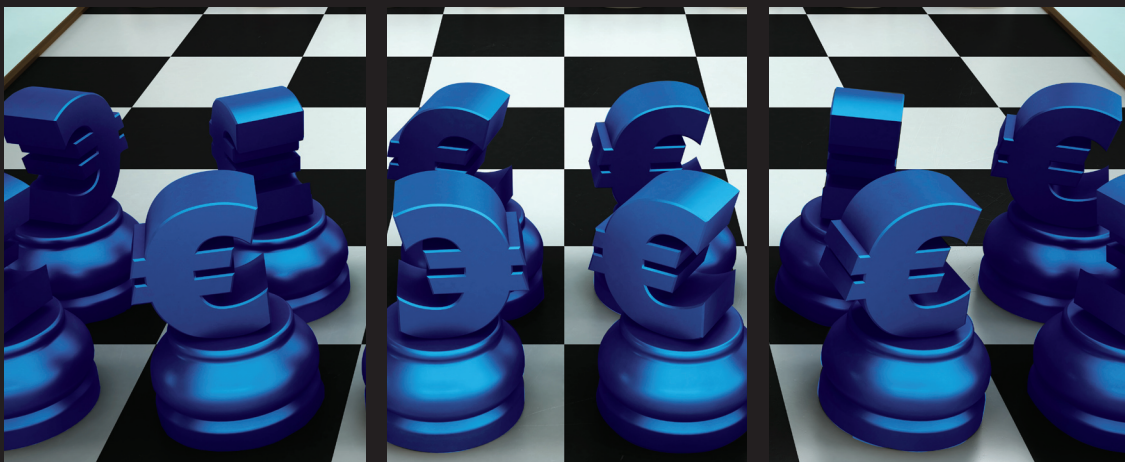


# Competitive Strategies for European Law Firms

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# Expert analysis 1: The European legal market – An overview

*IN THIS analysis, Miguel Teixeira de Abreu, managing partner at Abreu Advogados provides an overview of the European legal market and discusses international strategies of continental law firms.*

## **Different contexts equal different strategies**

When reflecting about strategies in the European legal market, one must ask first if such a reflection is at all possible. The European legal markets are so diverse that no one strategy will apply to them all.

One could say that there may be a strategy for UK (City) law firms, as they typically look at the market in a global fashion – through the development of an international *lex mercatoria* that follows the principles of anglo-saxon law.

One may also say that there is another strategy for firms in countries with an important industrial or service sector, as is the case for countries like Germany, France, Italy, Spain and the Nordic countries as well as the Netherlands, Switzerland, Luxembourg, Ireland or Belgium.

And there is yet another strategy for firms in smaller and marginal markets with open economies and where foreign investment plays a major role, such as Portugal or many eastern European countries.

So, the first conclusion could well be that *different strategies exist for different law firms in different legal markets*. In fact, the positioning and the strategy of law firms in these different markets will be diverse as they

are in different contexts. A UK firm applying UK law knows that it can practice virtually around the globe, drafting documents and advising on international financing or acquisition transactions, generally subject to UK law and UK courts. A continental firm not benefiting from this global market, will most likely position itself in accordance with the specificities of its market of origin. If such market is an exporting market, it will be tempted to follow its national clients into other jurisdictions, even if it cannot practice there directly. If such market is an importing market, it will be tempted to focus its energies into trying to represent international clients in its domestic market.

If there is one thing that is common to all these firms is that their strategy tends to be linked to the strategy of their domestic companies. In other words, *law firms will strategically grow where their clients strategically go*.

If one looks at the Iberian Peninsula, for example, one will see that Spanish companies are exercising a dominant position in economic terms, taking the Portuguese market by storm; whereas the Portuguese companies are looking for growth in the former Portuguese colonies.

Law firms position themselves in context with the strategy of their clients. That is why the larger Spanish firms would like the Iberian Peninsula to be one single legal market. As a matter of fact, although Portugal and Spain are two totally different legal markets, no effort has been spared by Spanish firms to

try to convince their stakeholders that there is one single market called Iberia.

The Portuguese firms, on the other hand, have spared no effort to show that the Portuguese legal market is full of its own specificities and, thus, will be better served by Portuguese firms. Also, in the absence of critical mass to compete with the larger Spanish firms in the Spanish market, they tend to look at the former Portuguese colonies and expand their activities into such emerging markets.

Whereas UK firms are more focused on the challenge of opening up a Chinese or a Dubai office, Spanish firms are more keen to open offices in Brazil or Argentina, where Spanish companies have growing interests. Portuguese firms, on the other hand, lack the muscle to conquer these markets and prefer to focus their energies in Angola or the domestic market.

There are, however, some factors which, from a strategic point of view, are common to all firms and they apply whether you are a UK firm looking to practice on a global scale or a Spanish firm intending to follow its clients to South America, or a Portuguese firm entering the Angolan market.

When defining an international strategy, there are a number of common questions which law firms should be asking:

- Where are we? Where do we want to be? How do we get there? The strategy could be a Portuguese law firm having an international presence where it can add value. This can result in a law firm being present in the major cities of Portugal and developing a strong presence in the Portuguese-speaking African countries;
- What do we need to do as a law firm, in order to get to where we want to be? What resources are required to

implement our goals? Again, the strategy could be the firm having a professional management organisation, allowing it to grow and move without taking lawyers' energies away from the business. Having a professional management system requires internal resources and can only be achieved once the firm has some critical mass. So prior to moving out of your own city, you need to get to the level where such move is sustainable;

- What impact will this have on the partnership? As a firm puts its focus on getting to where it wants to go, how will its partners react to the investment the firm needs to make? This is an important question because a firm can start moving in one given direction, but if the partnership is not going along with it, the firm will not achieve its goals; and
- The answer to these questions will depend on the answers of some previous questions, such as: who are we? Do we have an institutional culture? Do we, as a partnership, share the same goals and want to take the same path? Are we practising law as part of a corporate project, or do we look at our firm simply as a project for our lifetime? Is our concern focused on the firm as a whole, or are we primarily focused on our own niche practice areas within the firm?

If, after answering these primary questions, the partnership does affirm its intention to be a major player in its own market and have an international presence, then I suggest the firm takes some steps aimed at creating and consolidating a common culture. This can be in the form of adopting a quality management system, issuing a sustainability report (such a report can tie people together into a common goal) and integrating all lawyers into one common way of practising law.

*In short, I would say that no strategy can ever be successful if these questions have not been thought out properly and the time has not been spent in getting the right answers. And, if your strategy involves going away from your home market, then I believe some additional factors need to be considered, such as:*

- Can your firm practice law in the jurisdiction it wants to move into? Local restrictions to the exercise of a legal activity will impact on your ability to establish your own practice and may impose complex structures involving local firms – while these structures may allow you to have a foot in that other market, it may cause you trouble in the long run (local resistance, difficulty to shift revenues, structures based on fiduciary relations, etc.);
- Another factor to bear in mind is the practice of the law in the other jurisdiction. Do individual practitioners represent a large portion of the market? Have lawyers been through the process of adjusting their individual egos to the true concept of partnerships? Are they ready to accept all the good and the bad behind an international partnership practice? Will local lawyers apply the culture, the working model, the rules and the procedures of your practice?
- The third factor relates to the specificities of the legal market. How many practising lawyers are there and how strong is local competition? Is there room for an international practice? Are the fees in line with your fees? Are clients sensitive to an international brand? Is the local bar association open to international practices? and

- Finally, if you want to make a decision, you need information about the local market. Is such information available? Are there credible benchmarks?

Each country will have different challenges, but no one firm intending to expand out of its domestic borders can ignore these and other factors. With this in mind, *is your law firm sure it wants to go international?*

The questions and factors previously discussed are naturally a theoretical approach to strategy. They imply that firms think about their strategy before they actually implement strategic moves. In practice, however, my experience suggests otherwise. It suggests that European law firms have grown simply because their clients and their business grew – and while they were growing, they were being forced to dedicate time to the issues of their organisation. Growth can mean that lawyers start losing control of their firms and that they need to start seeking professional help – managers, experts in financing, computer technicians, human resources managers, marketing and communication managers, all of whom are non-lawyers.

Those firms that picked the right professionals and had the right answers to the challenges of growth in the first place are those that are most successful and better prepared to face the challenges of the current economic crisis. The impact of the global crisis in the European law firm is yet to be accounted for. It will be difficult to measure as law firms are secretive about their businesses and, when asked, are always positive in their responses: *'Crisis? What Crisis?'*

The truth is that many clients stopped growing. Some of them faced problems and those facing the serious problems were the largest ones. The idea that size might be a

security element in the event of a crisis was all but real in the recent years.

In light of this, will the largest firms suffer more? Or will they use their human resources and move down into medium-sized clients, taking this market away from smaller law firms? If they do move down the ladder, smaller and medium-sized firms will face crucial challenges. Larger firms will be able to allocate a lot more resources into partnering with clients, into promoting educational sessions with them and into investigating the areas of the law that are most important to them; and at the same time, they can put more financial means into branding and marketing.

Whichever way, from a Portuguese perspective at least, I feel that the effects of the economic crisis being experienced by our clients, are not being felt on the same scale as other firms in Europe. I have to confess that I fear that many lawyers do not quite know how to react to the crisis hitting the legal market. If one looks at the cost structure of a firm, the response to the crisis will most likely need to be hard and harsh – as fixed costs (including partner remuneration for work) represent a major portion of law firms' costs. Strategy will probably play an even smaller role. But then again, we know that crises come and go. And lawyers – needed as they undoubtedly are – will go back to their offices with little time for strategies or reflections of the sort. Urgent client work will take over and consume all their time – except, of course, when reflecting upon the real strategic question – *what strategic moves do we need to take to improve our profit per equity partner ratios?*

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