The Portuguese Supreme Administrative Court (STA) confirmed on 17 October 2007 the non-applicability of a national rule, which created a stamp duty on increases in share capital. The court consequently annulled the stamp duty levied on mobile phone operator Optimus, thereby ending a protracted legal battle. The case began and ended before the Portuguese courts, but the defining moment was the decision of the European Court of Justice, ruling that a stamp duty on a share capital increase, enacted by the Portuguese Government in 2001, could not be reconciled with Community Law.

The importance of this decision extends far beyond this particular case as, from now on, any company that may have paid such stamp duty on share capital increases in the last few years can apply for a refund of the amount collected plus interest. The case has effectively brought about a transformation in the Portuguese legal order.

The case dates back to when the Portuguese Government, following earlier decisions of the European Court of Justice, was obliged to reduce substantially charges paid by Portuguese companies for drawing up a notarial deed recording an increase in share capital, as well as charges levied for recording the same operation in a national Commercial Register. The Government then decided to create a new stamp duty (0.4%) on the increase in share capital, in an attempt to recoup part of the lost income. Accordingly, the relevant stamp duty rules were amended (by Decree-Law n.º 322-B/2001).

When the mobile phone operator Optimus increased its share capital in November 2002 the Portuguese Tax Authorities levied a stamp duty upon it. Optimus made an application for relief before the Tax Court of First Instance of Porto in November 2003, alleging that the above-mentioned Decree-Law was in breach of Community law, in particular Articles 7 and 10 of EC Directive 69/335. The action before the Tax Court was initially dismissed. Following an appeal to the Portuguese Supreme Administrative Court, and a reference for a preliminary ruling to the European Court of Justice, the European Commission surprisingly supported the Portuguese Government on this issue, validating in its written and oral arguments that the Portuguese stamp duty conformed to EC Law. The Advocate-General Sharpston supported this line of argument and considered in her Opinion that «as Optimus rightly observes, Article 7 of EC Directive 69/335 must be interpreted in accordance with the ultimate aim of the Directive to ensure the free movement of capital, thereby favouring the realization of a fundamental freedom in the EC Treaty.»

However a set of very strong arguments was put forward, based on the idea that Article 7 of EC Directive 69/335 prevented the Portuguese Government from taxing the increase in share capital concerned, since, on 1 July 1984 (the relevant date fixed in that provision of Community law) Portuguese legislation exempted from stamp duty transactions increasing the capital of commercial companies that were paid in cash. The victory was especially gratifying, as it was obtained in such a difficult context. The interests of Optimus have now been safeguarded and another rogue rule has been eliminated from the Portuguese legal order.
New Portuguese guidelines on pre-notification merger procedures

The Guidelines on pre-notification procedures adopted by the Portuguese Competition Authority (PCA) were published on April 3, 2007, and are based on EC Council Regulation 139/2004, January 20, and on EC Commission Regulation 802/2004, April 7, as well as on the DG Competition Best Practices.

The purpose of the Portuguese Guidelines is notably to allow the parties to a concentration to have an informal and confidential dialogue with the PCA, concerning the legal and procedural issues of the transaction, and, if possible, identifying the most critical competition issues arising from the merger.

The PCA also indicates that the pre-notification contacts should be used when there are legal doubts regarding the need to submit a mandatory notification, in light of the conditions provided in the Portuguese Competition Act - Law 18/2003, June 11 2003, as amended.

The pre-notification procedure begins with the submission of the PCA of a request describing the main aspects of the transaction and the issues that can arise from the merger or the arguments that lead to the conclusion that the transaction should not be subject to notification. The parties are encouraged, but not mandatorily required, to submit a draft of the notification form.

The pre-notification contacts with the Authority must be initiated within a reasonable term and prior to the formal notification procedure.

We should note, however, that from the wording of the Guidelines the definition of the term to initiate the pre-notification contacts might be subject to different interpretations. In fact, we could consider that the request for a pre-notification phase should be conveyed, at the latest, fifteen (15) business days before the termination of the seven (7) working day mandatory term to notify the transaction. Alternatively, we could surmise from the referred Guidelines that the request for a pre-notification phase should be conveyed at the latest fifteen (15) business days before the notification becomes mandatory.

Considering that the Authority has not yet clarified the issue it seems prudent to take into consideration the latter interpretation and establish pre-notification contacts at the latest fifteen (15) business days before the notification becomes mandatory.

The notification becomes mandatory, in case of an agreement, when the main elements of the transaction are settled, or, where relevant, by the publication date of the announcement of a takeover bid, an exchange offer or a bid to acquire a controlling interest - see Article 9(2) of the Portuguese Competition Act.

Following a request for a pre-notification phase, the PCA will, after a reasonable period of time, which is not defined in the Guidelines, decide upon the type of contacts that should be made during the pre-notification phase.

In addition, the PCA may require the parties to convey additional elements prior to pre-notification meetings, providing a deadline, in any event, not inferior to five (5) business days. However, the PCA is not bound by a deadline to adopt a final decision on the pre-notification request.

Both complex and non-complex transactions may gain from the pre-notification procedure, as it allows, prior to the formal submission of the notification, a dialogue between the notifying entities and the PCA.

Furthermore, in case of doubts regarding the fulfillment of the notification criteria provided in the Portuguese Competition Act, this procedure may allow companies to obtain an assessment of the Authority on the need to notify the transaction.

A negative aspect of the Guidelines however results from the fact that the Authority is not bound by any deadline to adopt a decision on the request submitted by the companies involved in the transaction. The PCA views this pre-notification phase as an advantage in complex concentrations as it may gather more information in this phase, without being time-constrained by the strict deadlines to adopt a final decision enshrined within the formal notification procedure.

These Guidelines may be viewed as a useful tool for the more efficient and expeditious approval of notifications. Nevertheless the proof of their usefulness will depend very much on the PCA practice based on the Guidelines.

Portuguese Telecoms and Media markets on the verge of structural change?

Depending on regulatory and market dynamics, the coming months may witness the entry into the market of several new network operators exercising control over their own infrastructure. The cable network operator PT MULTIMÉDIA, owner of the leading Pay-TV operator, which is the only one covering the entire national territory, may become truly independent and autonomous as a result of its spin-off from the incumbent PORTUGAL TELECOM GROUP, owner of the fixed telephone network. This spin-off has been implemented following the failure, in February 2007, of SONAEICOM’s takeover bid for the PT GROUP (despite the Competition Authority’s non-opposition to the operation).

In August 2007 a process of public consultation was initiated on the regulation of the public tenders to award licenses related, respectively, to the Free to Air and Pay TV broadcasting services supported by the Digital Video Broadcasting Terrestrial system (DVB- T). (For the time being the regulatory and administrative approach to the standards supporting mobile television, namely as DVB-H, remain unknown).

In October 2007 the terms regarding the entry of one (or two) new Mobile Network Operators for the provision of 3G services using frequencies in the 450 – 470 MHz band were submitted to public consultation. The scope of the tender is insufficient to support the provision of services similar to those offered by the current three operators. Also relevant in this context is the determination issued in February 2007 by the Regulator concerning the regulatory framework for the activity of mobile virtual network operators (MVNO).

The legal framework (namely the Electronic Communications Law and the Television Law) and the authorities’ regulatory praxis are being tested to the limit by the growing convergence between technologies and services. A balance must be struck between the objectives of encouraging efficient investment and the entry of new network operators and that of ensuring a level playing field for all operators.
The MiFID (markets in financial instruments directive) and its Implementation in Portugal

On November 1 this year the MiFID (Markets in Financial Instruments Directive), which replaced the Investment Services Directive (Directive 2004/39/EC), came into force, with binding effect upon all EU Member States, as well as those countries belonging to the EEA. It constitutes a significant part of the European Union’s Financial Services Action Plan, which aims for a greater integration of the European Union’s financial markets.

The MiFID package, which is being adopted using the legislative approach known as the “Lamfalussy Process”, includes Directive 2004/39/EC, as well as its technical implementation measures contained in Directive 2006/73/EC and Regulation (EC) 1287/2006. The Portuguese transposition legislation, the greater part of which came into force on November 1 2007, consists of:

- Decree-Law no. 357-A/2007, October 31, which, also transposing the Transparency Directive (Directive 2004/109/EC), significantly amends, among others, the Portuguese Securities Code and the Portuguese Legal Framework for Credit Institutions;
- Decree-Law no. 357-B/2007, October 31, which sets out the legal framework for societies whose main activity is investment advice or the reception and transmission of orders in relation to financial instruments;
- Decree-Law no. 357-C/2007, October 31, which defines the management entities for regulated and non-regulated investment markets’ legal frameworks.

These Portuguese measures transpose the MiFID, but their scope extends beyond this purpose. For instance, Decree-Law no. 357-A/2007 grasps the opportunity and makes further amendments to the Portuguese Securities Code; submitting insurance contracts related to investment funds and individual contracts of adherence to open pension funds to the supervision of CMVM, given the similarities to investment funds.

The implementation of the MiFID also implied several regulations that have been prepared by CMVM (Regulations no. 2, 3, 4, 5, 6, 7, 8 and 9 of 2007), on topics such as the mainframe of the regulation on financial intermediaries, as well as amendments to the existing ones.

One of the new Directive’s highlights is the establishment of more harmonized rules concerning the organization and conduct of business of investment firms. Firstly the definition of “investment services and activities” was clearly widened, including now, for instance, investment advice (as may now be seen in article 299 of the Portuguese Securities Code).

The financial instruments were also enlarged (see the amended article 2 of the Portuguese Securities Code) to include for the first time commodity derivatives, credit derivatives and financial contracts for differences, which for the first time also are within the scope of the community passport. As mentioned above, some insurance products are also now subject to the application of part of the regime of the Code applicable to Securities.

All the firms under this Directive may benefit from the community passport, which allows investment firms to provide services across all the EU Member States with an authorization and the simple compliance with the rules of the “home” Member State. The passport is improved as this Directive creates a clearer demarcation of responsibilities between Home State and Host State.

“All the firms under this Directive may benefit from the Community Passport, which allows investment firms to provide services across all the EU Member States.”

Even more relevant, besides the organizational measures including requirements for firms and markets concerning, for example, compliance, risk management and internal audit functions, identification and management of conflicts of interest, are the new conduct of business rules. These shall include clear procedures concerning the categorization of clients as eligible counterparties, professional clients or retail clients, according to their experience and knowledge, and the duties of information and protection towards them. The classification as eligible counterparty corresponds to less exigent duties, and can only be given to institutional investors, while the classification as professional client can be given to these and to some retail clients, upon request and under the fulfillment of certain requirements; all the other clients are retail clients and enjoy an increased protection. Each firm shall also adopt a “know your client” policy, and define the rules related to the assessment of the suitability of some products and services to each client on an individual basis. In cases of the execution of the client’s order, the MiFID compels the market operators to adopt “best execution” policies which shall take into account, not only the execution price (particularly relevant to retail investors), but also cost, speed, likelihood of execution, likelihood of settlement and any other factors deemed relevant. All these requirements are now also in Title VI of the Portuguese Securities Code.

Another key point of the MiFID is the new organization of financial instruments transactions, especially through the creation of alternatives to the regulated markets. The traditional regulated markets, whose organization is now under harmonized rules, will have to compete with Multilateral Trading Facilities (MTF), “multilateral systems, operated by an investment firm or a market operator, which bring together multiple third-party buying and selling interests in financial instruments - in the system and in accordance with non-discretionary rules - in a way that results in a contract” and with Systematic Internalisers, “investment firms which, on an organised, frequent and systematic basis, deal on their own account by executing client orders outside a regulated market or an MTF”. This innovation has brought about a relevant change of the scope of Title IV of the Portuguese Securities Code.

Both these new systems will, however, have to comply with pre-trade and post-trade transparency requirements for the trading of shares, similar to those of the exchanges. The regulation will be of the utmost importance in order to create equal regimes, thus preventing arbitrage between the regulated markets and the other trading systems. The pre-trade requires binding market operators include for instance the availability in continuous order-matching systems of aggregated order information on “liquidity shares” at the five best price levels on the buy and sell side, and, for price-driven markets, the best bids and offers of market makers; among the post-trade requisites is the publication of the price, volume and time of all trades in listed shares, even if executed outside of a regulated market, unless certain requirements are met to allow for deferred publication. The regime for Internalisers is particularly demanding and therefore one should not expect to see many firms using this possibility in Portugal in the near future.
Credit agreements subject to new rules on calculation of interest rates

By Filipe Longino Marques and Sara Santos Ferreira

Decree-Law 171/2007 of May 8, which came into force on July 7 this year, extends certain mandatory interest rate calculation rules applied to mortgage credit agreements (set out by Decree-Law no 240/2006, of 22nd December) to all credit agreements entered into by credit institutions and financial companies. The Decree-Law is applicable to all agreements entered into after this date and its calculation rules must also be applied to all credit agreements currently in force.

In accordance with the statute, the rounding of the interest rate is obligatorily made to the thousandth place, up or down, to the nearest sub-unit. The main aim of the original Decree-Law nº 240/2006 was to homogenize rounding and index-linked interest calculation criteria so as to bring to an end the common practice of Portuguese credit institutions in rounding up the interest rate in mortgage loans by a quarter or an eighth, and consequently to protect consumers by eliminating what the legislator considered to be an abusive conduct.

The other main implication of the statute relates to the criteria for the calculation of index-linked interest. The long-established and internationally used method for determining the index-linked interest (the quotation of the index 2 days prior to the start of the interest period) is replaced with a new method; calculation of the arithmetic average of the index’s daily quotations during the month prior to the start of the interest period.

The purported application of this Decree-Law to all types of credit agreements and not just to consumer financing is considered by most credit institutions to represent significant issues. Principally, it will lead them to finance their clients at interest rates fixed on different terms from those used in their own funding, as international practice remains unchanged. This issue is not as significant in consumer finance, as the credit amounts granted are considerably inferior and therefore the credit institutions do not normally need to obtain external funding.

An equivalent issue is raised when companies use interest rate swaps to hedge their exposure to interest-rate fluctuations, generally by swapping floating rate for fixed rate. The calculation criteria for the index-linked interest rate applied to such swaps (generally the traditional criteria) will be different from that used for credit agreements entered into by the companies with the credit institutions. The different methods of calculation give rise to two different interest rates, and depending on the market variations the companies may benefit or otherwise have an unpredictable burden to compensate this difference. Consequently the main purpose of the swap, i.e. full interest rate risk coverage, is not achieved.

Considering that the purpose of the statute seemed to be consumer protection, the Portuguese Bank Association, representing its associates, submitted a request for clarification to the Minister of the Economy. This request sought confirmation of the understanding that, despite no mention being made in the Decree-Law that would exclude from its scope non-consumer financings, it should be interpreted in this manner, not only because such entities are technically and economically equipped to mitigate the conditions of their own financings but also because there are some disadvantageous consequences, as explained above, which only affect non-consumer loans.

The Ministry’s reply was that the letter of the law was clear and that the Decree-Law is to apply to all types of financings. Nevertheless credit institutions are confident that the government will come to understand that the current situation brings no real benefits to anyone and will amend the Decree-Law accordingly.

Legal regime for construction and land development promotes experience

By João Pereira Reis and Rui Ribeiro Lima

With the publication of Law 60/2007, which introduces alterations to the Decree-Law 555/99 with effect from March 2008, the legal regime for construction and land development will be profoundly revised. The goal of the revision is to promote expediency in the context of urban real estate development, which will either be subjected to licensing or prior communication, or even be exempted from any type of previous municipal control.

The principal innovation is the fact that urban operations that previously had to undergo licensing/authorisation procedures will only be subject to the procedure of prior communication, which is applicable to urban operations with reduced complexity, or to operations in areas subjected to municipal land use plans or property allotment licences.

The prior communication consists of a statement, sent by the interested party to the Municipality, accompanied by all of the relevant information concerning the proposed urban development. Within a period of 20 days the Mayor must reject the prior communication if it fails to meet all the legal and municipal statutes, such as any municipal land use plan. Otherwise, the prior communication is admitted and the interested party can commence the urban operation in question, provided that all legal duties and competences of the Mayor.

The procedure manager will provide information and explanations to the interested party and ensure that all the deadlines are met, without prejudice to the legal duties and competences of the Mayor.

Furthermore, the new regime contemplates the existence, in every municipality, of a procedure manager, in charge of accompanying the several stages of each licensing or prior communication procedure. The procedure manager will provide information and explanations to the interested parties and ensure that all the deadlines are met, without prejudice to the legal duties and competences of the Mayor.

The new law establishes moreover that all the actions within the procedures contemplated in the law must be undertaken via a computerised system, which entails that all the requests for urban operations or information about them and consultation with external entities must be made through this system.

In general, this legal reform is, in our opinion, heading in the right direction. We can also expect to see several further improvements in the decision-making process of public entities, rendering the system more dynamic.
Product Liability: the applicable legal regimes


According to Decree-Law 385/89, November 6, there is product liability in respect of damage caused to persons (by death or by personal injuries) and to property (damage to, or destruction of, any item of property other than the defective product itself, with a lower threshold of 500 euros, provided that the item of property is of a type ordinarily intended for private use or consumption, and was used by the injured person mainly for his own private use or consumption).

The main feature of this regime is that the producer is liable for the damages caused due to defects in products that he placed on the market, independently of fault (strict liability). Following the definitions of Directive n.º 85/374/EC, a producer is considered to be the manufacturer of a finished product, of any raw material or of a component part and any person who, by putting his name, trade mark or other distinguishing feature on the product presents himself as its producer. A producer may also be any person who imports into the Community a product for sale, hire, leasing or any form of distribution in the course of his business as well as each supplier of the product when the producer or importer cannot be identified unless he informs the injured person, in writing and within three months after his written notification, of the identity of the producer, importer or of the person who supplied him with the product.

Within the meaning of this regime, a product is any movable even though it may be incorporated into another movable or into an immovable and it is considered defective when it does not provide the safety which a person is entitled to expect, taking all circumstances into account, including the presentation of the product, the use to which it could reasonably be expected that the product would be put and the time when the product was put into circulation. A product is not considered defective for the sole reason that a better product subsequently appeared on the market.

The main feature of this regime is that the producer is liable for the damages caused due to defects in products that he placed on the market, independently of fault (strict liability).

In accordance with this regime, a producer shall not be considered responsible if he proves (a) that he did not put the product into circulation; (b) that, having regard to the circumstances, it is probable that the defect which caused the damage did not exist at the time when the product was put into circulation; or (c) that the product was neither manufactured by him for sale or any form of distribution for economic purpose nor manufactured or distributed by him in the course of his business; or (d) that the defect is due to compliance of the product with mandatory regulations issued by the public authorities; or (e) that the state of scientific and technical knowledge at the time when he put the product into circulation did not allow the existence of the defect to be discovered; or (f) in the case of a manufacturer of a component, that the defect is attributable to the design of the product in which the component has been fitted or to the instructions given by the manufacturer of the product.

Under Decree-Law 383/89, if several people are responsible for the damages, their liability is joint and several. This means that, in theory, the manufacturer, the importer, the distributor and the “retail” supplier may all be considered responsible for the fault/defect. The liability of the producer may be reduced or disallowed when, in view of all the circumstances, the damage is also caused by the fault of the injured person. However, for producer’s liability is not reduced when the damage is caused by the intervention of a third party (although it may be taken into consideration).

Besides this general regime on product liability, two other regimes are relevant in terms of contractual liability. In fact, there is a specific regime applicable to contracts concerning consumer goods, ruled by Decree-Law 67/2003, which provides that the seller shall be liable before the consumer for any lack of conformity of the delivered goods with the contract. In that case, the consumer shall be entitled to have the goods brought into conformity free of charge by repair or replacement, or to have an appropriate reduction made in the price or the contract terminated with regard to those goods. On the other hand, the regime applicable to contracts concerning other products is the general regime provided under the Portuguese Civil Code, which applies similar remedies to those referred to above.

One of the latest relevant developments in product liability law in Portugal was the transposition of the Directive no. 2001/95/EC, regarding general safety of products, by Decree-Law 69/2005, March 17, which establishes the guarantees to ensure that products placed on the market are safe and contains the procedures for the recall or the withdrawal of products in cases of lack of safety.

Budget Bill for 2008

Tax incentives proposed

In October this year the Portuguese Government set out its budget bill for 2008. Amidst the usual adjustments, tax incentives will undergo some changes. Companies in less developed inland areas will be taxed at 10% for the next five years and at 15% from then on.

Another significant change is in the extension of the tax incentives given to holdings (SGPs) and venture capital companies to the so-called “business angels” (i.e. risk capital investors), for whom a legal framework is also being prepared.

Also relevant is the 3% deduction on net profits of the paid-up capital in cash for small and medium-sized companies. Capital increases will also become exempt from stamp duty from January 2008 onwards, as a result of a recent decision by the European Court of Justice.

The main feature of this regime is that the producer is liable for the damages caused due to defects in products that he placed on the market, independently of fault (strict liability).
Out-Sourcing Options - Part III
Entrance of Goods in NEWCO

By Teresa Morais-Leitão, João Abreu and Bruno Sampaio
(The third and final part of our raised article on the topic of outsourcing)

1. DESCRIPTION
Transfer to a NEWCO of the establishment that constitutes the COMPANY’s business to be out-sourced, in exchange for holdings on behalf of the partner that made the entry. The capital participations held in the NEWCO are normally proportional to those held in the COMPANY to be divided.

2. GENERAL REQUIREMENTS
The set of assets that constitutes the COMPANY’s business to be out-sourced must constitute an autonomous business able to function and carry out its activities independently (Undertaking). The Undertaking must be evaluated by an independent official accountant.

3. MAIN PROCEDURES
– Incorporation of a NEWCO;
– Evaluation of the Undertaking by an independent official accountant;
– Capital increase by private agreement or public official accountant;
– Employees’ representative structures (Works Council or trade unions’ representatives) on, in their absence, the employees themselves, ought to be informed in writing of the date and motives of the transfer, its legal, economic and social consequences and the employment measures in view. Such information should be given in writing on time before the transmission and must take place 10 days prior to the consultation of employees’ representative structure (should they exist) with the purpose of obtaining, before the transfer, an agreement on the measures resulting thereof.

4. TAXES
– 6.5% of Property Transfer Tax (IMT) on real estate value if included in the transfer.
– 0.8% of Stamp Duty on real estate value if included in the transfer.
– 5% of Stamp Duty on the value of the undertaking to be transferred.
– Fiscal neutrality if the transfer is made at the value accounted for in the Balance Sheet.

5. LABOUR ISSUES
The employees shall be transferred with the commercial establishment, except if employees expressly oppose such transfer or if the COMPANY places them in a different establishment. Employment contracts are transferred with all existing rights and conditions (e.g., seniority, salary, professional category, etc.). The employees’ opposition must be communicated up until the date of the transfer, provided that employees were informed of the transaction in accordance with the law. During one year following the transfer, the Company is liable for credits of the employees which became due prior to the transfer. The NEWCO’s liability for those credits depends on whether a notice is placed at the work places for that effect; if the notice is placed, employees have a 90-day period to claim the credits and the NEWCO is liable for those that are claimed; if the notice is not placed, the NEWCO is liable for all credits. The 90-day period may end after the transfer.

6. FORECAST
4 to 5 months.

On track for the digital era

Multimedia, multi-platforms and digital are key concepts in the current agenda of Group IMPRESA, the largest Portuguese media group, with interests covering TV, weekly newspapers, free-sheets and with the largest magazine portfolio in Portugal. The group has been reinforcing its market position in the digital and publications businesses, via recent acquisitions and licensing agreements.

Through its subsidiary MEDIA ZOOM (IMPRESA DIGITAL), the group has acquired, both directly and indirectly, controlling participations in several important companies already recognized in the digital arena, namely: 51% of the portal AEIOU for 1.25 million euros; 67% of NEW MEDIA, which develops web sites, for 474,000 euros; 51% of INFOPORTUGAL for 2.3 million euros, and the portal NETJOVENS.

The group IMPRESA envisages that by 2010 the digital area will represent 1/3 of its turnover, surpassing that of its publications.

EDP accesses US markets

iming at gaining access to the US market and thus contributing to a growing diversification of its investor base, EDP – Energias de Portugal S.A. group, through EDP Finance B.V., has completed a multi-series US$2,000,000,000 fixed rate 144 A/ Reg.S notes issue under its Programme for the Issuance of Debt Instruments (MTN).

The notes have the benefit of a Keep Well Agreement provided by EDP – Energias de Portugal S.A. and will be admitted to official listing on the London Stock Exchange. The joint lead managers were Barclays Capital, Citibank and Morgan Stanley, BNP PARIBAS, Fortis Securities, JPMorgan, RBS Greenwich Capital and SOCIETE GENERALE acted as Co-Managers of the transaction.

According to EDP, the transaction, which is EDP’s first issue in the US debt markets, registered strong investor demand and the books closed well oversubscribed.
Iberian lawyer garlands partner of Morais Leitão, Galvão Teles, Soares da Silva

The magazine “Iberian Lawyer” unveiled its list of the top 40 lawyers under forty years of age in September this year. Morais Leitão, Galvão Teles, Soares da Silva partner Filipe Lowndes Marques was selected as one of only seven Portuguese lawyers featured on the list. An award was presented to Filipe Lowndes Marques at the Gala awards ceremony held in Madrid.

In-house courses and seminars flourish

Following on from the official inauguration of the firm’s João Morais Leitão Auditorium in May this year, the firm’s lawyers have adopted a proactive approach in organizing a number of high-level and in-depth seminars for clients and peers in specialist areas.

Morais Leitão, Galvão Teles, Soares da Silva played host to the European Securitisation Seminar in September this year. Partners Luís Branco and Filipe Lowndes Marques coordinated the event. The list of participants included leading European academics and tax practitioners.

In October this year 25 energy law specialists came together in the offices of Morais Leitão, Galvão Teles, Soares da Silva, to discuss the theme of “Regional Energy markets in the EU: The Mibel Experience”. Nuno Galvão Teles, Teresa Morais Leitão and Rui de Oliveira Neves represented the firm. Partner João Soares da Silva gave an opening address and Carlos Botelho Moniz additionally spoke on the topic from the perspective of competition law.

In November this year Morais Leitão, Galvão Teles, Soares da Silva hosted a conference on the taxation of Portuguese investment in Brazil. The seminar featured presentations from several lawyers from partner Brazilian firm Mattos Filho, Veiga Filho, Marrey Jr. e Quiroga, AICEP (Portuguese agency for foreign investment and commerce) and Morais Leitão, Galvão Teles, Soares da Silva & Associados’ partners Nuno Galvão Teles and Francisco de Sousa da Cámara.

Conferences and seminars

Partner António Pinto Leite was recently invited to act as a chairperson at the Second International Seminar on Arbitration relating to International Investment, organized jointly by the Portuguese Arbitration Association and the Ministry of Justice and held at the University of Lisbon’s Law Faculty on October 19th this year. The prestigious seminar brought together leading academic lights in the field of arbitration from Portugal, the US, France and Germany.

Luis Miguel Monteiro spoke at the XI Congress on Labour Law, held on November 15 and 16 and organized by the Publisher Almedina. Luis Miguel Monteiro addressed the topic of mobility between the public and private sectors.

At the invitation of the Portuguese Association of Chemical Companies (APIQ), Claudia Coutinho spoke last September 19th, at the seminar for “Preparation of a company for the REACH Regulation”, namely on the issues of Data Sharing and Consortium Formation.

Francisco de Sousa da Cámara was invited to present a paper to the European Tax Law Conference held at the law faculty of Lisbon University on September 17 and 18 this year. The topic of the conference was “Interpretation of Direct taxation Issues by the EU - The meaning and Scope of the AcE Clair Doctrine”. The conference featured presentation from leading European academics and tax practitioners.

Publications

João Soares da Silva was invited by the CMVM (Portuguese Securities and Exchange Commission) to contribute an article to the April 2007 edition of the CMVM’s Journal (Vol. 26). The article is entitled: “Observations concerning the triple functionality of the technique of attributing shareholders’ voting rights in the Securities Code”.

Rui Patrício published an article entitled “Justice and (a) secret” in the October 4 2007 edition of the magazine Visão.

In October this year António Pinto Leite and Pedro de Gouveia e Melo authored the Portuguese chapter of The International Comparative Legal Guide to: Merger Control, published by the Global Legal Group.

A new book co-edited by Francisco de Sousa da Câmara, entitled “O Direito do Balanço e as Normas Internacionais de Relato Financeiro” was recently published.

Lex Mundi award

Filipa Arantes Pedroso received an award from the Board of Directors of Lex Mundi, recognizing with appreciation her distinguished service as Chair of the Bank Finance and Regulation Practice Group 2003-2007.
Firm bolsters expertise with new recruits

The firm was delighted to announce in September this year that Professor Miguel Nogueira de Brito would be joining the firm’s administrative law practice group. Professor Nogueira de Brito is a recognized expert in the area of Public law, having worked with the Portuguese Constitutional Court, firstly in the President’s office and subsequently in the judges’ office. Professor Nogueira de Brito teaches at Lisbon University’s Law Faculty in the area of Public law.

“Professor Nogueira de Brito is a recognized expert in the area of Public law, having worked with the Portuguese Constitutional Court.”

The firm’s real estate and tourism practice group has also been reinforced with the recruitment of experienced lawyer Daniel Lobo Antunes, who brings considerable expertise in the areas of real estate, tourism and also urbanisation.

Record intake of new trainees

In September this year Morais Leitão, Galvão Teles, Soares da Silva admitted the largest intake of trainee lawyers in its history, when seventeen law graduates joined the firm.

From left to right: João Mayer Moreira, Duarte Santana Lopes, Elmano Sousa Costa, Inês Salema, Carlos Conceição, Marta Méndes dos Santos, Cláudia Costa de Abreu, Isabel Vitoria Dias, Tiago da Silva Cristóvão, Rui Lino Cunha, Margarida Teixeira Gouveia, João Lino Chaves, Filipa Moit Fernandes, Tiago Corder Meira, António Maria Cal and Fábio Castro Rosso.