

EXPANSION

The measures contain the wave of corporate restructurings

Crisis/government measures have kept the impact of Covid-19 under control on thousands of companies in distress.

When the aid disappears, a wave of restructuring processes will come

A year and a half ago, the pandemic devastated the balance sheets of thousands and thousands of companies, whose viability was compromised in many cases. With the lesson well learned from the 2008 financial crisis, Governments acted quickly to anticipate and take action that could contain the disaster. These grants provided a sufficient cushion to save the situation, as indicated at the Restructuring meeting organized by EXPANSIÓN with the collaboration of Latham & Watkins.

The fact of having provided liquidity to the markets has contributed to the fact that the crisis did not manifest itself in all its depth, together with the decision to postpone the obligation to request the declaration of bankruptcy, said Ignacio Gómez-Sancha, managing partner of Latham & Watkins in Spain. To these factors should be added the social aspect, as pointed out Manuel Martínez-Fidalgo, managing director of Houlihan Lokey: At first, no creditor wanted to be the one who pulled the banner in a scenario where companies suffered from a situation.

After the upturn in corporate restructurings that occurred before the summer of 2020, Gómez-Sancha said that he does not expect a generalized depression now, but a scenario of winners and losers: some companies will move faster and faster and others will fall by the wayside. Luis Villalba, financial director of Deoleo, said that we are beginning to see the light, but there is still enough and there are companies that may never recover their situation before the pandemic.

Uncertainty

These measures have created an artificial environment that has sustained many companies in difficulty, whose future is in the air once these aids gradually disappear. When this occurs and the maturities approach, it will lead to a wave of restructurings, warned Martínez-Fidalgo. In quantitative terms, a significant volume of restructuring is expected in the coming year. Perhaps it is not the tsunami that was predicted at the beginning, but will occur by sectors, agreed Pedro de Rojas, partner of the Finance and Restructuring practice and Special Situations of Latham & Watkins.

In this context of uncertainty, there is a new variable that we do not know how it will affect: the rise in the price of electricity and raw materials, together with the problems of supply chains on an international scale, warned Santiago Lobato, lawyer of the legal department of Banco Santander. As for the immediate horizon, he pointed out that it is likely that the stimuli will not be withdrawn until the middle or end of 2022: it will take its deadlines and will be key in this sense.

Regulation

It is a time of great changes also in the regulatory area, with the transposition of the European directive on preventive restructuring frameworks that should enter into force in mid-2022. Pedro de Rojas stressed that the rules of the game will change in two essential aspects that place us in a position to have a very advanced, sophisticated, tested and guaranteed regulation. On the one hand, the

mechanism that allowed majority decisions to be adopted even in the face of opposition from financial creditors is extended to other types of creditors and, on the other hand, these processes may be imposed on the owner of the business.

However, it would be necessary to adopt the rule expeditiously and provide the courts with more resources. It would raise certainty and greatly facilitate foreign investment, said Latham & Watkins ' partner. Although there is still some way to go, Manuel Martínez-Fidalgo said that I am optimistic because we are taking many steps in the right direction and the current legislation is much better than before. Lobato confirmed that we will have good tools from the legal perspective to address these processes.

From the experience of Deoleo, which culminated in the last year its restructuring process, Luis Villalba explained that it is a painful and very complex process where you risk being or not being of the company. The key is to align all stakeholders with the company, something that is not always easy. Villalba concluded that the operation should be based on a reasonable and credible business plan, trying to be as short as possible and not limit the normal execution of the business.