

# GARRIGUES



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## Restructuring and Insolvency

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Andrés Gutiérrez Gilsanz is a Of Counsel in the Restructuring and Insolvency practice. Since February 2012, he has been working as an external consultant in the Madrid office's Restructuring and Insolvency department under an agreement between Garrigues and Universidad Rey Juan Carlos pursuant to Article 60 of the University System Organic Law. He provides advice on a wide range of matters involving corporate/commercial law, particularly insolvency law. Is an expert in insolvency solutions, particularly arrangements.

Degree in Law (with distinction), Universidad Complutense de Madrid, Specialist qualification in law and business (honors), C.U. San Pablo CEU. PhD in Law, Università degli Studi de Bologna (Italy), 1995.

He is Professor in corporate/commercial law at Universidad Rey Juan Carlos de Madrid. Is a member of the Madrid Bar Association.

## Experience

Andrés Gutiérrez Gilsanz is a Of Counsel in the Restructuring and Insolvency practice.

Since February 2012, he has been working as an external consultant in the Madrid office's Restructuring and Insolvency department under an agreement between Garrigues and Universidad Rey Juan Carlos pursuant to Article 60 of the University System Organic Law. He provides advice on a wide range of matters involving corporate/commercial law, particularly insolvency law. He has acted in numerous cases, some with a high public profile such as Mediapro and the insolvency proceedings affecting the Madrid beltways, and is an expert in insolvency solutions, particularly arrangements.

He was director of the Research Management Units at Universidad Rey Juan Carlos between 2012 and 2014 and coordinator of the Law Research Line on the PhD program of the Faculty of Legal and Social Studies of URJC in 2014 and 2015.

## Academic background

PhD in Law, Università degli Studi de Bologna (Italy), 1995. Recipient of a bursary from the Royal College of Spain. His doctoral thesis, entitled "*L'opposizione all'omologazione, l'annullamento e la risoluzione del concordato preventivo*" was awarded the highest possible grade.

Degree in Law (with distinction), Universidad Complutense de Madrid, June 1992. Recipient of the Special Degree Prize, UCM Graduation Prize, National Prize for the Completion of University Studies in Law and the Complutense Degree Prize in Social Sciences.

Specialist qualification in law and business (honors), CU San Pablo CEU, June 1993. Outstanding student at Fundación Universitaria San Pablo CEU, 1989-90 and 1990-91.

## Teaching activity

He is Professor in corporate/commercial law at Universidad Rey Juan Carlos de Madrid.

He speaks at conferences at home and abroad and has participated in many seminars, symposiums, courses and master's degrees at various universities (e.g. Harvard, URJC, UCM, UAM, Jaime I, Valladolid, Almería, San Pablo CEU, ICADE, Burgos and PUCMM of the Dominican Republic) and institutions (e.g. Centro de Estudios Garrigues, Madrid, Santander and Zamora Bar Associations, General Council of the Spanish Judiciary, CECA and FIDE).

He has been the course director of the Master's Degree in Business Law and International Litigation at Universidad Rey Juan Carlos since 2010 to 2018 and was previously academic deputy director of the International Air Transport Management Course (URJC-AIRMAN) between 2004 and 2008.

He has been academic secretary of the International PhD School of URJC and vice-chair of the Research Ethics Committee of URJC from 2015 to 2018 and coordinator on the PhD of Private Law from 2018 to 2022.

## Memberships

He has also been an elected member of the academic board of URJC since 2010, a position to which he was reelected in 2014.

Andrés Gutiérrez Gilsanz is a member of the Madrid Bar Association.

## Distinctions

- Degree in Law (with distinction), Universidad Complutense de Madrid.
- Recipient of the Special Degree Prize.
- UCM Graduation Prize.
- National Prize for the Completion of University Studies in Law.
- Complutense Degree Prize in Social Sciences.

## Publications

Andrés Gutiérrez Gilsanz is the author of four monographs and more than 100 academic articles in the field of corporate/commercial law, with special focus on companies and contracts. He is an insolvency law specialist

and is currently undertaking academic research in this area.

His publications includes the following:

**Books:**

- El convenio concursal, editorial La Ley, Madrid 2015, ISBN: 978-84-9020-476-4.
- Tutela de los acreedores frente al convenio concursal: oposición, nulidad y declaración de incumplimiento, editorial La Ley, Madrid 2008, ISBN: 978-84-9725-881-4.
- Defensa del usuario en el leasing financiero mobiliario, Edersa, Madrid 2003, ISBN: 84-8494-068-3.
- La oposición al convenio de la suspensión de pagos, Publicaciones del Real Colegio de España, Bolonia 2000, ISBN: 84-931664-1-3.

**Books (dir.):**

- AA. VV., Derecho preconcursal y concursal de sociedades mercantiles de capital (Director), La Ley Wolters Kluwer, Madrid 2018.
- AA. VV., Derecho práctico de reestructuraciones e insolvencias empresariales (Director y coordinador), ed. Thomson Reuters Aranzadi, Cizur Menor 2017, ISBN: 978-84-9152-770-1.

**Articles:**

\* "La agrupación en clases de créditos para la homologación de planes de reestructuración. Relevancia y criterios legales" en Diario La Ley nº 10461, 7 de marzo de 2024, pgs. 1-20.

- "Aprobación judicial de liquidación societaria en situaciones de bloqueo (A propósito de la SAP La Coruña de 1 de abril de 2022 y de la SJM nº 13 de Madrid de 23 de marzo de 2021)" en Diario La Ley nº 10121, 1 de septiembre de 2022, pgs. 1-11
- "La buena conducta de los administradores en la preinsolvencia" en Diario La Ley nº 9973, 17 diciembre 2021, pgs. 1-24
- "No hay límite para las esperas contenido de un convenio concursal (Comentario a la STS de 30 de marzo de 2021)" en Revista General de Insolvencias y Reestructuraciones nº 2, 2021, pgs. 535-555.
- "La declaración de incumplimiento del acuerdo de refinanciación homologado", en Revista de Derecho Concursal y Paraconcursal, nº 31, 2019, pgs. 29-42.
- "Crédito no dispuesto y créditos sometidos a condición suspensiva en los acuerdos de refinanciación homologados" en Revista de Derecho Concursal y Paraconcursal nº 27, 2017, pgs. 59-72.
- "La continuità aziendale nel concorso per mezzo della liquidazione unitaria nell'ordinamento spagnolo" en Il Diritto fallimentare e delle società commerciali nº 6/2014, pgs. 857-874.
- "Modificación y refinanciación del convenio concursal" en Revista de Derecho Concursal y Paraconcursal, nº 20, 2014, pgs. 309-323.
- "Cesión global de activo y pasivo y concurso de acreedores" en Revista de Derecho Concursal y Paraconcursal, nº 14, 2011, pgs. 151-170.
- "La liquidación concursal anticipada" en Revista de Derecho Mercantil nº 274, 2009, pgs. 1275-1328.

## Book chapters:

- “Comentario del Título VII Del convenio, del Libro I del Texto Refundido de la Ley Concursal (arts. 315, 316, 317, 317 bis, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 399 bis, 399 ter, 400, 401, 402, 403, 404, 405) y del art. 467 TRLC” en AA.VV., Comentario a la Ley Concursal, 3ª edición, ed. La Ley Wolters Kluwer, Madrid 2023, Tomo I, pgs. 1642 a 1829 y Tomo II, pgs. 205 a 206
- “El “reconvenio” concursal” en AA. VV., Derecho de Sociedades, Concursal y de los Mercados Financieros, ed. Sepin, Madrid 2022, pgs. 735-750.
- “Mayorías y arrastres en las reestructuraciones preconcursales” en AA. VV., El Derecho Concursal y la transposición de la Directiva sobre Reestructuración preventiva La Ley Wolters Kluwer, Madrid 2022, pgs. 143-170
- “Comentario de los arts. 306, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405 y 467 del Texto refundido de la Ley Concursal” en AA.VV., Comentario al Texto Refundido de la Ley Concursal TOMO I, La Ley Wolters Kluwer, Madrid, 2020, Páginas, inicial: 1475 a 1479, 1499 a 1736 y 2043 a 2044.
- “Cuestiones de gobierno corporativo en torno a los acuerdos de refinanciación homologados” en AA.VV., Reestructuración y gobierno corporativo en la proximidad a la insolvencia, La Ley Wolters Kluwer, Madrid, 2020, pgs. 561-588.
- “Comisión bursátil y compraventa en Bolsa de acciones cotizadas” en AA. VV., Sociedades cotizadas y transparencia en los mercados, Tomo II, Ed. Thomson Reuters Aranzadi, Cizur Menor (Navarra) 2019, pgs. 581-596.
- “El interés de los socios en la actuación orgánica societaria de las sociedades de capital en concurso” en AA. VV., Derecho preconcursal y concursal de sociedades mercantiles de capital, ed. La Ley Wolters Kluwer, Madrid 2019, pgs. 225-245.
- “La obligación de traslado intracomunitario del domicilio de la sociedad anónima europea por discordancia con la sede de su administración central, e, AA. VV., Derecho de sociedades y de los mercados financieros, ed. Iustel, Madrid 2018, pgs. 467-484.
- “Incumplimiento del convenio: adopción de acuerdos sociales y modificaciones estructurales” en AA. VV., Estudios sobre órganos de las sociedades de capital, ed. Thomson Reuters Aranzadi, Cizur Menor 2017, Volumen II, pgs. 711-728.
- “Comentario de los artículos 99 a 141. De la fase de convenio” en AA.VV., Comentario a la Ley Concursal, La Ley 2016, pgs. 1299-1536.
- “El vencimiento anticipado y la conversión en dinero como efectos de la apertura de la liquidación sobre los créditos concursales” en AA. VV., La liquidación de la masa activa, Thomson Reuters Civitas, Madrid 2014, ISBN: 978-84-470-4970-7, pgs. 245-267.

- “El contrato de comisión” en AA. VV., Contratos civiles, mercantiles, públicos, laborales e internacionales, con sus implicaciones tributarias. Tomo IV. Contratos de prestación de servicios y realización de obras (I), Thomson Reuters Aranzadi, Cizur Menor 2014; ISBN: 978-84-9059-356-1, pgs. 477-515.
- “El contrato de leasing financiero” en AA. VV., La contratación bancaria, Dykinson, Madrid 2007, ISBN: 978-84-9849-046-6, pgs. 879-928.

He has regularly contributed to Revista de Derecho de Sociedades, published by Aranzadi, since it first came out in 1993 and has been the academic secretary of the Revista de Derecho Concursal y Paraconcursal, published by La Ley, since its foundation in 2004 to its extinction in January 2021. He is Vicedirector of the Journal of Insolvency and Restructuring published by Lustel since its foundation in February 2021.