BERIAN LAWYER HELD ITS SECOND EGALDAY, FIRST FULLY ONLINE, FOCUSED ON BUSINESS SUSTAINABILITY

On December 3, Iberian Lawyer held its II edition of the Legalday with an online programme that Iberian Legal Group & LC Publishing Group founder and managing director Aldo Scaringella directed and presented and that was focused on the idea on building a sustainable culture and about the role that both in-house lawyers and law firms could play in this new reality, also taking into account the COVID-I9 impact and the consequences it has brought into our lives, as the acceleration of the digital environment. Diversity and flexibility were also other topics covered on this II Legalday that consisted of several face-to-face interviews and of three round tables. Iberian Lawyer chief editor Desiré Vidal and Portugal & LatAm editor Antonio Jiménez Morato moderated the different sessions held along the day.



Aldo Scaringella, Iberian Legal Group & LC Publishing Group founder and managing director, was in charge of opening the second edition of the Lega<mark>lday t</mark>hat was held entirely online for the first time in its history. The programme, titled "Business Sustainability. A priority after COVID-19? The 'New Normal[′] for GC and Compliance Officers", started at 9 am and lasted until around 5 pm. Along the day, the schedule included several face to face interviews with highly reputed general counsel as Alexandra Reis, Luís Graça and Isabel Fernandes, and three roundtables that counted on the participation of partners from VdA, Morais Leitão, Eversheds Sutherland, CMS Rui Pena & Arnaut, PLMJ and DLA Piper, along with heads of Legal and representatives of prestigious companies as Philip Morris International, Nestlé, Novo Banco, Alitalia, TAP, Pirelli, Indra, Siemens Energy, Unicredit, Coca-Cola, Fresenius Medical Care, Haitong Bank, Ouigo Spain, Grupo Visabeira, Porsche, Elsewedy Electric and Atria Energía. The Legalday also included a special keynote speech by Nicola Verdicchio, chief Legal officer at Pirelli.

The first face to face was with **Alexandra Reis**, senior counsel at **Philip Morris International – Tabaqueira II**, was conducted by Iberian Legal Group chief editor Desiré Vidal. Firstly, asked if sustainability is a buzzword or a business imperative, she answered that "Definitely a buzzword, but more importantly, the business imperative.

Corporate sustainability means success in the long-term, and the capability of delivering value to a range of relevant stakeholders, in the right way." In this regard, she explained the case of Tabaqueira, the Portuguese Affiliate of Philip Morris International. "Tabaqueira has been progressing in



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ALEXANDRA REIS

its sustainable agenda, year on year: from launching science-based less-harmful alternatives addressed to smokers that otherwise would continue to smoke, to becoming the first company in Portugal to receive the Alliance for Water Stewardship certification, that recognises good practices in sustainable water management, or being the first company in Portugal obtaining the equal-salary Certification, that verified that male and female employees are paid equally, sustainability is at the very core of Tabaqueira's business strategy." Reis summarised the Legalday by saying that: "During the Legalday we listened to many examples on how organisations are looking into sustainability, and what are the in-house legal teams doing to continue supporting the business in this front. More and more in-house lawyers' teams are becoming real business partners, embedded in the organisation and able to work across departments. As in-house counsels, we are in a privileged position to promote sustainability at our companies."



BUILDING A CULTURE OF Sustainability and the 2030 Agenda SDGs

The **first session** covered aspects around the idea of building a culture of sustainability and the 2030 Agenda Goals, taking into account the COVID-19 frame and how to land these now mandatory rules into the legal world. It counted on the participation of Nestlé senior vice-president Ricardo Cortes-Monroy IV; PLMJ managing partner and Banking & Finance and Capital Markets partner Bruno Ferreira; Novo Banco head of Legal Patricia Fonseca; DLA Piper Madrid office global Employment cochair, head of Employment and senior partner Pilar Menor; Alitalia general counsel Paolo Quaini; and TAP general counsel Stéphanie Silva.

The participants provided the audience with some interesting insights. As his conclusions on the session, Ricardo Cortes-Monroy, Nestlé senior vice-president, stated that: "General counsel and their teams of legal experts are ideally situated in companies' organisations to take a leading role in managing, promoting, and delivering a Sustainability agenda. As Sustainability is a crossfunctional matter, the GC, together with other company leaders, can/should take the lead. In some rare and exceptional cases, we are even witnessing some GCs moving into a Chief Sustainability Officer role. The nature of our contribution will depend on the sector the company operates. Some are present across all industries, mainly those related to social and environmental laws. Compliance, of course, is present, particularly in highly regulated industries. Our expert input becomes crucial, and one sees the need of a constant update on the legal expertise. Some top universities have already launched Master's degrees in Law & Sustainability, such as



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RICARDO CORTES-MONROY



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BRUNO FERREIRA

Harvard Law School. The Covid-19 pandemic has accentuated certain aspects of the Sustainability agenda, namely social ones related with employees and communities. The immediate future (i.e. during and post-vaccination campaigns) will raise some interesting additional points related to Labour Law, safety and health."

PLMJ managing partner and Banking & Finance and Capital Markets partner **Bruno Ferreira** wrapped up with: "At PLMJ we want to proactively contribute to the solution of social and environmental problems in our community. We believe, above all, that it is possible to add a return of value to society, in parallel with the financial return that we have with our legal advisory activity. We also believe that this will be central in helping our clients chart their path to recovery and find ways to come out stronger from the current economic situation."

From her side, **Patricia Fonseca**, head of Legal at **Novo Banco**, gave us thoughts like: "Sustainability is not typical of a legal nature, but the in-house counsel must be aligned with it." She also pointed out the importance for the counsel to take the lead on governance and, related to the COVID-19 scenario, specifically talking about her sector, she stated: "In the pandemic, the banking sector was asked to find quick solutions to provide the funds needed as an essential service", "Supervising authorities are checking how the banks are implementing diversity programs."



"SUSTAINABILITY IS NOT TYPICAL OF A LEGAL NATURE, BUT THE IN-HOUSE COUNSEL MUST BE ALIGNED WITH IT"

PATRICIA FONSECA

Pilar Menor, DLA Piper Madrid office global Employment co-chair, head of Employment and senior partner, connected her participation to her speciality and talking about the uncertain context, as an Employment lawyer, highlighted that: "Law firms have moved very quickly into remote and virtual work (...) that will become a permanent change, even when the pandemic ends." explaining that, at DLA Piper, workforce wellbeing is mandatory: "We are concerned with the effects of remote work on workers." She also insisted on the value of diversity as something essential for companies and law firms in the new times: "Leaders should push diversity and be accountable for that."



"LEADERS SHOULD PUSH DIVERSITY AND BE ACCOUNTABLE FOR THAT"

PILAR MENOR

The session included the participation of two legal representatives of the aviation industry. On the one hand, Paolo M. Quaini, from Alitalia who stressed that: "In the aviation sector sustainability is now starting to be a priority, since this sector has the tradition of not being very clean." On the economic crisis caused by the pandemic, Paolo recognised that: "All the airlines have reduced turnover but have maintained costs, accumulating huge losses. Even in this situation, we got sustainable-oriented state aid." Later on, when talking about diversity as a part of the 2030 Sustainable Agenda Goals, Ouaini came up with the case of the legal market in Italy: "In Italian law firms the average female partners ratio is 1 to 5," and opened the spectrum of the debate by noticing that: "Diversity in Italy is sometimes only viewed in terms of gender, but there is much more to consider." Precisely on December 3, the world was celebrating the International Disability Day, and it was worth mentioning it.



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PAOLO M.QUAINI



"IN MODERNISED SOCIETIES THAT SEEK FOR PROGRESS WHEN IT COMES TO ECONOMIC, SOCIAL AND ENVIRONMENTAL DEVELOPMENT, SUSTAINABILITY SHOULD BE SEEN AS MUCH MORE THAN JUST AN OBLIGATION OR A BURDEN"

STÉPHANIE SÁ SILVA

Her colleague, Stéphanie Sá Silva, from TAP, answered the question if sustainability policies stand in times of COVID-19 and if they should be kept on-hold in times where most economic sectors are struggling to overcome the dramatic impacts of the pandemic. "In my opinion, the answer should be no. From a Compliance standpoint, sustainability is not an option if we consider the existing broad legal framework on sustainability that companies are required to comply with, subject to heavy fines and other penalising consequences. This being said, in modernised societies that seek for progress when it comes to economic, social and environmental development, sustainability should be seen as much more than just an obligation or a burden. From a corporate perspective, it is a means to add value and to contribute to the long term continuity of a business; a fundamental piece in building a reputation and establishing trust with stakeholders, such as clients, suppliers, shareholders and employees."

After this first session, **Nicola Verdicchio**, chief Legal officer at **Pirelli**, offered his keynote speech on the Legalday topics.



During the "Face to Face" with **Luís da Graça Rodrigues**, he stressed the importance of the inhouse departments as a crucial vehicle for attaining diversity in the work environment, as they can decide whom to work with and take into account the law firms' policies concerning this reality. "Among the seventeen goals established in the 2030 Agenda for Sustainable Development, two of them regard diversity: gender equality and reduced inequalities.



"WE MUST DEMAND FROM OUR PROVIDERS OF LEGAL SERVICES THE ADOPTION AND MONITORING OF GENDER EQUALITY POLICIES, ALLIANCE PROGRAMS WITH LGBT+ EMPLOYEES, INCLUSION STRATEGIES FOR PEOPLE WITH DISABILITIES... WE CAN NO LONGER IGNORE THE FLAGRANT INEQUALITIES IN THE LEGAL MARKET"

LUÍS DA GRAÇA RODRIGUES

This says a lot about the importance diversity and inclusion have in our society. We know, however, that these goals can only be fully established with consistent policies and deep commitment by every one of us – citizens and institutions. And the legal market cannot be kept out of this reality. We keep talking about how disproportionate the reduced number of women in managing partner or partner positions in Law firms is considering the high number of women leaving Law schools, but what do we do to change this reality? The general perception of the market is forcing companies to adopt diversity policies, and so we must not forget that we, the heads of Legal departments, as clients, have a role (or should I say the duty?) to force law firms to truly commit to diversity. We must demand from our providers of legal services the adoption and monitoring of gender equality policies, alliance programs with LGBT+ employees, inclusion strategies for people with disabilities... We can no longer ignore the flagrant inequalities in the legal market, can't we? After all, 2030 is just around the corner," he stated.



Session 2 recounted aspects like the digital transformation from a sustainable approach and Data Protection & Cybersecurity in this uncertain scenario of the pandemic crisis. It joined in conversation Siemens Energy general counsel for the Middle East and North East Africa Mohamed Elmogy: CMS Rui Pena & Arnaut IP & TMT & Health and Life Sciences managing associate João Leitão Figueiredo; UniCredit Iberia head of Legal & Compliance officer Silvia Madrid; Coca-Cola DPO Europe Sandra Mori, Fresenius Medical Care global general counsel & EVP Kees Van Ophem; Haitong Bank global head of Compliance Lara Reis; OUIGO Spain head of Legal Patricia Miranda Villar; and Eversheds Sutherland M&A practice area, focused in clean energy & sustainability counsel Marta Vizcaíno.





Participants also gave the audience enlightening thoughts as the ones provided by **João Leitão Figueiredo**, from **CMS Rui Pena & Arnaut**, who, about the topics discussed, pointed out that: "The sector has been adapting to this new reality for some years, and pressure cannot be an excuse, because the pressure is inherent to the legal sector. We have to be aware that standards are not for the highest levels, but for everyone. It's a cultural change. We must protect our clients and their data.



"SUSTAINABILITY GIVES TECHNOLOGY A PURPOSE. THEREFORE, LAW FIRMS MUST FOCUS THEIR DIGITAL TRANSFORMATION IN PROMOTING SUSTAINABLE GOALS. COVID-19 HAS DEMONSTRATED THAT SLIGHT CHANGES CAN MAKE A BIG DIFFERENCE, SUCH AS REMOTE WORKING IN PROMOTING DIVERSITY" MARTA VIZCAÍNO Attacks nowadays are not just aiming economy. They want information, data. And that makes law firms so relevant. If we invest in having the necessary measures, we will manage it. But we have to be aware that it's a cultural shift."

On her side, Marta Vizcaíno, from Eversheds Sutherland, summarised her participation, explaining that: "The 2008 crisis reduced the expenditure of companies in external legal services. Clients started requesting more efficiency and lower costs by using technology. The use of technology has gained momentum with the COVID-19. Law firms add value by solving the client's problems. However, the way such problems are solved has changed. Many law firms, certainly Eversheds Sutherland, use artificial intelligence or machine learning nowadays. However, the transformation of law firms in data-driven organisations remains a challenge. Technology per se is neutral, it is how it is used what matters. In the Legalday, we have seen that there is an increasing demand of a secure and sustainable use of technology." She also linked the impact of COVID-19 to Cybersecurity and Data Protection. "The COVID-19 has posed a challenge to law firms in terms of cybersecurity. The relationship with our clients is based on trust. The highest standards of security shall be guaranteed in any scenario. Measures such as a double authentication factor, use of VPNs and specific training to all members of the firm, are a must."

Silvia Madrid, from Unicredit explained how her company has been dealing with cybersecurity in this last period: "By reinforcing the Fraud teams, increasing training and sending regular alerts on cybercrime prevention (intranet e-mail). Particularly during home working. It is crucial to raise and increase cybersecurity awareness across the Group. We have implemented a Cybersecurity Culture Program based on five main pillars: Data Security, Access Management, Corporate Security, Application Security, Detection & Monitoring Capability. As a main take away, the keyword, and action, to prevent cybersecurity is AWARENESS." Later on, when asked about the main challenges for the legal profession nowadays, she highlighted: "Remote Working. We have all made a great effort to implement almost overnight a work from home environment, quite successfully, and it will be impossible to go back. This will be a permanent option for many employees going forward, or a combination of remote-presence working. Enhancing digitalisation. All the tools which drive collaboration, like web conferencing,



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SILVIA MADRID

collaboration platforms, and legal management solutions have become, or will become, key elements in in-house organisations. This includes as well e-billing and digital signing procedures, which have become crucial during the crisis. Legal departments will also have to re-evaluate their balance between in-house and external work, and optimise their outside counsel mix. Finally, Legal departments will also have to review their continuity plans to be prepared for future disruptions and challenges, incorporating the permanent changes on how companies will do business after the current crisis concludes."

Specialist on Data Protection, Sandra Mori from **Coca-Cola** gave us a deep and thorough insight: "This unprecedented crisis has caused businesses to deal with a number of challenges from a Data Protection and Compliance perspective, from ensuring measures are in place to protect data handled by employees working from home and implement strengthened cybersecurity strategies, to managing data subjects and authorities' requests for information while continuing to comply with regulatory requirements. In this environment, the relationship between the DPO and the CISO has been forced to step-up. The fact that part of the DPO's job is to audit the CISO's security policies has facilitated the relationship between the two functions. However, essentially, the interests protected by them are the same: CISOs



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SANDRA MORI

are concerned with security and confidential data, and DPOs are focused on privacy and personal data. If the personal data are not adequately protected, whatever process, policy or notice the DPO devises, doesn't have any substance. For example, a data minimisation policy (which is the DPO's job to put in place) involves storing less personal data. This decreases the overall attack surface, thereby allowing the CISO to maintain a higher level of security. This level/quality of cooperation is what is and will be even more needed in the current working environment."

From the banking sector, **Lara Reis** from **Haitong Bank** brought out that: "The Banking industry is particularly traditional and one that faced a significant impact due to the outbreak of the COVID-19 pandemic. Its unexpected and devastating consequences posed new risks to institutions, required adjustment to former risk assessments and inevitably forced a change to the pre-pandemic *modus operandi*. In order to maintain the level and



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LARA REIS

quality of the services provided, institutions had to react quickly to the disruption caused by having highly regulated functions working remotely. The increased use of online services and digital communication rocketed a number of scams. phishing and e-mail fraud - just to name a few cyber risks. On the other hand, the new work conditions made the internal processes and control weaker, as staff was suddenly juggling work and childcare, distant from contact with colleagues and inevitably more prone to lower the 'guard'. Compliance plays a key role in navigating these uncertain times and had to be creative to rethink monitoring and to maintain a compliance culture. Finally, the pandemic demonstrated that the business continuity plans of banks were insufficient to respond to long-lasting disruptions. The main lesson learnt is that only digital, flexible and adaptable institutions are apt to respond to what lies ahead in future."

Siemens Energy general counsel for the Middle East and North East Africa Mohamed Elmogy summarised the value added to him as a Legalday speaker panellist that according to his words "was quite valuable; I've learnt the 'go deep, be light' concept where the deep reflects on legal research and thorough work; however, the light refers to how you will be presenting your work to business. On the other hand, there is consensus that cost



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MOHAMED ELMOGY

efficiency, geographical network and swift response are the most important elements in selecting external law firm. The Legalday, with no doubts, was an elite network opportunity where we have shared our concerns and views on the legal world during pandemic and how this is affecting us all, especially the Cybersecurity challenges that are directly affecting our businesses. Eventually and whereas doctors are the most important employees in hospitals and lawyers are the ones in law firms, they are not the core employees in large companies; however, the crucial role of the in-house lawyers is vastly evolving resulting in two things: 1) new calibres of lawyers who are more business-oriented than before; and 2) a business that looks at in-house lawyers as an indispensable pillar of its existence."

Isabel Fernandes from **Grupo Visabeira** was the third guest of the face to face section. During her interview, she highlighted that "COVID 19 has emphasised significantly the importance of Sustainability's Social and Human pillars to the businesses continuity and recovery plans. An urgent priority for companies was to address



"COVID 19 HAS EMPHASISED SIGNIFICANTLY THE IMPORTANCE AND THE MATERIAL RELEVANCE OF SUSTAINABILITY'S SOCIAL AND HUMAN PILLARS, BESIDES THE ECONOMIC ONE, TO THE BUSINESSES CONTINUITY AND RECOVERY PLANS"

ISABEL FERNANDES

their employees' concerns over the lockdown, the quarantine periods and the need to implement the appropriate working conditions either for those who start working remotely as well as for those who are not able to work from home. Companies also have extra responsibilities towards their suppliers and customers, many of whom are also facing enormous constraints. Alleviating their problems will be important for their own businesses continuity and to maintain their mutual relationships in the longer term.

On GC main functions, social and human components have also assumed a much more critical relevance within their roles. Working remotely on an exceptional and a complete ambiguous environment imposes the need for a close management and strong leadership skills on the hands of GC. Managing the legal department to ensure strategic, agile, innovative responses to a rapid change on legal and regulatory regimes, became a primary challenge for GC. Leading the emotions and fears before the uncertainty caused by pandemic and the isolation from the normal workplace was not less challenging and became a priority task of GC."



Session 3 debated around renewable energies as a way to make life better and gain sustainability and flexibility, and resources control management as a way to land more sustainable criteria to companies and society. This table counted on panellists as Morais Leitão M&A and Energy & Natural Resources partner Catarina Brito Ferreira; VdA Energy & Natural Resources head of practice Ana Luís de Sousa; Porsche Ibérica Legal director & Compliance officer Teresa Mínguez; Elsewedy Electric Group Legal director Mahmoud Shaarawy; and Atria Energía general counsel Fernando Vega.

Teresa Mínguez, from Porsche Ibérica, gave us a wider picture on the discussed topics: "Starting on 25 September 2015, with Sustainable Development Goals by United Nations and following with the signing of the Paris Agreement, the approval of Green Deal package and now, with EU Recovery plan, there is a global commitment for a transformation of our economy, making it cleaner, digital and social. The commitments for CO₂ emissions reduction, in two clear milestones, 2030 and 2050, means a major transformation for all industries and sectors, even affecting, construction and agriculture and all the companies should take the encompassing measures for adapting their business models to the new model of society. In August 2019, the Business Roundtable in the United States announced an update of its manifesto on the company's purpose, moving away from the theory of maximising shareholder value, to deliver value for the benefit of all stakeholders. It outlined a modern standard of corporate responsibility, based on commitments to generating value for customers, investing in employees, treating suppliers fairly and ethically, supporting the community through respect for people and the environment and adopting sustainable business practices, and generating long-term value for shareholders. We have ten years to transform the world, and everyone has to do their part: governments, private sector, civil society and people for accelerating and amplifying the positive impact."



"WE HAVE TEN YEARS TO TRANSFORM THE WORLD AND EVERYONE HAS TO DO THEIR PART: GOVERNMENTS, PRIVATE SECTOR, CIVIL SOCIETY AND PEOPLE FOR ACCELERATING AND AMPLIFYING THE POSITIVE IMPACT"

TERESA MÍNGUEZ

For his part, **Mahmoud Shaarawy**, from **Elsewedy Electric** stressed that: "From a legal perspective, being able to expand our business in renewable energy is challenging, with multiple parties involved" highlighting that "ideas have to be developed to mitigate legal barriers."



"FROM A LEGAL PERSPECTIVE, BEING ABLE TO EXPAND OUR BUSINESS IN RENEWABLE ENERGY IS CHALLENGING, WITH MULTIPLE PARTIES INVOLVED"

MAHMOUD SHAARAWY



"THE MAIN CHALLENGE OF CLEAN ENERGY IS THE ECONOMIC ONE, USERS TRY TO REDUCE THEIR ENERGY CONSUMPTION INSTEAD OF LOOKING FOR GREEN ENERGY"

FERNANDO VEGA

Fernando Vega, from **Atria Energía** also left a clear headline behind: "The better the knowledge of the sector, the better the lawyer," and explained the importance of costs when dealing with new energies: "The main challenge of clean energy is the economic one, users try to reduce their energy consumption instead of looking for green energy... we need to allow renewable energy to bring value to the customer." Finally, he brought out the Peruvian case: "Our neighbour Chile has already a legal framework that promotes hydrogen legislation. In Peru there is nothing about it."

On the topics covered by this II Legalday, Catarina Brito Ferreira from Morais Leitão wrapped up: "The times are challenging and unprecedented, as we all have heard and read abundantly. From being repeated so often, we run the risk these words lose their pungent meaning. However, the climate change emergency and the COVID-19 pandemic are truly worthy of such qualifications and require resources which should themselves be unprecedented. In the legal practice, speed and knowledge are crucial. For legal practitioners to keep up with constant evolution, specialised knowledge and proximity to the business are essential. Collaboration across specialities and innovation tools (such as artificial intelligence) are paramount to ensure responsiveness and face



"THE ROAD TO SUSTAINABILITY IS PAVED BY TECHNOLOGY RESEARCH AND DEVELOPMENT AND ITS ABILITY TO DELIVER COST-COMPETITIVE SOLUTIONS"

CATARINA BRITO FERREIRA

the demands of the increasingly digitalised world. The road to sustainability is paved by technology research and development and its ability to deliver cost-competitive solutions (which has proven feasible with the renewable energy track record). The legal practice, especially in the Energy field, will evermore need to be in tune with technology advancement, in which storage, green hydrogen and the acceleration of photovoltaics and offshore wind deployment appear to present promising routes. Legal practice will also continue to play a key role in project management, in particular having in mind the impact of the legal and regulatory framework in Infrastructure projects."

Ana Luís de Sousa, from VdA, pointed out the role of the lawyers in this whole way to the sustainable business culture: "Lawyers can play a pivotal role in enabling sustainable development by closely monitoring the international, and particularly the European, trends and guidelines. A more comprehensive understanding of the globality of these changes allows us to also think 'outside the box' and create, import, and adapt solutions that meet the needs of our clients and of the sector, and hopefully will help accelerate regulatory change and improvement. The expertise on sustainable finance, best corporate practices, regulatory and environmental compliance, on the one hand, and the



"LAWYERS CAN PLAY A PIVOTAL ROLE IN ENABLING SUSTAINABLE DEVELOPMENT BY CLOSELY MONITORING THE INTERNATIONAL, AND PARTICULARLY THE EUROPEAN, TRENDS AND GUIDELINES"

ANA LUÍS DE SOUSA

deep knowledge of the industry and specificities of our clients' businesses, on the other hand, ensures we are in the best position to, alongside with our clients, react to immediate challenges, anticipate future needs and prepare a more sustainable and resilient future for our clients."

On this Legalday, **Aldo Scaringella**, commented: "The Legalday brought together professionals from the legal in-house and private practice communities. The Legalday aims to reinforce network and exchange thoughts about experiences. That is the spirit of the day, to look in the same direction, to create the highest number of interactions and to foster collaboration among all the professionals, building and sharing knowledge."

