

A DAY IN THE LIFE: LOURDES MORATE MARTÍN, COUNCILOR TO THE TOWN COUNCIL, OVIEDO, SPAIN

ML: *Can you tell us a little about your city?*
Oviedo is a city of nearly 240,000 people, and is the capital of the Principality of Asturias. It is located about 25 kilometers inland from Spain's northern coast, and together with the nearby coastal cities of Gijón and Avilés, forms a metropolitan area of more than 800,000.

ML: *What is the local government structure of Oviedo?*
The local government of the Oviedo City Council is represented by the mayor, the councilors, and the local government board, which make decisions that affect the residents of the municipality.

ML: *I see that you are an attorney for the Oviedo Town Council. What are your job duties, and who is your client or who do you represent?*
As an Attorney at Law, I have to handle different cases in defense of the municipality. One of my main duties right now is defending the Town Hall in all jurisdictions at the different Courts (Administrative Court, Labor and Civil Court). My daily work basically consist of dealing with a range of legal proceedings in various areas, provide legal assistance, and drafting legal reports about different issues, when required. My main client is Oviedo´s Town Hall.

ML: *What do you like the most about your job?*
Defending the Town Council at the different courts. In fact, I love to litigate at the court and to represent the public interest.

ML: *And how long have you been practicing law?*
I have been practicing law for twenty years.

ML: *Why did you become an attorney?*
Because I always loved defending my interests and my ideas, and that is basically what I do as an attorney, although they are no longer my interests or my ideas, but those of the City Council.

ML: *Please tell IMLA members something about Oviedo that most people don't know.*
Oviedo is part of the ancient route of the 800-kilometre long "Camino de Santiago," and is actually called "Oviedo Origin of the Camino." In fact, many pilgrims who go to Santiago de Compostela through Northern Spain, travel through Asturias, whose capital is Oviedo, where one of the most beautiful roads that reach Santiago de Compostela passes.

ML: *What is your favorite Spanish tradition?*
Popular festivals of all kinds. It's said that in Spain, there is a festival every day.

ML: *If I had 24 hours in Oviedo, where would you recommend I visit?*
The old part of the City, and I would not miss drinking cider (our most popular drink) on a terrace of our traditionals bars called "Sidrerías."

ML: *The most important question of all--what is your favorite Spanish dish?*
As a good Spaniard, I was going to say the "Paella." After some thought, I think my favorite food is the "Spanish Omelette," something really simple—but if it is well done—is really unique.

ML: *And finally, if you could vacation anywhere in the United States, where would you go and why?*
I would definitely go to Miami. I love the weather there, the beach and mixture of cultures--North American and Latin cultures.

OVERVIEW OF THE SPANISH JUDICIAL SYSTEM

FROM LOURDES MORATE MARTÍN, ATTORNEY TO THE CITY COUNCIL, OVIEDO, SPAIN

It is generally said that in the American system of impartial justice—which we Spaniards know (I admit) basically through cinema, films, and television—the weight of judicial precedent is fundamental when it comes to judgments issued by the courts. This, in principle, might seem very different from the Spanish civil law system, which is based on comprehensive legal codes and the premise that judges and courts are subject "to the rule of law."

However, there are more things that unite us than separate us. We start from an identical point of view in both legal systems, that justice originates from, and with the support of, the people. The United States Constitution says, "We the People of the United States, in Order to form a more perfect Union, establish Justice (...)". Well, the same origin is also the foundation of the judiciary in Spain, because our Constitution, as in the United States, indicates as a fundamental principle that justice "comes from the people" although it is administrated in the name of the King, by Judges and Courts....

This brings us to the role of the Judge in Spain when it comes to imparting such justice. Thomas Wilson wrote: A Judge "is not the master, but the minister of the law." This sentence summarizes the position of a Judge in Spanish law in his capacity as an interpreter who applies the law. The separation of powers in the Spanish legal system guarantees that the function of legislating is strictly attributed to Parliament and that of judging, as our Constitution says, to the Courts or Tribunals, "independent, immovable, responsible, and subject exclusively to the rule of law," which clearly proclaims judicial independence from the executive power.

However, the preponderance of judicial decisions under Spanish law has recently changed as a result of globalization and a greater influence of the Anglo-Saxon legal system on our vision of law and on our very way of administering justice. European law now has a larger influence as a consequence of Spain's membership in the European Union, resulting in greater relevance of judicial precedents when it comes to resolving a specific case—in many cases greater than the legal norms that are applied or interpreted. We also have a judicial system that is structured similarly to the French or German systems, divided into different jurisdictions for a greater specialization of judges. We have Civil Courts (relating to issues between individuals and private law), Social (which solves problems that affect the rights of workers), Criminal (for the prosecution of crimes), and Contentious-Administrative (which prosecutes all issues of public law that affect public administrations in their relationship with citizens).

As in the Anglo-Saxon legal system, we are seeing how case law and judicial review are becoming increasingly important when Spanish judges are rendering a decision; these include the decisions of national judicial bodies (the Supreme Court, Constitutional Court and other courts), and supranationals (primarily the Court of Justice of the European Union, and the Court of Human Rights in Strasbourg, which modulate the application of the law and are no longer limited to filling voids in regulation but also have the latitude to avoid applying the provisions of a legal norm).

In addition to our statutory legal system—in principle—judges are bound by the doctrine established by our Supreme Court (Spanish Supreme Court's Case Law); and the relevance of decisions of other courts is becoming increasingly evident (because of the influence of common law on judicial review). The so-called "minor jurisprudence," composed of the doctrine established by the Superior Courts of Justice of the different autonomous communities and Provincial Courts (Spanish Courts of Appeals' Case-Law) in matters within their competence, and even that of minor courts, is fundamental to resolving certain legal disputes.

Therefore, we can see that the role of legal precedent is increasing in Spain, making the differences between American and Spanish administration of justice smaller and smaller, gradually shrinking the ocean that separates our two countries.