

MADRID ANNUAL REPORT



“It is important that law firms adopt some of the methods of the large auditing firms. We have to learn from our competitors such as the accounting firms. We do not have the same processes as these competitors have.”
Iñigo Berricano, Linklaters

partner Ignacio Legido Castiella says: “Some recent and expected changes in the Spanish regulations and the arrival of several Anglo-Saxon companies in recent years has increased concern about compliance - it is no longer viewed as an irrelevant area of the company but as a part of the overall business strategy of any organisation.” However, it is perhaps an indication of the fragile nature of the economy that, according to Ceca Magán Abogados founding partner Esteban Ceca Magán, there is “still more destructive work than constructive”. He adds: “Splits, restructurings, collective dismissals are the most demanding issues at the moment.” But Davis Polk & Wardwell partner Michael J Willisch is much more bullish. “Equity capital markets work has picked up tremendously - we have already closed three IPOs in Spain, and one in Portugal in 2014, and have several other significant equity capital markets transactions in the pipeline,” he says. Telecommunications and new technologies will offer huge practice growth that will require “a greater degree of specialisation due to the number of businesses involved in its applications and specific regulations,” according to Alfonso Caldevilla, managing partner at Dutilh Abogados. Meanwhile, Kennedys partner Jesús Vélez says directors and officers claims relating to fraud in financial institutions and professional indemnity claims are among the key issues clients are currently seeking advice on. The transport sector is also one to watch, according to MVA Asociados partner Javier Montalvo Cleofé.

Lener partner José Lombardía says his firm is focusing on helping its business clients become more competitive. “Coexistence of lawyers and economists is natural at our law firm - this allows us to easily handle any type of business transaction, including the search for new forms of financing, cross-borders transactions, or restructuring.” Andrés Monereo, founding partner of Monereo Meyer Marinell-lo Abogados, says that with credit now more available in the Spanish market, real estate investors can approach the banks to get financing, and consequently, more deals are being concluded. “Last year, there was a lack of credit, and, in addition, sellers were reluctant to reach deals since they felt the value of their asset was not recognised.”

AC&G Asesores Legales partner Guill de Iriarte says it is important to make not implementation of court fees, which are part of the ambitious programme of Justice Reform of the Spanish Government”. He adds: “Since litigation costs, there has been a clear red trend in proceedings - for example, there has been a 10% increase in the civil jurisdiction. Legal bus just because of the reduction of general li

prospective litigation clients will put even more pressure on their lawyers when it comes to the fees in view of the increased costs they will have to pay.”

Big firms don't merge

Lozano says that, while there have been a lot of mergers in the UK, for example, they have mostly involved mid-sized firms. “In Spain there are too many law firms, but the biggest firms will not merge,” he adds. Pérez-Llorca says one of the main reasons for

law firm mergers is one firm having too much debt and that, as Spanish firms do not have much debt, there is little prospect of mergers in the Madrid legal market.

Berricano disagrees with the claim that there are too many law firms in the Spanish market. “All the firms are doing well and innovation and efficiency are the drivers,” he says. “Competition between firms is a good thing - M&A work is back and restructuring work will continue - we are in a marketplace that is extremely successful, the number and quality of the law firms shows how successful it is, there are good quality lawyers.” The increase in M&A work is resulting in firms tinkering with their internal structures - Broseta managing partner Luis Trigo says his firm has reorganised some teams to work in acquisitions.

Baker & McKenzie's Alonso says clients are now not only paying less in fees, but also asking for more partner involvement. “We have to work more, we have to control costs in terms of recruiting and we have to get more from technology.” Eversheds Nicea managing partner Juan E. Diaz Hidalgo says clients are demanding predictability on cost, efficiency and cost effectiveness are key drivers. “Firms need to be more flexible in their work processes and much more innovative in finding ways to address legal needs.” Francisco G.Prol, senior partner at Prol y Asociados, says law firms have had to undergo restructuring changes “not only in their number of lawyers” but also in the sense that lawyers are having to be redeployed to work in different fields such as arbitration, which is growing considerably. Araoz & Rueda Abogados partner Alejandro Fernández de Araoz says that, in terms of fees, firms have to come with “creative structures on ‘success and abort fees’ while also being more prudent and often requesting retainer or upfront payments before we begin work”. He adds that clients are also demanding greater partner involvement, with the result that there is increased pressure on associates to be ‘up-to-standard’.

Better to increase sales than cut costs

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Deleveraging problem persists ←

Doubts remain about whether Madrid authorities will take away the Government's status as a privileged creditor

Recent legal developments relating to the restructuring of debt have created many opportunities for law firms in Madrid, according to Alejandro Fernández de Araoz, partner at Araoz & Rueda. “In addition to real estate, portfolios of non-performing loans and other receivables and securities, everybody is interested in the modifications to the insolvency laws and regulations,” he says. “In Spain, there's a huge deleveraging problem on both the public and private side - there's still a lot of restructuring to be done.” The new provisions facilitate debt restructuring agreements, including better “cram-down” instruments and flexibility to capitalise debt into equity.

It is hoped that a more flexible legal framework will make it easier for corporate debtors to restructure their debt and work with their creditors. Alongside this, the Government has introduced a new employment framework, to allow companies to make hiring more flexible, salaries more competitive and redundancies cheaper

- a move Fernández de Araoz believes complements restructuring. “Sometimes good companies take on too much debt, so we not only have to work on the debt but what we do with the workforce.”

Fernández de Araoz adds that it is unclear whether the Madrid authorities will enact future legislation to ensure that debt restructuring agreements also cover debts owed to the Internal Revenue and Social Security which still have a privileged status. In fact, most Spanish SMEs bank with only one institution and have as their main creditors the Internal Revenue and Social Security. He says: “If we want SMEs to keep going and make it, we need to tackle this privileged status of the Government as a creditor immediately.”

These developments are now forcing Madrid law firms to restructure. “Clients now want partners in on every meeting, as sometimes you need broad expertise in different areas of the law, that is, the corporate, insolvency, banking & finance and procedural law aspects.”



Alejandro Fernández de Araoz

when determining what compliance requirements are necessary – for instance, a big company will require an independent control body to oversee implementation and conformity, while these duties can be performed directly by the managing body in a smaller company.

Araoz & Rueda partner Ainhoa Veiga says clients main concerns include having to “harmonise compliance in various jurisdictions”. He adds: “For instance, it’s not easy at all for our multinational clients to produce an effective uniform compliance programme.” According to Pastor, the Spanish courts will expect big companies to have their own Spanish compliance advisory body

One problem highlighted by Casanovas is that the Spanish Criminal Code is not fully aligned with international compliance standards. He adds: “The Criminal Code should be risk-based in order to avoid requesting certain measures that imply costs without having a positive impact in terms of crime prevention or detection.” In this sense, a proper compliance risk assessment is the “cornerstone of any compliance system”, Casanovas says. “The system should be risk-based.” Meanwhile, Casanovas points out that people other than directors could be criminally liable. “There have been judgments in other countries where the responsibility has been put on

“ Small and medium-sized companies do face significant risks. If a small or medium-sized company in a supply chain is facing a criminal investigation, clients – who may be big entities – may discontinue their relationship with them. ”

Alain Casanovas, KPMG



on the establishment within companies of frameworks of Governance, Risk and Compliance (GRC), which enable companies to “improve their efficiency and strengthen the decision-making processes”. Ecix Group managing partner Álvaro Écija says attitudes to compliance vary widely from company to company: “Some mature organisations have metrics and indicators to know what they’re complying with. That said, there are still many companies that don’t know what compliance is.”

Murray Grainger, managing director of compliance consultancy Impact on Integrity, says: “Enforcement is on the rise globally, with plenty of governments keen to impose penalties to boost their international credentials and their own coffers.” Kennedys partner Jesús Vélez says the firm’s clients are currently asking about how to adapt to EU regulations. He adds: “The insurance market has a great amount of legislation in that regard.”

Coburn, Cleary Gottlieb Steen & Hamilton LLP