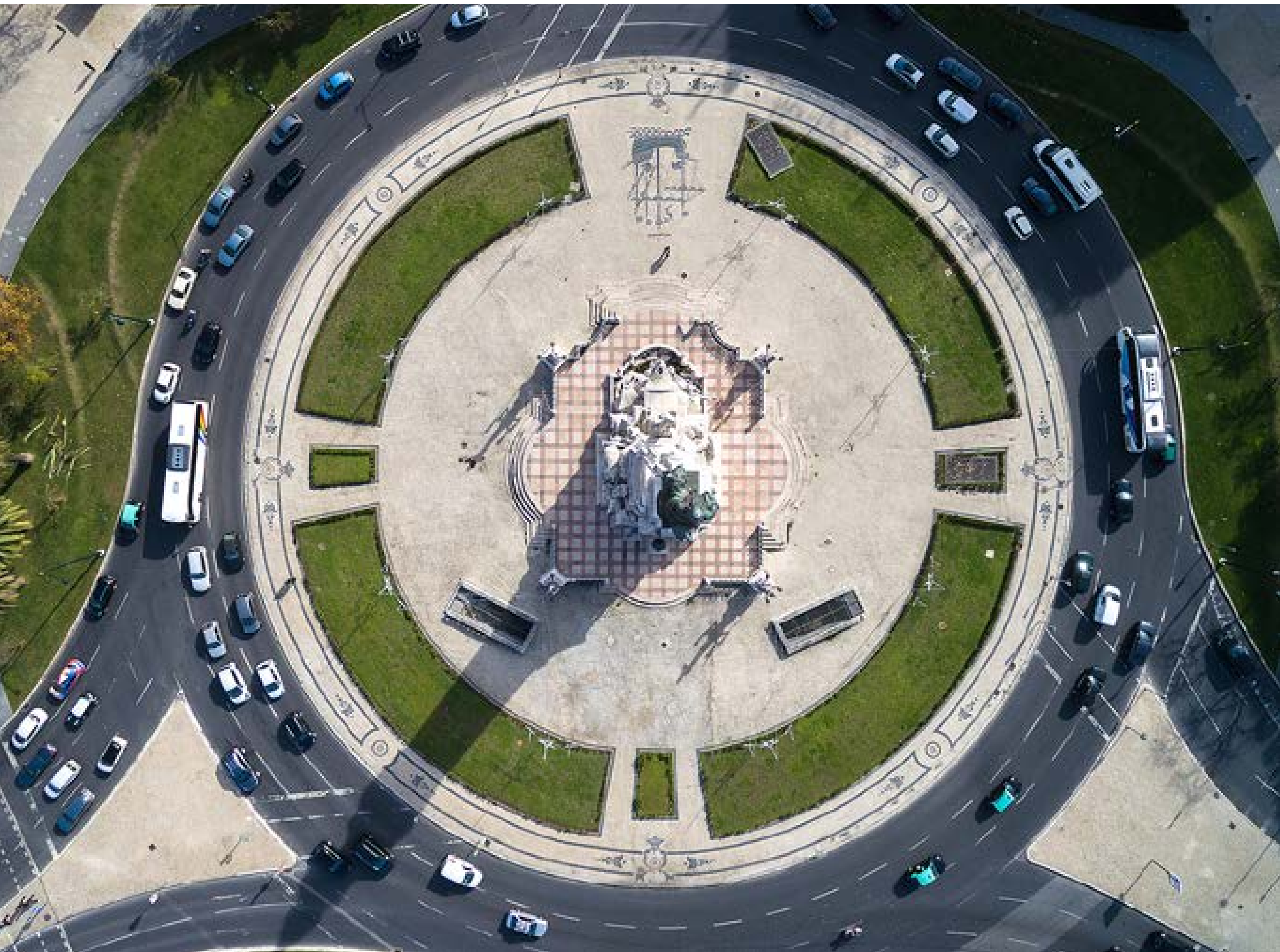
CUATRECASAS

Doing business in Portugal

A legal and tax perspective

2025 Edition



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Content

Introduction

This guide provides an overview of key legal aspects for foreign investors interested in investing in Portugal. It is not intended to be comprehensive but to address practical issues that will help investors considering an investment project in Portugal.

About Cuatrecasas

Cuatrecasas is a law firm present in 12 countries with a strong strategic focus on Portugal, Spain and Latin America. It is also active in Africa, Asia, the Middle East, the UK, and the US. In continental Europe, it has a non-exclusive network with leading law firms in France, Germany and Italy. Its multidisciplinary team of over 1,300 lawyers in 25 offices advises on all areas of business law, organized by industry-specific practice areas. The firm combines maximum technical expertise with a business vision to help clients with the most demanding matters, wherever they are based.

We work with a new approach to client service, merging collective knowledge with innovation, ESG criteria, and the latest technologies to offer contemporary and efficient legal advice, creating value for the client, the team and society at large.

In Portugal, Cuatrecasas has over 200 lawyers with a proven track record representing the interests of some of the country's major companies, institutions and international investors and handling large, complex transactions, high-profile litigation and arbitration proceedings, as well as ongoing legal issues. The Lisbon office, dating back to 1928, is home to approximately 200 lawyers, and the Porto office, established in 1989, currently has over 20 professionals.

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List of acronyms

ACE	Complementary group of enterprises
AdC	Portuguese Competition Authority
AEIE	European economic interest groups
AMF	New Asset Management Framework
ANACOM	National Communications Authority
Arbitration Act	Law 63/2011 of December 14, 2011
ARI	Permit for investment activity program
ASF	Portuguese Insurance and Pension Funds Supervisory Authority
CA	Portuguese statute is the Competition Act
CIRE	Insolvency and Restructuring Companies Code
CIT	Corporate income t ax
CMVM	Portuguese Securities Market Commission
DGEG	Directorate-General for Energy and Geology
ENSE	Entidade Nacional para o Sector Energético
ERC	Telecommunications Regulatory Agency
ERSE	Energy Services Regulatory Authority
EU	European Union
Euronext Lisbon	Securities regulated market managed by Euronext Lisbon – Sociedade Gestora de Mercados Regulamentados, S.A.
MPT	Municipal property tax
IMPIC	Portuguese Institute of Public Markets, Real Estate and Construction
RETT	Real estate transfer tax
INPI	Portuguese Industrial Property National Office
Interbolsa	Interbolsa – Sociedade Gestora de Sistemas de Liquidação e de Sistemas Centralizados de Valores Mobiliários, S.A
LNG	Liquefied natural gas
Madrid System	Madrid Arrangement and the Madrid Protocol

NHR	Non-habitual resident
NIPC	Corporate Identification Number
OECD	Organisation for Economic Co-operation and Development
PCC	Portuguese Companies Code
PCPC	Portuguese Civil Procedure Code
PEAP	Special payment agreement proceedings
PER	Special revitalization proceedings
PEVE	Companies' extraordinary viabilization proceedings
PIT	Personal income tax
Portuguese Data Protection Act	Act 58/2019, of August 8
PSC	Portuguese Securities Code
RCBE	Central Register of Ultimate Beneficial Owners
RERE	Out-of- court recovery proceedings
RJUE	Legal Regime of Urban Planning and Building
RNDG	National Gas Distribution Network
SA	Joint-stock company
SME	Small and medium-sized enterprises
SNGN	Portuguese Natural Gas System
SQ	Private limited company
TOB	Takeover Bid
UBO	Ultimate beneficial owner
UPC	Unified Patent Court
VAT	Value-added tax
WIPO	World Intellectual Property Organization


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Portugal has become one of the most attractive countries in the EU due to the implementation of tax and investment regimes for foreign investment

Portugal at a glance

1.1. Unique geostrategic position

Portugal has become one of the most attractive countries in the EU, not only for its privileged geostrategic position, but also for having implemented tax and investment regimes for foreign investors. Portugal, a member of the EU since 1986, has a population of approximately 10.3 million people and welcomes more than 20 million tourists every year. With strong cultural, economic and historical ties to Brazil, China, India, East Timor, and several Portuguese-speaking African countries, it is the perfect bridge to Latin America, Europe, Asia, and Africa, and a unique platform to channel investments in these economic areas. Also, Portuguese is a global language with over 270 million speakers worldwide.

1.2. Portuguese legal system

Portugal is a semi-presidential republic with three independent branches of government: the executive, the legislative and the judiciary. The head of state is the president, who represents the Portuguese state. Executive authority is exercised by the government headed by the prime minister, while the legislative power is exercised by the single-chamber parliament and the government.

Independent judges represent the judiciary power. The Supreme Court is the highest court in Portugal. The Constitutional Court, which is not part of the judiciary system, has the power to interpret and apply the Constitution.

Portugal has a civil law system based on written law, while caselaw is used for interpretation purposes. EU membership has had a decisive influence on Portugal's legal system, as a substantial part of its commercial laws are based on EU law and international treaties.

The primary binding legal instruments in the EU are regulations and directives. These instruments serve different purposes based on their specific features, rather than following a hierarchical structure:

- Regulations apply generally, are fully binding, and directly applicable in all Member States without needing national implementing legislation. They automatically override any conflicting domestic laws, ensuring uniform application across all Member States.

- Directives differ from regulations in two key ways: (i) they do not always address all Member States (though they usually do); and (ii) they are legally binding only regarding the result to be achieved—however, Member States can decide how to achieve these goals.

If a foreign investor wants to operate in Portugal for more than one year, it must set up permanent representation

Consequently, national legislators must adopt transposing legal acts or national implementation measures to align national law with the directive's objectives. This transposition must occur within the period specified in the directive. Directives are preferred when harmonizing the rules in a specific area while allowing Member States to adjust them to their legal, social, political, or administrative systems.

The Court of Justice of the European Union plays a crucial role in ensuring EU law is applied and interpreted uniformly. It reviews the legality of EU acts through direct actions and, through preliminary rulings, appeals and interprets EU law at the request of national courts.

In January 2025, the President of the European Commission emphasized Europe's need to "shift gears" amid "harsh geostrategic competition," a necessity heightened by recent events.
The European Commission soon launched its five-year action plan, EU Competitiveness Compass, and 2025 work program, outlining an ambitious roadmap with a tight schedule. The strategy focuses on boosting innovation in startups to enhance productivity and competitiveness while continuing to advocate for a "decarbonized economy" by investing in clean energy and green technologies.

To achieve these goals, the European Commission aims to "make life easier for businesses" and increase financing options. This includes reducing reporting obligations by 25% for businesses and 35% for small and medium-sized enterprises (SMEs), while easing access to EU funds and administrative decisions. On February 26, 2025, the European Commission began implementing this plan by approving several omnibus proposals to simplify sustainability and investment regulations.

2

Ways of doing business

2.1. Setting up a business

Limited liability companies

When setting up a business in Portugal, foreign investors usually incorporate or acquire a limited liability company. The two main types of companies with limited liability in Portugal are joint-stock companies (*sociedades anónimas*, SAs) and private limited companies (*sociedades por quotas*, SQs). Both have legal personality separate and distinct from that of their shareholders, who are not personally liable for the company's debts.

Choosing between an SA or an SQ is mainly determined by (i) the size of the business; (ii) the legal requirements (only SAs can be listed); (iii) the future ability to raise capital; (iv) the rules on transferability that shareholders want to apply; and (v) the flexibility offered by SQ regulations, as opposed to SA regulations. (See 2.2 on the overview of limited liability companies.)

Branch or representative office

As an alternative, a foreign entity can establish a branch or open a representative office in Portugal. A branch is a secondary establishment operating permanently as a representative of its parent company. Although it has a certain degree of independence from its parent company and carries out all or some company activities, it does not have separate legal personality. A representative office mostly carries out accessory and instrumental activities (e.g., information gathering, market prospection and local support). Like branches, representative offices do not have separate legal personality. Consequently, the parent company of a branch or a representative office is liable for its obligations and debts.

Alternatives

Another investment option is a joint venture with a business already established and operating in Portugal. Venture partners often create an equity joint venture by incorporating a limited liability company or acquiring a stake in an existing company. However, Portuguese law offers other joint venture alternatives:

- Complementary group of enterprises (*Agrupamento Complementar de Empresas*, ACE): It does not have separate legal personality other than that of its members, and it is created to carry out specific projects or services, such as an engineering or construction project.

- European economic interest groups (*Agrupamento Europeu de Interesse Económico,* AEIE): These aim to facilitate, improve or increase the economic activity of their members, who are held jointly and severally liable (albeit on a subsidiary basis) to the AEIE. They are frequently created to provide centralized services for a group of companies involving at least two different EU Member States.

- Silent partnership agreements, under which investors hold a stake in a business they do not manage by making contributions in money or in kind. While these are not considered capital contributions, they entitle investors to participate in the positive or negative results of the business.

The most common types of limited liability companies operating in Portugal are SAs and SQs

Finally, there is the option of selling or providing goods or services in Portugal without setting up a legal structure (e.g., by entering a distribution, franchise or agency relationship with a third party established in Portugal).

2.2. Overview of limited liability companies

Main characteristics

The most common types of limited liability companies operating in Portugal are SAs and SQs, which are regulated by the Portuguese Companies Code (PCC). Limited liability of shareholders is common to these capital-based companies. In both cases, the assets belonging to the shareholders and to the company are separate. These companies can be owned by a single shareholder when specific requirements are met.

Traditionally, SMEs have chosen SQs because their characteristics are more suitable to their needs:

- Lower legal minimum capital requirements than SAs (€1 per quota, as opposed to €50,000).

- Statutory restrictions on the transfer of quotas are more stringent than for SAs.

- More flexibility and greater autonomy to decide on the company's structure and organization. (SA regulations establish more complex supervision structures aimed at protecting the company's interests, shareholders and creditors.)

By contrast, SAs have traditionally met the needs of larger corporations because their more complex legal framework and limited ability of shareholders to structure the company clash with the needs of small businesses. SAs offer large corporations the following advantages:

- Investing in the company is easier because its capital is divided into shares that can be listed on stock exchanges and are naturally transferable.

- Wider access to financing sources because, unlike SQs, SAs can be listed on the stock exchange and issue negotiable debentures to the public.

However, the characteristics of SAs and SQs can be interpreted in subtly different ways. For example, large companies incorporated as SQs often tailor the statutory model initially designed for SMEs to suit their goals and interests. In this context, shareholders and shareholders' agreements play an important role.

Main features of SAs and SQs

The following table identifies the most important—though not comprehensive—features of SAs and SQs:

	SQ
CAPITAL	
Minimum requirement	€1 per quota.
Divided into	Quotas
Disbursement	Capital contributions must be paid on the date of incorporation or before the end of the first economic period. Parties can agree to partially defer payment of cash capital contributions for up to five years. Contributions in kind must be fully paid up on the date of incorporation.
Voting rights	Every cent of a quota's nominal value is granted one vote. Bylaws can establish, as a special right, two votes for every cent of the nominal value of a quota or quotas of quotaholders that, in total, do not represent more than 20% of the share capital.
Contributions in kind	The value of the quotaholders' investments in kind must be assessed by an independent expert, except in specific cases applicable to SQs as provided by the PCC.
TRANSFERS	
Restrictions on transfers	Unless otherwise provided in the bylaws, quotas can be freely transferred between quotaholders or with quotaholders' spouses, ascendants and descendants. In all other cases, transfers are subject to the restrictions provided for in the bylaws or in the PCC.
TREASURY STOCK AND FINANCIAL ASSISTANCE	
Derivative acquisition of treasury stock	Only allowed, with no set limit, in certain cases: (i) when quotas are acquired at no cost; (ii) under the scope of a judicial action against a quotaholder; or (iii) when the company's legal reserves are at least double the price of the acquired quotas.
Financial assistance	No provision exists regarding financial assistance to SQs. However, there is discussion on whether the SA regime also applies to these companies.

	SA
	€50,000.
	Shares must be nominative and issued as certified or book-entry shares, and they can be negotiated on the stock market.
	Capital contributions must be paid on the date of incorporation. Parties can agree to defer payment of 70% of the cash capital contributions for up to five years. Contributions in kind must be fully paid up on the date of incorporation.
	Generally, every share is granted one vote. No voting privileges are allowed. Bylaws can grant one vote to a certain number of shares or establish a cap on the number of votes that can be cast by each shareholder.
	The value of the shareholders' investments in kind must be assessed by an independent expert.
	Restrictions on transferability can only be admitted in specific cases established by the PCC and must be expressly included in the bylaws. Any transfer limitations must be expressly included in the share's certificates or the share's registration account to be enforceable against third parties.
	Up to a maximum of 10% of the share capital is allowed. Subject to certain conditions, this 10% threshold can be exceeded, particularly when (i) the acquisition results from the company's compliance with the law; (ii) the acquisition is designed to execute a shareholder's resolution of share capital reduction; (iii) assets are acquired on a universal basis; (iv) the acquisition is made at no cost; (v) the acquisition is made in the context of a shareholder's exit; (vi) the acquisition arises from a shareholder not paying capital contributions; and (vii) the acquisition is made within the context of enforcement proceedings for the collection of third parties' debt.
	Financial assistance is prohibited except (i) for the current activities of banks and financial entities; and (ii) for the acquisition of shares by or for the company's employees or of a group company. Please refer to3.1on prohibition on financial assistance.

	SQ
FINANCING SOURCES	
Listing and issuing bonds or other negotiable instruments	Certain financing sources that cannot be listed are unattainable for SQs.
CAPITAL DECREASE	
Mandatory capital decrease	Quotaholders may opt for a share capital decrease to cover losses, free excess capital or for other special purposes.
Disclosure and opposition term	The capital decrease resolution must be registered. Within one month, creditors can judicially request that the court establish a term in which the company may not make any distributions, provided all requirements regarding the creditors are verified
CORPORATE GOVERNANCE	
General meeting	Resolutions may be made by (i) a summoned general meeting; (ii) a universal general meeting; (iii) a written vote (quotaholders must be present in the same location and agree to vote); or (iv) unanimous written resolutions, where the quotaholders sign the resolution on different dates and locations, but they all agree with the content of the resolution and vote the same way. There is no general quorum requirement. Resolutions can be passed by simple majority of the issued votes. Certain resolutions require a reinforced majority (more than three-quarters of the voting rights for share capital increase or decrease, bylaw amendments, merger, and spin-off). Bylaws can increase the voting majorities. In SQs, the quotaholders have broader powers to decide on the company's matters than SAs.
Management	Except where the bylaws provide otherwise, where there are several directors, their respective powers are jointly exercised, and resolutions are approved with the votes of the majority. The directors can be appointed for an indefinite period or appointed for a specific term of office, depending on what is provided for in the bylaws. The directors may delegate certain powers to another director or directors.

	SA
	SAs can raise funds through capital markets by issuing or selling shares, or issuing bonds or other negotiable instruments.
	Shareholders may opt for a share capital decrease to cover losses, free excess capital or for other special purposes.
	The capital decrease resolution must be registered. Within one month, creditors can judicially request that the court establish a term in which the company may not make any distributions, provided all requirements regarding the creditors are verified.
	Resolutions may be made by (i) a summoned general meeting; (ii) a universal general meeting; or (iii) unanimous written resolutions, where the shareholders sign the resolution on different dates and locations, but they all agree with its content and vote the same way. The shareholder meeting can make decisions in first call, regardless of the number of shareholders attending or represented at the meeting, except for certain matters that can only be decided if the shareholders attending or represented at the meeting hold at least one-third of the share capital. At second call, the shareholder meeting can pass resolutions regardless of the number of shareholders attending or represented and the share capital they represent. Resolutions are passed when approved by a majority of issued votes, but a two-thirds majority is required in specific cases (e.g., share capital increase and decrease, amendment of bylaws, transformation, merger, and spin-off). The shareholders meeting can resolve management matters at the request of the board of directors. Virtual means are accepted, provided they are not forbidden by the bylaws.
	If the share capital does not exceed €200,000, the company may have a sole director. The members of the board of directors must be natural persons, although legal entities may be appointed as directors, in which case they must appoint a natural person to represent them. The maximum term of office is four years, but directors can be reappointed for a new term. The board cannot meet without the majority of its members being present or represented. Resolutions of the board are approved by majority vote and, if not forbidden by the bylaws, the meetings can be held online.

Corporate bodies appointment: To be registered with the commercial registry, members of corporate bodies must issue and submit acceptance letters to the commercial registry

2.3. Incorporating new companies and acquiring “shelf companies”

When investing in Portugal, investors can either (i) incorporate a new company (NewCo) in 24 hours with publicly available, pre-approved template documents, or (ii) specifically tailor the company’s documents to their requirements. Alternatively, they can buy a company that has already been incorporated but has not yet started to operate (“shelf company”). However, this is more expensive and uncommon, as a new standard company can now be incorporated within 24 hours.

Requirements for incorporating a limited liability company (SA or SQ)

- Powers of attorney: To be represented at the incorporation, investors must grant powers of attorney bearing the apostille of the Hague Convention or legalized at a Portuguese consulate.

- Company name: A certificate approving the NewCo’s proposed name must be obtained. This usually takes one business day for an urgent request or up to 10 days for a standard request.

- Tax identification numbers: As nonresident individuals for tax purposes, all the NewCo’s foreign shareholders and future nonresident directors must obtain a Portuguese tax identification number.

- The NewCo’s foreign shareholders or future directors who are residing in an EU Member State, Norway, Iceland, or Liechtenstein are not required to appoint a tax representative in Portugal. Foreign individuals residing in third countries must appoint a tax representative in Portugal if they have a legal–tax relationship with the Portuguese tax authorities. Notably, this is the case when they (i) own a vehicle or property registered in Portugal, (ii) have an employment contract in Portugal, and (iii) are self-employed in Portugal. In this latter case, foreign individuals who opt for electronic notifications on the *Finance Portal* or *ViaCTT* are exempt from appointing a tax representative, except for self-employment activities, where a VAT representative is required in all cases.

- Company’s share capital and cash contributions: The NewCo’s initial share capital and any cash contributions must be deposited in or transferred to a bank account in Portugal opened in the name of the NewCo being incorporated.

- Private written document or public deed of incorporation: Investors or their authorized representatives must execute a private written document containing the company’s bylaws, on which the signatures of the company’s founding shareholders or their representatives must be authenticated, unless a public deed is required (e.g., where the capital contributions are made through the transfer of real estate assets to the company).

- The bylaws regulate the NewCo's internal affairs, including corporate purpose, registered office, transfer of quotas or shares, governance structure, general meeting quorum and voting majorities, and any matters that must be addressed in the bylaws.

- Filing the deed of incorporation with the commercial registry and subsequent online publication: Appointments of corporate bodies must be registered with the commercial registry, and their members must issue acceptance letters, which have to be submitted to the commercial registry.

- Registering with the tax and social security authorities: The commercial registry will notify the tax and social security authorities of the incorporation of the NewCo. The NewCo's accountant must confirm the start of activities with the tax department and provide the requested information.

- Ultimate beneficial owner (UBO) registration: Under Portuguese law, the NewCo must submit an online UBO form within 30 days from the date the incorporation is registered with the commercial registry. (See 2.4 on UBOs.)

The NewCo can operate from the date the deed of incorporation is executed, although it will only have full legal personality once registered with the commercial registry.

Requirements for acquiring a shelf company

- Investors must grant a power of attorney if they intend to appoint a representative.

- All foreign shareholders and future nonresident directors must obtain a Portuguese taxpayer number. (See the section on the requirements for incorporating a limited liability company—SA or SQ.)

A prior limited due diligence confirming the status of the shelf company is advisable.

- Sale and purchase: Potential investors and the seller must execute a written deed to formalize the sale and purchase.

- Foreign investment filings: Please refer to 2.6 on exchange control and foreign investment regulations.

- Other corporate actions: Once the process of acquiring the shelf company is completed, new directors will have to be appointed, and the bylaws may be amended to accommodate the company to the investors' needs (changing corporate name, purpose, registered office, transfer rules, and corporate governance). These corporate resolutions must be registered with the commercial registry.

2.4. UBOs

Under the Legal Framework of the Central Register of Ultimate Beneficial Owners (*Registo Central do Beneficiário Efetivo*, RCBE), companies must comply with certain disclosure obligations.

The RCBE is a database that organizes and maintains an updated record on individuals who have—directly or indirectly—ownership or effective control of a commercial company (and other entities) (i.e., the UBO). The main obligation is to file the UBO's disclosure form, which must include information on (i) the entity subject to the RCBE, (ii) the beneficial owners, and (iii) the applicant.

Under Portuguese law, the UBO is the individual who ultimately owns or controls—directly or indirectly—a sufficient percentage of shares, voting rights or participation rights in the share capital of a legal person (i.e., over 25%), and the individual exercising control by any other means over that legal person or who holds the highest executive positions. (See 10.1.1 on identification and due diligence within Law 83/2017.)

The UBO declaration is filed on the electronic platform at https://rcbe.justica.gov.pt/. The type of relationship between the UBO and the entity can be specified in the appropriate item.

Breaching this obligation is a misdemeanor punishable with a fine of between € 1,000 and €50,000, which must be disclosed on the respective electronic platform. Other penalties

Commercial companies must comply with disclosure obligations provided under the legal framework of the Central Register of Ultimate Beneficial Owners

also apply (e.g., not being allowed to distribute dividends, participate in public service concession tenders, or transfer or acquire real estate).

2.5. Corporate governance of limited liability companies

There are mainly four alternatives for organizing the managing corporate body of a limited liability company: (i) one or more directors for SQs; (ii) a sole director for SAs with a share capital that does not exceed €200,000; (iii) a board of directors for SAs (which may include an audit committee, if established); or (iv) an executive board of directors and a general and supervisory board for SAs. The bylaws can establish any of these options—however, it is mandatory for certain companies to adopt a statutory board or a chartered accountant. Directors are under duties of care and loyalty and must act *bona fide* in the company's best interest. Directors (and *de facto* directors) are liable to the company, its shareholders and the company's creditors for any damage they may cause carrying out any acts contrary to law or the bylaws, or in breach of the duties associated with their office.

2.6. Exchange control and foreign investment regulations

The FDI rules applicable in Portugal are (i) Decree-Law 138/2014 of September 15, 2014 (Decree-Law 138/2014); and (ii) Regulation (EU) 2019/452 of the European Parliament and of the Council of March 19, 2019 (EU FDI Regulation).

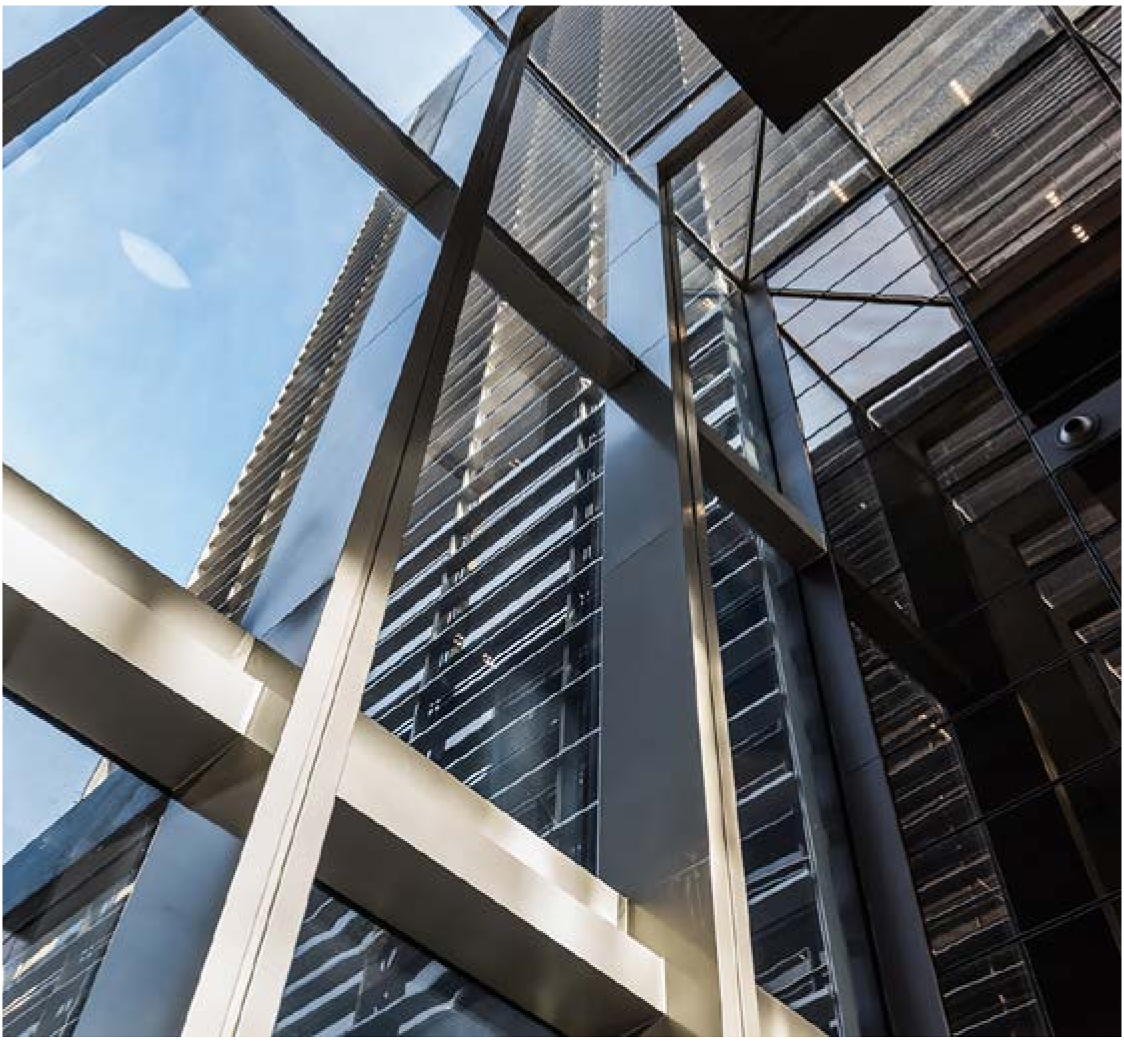
Decree-Law 138/2014 sets out restrictions that apply exclusively to entities from outside the EU and the European Economic Area (EEA) (foreign investors) intending to acquire direct or indirect control over assets in specific sectors of the economy. These sectors include main infrastructures and assets related to national defense and security, as well as the provision of essential services in energy, transportation and communication (Strategic Assets).

The decree establishes specific criteria to assess whether there is a threat to national defense and security or the national interest. These criteria include risks to the international community due to the acquirer's alliances or relations with criminal or terrorist organizations,

past uses of the control position that created serious difficulties in providing essential public services, or changes in the purpose of the Strategic Assets.

The regime established by the EU FDI Regulation (which entered into force on October 11, 2020) is similar to the one established by Decree-Law 138/2014, although it has a wider scope. In theory, the EU regulation is applicable to all sectors, regardless of the economic value of a transaction, and covers the screening of all foreign direct investments in strategic EU infrastructures (e.g., energy, transport, defense, electoral, and financial). Both regimes are designed to address a serious risk for homeland security and public safety, even though Decree-Law 138/2014 has a less comprehensive scope than the EU FDI regime.

Historically, Portuguese governments have been markedly supportive and open to foreign investment, with strategic companies and infrastructures being controlled by foreign investors, some of them based neither in the EU nor in the EEA. In case of doubt, we suggest submitting a request to the government member responsible for the area where the strategic asset is integrated. This request should inform them of the proposed transaction and seek confirmation that the government will not oppose it. Submitting this filing provides legal certainty to proceed with the transaction, offering a clear added value.

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3

Providing security

Portuguese law prohibits Portuguese companies from guaranteeing obligations related to financing their acquisition

3.1. Overview

There are two main types of guarantees:

- *In rem* guarantees (security), where an asset is granted as security for the fulfillment of obligations.
- Personal guarantees, where a person guarantees the fulfillment of obligations as an additional obligor.

Under Portuguese law, security or guarantees are ancillary to the secured obligations and do not exist per se.

The object of the security or guarantee and the secured obligations must be determined, or at least can be determinable, under the criteria defined by the parties. Portuguese law does not provide for "universal guarantees" over all the debtor's assets.

Corporate benefit

Under the PCC, Portuguese companies can only grant guarantees or security for third-party obligations if the company:

i. has a justified corporate interest; or

ii. is in a controlling or group relationship with the entity whose obligations are being secured.

Given that there is some controversy over point (ii) above, even if there is a control or group relationship, companies should have a justified corporate interest in granting the guarantee or security.

Prohibition on financial assistance

Portuguese joint-stock companies cannot provide financial assistance to acquire either the shares representing its share capital or the shares representing the share capital of its direct or indirect parent company. There is some discussion as to whether this prohibition should also apply to SQs.

This prohibition includes indirect assistance—that is, a Portuguese company cannot guarantee obligations related to financing incurred for its acquisition, as this would constitute unlawful financial assistance and be considered void.

Violating the financial assistance prohibition can also trigger liability of the company's directors.

3.2. Most relevant security and formalities

Types of security

A typical Portuguese security package may include:

- pledges over shares of the financed companies or material guarantors;
- pledges over fixed movable assets (i.e., pledges over equipment or inventory);
- pledges over bank accounts;
- pledges over intercompany receivables;
- assignment of receivables;
- assignments or pledges over rights arising from insurance policies and, in some cases (although less frequent), intellectual property rights (i.e., patents and trademarks); and
- depending on the activity and assets of the guarantor or debtor, mortgages over real estate assets.

Formalities

The applicable formalities depend on the type of security being granted—for example, mortgages over real estate assets require a public deed or a document with a notary's term of authentication, whereas bank account pledges and share pledges require only a simple private document.

We usually recommend public deeds or a notarial term of authentication for certain securities, as they can subsequently be used as judicial enforcement titles. Certain formalities may also be required to grant certain rights to the beneficiary of the security (e.g., the certification of signatures in a commercial pledge providing for the appropriation of the pledged assets by the beneficiary).

Regarding possessory or other similar actions, the creation of pledges over the movable assets requires the delivery of the asset to the creditor (unless the pledge at stake is a banking pledge). The assignment of receivables or the pledge of credits requires sending a notice to the respective debtors.

Registration requirements

The registration requirements also depend on the type of security: Mortgages over real estate or registrable movable assets, such as aircraft, vessels and vehicles, are subject to registration with the competent registry (real estate or other), whose record is public.

- Pledges over shares are:
  - subject to inscription in the respective share certificates and registration with the issuer in the share register book (or with the financial intermediary representing the issuer), in the case of certified shares; and
  - subject to registration with the financial intermediary with which the shares are registered, in the case of book-entry shares (regardless of whether they are included in a centralized clearing system) or certified shares integrated in a centralized securities system.
- Pledges over SQ quotas must be registered with the commercial registry.
- Pledges over bank accounts must be registered with the bank that holds the account.

Irrevocable powers of attorney

When creating the security, the security provider usually grants an irrevocable power of attorney for the beneficiary to be able to create and enforce the security. This irrevocable power of attorney must be notarized.

3.3. Special regime for financial guarantees

A special regime applies to financial collateral arrangements, in line with Directive 2002/47/ EC of the European Parliament and of the Council of June 2002 on financial collateral arrangements (as amended). This regime has the following features:

- Security may be granted by transferring a title or right to the asset (*alienação fiduciária em garantia*) or through a financial pledge (*penhor financeiro*).

- If the parties agree, the beneficiary of a financial pledge may have a right of disposal, under which it may transfer or encumber the pledged asset as if it were the owner.

- When expressly agreed, and provided certain requirements are met, the financial pledge may be enforced through appropriation.[1]

- The parties may provide a close-out netting arrangement.

- Automatic clawback actions under the Insolvency Code regarding the granting of security within certain periods before the insolvency procedure do not apply to financial collateral arrangements.

- Financial collateral arrangements are enforceable in accordance with their terms and conditions, even if an insolvency procedure is started.

Portuguese law provides a special regime for financial collateral arrangements

To grant a financial guarantee, the parties, the collateral and the secured obligations must meet specific requirements.

1 Appropriation is also possible for commercial pledges (that do not qualify as financial pledges), provided they meet certain requirements.

4 Antitrust

The AdC imposed fines totaling €37.8 million, ensuring enforcement across diversified sectors

Businesses in Portugal are subject to EU and Portuguese antitrust laws. Portuguese antitrust law applies to anticompetitive agreements, decisions of association of undertakings, or any other conducts occurring or having effect in Portugal. EU law also applies to agreements or conduct that may affect trade between Member States.

The pertinent Portuguese statute is the Competition Act (CA), provided under Law 19/2012 of May 8. The CA's provisions are enforced by the Portuguese Competition Authority (*Autoridade da Concorrência,* AdC). The CA was last amended by Law 17/2022 of August 17, which transposed Directive (EU) 2019/1 of the European Parliament and of the Council of December 11, 2018.

In 2024, the AdC opened five new antitrust investigations, delivered two statements of objections and issued six sanctioning decisions with fines for *circa* €37.8 million. These cases involved companies across various sectors, including private healthcare, IT and digital services, audiovisual, wholesale distribution, and property management. In the same year, the AdC also conducted four dawn raids in different investigation proceedings and received four leniency applications.

Also in 2024, the AdC continued to defend its hub and spoke conspiracy theory against several companies in the large food retail sector. This theory stems from the dawn raids it carried out in 2017 at the facilities of 44 entities, which led to decisions and nearly €700 million in fines. Specifically, the legality of the evidence seized by the AdC during the dawn raids has been challenged, with both the Constitutional Court and the Supreme Court declaring the procedure unconstitutional. However, the matter remains pending.

The AdC also accused an association of condominium management for having imposed minimum prices on its associates for the provision of condominium management and administration services. This practice led to a fine of almost €1.2 million.

It adopted an infringement decision against SIBS (the Portuguese monopolist in the payment services sector) for an abuse of a dominant position in the form of tying, which led to a fine of almost € 14 million.

Also, the AdC issued a sanctioning decision against the sector association and five major clinical analysis laboratory groups for participating in a cartel in the market to provide clinical analysis services. This involved price fixing, market and customer allocation, and no-poach agreements. The fines imposed amounted to over €48 million.

The AdC sanctioned BAXI, a wholesale distributor of heating equipment, for restricting the territories where its official service providers could operate and for fixing the prices of services provided to customers. The case was concluded early through a settlement procedure, following the company's cooperation and waiver of litigation.

The AdC also issued a sanctioning decision against an audiovisual industry association for setting minimum prices to be charged by its members to provide audiovisual production services across the territory. This led to a fine amounting to €20 million.

Lastly, the AdC accused SAP Portugal and its parent company SAP SE of imposing sales restrictions on distributors, aimed at limiting distribution and allocating customers in the market for enterprise application software products and related services. This prevented distributors from submitting bids in public and private procurement procedures. The AdC imposed fines of more than €29 million.

Following the sanctioning of three multinational companies in the technology consulting sector for anticompetitive practices in the labor market, with fines amounting to €4 million, in early 2025, the AdC had already imposed an additional fine of €3 million on the remaining parties for their participation in a no-poach agreement.

4.1. Restrictive practices

The CA prohibits (i) collusive practices (anticompetitive agreements and concerted practices and decisions by associations of undertakings); (ii) abuse of dominant position; and (iii) abuse of economic dependence that aim to prevent, restrict or distort competition in the Portuguese market.

Collusive practices

In Portugal, all agreements, collective decisions and recommendations, concerted practices or decisions by associations of undertakings that prevent, restrict or distort competition are prohibited.

These practices include (i) price-fixing, limiting or controlling production, distribution, technical development, or investment; (ii) sharing markets or sources of supply; (iii) applying dissimilar conditions to equivalent transactions; and (iv) entering contracts subject to accepting supplementary obligations that have no connection with the object of these contracts.

Prohibited agreements and practices, with some exceptions, are void and may be punishable, depending on the severity of the restriction on competition, with fines of up to 10% of the infringer's total annual turnover in the year before the fining decision. If an association of undertakings commits an infringement relating to the activities of its members, the maximum fine may not exceed 10% of the sum of the total,

aggregated turnover of each member operating in the market affected by the association's infringement.

Other possible ancillary sanctions include publishing the decision in the Official Gazette (at the infringing company's expense) and, in the case of bid rigging, a ban of up to two years on taking part in procedures for public works contracts.

Under article 10 of the CA, prohibited agreements and practices can be exempt if they contribute to improve the production or distribution of goods and services or to promote technical or economic progress, provided the restrictive practices (i) offer consumers a fair share of the benefits of these practices, (ii) do not impose unnecessary restrictions, and (iii) do not give the undertakings the possibility of eliminating competition in relation to the products involved. Also, the AdC may impose behavioral or structural measures if it considers them indispensable for stopping the effects of the sanctioned practice.

Abuse of dominant position

The CA also prohibits abusive conduct by companies that have a dominant market position. Unlike agreements and decisions of business associations, which involve two or more economic agents in an anticompetitive practice, abuse of a dominant position is typically carried out by a single operator holding significant market power.

Consequently, the dominant company does not need to consider other economic agents' reactions when making commercial policy decisions.

A company with significant market power can exploit other companies or consumers and exclude potential competitors. Holding a dominant position in any market is not illegal per se. However, a dominant company has a special responsibility to ensure that its conduct does not distort competition. Examples of behavior that may constitute abuse include:

i. requiring buyers to purchase all units of a particular product only from the dominant company (exclusive purchasing);

ii. setting prices at a loss-making level (predatory pricing);

iii. refusing to supply input indispensable for competition in an ancillary market; and

iv. charging excessive prices.

Abuse of dominant position is punishable with fines of up to 10% of the company's total annual turnover in the year before the fining decision. Other ancillary sanctions that the AdC may apply include publishing the decision—at the infringing company's expense—in the Official Gazette.

The AdC may also impose behavioral or structural measures considered indispensable for ending the sanctioned practice and its effects on the undertaking(s).

Abuse of economic dependence

The CA also prohibits the abuse of economic dependence by one or more undertakings, under which any of its suppliers or customers may find that no equivalent alternative is available. Abuse comprises, for example, the refusal to deal with or an unjustified termination of a commercial relationship between the undertakings involved considering their previous commercial relationship, recognized practices in a specific economic activity, and the contractual conditions that have been specifically established. This provision has rarely been applied in Portugal.

Leniency regime

Under the Portuguese leniency regime, companies and individuals subject to liability for restrictive agreements and concerted practices prohibited by the CA may benefit from immunity or up to a 50% reduction of the fine when they:

- cooperate fully and continuously with the CA, providing all the information and evidence they have;
- stop participating in the infringement;
- did not coerce any of the other companies to participate in the infringement;
- did not destroy, falsify or conceal information or evidence related to the infringement; and
- did not submit or reveal the intention to submit the leniency application or its content to any other competition authority, except for the European Commission.

The leniency regime is becoming increasingly popular with companies doing business in Portugal.

4.2. Merger control

The CA requires prior notification and authorization for mergers and other concentrations, including acquisitions and the creation of full-function joint ventures, which are not subject to mandatory notification to the European Commission under the EU Merger Regulation or the AdC in Portugal but meet one or more of the thresholds listed below.

Specifically, a concentration must be filed with the AdC when it meets one of the following conditions:

- Acquisition, creation or reinforcement of a market share equal to or exceeding 50% in the Portuguese market.
- Acquisition, creation or reinforcement of a market share equal to or exceeding 30% but lower than 50% in the Portuguese market, and the Portuguese individual turnover of at least two companies exceeds €5 million.

- A company's aggregate turnover in the previous financial year in Portugal exceeded €100 million (net of taxes), and the individual Portuguese turnover of at least two companies exceeds €5 million.

Note that (i) the parties' activities do not have to overlap, (ii) the turnover criterion is merely used as a threshold that may trigger a filing irrespective of the competition assessment to be performed by the AdC, and (iii) the notification obligation lies with the purchaser.

A concentration that is to be examined by the AdC cannot be implemented before it is notified or until it has been cleared by the authority (the "standstill obligation"). In other words, the parties to a transaction cannot proceed to closing until the AdC clears it.

Failure to notify and breaching the standstill obligation are subject to heavy fines applicable only on the purchaser (up to 10% of its annual turnover). Also, the transaction does not produce legal effects under Portuguese law (i.e., breaching the standstill obligation makes the operation ineffective), meaning it also has a negative impact on the seller.

If the AdC becomes aware that a merger transaction has been implemented (or certain implementation measures have taken place), it is likely to open infringement investigation proceedings *ex officio*, without the mandatory prior notification in the preceding five years (i.e., the limitation period).

The CA provides fines of up to 10% of the parties' total worldwide turnover if a transaction is implemented before the authorization of the AdC (or the European Commission) or if a transaction is not notified.

In 2024, the AdC reviewed over 80 transactions, consistent with the numbers for 2023. It also started six new investigations for alleged gun-jumping infringements and blocked one transaction.

4.3. Unfair competition

Portuguese unfair competition rules are based on the principle that commercial conduct contrary to good faith is unfair. The Portuguese statute is the Portuguese Industrial Property Code (Decree-Law 36/2003 of March 5, as amended), particularly article 311.

The Portuguese unfair competition rules specifically address unfair commercial conduct, including acts of confusion, misleading advertising, and certain kinds of gifts and discounts, as well as acts of denigration, comparison and imitation.

4.4. Individual trade practices

Companies producing and distributing goods in Portugal should also consider the legal regime on individual restrictive trade practices, set out in Decree-Law 166/2013 of December 27 (as amended).

The legal regime on individual restrictive trade practices focuses on discriminatory prices or sales conditions, sales below cost, refusal to supply goods or services, and other abusive business practices or restrictive trade practices. For large undertakings, the fines for restrictive trade practices can be up to €2.5 million.

5 State aid, foreign direct investments and foreign subsidies

5.1. State aid

State aid is subject to control by the European Commission to ensure that government involvement does not distort competition and trade in the EU

Under EU law, state aid is subject to control by the European Commission to ensure that government involvement at any level (national, regional or local) does not distort competition and trade in the EU. State aid is defined as an advantage in any form (e.g., loans and guarantees) that public authorities grant to selected entities. Article 107 of the Treaty on the Functioning of the EU does not cover subsidies granted to individuals or general measures open to all enterprises, so they do not constitute state aid.

EU law establishes a general prohibition on state aid measures (which must be notified and only implemented after approval by the European Commission), while making allowances for several areas in which state aid can be considered compatible under certain conditions.

The FDI Regulation establishes a framework for Member States to screen foreign direct investments in the EU on the grounds of security or public order

5.2. Foreign direct investment

The FDI Regulation applies to all sectors, regardless of the economic value of the transaction, and covers the screening of all foreign direct investments in strategic EU infrastructures (e.g., energy, transport, defense, electoral, and financial).

Although the FDI Regulation became fully operational on October 11, 2020, according to the communication adopted by the European Commission on March 13, 2020, the regime provided by the FDI Regulation could also apply to foreign investments taking place before that date.

In Portugal, Decree-Law 138/2014 of September 15 also aims to screen foreign investments relating to Strategic Assets and particularly sensitive industry sectors based on national defense and security or security of supply of services fundamental to national interest. Under this framework, the Portuguese Government may initiate an investigation and, ultimately, oppose a transaction (*ex post*) regarding Strategic Assets.

If an opposition decision is taken, all contracts and legal acts relating to the transaction (including acts regarding the economic exploitation and the exercise of rights over the assets) will become null. To our knowledge, this procedure has not been enforced yet.

5.3. Foreign subsidies

The Foreign Subsidies Regulation (FSR) comprises new rules granting the European Commission the authority to investigate financial contributions from non-EU governments to companies operating in the EU. If the European Commission finds that these financial contributions are distortive subsidies, it can impose measures to redress their distortive effects.

Under the FSR, the following transactions must be notified to the European Commission in advance:

- Concentrations involving financial contributions from non-EU governments, where the acquired company, one of the merging parties, or the joint venture generates an EU turnover of at least €500 million, and the transaction involves foreign financial contributions exceeding €50 million.

- Bids in public procurement procedures involving financial contributions from non-EU governments, where the estimated contract value is at least €250 million, and the bid involves a foreign financial contribution of at least €4 million per third country.

In April 2024, the European Commission disclosed its first unannounced inspections in the context of the FSR. These inspections were carried out at the premises of a company producing and selling security equipment in the EU. According to the European Commission, in 2024, the first full year of the FSR's operation, pre-notification contacts were initiated for 120 transactions, with over 100 resulting in formal notifications. Also, two *ex officio* investigations and three in-depth investigations were initiated.

As regards public tenders, in 2024, the European Commission received more than 1,000 filings related to approximately 200 tenders. In February 2024, the European Commission initiated a formal procedure to investigate a proposal from CRRC Qingdao Sifang Locomotive Co. Ltd. (a subsidiary of the Chinese state-owned company CRRC Corporation), which had been presented in a tender launched in Bulgaria for the supply of electric trains and maintenance services. In April 2024, the European Commission announced the launch of two in-depth investigations into proposals from companies also linked to China in the context of a tender for operating a photovoltaic park in Romania. However, all three procedures were closed following the withdrawal of the respective bids.

Regarding mergers, the European Commission opened an in-depth foreign subsidies investigation into Emirates Telecommunications's proposed acquisition of parts of PPF Telecom, resulting in its first conditional approval.

In terms of *ex officio* action, the European Commission launched two investigations: one related to wind turbine supplies across several EU Member States (Spain, Greece, France, Romania, and Bulgaria); and another concerning security equipment provided by Nuctech. Notably, the European Commission exercised its dawn raid powers for the first time, carrying out unannounced inspections at Nuctech's premises in the Netherlands and Poland.

The General Court of the EU also issued an interim decision upholding the European Commission's authority to access China-based inboxes during dawn raids, although the matter remains under appeal.

The European Commission's actions show its intention to use its powers to investigate foreign subsidies and demonstrate that it has the necessary capacity and resources for this purpose. With the FSR fully operational, increased enforcement activity is expected in 2025.

Therefore, companies should be prepared to meet the obligations under the FSR regime, particularly concerning merger operations and public tender offers that require notification.


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6 Real estate

The use and occupation of real estate in Portugal is acquired through an ownership right or by contracting other forms of *in rem* rights (e.g., *in rem* security and acquisition rights).

Under Portuguese law, there are no restrictions on nonresidents or foreign investors owning real estate or on acquiring companies owning real estate

6.1. Ownership and other rights

The ownership right (*direito de propriedade*) is the highest *in rem* right over real estate in Portugal. The owner of a property has full and exclusive rights of use, fruition and disposal of real estate, within the legal limits. The Portuguese legal concept is similar to the French *propriété*, the British freehold and the German *voll eigentum*. Fiduciary ownership is not provided under Portuguese law. It is only accepted and recognized in the Madeira Free Trade Zone through a trust and for the purpose of activities pursued there.

Under Portuguese law, there are no restrictions on nonresidents or foreign investors owning real estate or on acquiring companies owning real estate, although certain formalities may be required, including obtaining a Portuguese taxpayer number for the purchaser beforehand.

A property may be owned individually by a single person or jointly by two or more persons, designated as co-owners, under a co-ownership regime (*compropriedade*). Under this regime, the co-owners simultaneously hold an ideal quota over the same asset, exercising their rights and obligations proportionally and according to their respective quotas.

Each co-owner is allowed to sell its quota to third parties, with the remaining co-owners being entitled to preemption in any such sale. The co-ownership legal regime entails specific rules regarding property management.

Under Portuguese law, it is also possible to divide a building into several independent units, under the horizontal property legal regime (*propriedade horizontal*), to be operated as a condominium. Under this regime, units may belong to different owners, and they are considered individual properties, each subject to its own rights, burdens and liens, independently of all other units. The common areas (i.e., all parts of the building that are not part of any unit) of a building divided under the horizontal property regime, such as the stairs, lifts and hallways, are co-owned by all unit owners.

These two rights are an inseparable part of an indivisible complex *in rem* right specifically established in the Portuguese Civil Code. Therefore, the property right over the unit cannot be transferred without the simultaneous transfer of the co-ownership right over the common areas, and vice-versa.

Division under the horizontal regime may also be applicable to separate buildings or complexes, provided they meet the applicable requirements.

Portuguese law also provides other *in rem* property rights, of which the surface right (*direito de superfície*) is the closest to ownership right, granting the surface right holder stronger rights over the properties.

This right does not include ownership of the land. Rather, it consists of the legal right to build or hold, permanently or temporarily, a construction on land owned by a third party or to carry out or maintain planting on the property. When the surface right is temporary, the construction on the land will become the landowner's property at the end of the term.

Also, the usufruct right (*direito de usufruto*) is legally established and gives its holder the powers of use, enjoyment, management, and entitlement to benefit economically from the property for a certain period (limited to 30 years for legal entities) or for life (in the case of individuals).

Registration is essential to prove title over a property. The Portuguese state, through the Land Registry (*Conservatória do Registo Predial*), is responsible for maintaining public records of each property's legal status, including ownership and encumbrances. The Land Registry operates on the principle of priority of registration, meaning that the first recorded *in rem* right takes precedence over other recorded *in rem* rights, even if the latter were created earlier.

Any facts that create, acknowledge, transfer, or modify any real estate right (including asset deals, leases lasting over six years, easements, mortgages, horizontal property, usufruct, and surface rights) must be registered with the Land Registry within two months. Failure to meet this deadline may result in a fine.

Ownership of a property is transferred by a deed of sale and purchase or through a private agreement certified by a legally qualified person or entity (see 6.2.), not by the registration. However, registration is a crucial step in the process, as it provides the following:

i. Publicity: Registration ensures the transaction or legal fact is made public.

ii. Opposability: Once registered, the legal facts or rights are enforceable against third parties.

iii. Priority: The principle of priority applies, meaning the first registered right takes precedence over later registered rights.

iv. Presumption of ownership: The person or entity registered as the owner is presumed to be the property's legitimate owner. Although this presumption can be rebutted, it provides a strong legal basis for the registered owner.

Failure to register the above facts in the Land Registry can result in a lack of protection for the property purchaser against third parties (*erga omnes* effects) and the impossibility of transferring the property.

6.2. Real estate transactions

Acquiring rights over real estate can be done directly by acquiring an asset (asset deal) or indirectly by acquiring shares of a company or any other vehicle that owns real estate (share deal). In both cases, the acquisition may be made through investment vehicles.

Although the most common property investment vehicles in Portugal are commercial companies—joint-stock companies (SA) and private limited companies (SQ)2—there are other investment vehicles such as real estate investment funds (*fundos de investimento imobiliário*), real estate special investment funds (*fundos especiais de investimento imobiliário*), and property investment companies (*sociedades de investimento e gestão imobiliária*, SIGI), which are the Portuguese equivalent of real estate investment trusts.

Asset deals

The purchase and sale of real estate must be carried out in writing, either by public deed executed before a notary public or through a private document certified by a legally qualified person or entity, such as a notary public, lawyer or paralegal officer. In addition to complying

2 Please refer to 2 – Ways of doing business

with the tax obligations resulting from acquiring real estate,3 several documents are required to transfer property ownership, depending on the property type. These documents include the following:

- Land registry certificate and tax certificate.
- Energy performance certificate.
- Statement issued by the condominium manager when transferring units, detailing (i) the amount of all outstanding condominium charges for that unit, specifying their nature, amount and payment deadlines; and (ii) any debts, including their nature, amount, dates they were constituted, and due dates. The purchaser can declare that he or she waives this statement and accepts responsibility for any condominium debt of the seller for the purchased unit.
- Waiver of any legal preemption rights.
- Proof of payment or exemption from IMT and stamp duty (if applicable).
- Proof of registration of the UBO with the Portuguese Ministry of Justice if either the purchaser, the seller, or both are corporate entities.

Since January 1, 2024, through the Urban Development Simplex (*Simplex Urbanístico*), transferring ownership of urban properties no longer requires presenting a building permit or use permit, nor proving the existence of the housing technical data sheet.

Although a property can be transferred without these permits, the seller must inform the buyer about their absence. This information must be explicitly mentioned in the transfer title.

Share deals

Share deals are usually formalized through private agreements (not subject to any specific formal requirements). Under these agreements, the parties may freely agree on the terms and conditions for the transfer of the company owning the real estate. They usually include specific provisions on the real estate underlying the transaction, plus the typical representations and warranties, conditions precedent, and specific indemnities related to potential or actual contingencies identified in the due diligence process.

The legal requirements for transferring participations depend on the type of company being transferred.

In addition to traditional transaction structures, **forward purchases, forward funding, and co-development** are becoming increasingly popular in the Portuguese market. These structures are seen as effective solutions to the shortage of income-generating assets. Institutional investors

3 Please refer to 8 – Tax

are expanding their focus to include assets under development, considering them attractive entry points into various sectors.

These financial arrangements provide promoters and vendors with the certainty and stability needed for project funding or acquisition. This is especially important in forward funding and co-development scenarios, as it ensures the necessary cash flow to cover costs from the early stages of development.

In Portugal, none of these structures are specifically governed by national legislation. These financing and acquisition models, inspired by practices in English-speaking countries, are primarily used in real estate transactions. They are characterized by their contractual complexity. Essentially, these models involve adapting existing contractual frameworks—such as construction contracts, sale and purchase agreements, and shareholders' agreements—to meet the unique requirements of each project. This process results in a customized contractual package that aligns with the project's distinct features and specific risk profile.

There are two additional topics that are prevalent in nearly all real estate transactions:

a. Environmental, Social and Governance (ESG)

ESG considerations are increasingly crucial in real estate transactions. Investors are demanding ESG-compliant properties, viewing them as lower risk and more sustainable long-term investments.

This shift towards incorporating ESG criteria reflects a broader industry recognition of the importance of sustainability, social responsibility, and good governance. Key issues such as sustainability, climate resilience, resource management, community impact, transparency, and accountability are now essential components of real estate investment and development strategies.

Also, some EU regulations are likely to impact real estate sustainability. One example is the Energy Performance of Buildings Directive (EU/2024/1275), which entered into force in all EU countries in May 2024. It must be transposed into national law by May 2026 and will require substantial investments

in building upgrades and energy-saving measures, necessitating strategic planning and resource allocation.

b. **Warranty and indemnity (W&I) insurance**

W&I now plays a crucial role in real estate transactions, offering significant benefits to both buyers and sellers. It mitigates risks, facilitates smoother transactions, enhances buyer confidence, protects sellers' interests, provides a competitive advantage, covers unknown risks, and offers customizable coverage. By incorporating W&I insurance into real estate deals, parties can achieve greater security and certainty, ultimately leading to more successful and efficient transactions.

6.3. Urban lease agreements

The legal regime for urban lease agreements is essentially set out in the Portuguese Civil Code and in Law 6/2006 of February 27, as amended. Under a lease agreement, one of the parties (the landlord) grants the other party (the tenant) the temporary use of real estate in exchange for payment of rent. The lease agreement must be formalized in a written document signed by both parties. Leases with an initial term of more than six years and their transfers or subleases (except for rural leases) are subject to registration with the Land Registry. The duration of more than six years of an unregistered lease is not enforceable against third parties.

Unless otherwise agreed by both parties, the tenant may not assign its position in the lease agreement to a third party without the landlord's consent, except in the case of a transfer of a business (*trespasse*) that also includes the lease.

If a leased property is sold, the lease agreement is transferred to the new owner with the same terms and conditions, and the new owner assumes the position of the landlord without further requirements. However, under certain conditions, tenants are granted a preemption right in the transfer of the leased property.

The use of a property under a lease agreement must comply with the use permit issued for the property—otherwise, it will be considered null. Urban lease agreements can be for residential or non-residential purposes.

The main aspects of urban leases for residential purposes, including early termination, opposition to the renewal and expiry of the agreements, are provided by law and are mandatory.

Regarding non-residential lease agreements, their main characteristic is the parties' contractual freedom to establish the provisions on duration, termination and opposition to renewal. If the parties do not establish these provisions, the legal provisions for residential agreements will apply.

Residential lease agreements are subject to a maximum mandatory limit of 30 years, while in non- residential lease agreements, the landlord and tenant may agree to a longer duration (although this has tax implications).

In January 2020, a new right allowing access to residential properties—the right to long-term housing (*direito de habitação duradoura*)—became effective. Under this housing right, the tenant is entitled to a permanent and lifelong agreement by paying the landlord an initial deposit based on the property's market value, as well as periodic installments.

6.4. Planning and licensing

The main urban planning and property project licensing laws are (i) the Basis Law on Territorial and Urban Planning Policies (*Lei de Bases da Política dos Solos, Ordenamento do Território e Urbanismo*); (ii) the Territorial Planning Instruments Regulations (*Regime Jurídico dos Instrumentos de Gestão Territorial*); and (iii) the Legal Regime of Urban Planning and Building (*Regime Jurídico da Urbanização e da Edificação*, RJUE).

Under the RJUE, both national and local public authorities (state and municipal) can approve rules for the use, occupation and transformation of land, considering public interests in sectors such as environment, defense and wildlife protection. These rules define goals and principles for land use. These restrictions, considered public interest constraints and easements, can derive from the Public Hydric Domain Regulations, the National Agricultural Reserve Regulations, the National Ecological Reserve Regulations, the Natura 2000 Network Regulations, or the Immovable Assets with Cultural Interest Classification Regulations.

Certain property projects may also require an environmental impact assessment. Current territorial management instruments vary in (i) nature, notably sectoral or special planning instruments; and (ii) scope, covering national, regional or municipal plans.

Municipal planning instruments (*Planos Municipais de Ordenamento do Território*) are land use plans that implement public policies at the local level. They are divided into three categories for each property project:

i. Municipal Master Plans (*Planos Diretores Municipais*, PDMs)

ii. Urbanization Plans (*Planos de Urbanização*, PUs)

iii. Detailed Plans (*Planos de Pormenor*, PPs)

These land use plans can be enacted by more than one municipality, resulting in intermunicipal land use plans. The feasibility of a given property project requires compliance with these land use plans.

The most recent amendment to the Legal Regime of Urban Planning and Building aims to simplify access for interested parties to all applicable regulations for a certain urban project. It establishes that all regulations must be included in one, single plan—either municipal or intermunicipal.

The RJUE is the legal regime that outlines the required administrative permits for construction and land development. It defines which urban operations require prior control—that is, licensing (*licenciamento*) and prior communication (*comunicação prévia*). It also sets out the administrative procedure and the monitoring of project execution.

Municipalities are the local entities responsible for assessing whether an urban project complies with applicable laws and territorial management instruments. However, other entities may be asked to give their prior approval or opinion, such as the Public Heritage Department (*Direcção-Geral do Património Cultural*) or the Tourism Authority (*Turismo de Portugal*). In some cases, their opinion is binding, meaning their approval is necessary to proceed with an urban project.

The execution of urban projects may be subject to different procedures. Before filing for one of these procedures, any interested party can request information on its viability and legal or regulatory constraints by submitting a prior information request (*pedido de informação prévia*). Municipalities have a set term to decide on the request, and their decisions are binding on the competent bodies. The effects of these decisions remain in force for two years and can be extended for a third year. If favorable prior information meets certain criteria, it can exempt a project from subsequent prior administrative control before construction.

Depending on the type and importance of each project, as set out in the RJUE, it may be subject to one of the following procedures: licensing (*licenciamento*) or prior notification (*comunicação prévia*). Projects without significant urban impact (generally maintenance works) or other interventions may be exempt from prior checks but still subject to municipal supervision, provided certain responsibilities are taken on by architects or engineers. If a project requires prior notification, developers cannot opt for a licensing procedure, although they can choose a prior information procedure.

The Urban Development Simplex legislative package, approved by Decree-Law 10/2024 of January 8, aimed to reform the legal regime for urban development permits and to simplify and speed up procedures. For example, it expanded the range of urban development operations exempt from prior checks and added new cases for prior notification, limiting those that require a licensing procedure. A significant change was the shift of municipal control of urban development operations from the pre-execution phase (prior control) to the moment of execution or even completion (simultaneous and successive checks). Generally, if an operation was subject to prior administrative control, use of all or part of the building after completion of work subject to prior check is only contingent on the delivery of (i) a declaration of responsibility signed by the works manager (*director de obra*) or the construction supervision manager (*director de fiscalização*), stating that the works have been completed in accordance with the approved plans; and (ii) final blueprints, if any changes were made to the original project.

For more information, please see our Guide to the Urban Development Simplex.

7 Intellectual property rights and personal data protection

To avoid detrimental copyright transfer agreements, companies may agree to work-for-hire contractual clauses that stipulate the original ownership of the copyrightable content (including moral rights)

Portuguese law supports freedom of intellectual, artistic and scientific creation and upholds the right to the invention, creation and disclosure of scientific, literary or artistic works, including copyright legal protection.

The English term “intellectual property rights” includes two different concepts:

- Copyright
- Industrial property rights (including trademarks, designs, logos, patents, and utility models)

7.1. Copyrights

The original intellectual, artistic and scientific creation is the object of copyright legal protection, and copyright holders can exercise their rights, under domestic regulations, in countries where they request protection. Unlike industrial property rights, copyright legal protection is automatically acquired by creating a literary, artistic or scientific work and from the time it is created. No registration or deposit is legally required. In fact, making the work apprehensible through the senses in any way is sufficient. However, the work should be registered with the competent authorities, as doing so proves its existence and ownership and makes it possible to enforce these rights, especially regarding priority issues.

In Portugal, copyright and related rights are regulated under the Copyright and Related Rights Act, enacted in compliance with several international treaties and EU directives regulating the rights of authors and other “related rights” (including the rights of phonogram and videogram producers, performers and broadcasting companies).

Software and databases are also protected by copyright, but they are regulated in separate specific laws.

For a work to be protected by copyright, it must be original, not a mere copy of a pre-existing work, expressed in any tangible or intangible way or form known at present or that may be created in the future. Works protected by copyright include books, magazines, newspapers, music, advertising slogans, cinematographic works, television and radio works, sculptures and paintings, architectural and engineering works, and photographic works.

Copyright includes (i) personal or moral rights, which are not subject to a time limit and cannot be assigned or waived under any circumstance (including the right to claim authorship of the work and to react against any attempt on its integrity and authenticity); and (ii) economic rights based on the exclusive right of the author to use and benefit from the work or authorize its exploitation and which may be assigned to third parties.

To avoid detrimental copyright transfer agreements (limited to economic rights), which under the Copyright and Related Rights Act require a public deed, companies may agree to work-for-hire contractual clauses that stipulate the original ownership of the copyrightable content (including moral rights).

Exploitation rights last for the author's lifetime, plus 70 years after the author's actual or declared death. Related or sui generis rights have different durations. When the term expires, the works enter the public domain, and the public may use them if they respect the moral rights, which have no term limits.

Copyright breaches are generally considered a crime or an administrative offense, depending on the nature of the breach. If these rights are infringed, the holder can request cessation of the unlawful activity and claim compensation from the infringer for any material and moral damages caused. The holder can also request a preliminary injunction to obtain immediate protection, provided the legal requirements are met. There are also other actions available regarding maintenance and obtaining evidence.

Rights over intangibles are subject to previous registration with the competent authorities

A number of EU directives and international treaties aim to harmonize various features of intellectual property rights. Specifically, Directive (EU) 2019/790 of the European Parliament and of the Council of April 17, 2019 (on Copyright and Related Rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC) was transposed into Portuguese law in June 2023. It has a direct impact on the current wording of the Copyright and Related Rights Act by introducing a new related right for press publishers, providing for a new duty of information and complaint mechanism for providers of online content-sharing services and establishing the foundations for institutionalized mediation and arbitration of copyright and related rights.

7.2. Industrial property rights

Industrial property rights can be protected at the national, EU and international levels. In all cases, rights over intangibles are subject to previous registration with the competent authorities.
Several intellectual property rights can exist over the same object (e.g., a logo can be protected by copyright, design rights and trademark rights, provided it meets the requirements).

Trademarks

A trademark is a sign or set of signs that can be represented graphically, mainly by words, including names, designs, letters, numbers, sounds, colors, shape, packaging, or in a way that shows clearly and precisely the object of legal protection, provided the sign is appropriate to distinguish the goods or services of one entity from others in trading.

National trademarks

In Portugal, trademark rights are regulated by the Portuguese Industrial Property Code. A national trademark application must be filed with the Portuguese Industrial Property National Office (*Instituto Nacional da Propriedade Industrial*, INPI), specifying the classes of products and services under the Nice Classification for which protection is sought. The Portuguese Industrial Property Code forbids registration of signs that (i) lack distinctive characteristics; (ii) are contrary to law, public policy or principles of morality; (iii) are identical to an earlier trademark and claim identical goods or services; or (iv) are likely to cause confusion or association with an earlier trademark.

Trademark registration is granted for 10 years from the application date and can be renewed indefinitely for subsequent 10-year periods. A trademark may lapse if its holder has not used it for five consecutive years, without an appropriate reason for not using it, for the products for which it was registered.

Registration gives holders the right to use the trademark in trading. If a third party uses an identical or similar trademark to designate identical or similar goods or services without authorization, trademark owners can request cessation of the unlawful activity and claim compensation from the infringer for any material and moral damages caused.
They can also request a preliminary injunction to obtain immediate protection, provided legal requirements are met.

EU trademarks

The EU Trademark Regulation applies within the EU. EU trademark applications must be filed with the EU Intellectual Property Office (EUIPO).

Like national registration, EU registration is effective in all Member States for 10 years and can be renewed indefinitely for 10-year periods. An EU trademark registration may also lapse if it has not been used for an uninterrupted period of five years.

International protection

The Madrid Arrangement and the Madrid Protocol (together, the Madrid System) establish a unified application procedure to obtain different national trademarks in the countries that are members of the Madrid System. The Madrid System, managed by the World Intellectual Property Organization (WIPO), allows an international trademark application to be filed directly with the WIPO, which will forward it to the competent national trademark office in the countries listed in the application. Trademark owners will have a national title in each of those countries.

Designs

Designs are defined as the appearance of the whole or part of a product resulting from the features of the lines, contours, colors, shape, texture, or materials of the product itself or its ornamentation.

Design registration entitles the owner to use it and to prevent third parties from using it without consent.

The two requirements for registering a design are novelty and individual characteristics, meaning the overall impression it makes on informed users differs from their overall impression of any previous design produced.

In Portugal, design rights are also regulated by the Portuguese Industrial Property Code, and the INPI is responsible for design registration. The protection period is five years from the date the application is filed, and it can be renewed for the same period for up to 25 years from the filing date.

The EU regulation on designs is directly applicable in all Member States, while many conventions provide international design protection, including

the Berne Convention, the Paris Convention, the Hague Agreement and the TRIPS Agreement. In 2024, the EU saw significant legislative developments in industrial design protection. Regulation (EU) 2024/2822 and Directive (EU) 2024/2823 aim to modernize and simplify the EU industrial design protection system, harmonizing registration rules and introducing quicker, less bureaucratic procedures. Following this reform, companies must now ensure their design registration procedures comply with the new requirements established by these regulations. Additional requirements include adopting proactive measures to protect designs against counterfeiting through monitoring practices and meeting new transparency and information obligations for consumers.

Patents

Portuguese patents

- Under the Portuguese Industrial Property Rights Code, an invention (either a product or procedure) is patentable if (i) it is novel (i.e., it is not part of the state of the art before the date the patent application is filed); (ii) it involves an inventive step (i.e., with regard to the state of the art, it is not obvious to a person skilled in the art); and (iii) it has an industrial application (i.e., it can be made or used in any kind of industry).

- INPI grants patent rights for a non-renewable period of 20 years, beginning on the date the application is filed. This registration grants exclusive exploitation and protection rights against third parties.

- It is also possible to request a supplementary protection certificate, which is an industrial property right that extends the protection granted by a patent for a maximum term of five years. This can apply to a product, medicine or plant protection, provided the product is protected by the original patent. This industrial property right was created to meet the needs of the medical and phytopharmaceutical industries.

- Patent claims will determine the extent of protection granted by a patent. The owner must exploit the invention or grant a license to an authorized third party to exploit it. The Portuguese Industrial Property Rights Code provides for circumstances in which a patent owner may have to grant a compulsory license (e.g., if the patent is not being used or if this is necessary due to public interest or export).

European patent issuance system

The Munich Convention of October 5, 1973, created a European patent issuance system to file a single application with the European Patent Office. After registration, the European patent is converted into several national patents enforceable in each of the designated countries. Like the Portuguese patent, the protection period is 20 years. A European patent is equivalent to several national patents, each of which is subject to the domestic rules of the countries listed on the application. Therefore, it is not valid throughout the entire EU.

Single European patent issuance system

In 2012, EU countries and the European Parliament agreed on the “patent package,” a legislative initiative consisting of two regulations and an international agreement that lay the ground for unitary patent protection in the EU.

The package consists of the following:

- A regulation creating a European patent with unitary effect (unitary patent), approved by Regulation 1257/2012 and currently in force.

- A regulation establishing a language regime for the unitary patent, outlined in Council Regulation (EU) 1260/2012 of December 17, 2012, implementing enhanced cooperation in the area of the creation of a unitary patent protection with regard to the applicable translation arrangements, which is also already in force.

- An agreement among EU countries to establish the Unified Patent Court (UPC), a specialized patent jurisdiction. The UPC began operating when the Unified Patent Court Agreement (UPC Agreement) entered into force in June 2023. The UPC Agreement addresses the shortcomings of having national courts and authorities decide on the infringement and validity of European patents. It does this by creating a specialized patent court with exclusive jurisdiction for litigation relating to unitary patents and European patents, harmonizing the scope and limitations of patent rights.

Of the 24 EU Member States that have signed the UPC Agreement, 18 states have already ratified it. Also, EU Member States that have not yet signed the UPC Agreement (Croatia, Poland and Spain) may still accede to it at any time.

Utility models

Utility models are defined as minor novel inventions with industrial applicability. Unlike patent rights, utility models are based on a limited nationwide assessment of the state of the art. They are subject to a less rigorous examination and only protect products (not procedures). The protection period may not exceed 10 years from the date of registration. The regulation for patents applies by default to utility models in all aspects that are not contrary to the specific nature of utility models.

7.3. Data protection

Administrative fines for not complying with the GDPR may be as high as 4% of the previous year's total worldwide turnover (or €20 million, whichever is higher)

Portuguese Data Protection Act

Privacy of personal data files is protected under Act 58/2019, of August 8 (Portuguese Data Protection Act), which implements Regulation (EU) 2016/679 of the Parliament and of the Council of April 27, 2016, the General Data Protection Regulation (GDPR). The Portuguese Data Protection Act governs all processing of personal data carried out in Portugal, regardless of the public or private nature of the controller or processor, even if the processing is carried out in compliance with legal obligations or within the scope of the pursuit of public interest.

The Portuguese Data Protection Act also applies to the processing of personal data carried out outside Portugal when the processing (i) is carried out within the scope of the activity of a business located in Portugal; (ii) affects data subjects in Portugal, when the processing takes place under Article 3.2 of the GDPR; or (iii) affects data that is registered in consular posts, whose data subjects are Portuguese citizens residing abroad.

EU legislation on data protection

Besides the national legislation on data protection, it is crucial to consider the reform of the EU legislation concerning personal data protection, which includes the following:

- Regulation (EU) 2016/679 of the Parliament and of the Council of April 27, 2016, on the protection of individuals with regard to the processing of personal data and the free movement of these data (GDPR), which came into force on May 24, 2016, and has applied directly in all EU Member States, including Portugal, since May 25, 2018.

- Directive (EU) 2016/680 of the Parliament and of the Council, of April 27, 2016, on the protection of individuals with regard to the processing of personal data by competent authorities to prevent, investigate, detect and prosecute criminal offenses or execute criminal sentences, and on the free movement of these data, which came into force on May 5, 2016, and was transposed into Portugal through Law 59/2018 of August 8.

The GDPR establishes several obligations for controllers and processors, such as (i) keeping records of all processing activities under their responsibility; (ii) showing compliance with the regulations on personal data processing and privacy (e.g., by adopting codes of conduct or certification systems); (iii) appointing a data protection officer whose core activities consist of processing operations that, by their nature, scope and purposes, require regular and systematic monitoring of data subjects on a large scale; (iv) notifying the supervisory authority and the data subjects if a data breach occurs; (v) using new technologies to perform a privacy impact assessment of the personal data processing operations that are likely to have an impact on the rights of the data subjects; and (vi) implementing the appropriate technical and organizational measures to ensure that the processing of personal data, both when determining the means for processing and at the time of the processing itself, meets the requirements of the GDPR and protects the rights of the data subjects.

Administrative fines for non-compliance with the GDPR

Administrative fines for non-compliance with the GDPR may be as high as 4% of the previous year's total worldwide annual turnover (or € 20 million, whichever is higher).

Ancillary penalties may also apply to companies. These can include temporary or permanent bans on processing personal data, deletion or destruction of data, and disclosure of a competent court's decision regarding non-compliance. In cases of repeated non-compliance with personal data protection obligations, the controller may be required to publicly disclose the terms of the infringements.

Contrary to the GDPR, the Portuguese Data Protection Act establishes the minimum applicable fines. Breach of the data protection obligations may carry fines of:

- €2,500 to €10 million or €5,000 to €20 million; or

- €1,000 to €1 million or €2,000 to €2 million, or 2% or 4% of the previous financial year's total worldwide annual turnover, whichever is higher, in the case of SMEs.

However, on September 3, 2019, the Portuguese Supervisory Authority decided not to apply some of the articles of the Portuguese Data Protection Act (including the article establishing the minimum fines), as they contradicted the GDPR and infringed the principle of the primacy of EU law.

For reference, according to publicly available information, the Portuguese Data Protection Supervisory Authority imposed its highest fine of €4.3 million on the Portuguese National Institute of Statistics. This fine was for non-compliance with various GDPR provisions, including the unlawful processing of personal health data, failure to comply with its information and processor selection duties, breach of legal provisions on international data transfer, and failure to conduct a mandatory data protection impact assessment.


CHART TITLE

8

Tax

8.1. Overview

Under the Portuguese tax system, tax liability is based on factors that determine the connection to Portuguese jurisdiction of income, acts and contracts or transactions as follows:

- Residence and source of income: CIT and PIT
- Location of immovable property: Real estate transfer tax (RETT) and municipal property tax (MPT)
- Place where acts and contracts are executed: Stamp duty
- Place where the transaction is carried out: VAT

These links must be considered general principles aimed at giving the Portuguese state the right to tax. They should be analyzed in light of key concepts and definitions of the Portuguese tax system (e.g., residence and source).

The Portuguese tax system also has exceptions to these general principles, which (i) broaden the scope of the taxable events, acts and contracts (e.g., IMI and stamp duty); and (ii) consider the specific nature of the transactions (e.g., VAT).

8.2. Main taxes

Main Portuguese taxes:

- CIT
- PIT
- VAT
- RETT
- MPT
- Stamp duty

8.3. CIT

8.3.1. Overview

Portuguese-resident companies are liable for CIT on their worldwide income, while nonresident companies are liable for CIT on Portuguese-sourced income only—that is, income obtained through a local permanent establishment (PE) or any of the income types listed in the law as sourced in Portugal.

A company is considered tax resident if it has its legal seat or place of effective management in Portugal.

8.3.2. Resident companies and PEs of nonresident companies

Tax base

The annual CIT base for resident companies engaged in business arises from the year's accounting profit or loss, as well as certain positive and negative changes in equity not reflected in the profit or loss account, which are subject to certain adjustments under the CIT Code.

CIT adjustments to the accounting results include depreciation and amortization, inventory adjustments, impairment losses, losses arising from applying the fair market value, and, since January 1, 2014, expenses for onerous acquisitions of certain intangible assets with unlimited useful life and goodwill acquired in a corporate restructuring process (unless it arises from shareholdings).

Adjustments may also result from non-deductible expenses, such as (i) CIT, including autonomous taxation, municipal and state surtaxes, and any taxes or charges that must be passed on to third parties; (ii) undocumented expenses and expenses supported by documents not complying with legal requirements; (iii) criminal or administrative fines and sanctions, including fines and charges for tax infringements; and (iv) payments to residents in low-tax jurisdictions, unless the taxpayer can show that they relate to real transactions and are not unusual or excessive.

Net financial expenses are tax deductible only up to the higher of (i) €1 million, or (ii) 30% of annual EBITDA (as adjusted for this purpose). Carryforward of net financial expenses that are not tax deductible for exceeding the above limits is possible, as well as the carryforward of the unused EBITDA limit, for the next five tax periods. This regime provides specific rules for companies taxed under the tax group regime. It excludes (i) entities subject to the supervision of the Portuguese Central Bank and of the Portuguese Insurance and Pension Fund Supervisory Authority; (ii) Portuguese branches of credit institutions and other financial entities; and (iii) insurance and credit securitization companies incorporated under Decree-Law 453/99 of November 5.

A local PE of a nonresident company is liable for CIT on the income attributable to it, defined under Portuguese law as income obtained through the PE and other income obtained in Portugal from activities identical or similar to those carried out through the PE (force-of-attraction rule). Double tax treaties (DTTs) entered into by Portugal supersede this Portuguese regulation, and the PE's taxable income corresponds exclusively to that obtained through the PE itself.

A PE's CIT taxable profit is calculated under the same rules applicable to resident companies. There is no branch tax on income that a branch remits to the foreign head office.

Tax losses

Under the applicable rules amended by the Portuguese State Budget for 2023, the carryforward period for tax losses is unlimited for tax periods starting from January 1, 2023, as well as those from previous tax periods still available on that date.

Micro enterprises and SMEs (and PEs of nonresident micro companies and SMEs) benefit from a reduced CIT rate of 16% on taxable income up to €50,000

The carryforward periods for tax losses incurred in 2014, 2015 and 2016 was 12 years, whereas a reduced carryforward period of 5 years was applied to tax losses incurred in tax periods starting from January 1, 2017 (an increased carryforward period of 12 years applied to tax losses incurred in those years by micro enterprises and SMEs engaged in agricultural, commercial or industrial activities).

Tax losses incurred in tax periods from 2014 onwards that are still available may be used for an unlimited time. A previously applicable requirement to use the oldest tax losses from previous years first (FIFO) was revoked on January 1, 2017.

However, under the new rules, the offset of tax losses from previous years is limited to 65% of the taxable profits of the years in question.

In certain cases, the right to carryforward tax losses may be jeopardized when ownership of more than 50% of the share capital or voting rights changes hands.

The Portuguese Supplementary State Budget for 2020 introduced significant changes to the deductibility of tax losses for 2020 and 2021. Specifically, (i) the limitation on offsetting tax losses against taxable profits was increased to 10% for tax losses incurred in 2020 and 2021; and (ii) the time to apply the carryforward periods for tax losses incurred in 2019 and earlier was suspended for two years, covering 2020 and 2021.

Tax rates

The Portuguese State Budget for 2025 reduced the standard CIT rate for resident companies and PEs of nonresident companies, reducing it to 20%.

According to the Portuguese State Budget for 2025, micro enterprises and SMEs,[4] as well as the PEs of nonresident micro enterprises and SMEs, that are resident in mainland Portugal benefit from a reduced CIT rate of 16% on taxable income up to €50,000 (compared to 17% before 2025), while the standard 20% applies to any remaining taxable income.

Startups are subject to a 12.5% CIT rate on the first €50,000 of taxable income, provided they meet certain requirements.

4 As defined under Decree-Law 372/2007 of November 6.

The standard CIT rate may be further increased by a municipal surcharge (*Derrama Municipal*) levied over the year's taxable profit at a rate of up to 1.5%, determined yearly by every municipality.

A state surcharge (*Derrama Estadual*) is also levied on the year's taxable profit exceeding €1.5 million at the following progressive rates:

Year's taxable profit	Tax rate
Up to €1.5 million	Not applicable
Over €1.5 million and up to €7.5 million	3%
Over €7.5 million and up to €35 million	5%
Over €35 million	9%

Autonomous taxation

CIT is also levied on certain company expenses:([1])

Expenses	Rates (%) [(2)]
Undocumented expenses	50/70
Expenses relating to light passenger vehicles, light commercial vehicles and motorcycles	8/25/32
Expenses relating to (i) plug-in hybrid light passenger vehicles whose battery may be charged by connecting to the power grid and with a minimum autonomy powered by electricity of 50 km, as well as official maximum CO2 emissions of 50g/km; and (ii) light passenger vehicles powered by vehicular natural gas	2.5/7.5/15
Expenses related to vehicles powered exclusively by electricity whose acquisition value exceeds €62,500	10
Representation expenses	10
Payments made to residents in a territory with a clearly more favorable tax regime or to accounts open in financial institutions resident or domiciled there	35/55
Daily allowances and car mileage paid to employees, for using their own vehicle, not charged to clients	5
Profits distributed to entities wholly or partially exempt from CIT, arising from shares held for less than one year	23
Costs or expenses for compensation for termination of managers' and board members' functions	35
Costs or expenses for bonuses and other variable remuneration paid to managers and board members	35

(1) Autonomous taxation relief is available in certain situations, provided certain requirements are met.
(2) Autonomous taxation rates are increased by 10% when taxpayers calculate tax losses in the pertinent tax period, except for the first two years of activity. However, the State Budget Law for 2025 introduced several exceptions to this rule, which apply to fiscal year 2025. Specifically, these exceptions do not apply (i) to the period the activity started, or to either of the two subsequent periods; (ii) if the taxable person generated a taxable profit in any of the three previous tax periods; and (iii) if the taxable person has complied with all reporting obligations.

Transfer pricing

Under Portuguese transfer pricing rules, which follow the OECD guidelines, terms and conditions of transactions between related parties should follow those that independent entities in a comparable transaction would establish (the so-called arm's length principle). Otherwise, the tax authorities may adjust the terms and conditions.

The regulations determine broadly that two entities are considered related when one can exercise—directly or indirectly—a significant influence over the management of the other. They provide an extensive list of situations in which companies meet the related-party test.

The regulations further establish specific, yet extensive, documentation compliance requirements, which in certain cases require that a transfer pricing file be prepared and maintained. Taxpayers are also required to disclose the identity of related parties, the amount and whether contemporaneous documentation was prepared in their annual tax return, and accounting information on any transactions.

These regulations include the possibility of taxpayers entering advanced pricing agreements with the tax authorities, which may apply for up to four years.

Special regimes

- **Participation exemption on dividends and capital gains:** This regime was introduced on January 1, 2014, and generally applies to all CIT resident taxpayers that are not subject to the tax transparency regime, both for purposes of eliminating double taxation on distributed profits and reserves and capital gains arising from the sale of shares and other equity instruments.

  For the participation exemption regime to apply, a minimum direct or indirect shareholding of 10% of the subsidiary's share capital or voting rights must have been held uninterruptedly for 12 months.

- **Tax group regime:** The group's taxable income, determined by the controlling company, corresponds to the algebraic sum of taxable profits and losses as assessed individually in the tax return of each company belonging to the group. Timing requirements must be considered when acquiring a company, as applicable rules usually entail a waiting period of more than one year before the regime can be applied.

  This regime includes specific rules on deduction of tax losses—for example, restrictions on the deductible amount each year that the regime applies regarding tax losses assessed before the regime started applying.

Portugal currently has 78 DTTs in force, all of which generally follow the OECD Model Tax Convention

- **Business reorganization:** The CIT Code provides a tax-neutrality regime applicable to restructuring operations, which is generally in line with the Merger Directive.[5]
  This regime provides CIT deferral for companies and their shareholders on mergers, divisions and partial divisions, transfers of assets, and exchanges of shares.

  Portuguese tax law also provides exemptions from IMT and stamp duty triggered by the transfer of going concerns and real estate within restructuring operations.

- **Patent box regime:** Under certain conditions, income from agreements for the transfer or temporary use of patents, industrial designs, models, and copyright over computer software may be fully exempt from CIT.

8.3.3. Nonresident companies without a PE

Nonresident companies without a PE are liable for Portuguese CIT on the different types of Portuguese-sourced income listed in the CIT Act. This includes income from local real estate, stocks or other securities issued by resident companies; positive variations in equity arising from certain gratuitous transfers; and investment income, royalties and certain service fees when paid by residents or attributable to a local PE.[6]

Dividends, interest and royalties obtained by nonresidents without a PE are generally liable for a 25% withholding tax.

If they meet the requirements, the participation exemption regime may apply to dividends distributed to residents in another EU Member State, in an EEA Member State bound to administrative cooperation in the tax area equivalent to that established in the EU, or in a state with which Portugal has signed a DTT.

Portugal currently has 78 DTTs in force. These treaties generally follow the OECD Model Tax Convention, although there are various reservations on some articles that are included in several DTTs.

Regarding outward-bound payments, Portuguese DTTs usually provide reduced withholding tax rates, as follows:

- Dividends: 5%, 10% or 15%
- Interest: 10%, 12% or 15%
- Royalties: 5%, 10% or 12%

EU corporate investors may also benefit from withholding tax relief on

5 Council Directive 2009/133/EC of October 19, 2009, on the common system of taxation applicable to mergers, divisions, partial divisions, transfers of assets and exchanges of shares concerning companies of different Member States and to the transfer of the registered office of an SE or SCE between Member States.

6 Generally, taxation is levied through final withholding tax, although there are certain exceptions, such as real estate-related rental income or capital gains, which require nonresidents to file a tax return whose periodicity and deadlines depend on the type of income.

interest and royalties by applying the regime under the Interest and Royalties Directive.[7]

Nonresident entities may also be eligible for exemption from taxation in Portugal for capital gains derived from the sale of stocks, provided certain requirements are met.

8.4. PIT

General rules applicable to resident individuals

Portuguese-resident individuals are subject to PIT on their worldwide income, while nonresident individuals are only liable for PIT on their Portuguese-sourced income as defined by the PIT Code.

Under Portuguese law, an individual is considered a tax resident in Portugal under any of the following circumstances:

- Spending more than 183 days, whether consecutive or not, in Portugal within any 12-month period starting or ending in that year.
- Spending fewer than 183 days in Portugal in the above period but having a house or home clearly intended as a main residence.
- On December 31 of a given year, the individual is a crew member of a ship or aircraft serving an entity with residence, head office or effective management in Portugal.
- Despite living abroad, the individual is performing public functions or commissions in service of the Portuguese state.

Since 2014, Portuguese PIT law has adopted the concept of partial residence, directly linking the period of physical presence in Portugal with tax resident status. Generally, taxpayers become residents from the first day of their stay in Portugal and non-tax residents from the last day of their stay—with certain exceptions.

The tax period is the calendar year, and the PIT of resident individuals is levied every year at general or progressive rates on the total income from the different categories subject to taxation, applying the corresponding deductions.

PIT is individually assessed for each taxpayer. The heads of a household (e.g., each member of a married couple or of a couple living under a civil union) may opt to be jointly taxed as a family unit, in which case an income-splitting mechanism applies.

7 Council Directive 2003/49/EC, of June 3, 2003, on a common system of taxation applicable to interest and royalty payments between associated companies of different Member States.

There are six income categories, as follows:

Category A	Employment income, including fringe benefits and fees of members of corporate bodies (other than statutory auditors)
Category B	Business income, including income from a business or independent profession
Category E	Investment income
Category F	Rental income from real estate
Category G	Net worth increases, including capital gains
Category H	Pensions, including annuities and alimony payments

A new favorable PIT regime aims to attract skilled professionals for scientific research and innovation

Currently, the progressive tax scale's highest rate is 48%, applied to annual taxable income exceeding €83,696. A solidarity tax of 2.5% is also levied on taxable income of between €80,000 and €250,000, while a 5% solidarity tax rate applies to taxable income exceeding €250,000.

There are exceptions to the progressive tax rates scale, such as a flat rate of 28% on capital gains on the transfer of securities; or a sliding scale of 5% to 25% on rental income from residential properties. Investment income is usually subject to final withholding tax at a 28% rate. Taxpayers may opt to have these types of income included in their tax base together with other income and taxed under the progressive tax rate scale subject to the standard PIT regime.

Tax Incentive for Scientific Research and Innovation

The State Budget Law for 2024 ended the NHR regime and introduced the Tax Incentive for Scientific Research and Innovation. This regime, further developed at the start of 2025, provides a 20% reduced tax rate on taxable employment and self-employment income from eligible jobs and activities for a 10-year period. It is available to taxpayers who (i) become tax residents in Portugal in 2024, (ii) have not been tax residents in Portugal in the past five years, and (iii) earn income derived from specific jobs and activities, such as the following:

- Teaching in higher education and scientific research.
- Working in entities certified as startups under Portuguese law, including membership in the statutory bodies of these entities.
- Research and development jobs where costs qualify for tax incentives for research and business development, as specified in Portuguese law.
- Qualified jobs in (i) companies with significant investments, either in the year activity commences or within five years before commencement, that benefit—or have benefited—from the

tax regime supporting investment; and (ii) industrial and service companies engaged in key activities (e.g., extractive industries, manufacturing, information and communications, and human health) that export 50% of their turnover or have done so any of the previous two years.

- Qualified jobs and members of statutory bodies in companies engaged in one of the following economic activities: (i) extractive industries; (ii) manufacturing; (iii) electricity, gas, steam, hot and cold water, and cold air; (iv) construction; (v) accommodation, catering and similar activities; (vi) information and communications; (vii) financial services; (viii) consultancy, scientific, technical, and similar; (ix) administrative and support; (x) education; and (xi) human health and social support.

- Jobs or other activities carried out by tax residents in the autonomous regions of the Azores and Madeira.

Eligible individuals must register with specific entities and authorities, depending on their activity or job. These rules cannot be combined with the NHR or the Former Residents (*Programa Regressar*) regimes.

Former Residents Regime

Individuals who become tax resident in Portugal until 2026 may benefit from a 50% PIT exemption on employment and business income (income in Category A and B) up to a maximum of €250,000, provided these individuals (i) were not tax resident in Portugal in any of the previous five years, (ii) were tax resident in Portugal in any period before the previous five years, and (iii) have their tax situation regularized.

This regime is applied for a five-year period and may not be combined with the NHR regime.

8.5. VAT

There are three different VAT rates: 6% (reduced), 13% (intermediate) and 23% (standard)

The Portuguese VAT regime is based on the Sixth VAT Directive and aims to tax the consumption of goods and services in the different phases of the economic cycle, from production to sale. It includes transactions carried out in Portugal, as well as intra-Community acquisitions of goods and services and the importation of goods into Portugal.

There are three different VAT rates for mainland Portugal: 6% (reduced), 13% (intermediate) and 23% (standard).

In the Autonomous Region of the Azores, VAT rates are currently reduced to 4%, 9% and 16%, respectively.

In Madeira (whose rates used to be identical to those of the Azores), VAT rates are currently 4%, 12% and 22%, respectively.

8.6. RETT

RETT is a municipal tax levied on the acquisition of real estate in Portugal. It applies to the higher of the property's transfer value or fiscal value. RETT also applies to the acquisition of shares and quotas in companies, as well as to the higher of the property's accounting value or fiscal value, if:

- the company's assets directly or indirectly consist of more than 50% of real estate located in Portugal that is not allocated to agricultural, industrial or commercial activities, excluding the acquisition and resale of real estate; and

- as a result of the acquisition, amortization or other circumstances, any shareholder holds at least 75% of the share capital, or the number of shareholders is reduced to two spouses or cohabiting partners.

The acquirer pays the RETT, and the applicable rates are as follows:

- Rural property: 5%

- Urban property for residential purposes: progressive rates of up to 7.5%

- Other urban property and acquisitions: 6.5%

- Rural or urban property when the acquirer is domiciled in a blacklisted jurisdiction or is dominated or controlled—directly or indirectly—by an entity domiciled in a blacklisted jurisdiction: 10%.[8]

To mitigate the current housing crisis, in 2024, an exemption from RETT and stamp duty was introduced for individuals up to the age of 35 purchasing permanent housing, provided certain requirements are met.

8.7. MPT

MPT is a municipal tax levied annually on ownership of real estate located in Portugal, over the fiscal value of the property, at the following rates: [9]

- Rural property: 0.8%

- Urban property: between 0.3% and 0.45%

- Rural or urban property when the taxpayer is domiciled in a blacklisted jurisdiction or is dominated or controlled—directly or indirectly—by an entity domiciled in a blacklisted jurisdiction: 7.5%[10]

8 However, this rate does not apply to individuals.

9 If the property is held in usufruct or under a surface right, the owner of these minor rights in rem must pay IMI.

10 This rate does not apply to individuals.

Rates applicable to urban properties are determined annually by the municipalities within the range provided by the IMI Code.

On January 1, 2017, an MPT surtax (*Adicional ao IMI*, AIMI) was introduced. It is levied on urban property, excluding those classified for "commerce, industry or services" or "other" uses.

AIMI is paid by individuals, corporate entities, structures, collective bodies without legal personality, and undivided inheritances. It is levied on the sum of the fiscal value of all the urban properties owned by a taxpayer as determined on January 1 of each year.[11][12]

For individuals and undivided inheritance, the tax base is reduced by €600,000.

Married couples or couples living under a civil union may opt for joint taxation, in which case the taxable base is reduced by €1.2 million.

Applicable rates are as follows:

Taxpayer	**Rate (%)**
Individuals	0.7[13]/1[14] /1.5[15]
Undivided inheritances	0.7
Corporations	0.4/0.7[16]/1[17]/1.5[18]
Entities in blacklisted jurisdictions	7.5

8.8. Stamp duty

Stamp duty is due on a list of specified taxable events not subject to VAT or subject to but exempt from VAT, when they are considered to take place in Portugal, including a number of transactions, contracts, acts, and documents, as outlined in the stamp duty table.

11 If the property is held in usufruct or under a surface right, the owner of these minor rights in rem must pay AIMI.

12 Properties that benefited from IMI exemption in the previous year are excluded from the AIMI taxable base.

13 For taxable amounts exceeding €600,000 up to €1 million (€1.2 million up to €2 million for married couples or civil unions opting for joint taxation).

14 For taxable amounts exceeding €1 million up to €2 million (€2 million up to €4 million for married couples or civil unions opting for joint taxation), before the €600,000 or €1.2 million deduction.

15 For taxable amounts exceeding €2 million (€4 million for married couples or civil unions opting for joint taxation), before the €600,000 or €1.2 million deduction.

16 For taxable amounts up to €1 million for properties owned by companies for the personal use of shareholders, board members, or any management or supervisory bodies.

17For taxable amounts exceeding €1 million up to €2 million for properties owned by companies for the personal use of shareholders, board members, or any management or supervisory bodies.

18 For taxable amounts exceeding €2 million for properties owned by companies for the personal use of shareholders, board members, or any management or supervisory bodies.

Main taxable events for foreign investors to consider:

- Acquisition of real estate: 0.8%
- Acquisition of a going concern: 5%
- Granting of credit: over principal amount at rates varying with the time the funds are used:
  - Less than one year: 0.04% per month or fraction of month
  - Between one and five years: 0.5%
  - Five years or more: 0.6%

In the case of credit granted by banks or other financial institutions, stamp duty is also levied on interest (4%) and commissions (3% or 4%).

Under certain conditions, exemptions apply to intra-group funding operations, including cash pooling arrangements. Guarantees considered granted in Portugal are subject to taxation on the amounts guaranteed, with rates varying depending on the term, similar to credit taxation. Guarantees are not taxed if they are ancillary to contracts already taxed, provided they are granted simultaneously with the guaranteed obligation.

8.9. Tax benefits

Summary of the main Portuguese tax benefits applicable to businesses:

- Contractual benefits for productive investment projects: CIT deduction of between 10% and 25% of the investment. Eligible investments for or exceeding €3 million. Reductions or exemptions from RETT, MPT and stamp duty are also available under this regime.
- Incentive regime for research and development (SIFIDE II): CIT deduction of 32.5% on eligible R&D expenses incurred in the tax year (increased by 15% for micro enterprises and SMEs) and 50% of the surplus of expenses incurred in the tax year over the average of the two previous tax years, capped at €1.5 million.
- Special tax regime to support investments (RFAI): This regime offers CIT deductions for investments in specific regions. For investments in the North, Center and Alentejo regions, as well as in the Autonomous Regions of the Azores and Madeira, the following deductions apply:

  i. For investments up to €15 million: a 30% on eligible applications.

  ii. For investments exceeding €15 million: a 10% deduction on the excess amount for eligible applications.

  iii. For investments in the eligible regions of Algarve, Lisbon and Setubal: a 10% deduction on eligible applications. Also, exemptions from RETT, stamp duty and MPT may be granted for the acquisition and ownership of eligible real estate.

- Tax incentive – Incentive to the Capitalization of Companies (ICE): A deduction from taxable profit is available, equivalent to applying a rate that combines the average 12-month EURIBOR for the tax year, increased by 2%. This rate is applied on the net increase in eligible equity. However, the deduction in any tax year must not exceed the higher of €4 million or 30% of the taxable EBITDA. The part that exceeds this cap can be carried forward for a five-year period. This CIT deduction may be increased by 50% in fiscal year 2025. The amount of net increases of eligible equity corresponds to the sum of the amounts assessed in each of the six previous tax years. The result is zero if the net increase in eligible equity is negative.

Notable tax benefits are the Incentive to the Capitalization of Companies, CIT deduction for investments in specific regions, the MPT exemption for a three-year period, and the RETT exemption on the acquisition of urban properties intended for urban rehabilitation

- Urban rehabilitation benefits:
  - MPT exemption for a three-year period
  - RETT exemption on the acquisition of urban property intended for urban rehabilitation
  - RETT exemption on the first sale after completing the urban rehabilitation, provided the property is in an urban rehabilitation area or was built more than 30 years ago.
  - Acquisition of real estate for resale: RETT exemption for one year.

8.10. Extraordinary contributions

Companies operating in certain sectors are subject to special contributions, such as the extraordinary contribution to the energy sector, the bank sector contribution, and the pharmaceutical industry extraordinary contribution.

9 Employment

This section provides an overview of the main aspects of Portuguese employment law.

9.1. Employment law framework

The main mandatory employment and labor rules are provided in the Labor Code and the applicable collective bargaining agreement for each area of activity. There is also a substantial body of laws on employment, health and safety at work, and social security.

Collective bargaining agreements generally apply only to their subscribers. The government may extend their application to employers carrying out the same activity or within a certain geographical area.

9.2. Employment contracts

Types of employment contract

Employment contracts are entered on a permanent or fixed-term basis and can be full-time or part-time.

Fixed and non-fixed-term employment contracts are valid if their nature is justified by temporary business-related reasons, mainly because:

- the company needs to carry out a specific task or service;
- there is an extraordinary increase in the company's activity; and
- the company needs to temporarily replace an employee on leave (i.e., sick leave or maternity leave).

9.3. Telework regime

Work can be performed under a telework regime. Generally, the telework regime, whether permanent or temporary, depends on a written agreement. This agreement may be included in the original employment contract or in a separate document. If the employer offers telework, the employee is free to refuse. If the employee requests telework, the employer can only refuse in writing, stating the grounds for refusal.

The following employees have the right to work under a telework regime, provided it is compatible with their activity:

- Employees who are victims of domestic violence.
- Employees with a child up to three years old, or with a child of any age who has a disability, chronic illness or oncological disease, living in the same household.

- Employees with a child up to eight years old, or with a child of any age who has a disability, chronic illness or oncological disease, living in the same household. Both parents must meet the conditions to work under a telework regime, except in single-parent families or when only one parent meets the conditions and provides evidence to support this.

The employer must pay the employee's additional expenses due to teleworking when proof of these expenses is provided. Employment contracts and collective bargaining agreements can set an amount to compensate for these expenses.

Except in case of force majeure, it is illegal for employers to contact employees during rest periods.

Employees under a telework regime benefit from a specific privacy and working accidents regime.

Entering an employment contract

Except for specific contracts such as -term employment contracts, telework contracts, part-time contracts, and service commission contracts (usually for top management), employment contracts generally do not have to be in writing. However, employers must provide employees with basic written information on key terms. This information includes employer identification (including the company's group relations if the employer is a company) and employee identification. It must also cover salary, category, working hours, workplace, vacation period, work accident insurance policy, applicable collective bargaining agreement, work compensation fund, and work compensation guarantee fund.

Probation period

During the probation period, either party may terminate the employment contract without notice or severance payment.

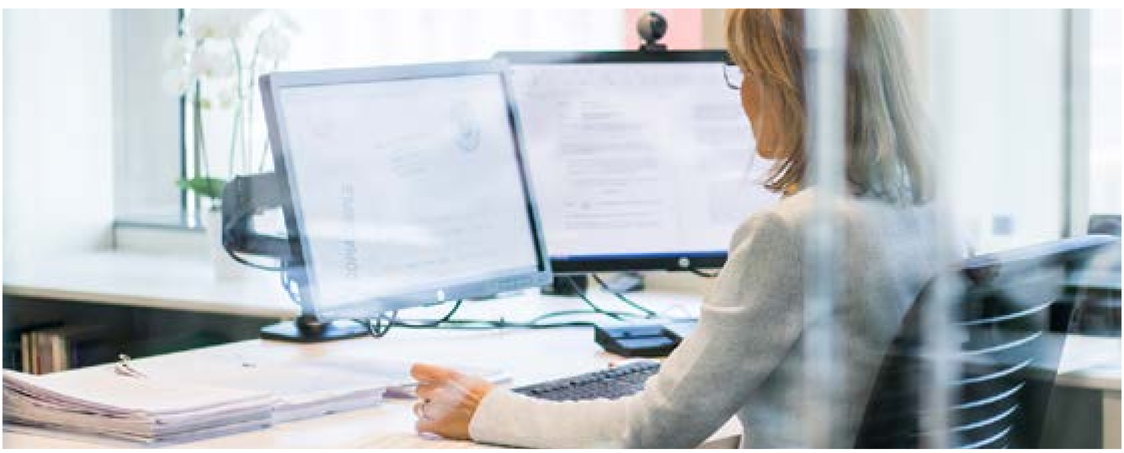
The probation period cannot surpass:

- two-hundred and forty days for managerial positions;
- one-hundred and eighty days for qualified employees, employees in a position of trust, employees seeking their first permanent job, and the long-term unemployed; and
- ninety days for all other employees.

For term employment contracts, the probation period is 15 days for contracts shorter than six months and 30 days for contracts of six months or more. These legally defined periods may be reduced or eliminated by individual agreement, but they cannot be extended. If the employment agreement does not specify the duration, the probation period is applied exactly as provided by law.

Temporary employment agencies

Temporary employment agencies can operate in Portugal, subject to limitations. In addition to providing temporary employment, they also act as outplacement agencies.



9.4. Salary

Salary is defined in the employee's individual employment contract. Collective bargaining agreements usually set minimum salaries for different categories of employees. The annual salary is usually paid in 14 installments: paid every month, plus vacation and Christmas allowances.

Salary is subject to general legal provisions on social security and income tax. The employer is responsible for withholding these taxes and contributions from the employee's salary.

The official minimum wage is established by law. In 2025, it is set at €870 per month.

9.5. Working hours

The maximum number of working hours is 40 per week and 8 per day. Collective bargaining agreements may establish different maximum working hours, provided they do not exceed the legal maximum.

Special flexible working hours regimes may be established in certain circumstances, allowing for up to 12 hours per day and 60 hours per week. These regimes include:

i. the adaptability regime, where regular working time is defined based on an average;

ii. the time bank, which functions like a time savings account; and

iii. concentrated working hours, where all working time is scheduled over three or four days per week.

Employees are entitled to daily breaks of one to two hours and are not allowed to work for longer than five consecutive hours. These limits can be modified with authorization from the Authority for Working Conditions (*Autoridade para as Condições do Trabalho*).

Time worked—including start and end times and breaks—must be registered daily.

Every hour worked over the maximum working time is considered overtime and subject to a supplementary payment. In certain situations, it entitles the employee to a compensatory rest.

Collective bargaining agreements may establish a different payment and compensatory regime.

Under a full-time contract, overtime must not exceed 150 or 175 hours per year, depending on the size of the company. Maximum overtime can be increased to 200 hours per year under the collective bargaining agreement.

Overtime work of up to 100 hours per year is compensated at the hourly pay rate with the following surpluses:

a. Twenty-five percent for the first hour or fraction (part of an hour) and 37.5% for each subsequent hour or fraction on regular working days

b. Fifty percent for each hour or fraction on a mandatory or supplementary weekly rest day or on a bank holiday

Overtime work exceeding 100 hours per year is compensated at the hourly pay rate with the following surpluses:

a. Fifty percent for the first hour or fraction and 75% for each subsequent hour or fraction on regular working days

b. One-hundred percent for each hour or fraction on a mandatory or supplementary weekly rest day or on a bank holiday

By law, overtime work performed on a weekly rest day entitles the employee to a remunerated compensatory rest day during one of the following three working days.

The ordinary minimum annual vacation period is 22 working days. Collective bargaining agreements may establish a longer annual vacation period.

Employees are entitled to different types of leaves, paid by the employer or by social security, including sick and parental leave.

9.6. Changes in employment conditions

The Labor Code establishes several types of employee mobility, enabling companies to adapt to market and economic circumstances.

Functional mobility

Employers may freely assign employees within the same professional group or career. Mobility between non-equivalent groups is allowed only for technical or organizational reasons and must end once the circumstances are resolved. If functional mobility results in an employee performing higher functions, he or she is entitled to the corresponding salary and benefits.

Downgrading is permitted only in cases of exceptional needs of the employer or the employee and must be agreed upon by both parties. If downgrading entails a salary decrease, consent from the Authority for Working Conditions is required.

Geographical mobility

Changing the employee's workplace is allowed when (i) the company changes location; and (ii) the change is attributable to economic, technical, organizational, or production reasons and does not cause serious harm to the employee.

Employees may be transferred permanently or temporarily. In a permanent transfer, when the company changes location, employees can choose between being transferred and reimbursed for increased expenses or terminating the employment contract. They have the right to the same severance as termination on objective grounds (as described below), provided they can prove the transfer causes serious harm.

For temporary transfers, the employer will reimburse the employees' expenses. However, the temporary transfer cannot exceed six months under normal circumstances. Employment contracts may include a workplace transfer clause waiving this time limit, but this clause is only valid for two years.

Other changes to employment conditions :

- The employer can determine the employee's work schedule unless it has been individually agreed with the employee.
- Salary is protected under Portuguese law and can only be reduced in exceptional situations. Reducing a salary by simple agreement between the parties is considered void.
- Employers can temporarily suspend employment contracts or reduce working hours with partial salary reduction (layoffs) due to market, structural or technological reasons.

9.7. Termination of employment

Under the Portuguese Constitution, employees cannot be dismissed without just cause, including subjective (termination for cause) and objective (collective and individual redundancies) reasons.

For term contracts and service commission contracts, the employer can unilaterally terminate the contract by providing notice.

Termination for cause

Termination for cause may be triggered when employees fail to comply with their legal and contractual obligations. In these cases, the employer must initiate disciplinary proceedings, applying the most serious disciplinary measure, which is dismissal without compensation.

Disciplinary proceedings are strictly ruled by law, and failure to comply with the legal procedure may lead to unlawful dismissal. Employees may be suspended from work during disciplinary proceedings without losing their right to a salary.

Employees under parental protection cannot be dismissed without consent from the Commission for Equality in Work and Employment (*Comissão para a Igualdade no Trabalho e Emprego*).

Collective and individual redundancies

Collective and individual redundancies may be based on market, structural or technological reasons. The applicable redundancy procedure will depend on the total number of employees and the number of employees affected by the redundancy.

Collective redundancy

The collective redundancy procedure involves (i) providing written notice and information to the employees or their representatives; (ii) providing information to and negotiating with employees or their representatives, with the participation of the Ministry for Employment, Solidarity and Social Security (*Ministério do Trabalho, Solidariedade e Segurança Social*); and (iii) notifying the final decision to the affected employees and the ministry. Objective selection criteria on the grounds of redundancy must be used to select the affected employees.

Notification of termination must be served with 15 to 75 days' notice, depending on the employee's seniority, and payment in lieu of notice is not allowed. During the advanced notice period, the employee is entitled to two days' paid leave per week to look for a new job and to terminate the contract with notice of three business day, without losing the right to full severance.

Employees under parental protection cannot be dismissed without consent from the Commission for Equality in Work and Employment.

Currently, upon termination of employment due to collective redundancy, employees are entitled to a legal severance equivalent to 14 days' base salary plus a seniority allowance for every year and fraction of a year of service. Depending on the start date of the employment contract, severance may also be calculated between 12 and 30 days of base salary plus seniority allowance for every year and fraction of a year of service. Also, depending on the start date of the employment contract, there may be a minimum of three months or a maximum of 12 months' severance.

Individual redundancy

Apart from objective grounds, individual redundancy is subject to the following additional requirements: (i) the impossibility of maintaining the employment relationship, meaning the company has no other position for the employee or the employee does not accept the new position; and (ii) the company cannot have other employees under a term employment contract to perform the eliminated functions. When a position is eliminated, the selection criteria are determined by law.

As in collective redundancy, all steps in the individual redundancy procedure are legally established. The procedure involves providing written notice and information to the employee and notifying the Authority for Working Conditions (*Autoridade para as Condições do Trabalho*, ACT). The employee may also request the ACT's opinion on certain aspects of the company's decision.

Advanced notice, severance and parental protection requirements are the same as those that apply to collective redundancies.

In both collective and individual redundancies, the employee's acceptance of severance will be considered acceptance of the termination.

Consequences of unlawful dismissal

A dismissal may be considered unlawful when (i) the grounds for dismissal have been declared unfounded, (ii) the correct procedure has not been followed, or (iii) the procedure is invalid.

In an unlawful dismissal, the employee is entitled to the following:

i. All salaries from the date the employment is terminated to the date the final court decision becomes *res judicata*.

ii. Compensation for any proven moral and special damages caused by the unlawful dismissal.

iii. The choice between receiving compensation of 15 to 45 days' base salary plus a seniority allowance per year or fraction of a year of service (or 30 to 60 days for protected employees, such as those under parental protection) or being reinstated to their previous position.

The employer may oppose the reinstatement if it has up to nine employees or if the employee's functions were managerial. If opposition is accepted, compensation will be 30 to 60 days' base salary plus a seniority allowance per year or fraction of a year of service.

In a disciplinary dismissal, if there has been a mere violation of procedural rules, the employee will be entitled to only half of the above compensation amounts.

Termination agreement

A termination agreement must be entered in writing. The employee can revoke the agreement within seven days, unless both signatures (employer's and employee's) are certified before a notary public.

Any credit arising from the employment contract, its violation, or termination cannot be waived by the employee except through a court settlement agreement.

9.8. Transfer of undertaking

A transfer of undertaking occurs when the transfer involves an autonomous economic entity, defined as an organized grouping of resources to carry out an economic activity, regardless of whether that activity is central or ancillary. The object of this type of transfer may be an entire company, a work center or an autonomous production unit.

The transferor and transferee are jointly and severally liable for two years from the transfer date for all employment obligations existing before the transfer that have not yet been fulfilled, including social security.

Under the Acquired Rights Directive, employees are automatically transferred to the transferee, preserving all their employment rights. The transfer does not justify any changes to the employees' working conditions. The new company assumes the role of employer, with the same obligations as those of the previous employer, and becomes a party to the employment contracts.

However, employees have the right to object to the transfer when it may cause serious harm, primarily but not exclusively based on the transferee's lack of solvency or financial status, or if the transferee's work organization policy does not merit the employees' trust.

Once transferred, the employee may also exercise the right of constructive dismissal (i.e., involuntary resignation) based on the same grounds.

9.9. Collective representation and organizational rights

Trade unions and workers' councils

The initiative to create a workers' council depends on the employees. The employer is not obliged to propose, organize or suggest that a workers' council be formed.

However, once the employees make that decision, the employer is obliged to provide the workers' council with certain benefits.

The role of a workers' council is advisory, aimed at safeguarding employees' interests by becoming involved in consultation on matters such as changes of workplace, plant closure and production changes.

Workers' councils can request information on various company matters, such as general activity plans, budgets, and projects to modify share capital or company activities. The company must consult the workers' council on various matters, including any measure that may significantly reduce the number of employees or change employment conditions or work organization.

Employees and unions are free to carry out union activities at the company at their own initiative, and the employer is not obliged to propose, organize or suggest any action in this area. The number of union representatives entitled to specific rights and protection granted by law is limited and based on the number of unionized employees. Union representatives may join a union commission, and union representatives from different unions are part of an inter-union commission.

Union representatives are entitled to (i) hold meetings at the workplace, (ii) display information at the company's premises and distribute documentation directly to employees, (iii) request information on matters and situations defined by law, and (iv) have permanent facilities under certain circumstances.

Employee representatives are entitled to special protection in case of transfer of workplace, disciplinary proceedings and termination of employment.

Collective bargaining agreements

Trade unions may negotiate and enter collective bargaining agreements with employers or employer associations. Collective bargaining agreements generally apply only to their subscribers.

However, the government—through a ministerial order—may extend their application to employers carrying out the same activity or within a certain geographical area.

Also, under certain circumstances, non-unionized employees may individually adhere to a collective bargaining agreement.

Economically dependent self-employed workers can be covered by specially designed collective bargaining agreements. They may also benefit from an existing collective bargaining agreement applicable to the company, under the specific terms provided in those agreements.

9.10. Social security issues

Social security contributions are compulsory for employers and employees. Employers must withhold employees' contributions from their salaries. The monthly social security contribution is determined by rates provided by law applied to the employee's income. There is no cap on this contribution.

The employer's portion of social security contributions is generally 23.75% of the monthly salary, while employees' contribution is 11%. Contributions rates may differ for certain activity areas or employee categories.

9.11. Health and safety at work

Employers must ensure health and safety at work by (i) notifying the labor authorities that they are opening a workplace, (ii) drawing up a risk assessment and prevention plan, (iii) providing professional training to employees, and (iv) monitoring employees' health.

Failure to comply with these obligations may give rise to severe penalties.

Employers must also take out a work accidents insurance policy covering all employees.

9.12. Fines and penalties

Portuguese law establishes penalties for infractions committed by employers and under a wide range of employment laws, including those relating to social security obligations, health and safety at work, employment relationships, subcontracting, and temporary employment. Fines depend on the employer's turnover.

Labor and social security inspectors are in charge of monitoring companies and employees' compliance with their labor and social security obligations.

10 Compliance

10.1. Overview

These laws provide a comprehensive framework to ensure transparency, integrity and accountability in business operations. They address critical areas such as anti-money laundering and corruption prevention.

Portugal has three key legislative instruments that outline the compliance regimes essential for conducting business within the country: (i) Law 83/2017 (anti-money laundering and counter-terrorism financing), (ii) the General Regime for the Prevention of Corruption (RGPC), and (iii) Law 93/2021 (General Regime for the Protection of Whistleblowers)

10.1.1. Law 83/2017

The Portuguese legislature, through the enactment of Law 83/2017, explicitly sought to mandate that companies implement comprehensive and preventive anti-money laundering and counter-terrorism financing measures. The law not only emphasizes compliance but also outlines the minimum requirements for the programs that entities under its jurisdiction must follow.

As indicated by article 11, entities must generally adhere to the following duties and values:

- **Control**

  Entities subject to compliance requirements must establish and ensure the effective implementation of robust policies, procedures, and controls for managing risks related to money laundering and terrorism financing, as well as for adhering to legal and regulatory standards.

  These policies and procedures should be proportionate to the nature, size and complexity of the entity's operations. They must encompass an effective risk-management model, client acceptance policies, regulatory compliance, ongoing training programs, the designation of a regulatory compliance officer, formal systems for information collection and processing, dissemination of internal norms, employee investigation and control procedures, information tools, quality-testing mechanisms, and communication channels for reporting violations.

- **Identification and due diligence**

  Obligated entities must consistently verify the identity of clients and their representatives before establishing a business relationship or executing a transaction, ensuring valid identification documents containing the necessary identifying details are presented.

When the client is a legal entity, obligated entities must acquire satisfactory knowledge of the UBOs by identifying the individuals who ultimately own or control a sufficient percentage of shares, voting rights, or capital participation, either directly or indirectly. This also includes those who exercise control through other means or hold the highest executive positions. (See 2.4 on UBOs.)

- **Abstention and communication**

  Obligated entities must refrain from executing any transaction they know—or suspect—involves funds or assets derived from criminal activities or related to terrorism financing.

  Upon identifying such a transaction, they are required to immediately notify the Central Department of Investigation and Penal Action (DCIAP) and the Financial Intelligence Unit (UIF), indicating their decision to abstain from carrying out the transaction.

- **Refusal**

  Obligated entities must refuse to initiate business relationships, conduct transactions, or perform any other operations if they fail to obtain the necessary identifying elements and verification documentation for the client, their representative, and the beneficial owner. This includes information pertaining to the status of the beneficial owner, the client's ownership and control structure, and details regarding the nature, purpose, and objectives of the business relationship.

  In these situations, entities are required to terminate the business relationship, investigate the potential reasons for the failure to obtain the necessary elements or information, and, if applicable, report the matter to the competent authorities.

- **Conservation**

  Obligated entities are required to retain copies, records, or electronic data of all documents obtained or provided by clients or other individuals within the scope of identification and due diligence procedures mandated by law. This includes commercial correspondence, documents, records, and analyses—whether internal or external—that formalize and substantiate compliance with applicable legal provisions, for a period of seven years following the identification of the client or, in the case of business relationships, after their termination.

- **Examination**

  Obligated entities must meticulously scrutinize any conduct, activities, or transactions potentially associated with funds or assets derived from criminal activities or linked to the financing of terrorism.

- **Collaboration**

  Obligated entities must promptly and fully cooperate with the DCIAP and UIF; the Tax and Customs Authority; and any other judicial, law enforcement and sectoral authorities. They are also required to provide a comprehensive response to information requests regarding business relationships from the past decade, ensuring confidentiality through secure channels.

- **Non-disclosure**

  Obligated entities are strictly forbidden from informing clients or third parties about legally mandated communications, whether current or future. They must not disclose any details regarding these communications, regardless of the source of the information, including internal analyses or requests from judicial, law enforcement or regulatory authorities.

- **Training**

  Obligated entities must adopt measures appropriate to the risks, nature and scale of their activities to ensure that their executives, employees, and collaborators fully understand their legal and regulatory obligations, including those related to personal data protection.

10.1.2. RGPC

Effective June 7, 2022, Decree-Law 109-E/2021 establishes the General Regime for the Prevention of Corruption (RGPC) and introduces the National Anti-Corruption Mechanism (MENAC), which is an administrative body created to ensure the RGPC is implemented effectively. This legislative measure aligns with the National Anti-Corruption Strategy, aiming to enhance transparency, prevent and detect corruption within the public administration, and involve the private sector in anti-corruption efforts.

RGPC's scope of application

In accordance with article 2, paragraph 1, the RGPC's scope of application is limited to (i) legal entities headquartered in Portugal that employ 50 or more employees, and (ii) branches within national territory of legal entities headquartered abroad that employ 50 or more employees.

Mandatory implementation of the compliance program

- As minimum requirements concerning the content of the Compliance Program, in accordance with paragraph 1 and 2 of article 5 of the RGPC, it must comprise the following:

- **A corruption and related offenses risk prevention plan**

  Entities subject to compliance obligations must adopt and implement a risk prevention plan (PPR), as stipulated in article 6 of the RGPC, which can be applied across all entities within a group.

  This plan must:

  – encompass the entire organization and its activities, including administrative, managerial, operational, and support areas;

  – identify, analyze and classify risks that may expose the entity to acts of corruption and related offenses, considering the sector and geographical areas where it operates;

  – detail preventive and corrective measures to reduce the likelihood and impact of these risks;

  – specify the areas of activity with corruption risk, the probability of occurrence, the foreseeable impact of each situation, and the necessary measures to address these risks; and

  – designate an individual responsible for its execution, control, and review, who may be the compliance officer.

- **A code of conduct**

  Entities subject to compliance obligations must adopt a code of conduct under article 7 of the RGPC. The code of conduct should identify and describe:

- the ethical values or principles of action that the entity considers most appropriate for fulfilling its function; and

- the expected and most appropriate conduct to be adopted by all individuals

performing functions within the entity, aiming to realize the ethical values or principles indicated above.

In practice, the code of conduct must consider criminal statutes on corruption and related risks, addressing issues such as (i) the accumulation of functions, receipt of gifts, hospitality, or other benefits, with guidelines on admissibility or prohibition to avoid bribery; (ii) maintenance, storage or parking of equipment; (iii) proper use of institutional or professional email accounts; and (iv) general duties of care to promote an organizational culture of respect, loyalty, cooperation, trust, transparency, and integrity.

- **A training program**

  In accordance with article 9 of the RGPC, entities subject to compliance obligations must implement internal training programs for all executives and employees. The objective of these programs is to ensure that all staff members know and understand the compliance program, including the policies and procedures for preventing corruption and related offenses.

- **A whistleblowing channel**

  Under article 8 of the RGPC, entities covered by the regime must implement a whistleblowing channel. To further develop this matter, specific measures regarding confidentiality, personal data processing, preservation of reports, and protection and support of the whistleblower were established through Law 93/2021.

- **Appointment of a regulatory compliance officer**

  Under article 5 of the RGPC, the regulatory compliance officer will be tasked with ensuring and monitoring the application of the regulatory compliance program and must hold a senior management position or an equivalent role within the organization. This position must be characterized by independence and the ability to make autonomous decisions.

Administrative offenses and penalties under the RGPC

Fines for administrative offenses range from €500 to €44,891.81, as specified in article 20.

Article 21 of the RGPC outlines the liability of both natural persons and legal entities for

administrative offenses. Legal entities are liable when the offenses are perpetrated by their bodies, agents, representatives, or employees in executing their respective functions, or on their behalf and for their benefit (paragraph 2).

Under article 21, paragraph 4, individuals occupying senior roles—including members of the management body, directors, compliance officers, and those responsible for specific operational areas—are liable for administrative offenses if they either directly commit the infractions or fail to implement preventive measures upon becoming aware, or when they reasonably should have become aware, of these infractions.

In accordance with article 23, private entities may face the ancillary sanction of having their conviction publicly disclosed, posing a significant risk to their reputation.

Timeline

Article 28 of the RGPC exempts private entities classified as medium-sized enterprises, according to the criteria set out in an annex to Decree-Law 372/2007 of November 6, until June 7, 2024. This classification includes companies that employ fewer than 250 employees and have an annual turnover not exceeding €50 million or an annual balance sheet total not exceeding €43 million.

On November 25, 2024, the RGPC Platform became operational, requiring all regulatory compliance documents to be registered on it. Also, by February 14, 2025, covered entities should have completed the mandatory questionnaire.

10.1.3. Law 93/2021

Law 93/2021, enacted on December 20, 2021, implements the General Regime for the Protection of Whistleblowers, specifically aimed at safeguarding individuals who disclose breaches of EU law. This legislation transposes the EU Whistleblower Protection Directive into Portuguese law, with its purpose clearly outlined in article 1.

Law 93/2021's scope of application

Law 93/2021's scope of application is limited to legal entities headquartered in Portugal that employ 50 or more employees. It also applies to legal entities—regardless of the number of employees—governed by laws on financial services, products and markets; money laundering and terrorism financing prevention; transport safety; and environmental protection.

Definition of a whistleblower and the conditions for protection

The law grants protection to natural persons who qualify as whistleblowers. These include employees in the private, social or public sectors; service providers, contractors, subcontractors, and suppliers, as well as individuals acting under their supervision and direction; and shareholders and members of the administrative, management or supervisory bodies of legal entities, including non-executive members, volunteers, and paid and unpaid trainees.

To qualify for legal protection under Law 93/2021, specific conditions outlined in article 6 of this law must be met. According to paragraphs 2 and 3 of article 6, the whistleblower must disclose information in good faith and have substantial grounds to consider it true, even if the disclosure is anonymous.

Type of infringements covered by Law 93/2021

Article 2 of Law 93/2021 (scope of application) permits the reporting of offenses related to public procurement, financial services, products and markets, prevention of money laundering and terrorism financing, product safety and compliance, transport safety, environmental protection, privacy and personal data protection, influence peddling, active and passive corruption, and undue receipt of advantage.

Whistleblowing channels

- **Internal whistleblowing channels**

  Under articles 9.1 and 10.1 of Law 93/2021, whistleblowing channels must enable the submission and thorough follow-up of complaints, whether submitted in writing or verbally, while ensuring the whistleblower's confidentiality or anonymity, even if their identity is disclosed. Also, these channels must maintain the confidentiality of any third parties mentioned in the complaints.

These secure channels must meticulously document and preserve complaints, prevent unauthorized access, and limit authorized access to designated individuals or services responsible for handling complaints.

Under article 9.4 of Law 93/2021, those responsible for handling complaints must perform their duties with independence, impartiality, confidentiality, data protection, secrecy, and without conflicts of interest, regardless of whether the channels are operated internally or externally.

Under article 11.1 of Law 93/2021, entities with internal complaint channels must notify the whistleblower of the receipt of their complaint within seven days. They must also clearly and accessibly explain the requirements, competent authorities and procedures for filing an external complaint.

Within three months of receiving a complaint, entities must inform the whistleblower of the planned or adopted measures to address it, including the rationale behind these measures. Also, if the whistleblower so requests, the results of the complaint analysis must be communicated within 15 days of concluding the investigation.

As a result of the verification process outlined in article 11.4, the reported infringement may be halted, an internal investigation may be initiated, or the competent authority may be notified for further investigation. This notification may also extend to pertinent institutions, bodies, offices, or EU agencies.

- **External whistleblowing channels**

  To secure the protection afforded by the whistleblowing regime, a whistleblower must not use external reporting channels immediately. According to paragraph 2 of article 7 of Law 93/2021, external whistleblowing is allowed only under five specific conditions:

  – There is no internal whistleblowing channel.

  – There is an internal whistleblowing channel, but it restricts submissions to employees, excluding the whistleblower.

  – The whistleblower has reasonable grounds to consider that the violation cannot be effectively addressed or resolved internally, or there is a significant risk of retaliation.

  – The whistleblower initially submitted an internal complaint but has not been informed of planned or adopted measures within the timeframes stipulated in article 11 of Law 93/2021.

  – The violation constitutes a crime or an administrative offense punishable by a fine exceeding €50,000.

Competent authorities—as defined by Law 93/2021—are entities authorized to address matters raised in complaints. These include the Public Prosecutor's Office, criminal police bodies, the Bank of Portugal, independent administrative authorities, public institutes, general inspectorates (and similar entities), other central state services, local authorities, and public associations.

Encouraging whistleblowing

- **Acts of retaliation**

  Acts of retaliation are expressly prohibited by Law 93/2021

  Retaliation is any act or omission, occurring directly or indirectly within a professional context, motivated by an internal or external complaint or public disclosure, that causes or may cause unjustified damage to the whistleblower's property or non-pecuniary assets.

- **Support measures**

  Whistleblowers are entitled to legal protection and may benefit from witness protection measures in criminal proceedings, as outlined in articles 22 and 23 of Law 93/2021. They have full guarantees of access to the courts to defend their legally protected rights and interests. Any contractual clauses that limit or hinder the submission or follow-up of complaints or public disclosures are considered null.

  When the requirements of Law 93/2021 are met, reporting or publicly disclosing a violation cannot, by itself, constitute grounds for disciplinary, civil, administrative, or criminal liability for the whistleblower, in accordance with article 24.1 of Law 93/2021. However, whistleblowers are not exempt from liability for acts or omissions unrelated to the complaint or disclosure or that are unnecessary for reporting or disclosing a violation under the law

  If the law's requirements are violated, the whistleblower and any individual assisting in the reporting process, including union or employee representatives, are jointly liable for any damage caused by the complaint or public disclosure.

Administrative offenses and penalties under Law 93/2021

Fines for administrative offenses range from €1,000 to €250,000, as specified in article 27.

Timeline

Under article 31, Law 93/2021 came into effect on June 18, 2022. Consequently, the deadline for establishing whistleblowing channels ended on that date.

11 Securities regulation

11.1. Overview

Several exchange management entities operate in Portugal for financial instrument trading. Portugal has three regulated markets and two multilateral trading facilities. Portugal also has a central securities depositary. Portugal's three regulated markets are the following:

- **Euronext Lisbon:** This is a securities regulated market managed by Euronext Lisbon – Sociedade Gestora de Mercados Regulamentados, S.A. (Euronext Lisbon).

As a securities regulated market, Euronext Lisbon is suitable for larger companies, as higher listing requirements are in place.

PSI (Portuguese Stock Index) is the Portuguese benchmark index representing a group of companies listed on Euronext Lisbon. The index keeps track of price development of the largest and most liquid equities of companies listed on Euronext Lisbon.

- **Euronext Lisbon Derivatives Market**: This is a derivative regulated market managed by Euronext.

Euronext Lisbon Derivatives Market is a regulated market where certain derivatives (e.g., futures and options) may be traded.

- **OMIP Derivatives Market (Iberian Energy Market):** This market is managed by OMIP – Operador do Mercado Ibérico de Energia (Portuguese Division).

OMIP Derivatives Market is a commodity derivatives market created as part of the Iberian Electricity Market (MIBEL), where certain energy derivatives (e.g., futures and swaps) may be traded.

The **Listing Act** introduced changes to the requirements for securities admission to listing. Each Member State must implement these changes by June 5, 2026.

Admission to listing is subject to the requirements established by law and determined by the management entity.

Portugal's two multilateral trading facilities are the following:

- **Euronext Growth**, managed by Euronext

Euronext Growth is suitable for SMEs that want to raise funds to finance growth. It is subject to medium listing requirements.

- **Euronext Access** (including **Euronext Access+** compartment), managed by Euronext

Euronext Access is specifically designed for startups and SMEs that want to raise funds to finance growth and benefit from the reputational advantages of being listed. It has lower listing requirements.

Euronext Access+ is the special compartment of Euronext Access tailored to the needs of startups and fast-growing SMEs.

Exchange management entities and listed companies are supervised by the Portuguese Securities Market Commission (*Comissão do Mercado de Valores Mobiliários*, CMVM).

The central securities depository established in Portugal, authorized to manage securities settlement systems and centralized securities systems at the national level, is:

- **Euronext Securities Porto** (formerly Interbolsa – Sociedade Gestora de Sistemas de Liquidação e de Sistemas Centralizados de Valores Mobiliários, S.A.)

Euronext Securities Porto, part of the NYSE Euronext Group, is primarily responsible for (i) organizing and managing securities settlement systems to ensure money transfers associated with transfers of securities or inherent rights and with security relating to securities operations; (ii) managing, at a national level, the Centralized Securities System; and (iii) acting as the National Numbering Agency.

Regarding settlement systems (real-time and foreign currency), Euronext Securities Porto:

- settles transactions in regulated markets and multilateral trading facilities;
- settles over-the-counter transactions between financial intermediaries (participants) affiliated to Euronext Securities Porto's settlement systems;
- settles securities lending operations through the Securities Lending Management System (Sistema de Gestão de Empréstimo, SGE);
- carries out financial settlement for the exercise of rights inherent to the securities registered or deposited in the Central Securities System; and
- calculates financial settlements and sends payment instructions to Banco de Portugal (T2S) or Caixa Geral de Depósitos (SPME), depending on whether the payment is in euros or in non-euro currencies.

The Centralized Securities System managed by Euronext Securities Porto is an interconnected group of accounts through which securities are created and transferred, and the number of outstanding securities and their respective rights are controlled.

Financial intermediaries are responsible for maintaining and moving the securities in individual custody accounts opened in their books, as well as in the global accounts opened in the Centralized Securities System.

Lastly, Euronext Securities Porto acts as the National Numbering Agency responsible for assigning ISIN (International Securities Identification Number), CFI (Classification of Financial Instruments) and FISN (Financial Instrument Short Name) codes to all financial instruments issued in Portugal.

11.2. Listed companies: obligations and recommendations

This section outlines the main obligations and recommendations for listed companies regarding corporate governance, transparency and market abuse.

Corporate governance

Two types of provisions apply to corporate governance: provisions of law and recommendations for good governance (soft law).

Provisions of law are mainly established in the Portuguese Securities Code and the PCC.

Recommendations are set out in the Corporate Governance Code approved by the Portuguese Corporate Governance Institute, a private law association promoting good governance practices in the market.

The Corporate Governance Code is based on the principle of voluntary compliance, subject to the "comply or explain" principle, under which a listed company can choose whether to apply a recommendation—however, if it does not apply it, it is obliged to inform the market and explain the reasons for its decision.

Listed companies must publish an annual corporate governance report to inform the market of their degree of compliance with good governance recommendations. Some of the most noteworthy provisions of law and good governance recommendations that apply to listed companies are the following:

Provisions of law

- Listed companies are subject to several specific rules regarding general shareholders' meetings and shareholders' rights (e.g., advance call notices, minimum information, record dates, and casting of votes).

- Listed companies must have an audit committee with a majority of independent members, one of which must be appointed based on its accounting or auditing knowledge and experience, as well as an independent chair of the general shareholders' meeting.

- Listed companies must appoint a company secretary (and an alternate) to carry out important functions in the governance structure.

- They must have higher mandatory insurance coverage for board members.

- Voting caps can be included in a listed company's bylaws, although they will not apply when a takeover bid results in a bidder attaining 75% of the company's voting rights.

- No restrictions apply regarding listed companies issuing bonds.

- An annual directors' remuneration policy statement must be submitted for approval by the general shareholders' meeting.

- The ratio of men and women appointed to each management and supervisory body of a listed company must be at least 33.3%.

Good governance recommendations

- The Corporate Governance Code provides several recommendations aimed at strengthening the role of shareholders and non-executive directors.

- The board of directors, including the audit committee, should approve an internal regulation governing its functioning.
- At least one-third of the board should be independent non-executive directors.
- In addition to the mandatory audit committee, one or two separate committees should be created for appointments and remuneration.
- The remuneration policy should be drafted by a remuneration committee and approved by the board of directors. The board must submit an annual report on the directors' remuneration policy to the general meeting for a vote of confidence.

Transparency

In this section, we provide an overview of the ongoing transparency obligations and disclosure rules applicable to listed companies.

This description is not comprehensive, and listed companies are subject to additional transparency obligations.

Financial information

Listed companies must publish annual and biannual financial reports for the market, following the standard forms published by the CMVM. Listed credit institutions and financial companies must also publish quarterly financial reports.

- **Inside information**
  Listed companies must immediately publish and disclose to the market any inside information, understood as any important information that, if disclosed, may reasonably prompt an investor to acquire or transfer securities or financial instruments and affect their quotation on a secondary market.

  As an exception, the company may postpone publishing a pertinent fact, under its own responsibility, if (i) it considers that the information will damage its interests, (ii) this postponement is not likely to mislead the public, and (iii) the company can guarantee the confidentiality of the information.
- The **Listing Act** amended Regulation (EU) 596/2014 (Market Abuse Regulation) by clarifying the conditions for companies to postpone the disclosure of inside information. From June 5, 2026, item (ii) above will be replaced with the following: "if the inside information that the company intends to delay does not conflict with the latest public announcement or other communication by the company on the same matter to which the inside information refers."

- **ESG – Environmental, Social, and Governance**
  Listed companies must comply with various disclosure obligations related to ESG matters.

  Under the Portuguese Securities Code, large listed companies (i.e., with over 500 employees) must publish an annual non-financial statement. This statement must include information on the evolution, performance, position, and impact of their activities concerning environmental, social and employee issues; gender equality; non-discrimination; respect for human rights; combating corruption; and attempts at bribery.

  Under the EU taxonomy for sustainable activities (EU Taxonomy), large listed companies must disclose information on how and to what extent their activities are linked to environmentally sustainable activities. This information must be disclosed in a standardized way to meet the EU Taxonomy's harmonization and comparability objectives.

  EU sustainability disclosure standards are currently being revised in light of the European Commission's publication of the Omnibus I and Omnibus II packages in February 2025.

- **Shareholders' agreements**
  Signatories to shareholders' agreements that intend to acquire, maintain or increase a qualifying shareholding (at least 5% of share capital or voting rights) in a listed company, or aim to guarantee or hinder the success of a public offer, must communicate it to the CMVM, which may publish it.

- **Significant stakes**
  Shareholders of listed companies must report the acquisition or sale of a qualifying shareholding, or its existence in the case of an initial listing, when they meet, exceed or fall below the following thresholds: 5%, 10%, 15%, 20%, 25%, 1/3, 1/2, 2/3, and 90% of the company's voting rights.

  Directors of listed companies must report their voting rights, whether directly or indirectly and regardless of the percentage of the stake, (i) on acquisition or transfer of shares, voting rights or financial instruments that confer the right to acquire shares with voting rights; (ii) on their appointment or removal; and (iii) when the company's shares are initially admitted to trading.

- **Treasury stock**
  A listed company must disclose the acquisition or sale of its own shares when the percentage of own shares exceeds or falls below 5% or 10% of the company's outstanding shares.

Market abuse

The market abuse regime, mostly stemming from EU law, identifies as criminal offenses insider trading and market manipulation:

- **Insider trading**
  Anyone holding inside information must not misuse it and must take the necessary measures to prevent the information from being abusively or unfairly used. For this purpose, inside information is any precise information that has not been made public and that could affect the quotation of the securities if it were made public.

  Directors and executives of listed companies and individuals closely linked to them are subject to applicable reporting obligations that enable the CMVM to monitor the improper use of inside information.

- **Market manipulation**
  Rather than establishing a closed definition of market manipulation, EU and Portuguese law include a non-comprehensive list of conducts that could be qualified as such.

11.3. Offering of securities and admission to trading

A prospectus must be published when (i) an offer of securities is made to the public, and (ii) securities are admitted to trading on a regulated market. There is a single regime throughout the EU governing the content, format, approval, and publication of a prospectus, which is a major component of the EU's Financial Services Action Plan, aimed at creating a single EU market for financial services. The automatic European passport is a major step toward this goal, as it allows companies from the EU and other countries to offer their securities or apply for admission to listing on any EU regulated market, on the condition that the authority of the home Member State has approved the prospectus. The supervisory authorities of host Member States cannot impose further requirements.

Anyone making a public offering of securities in Portugal that requires the prior disclosure of a prospectus or another document according to EU legislation must obtain the CMVM's approval and publish a prospectus to inform the public of the offering.

Following recent changes to the Portuguese Securities Code, the classification of an offer as a public offer, the exemptions, and the requirement for a prospectus are now directly established solely in European legislation, specifically in Regulation (EU) 2017/1129 of the European Parliament and of the Council (*Prospectus Regulation*).

The Listing Act recently introduced changes to the Prospectus Regulation that will be implemented in stages between 2024 and 2026.

11.4. Takeover bid regulation

The EU Takeover Directive, implemented in Portugal in 2006, establishes a set of minimum rules for carrying out takeover bids on securities in the EEA, allowing countries to adopt additional and more stringent requirements.

The Takeover Directive is the result of 14 years of negotiations that resulted in the optional implementation of some of its rules and a relatively harmonized regime at the EU level, with national differences still applying (including the passivity and breakthrough rules).

Types of takeover bids

In Portugal, two types of takeover bids open a range of possibilities when designing a strategy for acquiring control of a listed company:

- Mandatory bids, a procedure aimed at ensuring all shareholders will be able to sell their stakes and to access any control premium to be paid in a change of control of a listed company.
- Voluntary bids, a procedure to acquire shares of a listed company through a public offer.

When the bidder acquires all the shares of a listed company through the takeover, the company will be delisted.

Definition of control

For the purposes of Portuguese law, control of a company is generally gained when a shareholder:

- acquires the majority of the company's voting rights;
- is entitled to exercise the majority of the company's voting rights; or
- is entitled to appoint or dismiss the majority of the members of the board of directors or of the supervisory board.

However, for the purposes of launching mandatory takeover bids, control of a listed company is gained when a shareholder acquires one-third or one-half of the company's voting rights (including an aggregation of them). The shareholder may prove to the CMVM that it does not control the company and, if it succeeds in proving this, the obligation to launch the mandatory takeover bid will not apply.

The CMVM may waive the obligation to launch a mandatory takeover bid if the requirements established by law are met and the CMVM declares it (e.g., when the thresholds are reached in the context of a financial rescue plan or a merger). Also, the CMVM may suspend the obligation to launch a takeover bid, provided the shareholder that has reached the pertinent triggers agrees to reduce its shareholding within 120 days.

As aggregation rules apply, control can be achieved not only by direct or indirect acquisition of securities conferring voting rights, but also by reaching agreements with other security holders.

Characteristics of mandatory bids

Mandatory bids are an important mechanism allowing shareholders to exit after a change in control of a listed company. They must be addressed to all the holders of shares and other securities that grant the right to subscribe or acquire shares. They must also be launched at an equitable price, according to the rules established by law, including the premium that the offeror has paid to the sellers of the controlling stake.
The equitable price is the higher of (i) the highest price that the offeror or the persons acting with the offeror have paid or agreed to pay for the same securities during the six months immediately preceding the bid announcement, and (ii) the average price at which the securities have been traded in the regulated market in the same period. If determining the price according to the above criteria is not possible, or if the CMVM decides that the price is not equitable or is unjustified, it will be determined by an independent expert appointed by the CMVM (based on a proposal submitted by the offeror).

Voluntary bids may be partial, freely priced and conditional, provided the CMVM considers that the conditions comply with the law and that compliance can be verified before the acceptance period expires. Voluntary bids are frequently subject to (i) a minimum number of acceptances, (ii) removal of voting caps included in the target's bylaws, or (iii) approval of the bid by the bidder's general meeting.

Squeeze-out/sell-out

In Portugal, squeeze-out and sell-out rights are only provided for listed companies when, following a takeover bid on all the company's shares, the bidder holds—directly or indirectly—at least 90% of the target's voting rights.

Squeeze-out or sell-out rights must be exercised within three months following the expiry of the acceptance period, and the price will be the same as that offered in the takeover bid.

12 Regulated sectors

12.1. Financial entities and investment companies

Authorization from the Bank of Portugal is required to carry out banking activities in Portugal, including payment services and electronic money.

Banking, insurance, energy, and telecommunications are regulated sectors

Investment activities are carried out by investment services companies: dealers, brokers, portfolio management companies, and investment advisory firms. Credit institutions and UCITS management companies can also provide these services as ancillary activities. To incorporate any of these entities and develop their activities, authorization from the Bank of Portugal is also required, except for investment advisory companies, which must obtain authorization from the CMVM.

Credit institutions and investment services companies from other EU Member States are exempt from these authorizations if they operate through a branch in Portugal or under the freedom to provide services regime. This regime only requires a formal notification to the competent supervising authorities (the Bank of Portugal or the CMVM, as applicable) by the corresponding supervisory authority of the home Member State—that is, the state where the bank providing the services has its corporate address.

All credit institutions and investment services companies must comply with specific rules regarding their assets, investments, accounting, and reporting to the supervisory authority.

Also, Decree-Law 27/2023 of April 28 approved the Legal Regime on Asset Management (*Regime da Gestão de Ativos*, RGA), which promotes a comprehensive, in-depth review of the management of collective investment undertakings, including venture capital and private equity.

The RGA fully revokes and replaces the rules governing collective investment undertakings, which until now were mainly set out in the General Regime of Collective Investment Undertakings (*Regime Geral dos Organismos de Investimento Coletivo*, RGOIC) and in the Legal Regime of Private Equity, Social Entrepreneurship and Specialized Investment (*Regime Jurídico do Capital de Risco, Empreendedorismo Social e Investimento Especializado*, RJCRESIE). The law also introduced several amendments to other legislation, such as the Portuguese Securities Code and the legal regime of the Central Credit Register. It also repealed certain special investment fund regimes, including real estate management funds (*fundos de gestão de património imobiliário*, FUNGEPI).

On December 21, 2023, the CMVM approved Regulation 7/2023 (RRGA), implementing the RGA; unifying the regulatory regimes for the different types of management companies; and consolidating the rules established for venture capital, social entrepreneurship, specialized investment, and collective investment undertakings. The RRGA was published on December 29, 2023, and entered into force on January 1, 2024.

Regarding reporting duties, the CMVM has approved regulations to implement the Electronic One-Stop-Shop (*Balcão Único Eletrónico*, BUE), a new communication channel that is now available, with the aim of being a privileged means of communicating with the supervised entities.

Lastly, note that the Investor Portal Platform (*Portal do Investidor*), a new digital area dedicated to current and potential investors, has been launched. It will contain all the essential information needed for investors to make informed and safe investments.

12.2. Insurance

Authorization from the Portuguese Insurance and Pension Funds Supervisory Authority (*Autoridade de Supervisão de Seguros e Fundos de Pensões*, ASF) is required to carry out insurance activities in Portugal. EU insurance companies benefit from simplified procedures when setting up a branch or providing services on a free rendering of services basis. In this case, the home Member State's supervisory authority notifies the ASF.

All entities participating in this sector must comply with specific rules regarding their assets, investments, accounting, and reporting to the supervisory authority.

12.3. Energy

12.3.1. Electricity market activities

The electricity market in Portugal has changed significantly in the past two decades: from centralized planning to unbundling and market liberalization. Currently, it is a highly decentralized market promoting a sustainable increase in generation from renewable sources aligned with EU targets.

This transformation is the result of EU regulations and policies, as well as national ones. In line with these EU policies and regulations, the Strategic National Plan for Energy and Climate 2021–2030 (*Plano Nacional Integrado de Energia e Clima* 2030, PNEC 2030) was issued on July 10, 2020, establishing the main strategic objectives on national energy and climate for the next decade: (i) decarbonize the national economy, (ii) promote energy efficiency, (iii) reinforce the commitment to renewable energies and reduce the country's energy dependence, and (iv) develop an innovative and competitive industry.

On December 3, 2024, the Parliamentary Committee on Environment and Energy approved an update to the PNEC 2023, which was subsequently submitted to the European Commission. The new national targets established in this version of the PNEC 2030 include the following:

i. A 55% reduction in greenhouse gas (GHC) emissions by 2030 compared to 2005 levels

ii. A 51% share of renewable energies in gross final energy consumption by 2030

iii. Strengthening the exploitation of renewable energy potential between 2025 and 2030, with increases in the installed capacities of:

   a. Photovoltaic solar energy to 20.8 GW

   b. Onshore wind energy to 10.4 GW

   c. Offshore wind energy to 2 GW

Other sectoral plans and guidelines have also been approved to guide energy sector policies. These include the following:

- The National Hydrogen Strategy, approved through the Resolution of the Council of Ministers 63/2020 of August 14, 2020, aimed at a gradual integration of hydrogen as a pilar of the transition to a decarbonized economy. Besides the hydrogen incorporation targets, this strategy also sets other objectives, such as installed capacity of H2 production, number of H2 vehicles (passengers and goods), creation of 50 to 100 hydrogen filling stations, and 2 to 2.5 GW of installed capacity in electrolyzers.

- The Allocation Plan for Offshore Renewable Energy (PAER) to promote the installation of 2 GW of offshore renewable energy capacity by 2030, contributing to the decarbonization of the economy and the use of ocean energy resources in Portugal. The objectives of the PAER are to (i) establish maritime space zones for the installation and operation of offshore renewable energy production units, (ii) create the conditions for the allocation and installation of 2 GW of offshore renewable energy capacity by 2030 through capacity auctions, and (iii) establish the constraints applicable to these zones and the projects to be installed.

- The Biomethane Action Plan 2024–2040 (PAB), approved by the Resolution of the Council of Ministers 41/2024 of March 15, establishes an integrated strategy to develop the biomethane market. This strategy has two distinct phases:

iv. Phase 1 (2024–2026): This phase will create a biomethane market in Portugal. Specifically, it will focus on the five strategic sectors needed for its development: urban waste, wastewater, agriculture, livestock, and agro-industry. The emphasis will be on converting existing biogas production to biomethane and investing in new biomethane units in regions of interest, particularly through using waste with high potential.

v. Phase 2 (2026–2040): This second phase will strengthen and consolidate the market. It will focus on developing new value chains at the regional level and promoting research and innovation in biomethane production technologies.

Portugal has significant potential as a renewable energy producer, including solar, wind, hydro, thermal, and wave energy. According to the DGEG's statistical information, between March 2024 and February 2025, electricity production from renewable sources totaled 43,658 GWh. This accounted for 74.6% of the total gross production plus the electricity import balance. Portugal's total installed capacity from all units producing electricity from renewable sources was 20,976 MW.[19]

Legal overview

On January 14, 2022, Decree-Law 15/2022 established a new legal framework for the organization and functioning of the National Electricity System (*Sistema Eléctrico Nacional*, SEN) and the terms for activities in the electricity sector. These activities include production, storage, self-consumption, transport, distribution, aggregation, and commercialization of energy. This decree-law transposes Directive (EU) 2019/944 of the European Parliament and of the Council of June 5, 2019, and Directive (EU) 2018/2001 of the European Parliament and of the Council of December 11, 2018.

When Decree-Law 15/2022 entered into force, the distinction between "generation of electricity under the ordinary regime" and "generation of electricity under the extraordinary regime" was revoked, unifying these licensing procedures.

This new legislation ended the possibility for renewable energy projects to benefit from

19 Provisional figures to be updated by the DGEG.

guaranteed remuneration regimes, such as feed-in-tariffs, which historically promoted investment in this sector in Portugal. However, the measure does not affect remuneration regimes already in force, which will be maintained under their current terms. The legislation also allows for special remuneration incentives—for fixed or variable amounts, whether capped or not—to be granted through public auction procedures, aiming to ensure a certain return on investments made by project sponsors.

In response to rising fossil fuel prices and in line with EU efforts for more sustainable and accessible energy, the Portuguese Government enacted Decree-Law 30-A/2022 of April 18. This decree-law sets out exceptional measures to simplify licensing procedures for renewable projects. It was further supplemented by Decree-Law 72/2022 of October 19, which will remain valid until December 31, 2026, including any extensions issued in the meantime. These measures include the following:

- Exemption from operation license to start operating: Renewable power plants, storage facilities and self-consumption units may begin operating before being awarded an operation license or certificate, provided the grid operator confirms that connection and injection conditions are met and subject to prior notification to the DGEG. Operation licenses or certificates must be requested within three years from the date the prior communication was made to the DGEG.

- Environmental licensing: Renewable power plants, storage facilities and self-consumption units not located in sensitive areas and below the thresholds established in Annex II of Decree- Law 151-B/2013 of October 31 are exempt from case-by-case assessments for an environmental impact assessment (Avaliação de Impacto Ambiental).

- Wind projects: Wind projects are entitled to inject power into the grid above the awarded injection capacity, subject to the additional energy regime provided in article 65 of Decree-Law 15/2022.

- Municipal licensing: Power plants with an installed capacity of less than 1 MW are exempt from prior urban planning verification. Also, a simplified procedure of prior notification applies to power plants exceeding this installed capacity.

More recently, Decree-Law 99/2024, published on December 3, introduced notable changes to Decree-Law 15/2022 and Portugal's renewable energy regulatory framework by:

- simplifying licensing procedures and facilitating the connection of production plants to the grid;

- streamlining decentralized energy production and expanding the hybridization concept to include storage;

- introducing new rules for compensating municipalities, increasing the compensation based on connection power;

- simplifying the rules for using areas in the national agricultural reserve (RAN) and for registering small-scale renewable energy production units; and

- adjusting the status of electro-intensive consumers to better align with EU law, benefiting eligible productive sectors

Activities

In the electricity sector, the following activities are subject to regulation: (i) transportation, (ii) distribution, (iii) last-resort supplier, (iv) logistics operations for switching suppliers, (v) management of organized markets, and (vi) production.

Main players in the above activities:

Transportation – REN - Redes Energéticas Nacionais, SGPS, S.A.

REN is the sole concessionaire of the national transportation grid under a monopoly regime, operating at very high voltage. The concession includes planning and global technical management of the National Electricity System.

Specifically, it ensures the harmonized operation of its infrastructures, continuity of service, and security of electricity supply.

Distribution – E-REDES – Distribuição de Eletricidade, S.A.

E-REDES manages the national distribution grid, which operates at medium and low voltage, as well as the low-voltage distribution grids. The national distribution grid operates under a 35-year concession agreement. Several other small players exists in this sector but hold limited market share. Law 31/2017 of May 31 allows municipalities to launch public tenders to grant concession agreements for the exclusive operation of municipal low-voltage distribution grids.

Last-resort supplier – SU Eletricidade, S.A.

SU Eletricidade purchases all energy benefiting from a guaranteed remuneration regime. It also supplies customers who are still buying electricity under regulated tariffs. Again, several other small players exists in this sector but hold a limited market share.

Administrative authorities

The Energy Services Regulatory Authority (ERSE) regulates the electricity sector. Specifically, it aims to:

i. protect consumer interests, especially those of vulnerable customers, regarding prices, service quality and information access;

ii. ensure economic and financial balance for regulated sector activities in the public interest, when managed properly and efficiently;

iii. promote competition in energy markets under applicable law;

iv. encourage efficient energy use and environmental protection; and

v. arbitrate and resolve disputes, promoting out-of-court settlements.

The Directorate-General for Energy and Geology (DGEG), a Portuguese public administration authority, aims to plan, promote and evaluate policies for energy and geological resources in terms of sustainable development. DGEG ensures security of supply and is the licensing entity for energy production, storage and self-consumption.

The MIBEL is a joint initiative between Portugal and Spain to create a regional electricity market. Through this initiative, consumers will be able to buy electricity in the competitive market from any producer or retailer in Portugal or Spain. MIBEL focuses on integrating the Portuguese and Spanish electricity systems to create a transparent and competitive market. It is self-financing and self-organized, with a single reference price. Market players have free access with equal conditions, rights and obligations.

Business opportunities

Recent regulatory changes in Portugal offer renewable project sponsors various alternatives for optimization and increased returns. These include the following:

- Adding new production units using different renewable source technology (hybridization) to an existing project does not require a new connection permit (*título de reserva de capacidade*), provided the same injection capacity is maintained.

- Repowering and overpowering are treated as non-material changes to the project and are exempt from a new connection permit, provided the same injection capacity is maintained.

- Until the PNEC 2030 objectives are met, full repowering of any renewable project (except hydro plants above 10 MVA) can benefit from a 20% increase over the initial injection capacity granted.

Based on recent practice, grid capacity awarded through competitive auctions are expected to continue being fostered. The Portuguese Government has announced the intention to award approximately 2 GW of offshore wind projects to be commissioned until 2030.

12.3.2. Gas market activities

Legal overview

Portugal has no proven natural gas resources. Natural gas is supplied to the Portuguese market under long-term take-or-pay contracts with Galp. The main suppliers are Algeria and Nigeria, and more recently Qatar, Equatorial Guinea, and Trinidad and Tobago.

Until February 2006, the Portuguese natural gas market was divided into two main areas: (i) import, storage, transport, and regasification of natural gas or LNG, where the only concession was issued to a Galp Energia subsidiary (Transgás); and (ii) local and regional distribution under the license issued to local or regional distribution companies.

Natural gas consumers with an annual consumption below 2 million m^3 were supplied by regional or local distribution companies. Consumers with annual consumption of at least 2 million m^3 were supplied directly by Transgás. Large customers (i.e., over 50 billion m^3) paid free-market rates, while customers with an annual consumption below 50 billion m^3 paid prices set in concession agreements.

Decree-Law 30/2006 and Decree-Law 140/2006 (now revoked by Decree-Law 62/2020) established the market's current structure, deregulating it and allowing any company free access. These decree-laws unbundled energy suppliers from the distribution network and strengthened ERSE's independent position. These new laws were imposed on last-resort suppliers, whose gas prices are regulated by tariffs.

Decree-Law 62/2020 of August 28, last amended by Decree-Law 70/2022, establishes the organization and operation of the National Gas System (SNG) and its legal regime. It transposes Directive 2019/692 and establishes the legal regimes for (i) receiving, storing and regasifying liquefied natural gas (LNG); (ii) underground gas storage; (iii) gas transmission and distribution activities; (iv) the planning of the National Transport Network, Storage Infrastructures and LNG terminals (RNTIAT); and (v) the planning of the National Gas Distribution Network (RNDG).

Order 2791/2025 approved the Regulation of the National Gas Distribution Network. This regulation specifies the technical and safety conditions required for designing, constructing, operating, maintaining, and decommissioning RNDG infrastructures. It also sets the basic principles for planning and managing the injection of gases of renewable or low-carbon origin into the RNDG.

Meanwhile, Order 3264/2025 approved the Regulation of the National Gas Transmission Network (RNTG). This regulation outlines the technical and safety conditions required for designing, constructing, operating, maintaining, and decommissioning RNTG infrastructures. It also establishes the basic principles for planning and managing the injection of renewable or low-carbon gases into the RNTG.

Regulation 827/2023 approves ERSE's Commercial Relations Regulations for the Electricity and Gas Sectors (RRC). This regulation applies to the gas and electricity sectors across the entire national territory and covers the following:

i. Identification of the parties involved in the gas sector and their activities.

ii. Principles and general rules of commercial relationships, including public service obligations.

iii. Commercial relationship between infrastructure operators and suppliers.

iv. Definition of supply, contracting, invoicing, and payment obligations.

v. Contracting, agent registration, organized markets, bilateral contracting regime, and change of supplier, as well as the supervisory framework for the operation of gas markets.

vi. Dispute settlement.

Activities

The Portuguese Natural Gas System (SNGN) is primarily organized around exploiting the public network. This network includes the National Transmission Network, the Underground Storage Facilities, the LNG Terminal, and the National Distribution Network. These components are subject to concessions, while local distribution operate under licenses.

The following activities are regulated:
(i) reception, storage and LNG regasification;
(ii) underground storage; (iii) transmission, distribution and natural gas last resource supply; and (iv) logistics operations for switching suppliers.

Tariffs are determined using an add-in system based on the fixed assets rate of return, plus other permitted profits, and in some cases, recovery of the tariff deficit. Commercialization is not subject to specific licensing but is regulated by ERSE regulation and requires registration.

The Tariff Regulation (RT) for the gas sector, approved by ERSE (Regulation 825/2023), defines (i) the revenues the regulated companies in the natural gas sector are allowed to recover through gas tariffs; (ii) the tariff structure; (iii) the procedures for setting, changing and publishing tariffs; and (iv) the obligations and procedures for providing information to ERSE. A special contribution applies to the transmission and distribution network's fixed assets

Main players in each of the above activities:

Transport: REN – Gasodutos, S.A.

Distribution: Setgás – Sociedade de Distribuição de Gás Natural, as; Lisboagás GD – Sociedade Distribuidora de Gás Natural de Lisboa, SA; Lusitaniagás – Companhia de Gás do Centro, SA; Tagusgá– Empresa de Gás do Vale do Tejo, S.A.; Beiragás – Companhia de Gás das Beiras, S.A; Ren Portgás Distribuição, S.A.

Commercialization: Galp Gás Natural, S.A.; Edp Gás - Serviço Universal, S.A.; Iberdrola Clientes Portugal, Unipessoal, Lda; Endesa Energia, Sucursal em Portugal

Regarding the establishment of the system for the centralized purchase of biomethane, Council of Ministers Resolution 41/2024 was recently approved, creating an integrated and sustained strategy for developing the biomethane market in Portugal. It promotes biomethane as a sustainable way to reduce greenhouse gas emissions and sets the goal of replacing almost 10% of natural gas with biomethane by 2030.

Administrative authorities

The reception, storage and regasification of LNG and the underground storage, distribution and supply of last resort, as well as the logistics operation of switching suppliers and managing organized markets, are subject to ERSE , ENSE and DGEG regulation and supervision.

12.3.3. Oil market activities

Legal overview

Regarding operation and production activities, there are two coexisting applicable regulations: Decree-Law 109/94 of April 26, which applies to the activities licensed after its entry into force; and Decree-Law 141/90 of May 2, which applies to the activities licensed before Decree-Law 109/94 entered into force.

The main law for downstream oil activities is Decree-Law 31/2006. Trading in oil and oil products is unregulated, although it is subject to customs duties and taxes. Also, entities trading in oil and oil products are subject to registration with ENSE, E.P.E. (defined below). Other requirements include (i) ensuring regular supply, (ii) ensuring prices are published, and (iii) providing pertinent information to the authorities.

Decree-Law 38/2015, as amended by Decree-Law 26/2023, implements the maritime space planning regime under which the allocation plans require the environmental impact assessment.

However, the environmental impact assessment is flawed for two main reasons: (i) insufficient content in allocation plans, and (ii) inadequate regulation of the assessment of the cumulative environmental impact of investments. These issues are now being addressed through updated environmental impact assessments conducted alongside maritime plans for future offshore wind projects.

Activities

Portugal has no oil deposits and relies almost entirely on imports. It has well-diversified crude oil supply sources. In 2018, Russia was Portugal's largest oil supplier, accounting for 19.6% of total crude oil imports, followed by Angola, Azerbaijan and Saudi Arabia. The Portuguese oil sector includes production, refinement, storage, transport, distribution, and commercialization.

Administrative authorities

The main administrative authority in the Portuguese oil sector is ENSE (as defined below). ENSE ensures compliance with Portugal's obligations within the framework of the EU and the International Energy Agency regarding emergency reserves of petroleum and petroleum products, as stipulated in national law.

However, following the enactment of Decree-Law 69/2018 of August 27, significant changes were made to the energy sector's regulatory and supervisory entities. Consequently, ENMC was restructured and given supervisory powers to oversee the entire energy sector. This entity is now called the National Entity for the Energy Sector, E.P.E. (ENSE).

Under this legislation, the former ENMC, E.P.E.—now ENSE—has become the specialized inspection entity for the entire energy sector. However, ERSE still retains its powers as outlined in its statues and under the energy sanctioning regime.

ENSE, through its oil reserve unit, the central storage entity (CSE), is responsible for maintaining a 30-day reserve for national security. Market operators are required to maintain security reserves for 90 days, with 30 days secured by the CSE. They are responsible for the remaining 60 days and must notify ENSE of their location.

Current developments

Government sources indicate that a review of the current legislation may be necessary, as the existing texts date back over 20 years and do not reflect the technological advances in the industry or current environmental and other concerns. If these intentions are confirmed, it is likely to take several months to approve new legislation.

Between 2017 and 2019, 13 of the 15 concession contracts for the prospection, research and exploration of hydrocarbons in Portugal were canceled or revoked, primarily due to environmental and political pressure. Some cancellations have been challenged and are subject to arbitration procedures. The only two concession contracts that remained in force (Batalha and Pombal), operated by Australis Oil & Gas Portugal, Lda since September 30, 2015, in the Onshore Lusitanian Basin, were terminated in September 2020.

The energy sector, particularly the oil and gas industry, was disrupted by the lockdowns enforced during the COVID-19 pandemic, resulting in a sharp decline in revenues, especially for oil. The COVID-19 crisis frustrated all investment expectations and forecasts for 2021, severely impacting fuel supply investments in 2020 and 2021.

However, the significant increase in oil and gas prices following the war in Ukraine has placed the oil and gas industry at the forefront of the global recovery from the 2020 and 2021 COVID-19 crisis.

Also, to promote a more sustainable approach to energy production, the Portuguese Government recently enacted the National Strategy for Hydrogen. This strategy demonstrates the recent political will to invest in hydrogen energy, aiming to achieve climate goals associated with the de-carbonization of the economy. To reach carbon neutrality, as provided in RNC2050, Portugal has set a target to reduce greenhouse gas emissions by 85% to 90% by 2050, compared to 2005 levels.

The remaining emissions will be offset through carbon sequestration through soil and forests. The emission reduction trajectory is set between 45% and 55% by 2030 and between 65% and 75% by 2040, all compared to 2005 levels.

The Portuguese Government has publicly stated that Portugal is prepared to lead the hydrogen transition in Europe. Further development of the hydrogen regulatory framework is expected in the coming months. Several investment projects are also being considered by the government, with some slated for financing through European funds. Ordinance 168/2024/1 was approved, establishing the Regulation of the Business Incentive Scheme "Promotion of Renewable Hydrogen and Other Renewable Gases - Reinforced Measure" as part of the Recovery and Resilience Plan.

There has also been a growing increase in downstream operators, particularly Spanish ones, looking to expand their business in Portugal. Several projects are underway to expand the infrastructure of the LNG terminal in Sines. These projects entail increasing storage capacity, boosting the capacity to inject natural gas into the national distribution system and building a third loading bay for LNG trucks.

A fresh look at the country's petroleum potential could be justified due to technological advances enabling more in-depth exploration and production operations, the development of geological knowledge, and a flexible and overall favorable legal and tax regime. However, there currently appears to be little political interest in developing Portugal's potential in this area. The Minister of Environment has emphasized that his priority is to combat climate change and reduce dependence on fossil fuels, ambitions that are difficult to reconcile with further oil and gas prospection.

In recent months, important legislative instruments have been published to promote renewable energy and the hydrogen economy in Portugal. The regulations address three main areas, each corresponding to three different decree-laws, summarized below:

1. Targets for the consumption of energy from renewable sources

Decree-Law 84/2022, amended by Decree-Law 23/2023, sets targets for the consumption of energy from renewable sources, partially transposing Directive (EU) 2018/2001. The implementation of renewable electricity generation units in Portugal is part of the country's commitment to reduce greenhouse gas emissions, as provided for in the National Energy and Climate Plan 2030 (PNEC) and the Roadmap for Carbon Neutrality 2050 (RNC2050). The new targets for renewable energy incorporation, as set out in Decree-Law 84/2022, are even more ambitious than those in the PNEC and the RNC2050. The overall target for renewables is now 49% by 2030, which is 2% higher than the commitment in the PNEC, while interim goals include achieving 34% by 2024, 40% by 2026, and 44% by 2028.

2. Implementation of projects and initiatives for the production and storage of energy from renewable sources

Decree-Law 72/2022, which first amended Decree- Law 30-A/2022 of April 18, introducing exceptional measures for implementing projects and initiatives to produce and store energy from renewable sources. The new legislation aims to simplify administrative processes, particularly for projects with power below 1MW, which are not subject to prior control. For projects exceeding 1MW, municipalities can only reject renewable energy installations if their territory already has renewable energy facilities occupying 2% or over, and if the project lacks a favorable or conditioned favorable environmental impact statement. Rejections cannot be based on the negative impact on landscape heritage. Decree-Law 22/2024 of March 19 extends these measures until December 31, 2024.

3. Establishment of the system for the centralized purchase of renewable gases (biomethane and hydrogen)

Ordinance 15/2023 established a centralized purchase system for biomethane and hydrogen produced by electrolysis from water using electricity from renewable energy sources, for injection into the national gas grid in specific quantities: 150 GWh/year for biomethane and 120 GWh/year for hydrogen (both base higher calorific value – PCS). Contracts under Ordinance 15/2023 will have a duration of 10 years, starting from the date of the first supply.

12.4. Technology, media and telecommunications (TMT)

Entities operating in the media sector must disclose any direct or indirect ownership in newspaper, TV and radio operator companies

Under Decree-Law 39/2015 of March 16, ANACOM (*Autoridade Nacional de Comunicações*) is the main regulator, supervisor and representative of the communications sector in Portugal. Specifically, ANACOM is responsible for:

i. ensuring network access for communications operators under conditions of transparency and equality;

ii. promoting competition and development in communications markets, particularly in the convergence of telecommunications, media and information technologies;

iii. ensuring the application and supervision of laws, regulations and technical requirements, and monitory communications operators' compliance with their licenses or concession contracts;

iv. ensuring the availability of a universal communications service that fulfills the corresponding obligations; and

v. ensuring the correct use of spectrum resources and granted numbering.

In August 2022, the New Electronic Communications Act (Law 16/2022 of August 16, 2022) was published. It transposed the European Electronic Communications Code (Directive (EU) 2018/1972 of the European Parliament and of the Council of December 11) into national law, replacing the previous Electronic Communications Act (Law 5/2004 of February 10, 2004).

Although some rules on network security and integrity were already applicable, most provisions of the New Electronic Communications Act came into force on November 14, 2022.

The New Electronic Communications Act introduces significant changes, including the following

i. Establishing a legal regime for electronic communications networks and services, related resources and services, and radio frequency spectrum management, as well as specific features of terminal equipment.

ii. Defining the responsibilities of the Portuguese Regulatory Authority (ARN) and other competent authorities in these areas.

iii. Providing a broad definition of "electronic communications service" to include activities carried out by instant messaging applications, email, internet telephone calls, and personal messages provided through social media.

iv. Imposing a general authorization regime that requires undertakings intending to offer public electronic communications networks and publicly available electronic services to give prior notification to the ARN.

Regulation (EU) 2015/2120 of the European Parliament and of the Council of November 25, 2015, establishes rules to safeguard the equal and non-discriminatory provision of internet access services and protects end users' rights. Although zero-rating is not explicitly prohibited, it may infringe the regulation. Also, bandwidth throttling is permitted only when imposed by law, a court, or a decision by a public authority.

Advertisement, broadcasters and media

Law 53/2005 of November 8 created ERC (*Entidade Reguladora para a Comunicação Social*), the public agency responsible for regulating and supervising all entities operating in the media sector in Portugal.

Under both the Television and Radio Law (Law 27/2007 July 30 and Law 54/2010 of December 24, respectively), television and radio broadcasting activities are subject to prior licensing, granted by the ERC.

Entities operating in the media sector must disclose to the ERC any direct or indirect ownership in newspaper, TV and radio operator companies. They must also identify board members, officers with management duties and officers responsible for broadcasting content and supervision. The public can access this information on the ERC's website.

To safeguard the pluralism and diversity of the press, TV and radio markets, the ERC must ensure, in coordination with the competition authorities, that no excessive concentration of ownership in the share capital of companies operating in the media sector occurs.

In 2015, Law 78/2015 of July 29 was passed to preserve the values of freedom of expression and editorial independence, creating an additional obligation for entities operating in the media sector to disclose their financing sources to the ERC.

More recently, in 2024, the Radio Law was amended by Law 16/2024 of February 5. This amendment brought about several changes. Notably, it established a fixed quota of 30% for Portuguese music in radio programming. This quota applies specifically to music programs aired on weekdays between 7 a.m. and 8 p.m. The law also mandates the ERC to facilitate collaboration among industry associations by establishing self-regulatory agreements and other cooperative measures on a monthly basis. Also, radio operators must provide the ERC with all necessary information to ensure compliance with these Portuguese music requirements.

Regarding advertising, broadcasters must adhere to various provisions that limit the nature and amount of airtime for advertisements. They must also comply with the principles and rules of advertising established in the Advertisement Code (Decree-Law 330/90 of October 23) and other sector-specific legislation.

13 Insolvency

Insolvency is defined as a debtor's inability to fulfill its obligations as they fall due

Portuguese law provides a single procedure for all debtors, whether companies or individuals

Below we summarize the key aspects of Portuguese insolvency law.

13.1. Definition of insolvency

Under Portuguese insolvency law, a company is considered insolvent when it cannot pay its debts as they become due (**cash flow test**). Legal entities are also considered insolvent when their liabilities clearly exceed their assets according to specific accounting rules and principles (**balance sheet test**)

13.2. Insolvency procedure

In Portugal, there is one insolvency procedure for all debtors, whether companies or individuals (albeit with minor differences).

Under the Portuguese Insolvency and Restructuring Companies Code (CIRE), insolvency proceedings are universal enforcement proceedings aimed at satisfying creditors' claims through an insolvency plan focused on recovering the insolvent company. If recovery is not possible, the proceedings aim to liquidate the insolvent estate and distribute the proceeds among the creditors.

Both natural persons and legal entities can be declared insolvent, except for (i) public entities, (ii) state-owned entities, (iii) insurance companies, (iv) credit institutions, (v) financial companies, (vi) investment companies that provide services related to holding funds or securities on behalf of third parties, and (vii) collective investment entities when insolvency proceedings are incompatible with their special legal frameworks.

13.3. Voluntary insolvency

The directors of a company must file for insolvency within 30 days from the date they become aware—or should have become aware—that the company is insolvent (voluntary insolvency). Insolvency is presumed to be known by the debtor if there is a generalized default on tax, social security, employment, and lease contract payments for three months.

When a voluntary insolvency request is filed, the court should adjudicate the insolvency within three business days from the date the initial request was internally distributed. However, it typically takes at least two weeks to one month for the request to be adjudicated.

13.4. Involuntary insolvency

When a creditor considers a debtor is insolvent, it can ask a court to adjudicate the insolvency (involuntary insolvency). Creditors are not bound by a minimum claim amount when filing for the debtor's insolvency.

The following facts suggest insolvency :

- General suspension of payments for matured obligations.
- Default on one or more obligations that, given the amount or default circumstances, indicates the debtor's inability to meet most of its obligations on time.
- Abandonment by the owner or directors of the insolvent company or its head office due to the debtor's lack of solvency, with no reputable substitute appointed.
- Dissipation, abandonment, hasty or loss-making liquidation of assets, or fictitious constitution of credits.
- Insufficient assets to seize for payment of credits verified in an enforcement procedure filed against the debtor.
- Default on obligations established in an insolvency or payment plan approved by the creditors in previous insolvency proceedings.
- General default over the past six months on the following obligations:
  - Tax and social security obligations.
  - Employment contracts, including breach or termination of employment contract obligations.
  - Rent for any lease, including financial leases, and installments on an acquisition price or mortgage for the place where the debtor operates, resides or has its head office.
- For legal entities, liabilities that clearly exceed assets according to the last approved financial statements, or a delay of more than nine months in approving or depositing accounts.

Insolvency may be considered fortuitous or culpable

In cases of involuntary insolvency, the debtor is summoned and given 10 days to submit a defense. A trial follows, which often takes several months. Based on our experience, standard delays range from two to six months. This decision can be appealed.

13.5. Culpable insolvency

Insolvency is considered culpable when the willful or grossly negligent actions of the debtor (company) or its directors, whether *de jure* or *de facto*, cause or worsen the situation within three years before the start of insolvency proceedings (i.e., the filing of the initial request).

The insolvency is always considered culpable when the insolvent company's directors have:

- destroyed, damaged, rendered useless, concealed, or caused the disappearance of a significant part or the entirety of the debtor's assets;
- artificially created or worsened liabilities or losses, or reduced profits, causing the debtor to engage in ruinous transactions for their benefit or for the benefit of closely related individuals;
- purchased goods on credit and sold them or used them as payment at prices significantly below market value;
- disposed of the debtor's assets for personal gain or for the benefit of third parties;
- conducted activities under the company's corporate identity for personal benefit or that of third parties, to the detriment of the company;
- used the debtor's credit or assets in a way that contradicts the debtor's interest, for personal gain or for the benefit of third parties, particularly to favor another company in which they have a direct or indirect interest;
- continued a loss-making operation for their own benefit or that of a third party, despite knowing or having the duty to know that it would most likely lead to insolvency; and
- grossly failed to maintain organized accounting, kept fictitious or double accounting, or committed irregularities significantly harming the understanding of the debtor's financial and asset situation.

There is a legal presumption of gross negligence when the company's directors fail to file for insolvency or neglect to prepare the annual financial statements within the legally required timeframe.

Insolvency is considered culpable through a procedure within insolvency proceedings known as the insolvency qualification procedure (*incidente de qualificação da insolvência*). This procedure aims to determine the causes of the insolvency and whether they resulted from fortuitous events, negligence or willful actions by the debtor.

The insolvency administrator, the Public Prosecutor, or any creditor can initiate the insolvency qualification procedure. To do so, they must submit a request that details why they consider the insolvency culpable and identifies the individuals who should be held responsible.

When an insolvency is considered culpable, the company's directors may face a range of sanctions, such as:

- being prohibited from managing third-party assets for 2 to 10 years;
- being prohibited from participating in commercial activities for 2 to 10 years;
- being prohibited from holding positions in commercial or civil company bodies, private economic associations or foundations, public enterprises, or cooperatives;
- losing all claims they have against the insolvency or the insolvent estate, and being required to return any assets or rights already received in payment of those claims; and
- bearing joint and several liability for compensating creditors up to the total amount of unsatisfied claims.

Note that culpable insolvency is not the same as willful insolvency. Culpable insolvency results from the insolvency qualification procedure within insolvency proceedings and entails only civil repercussions. As explained, directors may be required to financially compensate creditors up to the total amount of unsatisfied claims.

In contrast, willful insolvency is a criminal offense under the Portuguese Criminal Code, punishable by up to six years of imprisonment or a fine of up to 600 days.

13.6. Effects on debtors

One of the fundamental principles of Portuguese law on insolvency is that creditors must receive equal treatment

Once insolvency is declared, the insolvent entity loses the power to manage and dispose of the assets included in the insolvent estate. These powers are transferred to a court-appointed insolvency administrator. The administrator is then responsible for managing the insolvent estate's assets, overseeing business operations, and ensuring compliance with legal requirements throughout the insolvency proceedings. Exceptions are made if the debtor is allowed to manage the estate under specific—and verified—legal conditions. Any actions carried out by the debtor that breach the insolvency administrator's supervision may be declared null.

A declaration of insolvency means all debts become due immediately, unless they are subject to a condition precedent.

The insolvency administrator can request that all ongoing legal proceedings related to the insolvent estate be attached to the insolvency proceedings if doing so is considered to benefit the proceedings. This includes cases against the insolvent party or third parties that may affect the estate's value, as well as purely patrimonial cases filed by the insolvent.

13.7. Effects on creditors

The declaration of insolvency suspends all enforcement proceedings or other measures requested by creditors that affect the insolvent estate. It also prevents the insolvency creditors from filing new enforcement proceedings against the debtor. If the insolvent is not the only debtor in the ongoing enforcement proceedings, the suspension does not affect the other debtors, and those proceedings will continue against them.

Within three months from the declaration of insolvency, creditors are prohibited from filing any enforcement proceedings seeking the payment of credits over the insolvent estate. After this three-month period, the creditors—not the insolvency administrator—must present any legal proceedings (including enforcement proceedings) regarding debts of the insolvent estate to be attached to the insolvency proceedings—with the exception of enforcement proceedings regarding tax debts.

One of the fundamental principles of the CIRE is that creditors must receive equal treatment. While there are a few exceptions to this rule, the law ensures that common creditors are considered equal.

Based on this principle, creditors can be a classified as secured, privileged, common, or subordinated:

- **Secured creditors:** Claims backed by *in rem* collateral, such as mortgages, pledges or statutory liens over specific assets.
- **Privileged creditors:** Claims granted general or special priorities over the insolvent estate by law, including statutory claims such as employee wages, tax liabilities and social security contributions.
- **Common/unsecured creditors:** Claims not backed by specific collateral and without special statutory priority.
- **Subordinated creditors:** Claims explicitly subordinated to the claims of other creditors, either by agreement or law. This category can include certain shareholder loans, credits held by persons with a special relationship with the insolvent entity, or other contractually subordinated claims.

There is also a special and prioritized category known as “credits against the insolvency estate,” which typically arise after the declaration of insolvency. These credits are not subject to ranking or acknowledgment and must be paid by the insolvency administrator when they become due, before any other claims.

13.8. Clawback actions

The insolvency administrator can reverse certain transactions made by the debtor within two years before the start of the insolvency proceedings if they are considered detrimental to the insolvent estate and involve a third party acting in bad faith.

Acts that reduce, frustrate, prevent, jeopardize, or potentially delay payment to insolvency creditors are considered detrimental to the insolvency estate.

Bad faith is presumed in acts or omissions carried out within two years before the start of the insolvency proceedings, involving a person with a special relationship with the insolvent who participated in or took advantage of the situation, even if no special relationship existed at the time.

Bad faith means knowing, at the time of the act or omission, any of the following circumstances:

- The debtor was insolvent.
- The act was detrimental, and the debtor was on the verge of insolvency at the time.
- Insolvency proceedings were underway.

Clawback actions can be challenged within three months by initiating legal proceedings against the insolvent.

Clawback actions without requirements

CIRE also lists acts subject to clawback actions without having to fulfill any other requirements.

13.9. Key pre-insolvency instruments

Portugal offers companies and entrepreneurs several agile legal mechanisms to revitalize companies, including the following:

- RERE – *Regime Extrajudicial de Recuperação de Empresas* (out-of-court recovery proceedings) (RERE)
- PER – *Processo Especial de Revitalização* (special revitalization proceedings) (PER)
- PEAP – *Processo Especial para Acordo de Pagamento* (special payment agreement proceedings) (PEAP)
- PEVE – *Processo Extraordinário de Viabilização de Empresas* (companies' extraordinary viabilization proceedings) (PEVE)

RERE

RERE, approved by Law 8/2018 of March 2, entered into force on March 3, following one of the measures of the Capitalize Program (approved by Council Resolution of Ministers 42/2016 of August 18).

RERE can be used by corporate debtors and individuals (company owners) facing economic difficulties or in an imminent situation of insolvency that intend to start negotiations with one or more creditors (representing at least 15% of non-subordinated credits) to reach an agreement for their recovery.

The parties must enter a negotiation protocol, the content of which they can freely establish and is generally confidential. This protocol must be filed with the commercial registry.

During negotiations, which may not exceed three months, creditors that have not entered the negotiation protocol may adhere to it at any time. Once creditors enter the negotiation protocol, and during the negotiation period, public service companies, including water, electrical power, natural gas, and telecommunications suppliers, are prevented from suspending their services while negotiations are ongoing.

When negotiations conclude, a restructuring agreement is drawn up, with content freely agreed upon by the participants. This agreement is a single written document signed by all parties and generally confidential.

Once the restructuring agreement is filed with the commercial registry:

- the negotiation period ends;
- declarative, executive or precautionary lawsuits (excluding those of a labor nature) related to credits included in the restructuring agreement are immediately extinguished; and
- any insolvency proceedings initiated against the debtor by the creditors that have signed the restructuring agreement are immediately extinguished.

If the restructuring agreement is approved by creditors representing the majority required to approve a recovery plan, the debtor may submit it to the court to initiate a PER under article 17-I of CIRE. Under the terms provided in the restructuring agreement, the court will then approve it and make it binding for all creditors, even those that did not sign it or did not participate in the negotiation procedure.

PER

PER was created by Law 16/2012 of April 20 (and, following later amendments, is currently regulated under articles 17-A to 17-J of the CIRE).

This procedure allows companies facing financial difficulties or imminent insolvency, but still capable of recovery, to negotiate an agreement with creditors under which they can be revitalized. By adopting the PER, the debtor's prior declaration of insolvency is no longer required. Instead, imminent insolvency or a difficult economic situation is sufficient to start the proceedings. This enables debtors to achieve their recovery or viability through negotiation, without the stigma of being declared insolvent, which often hampers their chances of survival.

PER proceedings are urgent and heard in the court with jurisdiction to declare the debtor's insolvency. In procedural terms, under the PER, there are two ways to reach a restructuring agreement with creditors: after submitting the PER request (PER under article 17-A of CIRE) or before it is submitted (PER under article 17-I of CIRE).

Consolidating several PERs for companies within the same group is permitted. The judge may admit this consolidation either *ex officio* or at the request of the provisional judicial administrator.

Only the debtor may submit a PER request in court under article 17-A of CIRE. This request must include a written statement jointly signed by the debtor and creditors (although not related to the debtor company), holding at least 10% [20] of non-subordinated credits, expressing their intention to negotiate a recovery plan.

The PER application must include a recovery plan proposal and a statement describing the company's assets and financial situation. Some companies [21] may also need to include a proposal for classifying creditors affected by the recovery plan into different categories.

Companies legally required to have their accounting books reviewed must submit a statement from a certified accountant or auditor, along with the PER application, asserting that the company is not currently insolvent.

The debtor must certify and declare in writing that it meets the conditions for revitalization. These statements are addressed to the court, which then immediately appoints an interim judicial administrator (*Administrador Judicial Provisório*, AJP).

The order appointing the AJP is published on the CITIUS platform (the court's official website). The debtor must inform all creditors that did not sign the above statement that negotiations have started and invite them to participate. Creditors must submit their claims to the AJP within 20 days from the date of publication, enabling the AJP to prepare a provisional list of credits, which will also be published on the CITIUS platform.

After the 20-day period and the deadline for submitting appeals from the provisional list of claims, negotiations must be completed within two months. This deadline may be extended for another month if previously agreed upon by the debtor and the AJP.

Any creditor can participate in the negotiation process for as long as the negotiations last, and the debtor can stop negotiations at any time.

Once the AJP is appointed:

- enforcement[22] or ongoing precautionary lawsuits against the debtor are stayed for four months, extendable by an additional month; and
- any insolvency proceedings initiated against the debtor are stayed.

20 The court can reduce this percentage if certain requirements are met.

21 Companies that have (i) more than 250 employees, and (ii) an annual turnover exceeding €50 million or an annual balance sheet total exceeding €43 million.

22 Except those aiming to collect credits arising from employment contracts.

The appointment of the AJP prevents the company from performing acts of special importance without first obtaining authorization from the AJP.

Public service companies, including water, electrical power, natural gas, and telecommunications suppliers, are prevented from suspending their services while negotiations are ongoing.

During this period, no creditor can file a declarative, enforcement or precautionary lawsuit against the debtor to collect any credit.

Creditors must approve the recovery plan in any of the following cases:

- When creditors whose claims represent at least one-third of the total claims with voting rights (as established in the provisional claims list) vote, with more than two-thirds of the votes cast being favorable, and more than half of these votes are from non-subordinated claims.

- When the recovery plan receives favorable votes from creditors whose claims represent more than half of all claims with voting rights, and more than half of these votes are from non-subordinated claims.

- When creditors are classified into separate categories, and the recovery plan receives favorable votes from more than two-thirds of the total votes cast in each category.

In all cases, abstentions are not counted. Subsequently, the judge must approve or reject the recovery plan within 10 days. This decision will be published in CITIUS and is binding for the debtor and all its creditors, even if they did not vote in favor of the plan or did not participate in the negotiations.

If the court approves the recovery plan:

- declarative, enforcement or precautionary lawsuits related to credits included in the recovery plan are immediately extinguished, unless the recovery plan provides otherwise; and

- any insolvency proceedings initiated against the debtor before the PER are immediately extinguished.

If an agreement for approval of the PER cannot be reached and the debtor is not considered insolvent, the proceedings will end without effect. However, if the debtor is considered insolvent, the court will declare the debtor's insolvency within three business days and attach the special process of revitalization to the insolvency proceedings.

If the debtor and creditors fail to reach an agreement, or if the judge rejects the approved recovery plan, the debtor cannot submit another special recovery plan for two years.

PER under article 17-I of CIRE

A PER can also be initiated by filing an extrajudicial recovery plan signed by the debtor and creditors representing at least a majority of votes needed to approve the recovery plan. In this case, a simplified procedure will apply, eliminating the need for negotiations.

Protection against clawback actions

To provide the debtor with the funds needed for recovery, agreements executed within the context of the PER cannot be subject to clawback actions.

However, guarantees granted during the PER to finance the debtor's activities will be maintained, even if the PER ends and there is a declaration of insolvency within two years.

New money privileges

Creditors that finance the debtor's activities during the PER or within the context of its execution for its recovery benefit from:

i. up to 25 % of the debtor's non- subordinated debt at the moment the insolvency is declared;

ii. a credit against the insolvency estate if the debtor is declared insolvent within two years from the date of the final decision approving the PER; and

iii. a general statutory lien over movable assets for the remaining amount exceeding 25% of the debtor's non-subordinated debt—ranked before the general statutory lien over movable assets granted to employees.

Stakeholders and others with a special relationship with the debtor may enjoy the benefit described in point (iii).

PEAP

The PEAP procedure, created by Decree-Law 79/2017 of June 30, applies only to debtors that (i) are not companies, (ii) are in a difficult economic situation or facing imminent insolvency; and (iii) aim to negotiate with their creditors to reach a payment agreement.

The PEAP regime, which is comparable to the PER regime, aims to help individuals avoid personal insolvency by approving a payment agreement that restructures their liabilities.

PEVE

PEVE, created by Law 75/2020 of November 27, was in force until June 30, 2023. These proceedings applied to companies in financial difficulties or facing imminent insolvency due to the COVID-19 pandemic but whose recovery is still feasible.

PEVE was urgent in nature and was prioritized over insolvency proceedings, PER, and PEAP, including in appeal phases.

PEVE began when a company submitted an application, along with the following documentation:

i. A written declaration signed by the company's administrators attesting that the financial situation is due to the COVID-19 pandemic and that the company meets the conditions for viability.

ii. A list of all creditors signed by the company's administration body and certified by an accountant or statutory auditor, if auditing is legally required, dated no more than 30 days prior.

iii. The viabilization agreement signed by the company and the creditors whose voting rights represent at least the majorities established by CIRE.

Once the AJP is appointed:

- no creditor can file declarative, enforcement or precautionary proceedings against the debtor to collect any credit; and

- until the final and unappealable decision of homologation or non-homologation of the viabilization agreement, all pending proceedings with the same purpose regarding the company are suspended and extinguished with the court's approval of the agreement, unless the agreement provides otherwise.

The appointment of the AJP prevents the company from performing acts of special importance without first obtaining authorization from the AJP.

Creditors have 15 days from the publication of the list of creditors to challenge it and request that the viabilization agreement be rejected. Within this period, the AJP will assess whether the agreement offers reasonable prospects for ensuring the company's viability.

Within 10 days, the judge must decide on any challenges to the list filed by creditors and analyze the viabilization plan. The judge will ratify the plan if it meets all of the following requirements:

i. It respects the legal approval majorities.

ii. It presents reasonable prospects of ensuring the company's viability.

iii. There are no circumstances under the law requiring the court to reject the agreement.

This decision is binding on the company, the creditors who signed the agreement, and the creditors on the list, even if they did not participate in the out-of-court settlement, with regard to claims arising on the date of the decision appointing the AJP.

The warranties agreed upon between the company and its creditors within the scope of PEVE, intended to provide the company with the financial means needed for its activities, are maintained—even if the company is declared insolvent within two years after the process ends. Creditors, stakeholders and others with a special relationship with the debtor who finance the debtor's activities for its recovery through the viabilization plan benefit from a general statutory lien over movable assets. This lien ranks before the general statutory lien over movable assets granted to employees.

The PEVE legal regime resembled the PER regime established in article 17-I of CIRE. However, it differed in certain areas, such as the following:

- PEVE was specifically aimed at companies in a difficult economic situation due to the COVID-19 pandemic.

- When deciding whether to approve the agreement, the court was responsible for assessing whether it offered reasonable prospects of ensuring the company's viability.

14 Dispute settlement

Most decisions issued in first and second instances are immediately enforceable, even if subject to appeal

14.1. Litigation: jurisdiction and civil procedure

Jurisdiction

Jurisdiction is determined by several criteria:

i. Matter: mainly civil and commercial, criminal, administrative, labor, tax, intellectual property, competition, and family.

ii. Instance: first instance court, second instance court, court of appeal, and Supreme Court.

iii. Territory.

In civil jurisdiction, courts of first instance are competent to hear all civil cases not expressly attributed to other courts by specific legal provisions. Some first instance courts specialize in certain commercial issues, such as insolvency. Appeals are usually heard by second instance courts. The general territorial rule is that the claimant must file the claim in the place where the defendant resides, although other special rules may apply depending on the grounds for the claim (e.g., claims based on tort law must be filed in the place where the tort occurred).

Civil and commercial procedures

Civil and commercial declaratory procedures are subject to the Portuguese Civil Procedure Code (PCPC).

These procedures mainly consist of the following:

i. A statement of claim accompanied by documentary evidence, and producing witnesses and expert evidence that will be presented later during the proceedings.

ii. A statement of defense, together with the documents, witnesses and expert evidence that support the defense.

iii. A preliminary hearing aimed at conciliating the parties, resolving procedural issues, defining the scope of the dispute, determining the issues to be decided, and proposing any additional evidence.

iv. A final hearing, where witnesses and experts are heard.

The PCPC also serves as a residual framework for other procedures, including administrative procedures, meaning that it will apply if there is no specific provision regulating administrative procedures.

Portugal is a favored seat for arbitration involving Portuguese-speaking countries, and Portuguese state courts are known for respecting the arbitral jurisdiction

Appeals

Most first instance decisions can be appealed in a second instance court, frequently with a three-judge panel. However, this usually depends on the value of the proceedings (e.g., proceedings below €5,000 cannot be appealed). In these courts, hearings are uncommon, although one can be held if necessary.

In some cases, the second instance decision can be challenged in the Supreme Court, provided (i) the value of the proceedings exceeds €30,000, and (ii) the second instance court has not confirmed the decision issued by the first instance court.

However, there are exceptions to this rule, such as when (i) there is a general interest that justifies a Supreme Court decision on a particular case, or (ii) there are contradictory rulings from appeal courts concerning a matter of law that must be clarified.

Enforcement procedures

The PCPC establishes enforcement procedures. Public instruments, such as documents issued before a notary public, are directly enforceable if they contain a debt confession. This means prior declaration proceedings are unnecessary to enforce them.

Most decisions issued in first and second instances are immediately enforceable, even if subject to appeal, unless the losing party requests the staying of the effects and pays a retainer to the court.

The European Order for Payment simplifies collection in certain crossborder debts cases. It is recognized and enforced in almost all EU countries without requiring a declaration of enforceability.

14.2. Commercial arbitration and mediation

Arbitration

Commercial arbitration in Portugal is governed by Law 63/2011 of December 14, 2011 (Arbitration Act), based on the UNCITRAL Model Law of June 21, 1985 (amended in 2006).

The Arbitration Act regulates national and international commercial arbitration. It applies to all arbitration procedures in Portugal and establishes rules for recognizing and enforcing in Portugal arbitral awards from arbitrations seated abroad.

Under the Arbitration Act, parties can submit any economic dispute to arbitration unless special law exclusively submits it to state courts or compulsory arbitration. If the dispute does not involve these matters but relates to issues that the parties can freely resolve through a settlement agreement, the arbitration agreement is valid.

The Arbitration Act contains provisions to ensure state courts respect the arbitration and prevent parties who do not want the dispute to be decided through arbitration from disrupting it. Indeed, the Arbitration Act contains a specific provision under which—at the request of a party—state courts must refuse jurisdiction over matters subject to an arbitration agreement unless they determine, *prima facie*, the agreement is clearly null, is or becomes inoperative, or is impossible to execute.

The current Arbitration Act regulates interim measures and preliminary orders, multi-party arbitration, and third-party joinders.

The parties can agree on the arbitration rules, provided the following principles are observed:

i. The respondent must be summoned to submit its defense.

ii. The parties must be treated equally and given a reasonable opportunity to present their case before the final award is granted.

iii. The principle of adversarial process must be guaranteed in all procedural phases, with certain exceptions established by law.

Unless the parties agree otherwise, the arbitral award cannot be appealed and may only be set aside in limited cases, such as when the subject of the dispute cannot be decided by arbitration under Portuguese law or if the content of the award conflicts with Portugal's international public policy principles.

Portugal is a favored seat for arbitration involving Portuguese-speaking countries, and Portuguese state courts are known for respecting the arbitral jurisdiction.

Both *ad hoc* and institutional arbitrations occur in Portugal. There are several arbitration centers in Portugal, the most important being the *Centro de Arbitragem da Câmara de Comércio e Indústria Portuguesa*. Portugal has also been a seat of international arbitration proceedings under the Rules of Arbitration of the International Chamber of Commerce and other international institutions.

Portugal is a party to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention), which entered into force in Portugal on January 16, 1995. Portugal declared it would apply the New York Convention only to the recognition and enforcement of awards made in another contracting state.

Portugal is also a party to the 1965 Washington Convention on the Settlement of Investment Disputes (ICSID Convention), which entered into force in Portugal on August 1, 1984. To our knowledge, no ICSID award involving the Portuguese state has ever been made, nor has any ICSID award ever been enforced in Portuguese courts.

Mediation

Although Portugal approved the legal regime on civil and commercial mediation in 2013 (Law 29/2013 of April 19), most mediations still occur in *Julgados de Paz*. These special courts can rule on cases with a value not exceeding €15,000 and on procedures submitted by the CMVM and consumer protection entities.

15

Private equity activities in Portugal are regulated by Decree-Law 27/2023 and supervised by the CMVM

Private equity

15.1. Overview

The Legal Framework on Asset Management (*Regime da Gestão de Ativos*, RGA), approved by Decree-Law 27/2023 of April 28 and CMVM Regulation 7/2023 (*Regulamento do Regime de Gestão de Ativos*, RRGA), regulates collective investment undertakings in Portugal, including private equity and venture capital activities. The CMVM supervises these activities.

Portuguese law does not distinguish between private equity and venture capital, even though this distinction is typically based on the stage of investment. Commonly, venture capital includes seed capital and startup, early-stage, and scale-up investment. In contrast, private equity usually involves expansion, capital replacement, turnaround, debt refinancing, and management buy-out and buy-in investment. As the law does not specify this distinction, the term "private equity" is used broadly, encompassing all forms of private equity activities, including venture capital.

The RGA, supplemented by the RRGA, transposes Directive 2011/61/EU of the European Parliament and of the Council on alternative investment fund managers (AIFMD)—as amended on occasion—into Portuguese law. The RGA also ensures the application of (i) Regulation (EU) 345/2013 of the European Parliament and of the Council on European venture capital funds (EuVECA), and (ii) Regulation (EU) 346/2013 of the European Parliament and of the Council on European social entrepreneurship funds (EuSEF).

15.2. Regulatory frameworks

In line with the AIFMD, the RGA establishes two distinct regulatory frameworks for private equity companies based on the total assets under management.

- Full-fledged framework (above thresholds)

A stricter regulatory framework applies to entities that directly or indirectly manage assets exceeding (i) €100 million, when their portfolios include assets acquired with leverage; or (ii) €500 million, when their portfolios do not include assets acquired through leverage and have no reimbursement rights enforceable within five years from the investment date. For this purpose, leverage is understood to include increasing the risk exposure of the portfolio or funds through cash or securities loans, derivatives or other means. Entities meeting these thresholds face stricter requirements regarding:

i. authorization procedures;

ii. internal organization, including internal control structures;

iii. suitability of qualifying holders;

iv. internal policies and procedures; and

v. reporting obligations.

These entities can manage alternative investment funds domiciled in other jurisdictions and market units or shares in private equity funds in other EEA countries under the marketing passport rules established by the RGA.

- Simplified framework (sub-thresholds)

The main changes regarding the simplified regulatory framework, applicable to private equity companies managing assets that do not exceed (i) €100 million (when their portfolios include assets acquired through leverage) or (ii) €500 million (when their portfolios do not include assets acquired through leverage and have no reimbursement rights enforceable within five years from the investment date), are as follows:

- Sub-threshold private equity companies must have a share capital (and own funds) of at least €75,000.
- These companies are not required to appoint a depositary to safekeep the fund's assets and oversee their management, provided they target only professional investors, as defined in MiFID II.
- They may implement a simplified risk management function.
- If the total net value of the assets managed by sub-threshold private equity companies exceeds €250 million, they must have additional own funds equal to 0.02% of the total net value exceeding this threshold. There is a possible exemption of up to 50% of that amount if they benefit from a guarantee of the same amount issued by an EU or equivalent third-country credit institution or insurance company.
- Private equity companies must annually report their main investments, risk exposures and concentrations of the private equity funds under management to the CMVM.

Sub-threshold private equity companies may opt to request authorization to operate under the full-fledged framework as a private equity company above the thresholds (opt-in procedure), subject to a tighter legal framework. In doing so, they can benefit from the rights granted under the AIFMD, such as the applicability of the EU marketing and management passports.

Portuguese law establishes two distinct regulatory frameworks for private equity companies based on the total assets under management

Alignment of the Portuguese regime with the AIFMD

The recent overhaul of legislation for collective investment schemes has fully aligned the current legislation for private equity companies—which qualify as alternative investment fund managers—with the AIFMD.

The Portuguese regime is notably flexible. It allows for the creation of sub-funds (compartments), funds in a corporate form, open-end and closed-end funds, and self-managed funds. It also permits the absence of a depositary for funds targeting professional investors and the option to appoint a securities depositary instead of a fund depository.

Under certain conditions, management companies authorized under Directive 2009/65/CE of the European Parliament and of the Council may also manage private equity funds if they are authorized to manage alternative investment funds.

Other legal aspects

The Portuguese legal framework allows for considerable contractual freedom. Fund investors and alternative investment managers or management companies can enter an agreement to establish the management regulations of private equity funds. These regulations cover the types of assets in which the fund can invest, portfolio composition, investment policy, and the fund's borrowing limits. However, there are also laws and regulatory provisions to consider regarding (i) asset investment diversification thresholds, (ii) permitted or prohibited transactions, (iii) conflict of interest, and (iv) winding-up and dissolution.

Under Portuguese law, non-EU citizens carrying out investment activities in Portugal may obtain a residence permit if they meet certain requirements

Conclusion

The legal regime for private equity aligns with EU regulations, particularly AIFMD. It ensures strong investor protection by establishing stringent rules in various areas, including supervision and sanctioning, activity access, information disclosure, risk and liquidity management, and remuneration.

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