalisation, to the Russia-Ukraine war and the recent conflict and complications from Israel and Palestine. It feels like the last few years have brought a lot of uncertainty. This has presented challenges and opportunities to the legal market, complicating the economic outlook, and making it tougher to discern whether Europe faces a soft or hard landing. The prospect of rising real incomes and a robust employment market should provide some resilience, though. Perhaps, we were in need of some light relief and celebration. It was therefore our pleasure to bring you the biggest award recognition for young lawyers in Iberia with our Forty under 40 showpiece. More than half of the legal practitioners in Iberia are under 40, and over half of them are women. The future certainly looks bright.

There is some fantastic content in this issue, not to be missed. Lawtips has become one of the benchmarks in social networks of law. Andrés Millán is followed by more than 3.7 million people on social networks with a huge following on TikTok. Perhaps a platform for the future. Our inhouse piece showcases Andrea Viale from Idealista. We also get some great insight from Carlos Perez at Fieldfisher and caught up with Xavier Ruiz, a Catalan lawyer who has been living in the US since the 90s and has founded a very successful M&A boutique in New York and Miami.

We hope you enjoy the rest of our content this month including our valued collaborations by World Compliance Association, The Coach Approach and Charlie Shan's legal English tips which complete this issue. 



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These events refer to Iberian Lawyer and they reward the best lawyers and law professionals in Spain and Portugal.

Legal Day	Madrid, 07/11/2023
Gold Awards	Madrid, 07/11/2023



The event aims to highlight the excellence of private practice lawyers, experts in the sector of energy and infrastructure in Latin America.

The LatAm Energy & Infrastructure Awards	São Paulo, 13/12/2023
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The Legalcommunity Switzerland Awards is the event celebrating in-house & private practice lawyers in Switzerland.

Inhousecommunity Days Switzerland	Zurich, 26-27/10/2023
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The Legalcommunity MENA Awards event celebrates the excellence of in-house legal departments and private practice lawyers in the Middle East and North African markets.

Legalcommunity MENA Awards	Cairo, 23/11/2023
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These events refer to Iberian Lawyer and they reward the best lawyers and law professionals in Spain and Portugal.

Iberian Lawyer Sustainability Summit Spain	Madrid, 19/02/2024
Iberian Lawyer Labour Awards	Madrid, 19/02/2024
Iberian Lawyer Inspiralaw	Madrid, 07/03/2024
Iberian Lawyer Sustainability Summit Portugal	Lisbon, 16/04/2024
Iberian Lawyer IP&TMT Awards	Madrid, 30/05/2024
Iberian Lawyer Energy Day	Madrid, 27/06/2024
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Iberian Lawyer Legaltech Day	Madrid, 24/09/2024
Iberian Lawyer Forty Under 40 Awards	Madrid, 29/10/2024
Iberian Lawyer Legal Day	Madrid, 05/11/2024
Iberian Lawyer Gold Awards	Madrid, 05/11/2024



The event aims to highlight the excellence of private practice lawyers, experts in the sector of energy and infrastructure in Latin America.

The LatAm Awards Energy & Infrastructure Awards	São Paulo, 11/12/2024
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The global event for the legal business community in Milan.

Legalcommunity Week	Milan, 10-14/06/2024
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The Legalcommunity Switzerland Awards is the event celebrating in-house & private practice lawyers in Switzerland.

Legalcommunity Switzerland Awards	Zurich, 16/05/2024
Inhousecommunity Days Switzerland	Zurich, 24-25/10/2024



The Legalcommunity MENA Awards event celebrates the excellence of in-house legal departments and private practice lawyers in the Middle East and North African markets.

Legalcommunity Mena Awards	New Cairo, 21/11/2024
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## On the Move



### PROMOTION

## Francisco Rodrigues Rocha new partner of GPA Advogados

Gouveia Pereira, Costa Freitas & Associados – Sociedade de Advogados has announced the appointment as partner, effective November 2023, of its of counsel **Francisco Rodrigues Rocha**. GPA Advogados will now have eight partners.

Francisco Rodrigues Rocha will be head of the transport and maritime areas and co-director of compliance in the banking, financial and insurance sectors. He has worked in various areas, especially in insurance law and pension funds, with special emphasis on advising financial intermediaries, including credit institutions, private equity companies, collective investment undertakings and private equity funds, on regulatory and corporate matters, as well as on the follow-up of administrative infringements before the supervisory authorities.

With this latest promotion, Sérvulo has 35 partners and more than 100 lawyers.



#### INCORPORATION

## Marimón Abogados incorporates new partner in Barcelona

**Javier Hernández** is incorporated as new partner in the corporate and M&A department of its Barcelona office.

Javier has more than 20 years of experience in the area of mergers and acquisitions, corporate and project finance and debt restructuring, having participated in countless significant transactions, both national and international, in various areas of his professional practice.



#### PROMOTION

## Ius+Aequitas Trial Lawyers promotes Elena López managing partner of the insolvency and restructuring department

With more than 15 years of experience as an insolvency administrator, **Elena López** has a consolidated track record in insolvency proceedings and corporate restructurings both nationally and internationally.

She has also worked on international cases, having developed her professional career in France, Belgium and the United States. She is a member of the International Association of Young Lawyers (AIJA) with which she actively collaborates in the organization of seminars and conferences.





#### PROMOTION

## BDO Abogados appoints new partner

**Javier Gómez-Ferrer** promotes as partner of BDO Abogados. This promotion is part of the reinforcement of BDO's management structure, with the appointment of five new partners and five new equity partners.

Since joining BDO in 2019, Javier Gómez-Ferrer has assumed the management of the legal area of the Firm's office in Valencia, with special focus on the Public and Economic Criminal areas. In addition, he leads the Legal Operations & Innovation area, assisting in the transformation processes of corporate legal counsel.

#### INCORPORATION

## Martínez-Echevarría incorporates new partner

**Gonzalo Jiménez** has been incorporated as new partner and head of the sports law department.

Gonzalo has experience in advising national and international sports entities, as well as in claims beyond our borders, such as at the FIFA headquarters. During the last decade, his professional experience has been combined with his teaching work at the main business schools in the sector such as La Liga Business School, ISDE, or the Universidad Europea-Real Madrid where he is currently the director of the international master's degree in sports law.



#### INCORPORATION

## DAUSS Abogados incorporates new partner

**Nils Döhler**, specialized in real estate law, has been appointed as a new partner. He will be joined by attorney **Sebastian Alois Hager**.

This strategic decision is aimed at expanding and strengthening his real estate law practice. His experience and knowledge will be an asset for his clients and for all those who seek advice in matters related to real estate and real estate investments in Spain.



#### INCORPORATION

## BPV incorporates new partner to lead new global mobility area

**Simona Alen** has been signed as a new partner. This incorporation means the creation of a new area of activity: BPV Global Mobility, a new professional unit specialized in advising companies and executives on International Mobility.

Coming from multinationals (EY, IBM, Citi) and with a background in international law and knowledge of the tax, labor, immigration and social security challenges that International Mobility entails, Simona Alen becomes partner of BPV Abogados, serving her clients from the Madrid office.



#### INCORPORATION

## Broseta incorporates new partner

Verónica Ester has been incorporated as partner to strengthen the public and procedural department in the firm led by Rosa Vidal.

She holds a law degree from the Universidad Potinicia de Comillas, Corporate Counsel by ICADE, Member of the Spanish Arbitration Club, of the Association of Energy Law (AEDEN), Association for the Study of European Law (AEDEUR).

The state lawyer on leave of absence since 2018 joins from BDO Abogados and previously worked at Simmons & Simmons in the Contentious-Public department as of counsel.



## INCORPORATION

### Deloitte Legal hires partner Roberta Poza

**Roberta Poza** has been hired as a partner to strengthen its Tax Department, previously she was a partner responsible for International Taxation at PwC Tax & Legal.

Poza who is also a member of the governing board of the Madrid Bar Association (ICAM), has over 25 years of experience in providing tax advice, in resolving international conflicts and in corporate tax governance projects. Poza has been Deputy Director General of International Taxation at the Directorate General of Taxes (DGT). She has also worked at the European Commission on the Common Consolidated Corporate Tax Base (CCCTB) project and has been a coordinating advisor for finance at the Permanent Representation of Spain to the European Union, with competences in taxation and state aid.



## INCORPORATION

### Grau & Angulo incorporates new partner

**Eva Ochoa** has been incorporated as new partner. With more than 20 years of extensive experience in intellectual property. Her arrival has strengthened Grau & Angulo's practice, especially in the areas of trademark, design and unfair competition litigation.

She also works for international clients in various sectors (fashion, luxury, technology, sports, entertainment, consumer goods, etc.), for which trademarks and other IP rights are a crucial asset. Also, a member and very active participant in various professional associations, such as the International Trademark Association (INTA), where he is a member of the Anti-Counterfeiting Committee and the European Global Advisory Board. She is also a member of AIPPI Spanish Group, APRAM – Association des praticiens du droit des marques et modèles.



#### PROMOTION

## López-Ibor Mayor promotes Ignacio Zamora as new partner

**Ignacio Zamora Santa Brígida** has been appointed as the new partner in charge of the regulatory area of the firm.

Prior to joining López-Ibor Mayor, Ignacio worked as legal advisor at the Sociedad Estatal de Participaciones Industriales (SEPI) and at the Subdirección General de Política Legislativa of the Spanish Ministry of Energy. Subsequently, he worked as a lawyer at Bird & Bird in the energy and natural resources area. He is also a member of the Spanish Association of Energy Law.

#### INCORPORATION

## Martínez-Echevarría incorporates José Manuel Rodríguez as digital law partner

He is a legal specialist in negotiation, data protection, privacy law, IT/IP, contract and commercial law. He is also specialized in Data Protection and Legal Compliance. Data Protection Officer (DPO). He is also trained in e-commerce, IT, telecommunications, blockchain and digital innovation.

Rodríguez is a member of the Spanish Association of Entertainment Law (Denae), the Spanish Professional Privacy Association (APEP) and the Spanish Association for the Promotion of Information Security (ISMS Forum Spain).







## INCORPORATION

# Ceca Magán incorporates new talent to the Madrid office

**Lucio Rivas Clemot**, a specialist in urban law, has joined the firm as Of Counsel, **Berta Viqueira** has joined as director of the criminal area, and finally, **José Luis Amat** has joined as manager of the digital law team.

Lucio Rivas Clemot, who has a PhD in Law and specializes in the area of urban planning, has extensive experience as a legal advisor and advocate in the field of urban planning law, standing out for the drafting of regional urban planning laws, participation in the drafting of planning, as well as for his teaching activity in various universities and study centers.

Berta Viqueira, is the new criminal lawyer who joins the team led by Rocío Gil. she has led numerous internal investigations representing national and international companies in the possible commission of economic and business-related crimes operating in several jurisdictions, in the field of economic criminal law. She has more than fifteen years of experience representing clients in major legal proceedings.

José Luis Amat, joins as manager of the digital law team, being very knowledgeable in the legal field in blockchain, cryptoassets and asset tokenization; he helps companies to find innovative solutions to traditional problems taking advantage of the opportunities offered by these new technologies. This is especially relevant in companies with disruptive business initiatives, mainly in technology, banking, telecommunications, logistics and services sectors.



## INCORPORATION

# Andersen incorporates new head of the real estate department in Lisbon

**Bernardo Silveira** has been incorporated as head of the firm's real estate department in Lisbon. This strategic hire reflects the continued expansion and development of Andersen's real estate area in the domestic market.

His knowledge and professional experience in this area are an asset that guarantees the sustained growth of the real estate department, which has received increasing recognition from its clients in recent years.





#### INCORPORATION

## FILS incorporates Gonzalo Ramón y Cajal to lead the new energy department

**Gonzalo Ramón y Cajal**, who until now worked for Ramón y Cajal, has extensive experience in the energy sector, especially in the negotiation and formalization of energy asset purchase and sale transactions, both greenfield and brownfield, and in the drafting of contracts of various types, including development, manufacturing, grid access, agency, land, construction (EPC), operation and maintenance (O&M), distribution and marketing.

#### INCORPORATION

## López-Ibor DPM incorporates Deepa Daryanani as new director of the tax area in Madrid

After fourteen years in the tax area of the Madrid office of Deloitte Legal, **Deepa Daryanani** joins the firm with a remarkable professional background in tax advice to large national and international business groups.

During her time at Deloitte, Deepa has advised clients from different sectors, especially from the energy sector (both recurring tax advice and investment projects) and the audiovisual and media sector (advising digital platforms and companies specializing in copyright management and audiovisual production).



#### REELECTION

## Baker McKenzie reelects Rodrigo Ogea as co-managing partner

**Rodrigo Ogea** has been reelected as co-managing partner of Baker McKenzie in Spain effective October 1, 2023, a position he has held since 2017. Rodrigo will continue his work alongside Bruno Domínguez, co-managing partner of the firm.



INCORPORATION

## Clara Cerdán, new chief legal officer of Solarig Global Services

Solarig Global Services has incorporated **Clara Cerdán Molina**, as new chief legal officer (CLO) as Iberian Lawyer can anticipate.

She joins Solarig from Ferroglobe, where since 2014 she was General Counsel and Secretary of the Board. Previously she was responsible for the Real Estate Legal Department of Sacyr Vallehermoso. Clara is also founding partner and vice-president of the Association Woman in a Legal World (WLW).



INCORPORATION

## DIA Group incorporates new deputy general counsel

DIA Group has incorporated **Borja Marqués Triay** as deputy general counsel.

Borja holds a law degree from the Universidad Autónoma de Madrid. He also holds a Master in Business Law (LL.M.) from IE Law School – Instituto de Empresa. He has developed his professional career in the area of commercial law in firms such as Uría Menéndez and KPMG Abogados. His legal specialization includes general commercial law, contract law, mergers and acquisitions, securities market and corporate governance.



#### INCORPORATION

## Jinko Solar incorporates new legal counsel Europe

Jinko Solar has hired **Antonio Gomariz** as Legal Counsel Europe in its legal department. In this position he will report to Francesco De Stales, General Counsel Europe.

With more than seven years of experience, Antonio Gomariz began his career at Mazars, where he worked in corporate and M&A department in Madrid. In 2016, he moved to PwC advising on deals, corporate and litigation, as well as project finance related to renewable energies.

#### PROMOTION

## Howden promotes Ramón Almoguera to Regional Legal Counsel for the Europe region

Howden has promoted **Ramón Almoguera** to the position of Regional Legal Counsel for Howden Europe. He will be responsible for advising the management teams of the Howden group's entities in Europe on all legal matters and will coordinate the activity of the different legal teams in the region, including the Iberia region comprising Spain, Portugal and Morocco.



#### REELECTION

## Ana Gomez will continue to lead Asnala

The National Association of Labor Lawyers (Asnala) has proclaimed **Ana Gómez Hernández**, labour partner at Ceca Magán, as president for the next three years after completing the electoral process that began on September 4. Her candidacy has been the only one presented, having the necessary endorsements and stipulated in the statutes of the association to be able to occupy the position.

She will face her third term as president with new objectives aimed at both improving the services provided to associates and advancing the profession. In addition, Gómez has been linked to the association's Board of Directors for 17 years.



## On the web



### End of Q4 outlook?

The economy of the European Union grew by 0.1% during Q3 of 2023. While higher interest rates are steadily driving down inflation across Europe, the economic growth landscape is proving more mixed at the country level. The added complexities created by post-Covid normalisation and the Russia-Ukraine war are complicating the economic outlook, making it tougher to discern whether Europe faces a soft or hard landing. The prospect of rising real incomes and a robust employment market should provide some resilience.

The standout transactions from last month in Spain, include a number of renewable energy deals. Watson Farley & Williams advised Natixis CIB and Banco Santander on a circa €700m greenfield project financing granted to Spanish Portfolio, a subsidiary of Grupo Cobra, for the construction, development, and operation of a 1,231 MWp photovoltaic portfolio comprising 21 plants located in Spain. Natixis CIB is a French multinational financial services firm specialising in asset & wealth management and corporate & investment banking. Pérez-Llorca and Clifford Chance advised on the sale by Grenergy Renovables of a solar portfolio of approximately 300 MW located in Spain to Allianz Capital Partners (on behalf of Allianz insurers and other institutional investors) for €270.6 million. Closing is subject to the satisfaction of certain conditions and is expected to take place in 2025. Both plants are expected to start operations in the second half of 2024, and all energy revenues up to the closing date will accrue to Grenergy. In addition, it will carry out the operation and maintenance activities, as well as the asset management during the useful life of the plants.

Clifford Chance also advised BBVA, Intesa SanPaolo and MUFG Bank as lenders on a \$252 million construction to back-leverage project financing package to OPDEnergy for the construction of two solar photovoltaic electric generating facilities in Louisiana and West Virginia.

There have been a number of financing deals from Spain, with one of the most high profile involving Allen & Overy, who advised the banking syndicate on the setting up of a new 1.2 billion euros financing in Europe for Phoenix Tower International. This financing aims to enable Phoenix Tower International to consolidate its European telecom towers portfolio (France / French West Indies, Italy, Ireland, Cyprus and Malta) and provide substantial additional.

From Portugal we saw Cuatrecasas advise on Exus' growth capital investment of up to €1 billion as well as advise Indico Capital Partners, based in Lisbon, and Earlybird – X Seed Fund GmbH & Co. KG, a German venture capital fund, in a seed capital investment round that raised €2.5 million for Nortech AI. We also observed CMS Portugal advise the multinational logistics company Scan Global Logistics, on the acquisition of 100% of FLS.



## Gómez-Acebo & Pombo advises on Zegona's 5 billion euro acquisition of Vodafone Spain



FERNANDO DE LAS CUEVAS



ALEX COLB



JUAN HORMAECHEA

Zegona has acquired 100% of Vodafone España for €5.1 billion. The debt structure with which Zegona financed the transaction includes a €4.2 billion mega-loan from Deutsche Bank, ING and UniCredit. With this acquisition, the British fund returns to the Spanish telecommunications market, where it landed in 2015 with the purchase of Telecable. After the acquisition of the latter by Euskaltel, it was the largest shareholder, with more than 20%, of the Basque operator until its purchase by MásMóvil.

Gómez-Acebo & Pombo has advised Zegona, in collaboration with Travers Smith on the acquisition and Milbank Tweed on the financing. The team was led by partners **Fernando de las Cuevas**, **Alex Kolb** and **Javier Reyna** associate of corporate.

Allen and Overy advised the lenders with a team from Madrid led by partner **Juan Hormaechea**.

### PRACTICE AREA

M&A

### DEAL

Zegona has acquired 100% of Vodafone España for €5.1 billion

### LAW FIRM

Gómez-Acebo & Pombo & Allen and Overy

### HEAD PARTNERS

Fernando de las Cuevas, Alex Kolb and Juan Hormaechea

### VALUE

5 billion euros



# Cuatrecasas advises on Exus' growth capital investment of up to 1 billion euros



MARIANA NORTON DOS REIS



JOSÉ AZQUETA

Cuatrecasas has advised Exus Partners Holding and its founding partners on securing a growth capital investment of up to one billion euros from Partners Group. Pérez-Llorca provided tax advice to Exus and its founding partners.

Exus is an international infrastructure asset development and management platform that currently manages 11GW of renewable energy assets in Portugal, Spain, France, Italy, Germany, Turkey, Canada, Mexico, and the United States; Partners Group is an international venture capital firm operating in private markets.

Cuatrecasas provided legal advice to Exus in the area of M&A. The team from the offices in Portugal and Spain was headed by M&A and private equity partner **Mariana Norton dos Reis**.

A Pérez-Llorca team headed by partner **Jose Azqueta** and including associates Son Yi Zhou and Marta Rodríguez Castillo was in charge of providing tax advice on this transaction to Exus and its founding partners.

## PRACTICE AREA

M&A and Tax

## DEAL

Exus' growth capital investment of up to 1 billion euros

## LAW FIRMS

Cuatrecasas and Pérez-Llorca

## HEAD PARTNERS

Mariana Norton dos Reis and Jose Azqueta

## VALUE

1 billion euros

7th Edition

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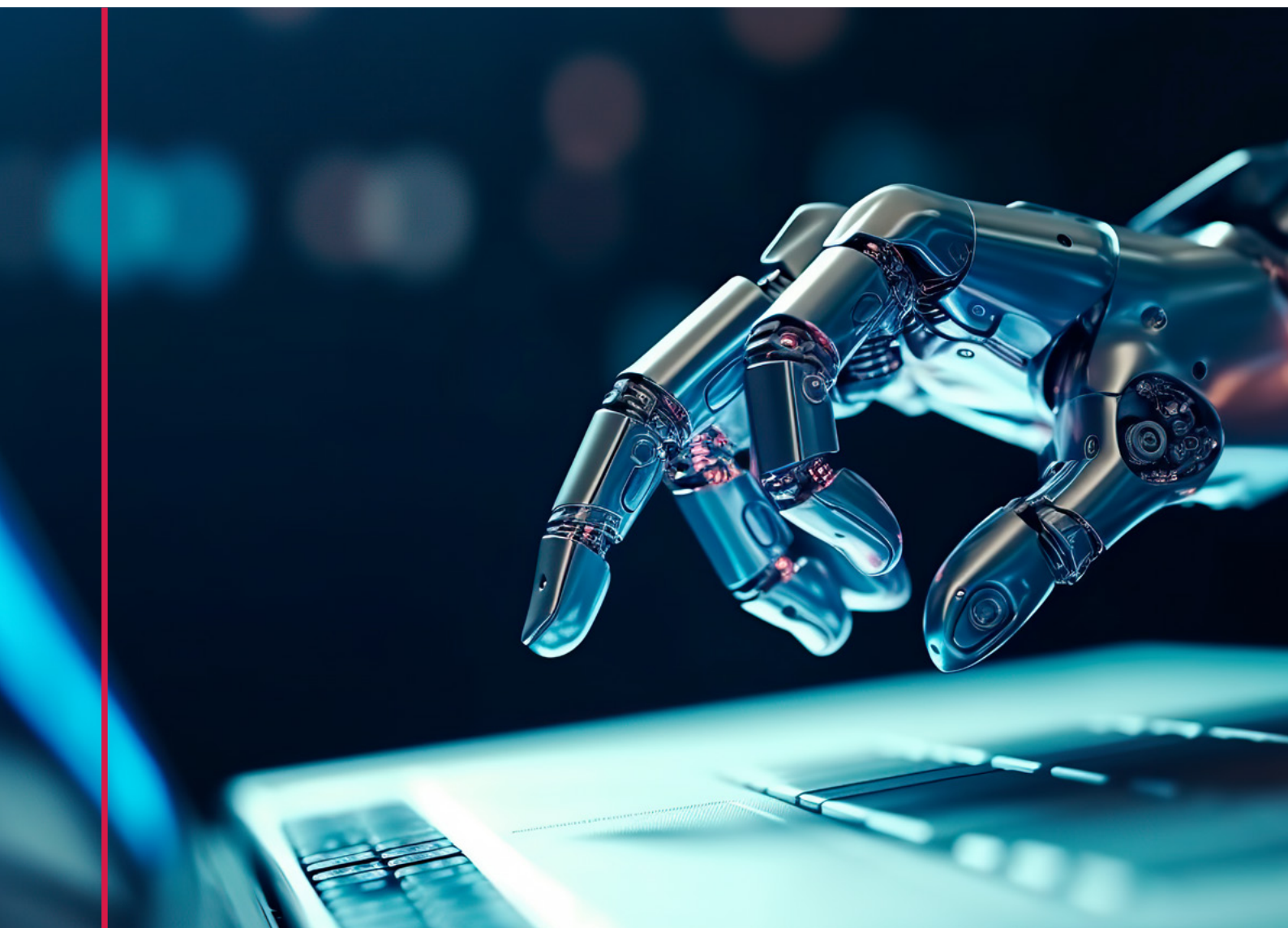
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# AI in the pharmaceutical sector

**Are we ready for the challenge?**

by mercedes galán

«Spain has all the necessary elements to ensure the immediate application of the future European Regulation, and to give full security to the AI projects that are developed in our country»

## AI is going to be a revolution in the pharmaceutical and healthcare sector, where do we start from at a regulatory level?

*Carlos Pérez Sanz (CPS):* The starting point is the current proposal for a European Regulation on Artificial Intelligence, which is in the approval phase. This proposal places emphasis on High-Risk Artificial Intelligence solutions, which will most likely include AI applications in the healthcare and pharmaceutical sectors. The future regulation contains a series of high-level obligations for high-risk AI solutions, with the aim of respecting technological neutrality and ensuring respect for the fundamental rights and security of citizens.

## And in Spain?

*Héctor Jausàs (HJ):* In this area we are ahead of the rest of Europe. We are the first country in the EU to designate and articulate the operation of its own artificial intelligence regulatory authority, the AESIA (see box, ed); and it is well advanced in the regulations for the creation of controlled test environments for the development of AI solutions. Spain has all the necessary elements to ensure the immediate application of the future Regulation and to give full security to AI projects.

AI is revolutionizing and the pharmaceutical sector was no exception. The legal and ethical challenges surrounding this ever-evolving area are going to be many, but are we prepared?

Iberian Lawyer spoke with **Carlos Pérez Sanz**, partner in charge of Fieldfisher's Tech & Data area in Spain, and **Héctor Jausàs**, partner in charge of the firm's Life Sciences department, about the impact of AI in the pharmaceutical sector, the main lines of future European regulations and their impact. AI is transforming research and development projects by accelerating the discovery process, optimizing clinical trials, and personalizing treatments. However, this also poses legal and ethical challenges, such as data privacy and the regulation of AI algorithms.



CARLOS PÉREZ SANZ



## «The replacement of the healthcare professional by a robot in medical practice implies that the patient's duty of care falls on a machine»

### How is the EU reacting to this insecure outlook?

*CPS:* The problem with the approval of the proposed regulation is that there are very important discrepancies when it comes to regulating this phenomenon, in particular in the legal definition of the very concept of AI, as well as in the indication of which specific solutions should be considered as High Risk.

*HJ:* The pharmaceutical and healthcare industry is one of the sectors that has benefited the most from the advent of AI. However, there are serious concerns about the risks that the use of AI may entail with respect to the safety of patients and their fundamental rights. For this reason, it is a topic that is currently being debated at the global level.

### Are there any gaps in this regulation that have yet to be filled in the sector?

*CPS:* The only thing missing is the approval of the European Regulation, to have a complete regulatory framework.

*HJ:* Once the aforementioned regulations are enacted, it is expected that they will shape a prudent, thoughtful regulation that will address the challenges presented by AI systems, placing the patient at the center of the regulation. However, we are facing a changing landscape, where innovation and development play a

decisive role, causing rapid progress. Therefore, it is very likely that, despite the determination to obtain effective regulation, it will become obsolete as soon as it comes into force because the evolution of the sector will have surpassed it.

### Regarding the application of AI in this sector, what can it be used for specifically?

*HJ:* Within the framework of the pharmaceutical and healthcare sector, AI is decisive in the R+D process, manufacturing and distribution and marketing.

### Do you think we are facing a future scenario in which there is a progressive replacement of health professionals by robots?

*CPS:* This process has already been a trend across the industry since the advance of new technologies, so it seems clear that the expansion of AI will produce similar effects. However, new opportunities will arise for professional profiles that, until now, were not necessary and that will be essential. Let me give two examples. The first would be the need for organizations to have a strategy for managing and optimizing their data, which is why it will increasingly be necessary to incorporate the



HÉCTOR JAUSÀS



figure of the Data Management Manager or "Chief Data Officer". The second example will be to appoint an Artificial Intelligence Delegate, whose main task will be to ensure compliance with the legal obligations of the future Regulation and respect for the highest ethical standards in all AI projects.

*HJ:* Although AI systems are already being used in the healthcare field, we must not forget that healthcare is based on the relationship with patients based on trust and face-to-face. From my point of view, rather than replacing professionals with robots, we are heading towards a scenario in which these professionals use more and more robots, which should result in more personalized, efficient medical care and where the chances of medical error are increasingly lower. The roles of the medical professional are going to change, but doctors will always be needed, perhaps more than ever.

**And in this scenario, who takes responsibility in case an AI-based medical decision results in an error or harm to a patient?**

*HJ:* The proposal for a regulation pending approval states that the operator of a high-risk AI system will be objectively responsible for any damage or harm caused by a physical or virtual activity, a device or a process governed by that AI system.

How are data privacy issues addressed in the use of AI in clinical research and healthcare?

*CPS:* Many AI projects can be carried out without the need for personal data, such as the drug development phases, so they can be carried out without any restrictions arising from regulatory or ethical issues arising from the right to privacy. In these cases, it is advisable to establish work protocols to ensure that there will be no interaction with people or to anonymize any personal data that may come into contact with the ongoing investigation process.

**And in the event that it is necessary to involve personal data?**


*CPS:* Data protection regulations require comprehensive risk analyses to be carried out for AI projects that involve the

## La AESIA

The AESIA is the Spanish Supervisory Authority for Artificial Intelligence. It will be the authority responsible for ensuring full compliance with the future Regulation, once it has been adopted and enters into force. The AESIA already has its headquarters, statutes, supervisory and decision-making mechanisms. And, once the Regulation is approved, it will have a significant sanctioning capacity, taking into account that fines for non-compliance with the regulations can reach up to 6% of the total volume of income of the offender (i.e. they can be higher than fines for non-compliance with the GDPR).

processing of personal data. The future regulation provides for a series of project management methodology obligations, the aim of which is to ensure respect for people's fundamental rights, in particular the right to privacy. Therefore, the current regulatory framework already offers a good level of protection, which will be expanded with the future approval of the European AI Regulation.

**Regarding intellectual property and patents, what is your role in protecting AI-related innovations in the pharmaceutical sector?**

*CPS:* Every AI project is made up of four key elements: work methodologies, algorithms, data, and software. The latter two are copyrightable assets, but not the first two, which must be protected as industrial and business secrets. For all of them, pharmaceutical companies must put in place the necessary protection and ownership measures to ensure that they have full rights to the AI solutions they develop. Otherwise, they may be exposed to the loss of control over key intangible assets of high economic and strategic value. 



ANDREA VIALE

# External lawyers? We want them to be our partners

**Andrea Viale, global head of legal affairs at Idealista, spoke to Iberian Lawyer about the achievements, challenges and risks faced by both the global legal department and the real estate marketplace they work for**

by julia gil

**«The relationship with external lawyers is a relationship of trust and therefore we want them to be our partners in the different projects and matters in which they are involved»**

Spain, Italy, and Portugal. Three countries with their own local regulations and regulatory changes that affect each real estate market very differently.

**Andrea Viale**, global head of legal affairs at Idealista, the real estate platform, oversees coordinating these multi-jurisdictional legal teams. Something that she herself defines as very enriching and one of the keys to the success of Idealista's legal team.

**After almost 7 years in the company, what do you consider to be the greatest achievement?**

In these 7 years we have grown exponentially to become the largest digital real estate platform in Southern Europe. In recent years we participated in what was the largest transaction in the history of the digital sector in Spain (purchase of Idealista by EQT) and we acquired more than 10 companies (most of them outside Spain) in a period of 2 years.

**And for you...**

To create the legal team that we have today in Idealista and with which we have been able to achieve all these milestones. Being part of the company's history and being able to share it with the professionals that make up the legal team is my greatest achievement.

**How has the team evolved nationally and globally?**

Since 2021, the legal team has grown to seven lawyers with the addition of two new female lawyers for Portugal and Italy, respectively. We

have created a compliance team, consisting of three people who also provide services for all group companies in Italy, Spain, and Portugal. We have also evolved certain functions to optimize our resources.

**Which legal area has been strengthened the most?**

The operational aspect of the team (legal operations) and we have strengthened the teams in Italy and Portugal. Idealista's presence in these countries has grown a lot, due to the strength of the brand and the acquisition of several companies in these countries, thus increasing the need for legal advice for our operations.

**And how do you manage the legal and regulatory differences between these countries?**

We operate only in European Union countries, but each one has its own local regulations. Normally, we define a project with common bases and the lawyers in each jurisdiction, both internal and external, make the adaptations according to the local regulations. It is a matter of identifying in advance any impediments in your jurisdiction. Multi-jurisdictional teamwork is very enriching and is one of the key success factors of Idealista's legal team.



## «AI is already a reality and is being applied in our sector as we speak»

### The biggest challenge facing Idealista...

Uncertainty in the real estate market arising from changes in the economic landscape and recent regulatory changes.

### You are talking about the regulatory changes in Spain in 2022 and 2023...

Yes, with them we have detected a slowdown in transactions and a decrease in the stock of properties on the market. This has a direct impact on the prices of access to housing, either for sale or rent, mainly in large capitals where there is high demand. Also, the difficult access to financing for the acquisition of a home. The lack of encouragement or incentives for public-private collaboration in the construction of affordable housing and legal certainty for homeowners.

### And in Europe...

In Europe we have a regulatory hyperactivity that generates that the legal teams are in constant adaptation and implementation of novelties.

### Do you usually work with external law firms or lawyers, and what qualities should these teams have?

We work with external law firms in more specific matters or in M&A or B&F transactions. We look for teams with high technical qualities and with the ability to provide practical and flexible solutions. We value availability and proactivity. The relationship with external lawyers is a relationship of trust and therefore we want them to be our partners in the different projects and matters in which they are involved. We want them to have the same common goal (to look after the best interests of Idealista), enhancing the value of legal advice.

### How do you manage online fraud and customer complaints at Idealista? Has this trend increased?

Yes, fraud and cyber-attacks have increased. At Idealista we have been fighting against fraud

on our platform for many years and it is one of our priorities. We want to give security and confidence to our customers and users. We have a multidisciplinary team dedicated exclusively to this issue.


### And you minimize the exposure to these risks by...

We have reinforced our registration system; we launch awareness campaigns among our clients (mainly real estate agencies) and users to alert about bad practices and we actively collaborate daily with the authorities to facilitate their work in identifying the people behind the fraud.

### How do you think the real estate sector will evolve with the rise of technology and AI?

AI is already a reality and is being applied in our industry as we speak. It is going to revolutionize real estate search and deal generation in our industry. Every player in the market will be affected. It is not coming to replace us, but we must work to successfully incorporate AI systems into our processes / services / uses.

### And AI can be seen in the Idealista portal?

Yes, and it allows us to offer, from now on, a better service to our customers and users (seekers). With AI we are improving property descriptions, selecting the best photos for ads, making a more accurate selection of properties for searches, and, in short, we improve the property search experience for the user and generate more qualified opportunities for advertisers. 

## Idealista

Founded in 2000, it is a real estate platform. In addition to the real estate classifieds portal, idealista has a portfolio of services such as: idealista/mortgages, idealista/tools, idealista/news, idealista/data, idealista/insurance, yaencontre, Inmovilla, Rentger, AvaiBook, Rentalia, Casa.it, Gestim, Miogest, Regold, HCPro and BDML.



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# The 3.7 million followers' attorney

***Iberian Lawyer* interviews Andrés Millán, the young lawyer, also known as Lawtips on social networks, who triumphs with "his little pills about law for everyone"**

**«People are interested in the videos, they learn from them and think... if they give us this for free, what will they give us by payin?»**

*Lawtips* started as a legal tricks corner on TikTok in February 2020. What started as a challenge to tell the news in the legal sector has become one of the benchmarks in social networks of law for "beginners". Combining his work and his studies, **Andrés Millán** is followed by more than 3.7 million people on social networks. A graduate in law and ADE, he works as a partner at Distrito Legal alongside Xavi Abat (@elabogadodetiktok), another legal expert who shares his passion for technology and the legal sector.

**How did you decide to combine your legal career with content creation on TikTok?**

I decided to combine my legal career with TikTok because I wanted to break the mental barrier of exposing myself on social networks and I thought... "it would be great to give little pills about law for everyone, as these are the rules of the game, we all play".

Of course, when I started, I was not at all an expert on law and I still not. I was still doing my master's degree in law.

**What motivated you to do it?**

My main goal was to divulge what I knew about law, in a simple way. What motivated me was to learn how to speak to the camera, get feedback and be enriched by the comments. To be able to apply it to my master's degree and see that along the way I could meet many content creators, entrepreneurs, lawyers, professors, and all kinds of personalities that I admire.

**And your long-term goal...**

My goal is to continue enjoying and providing value, both for free and with my business, and to help people better understand the legal-financial world.

**How would you define your work as a partner in Distrito Legal together with Xavi Abat? Since you both have a very large presence in RRSS.**

My work with Xavi in Distrito Legal is collaborative. Just as it happened to us with each other, we don't see other creators as competition, but as potential collaborators, who also help us to attract clients. Our strong presence on social media has allowed us to build a company that combines our skills and passions and monetizes our online influence. People are interested in the videos, they learn from them and think... if we get this for free, what will they give us by paying?

**You spend a lot of time researching...**

Yes, I consider that this effort allows me to be updated and constantly improve in my legal practice and in my role as a content creator and I also enjoy it very much. I love what I do and I'm always happy to dig deeper. All my channels feed back into each other.





## «There is always a risk of criticism when you expose yourself publicly, and I have been criticized, but I am not afraid»

### Does publishing these legal tips in any way promote your legal services at the firm?

Absolutely, in fact, it has been the key to our growth from zero to 20 employees and tens of thousands of clients in a year and a half. I am informing the audience and showcasing my expertise and knowledge in the area. This reinforces our brand and attracts potential clients looking for legal services. Providing value.

### At any point did you reconsider trying to work for a more traditional or perhaps larger law firm?

I considered the idea when I was in my internship, I worked in one of the best criminal law firms in Coruña and the truth is that I loved it, but it was not my style. I felt that they did not innovate enough and that it was too traditional.

### So, there is a lack of young talent?

In my opinion, the lack of young talent in traditional firms could be since the new generations are looking for more flexibility, innovation, and opportunities to combine their passions, as I did with SSR. I am motivated by being creative, working towards goals and having freedom (and responsibility).

### Are you afraid of having your professionalism questioned or feeling rejection within the industry?

There is always a risk of criticism when you expose yourself publicly, and I have been criticized, but I'm not afraid, in fact, it has helped me to mature and learn to give importance to people whose opinion I value and move on from destructive criticism.

### Have you received criticism in your legal practice because of your activity in TikTok?

I love constructive criticism and over time I have learned not to get angry or let destructive criticism affect my life (it's not easy). I don't

## Andrés Millán

Registered lawyer with more than 3.5 million followers on social networks, where he talks about legal news and finances. Known on social networks as @lawtips. He is graduated in Law and ADE and has three master's degrees (law, compliance and smartcontracts). He works as a certified Legal Project Manager and is a legal content disseminator, professor at "Despega en RRSS y monetiza tu marca" and lecturer at universities. Andrés is a partner of Distrito Legal law firm.

want to give anyone the power to offend me. As a phrase I love goes, "I don't know the key to success, but I do know that the key to failure is trying to please everyone."

### Would you stop practicing law to dedicate yourself entirely to being a creator of legal content in RRSS?

Both aspects feedback on each other. In social networks I can earn a lot of money doing collaborations with many brands, but that would detract from my credibility and freedom. Therefore, I prefer to have my own business, which drinks from my social networks and not depend on anyone. But well, in the future, who knows... maybe I'll just study and create content, or I'll stop creating content altogether... I don't know.

### Now, due to the evolution of technologies and AI, do you think there will be more and more impact of this in the legal world?

Definitely. There are too many robotic tasks that don't make sense for lawyers to do. I've used it myself. AI is not going to take anyone's job, but someone who knows how to use it will. So, I think we always must be willing to learn and use those tools to our advantage. 📱

Social Media	Followers
TikTok	2,4 M
Instagram	835 K
LinkedIn (Top Voice)	119 K

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# Forty40

UNDER

## Focus on the under 40

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More than half of the lawyers in the Iberian legal market are Under 40. Of these, the majority are women. KPMG Abogados is the firm that employs the youngest professionals. Ayuela Jiménez is the firm with the most partners under 40. And tax is the practice with the highest number of young people under 40

by julia gil

They are young lawyers; some are already partners and others lead an entire department. There is nothing that these professionals, who are likely to represent the next generation of Iberian legal market leaders, can't resist.

The result of LC Publishing Group's research shows a "colony" of Under 40 lawyers, active in many practices. In a sample of 56 law firms with 4,234 lawyers, 2,636 are not older than 40. More than half.

According to data collected by LC Publishing Group's research department, KPMG Abogados is the law firm that employs the youngest professionals in the Iberian legal market, with 618 lawyers under 40 out of 788 professionals in total (almost 80%). The tax practice is the one with the highest number of lawyers under 40 (404 lawyers). During this period, the firm has advised major companies on complex transactions and has received very positive recognition, both from the market and its competitors, despite its age. In second position in this study, we have Gómez-Acebo & Pombo with 204 out of 311 professionals (66% Under 40). The practice with the highest number of

professionals under 40 is corporate M&A (61 out of 204), where they advised important acquisition transactions to different clients from various sectors. In the top 5, KPMG Abogados and GA\_P are followed by Broseta Abogados (164 out of 229), PRA- Raposo, Sá Miranda & Associados (127 out of 175) and Abreu Advogados (103 out of 215).

Let's meet some of these young lawyers.

**Carlos Blanco Morillo** is a partner in the corporate practice, specializing in private equity, mergers and acquisitions (M&A) at Squire Patton Boggs. His track record includes important transactions for their strategic and economic value. His clients include international and domestic private equity funds.

**Madalena Bernardes Coelho** has been with Abreu Advogados since 2007, working mainly in the areas of public law and environmental law. She is considered a talent in the Iberian legal field, as evidenced by her recent promotion. During the last 12 months, she has worked with the most important companies in the market.

**Victoria Truchuelo**, a partner in Watson Farley

## LAWYERS UNDER 40

Law Firm	Professionals Under40	Total* prof.	% tprofessionals Under 40
KPMG Abogados	618	788	78%
Gómez-Acebo & Pombo	204	311	66%
Broseta Abogados	164	229	72%
PRA – Raposo, Sá Miranda & Associados	127	175	73%
Abreu Advogados	103	215	48%
Ambar Partners	96	309	31%
AGM Abogados	88	121	73%
CECA MAGÁN Abogados	83	132	63%
TELLES	82	129	64%
SRS Legal	67	132	51%
Antas da Cunha ECIJA	66	102	65%
CMS Portugal	63	106	59%
Cerejeira Namora, Marinho Falcão	62	74	84%

\* Including partners, counsel, associates and trainees. Reference period: between May 1, 2022, and April 31, 2023. Source: Iberian Lawyer

## TAX UNDER 40

Law Firm	Professionals Tax Under40	Total prof.	% Professionals Under 40
KPMG Abogados	404	516	78%
Broseta Abogados	37	50	74%
TODA & NEL-LO	14	17	82%
TELLES	12	19	63%
Ambar Partners	10	27	37%
PRA – Raposo, Sá Miranda & Associados	10	11	91%
Abreu Advogados	9	20	45%
CECA MAGÁN Abogados	7	12	58%
CTSU – Sociedade de Advogados	7	10	70%

Reference period: between May 1, 2022, and April 31, 2023. Source: Iberian Lawyer

& Williams' labor and social security practice, is noted for her advice to entrepreneurs and senior executives, particularly in relation to complex corporate acquisitions and cross-border transactions.

**Mónica de San Román** joined Pérez-Llorca in 2015 and was named partner in January 2021. She is an expert in banking and finance law.

**Rosa Espín**, co-CEO and co-founder of Ambar Partners, is leading some of the most disruptive projects in the legal field in the Iberian market. She is able to guide this alternative legal services provider through its consolidation in the market.

**Jorge Carmona** is counsel in the corporate area of Dentons' Madrid office, where he joined in 2019. He has participated in several M&A transactions of entities in various sectors, standing out for the multidisciplinary nature of the advice provided and the complexity of the process.

**Alfonso García-Freire** lawyer who stands out for his advice in the banking and financial field in crucial and relevant transactions due to their economic and strategic values. He works as counsel at White & Case Madrid.

**José Antonio Segovia** (Allen & Overy) specializes in labor law, with more than 9 years of experience in this field. He has particular experience in labor litigation, specializing in complex, collective and individual lawsuits.

**Pedro Silveira Borges**, contributed to the development and consolidation of the practice of Sérvulo & Associados; the professional participated in several complex transactions advising very important names in the energy sector obtaining remarkable results.

**Ignacio De La Fuente** specializes in mergers and acquisitions, private equity, restructurings, commercial contracts, and corporate law. He is a lawyer at Gómez-Acebo & Pombo and collaborates in technology, media, and telecommunications (TMT) transactions.

## FOCUS ON THE PARTNERS

When we talk about active partners in the Iberian Peninsula, Ayuela Jiménez is the firm with the highest number of partners under 40. The total of its partners, who are 5, are Under 40 (100%). In second place, we have KPMG Abogados with 7% of professionals under 40 (4 out of 54), and, in third place, PRA - Raposo, Sá Miranda &



## PARTNERS UNDER 40

Bufete	Socios Under40	Total socios	% socios Under 40
Ayuela Jiménez	5	5	100%
KPMG Abogados	4	54	7%
PRA – Raposo, Sá Miranda & Associados	4	24	17%
TELLES	4	25	16%
SPS Advogados	4	15	27%
Mariscal Abogados	4	5	80%
Abreu Advogados	3	69	4%
Servulo & Associados	3	34	9%
CCA Law Firm	3	13	23%
EJASO	3	37	8%
FILS LEGAL	3	6	50%
CCSL ADVOGADOS	3	5	60%
BELDA, BORDÓN & MERODIO	3	3	100%
CMS PORTUGAL	2	28	7%
SQUIRE PATTON BOGGS	2	16	13%

Reference period: between May 1, 2022, and April 31, 2023. Source: Iberian Lawyer

Associados, with 17% of partners Under 40 (4 out of 24 partners).

### THE FOCUS ON TAX

In 2022, the practice with the highest number of lawyers under 40 was corporate M&A, while this year, the practice with the most lawyers Under 40 is undoubtedly tax. According to certain studies M&A deals have registered a decrease since 2022. With the war in Ukraine, supply chain problems, macroeconomic volatility or the rise in interest rates, M&A activity has continued to be affected in the first months of 2023. This uncertainty may have had some impact on the recruitment or promotion of these young lawyers in the M&A practice, which is in second place this year.

Tax has 591 Under40 professionals while M&A has 371 young people under 40 in the Iberian legal market, according to this survey of 57 firms.

KPMG Abogados has a tax department comprising 516 professionals, 404 of whom (78%) are under 40. Its team is advising on transactions where the tax field is taking on the impact of fundamental changes in attitudes and approaches to taxation. They attach great importance to responsible tax planning that helps their clients to choose the most tax efficient options. Secondly, Broseta Abogados: 37 out of 50 professionals are under 40. Their team advises both nationally and internationally and from the point of view of direct and indirect taxation. They also stand out for their advice to large estates in banking and financial law. In third place is TODA & NEL-LO (14 out of 17 - 82%), followed by TELLES (12 out of 19 - 63%) and, in fifth place, Ambar Partners (10 out of 27 - 37%).

Special mention should be made of EY's tax team, which, over the last twelve months, handled transactions worth tens of millions

## MUJERES UNDER 40

Bufete	Mujeres Under40	Total profe.	% mujeres Under 40
KPMG Abogados	299	788	38%
Broseta Abogados	91	229	40%
PRA – Raposo, Sá Miranda & Asociados	86	175	49%
Gómez-Acebo & Pombo	80	311	26%
Abreu Advogados	63	215	29%
CECA MAGÁN Abogados	57	132	43%
TELLES	54	129	42%
SPS Advogados	53	78	68%
AGM Abogados	52	121	43%
SRS LEGAL	44	132	33%
AMBAR PARTNERS	41	309	13%
CCA LAW FIRM	40	70	57%
SÉRVULO & ASSOCIADOS	39	114	34%
ANTAS DA CUNHA ECIJA	39	102	38%
EVERSHED SUTHERLAND SPAIN	37	89	42%


Periodo de referencia: entre 1 de mayo de 2022 y el 31 de abril de 2023. Fuente: Iberian Lawyer

of euros. The professionals were able to handle multidisciplinary matters such as corporate taxation, international taxation, transaction tax, people advisory services, compliance, and reporting, among others, always focused on the client's needs. The success of the department was also due to the quality and experience of young lawyers such as **Silvia Alonso, Maria del Carmen Constante Quintanilla** and **Rafael Álvarez-Mendizábal Turmo**, all under 40 years of age.

### THE FOCUS ON WOMEN

Of the 2,636 lawyers under 40 in the entire Iberian legal market, 1,405 are women. More than half of them. A very promising figure. When we talk about partnership, the same trend that is seen at higher ages, can also be seen at younger

ages. There are very few female partners under 40 compared to the total number of professionals: 173 partners under 40 are in the legal market, of which only 66 are female partners.

KPMG Abogados is the firm with the highest number of female professionals under 40. Of its 788 professionals, 299 are women under 40 (38%). In second place, we have Broseta Abogados with 91 women Under 40 of its 229 professionals. In the top 5, KPMG and Broseta are followed by PRA-Raposo, Sá Miranda & Asociados with 49% of its professionals being women under 40 (86 out of 175), Gómez-Acebo & Pombo with 80 young women out of 311 professionals and, lastly, Abreu Advogados, with 215 professionals, 63 of whom are women Under 40. 



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# Whistleblowing directive

A new context

by mercedes galán

**«Reporting any wrongdoing may involve us in a moral conflict, but this should never outweigh our responsibility to escalate information that may save the company from a future economic and reputational problem»**

**Murray Grainger**

The effectiveness of these internal channels is key because if employees do not have a safe and effective way to report problems, the organisation could face legal consequences, penalties and reputational damage. Email does not guarantee the confidentiality of the report and therefore would not comply with current legislation, says **Murray Grainger**, country manager Spain and Portugal at EQS Group, who recommends integrating a digital whistleblowing channel as it provides an additional level of protection and builds greater trust among employees. This point should not be forgotten because "when an organisation lacks vigilance in investigating whistleblowing or creates an environment where employees fear retaliation for speaking out, it actually increases the risk that those individuals will choose to turn to external sources of whistleblowing or even the media", he concludes.

One aspect to highlight is that, in both channels, communications can be anonymous. The

The Whistleblower Protection Directive is an European legislation designed to provide a common framework for the protection of whistleblowers at EU level. In our legal system, it has been Law 2/2023, of 20 February, regulating the protection of persons who report regulatory infringements and the fight against corruption, which has transposed this directive. But the task has not been easy, as **Ignacio Esteban Ros**, partner in the employment department at Garrigues, argues, "the differences in treatment between the different legal regimes in the Member States have created difficulties in ensuring the consistent application of European law and in prosecuting infringements".



IGNACIO ESTEBAN ROS



**«The law typifies as a very serious offence, punishable by a sanction up to 1 million euros, the fact of violating the guarantees of confidentiality and anonymity provided in the Law»**

**Ignacio Esteban**

anonymity of the whistleblower is one of the fundamental pillars of a culture of ethics and transparency that should be promoted and guaranteed. But it is also true that the whistleblower has the right to know the status of the process and to have feedback from the company. "With digital whistleblowing channels it is possible to meet both conditions: confidentiality and feedback. In this way, the compliance officer, without knowing who the whistleblower is, can provide comments and responses that inform the person who has raised their voice", says Grainger.

## **ETHICS AND INFORMATION CULTURE**

This point brings us to the ethical side of whistleblowing as the decision to report is not always straightforward. Whistleblowers

often face ethical dilemmas in balancing their loyalty to the organisation and their moral duty to report wrongdoing. "The collective benefit must always be considered when taking the step. Reporting any wrongdoing may indeed involve a moral conflict, but this should never outweigh our responsibility to escalate information that can save the company from economic and reputational problems in the future" indicates Grainger.

The aim of both the directive and the law is to ensure that the complainant has the channels to make the corresponding complaint, feels free to do so and is sure to be protected. "The aim is to strengthen the information culture, the integrity infrastructures of organisations and the promotion of the information culture as a mechanism to prevent and detect threats to the public interest," says Esteban. In this sense, as Grainger tells us, "timely reporting can be key to avoiding a greater damage. In addition, if we combine reporting channels with AI algorithms, we can automate risk monitoring and analysis processes, allowing organisations to identify areas of vulnerability



MURRAY GRAINGER

and take preventive measures more efficiently". In line with this, fostering a culture of responsibility and ethical behaviour to reduce the need for whistleblowing should be a priority for companies. As Grainger noted, "it is very important that senior management trusts and promotes this type of culture and internal communication. There must be a person in charge of transmitting this so that the need to be ethical and transparent is proactively conveyed through training and activities. Creating policies to prevent retaliation against whistleblowers also helps to promote this culture so that the professionals will not feel guilty about whistleblowing and will be confident that there will be no retaliation".

## IS IT ENOUGH?

"As with all new legislation, it generates doubts as to its application that will have to be answered by our courts". But it is worth noting that, for the first time, the law obliges companies to implement an internal whistleblower channel. In addition, "an external whistleblowing channel is created, which will be managed by a new independent administrative authority, called the Independent Whistleblower Protection Authority," Esteban points out. Grainger also considers this law to be a milestone in the compliance industry "as it obliges companies to set up internal reporting systems so that individuals can report practices they consider criminal in a secure manner and guarantee the confidentiality of their identity". Such laws, Grainger adds, "are necessary to prevent corporate scandals, corruption and abuses of power. Likewise, when individuals are encouraged to report such behaviour, it establishes an environment where accountability and integrity are core values".

## IMPLEMENTATION AND CHALLENGES

"Companies with more than 250 professionals have had until 13 June and

now it is the turn of companies with less than 250 employees, which have until 1 December to implement it", explains Grainger. In his experience, digital whistleblowing channels have been well received by Spanish companies who can find help and advice from their regulatory solution providers and install a digital whistleblowing channel to make the process much simpler.

A relevant issue is the protection of privacy. Preserving the confidentiality of the whistleblower's identity is an essential pillar of the law and is ensured by allowing anonymous reporting. As Esteban confirms, "the law classifies as a very serious offence, punishable by a sanction up to 1 million euros, the fact of violating the guarantees of confidentiality and anonymity provided for in the law".

Another point is how cross-jurisdictional collaboration is being implemented and how companies have been adapting to the new regulations. In general, companies and organisations that are larger in terms of number of employees and turnover already had a whistleblowing channel. "In these cases, what is needed is to adapt the existing tool. In contrast, many smaller companies and organisations that had no complaints channel or reporting mechanism have had to start from scratch" explains Esteban.

## THE ROLE OF THE CONSULTANT

Esteban confirms that "the role of legal advice in this area is key. The new regulation has been a challenge for private entities, which have invested a great deal of effort and resources. And that, in part, has been due to the short timeframe that the law has allowed for its implementation". As he emphasises, "despite the many virtues of the Law, it suffers from some inaccuracies and grey areas subject to different interpretations, which makes it difficult for companies in our country to implement the Law in the best possible way".

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THE GLOBAL EVENT FOR THE FINANCE COMMUNITY

FOUR SEASONS HOTEL • VIA GESÙ 6/8 • MILAN



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# Financecommunity Week 2023 – Program (in progress)

■ Open with registration ■ Invitation only

MONDAY 13 NOVEMBER					Language	
09:00 - 13:00	■	<b>Opening Conference</b> Action plan for the Italian economy		Four Seasons Hotel Milan Via Gesù 6/8, Milan		<a href="#">REGISTER</a>
13:00  Light Lunch						
14:00 - 16:00	■	<b>Roundtable</b> Airports and Energy Transition: Challenges and Perspectives		Four Seasons Hotel Milan Via Gesù 6/8, Milan		<a href="#">REGISTER</a>
16:00 - 18:00	■	<b>Roundtable</b> 2023 Tax Reform (DELEGA FISCALE): a business perspective		Four Seasons Hotel Milan Via Gesù 6/8, Milan		<a href="#">REGISTER</a>
TUESDAY 14 NOVEMBER						
09:00 - 13:00	■	<b>Double Session Conference</b> • Foreign Investments in Italy • Litigation Funding		Four Seasons Hotel Milan Via Gesù 6/8, Milan		<a href="#">REGISTER</a>
09:15 - 11:15	■	<b>Roundtable</b> Leadership & Transformation		Four Seasons Hotel Milan Via Gesù 6/8, Milan		<a href="#">REGISTER</a>
13:00  Light Lunch						
14:00 - 16:00	■	<b>Roundtable</b> P.E.SG - Private Equity & ESG		Four Seasons Hotel Milan Via Gesù 6/8, Milan		<a href="#">REGISTER</a>
16:00 - 18:00	■	<b>Roundtable</b> How financial sponsors can create value in a challenging macroeconomic environment. Focus on margins and operational improvement		Four Seasons Hotel Milan Via Gesù 6/8, Milan		<a href="#">REGISTER</a>
WEDNESDAY 15 NOVEMBER						
09:30 - 13:00	■	<b>Conference</b> Sustainable finance in real estate projects		Four Seasons Hotel Milan Via Gesù 6/8, Milan		<a href="#">REGISTER</a>
11:00 - 13:00	■	<b>Roundtable</b> Family business: corporate structure & governance to access risk capital		Four Seasons Hotel Milan Via Gesù 6/8, Milan		<a href="#">REGISTER</a>
13:00  Light Lunch						
14:00 - 16:00	■	<b>Roundtable</b> Private clients: the toolbox for generational transitions		Four Seasons Hotel Milan Via Gesù 6/8, Milan		<a href="#">REGISTER</a>
16:15 - 18:00	■	<b>Roundtable</b> The importance of supply chain analysis in M&A transactions		Four Seasons Hotel Milan Via Gesù 6/8, Milan		<a href="#">REGISTER</a>
THURSDAY 16 NOVEMBER						
09:00 - 13:00	■	<b>Conference</b> Private Equity		Four Seasons Hotel Milan Via Gesù 6/8, Milan		<a href="#">REGISTER</a>
13:00  Light Lunch						
14:00 - 16:00	■	<b>Roundtable</b> Business Value in restructuring: challenges and opportunities under the new insolvency code		Four Seasons Hotel Milan Via Gesù 6/8, Milan		<a href="#">REGISTER</a>
19:15 - 23:00	■	<b>Financecommunity Awards</b>		Palazzo Del Ghiaccio Via Giovanni Battista Piranesi, 14   Milan		<a href="#">FOR INFO</a>



OPENING CONFERENCE

# ACTION PLAN FOR THE ITALIAN ECONOMY

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**13 NOVEMBER**  
**09.00 - 13.00**

LUNCH TO FOLLOW

Event to be held in 

**FOUR SEASONS HOTEL**  
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## PROGRAM

- 8.45** Check-In and Welcome Coffee
- 9.15** Greetings  
**Aldo Scaringella**, CEO, **LC Publishing Group**  
**Emmanuel Conte**, Councillor for Budget and Real Estate, **Municipality of Milan**
- 9.25** Introduction  
**Nicola Di Molfetta**, Editor-in-Chief, **Financecommunity & MAG**
- 9.35** Welcome Speech  
**Fabrizio Pagani**, Senior Advisor, **Vitale & Co.**  
Professor, SciencesPo Paris, Former G20 Sherpa
- 9.50** Keynote Speech  
**Federico Freni**, Under Secretary of State, **Italian Ministry of Economy and Finance**
- 10:00** Session I **"Economic Growth Financing and Interest Rates"**  
**Gregorio Consoli**, Managing Partner, **Chiomenti**  
**Giovanna Della Posta**, CEO, **Invimit Sgr**  
**Fabio Innocenzi**, CEO, **Banca Finint**  
**Alessandra Ricci**, CEO, **SACE**  
**Anna Tavano**, Co-head of Global Banking Continental Europe and Head of Wholesale Banking Italy, **HSBC**
- MODERATOR**  
**Eleonora Fraschini**, Journalist, **Financecommunity.it**
- 11.15** Coffee Break
- 11.45** Session II **"Business Growth in the Current Economic Context"**  
**Orlando Barucci**, Managing Partner, **Vitale & Co.**  
**Pietro Labriola**, CEO & General Manager, **TIM**  
**Patrizia Micucci**, Managing Director, **Neuberger Berman**
- MODERATOR**  
**Eleonora Fraschini**, Journalist, **Financecommunity.it**
- 12:30** One-to-One Talks  
**Francesco Canzonieri**, CEO and Chairman of the Investment & ESG Committees, **Nextalia SGR**  
**Eleonora Fraschini**, Journalist, **Financecommunity.it**
- 12.50** Closing Remarks
- 13:00** Light Lunch

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ROUNDTABLE

# AIRPORTS AND ENERGY TRANSITION: CHALLENGES AND PERSPECTIVES

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SPEAKERS\*

**Gonzalo Acha**, European Head of Structured Finance Infrastructure, *Santander*

**Andrea Andorno**, CEO, *SAGAT Aeroporto di Torino*

**Pietro Caldaroni**, Head of Communication and Institutional Relations *ITA Airways*

**Elisabetta de Bernardi**, Investment Director Airports & Mobility Services, *Mundys*

**Jorge Gil**, Global Head of Infrastructure, *Santander*

**Alessandro Sabbini**, Responsible of Institutional Relations, *Enilive*

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**Julia Gil**, Journalist, *FinancecommunityES*

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ROUNDTABLE

# 2023 TAX REFORM (DELEGA FISCALE): A BUSINESS PERSPECTIVE

## OPPORTUNITIES AND CHALLENGES FOR CORPORATES, BANKS AND FUNDS

### SPEAKERS

**Diamara Agostinelli**, Head of Tax, *Renantis S.p.A.*

**Laura Greco**, Head of Tax, *Vodafone*

**Andrea Papi**, Head of Tax, *Generali Investments*

**Silvia Sardi**, Group Tax Director, *Ariston Thermo Group*

**Giuseppe Zingaro**, Head of Group Tax Affairs, *UniCredit*

### MODERATOR

**Roberto Egori**, Partner and Head of Tax, *Linklaters Italy*

**13 NOVEMBER**  
**16.00 - 18.00**

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14 NOVEMBER  
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## DOUBLE SESSION CONFERENCE

### PROGRAM

09:00 Check-In and Welcome Coffee

09:30 Keynote Speech

**Luigi A. Bianchi**, Full Professor of Corporate Law, *Bocconi University*  
Partner, *Gatti Pavesi Bianchi Ludovici*

09:45 Session I

#### • "FOREIGN INVESTMENTS IN ITALY: PROTECTIONISM VS. PROTAGONISM"

**Claudio Berretti**, General Manager, *Tamburi Investment Partners*

**Simone Crolla**, Managing Director, *American Chamber of Commerce Italy*

**Paolo Ludovici**, Partner, *Gatti Pavesi Bianchi Ludovici*

**Natacha Minniti**, Managing Director, Head of 23 Wall for EMEA, APAC & LATAM, *JP Morgan*

**Francesco Moccagatta**, Italy Chief Executive, *DC Advisory*

**Alberto Ponti**, Senior Partner, Head of Strategy and Business Development, *F2i*

#### MODERATOR

**Stefano Grassani**, Partner, *Gatti Pavesi Bianchi Ludovici*

11:15 Coffee Break

11:30 Session II

#### • "LITIGATION FUNDING"

**Maurizio Dallochio**, Full Professor of Corporate Finance, *SDA and Bocconi University*

**Genta Hysi**, Managing Director - Head of M&A and Transaction Solutions Southern Europe, *AON*

**Barbara Napolitano**, Partner, *Gatti Pavesi Bianchi Ludovici*

**Paolo Nicoletti**, Founder and CEO, *BE CAUSE SICAF*

**Carlo Pavesi**, Partner, *Gatti Pavesi Bianchi Ludovici*

#### MODERATOR

**Paolo Ludovici**, Partner, *Gatti Pavesi Bianchi Ludovici*

13:00 Light Lunch

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# LEADERSHIP & TRANSFORMATION

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## SPEAKERS

**Tommaso Arenare**, Egon Zehnder

**Silvia Bassani**, Bank of America

**Claudio Morpurgo**, Morpurgo e Associati

**Karen Nahum**, Gruppo 24 ORE

**Carmine Perna**, Mondadori Retail

**Giulia Poli**, Amazon Ads

## MODERATOR

**Michela Cannovale**, Journalist, *Financecommunity.it*

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# P.E.SG PRIVATE EQUITY & ESG

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SPEAKERS\*

**Sabrina Cirillo**, ESG Director, *FSI*

**Carlo Mammola**, Chairman, *Montefiore Investment*

**Tommaso Paoli**, CEO, *NUO Capital*

MODERATOR

**Luca Arnaboldi**, *Carnelutti Law Firm*

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ROUNDTABLE

# HOW FINANCIAL SPONSORS CAN CREATE VALUE IN A CHALLENGING MACROECONOMIC ENVIRONMENT

## FOCUS ON MARGINS AND OPERATIONAL IMPROVEMENT

SPEAKERS

**Valentina Canalini**, Partner, *Gatti Pavesi Bianchi Ludovici*

**Mara Caverni**, Founder & Managing Partner, *New Deal Advisors*

**Eugenio de Blasio**, Founder & CEO, *Green Arrow Capital*

**Andrea Foti**, Managing Director, EMEA Chief Commercial Officer – M&A  
and Transaction Solutions, *Aon*

**Stefano Malagoli**, Partner, *Silver Economy Fund – Quadrivio Group*

**Claudio Scardovi**, Equity Partner, MDM M&A and Private Equity, *Deloitte Financial Advisory*

MODERATOR

**Eleonora Fraschini**, Journalist, *Financecommunity.it*

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# SUSTAINABLE FINANCE IN REAL ESTATE PROJECTS

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**15 NOVEMBER**  
**09.30 - 13.00**

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ROUNDTABLE

# FAMILY BUSINESS: CORPORATE STRUCTURE & GOVERNANCE TO ACCESS RISK CAPITAL

## SPEAKERS

**Carolina Avanzini**, Multipliers & Partners Manager, *Elite*

**Roberta Laveneziana**, Listing Account Manager Mid&Small Caps, *Borsa Italiana*

**Francesco Nobili**, Partner, *Biscozzi Nobili Piazza*

**Roberta Pierantoni**, Partner, *Biscozzi Nobili Piazza*

**Mario Sabelli**, CFO, *ACBC*

## MODERATOR

**Letizia Ceriani**, Journalist, *Financecommunity.it*



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ROUNDTABLE

# PRIVATE CLIENTS: THE TOOLBOX FOR GENERATIONAL TRANSITIONS

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## SPEAKERS

**Claudio Berretti**, General Manager, *Tamburi Investment Partners*

**Ignazio Castiglioni**, Co-Founder and CEO, *HAT SGR*

**Alfredo Craca**, Co-Managing Partner, *Fivelex*

**Francesco Di Carlo**, Co-Managing Partner, *Fivelex*

**Angela Gamba**, Family Officer

**Alessandra Losito**, Head of Wealth Management Italy, *Pictet*

**Francesco Mantegazza**, Co-Managing Partner, *Fivelex*

**Angelo Viganò**, Private Banking Head, *Mediobanca*

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# THE IMPORTANCE OF SUPPLY CHAIN ANALYSIS IN M&A TRANSACTIONS

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## SPEAKERS

**Silvia Baroffio**, Principal, *Accuracy*

**Alessandro Catelli**, Sustainability Risk & Compliance Director, *Arcese Group*

**Edoardo Disetti**, Legal Director Head of M&A and Corporate Transactions

*MSC Mediterranean Shipping Company*

**Roberto Ippolito**, Partner, *Clessidra Capital Credit SGR*

**Elisa Liberale**, Head of Legal, *Microsoft Italy*

**Davide Palazzo**, Senior Manager, *Accuracy*

**Matteo Pozzi**, Partner, *Studio Legale Isolabella*

## MODERATOR

**Michela Cannovale**, Journalist, *Financecommunity.it*

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# PRIVATE EQUITY

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9.00 Check-In and Welcome Coffee

9.30 Greetings

**Aldo Scaringella**, CEO, **LC Publishing Group**

9.35 Welcome Message

**Filippo Troisi**, Senior Partner, **Legance**

9.45 Session I

**Mauro Moretti**, Founder & Chairman of the Investment Committee, **Three Hills**

**Valentina Pippolo**, Partner and Head of Italy, **BU**

**Lorenzo Stanca**, Managing Partner, **MCP**

**Laura Li Donni**, Senior Counsel, **Legance**

**MODERATOR**

**Nicola Di Molfetta**, Editor-in-Chief, **Financecommunity & MAG**

10.45 Coffee Break

11.15 Session II

**Stefano Bontempelli**, Co-Founder and Senior Partner, **NB Renaissance**

**Francesco Casiraghi**, Partner & Head of Italy, **Advent International**

**Simone Cavalieri**, Partner & Head of Italy, **PAI Partners Flagship Funds**

**Gabriele Cipparrone**, Partner, **Apax**

**Renato Pizzolla**, Investment Director, **IFM Investors**

**Andrea Valeri**, Senior Managing Director & Chairman, **Blackstone Italy**

**Francesco Florio**, Partner, **Legance**

**MODERATOR**

**Eleonora Frascini**, Journalist, **Financecommunity.it**

12.50 Closing Remarks

13.00 Light Lunch

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# RESTRUCTURING

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ROUNDTABLE

## BUSINESS VALUE IN RESTRUCTURING: CHALLENGES AND OPPORTUNITIES UNDER THE NEW INSOLVENCY CODE

16 NOVEMBER  
14.00 - 16.00

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### SPEAKERS

**Federico Bonanni**, Partner, Head of Restructuring, *KPMG Advisory*

**Alessandra Giovetti**, Partner, *Pedersoli*

**Csaba Davide Jákó**, Partner, *Pedersoli*

**Maura Magioncalda**, Partner, *Pedersoli*

**Vincenzo Manganelli**, Managing Director, *DeA Capital Alternative Funds SGR*

**Paolo Rinaldi**, Partner & Managing Director, *AlixPartners*

### MODERATOR

**Giuseppe Salemme**, Journalist, *Financecommunity.it*



# The great challenge of Cyber Security

Technology and legislation

by mercedes galán



## «We have a Criminal Law anchored in the 19th century with criminals who operate freely with 21st century technology»

Cybercrime in Spain has increased both in number and sophistication. These crimes cover a wide range of activities, from data theft and online fraud to cyberbullying and cyber attacks. Cybersecurity and cybercrime are dynamic and challenging legal areas that require a thorough understanding of technology, law and data protection. The role of the lawyer is essential to investigate and prosecute cybercrime, protect victims' rights and assist in preventing future incidents.

*Iberian Lawyer* spoke with **Juan Gonzalo Ospina**, a graduate in law and political science, and a great believer in continuous training as proven by his experience at the most renowned international universities such as IESE and Harvard Law School, where he has studied different programmes. Since 2016 he is leading his own firm, a boutique criminal law firm, Ospina Abogados. A lecturer and author of several books, Ospina is involved in different institutions such as the Asociación de Jóvenes Abogados en Movimiento, of which he is a founder, or the Agrupación de Jóvenes Abogados.

### How did you come to specialise in the field of cybercrime?

The variety of cyber crimes depends on the imagination and creativity of the offenders. As a lawyer specialised in economic criminal law, I have mainly come across cases linked to the use of new technologies. We cannot forget that crime runs faster than justice and, unfortunately, we have a Criminal Law anchored in the 19th century with criminals who operate freely with 21st century technology. This, combined with the globalisation of criminality, inspired me to train in these

technological elements and apply them to the use of law.

### This is a constantly evolving field. What are the most common legal challenges faced by victims of cybercrime and how can they be addressed?

Identify when an accusation is not well-founded. We continue to have erroneous allegations as many investigations stick to basic and rudimentary evidence, forgetting that cybercriminals easily trick several people to achieve their goal: to defraud, cheat and get the money. If cybercrime has one characteristic, it is that the criminal is not always who we think he is. It is necessary to follow the trail of breadcrumbs.

For example, if a criminal uses my home wifi network to distribute paedophile content, it will be assumed that whoever is paying the bill for that IP is the culprit. However, they may be another victim in the process and not even be aware of what was going on.

### Surely taking swift action to preserve digital evidence before it is lost or altered is essential. Does being quick to act make a difference?

In criminal law, being quick is a plus, but it is true that in cybercrime, evidence disappears more quickly. Therefore, it is essential to promote awareness of whistleblowing so that the injured parties are encouraged to testify and provide as much information as possible to facilitate the final stages of the investigation. My advice, given the complexity of aspects that are often unknown to the whistleblowers themselves, is that they



JUAN GONZALO OSPINA



## «The expertise and knowledge of the criminal lawyer handling the case, whether as a private prosecutor or as a defence, will be decisive»

should report with the assistance of a lawyer specialised in cybercrime to increase their chances of success.

### **Cybersecurity is a very important issue, what other advices would you give to individuals to protect themselves against cybercrime?**

Beyond the repetitive advice that we must continue to insist on, such as not sending confidential data by email, SMS or telephone or not sharing passwords with anyone and using one for each service and application... the most important thing is to use common sense, not to be guided by impulses, to think that criminals are professionals who dedicate many hours to developing their strategies, and to act on the Internet as prudently as they would on the street. Cybercriminals use different methods and tools such as 'phishing', 'vishing', 'ransomware', 'malware', among others, with the aim of stealing personal or private information to carry out fraudulent or deceitful actions, knowing these strategies will help us to avoid becoming victims.

### **Cybercrime has a significant impact on businesses, from data loss and business interruption to reputational damage. How can lawyers help manage these risks so that they can respond effectively to incidents?**

In this case, the role of cybercrime lawyers is dual. We can articulate and manage the prosecution of the affected company against the cybercriminals, analysing the consequences, calculating the compensation for the damage caused or managing the damage to their honour. We can also minimise the damage that the attack may cause to the company or, more commonly, assist those accused or arrested for these alleged acts.

### **Cyberspace is cross-border. What is the role of legislation and regulation in the fight against cybercrime, and how effective are they?**


We should not be afraid of a space as common as the Internet, but neither should we ignore the fact that the Net has become a favourable

ecosystem for committing crimes, slandering, libelling, insulting, damaging people's image or spreading falsehoods. All within the limits of freedom of expression and protected, in many cases, by the anonymity provided by cyberspace. The channels and ways of committing crimes online are evolving very quickly. It is complex to legislate in parallel, but we must consider that we are already years behind in this task and this gives cybercriminals an advantage. In any case, the expertise and knowledge of the criminal lawyer handling the case, whether as a private prosecutor or as a defence, will be decisive.

### **Can you share an example of a case you have worked on and how it was resolved?**

A few days ago we travelled to Paris to attend the testimony of an alleged Spanish hacker accused of assaulting companies on French soil and then asking them for ransom in order to recover the data. These assaults, according to the police investigation, are said to have caused more than 2 million euros worth of damage. A European arrest warrant was issued against our client. Our firm succeeded in having the warrant withdrawn, leaving our client free. The case is not yet closed, but it is a good example of the internationalisation of economic crimes that generate synergy with cybercrime and cybersecurity.

### **You are the author of the handbook "The Leading Lawyer". What recommendations would you give to someone considering a career in cybercrime law?**

Cybercrime is not the future, it is the present, and in the future it will continue to evolve to levels that are difficult to understand today. Hyper-specialisation in law and criminal law is necessary for those who want to be among the best lawyers in cybercrime. It is, without a doubt, a projection with great career opportunities that generates great challenges for the profession and the justice system. 

# Expert Opinion .....



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# A Spanishman in New York

**Xavier Ruiz is the founder of RC Law, a boutique that started in 2017 with offices in New York and Miami. The lawyer grew up and studied in Barcelona and has had a fledgling career in the US since the 1980s.**

by michael heron

*"You hear it in my accent when I talk, I'm an Englishman in New York."* This is the famous lyric from Sting to describe his experience of being a foreigner spending time in the US. Xavier Ruiz, founding partner of RC Law, is no stranger to the States, however, having practiced in New York for over 20 years in some of the world's leading law firms. His time in the US market has included at firms such as Baker McKenzie, K&L Gates and Holland & Knight. Since founding his boutique in January 2017, the firm has grown from strength to strength, with recent clients including ACS, Telxius (Telefonica), Wallbox, Desigual, Grupo Eulen, Planeta, Insudpharma, Falabella and Chopard.

The story of Xavier Ruiz is a fascinating one. The lawyer grew up in Barcelona and graduated from law school at the Universitat de Barcelona. Xavier admits that while he loved his time in Barcelona, and is very proud of his origins, 1985 was a turning point in his career. He had the opportunity to attend the University of California, Berkeley - School of law, as a Fulbright Scholar. "Initially I did not consider staying in the United States because I knew that when I finished my LLM I would

have to return to Spain. I worked at Baker McKenzie in San Francisco and then Chicago during the year and a half of internships."

Ruiz returned to Barcelona and continued with Baker. He then had the opportunity to move to the Buenos Aires office in 1994, a long time ago Xavier admits: "In 1994 I was in my early 30s, I went to Buenos Aires for three years and that's when Baker offered me the opportunity to be a non-equity partner in the New York office." The rest is history as they say. Ruiz went to New York, passed the bar and stayed. "I had never lived in New York, because I started in California and the Baker headquarters were in a small town, but then I stayed in New York for many years until I founded my own firm."

After 15 years at Baker, Xavier was a partner at McDermott Will & Emery, Garrigues New York, K&L Gates and Holland & Knight. In 2017, he took the decision to start his own practice, with just two lawyers. Now they are 12 and





are heavily focused on M&A and Real Estate. He admits that the journey has been a success and notably with attracting talent, younger lawyers benefit from the exposure that they wouldn't easily achieve at a big firm, something that Ruiz understands from his own experience. "Young lawyers arrive with us and are immediately in contact with the client, it is not by design, it is by necessity."

RC Law's primary source of work is inbound from Spain, mainly multinationals investing in the US and Latin America. "80% of our clients come from Spain", says Ruiz. He confirmed that they receive a lot of referral work from Spanish law firms who need assistance with their clients and that for cultural and business reasons, they often feel more comfortable working with his firm and entrusting their clients in his hands. "We are American and Spanish lawyers at the same time."

Ruiz admits that given the interest of Spanish firms to open offices in the US, they have had interest and merger offers. But Xavier reached the conclusion a long time ago, that he wants the firm to remain independent. "I am going to maintain our independence. Several Spanish firms have approached me to be their firm in the United States since we opened."

The firm reached a landmark achievement earlier this year, managing to get ranked in a prestigious legal directory among some of the biggest firms in the US. Ruiz admits this was a proud moment, and all the years of hard work felt like they had paid off. "For us it was a great moment. To be recognised among the best in the US was something important for our firm. We didn't just want to be respected by the Spanish firms abroad, we really wanted the local US market to see us as a key emerging player." Perhaps the American dream is more real than we realise. Xavier Ruiz has certainly proven that. 

## Xavier Ruiz

Xavier Ruiz is the founder of RC Law LLP, a transactional boutique operating since 2017 in Miami and New York. Xavier's practice focuses in cross-border corporate transactions (including M&A, private equity and venture capital). He is admitted in New York and Spain. Prior to RC Law LLP, Xavier practiced in New York for over 20 years in some of the world's leading law firms, including Baker & McKenzie, K&L Gates and Holland & Knight. Xavier is a graduate of the University of Barcelona (1982), holds a Master in International and Comparative Law from the Free University of Brussels (1986, Cum Laude), and an LLM degree from the University of California at Berkeley (Fulbright Scholar 1987, With Honors). Recent clients include ACS, Telxius (Telefonica), Wallbox, Desigual, Grupo Eulen, Planeta, Insudpharma, Falabella and Chopard.



# Expert Opinion

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TERESA MÍNGUEZ

# The European legal elite meets in Madrid

The first European Union Law Summit will be held on the 16th and 17th of November, at the Royal Collections Gallery

The first European Union Law Summit, jointly organized by the Madrid Bar Association and the Legal Service of the European Commission, will be held on the 16th and 17th of November, at the Royal Collections Gallery of Madrid, recently open to the public. The summit is conceived as a high-level open and participatory meeting for legal professionals, coinciding with the fifth Spanish Presidency of the Council of the EU.

The summit will address the main challenges to be faced by the 27 EU Member States in the medium and long term, such as the European Green Deal, the EU Artificial Intelligence Act, the EU's relationship with Latin America, the state of the Rule of Law in the EU, and the European Pact on Migration and Asylum, among many others. The European Union's Economic Security Strategy or the current state of media freedom will also be analysed.

This EU Law Summit is the first of its kind to be held by the Madrid Bar Association and it brings the opportunity to make an initial assessment of the Spanish Presidency of the Council of the EU. "It will be a unique and benchmark event, as demonstrated by the high level of institutional support achieved, with H.M. King Felipe VI presiding over the Summit's Honorary Committee", says to Iberian Lawyer **Teresa**

**Mínguez.** Being media partner of the event, Iberian Lawyer interviewed deputy member and responsible for international relations at the Madrid Bar Association and co-president of the organizing committee of the summit.

Why did you organize the EU Law Summit? Spain, which this semester is presiding over the Council of the EU for the fifth time in history, has a historic opportunity to lead Europe at a crucial moment. That is why the Madrid Bar Association, the largest Bar Association in Europe, wants to be at its side to tackle the challenges that we face as Europeans, and to ensure our understanding of the rule of law. The EU Law Summit aims to promote the rule of law as one of the pillars and strengths of the European Union as a political and legal association, an institution that must continue to be built, addressing new challenges and undertaking concrete actions to ensure prosperity in Europe. It also falls on the occasion of two historical milestones that further enhance its significance: the 75th anniversary of the Universal Declaration of Human Rights and the 70th anniversary of the European Commission's Legal Service.





### What are its main goals of the event?

The ultimate goal is to present and address the normative and policy challenges that the EU faces as an international organization to guarantee our understanding of the Rule of Law. Therefore, the objectives of the EU Law Summit include: bringing European law closer to legal professionals from a cross-cutting perspective; promoting knowledge of EU law as a fundamental core of the structure of the European Union; disseminating its influence and regulatory impact in our country; and addressing the main challenges facing the European Union in the medium and long term, including digitalization, climate change and migratory movements.

### What are the highlights of the programme?

There is an extensive programme of institutional events, a total of 18 panels of experts, and various meetings with national and international authorities, as well as the opening and closing plenary sessions, which will focus on Europe's leadership in 21st-century society and the priorities of the Europe of the future, respectively. The two days of the European Union Law Summit will be held in the recently inaugurated Royal Collections Gallery, one of the most important museum

projects of recent decades in Spain, which has an auditorium with a capacity for 250 people.

### Several guests of national and international relevance are attending the event...

The Honorary Committee of the European Union Law Summit is presided over by H.M King Felipe VI and integrated by highly relevant figures such as the President of the Government of Spain, Pedro Sánchez; the President of the Spanish Constitutional Court, Cándido Conde-Pumpido; the President of the General Council of the Judiciary, Vicente Guilarte; the Vice-President of the European Commission, Margaritis Schinas; the President of the Council of the State, Magdalena Valerio; the Mayor of Madrid, José Luis Martínez Almeida; or the Attorney General of the State, Álvaro García Ortiz, among others.

### Who are the speakers?

Over 100 international experts will participate in the two days of the Summit. The opening session will feature speeches by Margaritis Schinas, Vice-President of the European Commission responsible for Promoting our European Way of Life; Daniel Calleja, Director-General of the European Commission's Legal Service; Lourdes Arastey, judge at the Court of



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Justice of the European Union (CJEU); Adrian Vázquez Lázara, President of the European Parliament's Legal Service Committee; and María Lledó, Secretary General for the European Union at the Ministry of Foreign Affairs, European Union and Cooperation. The closing plenary will also feature speeches by José Manuel Albares, Minister of Foreign Affairs, European Union and Cooperation; Cani Fernández, President of the National Commission for Markets and Competition; and Teresa Mínguez, Member of the Madrid Bar Association's Governing Board responsible for International Affairs and co-chair of the Summit, together with the President of the Madrid Bar Association, Eugenio Ribón, and the Director-General of the European Commission's Legal Service, Daniel Calleja.

### **Why does event like these are important for the legal community?**

We must be aware of the importance that the EU Law has in the daily lives of citizens, which has a direct impact on the lives of all of us. Therefore, knowing and ensuring the correct application of EU law, to ensure that citizens and businesses can enjoy the same rights throughout the EU is a priority for all of us. Especially for professionals. In addition to the institutional events, expert panels, and meetings with authorities, the EU International Law Summit has a social and cultural agenda for those attending and those accompanying them. They will be able to enjoy a Gala Dinner, as well as the

facilities of the Royal Collections Gallery, which includes a temporary exhibition hall and one of the most modern and extensive warehouses of cultural goods in Europe. In addition, to facilitate attendance by all sectors of the legal profession, the ICAM has established discounts for young lawyers and for lawyers on the legal aid service. Likewise, telematic online streaming will be available at a very low cost. 





# "The biggest challenge is to maintain the daily effort and learning that it requires"

In a world as competitive as the investment world, Carlos Santiso, senior investment fund manager at Andbank Wealth Management and educational director of VIBE, is clear that the most important ingredient, to be a financial expert, is to receive training from specialists in the field and 100% linked to the investment world

by julia gil



«Only by knowing how to interpret analysis differently is it possible to make a difference»

### What qualities are essential for a financial expert?

Passion is undoubtedly the most important ingredient. Being an investor is much more boring than it looks from the outside, unless company analysis is a passion; in that case, you will have a great advantage over the rest. And you also need to be able to read between the lines. We cannot forget that the investment world is one of the most competitive, and only by knowing how to interpret analysis differently can you make a difference.

### Could you identify any current opportunities in the financial market that you consider particularly attractive to investors?


Currently, our view of the market and the economy is pessimistic, so it is important to be cautious when investing. Where we find the greatest opportunity is in small companies or small caps.

### Why?

These types of companies have suffered much more than the large ones and the important thing is that, over the long term, they tend to generate considerably higher returns.

According to a study conducted by Deloitte called "Global Financial Talent", 39% of executives admit to having difficulty finding qualified personnel in the financial sector. This trend, which has been growing in recent years and which is increasing with the lack of more specific training centers, led to the birth in 2023 of VIBE (Value Investing Business Education), a new brand of Northius, a leading educational group in specialized training. With the idea of training financial experts, this educational center presented its Master in Value Investing and Financial Markets. Iberian Lawyer spoke with **Carlos Santiso**, educational director of VIBE, an economist who manages two investment funds, a hedge fund and a pension fund at Andbank Wealth Management and previously, as a student, number 2 of the XXIV Promotion of the Master in Stock Exchange and Financial Markets at the IEB.

## CARLOS SANTISO

Economista que actualmente gestiona dos fondos de inversión, un hedge fund y un fondo de pensiones en Andbank Wealth Management, estando entre los proyectos independientes de mayor ritmo de crecimiento en 2021 y 2022. Ha sido director de inversiones en un importante grupo de empresas (con facturación de 400M) y relevantes family offices y es el nº2 de la XXIV Promoción del Master en Bolsa y Mercados Financieros en el IEB. Actualmente, también es el director educativo del nuevo centro formativo de finanzas de Northius, VIBE. 



**«Currently, our vision of the market and the economy is pessimistic, so it is important to be cautious when it comes to investing»**

**What do you consider to be the biggest challenges in the mutual fund industry and how do you prepare to face them on a day-to-day basis?**


The biggest challenge is to maintain the daily effort and learning that it requires, as well as not being influenced by the ups and downs of asset prices. The financial markets are a very competitive world where only people with a calm attitude and who are continuously learning are able to stay competitive.

**How do you think technology is transforming the financial sector?**


To be honest, company analysis is and will remain very abstract. The conclusions that need to be drawn from analysis are very subjective, so I think traditional analysis will remain key for many years to come.

**How are you incorporating the latest technological trends into your day-to-day fund management and financial education**

## VIBE

VIBE, siglas de Value Investing Business Education, nace en 2023 como centro de formación en bolsa e inversión centrado en la metodología de Inversión en Valor o Value Investing. Imparte formaciones como el Máster en Value Investing y Mercados Financieros y el Curso de Finanzas para no Financieros. VIBE forma parte de Northius, grupo líder de formación en España. 

**activities?**

I try to apply programming skills in database management. Regarding the latest advances in AI, rather than fearing them, we should embrace them and incorporate them enthusiastically into our activity, as they can multiply our productivity if we know how to take advantage of them. 

**«Regarding the latest advances in AI, rather than fearing them, we should embrace them and incorporate them with enthusiasm in our activity»**



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MARINA BASAVILBASO

# PAGBAM: Cross-Border Potential

As part of its 32nd anniversary, the Argentine firm takes another step towards its international expansion by inaugurating its Latin American Desk in Uruguay. The Latin American Lawyer delves deeper into this important event that will position the firm after approaching the project's new lead partner, Marina Basavilbaso.

by giselle estrada ramírez

**«[...] es un objetivo ambicioso, pero creo que el “full service”, que antes consistía en abarcar todas las áreas del derecho, en el futuro cercano va a consistir en poder abarcar todas las áreas del derecho en todos los países de la región.»**

The Argentine-born law firm Pérez Alati Grondona Benites & Arntsen announced last August that it is expanding once again by making available a new office strategically located in Uruguay with the aim of providing its services to projects that cover various Latin American countries.

The collaboration between the newly opened office in Uruguay and those already established in Argentina (Buenos Aires and Neuquén), Chile and New York, will allow PAGBAM to maintain its ability to provide its clients with the specialized expertise of its professionals in various areas of law, while expanding its presence at the regional level.

To learn a little more about this crucial opportunity, we interviewed **Marina Basavilbaso**, who, in her role as project leader, is in an exceptional position thanks to her years of experience as a counselor in the firm, as she has concentrated her efforts on providing international advice and successfully coordinating experienced interdisciplinary teams serving multinational clients. Marina has been part of the firm for ten years, where she developed her professional practice in the area of commercial law, with a particular focus on advising companies

dedicated to technology. He specializes in the negotiation and drafting of complex contracts, telecommunications infrastructure and real estate projects, issues related to liability on the Internet, e-commerce, software licenses and digital content, among others. In addition, Marina is part of PAGBAM's Aviation Law team, which advises on contractual, regulatory and litigation matters.

**Marina, congratulations on your new position! How did you prepare to take on the challenge of leading a new office at the firm?**

Thank you very much, I am very happy with the start of this new project.

Honestly, I think what prepared me was to learn from the lawyers with whom I trained at the Firm. I was fortunate to work a lot and very closely with great lawyers, so, what I know, I learned from them.

**Could you tell us a little about your legal career? Initially, what caught your attention about the legal profession?**

Surely, like almost everyone, I enrolled in law school with the vocation of wanting to "advocate" for others. And the truth is that, even if you have a commercial practice, even a business practice, that's what we do and what I like the most.

Mariano (Mariano Grondona) always tells me

## About Marina Basavilbaso

Marina joined PAGBAM ten years ago and developed her professional practice in the area of commercial law, focused in particular on advising companies dedicated to technology. He specializes in the negotiation and drafting of complex contracts, telecommunications infrastructure and real estate projects, issues related to liability on the Internet, e-commerce, software licenses and digital content, among others. In addition, he is part of PAGBAM's Aviation Law team, which advises on contractual, regulatory and litigation matters.

Marina Basavilbaso studied the first two years of her law degree at the Universidad Autónoma de Madrid. She finished her studies at the Universidad Católica Argentina, where she graduated as a lawyer in 2013. In 2017 and 2018 he completed a Master's Degree in Business Law at Universidad Austral. In 2018 he completed a postgraduate degree in International and Comparative Law at the Southwestern Institute in Dallas, Texas, United States. 



**«No queremos vender una franquicia sino ser un mismo estudio jurídico con profesionales en diferentes países [...] tenemos una cultura muy forjada de compañerismo, colaboración y amistad y plasmar esa cultura en todas las oficinas será, sin dudas, un gran desafío al que le daremos muchísima prioridad»**

"When the day is over, what you have to think about is if you were able to solve your client's life a little, everything else is secondary". I think that has to remain the north.

Beyond that, something unexpected that caught my attention about the legal profession, within such a large firm, is that it allows you to have a very broad but at the same time deep panorama of what is happening in the country or even in the region. By getting involved in projects of various kinds, you get to know how different industries work and that is very stimulating for curiosity, it opens your eyes and allows you to interact with other actors from another place.

**What aspects of your previous experience do you think will help you successfully lead this expansion of the firm? What unique challenges will you face when leading a desk in a different country?**

I believe that it will not only be my experiences, but also the experiences of all of us who work at PAGBAM, in the end this is a joint project. From my personal experience, I think that the opportunities I had to interact with people from other cultures since I was a child are worth a lot. In addition, I listen a lot to our Founding Partners, I try to take advantage of any opportunity that allows me to learn from what they formed and others followed with such success.

**Why was Uruguay chosen as a strategic point for the firm's growth?**

Uruguay is a country with enviable economic and institutional stability, and with a very business-friendly legal ecosystem. In addition, many companies in the knowledge industry have settled in Uruguay and we want to continue to focus on them.


**What goals have been proposed for the long-term extension of PAGBAM? What strategies will you implement to differentiate yourself and attract new customers in LatAm?**

In the long term we would like to have offices with local lawyers in the most important cities of the region, as we have in Chile. We believe that it is an ambitious goal, but I believe that "full service", which used to consist of covering all areas of law, in the near future will consist of being able to cover all areas of law in all countries in the region, providing a comprehensive service to clients. The essential differential is that customers can count on the PAGBAM standard throughout the region and receive a one-stop shop solution with that standard.

## About the study

Founded in 1991, Pérez Alati, Grondona, Benites & Arntsen (PAGBAM) is a comprehensive law firm specialized in advising local and international companies and organizations.

With more than 30 years of experience and strength in the industry, he offers strategic and innovative solutions to your most complex legal and commercial matters; while providing coordinated legal advice and transactional capabilities worldwide through offices in Buenos Aires, Santiago de Chile, Uruguay and New York (United States).

From its creation until today, PAGBAM is internationally recognized for its expertise in various practices, reflected in the numerous recognitions granted by specialized publications, which for more than 30 years have placed it among the best law firms in Argentina and the region. 

**«[...] creemos muy firmemente en las interacciones en persona dentro y fuera de la oficina, más allá de que las herramientas tecnológicas por supuesto nos acercan mucho»**

**How will they be able to establish and maintain communication between the different offices? At the moment, how is the team composed in the new desk?**

For us, maintaining communication and, above all, synergy between the different offices is a key point. We don't want to sell a franchise but to be the same law firm with professionals in different countries. To this end, we are already doing exchange programs and we will continue to encourage travel and constant communication. At PAGBAM we have a very forged culture of camaraderie, collaboration and friendship and embodying that culture in all offices will undoubtedly be a great challenge to which we will give high priority.



**How do you approach your adaptation to the cultural and legal differences between Argentina, Uruguay and the different jurisdictions in LatAm?**

Cultural differences throughout the region are subtle, but they do exist. To get to know the culture of a country you have to live there for a few years, that's the way it is. For this reason, we think it is important that our lawyers settle in the country that we are looking to explore, and we do exchanges for a few months. In that sense, we believe that videoconferencing is not enough, we believe very strongly in in-person interactions inside and outside the office, beyond the fact that technological tools of course bring us very closer. In terms of legal differences, we are putting a lot of emphasis on the study of comparative law to enhance that synergy I was talking about, but in any case the queries from each country will always be answered by a local lawyer.

**Finally, according to our gender diversity ranking, Argentina is among the 5 Latin American countries with the lowest number of female members. With this in mind, what would you say to future lawyers who aspire to a similar career path to yours?**

It is true that as a society we have a long way to go in this regard, but the good thing is that there are many very valuable people, men and women, willing to fight. I think that little by little the change is going to start to be noticed more and more. Today at PAGBAM there are more female lawyers than men, and I believe that this will continue to be reflected more and more in the percentage of women in leadership roles. To girls who are just starting out, I would say don't limit yourself and dare to think big. It is a reality that, as women, in order to achieve the same professional goal as a man, we often have to sacrifice more. I feel that we still have "the burden of proof", but we must not stop at that because the effort is very worth it. I would recommend that they look for role models who inspire them and surround themselves with strong women who empower them and push them to be better. ■



# Is the East Drifting Further Away?

**Recent developments in the legal field hint at a growing divide between Western and Eastern legal markets. MAG and Iberain Lawyer discussed this with the most active lawyers in the Chinese market to understand the prospects that "the world's factory" still holds, amidst economic crises, geopolitical tensions, and emerging markets**

by giuseppe salemme



**Over 85% of the top 45 Chinese law firms reported a significant drop in revenue last year. The situation appears less critical for international law firms operating in China**

This past summer has been particularly eventful in the realm of the Eastern legal market. The following noteworthy events have transpired: The Chinese legal giant King & Wood Mallesons (KWM) announced its withdrawal from Europe to focus once more on the domestic market, reversing its internationalization path initiated a decade ago. Dentons separated from Dacheng, the Beijing firm whose name had been part of the studio's logo since 2015. Latham & Watkins closed its Shanghai offices, two decades after their opening. Moreover, firms like Linklaters, Ropes & Gray, and Clifford Chance have all downsized their staff in Chinese offices or announced plans to do so.





## The COVID-19 period has demonstrated that the legal business is counter-cyclical and can thrive, or at least mitigate damage, even in challenging times. The same principle could apply to the Chinese crisis

All of these events have unfolded during the first significant slowdown in the Chinese economy since the late 1970s. The real estate sector bore the brunt of half a century of state-subsidized population growth, with the financial and banking systems following suit. Youth unemployment reached concerning levels for a socialist state. Furthermore, the government's plan to overcome the crisis is not straightforward and requires a profound economic transformation, moving toward making the People's Republic of China increasingly advanced, technological, and autonomous. Yet, it is also becoming more insular. The rigidity of China's new privacy regulations was cited by Dentons as one of the reasons for ending its partnership with Dacheng. Linklaters, on the other hand, explained the downsizing in their Chinese team as a response to a "prolonged recession."

When combined with the mounting geopolitical tensions between the Western bloc led by the United States, including trade wars and the Russo-Ukrainian conflict, it

raises the question: could we be witnessing the beginning of a significant divergence between the European/Anglo-Saxon world and that of the Far East? And could their respective legal markets follow the same fate?

Clues are not proof, and lawyers know this better than anyone. Nevertheless, it is legitimate to wonder about the future of the Chinese market, which was considered the "El Dorado" for international law firms a couple of decades ago and is still worth approximately \$24 billion overall. So, let's attempt to answer this question.

### TWO WORLDS

Understanding the Chinese legal market's current state is not straightforward. Firstly, one must distinguish between the market for local firms and that for foreign ones (view box). Chinese firms tend to be multidisciplinary giants with thousands of lawyers but are generally less profitable than their Western counterparts. According to [Law.com](https://www.law.com), more than 85% of the top 45 Chinese law firms experienced a "significant drop" in revenue last



MASSIMO DI TERLIZZI



ANTIMO CAPPUCCIO



SARA MARCHETTA



FRANCESCO SCIAUDONE



HERMES PAZZAGLINI



LAURA ORLANDO

year.

The situation seems less critical for foreign firms operating in China, whose clients (often themselves foreign) are less affected by the country's negative contingencies. All the firms interviewed by MAG and Iberian Lawyer, beyond the reduced activity due to the extended and strict lockdown period, reported stable or increased business turnover in China.

Italian firms continue to capitalize successfully on the "Made in Italy" factor. Sectors such as fashion, food and beverage, mechanics, and mechatronics remain safe havens, especially in China. No one seems inclined to change their approach to this market for now.

"As long as there are Italian companies in China, we will be there," says **Massimo Di Terlizzi**, co-managing partner of Pirola Pennuto Zei & Associati, which has offices in Beijing, Hong Kong, and Shanghai, where partner **Antimo Cappuccio** operates. Gianni & Origoni is also present in Shanghai and Hong Kong, with **Davide De Rosa** as the contact partner.

Meanwhile, Chiomenti has chosen Beijing, where **Sara Marchetta** is the partner in charge. Grimaldi Alliance's involvement in China relies on a partnership with Yingke, the country's largest law firm with nearly 15,000 lawyers. "We are going against the Chinese slowdown," says managing partner **Francesco Sciaudone**, "in fact, we aim to enhance our collaboration worldwide, exploiting this dimensional factor even more."

## FIELD CHOICES

But if diversifying the client base and international scope helps face economic downturns, how should we interpret the reversals of firms like KWM and Dentons?

For instance, Dentons indicated that the new obligations imposed by the Chinese government on local firms regarding cybersecurity and data protection were the reason for splitting from Dacheng. Reference was made to the Data Security Law and the Personal Information Protection Law issued by Beijing two years ago. However, no other firm currently appears

**The Chinese market can still be crucial for the expansion plans of international law firms. Provided they understand that China has changed and will continue to do so: "People no longer come to China to produce but to sell."**

## BEING A LAWYER IN CHINA

China is different. Politically, economically, culturally. This means that, to begin with, a foreigner cannot become a Chinese-qualified lawyer (i.e., access to regulated legal activities such as litigation). This is a problem that international law firms can circumvent in two ways: either by applying for the opening of a legal representative office (rep office or Iro), under certain conditions, allowing the hiring of local professionals through specialized employment agencies. The latter is the path chosen by most international law firms currently operating in China. The alternative is to establish entirely new companies, under the control of the parent company, that can at least provide consultancy under the same brand as the parent company. An example in this case is represented by the three Chinese offices of the Pirola Pennuto Zei law firm, whose mission is primarily to assist Italian clients active in the territory. "For those like us who deal with corporate matters, a large part of the work is advisory," explains co-managing partner **Massimo Di Terlizzi**. "For the rest, it's always necessary to rely on local professionals, but this is also an excellent way to build relationships and create new opportunities."

However, the prohibition of providing legal assistance to non-Chinese entities actually has two exceptions, corresponding to two special regulatory regimes.

The first is that in Shanghai, it is possible to apply for a joint-operation license between one's own firm and a local partner firm regarding Chinese law matters. To date, international law firms such as Allen & Overy, Ashurst, Baker McKenzie, Herbert Smith Freehills, Hogan Lovells, and Linklaters have obtained such licenses.

The second special regime is granted to the city of Hong Kong, which has enjoyed greater autonomy from the Beijing government based on the constitutional principle of "One country, two systems" for forty years. In Hong Kong, the legal profession is open to foreigners. **Hermes Pazzaglini**, a partner at Advant Nctm, is well aware of this, having become a lawyer in the former British colony in 1999. "The economic slowdown that began with COVID has led many professionals to withdraw from the Chinese market," explains the lawyer. Perhaps the era of lawyers migrating to the East in search of easy earnings has ended, but for Pazzaglini, the Chinese market can still be attractive. As long as one is not too naive: "Investing in China without understanding it doesn't make sense. But for a young professional interested in this culture, language, and law, and who wants to experience an environment where thinking and acting differently is possible, I would say, come. There is much to do in China, and work is done well. Much better than before."

to share the same concerns. "Exporting data is complex, but possible," claims **Hermes Pazzaglini**, a partner at Advant Nctm based in Shanghai.

"Moreover, the increased regulatory activity of the Chinese government is inspired by the European model, particularly GDPR."

According to **Laura Orlando**, global co-head of IP at Herbert Smith Freehills (HSF) and managing partner of the firm in Italy, the changes recorded this summer are organizational rather than strategic: "Decisions like these are hardly dictated by political or economic conditions; they depend

more on how the firm is structured internally.

Thus, they are not ideological or propitiatory choices to leave that market but are about prioritizing and placing a cap on investments, evaluating the actual relationship between costs and objectives. Otherwise, any investment could theoretically be justified."

On the other hand, Francesco Sciaudone believes that recent law firm movements regarding China are "also a consequence of new geopolitical balances." It is challenging for law firms today to break free from their respective geographical blocs. "Anglo-Saxon firms that sought expansion





GIORGIA MELONI, NARENDRA MODI

## OTHER EASTS. WILL INDIA BE THE NEW CHINA?

The East is not just China. In fact, for some, it is becoming less so.

The slowdown of the Chinese economy is leading more and more operators to consider the possibilities of decoupling: "uncoupling" from China, reducing dependence on the country. "Diversifying toward other Asian regions could offer companies alternatives for supply chains and create opportunities in new markets," explains Angelo Bonissoni, a partner at CBA.

Which markets? The law firms interviewed by MAG mentioned Malaysia and Indonesia in particular, as well as Singapore, which, especially after the Chinese lockdown, has confirmed its position as a regional hub, competing not only with Shanghai but also with Hong Kong.

A separate consideration applies to India, which this year has surpassed China as the world's most populous country, with 1.4 billion inhabitants, a figure comparable to the value of its legal market (USD 1.3 billion in 2018). Economically, India is still a developing country, with significant pockets of poverty and a severe lack of infrastructure. But this year, the Bar Council has, albeit somewhat ambiguously, opened the possibility for foreign law firms to practice on Indian territory.

This is, of course, a challenging market, in some respects similar to China several decades ago: the significant political fragmentation, for example, leaves room for discretion in managing investments. But if the trajectory follows that of China, the prospects that will open up will be enormous, both in terms of supply chains and the user base (and expertise).



ROSARIO ZACCÀ

Italy could view the opportunities for Indian development from a privileged position, as evidenced by the repeated and fruitful meetings between the Italian Prime Minister Giorgia Meloni and Indian Prime Minister Narendra Modi. This is also the view of Rosario Zaccà, a partner at Gianni & Origoni and head of the firm's India Desk: "For India-Italy relations, it's a magical moment, during which India could attract new investments that would have been directed toward China years ago."



in the East are struggling to develop cooperation in those countries. This can open up great opportunities for European entities like ours."

## CONVERGING MODELS

The COVID-19 period has demonstrated that the legal business is counter-cyclical and can thrive or at least mitigate damage even in challenging times. The same principle could apply to the Chinese crisis. For example, in announcing its withdrawal from the European market, KWM also formalized a partnership with Eversheds Sutherland, which will take on the European mandates of the departing firm and entrust KWM with the Chinese ones, all without disengaging from its Hong Kong office. At least in words, law firms' interest in the Eastern market remains intact.

Geopolitical divisions remain, but as Sara Marchetta points out, there is currently a "European derisking" happening in China. "The government is identifying sensitive areas where they seek more autonomy. However, this process still leaves collaboration opportunities." Moreover, according to Hermes Pazzaglini, investing in China remains much more manageable than in the past. With the recent Foreign Investment Law, Chinese legislation equates foreign-invested companies with wholly Chinese-owned firms, bringing it into line with commitments made upon entry into the World Trade Organization (WTO). So, except for specifically regulated sectors and as long as tax and labor rules are adhered to, establishing a company without local authority permission is now possible. There is a shift toward the rule of law. A decade ago, Chinese companies coming to Europe had the impression that everything was prohibited, from environmental, fiscal, financial rules to data handling. Now,


China is emulating this model.

## CHANGE OF SOFTWARE

In Mid-October, the mega-merger A&O Shearman has become official: the Anglo-Saxon legal market could soon reach an unprecedented level of structural development. While there is still considerable room for growth in the East, not only in China (view box) but beyond. This holds true for both law firms and companies. Particularly, companies still view Asia as "China, plus one more country," or at most, two.

The Chinese market could still be crucial for the expansion plans of international law firms. But to succeed, it's essential to understand that China has changed and will continue to do so.

"The Chinese development related to outsourcing ended twenty years ago. Now we are in the localization phase: being in China for the Chinese market," says lawyer Marchetta. "Labor is no longer so cheap because the regulations on labor, the environment, and health are increasingly stringent here. People no longer come to China to produce but to sell," adds Hermes Pazzaglini. Angelo Bonissoni from CBA agrees, saying that companies that understand the needs of Chinese consumers could benefit from significant growth opportunities.

Supporting domestic demand could help balance the dependence on exports and reduce exposure to international trade variations. However, a change of approach is necessary to achieve this. In the words of Antimo Cappuccio, "You need to 'Chineseify' your business presence with the guidance of the right advisors. In recent years, it's as if China has changed its operating system. So, even those who want to come here need to change their software." 



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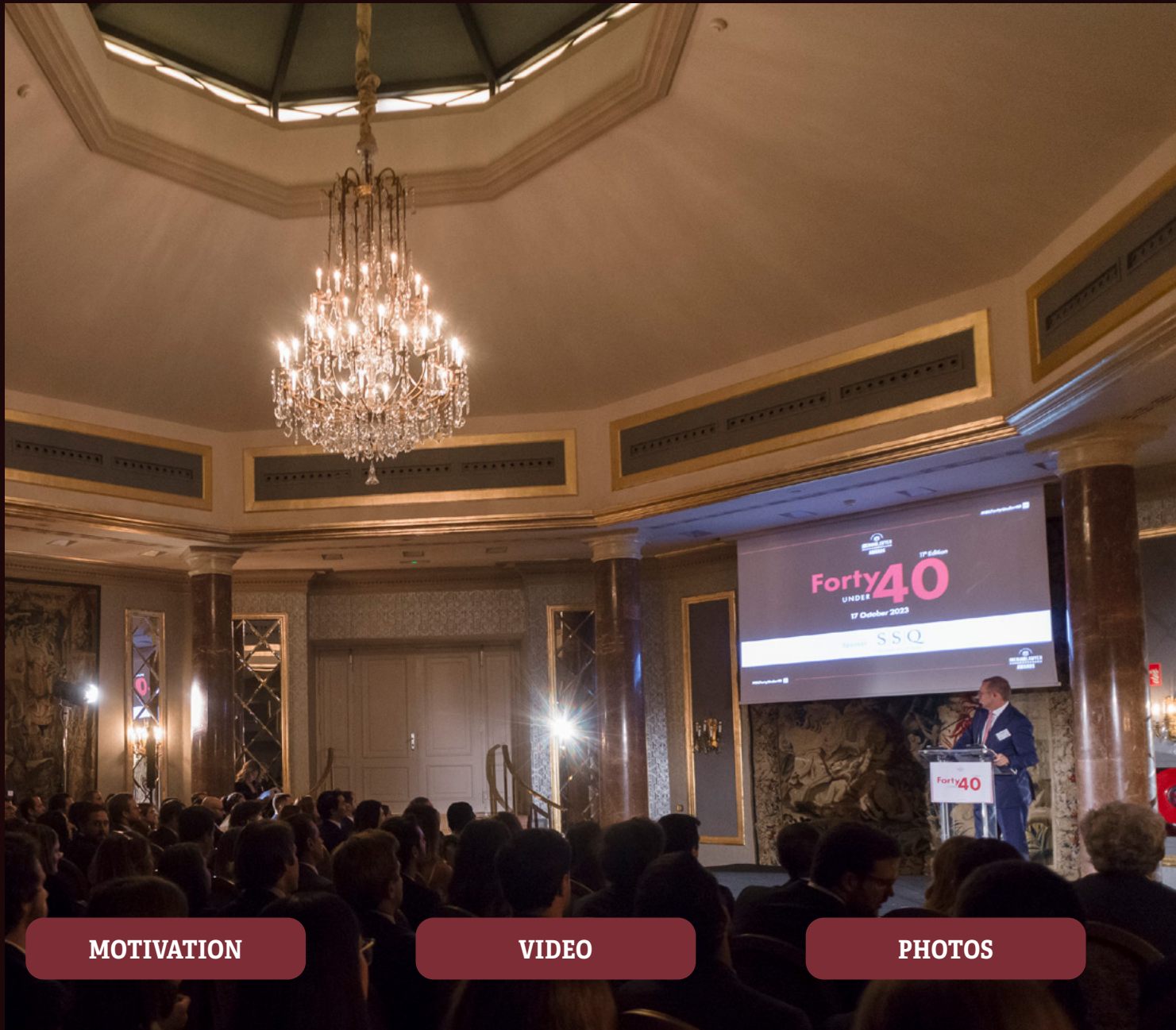


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# Forty40

UNDER



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The winners of the Iberian Lawyer 2023 Forty under 40 awards were announced at the ceremony gala held on Tuesday 17th of October at the Wellington Hotel in Madrid.

The awards ceremony brought together numerous representatives from prestigious law firms in Spain and Portugal to recognize the most promising young lawyers and teams in the Iberian market and to celebrate their achievements. They will be the ones who will lead the legal profession in the future and deserve to be recognized for their work and dedication in their respective practices.







Categoria	Ganadores
TEAM OF THE YEAR	Gómez-Acebo & Pombo
LAWYER OF THE YEAR	Madalena Bernardes Coelho Abreu Advogados
MARKET LEADER	Rosa Espin - Ambar Partners
THOUGHT LEADERSHIP	Mónica De San Román – Pérez Llorca
TEAM OF THE YEAR ARBITRATION	Sêrvulo & Associados
LAWYER OF THE YEAR ARBITRATION	Alberto Manzanares - Ashurst
TEAM OF THE YEAR BANKING & FINANCE	KPMG Abogados
LAWYER OF THE YEAR BANKING & FINANCE	Alfonso Garcia-Freire - White & Case
TEAM OF THE YEAR CAPITAL MARKETS (DEBT & EQUITY)	KPMG Abogados
LAWYER OF THE YEAR CAPITAL MARKETS (DEBT & EQUITY)	Miguel Duarte Santos - SPS Advogados
TEAM OF THE YEAR ENERGY	Watson Farley & Williams
LAWYER OF THE YEAR ENERGY	Pedro Silveira Borges - Sêrvulo & Associados
TEAM OF THE YEAR EU & COMPETITION	PRA - Raposo, Sá Miranda & Associados
LAWYER OF THE YEAR EU & COMPETITION	Enrique Ferrer – Allen & Overy
TEAM OF THE YEAR FINTECH	ECIJA
LAWYER OF THE YEAR FINTECH	Jessel A. Contreras - Ambar Partners
TEAM OF THE YEAR INFRASTRUCTURE & CONSTRUCTIONS	VdA
LAWYER OF THE YEAR INFRASTRUCTURE & CONSTRUCTIONS	Filipa Veiga Gomes – CS’Associados
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LAWYER OF THE YEAR INSOLVENCY & RESTRUCTURING	Eduardo Frutos Ramírez - Kepler-Karst
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LAWYER OF THE YEAR IP & TMT	Lidia Vidal Vallmanya - Pinsent Masons

Categoria	Ganadores
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LAWFIRM OF THE YEAR LIFE SCIENCES & PHARMA	Evershed Sutherland
LAWYER OF THE YEAR LIFE SCIENCES & PHARMA	Diana Abegão Pinto - SRS Legal
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LAWYER OF THE YEAR LITIGATION	Luís Falcão Ramos Eversheds Sutherland FCB
TEAM OF THE YEAR M&A	Gómez-Acebo & Pombo
LAWYER OF THE YEAR M&A	Jorge Carmona - Dentons
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LAWYER OF THE YEAR PRIVATE EQUITY	Carlos Blanco Morillo - Squire Patton Boggs
TEAM OF THE YEAR PUBLIC LAW	Cerejeira Namora, Marinho Falcão
LAWYER OF THE YEAR PUBLIC LAW	Carlos Tallón - Deloitte Legal
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LAWYER OF THE YEAR REAL ESTATE	José Manuel Silva Nunes - CMS Portugal
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TEAM OF THE YEAR TAX	EY
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TEAM OF THE YEAR WHITE COLLAR CRIME	Ayuela Jiménez
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## TEAM OF THE YEAR

GÓMEZ-ACEBO & POMBO

## FINALISTS

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Allen & Overy  
Morais Leitão  
VdA



IGNACIO DE LA FUENTE, ANDRÉS CASTRO, DIEGO MARTÍNEZ, ISABEL BANDÍN AND CLARA RIVERO

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Pedro Pires Fernandes  
*VdA*  
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## MARKET LEADER

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*Ambar Partners*



## TEAM OF THE YEAR ARBITRATION

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INÉS ARRUDA, JOÃO PEIXE

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Morais Leitão

Sêrvulo & Associados



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*Eversheds Sutherland FCB*

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*CCA Law Firm*

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### FINALISTS

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*Abreu Advogados*  
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Ricardo Maia Magalhães  
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## LAWYER OF THE YEAR LIFE REAL ESTATE

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*CMS Portugal*

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EJASO

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FILS Legal  
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DANIELA LEAL, JOSÉ IGNACIO SALDARRIAGA, MANUEL GONZÁLEZ-HABA

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*ECIJA*  
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## TEAM OF THE YEAR TAX

EY

## FINALISTS

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RocaJunyent  
TELLES  
ZADAL



RAFAEL ÁLVAREZ MENDIZÁBAL, SILVIA ALONSO GARCIA AND CARMEN CONSTANTE QUINTANILLA

## LAWYER OF THE YEAR TAX

JOSÉ MARIA CABRAL  
SACADURA  
TELLES

## FINALISTS

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EY  
Ricardo García-Borregón  
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AYUELA JIMÉNEZ

### FINALISTS

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Castellarnau Penalistas  
Diosalo  
Ospina Abogados



## LAWYER OF THE YEAR WHITE COLLAR CRIME

JUAN GONZALO OSPINA

*Ospina Abogados*

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*Broseta Abogados*  
Sérgio Figueiredo - PRA  
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Miguel Santos Almeida  
*Sêrvulo & Associados*  
Jesús Villamor Blanco  
*Ayuela Jiménez*





TEAM OF THE YEAR  
SUSTAINABILITY

MARISCAL ABOGADOS



BEST PRACTICE  
CORPORATE  
TRANSACTIONS

CECA MAGÁN ABOGADOS





**BEST PRACTICE  
LABOUR COLLECTIVE  
DISMISSAL**

**MARÍA ROYO CODESAL**

*Maroy Legal*



**BEST PRACTICE  
PROJECT FINANCE**

**MARIA JOSÉ SOUSA  
LEITE**

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## World Compliance Association

# The impact of fraud and, even worse, the impact of cyber fraud

by fernando ballesterro



Preventing and facing up fraud has been one of the priority focuses of attention of the CEOs and legal heads of companies and institutions. This requires a certain amount of supervision and control to prevent a customer or supplier from deceiving the company, or a dishonest worker from falsifying, stealing information, or being an accomplice in the

deception of a third party.

A fraud of this type, apart from having a negative economic impact, can affect, depending on its seriousness, some departments or areas of the company or institution, whether it is purchasing, sales, administration, etc...

But today this reality has been largely surpassed by the rise and sophistication of Internet frauds, known as cyber frauds. We are no longer dealing with isolated fraudsters seeking to make a profit by deceiving a company. We are dealing with a globally organized criminal business in which cybercriminals make huge profits by taking advantage of the anonymity with which they operate, relying on the Internet. In many cases, they carry out massive and generalized attacks, with

e-mails or washaps that many victims open inappropriately, thus allowing the theft or kidnapping of information, or the impersonation of identities; in others cases, the attacks are aimed directly at a director or manager, who is tricked with fake emails and phone calls, relying on the abundant information about the company and its directors available on social networks to provide credible cover for their deception; or in others cases, the aim is simply to enter computers to incorporate them into an illegal secret network in order to participate in future attacks on third parties.

The fact is that there are an estimated 1,700 cyber-attacks worldwide every minute, with an impact in the order of billions of dollars a year. The exact figure is difficult to know, since many victims, an

estimated 37%, do not report it and even hide it to avoid a bad image or even a lawsuit for having made possible the theft of third-party data they were guarding. Nor are the impacts on all companies the same. It is not the same for an electricity supplier company or a hospital to suffer a cyberattack as it is for a paint company, just as it is not the same for a supplier of products or services that is part of a supply chain, or a law firm that holds relevant clients information. Unlike the impact of a "classic" or traditional fraud, the effect of a cyber fraud can be devastating, affecting the entire company, with a significant economic impact, an impact on its reputation, and even legal consequences. In fact, it usually means a total or partial paralysis of operations for a few days or weeks, and in many cases, a high percentage of small companies do not manage to recover.


The list of examples is abundant and continuous: a few days ago, Air Europa saw the data of more than 100,000 customers stolen; last month, the City Council of Seville had its network of 4,000 computers out of working a couple of weeks; At the beginning of the year, the Hospital Clinic in Barcelona had to suspend 150 surgeries and saw private patient data exposed on the deep web; ... and we can still remember that not long ago Wannacry infected 200,000 computers in 175 countries, and Equifax

had data stolen from 143 million customers.

In short, if preventing and combating fraud has always been one of the priority focuses of attention of the CEOs and legal heads of companies and institutions, preventing possible cyber fraud by protecting oneself must be, today, an absolute priority, in view of the world in which we live.

To this end, in addition to implementing supervision and control mechanisms, it is necessary to act on three fronts: to have appropriate IT tools; to improve management by incorporating risks, with the help of a compliance system for example; and above all to raise awareness and provide training on the environment in which we operate. People are the weakest link: 85 to 90% of intrusions are caused by human error.

This and other issues have been considered in the IV National Anti-Fraud Congress organized on October 5 by the World Compliance Association together with the AEECF and ICPF, and that conviction of the need for a minimum training within companies and institutions also led the WCA to launch with the Founderz Business School the online Master in Cybersecurity and Digital Prevention, aimed at non-experts in computer science and communications. The EU itself in its Directive 2255 published in the Spanish

Official State Gazette on December 27th incorporates clear training obligations, because preventing a possible cyber fraud, protecting oneself, must be, today, an absolute priority. 

## ABOUT FERNANDO BALLESTERO

Ph. D. in Economics, Member of the High Level Civil Servant Group of Economists (*Técnico Comercial y Economista del Estado*), and PADE from IESE. He has developed his professional career in the Public Administration and in the business world. In the Administration he has been, among others: Ambassador of Spain to the OECD and member of its Board of Directors between 2004 and 2008 and Director General of Technical Coordination with the EU between 1985 and 1990. In the business sector he has been: General Secretary of France Telecom-Orange; Director of the Retevisión Foundation; Executive Chairman of Alimentos y Aceites S.A. and Coosur S.A.; and Chairman of Elosua.

He is currently an independent consultant, Chairman of the Advisory Board of the Madrid Cybersecurity Cluster, and Academic Director of the online Master in Cybersecurity and Digital Prevention at Founderz-WCA. He is also a member of the Think Tank ADEI (Observatory for the Economic Development of the Internet) and a trustee of the España Digital Foundation.



## The Coach Approach

# Mental health is everyone's problem

por b rbara de eliseu



Recently, results were launch in Portugal regarding “The Impact of Organizational Culture on Mental Health and Well-Being of Legal Professionals”, an initiative brought to live by Direito Mental Association.

The numbers are impactful and show, among other things,

that:

- 55% of those surveyed, recognize that the demands and obligations of their profession deprive them of participating in family activities;
- 39% have symptoms of depression;
- 51% have significant symptoms of anxiety, 10% of which are severe;
- 15% had suicidal thoughts in the two weeks prior to the survey;
- 35% of those surveyed would not choose to be a lawyer again...

Are we aware of this? Are we aware of the stress and depression problems that affect thousands of lawyers in Portugal, in Spain and so many other countries? (\*)  
Yes, we are. What happens it

that we tend to look at this problem and turn around. We know what it takes to be a lawyer, we know what it takes to be successful in this industry, but some of us choose to ignore the price and pain others suffer. When I say «we know what it takes», I mean being a top lawyer involves hard work, really hard work and dedication. There is no other way! What I also mean is that, along our own path, we do not have to treat each other badly because we are in a bad mood, we can choose not to be rude, not to humiliate others; we can be compassionate with ourselves, forgive us more easily and be less critical and judgemental. I never get tired of saying that we do what we are. So, if we want to do better, we need to focus on being

better.

Some lawyers have made extraordinary work raising awareness on the topic of mental health in the legal professions. For those who doubted the numbers are out there and I do believe is now time to act!

What can be done to prevent stress and depression among lawyers in a law firm?

Stress might always be there, depression will not. Argue on important matters on behalf of our clients, stopping them from being dismissed or losing millions will (always) cause stress. The goal is to know how to manage it.

Start with the leaders, they shall be committed to this cause, be supportive and an example.

Then implement a protocol. Stop listening to your team once or twice a year for evaluating results and make it a common practice. If you do not know what moves and motivates your lawyers, how can you help to increase their satisfaction and performance? Support your team, open to communication, give lawyers the chance to feel comfortable sharing their concerns. With that in mind, implement policies that encourage help-seeking. When you truly care, your team feels appreciated and that leads to satisfaction and decreases stress and anxiety.

Set priorities and put the Protocol at the law firm's

agenda. Understand the necessary steps for its implementation, evaluate the available resources, distribute, and schedule tasks. Getting started makes a huge difference! And then keep evaluating and improving.

Is well-being a task for law firms only?

No. Each lawyer is the primary responsible for its own health. Your mental health and well-being are good for you, for your family, for your friends, for your peers, for your clients and for the business.

You must never forget that being a Lawyer is an important part of your life, but it is not the only one, so you should make an effort to find balance between all your versions: lawyer, husband/wife, friend, father/mother, surfer, jogger, sailor, son/daughter, reader, painter, dancer, whatever you are in life. Balance is all about integrating these versions of you into your daily life.


First, keep an agenda and stick to it. In case you are not a big fan of planning you should be satisfied with average and forget about successful. Planning is a game changer on your performance! And you will only see it when you do it.

The second most important thing is emotional intelligence and the ability to have control over every situation. Depending on your personality type, past experiences, you need to learn strategies to overcome stressful situations.

Learn to say «No!». Every time you say «Yes!» to something you are saying «No» to something else. You are not a bad person if you say you will help a peer in two hours, not immediately; you will not lose a client if the meeting is not today at 5 p.m., but tomorrow at 9 a.m.. Urgent matters need to be prioritized, learn to do it properly.

Take “me” time. It takes hard work and discipline to be at the top, but it is crucial to still have time to relax and enjoy the things you love in life. Take piano lessons, learn golf, mandarin, pottery, run, read, play with your kids... Make it a priority and make no concessions.

If you stay at the office for fourteen hours, be connected 24/7, take no quality rest, think only about work, know nothing but Law, you will not only be more tired, you will also be more likely to become depressed.

Finally, do not be ashamed to ask for help whenever you feel it is necessary. We took a Law degree, not a Medical or Psychology course, it is not expected that we know how to deal with everything on our own. 

(\*) Namely, according to the report conducted by the International Bar Association (IBA) “Mental Wellbeing in the Legal Profession: A Global Study”, 2021.

## Women in a Legal World

# Controversial new parental leave in Spain

por lucia rojo martínez\*



With the entry into force of Royal Decree-Act 5/2023, of June 28, adopting and extending certain measures

in response to the economic and social consequences of the war in Ukraine, to support the reconstruction of the island of La Palma and other situations of vulnerability; of transposition of European Union Directives on structural modifications of commercial companies and Working-Life Balance of parents and caregivers; and of implementation and enforcement of European Union Law ("RD 5/2023") a new section is added to the

Workers' Statute ("WS") -section 48 bis- which includes the new parental leave for the care of a son, daughter or foster child for a period of more than one year, leave that may be taken until the child reaches the age of eight. Likewise, RD 5/2023 also includes a new letter o) to section 45.1 of the WS, contemplating parental leave as a reason for suspension of the contract.

The most relevant characteristics of the new leave





are the following:

- It is an individual right of employees, men or women, without the right to transfer the use of the leave to third parties.
- The length of such leave may not exceed eight weeks, continuous or discontinuous, and may be taken on a full-time basis or on a part-time basis, in accordance with the provisions of the regulations.
- The employee who wishes to use the leave will be the one who must specify the start and end date of the leave or, as the case may be, of the periods of leave. The employee must notify the company at least ten days in advance or as specified, if applicable in the collective bargaining agreements (as of today, no collective bargaining agreement regulating such period has been located), except in cases of force majeure, taking into account the situation of the employee and the organizational needs of the company.
- In the event that two or more employees generate this right for the same person or in other cases defined by collective agreements in which taking parental leave during the requested period seriously disrupts the proper functioning

of the company, the company may postpone the granting of parental leave for a reasonable period of time, justifying this in writing and after having offered an equally flexible alternative period of leave.

In addition, and linked to the aforementioned leave, Royal Decree 5/2023 amends section 55.5 of the WS, classifying the dismissal of employees who are on parental leave as null and void, in the event that it is not fair.

Without prejudice to the fact that Royal Decree 5/2023 specifies certain aspects related to the enjoyment of the aforementioned leave, the fact is that its wording leaves unaddressed and unspecified, pending an announced regulatory development, various issues of the utmost relevance, thereby generating uncounted doubts.


Thus, inter alia, it is worth highlighting:

- i) Its possible use on a part-time basis.
- ii) Its current and future paid nature, in accordance with Directive 2019/1158 of 20 June (Working-life balance of parents and caregivers) - the

transposition of which gave rise to this leave - where it is considered to be paid (although it would not be directly applicable until 2 August 2024).

- iii) The obligation or otherwise of the employer to pay contributions.
- (iv) The possible creation of a leave-related benefit.

All of this without disregarding the express suspensive nature of the employment contract granted to the leave by means of, as indicated above, the amendment of section 45 of the Workers' Statute, by adding a new letter to the first paragraph.

Consequently, parental leave is a new right whose purpose is to boost work-life balance for employee; although, as of today, many aspects remain to be specified, either by means of regulatory development or by means of the judicial pronouncements that will be made in the coming months. 

\* Labour lawyer at Labormatters Abogados



# How to Build a Powerful Speaking Voice in English

by charlie shan

Iberian lawyers are often expected to have voices in English that compete with native English speakers even though they probably grew up without native speaking parents while going to school in Spanish or Portuguese. Although this is a difficult level to reach, it's actually possible to build a powerful speaking voice in English as an Iberian lawyer by following the following fundamentals.

## Voice Fundamentals

If you were a professional racecar driver, would you get in a car before a race right after waking up from a nap and without checking if there was oil or gas in the car? Of course not! As a professional building a million-dollar voice you need to pay attention to the basics too. The basics for your voice are making sure you've been drinking enough water consistently so that your vocal cords are lubricated, that you've warmed up your speaking

muscles so that they are responsive and that you've used your vocabulary recently so that your pronunciation is quick and accurate.

Another fundamental is breathing. I'm sure you're breathing enough to survive but I'm not sure you're breathing deeply enough to sustain the resonance of a deep voice or to maintain a slow cadence of speech that will convey confidence and allow anyone unfamiliar with your accent the time to understand you completely.

## Choosing Silence over Thinking Sounds

In English we say "mmm" when we are thinking of food that we enjoy eating. This isn't helpful because Spanish speakers say "mmm" to indicate that they are thinking.

This is a recipe for looking hungry at a meeting, not powerful and distinguished! I'd love to say that it's easy to reduce your thinking sounds.

It's not but the good news is that it's fine to have a Spanish or Portuguese accent. Thinking sounds will never make you sound powerful. At best they will make you sound hungry while at worst they will make you sound hesitant, indecisive or uneducated.

This means that the less sounds you make outside of succinct, well thought out sentences the better.

## Specific Practice of Corporate Law Terms

I mentioned briefly the importance of practicing your vocabulary and I want to highlight it again because you will not be confident giving legal advice in a foreign language using corporate law terms if you almost never speak those terms aloud.

You must practice speaking terms like SPV, SPA, holding company, joint venture, due diligence, liabilities, apostille and more in order to be confident of the pronunciation and the

way to talk about it. It's just not natural and does not happen by accident otherwise. This brings me to the best way to practice. Practice the Situation with Someone Who Knows First. It's best to win beforehand with specific practice. Actors rehearse before plays and sports teams scrimmage before games. They practice performing well and playing to win ahead of the official event which is the best way to prepare.

If you're not comfortable going into big negotiations or giving clients complicated advice then you need to practice doing it with someone who knows legal English first.

Very few people understand and can help you string together the vocabulary of corporate law into what you need but finding someone who does and who can help you say what you need to say will improve your confidence and your abilities to a profound degree.

### Learn What You Don't Know

A different culture and

language bring a lot of difficult pronunciation and expressions to learn and the fact that you're building a professional voice as a lawyer also means that your range of expression is seriously limited.

Think about what is appropriate for a child or a comedian compared to what is appropriate for a corporate lawyer wearing a suit working on a multimillion-dollar international business deal. This will limit your choices of expression and point you in the right direction.

What makes this even more challenging is that you often don't know what you don't know and what you don't know can get you into serious trouble.

### What to Avoid

You want to avoid expressing fear. Fear is normal when you swim with sharks or when you have something big to gain or lose.

While we are hired to do big projects, we are not hired to be afraid. We are hired to get results. If you're afraid before

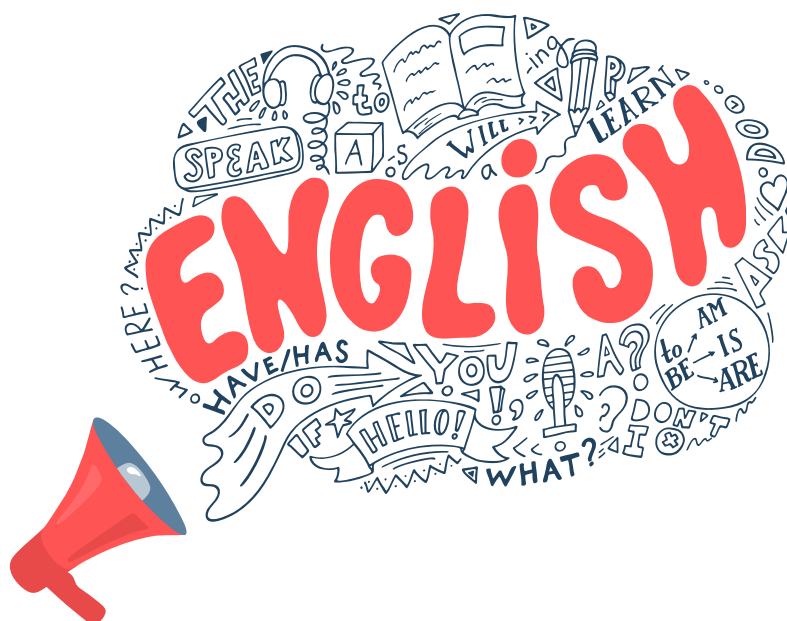
speaking in English it's best to use courage and composure and know that this will pass with experience. A calm grace is looked upon well while fearfulness or a bad temper is rightly looked down upon. This is not to say you can't make mistakes. It's best to make them in the privacy of an English class but when they happen it's best to say excuse me instead of sorry unless it's a grave error. It's very easy be boring and misunderstood too. For those who are ready to improve, I recommend recording yourself speaking, listening to the recordings, improving and repeating the process. ■

## BIO

**Charlie Shan** coaches Spanish corporate lawyers practicing internationally in English. When the Courts closed for COVID in 2020 he was a Canadian lawyer who received an offer to teach English in Spain which he accepted.

While at first doubting the extent to which Spanish lawyers needed to work in English, he began posting tips to LinkedIn and was almost immediately hired to help a lawyer negotiate multimillion dollar contracts and has continued working in the sector since.

Charlie holds a law degree from England as well as a degree in English Literature and a diploma in Comedy: Writing and Performance. ■





# Expert Opinion

## Practical guide to apply for recognition and enforcement of foreign judgements and arbitral awards in Spain



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**SQUIRE**   
**PATTON BOGGS**

### I. Introduction

Spain has always been a jurisdiction favorable to the recognition of foreign resolutions, whether arbitral or judicial. In recent years this trend has intensified as a result of the approval of Law 29/2015, of 30 July, on International Legal Cooperation in Civil Matters ("International Legal

Cooperation Law"), as well as of certain judicial resolutions which, from the point of view of recognition, have consolidated the principle of favor recognitionis, which advocates allowing the recognition of the resolution to the greatest extent possible; and, from the point of view of enforcement, have enshrined the special protection deserved to who has a judicial

or arbitral resolution in his favor.

Spanish jurisdiction should then be an alternative to be considered whenever a foreign decision is sought to be enforced. Also, when the defendant is a sovereign State, as the enactment of Organic Law 16/2015, of 27 October, on privileges and immunities of foreign States,

International Organizations with headquarters or office in Spain and international Conferences and Meetings held in Spain ("Organic Law on Immunities") finally regulated the immunity of foreign States consolidating the flexibility and permissiveness applied by Spanish Courts up to that moment.

## **II.How is the process**

The Spanish legal system distinguishes between the recognition and enforcement of judicial judgments and of arbitral awards.

In case of judicial judgments, the process, defined as *exequatur*, is simpler, since it is possible to apply for recognition and enforcement jointly in the same writ, to be filed before the Courts of First Instance of the domicile of the party against whom recognition and/or enforcement is sought, or of the person to whom the effect of the foreign judgment refers. Alternatively, before the Courts of the place of enforcement or the place where the judgment is to produce its effects, having jurisdiction, ultimately, the Courts of First Instance before which the claim is to be filed at the choice of the applicant.

In some cases, it will not be necessary to apply for recognition, as enforcement may be requested directly. This is the case, for example, of judgments issued in any member State of the European Union in respect of which Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December

2012 on jurisdiction, recognition and enforcement of judgments in civil and commercial matters applies, enshrining the automatic recognition in all EU countries of judgments issued in any member estate.

In case of arbitral awards, there is a split between recognition and enforcement: while recognition must be requested before the High Court of Justice with territorial jurisdiction, enforcement, which is subject to the prior granting of recognition, must be requested before the Courts of First Instance. In both cases, in application of the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards ("New York Convention") in conjunction with Law 60/2003, of 23 December on Arbitration ("Arbitration Law").

It should be noted that some arbitral awards, such as awards rendered under the ICSID Convention (International Centre for Settlement of Investment Disputes), could be directly enforced, as provided for all the contracting states by Article 54 of the Convention.

As regards territorial jurisdiction, the criteria are the same as for the application for recognition and/or enforcement of foreign judgments. In this regard, Article 8.6 of the Arbitration Law replicates in almost identical form the content of Article 54 of the International Legal Cooperation Law provided for judicial resolutions.

The intervention of the Public

Prosecutor is mandatory in proceedings in which the recognition of a foreign judicial or arbitral decision is requested. In any case, its assessment will not be binding for the Court in charge of the proceedings.

The documents required for the application are only three:

- The original or authentic copy of the foreign resolution, duly legalized or apostilled.
- The document that accredits, if the decision was rendered in default, the delivery or notification of the writ of summons or the equivalent document to the defendant.
- Any document evidencing the enforceability of the foreign decision in the State of origin, which may be stated in the resolution itself or in the law applied by the court of origin.

All of them with the corresponding translations, not only into Spanish, but also into the official language of the defendant State or into a language that the defendant understands.

Finally, the defendant will have a period of thirty days to oppose the application for recognition and/or enforcement from the correct summoning thereof.

## **III.Precautionary measures as a guarantee of successful enforcement**

The request for precautionary measures gives rise to a circumstantial and precautionary proceedings

which, with greater flexibility than would be required in the definitive enforcement proceedings, prevents the enforced party from being able to take advantage while the main proceedings for recognition are instituted.

In our experience, an adequate approach to the request for precautionary measures usually determines the definitive success of the applicant. The preventive seizure of assets or the adoption of measures prohibiting the disposition of others are, for example, measures that grant to the enforcing party a significant advantage over the enforced party, notwithstanding them being of a provisional nature.

In this regard, Law 1/2000, of 7 January 2000, on Spanish Civil Procedural Act ("SCPA"), provides, as an essential condition to request precautionary measures, that they do not prejudice the merits of the case. However, in practice, precautionary measures, if granted, usually represent to a certain extent an advance result of the enforcement. Even more if they are adopted urgently and *inaudita parte* (i.e., without giving the other party the opportunity to

present its case), as provided for and permitted by Article 733.2 of the SCPA.

Although the request for precautionary measures may be prior, simultaneous or subsequent to enforcement, in the case of judicial decisions, in respect of which recognition may be requested at the same time as enforcement, it is normal to focus efforts directly on the final enforcement (unless we are talking about a situation of extreme urgency that requires, for example, retaining an asset that is aimed to be for a short period of time in a specific place, or to retain assets that will be impossible to restore the debtor's patrimony).

A different situation applies to the recognition of arbitral awards, for which the recognition proceedings must first be processed and then, and only after the recognition decision has been issued, request its enforcement. In such cases, it does make more sense to request precautionary measures prior or simultaneously to the request for recognition, in order to ensure the future enforcement.

In this regard, Article 730.2 of the SCPA states that, in the case of precautionary measures adopted *ante demandam*, these "shall be without effect if the claim is

not filed before the same Court that heard within twenty days following their adoption".

Finally, Spanish law requires the concurrence of three essential requirements:

1. Appearance of good faith or "a provisional and indicative judgment favorable to the merits" of the main claim; in our case, that the recognition and, therefore, the enforcement, will be granted. In general terms, it is sufficient that the foreign decision is final, respects public order, and, in case of default of the defendant, his fundamental rights have been respected in the original proceedings by means of the due notifications.
2. Danger due to procedural delay or the advantage that the elapse of time in the main proceedings may provide to the defendant. This is usually more evident in proceedings for the recognition and subsequent enforcement of arbitral awards, since it is not possible, with some exceptions, to begin enforcement without prior recognition.
3. The offer of sufficient surety to respond, in a prompt and effective manner, for the damages that the adoption of the precautionary measure may cause to the defendant.



#### **IV. Particularities of the enforcement against sovereign States**

It is not uncommon that, especially in connection with arbitral awards, the party against whom the award is sought to be enforced is a sovereign State. Especially in a context where disputes being settled under the ICSID Convention are increasing.

The enactment, in 2015, of the Organic Law on Immunities was fundamental. It consolidated the flexible trend that Spanish courts had been maintaining up to that moment and reinforced the restriction of enforcement immunity. Such immunity will only be understood to be compromised when the assets to be enforced are of the so-called *iure imperii*, aimed at official non-commercial purposes (specifically, the assets identified in article 20 of the Organic Law on Immunities). Thus, enforcement immunity will not be considered to be compromised when assets are *iure gestionis*, aimed at commercial purposes other than official ones.

Although casuistry is very broad, in our experience we can confirm the enforcement of bank accounts and credit rights held by public or semipublic companies of Sovereign States, train locomotives

built in our country aimed to be delivered to another sovereign State and, more particularly, for a company wholly owned by it, or of aircrafts also owned by a State-owned company wholly owned by another sovereign State. Thus, the figure of the alter-ego takes special importance in these cases, in which liability also extends to entities entirely linked and/or owned by the defendant sovereign State.

In addition, the assets to be enforced must be located in Spain and have a link with the defendant State, regardless of their direct connection to the litigation. These same requirements apply for requesting precautionary measures of an enforcement nature against a sovereign State.

The summoning of the defendant State should be performed by the Spanish Ministry of Foreign Affairs and Cooperation ("MFAC"), that shall as well prepare a report in which the concurrence of possible immunity issues requiring special protection is analyzed. Thus, in addition to the Public Prosecutor, when the defendant is a sovereign State, the MFAC, whose considerations are not binding on the court either, must intervene.

The Law on International Legal Cooperation adds that the summoning must be served through diplomatic

means, and that it shall be deemed to have been performed "two months after the date appearing on the receipt evidencing its receipt". This date will be taken into account to consider the defendant State, despite having been duly notified, in default. In this regard, the summoning to the defendant State must be formalized through the Spanish Embassy located in the defendant State.

#### **V. Conclusion**

The Spanish jurisdiction is, without a doubt, a guarantee in terms of facilitate and favor foreign judgments, both judicial and arbitral, to be effectively enforced. The laws enacted in recent years have established a flexible and permissive framework, and Spanish courts are always mindful of their obligation to protect the holder of the right of enforcement.

A relatively simple procedure, the prevalence of the principle of favor recognitionis, or the possibility of requesting precautionary measures to ensure enforcement which, in a high percentage, are accepted on the basis of prima facie evidence, are attractive enough to consider the request for recognition and enforcement of foreign judgments or arbitral awards in Spain.

## Service Providers on Digital Platforms: autonomy or subordination?



**Luísa de Albuquerque Inácio**  
Andersen Portugal

The most recent amendments to the Portuguese Labour Code, provided for in Law 13/2023 of 3 April, establish criteria for verifying the presumption of the existence of an employment contract in relationships established between digital platforms and service providers that provide individual paid passenger transport services in uncharacterised vehicles from an electronic platform or that operate as delivery platforms that carry out the provision of activities by couriers.

In this context, the new article 12-A (added to the Labour Code), has determined, for an activity that has long sought legal provision, the provision of specific signs of labour to be verified in the relationship between the service provider and the digital platform, without prejudice to the signs of legal subordination already provided for in article 12 of the Labour Code.

In this context, the setting by the digital platform of a remuneration attributed to the service provider, the use by the service provider of equipment and work tools belonging to the digital platform, the exercise of management power and the supervision and control of the provision of the activity by the digital platform, the restriction of the activity provider's autonomy as regards the organisation of working time, or the exercise of disciplinary power over the activity provider are some of the signs of legal subordination specifically provided for in the law for this type of activity that can be claimed in court by the service provider who wishes to have the existence of an employment relationship recognised.

However, in order to rebut this presumption, it will be up to the digital platform to evidence that the service provider performs their duties with effective autonomy.

The law also allows digital platforms to claim that the service is provided to a natural or legal person who acts as an intermediary to provide services through their workers, without prejudice to the joint and several liability of both. However, if the service provider alleges the legal

subordination of the digital platform intermediary, it will be up to the court to determine the employer.

As one can see from the questions it raises, this issue is currently a lot of curiosity, which is why we are eagerly awaiting the outcome of the various lawsuits aimed at recognising an employment contract filed since these changes came into force by digital platform providers in Portugal.

The corresponding court rulings are eagerly awaited, since even though they are not binding and will be assessed on a case-by-case basis, if they are favourable to service providers, such a ruling or rulings could set a precedent, and it is therefore foreseeable that digital platforms will be faced with a large number of legal disputes. This is because, once the existence of an employment relationship is recognised, the rules laid down in the Labour Code will apply, which will necessarily change the legal-labour paradigm: not only will service providers benefit from the stability and protection associated with an employment relationship, but this could also imply structural changes in the hiring models and organisational culture established by digital platforms.

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