GARRIGUES



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Restructuring and Insolvency
Dispute Resolution: Litigation and Arbitration
Banking and Finance

Adrian Thery heads the Restructuring & Insolvency Department in Madrid. He advises debtors or their stakeholders on out-of-court restructurings, as well as on in-court restructuring or insolvency proceedings, both domestic or cross-border.

Member of the Group of Experts on restructuring and insolvency law (E03362) established to assist the European Commission (DG Justice) in relation with the preparation of legislative proposals and policy initiatives.

Experience

His recent professional experience includes:

- Lawyer of the debtor in the Spanish scheme of arrangement of one of the major shipping companies in Spain (In re "**Naviera Armas**").
- Lawyer to the acquirer of more than seventy clinics in the bankruptcy proceedings of one of the major Spanish chains in the dental care industry (In re "**Dentix**").
- Lawyer of the financial creditors and of the debtor, respectively, in the court homologation of the refinancing agreements of a listed company in the real estate sector and of another listed company in the stationery sector.
- Lawyer of the Sureties in the first two challenges to the homologation of a refinancing agreement to be judicially upheld by a Spanish court up to date: Abengoa I ("**Stand-Still Agreement**") and Abengoa II ("**Master Restructuring Agreement**").
- Lawyer of the majority of banks in the first insolvency proceedings opened in Spain in relation with a cross-border infrastructure the high-speed railway line between Spain and France (In re**TP Ferro**).
- Lawyer of the Spanish company that owns the so-called "Ciudad Financiera", and its two Dutch parent companies, he has obtained from Madrid Commercial Court the opening of insolvency proceedings for the

three companies altogether. First precedent in Spain of cross-border downstream COMI consolidation (In re **Marme**).

- In the framework of the insolvency proceedings of an important Spanish listed fishing company, he drafted for the investment Consortium the Reorganization Plan that was subsequently approved by the Pontevedra Commercial Court and assigned to certain financial creditors (In re **Pescanova**).
- Acting as the attorney of the debtor in the insolvency proceedings of the unique peaking power plant in Spain, he proposed the first Reorganization Plan to be approved to combine classic restructuring measures with sovereign debt restructuring tools (In re **Global 3 Combi**).
- Participating in the inception of the COMI consolidation before Barcelona Commercial Courts of the insolvency proceedings of different European companies of an important industrial group (In re **La Seda de Barcelona**).
- Acting as the attorney of two companies subject to insolvency proceedings that were to be merged through their respective reorganization plans, he petitioned and obtained for the first time in Spain from a Commercial Court the exclusion of the individual right of opposition that corporate law generally recognizes to creditors (In re **Fiesta**).
- He advised several international Banks in the first compulsory insolvency application against an industrial borrower to be followed by (i) the replacement of the management of the debtor by Court-appointed receivers; (ii) the granting by the applicants of secured post-petition working capital financing to the "receivers-in-possession", so as to resume the debtor's activity that had been interrupted; and (iii) the sale of the debtor's operating business unit, in a competitive process driven by a Big Four, in order to preserve employment and maximize creditors recovery (In re **Seda Solubles**).

Academic background

- Law Degree (Universidad San Pablo CEU, 1997).
- LL.M. in European Business Law (Universidad San Pablo CEU, 1998).
- Master's Degree in Business and Finance (Centro de Estudios Garrigues, 2007).

Teaching activity

Regular speaker at seminars and national and international conferences.

Some recent conferences in which he has participated as a speaker include:

- "Corporate rescue in judicial reorganizations", 80th anniversary of the Colombian "Superintendencia de Sociedades", Colombian Chamber of Commerce, 10-11 October 2019, Bogota.
- "How to implement the Restructuring Directive in the EU?", 28 June 2019, 8th European Insolvency and Restructuring Congress, Deutscher Anwaltverein & INSOL Europe, Brussels.
- "Corporate governance and capital structure", 26 February 2019, Commercial Law Seminar, Real Academia de Jurisprudencia y Legislación, Madrid.
- "Corporate crisis and re-launching of the capital structure and corporate governance", 4 February 2019, Cátedra Garrigues de modernización del derecho de sociedades, Universidad Pontificia de Comillas (ICADE), Madrid.

- Cyle of sessions on the Restructuring Directive, 26 November 2018, Foundation for the Investigation on Law and Economy (FIDE), Madrid.
- “Restructuring of distressed corporates (Spanish and Latam perspectives)”, panel on “Cross-class cramdown and class formation”, 5-6 November 2018, CEAL/Universidad Autónoma, Madrid.
- INSOL Europe 2018 Anual International Conference, 4-7 October 2018, panel on “NPLs: a solution or a mistake”, Athens.
- “Pre-insolvency corporate restructuring”, 7 june 2018, Cámara de Sociedades Anónimas de Buenos Aires.
- “Main challenges and trends in insolvency proceedings, restructuring and second chance”, Bulgarian Presidency of the EU Commission, 18 may 2018, Varna.
- “Cross border transfer of Company seats and corporate restructuring”, panel on “Cross border transfer of Company seats and insolvency and pre-insolvency proceedings”, 26-27 april 2018, Universidad Complutense, Madrid.
- “Restructuring and refinancing agreements”, panel on “Negotiations of refinancing agreements”, X Spanish Congress of Insolvency Law (CEDIN X), 8-10 March 2018, Valencia.
- “Preventive restructuring: sunset on insolvency?”, Insol Europe Annual Congress, 5-8 October 2017, Warsaw.
- “International Congress on refinancing and corporate restructuring”, Universidad Complutense de Madrid, General Lawyers Council, 20-21 April 2017, Madrid.
- “The Proposal for a Directive on preventive restructuring frameworks”, Royal Academy of Jurisprudence and Legislation, Commercial Wing, 21 March 2017, Madrid.
- “A Chapter 11 for Europe?: What insolvency law should apply to corporates in the European Union?”, Institut Droit et Croissance & Banque de France, 28 october 2016, Paris.
- “Harmonisation des droits nationaux: de la Recommandation du 12 mars 2014 à l’initiative législative de la Commission européenne de 2016”, Conseil National des Administrateurs Judiciaires et Mandataires Judiciaires (CNAJMJ), 20 october 2016, Paris.
- “The applicability of the EIR on pre-insolvency and hybrid proceedings”, Max Planck Institute for International, European and Regulatory Procedural Law, 7 october 2016, Luxembourg.
- “The treatment of shareholders’ rights in the insolvency of companies”, Banca d’Italia, 23 june 2016, Rome.
- “Equity cram-down and EU Harmonization”, TMA Europe Annual Conference, 10 june 2016, Rome.
- “A Chapter 11 in Continental Europe? Past reforms in Spain and Italy – Assessment of the EU Strategy on Insolvency Law”, Droit et Croissance, Restructuring Conference, 4 November 2015, Paris.
- “Corporate rescue and the practitioner”, INSOL Europe and Academic Forum, Joint International Insolvency Conference, Nottingham Trent University, 25-26 June 2015, Nottingham.
- “The Pescanova case analyzed by the main players involved”, Instituto de Estudios Bursátiles, III Distress M&A Workshop, 18 June 2015, Madrid.
- “Insolvency law reform in the EU – hello Chapter 11 or goodbye NY and London?”, INSOL International, Annual Regional Conference, 22-24 March 2015, San Francisco.

- “How to overcome jurisdictional hurdles on the path to investment opportunities in the Southern Europe”, Capital Structure, Distressed Debt Seminar, 11 November 2014, London.
- “Pitfalls for investors in key European jurisdictions”, International Restructuring Conference, Insol Europe / R3, 1 May 2014, London.

Memberships

- Member of the Council of “INSOL Europe”.
- Member of the International Insolvency Institute (“III”).
- Conferee of the Conference of European Restructuring and Insolvency Law (“CERIL”).
- Co-Chair of the Restructuring and Insolvency Wing at the Madrid Bar Association.
- Founder and President (2015-2016) of the Spanish Chapter of the Turnaround Management Association (“TMA”).
- Member of the Editorial Board at the European Insolvency and Restructuring Journal (“EIRJ”) and the “Revista General de Insolvencias y Reestructuraciones” (“RGI&R”).
- Contributing member in Spain to the World Bank panel of experts.
- Practicing member of the Madrid Bar Association.
- Member of the Commercial and Bankruptcy Wing of the General Council of Spanish Barristers (CGAE).

Distinctions

He has been singled out by the leading international law directories:

Who’s Who Legal: Insolvency & Restructuring (2014-2022): “Thought Leader – Restructuring & Insolvency 2022”. “Thought Leader - Restructuring & Insolvency 2020”. “Global Leader – Restructuring & Insolvency 2021”.

Included by **Lawdragon** in 2020 among the “500 Leading Global Bankruptcy & Restructuring Lawyers”.

Chambers & Partners, in the “Restructuring and insolvency” area (2011-2020):

- "Adrián Thery has an excellent track record acting on insolvency proceedings on behalf of international conglomerates and local banks, with additional experience in significant debt restructuring and refinancing mandates.” (Chambers Europe 2023, Band 1).
- “According to clients, Adrián Thery "understands the deal dynamics and is commercially very savvy." He has an excellent track record acting on insolvency proceedings on behalf of international conglomerates and local banks, with additional experience in significant debt restructuring and refinancing mandates.” (Chambers Europe 2022, Band 1).
- The "brilliant" Adrián Thery operates at the very forefront of the Spanish insolvency market, and is the team's leading figure for protecting the interests of local banks and investment funds in contentious insolvency contexts. He is also increasingly active in substantial restructuring mandates, notably on behalf of prominent Spanish companies.” (Chambers Europe 2020, Band 1).

- “Adrián Thery is often identified as a market leader in the insolvency sphere. He assists creditors and debtors with contentious issues arising within the context of formal insolvency proceedings. He also advises alternative investors on the acquisition of claims against bankrupt Spanish companies. Interviewees praise both his negotiation and litigation skills, saying: «He finds solutions and does whatever he can to defend the interests of his client»." (Chambers Europe 2019, Band 1).
- “The «brilliant» Adrián Thery maintains a solid reputation for his expertise in restructuring mandates and insolvency proceedings. He regularly advises creditors, debtors and distressed investors on national and cross-border matters. One market commentator describes him as a «very good litigator» who is «clearly at a different level».” (Chambers Europe 2018, Band 1).
- Chambers Europe Guide 2017 acknowledged Adrian Thery as a Band 1 notable practitioner: “Adrián Thery has been especially active in construction and infrastructure insolvency proceedings. Sources mention his dedication to the matters as well as his "strategic view of issues and deep knowledge of the area," with one impressed client adding: "Restructuring and insolvency is an area in which everything is uncertain, there's a lot of grey, but Adrián's advice makes everything a bit more black and white."
- “Adrián Thery specialises in advising debtors and is recognised in the market for “his technical innovation and his negotiation abilities.” He frequently advises on high-profile insolvency proceedings and cross-border matters.” (Chambers Europe Guide 2016).
- “Clients of Adrian Thery say that «you can tell he has a lot of hands-on experience; he can go beyond telling us what the law says and give us timings and market expectations»." (Chambers Global Guide 2015).
- “Insolvency practitioner Adrian Thery rises in the rankings having earned significant positive feedback. Interviewees say: «He has a good strategic vision. He's creative and a true fighter who doesn't give up, without being aggressive»." (Chambers Global Guide 2014).
- “Adrian Thery focuses on advising mainly international banks on their restructuring and insolvency proceedings. Clients appreciate that «he is not afraid to put his head on the line and has a very decisive style»." (Chambers Global Guide 2012).

IFRL 1000, “highly regarded” in the “Restructuring and insolvency” area (2012-2022).

- “Adrian Thery is ‘technically superb’ and is also highlighted for his strategic abilities.” (2014)

Legal 500, como “Leading individual” (Tier 1) en el área de “Restructuring and Insolvency” (2018-2020-2022):

- "Garrigues will miss the expertise of Antonio Fernández Rodríguez, who has now retired, but the experience and reputation of partners such as Adrián Thery, Juan Verdugo and Borja García-Alamán ensure the firm remains involved in the country’s largest insolvencies and restructurings on a regular basis.” (2017).
- “Garrigues provides ‘rapid responses to complex questions’ and is heavily involved with the infrastructure, real estate and renewables sectors. The group also advises financial entities including Santander and BBVA and has a standout reputation for its work on non-performing loan transactions (NPLs), acting for notable investment firms such as Bain Capital. Adrián Thery and associate Juan María Jiménez are assisting a group of international insurers with their claims against Abengoa following its homologation. Juan Verdugo and Borja García-Alamán are also key practitioners.” (2018).

Best Lawyers in Spain, in the “Insolvency and reorganization” area (2009-2022).

Publications

Collective works (originally published in Spanish):

- “Competing restructuring plans”, Nuevo Marco Jurídico de la Reestructuración de Empresas en España, coord. Amanda Cohen Benchetrit, Aranzadi, December 2022.
- Comments to articles 721 a 751 (Heredia/Thery, in “Comments to the Spanish Recast Insolvency Act”, Peinado/Sanjuán, Sepin, 2020).
- “Refinancing agreements: the negotiations” (in “Refinancing and restructuring agreements. Tenth Spanish Conference on Insolvency Law”, Rojo/Campuzano, Thomson Reuters Aranzadi, 2018).
- “Business crisis and insolvency: legal observations” (Ed. Aranzadi, Colección Garrigues, 2010).

Articles (originally published in Spanish):

- “The Prepack in the EU Proposal for a Directive of December 7 2022”, Revista General de Insolvencias y Reestructuraciones, Number 9, Iustel, March 2023.
- “Conflicts of interests and refinancing agreements” (Garcimartín/Thery, in “Almacén de Derecho”, February 2021).
- “A second chance for pre-packs”, Revista de Derecho Concursal y Paraconcursal nº 33, first semester 2020, Wolters Kluwer.
- “Restructuring Directive, debt for equity swaps and corporate governance” (Revista de Derecho Concursal y Paraconcursal # 31, first semester 2019, Wolters Kluwer).
- “The restructuring frameworks in the proposal for a EU Directive dated 22 November 2016 (II)” (Revista de Derecho Concursal y Paraconcursal #28, first semester 2018, Wolters Kluwer).
- “The restructuring frameworks in the proposal for a EU Directive dated 22 November 2016 (I)” (Revista de Derecho Concursal y Paraconcursal #27, second semester 2017, Wolters Kluwer).
- “Restructuring and insolvency: crossroads in european harmonization” (Revista de Derecho Concursal y Paraconcursal, nº 24/2016).
- “Brexit and international insolvency” (Heredia/Thery, El Notario del Siglo XXI, septiembre-octubre 2016, nº 69).
- “Cross-border insolvency. Downstream COMI consolidation” (Anuario Mercantil para Abogados 2015).
- “Implications of valuation in Spanish Insolvency Act” (Diario La Ley, Doctrine, 3 March 2015).
- “First exclusion in insolvency of the creditors individual right of opposition (Fiesta’s merger reorganization plan)” (Revista de Derecho Concursal y Paraconcursal, 2013, second semester).
- “The ruling of December 4th 2012 of Madrid Commercial Court #12 and article 191.ter.2 of Spanish Insolvency Act as a new legal event of mandatory assignment of contracts in Spain” (Anuario Mercantil para Abogados 2013).
- “Accelerated court approval of advance proposals for arrangements” (Anuario de Derecho Concursal, 2012).

- “Certain issues regarding the problems arising in the acquisition of shares or assets of companies under insolvency proceedings” (Revista de Derechos de Sociedades, 2009)
- “Insolvency Law in Crisis? Towards a Law on Corporate Restructurings” (Diario La Ley, 2009).

Collective works (originally published in English):

- “The Implementation of Preventive Restructuring Frameworks Under EU Directive 2019/1023: Claims, Classes, Voting, Confirmation and the Cross-Class Cram-Down” (Richter/Thery, INSOL Europe, March 2020).
- Chapter on Spain in “Bank Resolution: key issues and local perspectives” (González-Gallarza/Thery, INSOL International, December 2019).
- “The release of third party guarantees in pre-insolvency restructuring plans” (Veder/Thery, in “Truth and good faith across borders”, Liber amicorum professor Dr. S.C.J.J. Kortmann, Edited by Prof. Dennis Faber, Ben Schuijling, Niels Vermunt – Wolters Kluwer 2017).
- “The Restructuring Review” (Law Business Research – 2013, 2014 and 2015).

Articles (originally published in English or German):

- “Insolvency Litigation Funding” (Global Restructuring Review – The EMEIA Restructuring Review 2018).
- “Ein Blick über den deutschen Tellerand für hilfreiche Lektionen” (“A look abroad for useful lessons”), interview in INDat Report, Fachmagazin für Restrukturierung, Sanierung und Insolvenz, #03-2017, 27 April 2017.
- “Crossroads in EU harmonization on restructuring and Insolvency: towards a market-based system or one where the Senior takes it all?” (Reimagining rescue, Insol Europe Academic Forum, Nottingham Trent University, September 2016).
- “Crossroads in EU harmonization on restructuring and Insolvency: towards a market-based system or one where the Senior takes it all?” (Revue Trimestrielle de Droit Financier (RTDF), Paris, nº 1/2016).
- “Acquisition Of Distressed Businesses In Spain And ‘RIP Financing’” (Financier Worldwide, August 2013).
- “Spain: Key new legislation introduced by the Insolvency Law Reform” (Global Insolvency & Restructuring Review, Euromoney, 2012).
- “Objective: Preserving value” (Global Insolvency & Restructuring Review, Euromoney, 2011).