CUATRECASAS

Doing business in Portugal

A legal and tax perspective

2024 Edition

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This guide provides general information to investors intending to operate in Portugal on legal issues on which they may need advice. It is not intended, and cannot be considered, as a comprehensive and detailed analysis of Portuguese law or, under any circumstances, as legal advice from Cuatrecasas.

This guide was drafted based on the information available on April 24, 2024. Cuatrecasas is under no obligation and assumes no responsibility to update this information.

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.

Cuatrecasas is a law firm present in 13 countries with a strong strategic focus on Portugal, Spain and Latin America and 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 1,350 lawyers in 27 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, efficient legal advice and creating value for the client, the team and society at large.

In Portugal, Cuatrecasas has over 220 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, whose roots date back to 1928, is home to approximately 200 lawyers, and the Porto office, established in 1989, currently has around 20 professionals.

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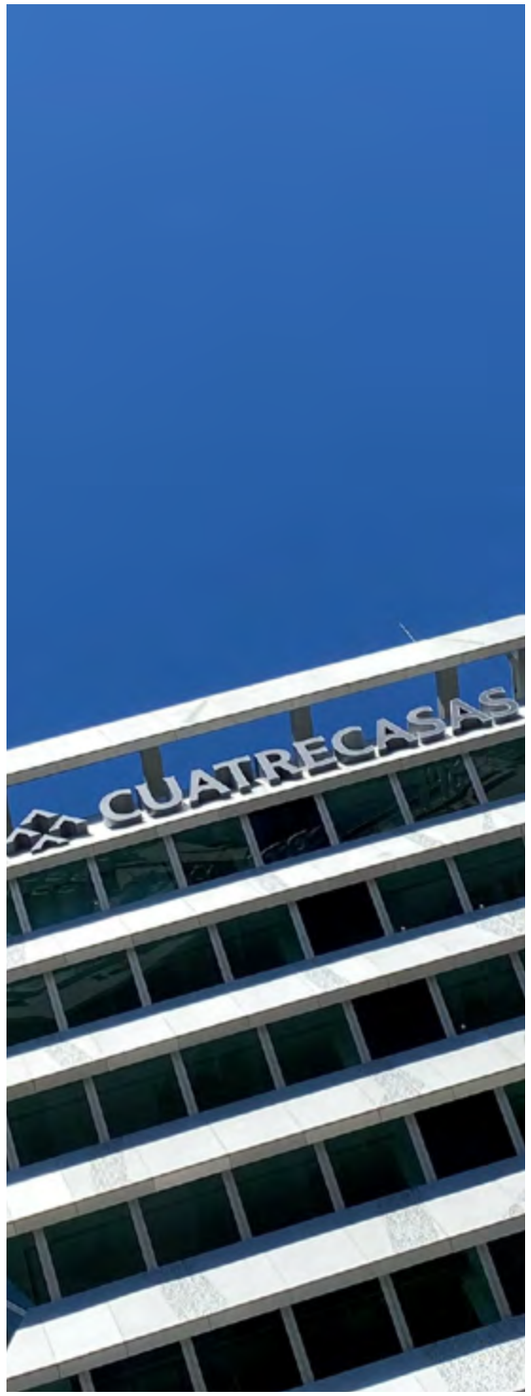

Definitions

ACE	Enterprises complementary group
AdC	Portuguese Competition Authority
AEIE	European economic interest groups
AMF	New Asset Management Framework
ANACOM	National Communications Authority
Arbitration Law	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 tax
CMVM	Joint stock company
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.
IMI	Municipal property tax
IMPIC	Portuguese Institute of Public Markets, Real Estate and Construction
IMT	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
MARF	Alternative Fixed-Income Market
MEFF	Market for Financial Futures and Equity Derivatives
MLI	Multilateral Instrument
Madrid System	Madrid Arrangement and the Madrid Protocol
NHTRR	Non-habitual residents
NIPC	Corporate Identification Number
OECD	Organization for Economic Cooperation 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 at a glance

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

1.1. Unique geo-strategic position

Portugal has become one of the most attractive countries in the EU, not only for its privileged geo-strategic 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. The 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.

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Ways of doing business

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

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 (*sociedade anónima* or "SAs") and private limited companies (*sociedade por quotas* or "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 wish to apply; and (v) the flexibility offered by SQ regulations, as opposed to SA regulations (See "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 (including information gathering, market prospection and local support). Like branches, representative offices do not have separate legal personality. This means that the parent company of a branch or a representative office will be 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 Economico* "AEIE"): These aim to facilitate, improve or

increase the economic activity of their members, who are held jointly and severally liable, albeit subsidiarily 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: These are not considered capital contributions but entitle investors to participate in the positive or negative results of the business.

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).

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

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, small and medium-sized enterprises ("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; and
- Wider access to financing sources since, 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 shareholder 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	SA
CAPITAL		
Minimum requirement	€1 per quota	€50,000
Divided into	Quotas	Shares must be nominative and issued as certified or book entry shares, and they can be negotiated on the stock market.
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.	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.
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	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.
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.	The value of the shareholders' investments in kind must be assessed by an independent expert.
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, which requires the consent of the company in all other transfers.	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 shares registration account to be effective against third parties.
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.	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 shareholders' 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.
There is no provision regarding financial assistance to SQ companies.	However, there is discussion on whether the SA regime also applies to SQs.	Financial assistance is prohibited except (i) for current bank and financial entities activities; and (ii) for the acquisition of shares by or for the company's employees or of a group company. Please refer to section 3.1.

	SQ	SA
FINANCING SOURCES		
Listing and issuing bonds or other negotiable instruments	Certain financing sources that cannot be listed are unattainable for SQs.	SAs can raise funds through capital markets by issuing or selling shares, or issuing bonds or other negotiable instruments.
CAPITAL DECREASE		
Mandatory capital decrease	Quotaholders may opt for a share capital decrease to cover losses, free excess capital or for other special purposes.	Shareholders 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.	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.	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 shareholders 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 shareholders 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
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.	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 physical persons, although legal entities may be appointed as directors, in which case they must appoint a physical 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, the members of the 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 incorporate a new company ("NewCo") in 24 hours with publicly available, pre-approved template documents or 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 for a standard request.
- Tax identification numbers: All the NewCo's foreign shareholders and future nonresident directors must obtain a Portuguese taxpayer number. Non-EU citizens or those not residing in the EU must appoint a tax representative in Portugal. Once they get the taxpayer number, foreign shareholders and future nonresident directors receive a password to use the Portuguese tax authorities' website.
- 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. Corporate bodies appointments 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 section 2.4 on UBO.)

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

The NewCo can operate from the date the deed of incorporation is executed, although it will only have full legal personality upon registration 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 taxpayer number. (See the previous section.)

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 (see section 2.5 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 registratry.

2.4. UBO

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

The RCBE is a database that organizes and maintains an updated record on individuals who have, indirectly or through a third party, 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; and (ii) the beneficial owners and 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., 25%), and the individual exercising control by any other means over that legal person.

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 box.

Breaching this obligation is a misdemeanor punishable with a fine of between € 1,000 and €50,000, which must be disclosed in the respective commercial registry certificates. Other penalties 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 damages they may cause carrying out any acts contrary to law, the bylaws or in breach of the duties associated with their office.

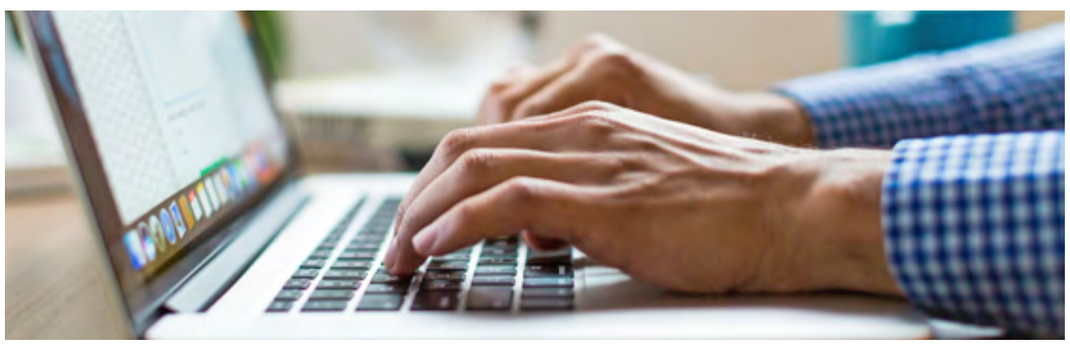
2.6. Exchange control and foreign investment regulations

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 ("Regulation (EU) 2019/452").

Decree-Law 138/2014 sets out certain restrictions that apply exclusively to entities from outside the EU and the European Economic Area (foreign investors) that intend to acquire direct or indirect control over assets in specific sectors of the economy: main infrastructures and assets related to national defense and security or provision of essential services in the areas of energy, transportation and communication ("Strategic Assets") and sets specific criteria to assess whether there is a threat to national defense and security or to the national interest; namely, on the grounds of risks to the international community because of the nature of the acquirer's alliances or relations with criminal or terrorist organizations, past uses of the control position to create serious difficulties in the regular provision of 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. The EU regulation is applicable, in theory, 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 very supportive and open to foreign investment, with strategic companies and infrastructures being controlled by foreign investors, some of them non-EU or EEA based. In any case, following some informal contacts, it appears that the Portuguese Government will now be keen on using the powers conferred by the FDI regimen. In case of doubt, we suggest submitting a request to the member of the government responsible for the area in which the strategic asset is integrated to inform of the proposed transaction and request confirmation that the Government will not oppose to it. Submitting this filing provides legal certainty to proceed with the transaction and, therefore, it is clearly an added value.



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Portuguese law prohibits a Portuguese company from guaranteeing obligations related to financing its acquisition

Providing security

3.1. Overview

There are mainly two types of guarantees:

- *In rem* guarantees (security), where an asset is granted as security for the fulfillment of obligations; and
- 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 determined, under the criteria defined by the parties. Portuguese law does not provide "universal guarantee" over all the debtor's assets.

Corporate benefit

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

i. the company has a justified corporate interest; or
ii. the company is in a controlling or group relationship with the legal entity or individual whose obligations are being secured.

Given that there is some controversy over (ii) above, it is advisable that, even if there is a control or group relationship, companies 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 neither the shares representing its share capital nor the shares representing the share capital of its direct or indirect parent company and there is some discussion as to whether this prohibition should also apply to SQs.

This prohibition includes indirect assistance, i.e., 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

The 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 relevant assets of the guarantor or debtor, mortgages over real estate assets.

Formalities

The applicable formalities depend on the type of security being granted, e.g., 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 types of security, as they can be used afterwards 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 in the share register book of the issuer or of 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*).

Portuguese law provides a special regime for financial collateral arrangements

- 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, notwithstanding the start of an insolvency procedure.

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.

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Antitrust

The AdC received eight applications for leniency, the highest annual number ever

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 relevant Portuguese statute is the Competition Act ("CA"), provided under Law 19/2012 of May 8. The provisions of the CA 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 2023, the AdC opened seven new antitrust investigations, delivered four statements of objections and issued sanctioning decisions with fines for *circa* €25 million, involving companies in different sectors, from food retail distribution to the health, pharmaceutical and teleradiology sectors. In 2023, it also conducted dawn raids in three different investigation proceedings and received four leniency applications.

In 2023 the AdC continued to test its hub and spoke conspiracy theory against several companies in the large food retail sector. This was the result of the dawn raids carried out in 2017 in the facilities of 44 entities and which ended in decisions and nearly €700 million in fines. Specifically, it issued another sanctioning decision against supermarket chains and JNTL Consumer Health (former Johnson & Johnson) for participating in a price- fixing scheme leading to fines for €17 million.

It also accused three entities in the electric cables sector of sharing the market and fixing prices in the context of the contracting procedures for the acquisition of cables for electricity transportation. The AdC imposed fines of more than €2 million.

In addition, the AdC issued a sanctioning decision against three companies (Grupo Affidea, GS24 and Grupo Lifefocus) for bid rigging in public tenders for the provision of teleradiology services to hospitals. This led to fines totaling €6.9 million.

Finally, the AdC sanctioned Dietmed, a wholesale distributor of food supplements and health foods, for fixing the resale prices charged by its independent distributors, as well as implementing a control and monitoring system on such fixed prices. The AdC imposed a fine of €1 million.

In early 2024, the AdC had already imposed fines in three new antitrust proceedings:

It sanctioned 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 lead to a fine of almost € 14 million.

Finally, it sanctioned three multinational companies in the technology consulting sector for anticompetitive practices in the labor market, imposing fines of €4 million.

4.1. Restrictive practices

The CA prohibits (i) collusive practices (anticompetitive agreements, 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 into 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 global 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, global 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, if 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 position in a particular market. Unlike agreements and decisions of business associations, where two or more economic agents are involved in an anticompetitive practice, abuse of a dominant position, as a rule, is carried out by a single operator that holds a relevant place on the market, and thus do not need to worry about the other economic agents' reactions whenever it takes decisions in terms of commercial policy.

With relevant market power, this company can exploit other companies or consumers and exclude potential competitors.

Holding a dominant position on any market is not in itself illegal. However, a dominant company has a special responsibility to ensure that its conduct does not distort competition. Examples of behavior that may be an 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 (predation or 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 global 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, *e.g.,* refusing to deal with or 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 set down. This provision has hardly ever 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 with to the European Commission under the EU Merger Regulation or to the AdC in Portugal but meet any of the thresholds listed below.

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

It is important to bear in mind that (i) the Parties' activities do not have to overlap; (ii) the turnover criterion is just used as a threshold that may trigger a filing irrespective of the competition assessment to be performed by the AdC; (iii) the notification obligation lies with the purchaser.

A concentration which 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). Moreover, the transaction does not produce legal effects under Portuguese law (i.e., breaching the standstill obligation makes the operation ineffective), so it has a negative impact on the seller, too.

If the AdC becomes aware that a merger transaction has been implemented (or certain implementation measures have taken place), there is a good chance it will 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 2023, the AdC reviewed over 80 transactions, which is a significant increase compared to 2022. It also started nine new investigations for alleged gun-jumping infringements and sanctioned one company (LusoPalex) with a €75,000 fine for gun-jumping.

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, certain kinds of gifts and discounts, acts of denigration, acts of comparison and acts of 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

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

5.1. State aid

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 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 to date.

5.3. Foreign subsidies

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

Under the FSR, the following operations must be previously notified to the Commission:

- 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 of more than €50 million; and
- Bids in public procurement procedures involving financial contributions by 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 Commission disclosed its first unannounced inspections in the context of the FSR. These inspections occurred at the premises of a company engaged in the production and sale of security equipment in the European Union.

According to the Commission, in the first 100 days since the effective implementation of the notification regime–on October 12, 2023–pre-notification contacts were initiated regarding 53 operations, of which 14 resulted in a formal notification. The Commission did not initiate any in-depth investigation.

As regards public tenders, in February 2023, the Commission initiated a formal procedure to investigate the proposal submitted by 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. However, shortly after the investigation began, the bidding company withdrew its proposal.

More recently, in April 2024, the Commission announced the launch of two in-depth investigations concerning the proposals submitted by companies also linked to China in the context of a tender for operation of a photovoltaic park in Romania.

The actions of the Commission demonstrate its intention to use its powers to investigate foreign subsidies and that it has the necessary capacity and resources for this purpose. Therefore, it is highly advisable for companies to be prepared and able to meet the obligations arising from the FSR regime, particularly in terms of merger operations and public tender offers that require notification.

6 Intellectual property rights and personal data protection

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

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

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

6.1. Copyrights

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)

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 by our senses in any way is enough. However, it is advisable to register the work with the competent authorities, since this 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 simple 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 works and works of engineering, 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 of 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.

A number of EU directives and international treaties aim to harmonize some features of intellectual property rights.

Although delayed, the legislative procedure for transposing 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).

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

96/9/EC and 2001/29/EC) was formally concluded 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.

6.2. Industrial property rights

Industrial property rights can be protected at national, EU and international level. 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 (i.e., a logo can be protected by copyright, design rights and trademark rights, if 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 a maximum of 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.

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 is susceptible of industrial application (i.e., it can be made or used in any kind of industry).

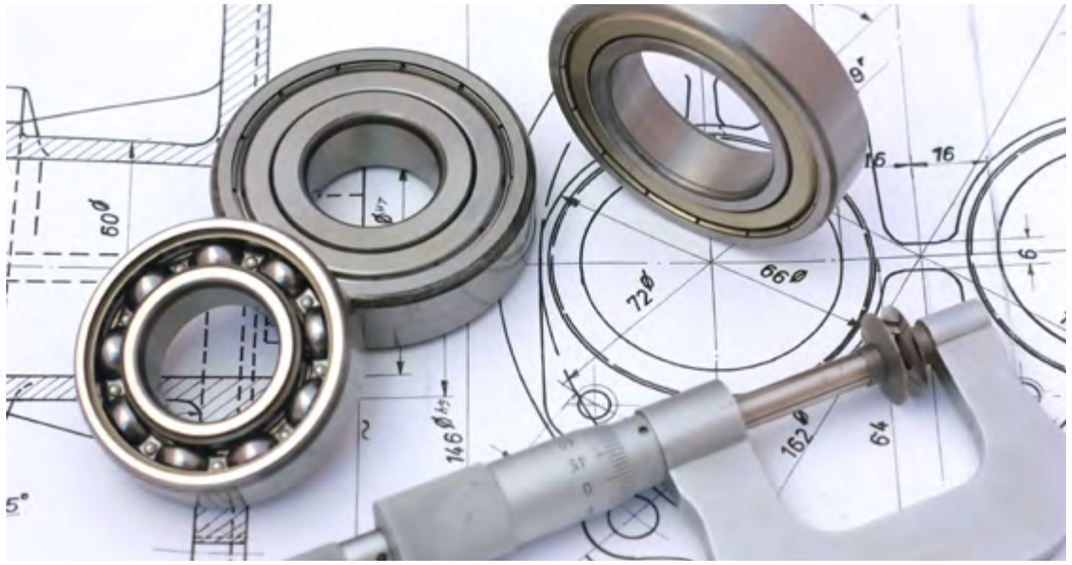
- INPI grants patent rights for a non-renewable period of 20 years, beginning on the date the application is filed. This registration grants exclusive exploitation rights and protection rights against third parties.

- 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 of five years. This can apply to a product, medicine or plant protection, as long as 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 applicable to the unitary patent. 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 is also already in force; and

- An agreement between EU countries to set up a single, specialized patent jurisdiction (the Unified Patent Court, "UPC"), which came into existence and started operating when the Unified Patent Court Agreement ("UPC Agreement") entered into force in June 2023. In short, the UPC Agreement addresses the shortcomings of having national courts and authorities decide on the infringement and validity of European patents by creating a specialized patent court with exclusive jurisdiction for litigation relating to Unitary Patents and European patents and harmonizing the scope and limitations of the rights conferred by a patent.

  Of the 24 EU Member States that have signed the UPC Agreement, 17 States have already ratified it. Furthermore, those EU Member States that have not 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.

6.3. Data protection

Portuguese Data Protection Act

Privacy of personal data files is protected under Act 58/2019, of August 8, (the "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:

- 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; and
- 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 in Portugal by Act 59/2018 of August 8.

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)

The GDPR establishes several obligations for controllers and processors, such as (i) keeping records of all processing activities under its 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 which, 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 ("PIA") 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 Regulation 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 be applicable to companies, including the temporary or permanent prohibition to process personal data, deletion or destruction of data, disclosure of a competent court's decision regarding the non-compliance or the notice or public disclosure of the terms of the infringements by the controller, in case of repeated non-compliance with personal data protection obligations.

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;
- €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 small and medium-sized enterprises

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 highest fine imposed by the Portuguese Data Protection Supervisory Authority was €4,300,000 for non-compliance with different provisions of the GDPR by the Portuguese National Institute of Statistics, namely the unlawful processing of personal health data, failure to comply with its duties of information and processor selection, breach of legal provisions regarding international data transfer, and failure to conduct a mandatory data protection impact assessment.

7 Taxes

7.1. 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: corporate income tax and personal income tax
- Location of immovable property: real estate transfer tax and municipal property tax
- Place where acts and contracts are executed: stamp duty
- Place where the transaction is carried out: value-added tax

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., municipal property tax and stamp duty); and (ii) consider the specific nature of the transactions (*e.g.*, VAT).

7.2. Main taxes

Below is a list of the main Portuguese taxes:

- Corporate income tax ("CIT")
- Personal income tax ("PIT")
- Value-added tax ("VAT")
- Real estate transfer tax (*Imposto Municipal sobre Transmissões Onerosas de Imóveis*, "IMT")
- Municipal property tax (*Imposto Municipal sobre Imóveis*, "IMI")
- Stamp duty

7.3. CIT

7.3.1. Overview

Portuguese-resident companies are liable for CIT on their worldwide income, while nonresident companies are liable for CIT on Portuguese- sourced income only, i.e., 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.

7.3.2. 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 P&L account, which are subject to certain adjustments as required by the CIT Act.

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, *e.g.,* (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 domestic 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 ("DTT") entered into by Portugal supersede this domestic 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.

We highlight that the carryforward periods for tax losses incurred in 2014, 2015 and 2016 was 12 years, whereas a reduced carry- forward 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, small and medium-sized companies engaged in agricultural, commercial or industrial activities).

Tax losses incurred in tax periods from 2014 onwards and 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 since 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 relevant years.

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 important amendments to deductibility of tax losses for 2020 and 2021: (i) tax losses assessed in the 2020 and 2021 tax periods could now be deducted in the 12 subsequent tax periods (as opposed to the 5-year carryforward period in force at the time); (ii) the limitation applicable to the offset of tax losses up to 70% of the taxable profits of the relevant years was increased to 80% for tax losses calculated specifically in 2020 and 2021; and (iii) the time to apply the carryforward periods to tax losses incurred in 2019 and earlier was suspended for two years, between 2020 and 2021.

Micro, small and medium-sized enterprises (and PEs of nonresident micro, small and medium-sized enterprises) benefit from a reduced CIT rate of 17% on taxable income up to €50,000

Tax rates

The standard CIT rate for resident companies and PEs of nonresident companies is 21%.

Micro, small and medium-sized enterprises[2] (and PEs of nonresident micro, small and medium-sized enterprises) that are mainland residents benefit from a reduced CIT rate of 17% on taxable income up to €50,000, while the standard 21% applies to the remaining taxable income.

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

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

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	8.5/25.5/ 32.5
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 that certain requirements are met.
(2) Autonomous taxation rates are increased by 10 % when taxpayers calculate tax losses in the relevant tax period, except for the first 2 years of activity.

Transfer pricing

Under domestic 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 (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, 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 into advanced pricing agreements (APAs) 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, since applicable rules usually imply a waiting period of more than one year before the regime can be applied.

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

- **Business reorganization:** The CIT Act provides a tax-neutrality regime applicable to restructuring operations, which is generally in line with the Merger Directive.[3]

  This regime provides CIT deferral for companies and their shareholders on mergers, divisions and partial divisions, transfers of assets and exchanges of shares.

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

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

7.3.3. Nonresidents 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, including income from local real estate, stocks or other securities issued by resident companies, positive variations in equity arising from certain gratuitous transfers, as well as investment income, royalties and certain service fees when paid by residents or attributable to a local PE.[4]

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 treaties to avoid double taxation in force, which generally follow the OECD Model Tax Convention, despite a few reservations on some of its articles, which are included in several DTTs.

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

3 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.

4 As a rule, taxation is levied through final withholding tax, although there are some exceptions, e.g., 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.

- For dividends, 5%, 10% or 15%
- For interest, 10%, 12% or 15%
- For royalties, 5%, 10% or 12%

EU corporate investors may also benefit from withholding tax relief on interest and royalties by applying the regime under the Interest and Royalties Directive.[5]

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

7.4. 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 domestic law, an individual is considered a tax resident in Portugal in any of the following circumstances:

- Spending more than 183 days (whether or not consecutive) in Portugal in any 12-month period starting or ending that year;
- Spending fewer than 183 days in Portugal in the period referred to above but having a house or home clearly intended as a main residence; or
- (i) if, on December 31 of a given year, the individual is a crew member of a ship or aircraft at the service of an entity with residence, head office or effective management in Portugal; or (ii) if, although living abroad, the individual is performing public functions or commissions at the service of the Portuguese State.

Since 2014, domestic PIT law has adopted the concept of partial residence, so that there is a direct connection between the period of physical presence in Portuguese territory and the status of tax resident. As a rule, taxpayers will become resident in Portugal from the first day of their stay in Portuguese territory and non-tax residents from the last day of their stay, with a few exceptions.

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

5 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.

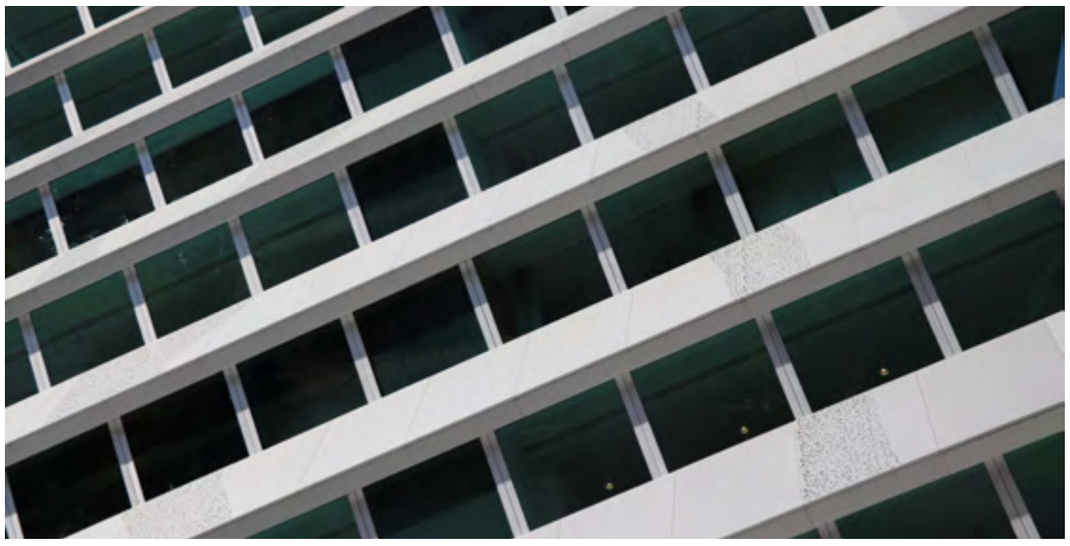
PIT is individually assessed for each taxpayer. The heads of a household (*e.g.,* each member of a married couple or of a couple living under a civil union) may opt to be jointly taxed as a family unit, in which case an income-splitting mechanism applies.

There are six income categories, as follows:

Category A	Employment income, including fringe benefits sand 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 immovable property
Category G	Net worth increases, including capital gains
Category H	Pensions, including annuities and alimony payments

Currently, the progressive tax scale's highest rate is 48%, applied to annual taxable income exceeding €81,199, which is further liable for an additional solidarity tax at a maximum 5% rate for taxable income exceeding €250,000 (a 2.5% rate applies to taxable income between €80,000 and €250,000).

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



There are exceptions to the progressive tax rates scale, *e.g.,* a flat rate of 28% on capital gains on the transfer of securities (not applicable to short term sale of securities) or on real estate rental income. Investment income is usually liable for final withholding tax at 28%. Taxpayers may opt to have these types of income included in their taxable base together with other income and taxed under the progressive tax rate scale subject to the standard PIT regime.

The State Budget Law for 2024 established the end of the non-habitual tax resident regime ("NHTRR") from 2024 and introduced a new tax incentive for scientific research and innovation. The new tax incentive will be available to taxpayers who (i) become tax residents of Portugal as or 2024; (ii) have not been tax residents of Portugal in the past five years; and (iii) earn income from certain activities (*e.g.,* teaching in higher education and scientific research, jobs and memberships in statutory bodies of entities certified as startups under Portuguese law, research and development jobs where costs are eligible for tax incentives for research and business development as specifically provided in Portuguese law, jobs or other activities carried out by tax residents in the autonomous regions of the Azores and Madeira).

Eligible individuals will be required to register with specific entities and authorities, depending on the nature of the activity or job involved. This new tax incentive resembles the NHTRR for high value-added activities, providing a reduced rate of 20% on the net salary and self-employment income from the eligible jobs and activities for a 10-year period, after which they will be Portugal in 2024 to still benefit from the NHTRR, subject to specific conditions.

Former residents' PIT 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 the Portuguese territory in any of the previous five years; (ii) were tax resident in the Portuguese territory in any period prior to 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 NHTRR.

7.5. VAT

There are three different VAT rates: 6% (reduced), 13% (intermediate) and 3% (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 5%, 12% and 22%, respectively.

7.6. IMT

IMT is a municipal tax levied on the acquisition of real estate in Portugal for a consideration, on the higher of the property transfer value and its fiscal value. The acquisition of shares and quotas in companies is also liable for IMT (on the higher of the property's accounting value and its fiscal value), if:

- the companies' assets directly or indirectly consist of more than 50% of immovable property located in Portugal that is not allocated to an agricultural, industrial or commercial activity, excluding the acquisition and resale of immovable property; and
- because of the acquisition, amortization, or any other facts, any of the shareholders hold at least 75% of the share capital or the number of shareholders is reduced to two spouses or cohabiting partners.

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

- Rural property: 5%
- Urban property for residential purposes: progressive rates up to 7.5%
- Other urban property and other 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%.[6]

6 This rate does not, however, apply to individuals.

7.7. IMI

IMI 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[7]:

- 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%[8]

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

An IMI surtax (*Adicional ao IMI,* "AIMI") was introduced on January 1, 2017, and it is levied on urban property, excluding urban property classified for "commerce, industry or services" or "other" uses.

AIMI is paid by individuals, corporate entities, structures and collective bodies without legal personality, and undivided inheritances, and it is levied on the sum of the fiscal value of all the urban properties owned by a taxpayer as determined on January 1 each year.[9]-[10]

For individuals and undivided inheritance, the taxable 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 €1,200,000.

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

8 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 AIMI.

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

Applicable rates are as follows:

Taxpayer	Rate (%)
Individuals	0.7[11] /1[12] /1.5[13]
Undivided inheritances	0,7
Corporations	0.4/0.7[14] /1[15] /1.5[16]
Entities in blacklisted jurisdictions	7.5

7.8. 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.

The main taxable events for foreign investors to consider are as follows:

- 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%; and
  - Five years or more: 0.6%

11 To the taxable amount exceeding €600,000, up to €1,000,000 (€1,200,000 up to €2,000,000 for married couples or couples living under a civil union opting for joint taxation)

12 To the taxable amount exceeding €1,000,000.00 up to €2,000,000.00 (€2,000,000.00 up to €4,000,000.00 for married couples or couples living under a civil union opting for joint taxation) before the €600,000.00 or €1,200,000.00 deduction.

13 To the taxable amount exceeding €2,000,000.00 (€4,000,000.00 for married couples or couples living under a civil union opting for joint taxation), before the €600,000.00 or €1,200,000.00 deduction.

14 To the taxable amount up to €1,000,000.00, in the case of properties owned by companies for the personal use of shareholders, members of the board or of any management or supervision bodies.

15 To the taxable amount exceeding €1,000,000.00 up to €2,000,000.00, in the case of properties owned by companies for the personal use of shareholders, members of the board or of any management or supervision bodies.

16 To the taxable amount exceeding €2,000,000.00, in the case of properties owned by companies for the personal use of shareholders, members of the board or of any management or supervision bodies.

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 liable for taxation on the amounts guaranteed at rates that vary, depending on the term, similar to that regarding credit taxation. Guarantees are not taxed if they are materially ancillary to contracts already taxed, to the extent that they are granted simultaneously to the guaranteed obligation.

7.9. Tax benefits

Briefly, the main Portuguese tax benefits generally applicable to businesses include the following:

- Contractual benefits for productive investment projects: CIT deduction between 10% and 25% of the investment. Eligible investments for or exceeding €3,000,000. Reductions or exemptions from IMT, IMI and stamp duty are also available under this regime.
- Incentive regime for research and development (SIFIDE II): CIT deduction of 32% on eligible R&D expenses incurred in the tax year (increased by 15% for micro, small and medium-sized companies) and of 50% of the surplus of expenses incurred in the tax year over the average of the two previous tax years, capped at € 1,500,000.
- Special tax regime to support investments (RFAI): CIT deduction for investments in the North, Center and Alentejo regions and in the Autonomous Regions of the Azores and Madeira (i) for investments up to €15,000,000, a deduction of 30% of the applications is granted; (ii) for investments exceeding €15,000,000, (on the excess part of that amount) a 10% deduction for relevant applications. In the case of investments in the eligible regions of Algarve, Lisbon and Setubal, a deduction of 10% of the applications is granted. In addition, IMT, stamp duty and IMI exemptions may be granted on 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 1.5% (2% for micro, small, or medium-sized enterprises or Small-Mid Cap companies). This rate is applied on the net increase in eligible equity. However, the deduction in any tax year must not exceed the greater of €4,000,000 or 30% of the taxable EBITDA. The part that exceeds the cap provided above can be carried forward for a period of five years. The amount of net increases of eligible equity corresponds to the sum of the amounts assessed in each of the six previous tax years. In case the net increase in eligible equity is negative, the result is zero.

Important tax benefits are the CIT deduction for investments in specific regions, the IMI exemption for a three-year period and the IMT exemption on the acquisition of urban properties intended for urban rehabilitation

- Urban rehabilitation: IMI exemption for a three-year period, IMT exemption on the acquisition of urban property intended for urban rehabilitation, and 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: IMT exemption for one year.

7.10. 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.

8

Except for specific contracts such as term contracts, telework contracts, part-time contracts and service commission contracts (usually for top-management), employment contracts in general do not have to be in writing

Employment

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

8.1. 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.

8.2. 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 unfixed 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;
- The company needs to temporarily replace an employee on leave (i.e., sick leave or maternity leave).

8.3. Telework regime

Work can be performed under a telework regime. As a rule, the telework regime, either permanent or temporary, depends on a written agreement, which may be included in the original employment contract or in an separate document. If the telework offer comes from the employer, the employee is free to refuse. If it comes from the employee, it can only be refused by the employer in writing, stating the grounds for refusal.

Under the following circumstances, and provided the telework regime is compatible with the activity, the following employees have the right to work under a telework regime:

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

with the employee in the same household, provided both parents meet the conditions to work under a telework regime or for single-parent families or situations in which only one of the parents, upon evidence, meets the conditions to work under a telework regime.

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 the expenses due to teleworking.

It is illegal for the employer to contact employees during rest periods (except in case of force majeure).

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

Entering into an employment contract

Except for specific contracts such as term contracts, telework contracts, part-time contracts, service commission contracts (usually for top-management), employment contracts in general do not have to be in writing.

However, employers are obliged to provide employees with basic written information on the key terms, including employer identification (if the employer is a company, the information must include the company's group relations) and employee identification, salary, category, working hours, workplace, vacation period, accident at work insurance policy, applicable collective-bargaining agreement, work compensation fund and work compensation guarantee fund.

Probation period

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

The probation period cannot surpass:

- 240 days for managerial positions;
- 180 days for qualified employees, employees in a position of trust, employees seeking their first permanent job and long-term unemployed; and
- 90 days for all other employees.

For term contracts, the probation period is 15 or 30 days, depending on the length of the contract (less than six months or more, respectively). The legally defined periods may be reduced or eliminated by individual agreement, but they cannot be extended. If the employment agreement lacks any stipulation, the probation period is applied to the exact extent provided for 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.

8.4. 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 withholdings these taxes and contributions from the employee's salary.

The official minimum wage is established by law and, in 2024, it is set at €820 per month

8.5. 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 also be established in certain circumstances, allowing for up to 12 hours per day and 60 hours per week, *e.g.,* the adaptability regime (under which the regular working time is defined based on an average), time bank (like a time savings account) and concentrated working hours (all working time scheduled in 3 or 4 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 some 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.

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

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

8.6. 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 use employees within the same professional group or career. Mobility between non-equivalent groups is allowed only for technical or organizational reasons and must end as soon as the circumstances are resolved. If, due to functional mobility, an employee is performing higher functions, he or she will be entitled to the corresponding salary and benefits.

Downgrading is only allowed in case of exceptional needs of the employer or the employee and if agreed by the parties. If downgrading implies a decrease in salary, consent from the Authority for Working Conditions is required.

Geographic mobility

Changing the employee's workplace is allowed when (i) the company changes location, and (ii) it 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 the increased expenses or terminating the employment contract, with the right to the same severance as termination on objective grounds as described below, if they can prove that the transfer causes serious harm.

In temporary transfers, the employees' expenses will be reimbursed. However, in normal circumstances, the temporary transfer cannot exceed six months. Employment contracts may include a workplace transfer clause waiving this time limit, but such clause will only be 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 reduction of salary (layoffs) for market, structural or technological reasons.

8.7. 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) causes.

In the case of term contracts and service commission contracts, the employer can unilaterally terminate the contract by giving notice.

Termination for cause

Termination for cause may be triggered when employees fail to comply with their legal and contractual obligations; it is then mandatory for the employer to 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 without losing their right to a salary during disciplinary proceedings.

Employees under parental protection cannot be dismissed without consent from the relevant authority, 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 grounded 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) giving 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.

On termination of employment under a collective redundancy, employees will be entitled to legal severance equivalent to 14 days to 1 month base salary, plus an allowance for every year and fraction of a year of seniority. Depending on the starting 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 additional requirements: (i) impossibility of maintaining the employment relationship (i.e., the company has no other position for the employee or the employee does not accept the new position); (ii) the company cannot have or engage other employees under a term employment contract to perform the extinct functions. When a job position has been eliminated, the selection criterion is determined by law.

As in collective redundancy, all steps in the individual redundancy procedure are legally established. The procedure involves 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 in collective redundancy.

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 (i) all salaries between the date of the employment termination and the date the final court decision becomes *res judicata*; (ii) compensation for any alleged and proved moral and patrimonial damages due to the unlawful dismissal; (iii) choosing between receiving compensation of 15 to 45 days' base salary, plus seniority allowance per year or fraction of a year, (or 30 to 60 days for protected employees, such as those under parental protection) or being reinstated to the previous work position.

The employer may oppose the reinstatement if it has up to nine employees or if the employee's

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 geographic area

functions were managerial; if opposition is accepted, compensation will be 30 to 60 days' base salary, plus seniority allowance per year or fraction of a year.

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 into 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, violation of its terms or termination cannot be waived by the employee, except through a court settlement agreement.

8.8. 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 kind 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 position of employer, with the same obligations as 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, mainly 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.

The employer's portion of social security contributions is generally 23.75% of the monthly salary, and the employees' contribution is 11%

8.9. 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 may request information on several matters concerning the company, including general plans for the activity and budget, projects to modify the company's share capital or the company's activity. The workers' council must be consulted on several matters, including any measure that results or may result in a significant reduction of the number of employees or significant changes to the 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 will be part of an inter-union commission.

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

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 into collective-bargaining agreements with employers or employer associations. Collective-bargaining agreements generally apply only to their subscribers. However, the Government may extend their application to employers carrying out the same activity or within a certain geographic area through a ministerial order.

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

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

8.10. 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, and the employees' contribution is 11%. Contributions rates may differ for certain areas of activity or category of employees.

8.11. 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.

8.12. 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.

9

Several securities regulated markets, multilateral trading facilities and central securities depositories operate in Portugal

Securities regulation

9.1. Overview

Several exchange management entities operate in Portugal for financial instrument trading: 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**, 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 20 (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**, a derivative regulated market managed by Euronext.

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

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

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

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 small and mid-sized companies 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 ("CSD") established in Portugal and authorized to manage securities settlement systems and centralized securities systems at national level is:

- **Interbolsa** – Sociedade Gestora de Sistemas de Liquidação e de Sistemas Centralizados de Valores Mobiliários, S.A. ("Interbolsa").

Interbolsa, part of the NYSE Euronext Group, is mainly 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 national level, the Centralized Securities System, and (iii) acting as the National Numbering Agency.

Regarding settlement systems (real-time and foreign currency), Interbolsa:

- settles transactions in regulated markets and multilateral trading facilities;
- settles OTC (over-the-counter) transactions between financial intermediaries (participants) affiliated to Interbolsa'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 to Caixa Geral de Depósitos (SPME), depending on whether the payment is in euros or in non-euro currencies.

The Centralized Securities System managed by Interbolsa 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 System.

Finally, Interbolsa 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.

9.2. 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 Portuguese Companies Code. 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, but, 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 relevant 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.

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 continuing 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 bi- annual 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 relevant information that, if disclosed, may reasonably induce an investor to acquire or transfer securities or financial instruments and materially affect their quotation on a secondary market.

  As an exception, the company may postpone publishing a relevant fact, under its own responsibility, (i) if it considers that the information will damage its interests; (ii) if this postponement is not likely to mislead the public; and (iii) if the company can guarantee the confidentiality of the information.

- **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 assure 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 relevant reporting obligations that enable the CMVM to monitor 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.

9.3. 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 market in financial services in the EU. 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 the 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 the recent changes to the Portuguese Securities Code, the qualification of the offer as a public offer, the exemptions and the need for a prospectus are now directly established in European legislation only, specifically in Regulation (EU) 2017/1129 of the European Parliament and of the Council.

9.4. 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 European Economic Area, 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 EU level, with national differences still applying (including the passivity rule and the breakthrough rule).

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 as a result of 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 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, in certain situations). Additionally, the CMVM may suspend the obligation to launch a takeover bid provided the shareholder that has reached the relevant 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 holders of securities.

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, and they must 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.

Equitable price is the higher of (i) the highest price that the offeror or the persons acting in concert with the offeror have paid for the same securities during the six months immediately before the bid announcement; and (ii) the average price at which the securities have been traded in the regulated market in the same period. If it is not possible to determine the price according to the above criteria, or if the CMVM decides that the price is not equitable or not justified, it will be determined by an independent auditor appointed by the CMVM.

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 and 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.

10

Banking, insurance, energy and telecommunications are regulated sectors

Regulated sectors

10.1. Financial entities and investment companies

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

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, prior 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 free rendering of 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, i.e., 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 relevant legislation, such as the Portuguese Securities Code and the legal regime of the Central Credit Register, and 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 (the "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 aims to be a privileged means of communication with the supervised entities which is now available.

Finally, it is worth noting the launch of the Investor Portal Platform (*Portal do Investidor*), which is new digital area dedicated to current and potential investors. It will contain all the essential information needed for them to make informed and safe investments.

10.2. Insurance

Prior 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.

10.3. Energy

10.3.1. 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 policies. In line with these European 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.

The public consultation on the review of the PNEC 2030, which took place between March and April 2023, gathered input from various stakeholders, such as industry associations, environmental NGOs, academia and citizens, on the main challenges and opportunities for the energy transition in Portugal. Based on the results of the consultation, the Portuguese Government proposed to revise the national targets for 2030, such as increasing the share of renewable energy sources in gross final energy consumption to 55%, reducing greenhouse gas emissions by 60% compared to 2005 levels, and improving energy efficiency by 40%. These proposals aim to align the PNEC 2030 with the "REpowerEU" and "Fit for 55" European policies, which set more ambitious goals for the EU, such as achieving climate neutrality by 2050 and reducing emissions by 55% by 2030.

Additionally, the National Hydrogen Strategy has been approved through the Resolution of the Council of Ministers 63/2020, of August 14, 2020, aiming 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 H_2 production, number of H_2 vehicles (passengers and goods), creation of 50 to 100 hydrogen filling stations, and 2 GW to 2.5 GW of installed capacity in electrolyzers.

Finally, it should also be stressed that a significant portion of funds (38%) available under the National Recovery and Resilience Plan (*Plano Nacional de Recuperação e Resiliência*) is allocated to climate transition, namely to the following strategic areas: sea, sustainable mobility, decarbonization of industry, bioeconomy, energy-efficient buildings and renewable energy.

Portugal has great potential as a renewable energy producer (solar, wind, hydro, thermal and wave energy). According to the DGEG's statistical information, between March 2023 and February 2024, the production of electricity from renewable sources was 37753 GWh, i.e., 66.9% of the total gross production plus the electricity import balance, with Portugal having a total installed capacity 19079 MW from all units producing electricity from renewable sources.[17]

Legal overview

On January 14, 2022, a new legal framework was implemented by Decree-Law 15/2022, governing the organization and functioning of the National Electricity System (*Sistema Eléctrico Nacional*, "SEN") and the terms for activities in the electricity sector, including production, storage, self-consumption, transport, distribution, aggregation and commercialization of energy, transposing Directive (EU) 2019/944, of the European Parliament and 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 of renewable energy projects benefiting from a guaranteed remuneration regime, such as feed-in-tariffs which historically helped promote investment in this sector in Portugal. However, the measure does not impact the remuneration regimes that were already in force, which will be maintained under their current terms. It also envisages the possibility for special remuneration incentives for fixed or variable amounts, capped or not, to be granted in the context of public auction procedures, aiming to allow a certain return on investments made by sponsors of these projects.

Additionally, due to the rise in fossil fuel prices and in line with the European joint action for more sustainable and accessible energy, the Portuguese Government enacted Decree-Law 30-A/2022, of April 18, which sets out certain exceptional measures, valid for a two-year period, to simplify licensing procedures for renewable projects, which was subsequently supplemented by Decree-Law 72/2022 of October 19. These measures include the following:

- Exemption from operation license to start operating: Renewable power plants, storage facilities and self-consumption units may start to operate before being awarded an operation license or certificate provided the grid operator confirms that the connection and injection conditions are met, and subject to a prior notification to the DGEG. In this case, the operation licenses or certificates, as applicable, must be requested within three years from the prior communication 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 the case-by-case assessment on being subject to 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: Exemption of power plants with an installed capacity of less than 1 MW of prior urban planning verification and application of a simplified procedure of prior notification for power plants exceeding such installed capacity.

More recently, the Environmental Simplex program has been approved through the enactment of Decree-Law 11/2023 of February 10, which aimed to promote the elimination of unnecessary licenses, permits, acts and procedures without affecting environmental protection and with the public administration taking on a special role in enforcement. With particular impact on renewable

17 Provisory figures to be updated by the DGEG.

projects, there was a general review of the cases subject to the environmental impact assessment procedure, with pre-established exclusions for the different project types. For instance, solar photovoltaic projects with an installed capacity of less than 50 MW and wind projects with an installed capacity of less than 25 MW are no longer subject to the environmental impact assessment procedure, unless they are located in sensitive areas or affect protected species or habitats. Moreover, the environmental licensing of renewable projects was simplified by creating a single electronic platform for submitting applications and obtaining decisions, as well as by reducing the deadlines and fees for the process.

Activities

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

The main players in the above activities are the following:

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

This company is the sole concessionaire under a monopoly regime of the national transportation grid, which operates in a very high voltage. The concession includes the planning and global technical management of the National Electricity System to ensure the harmonized operation of its infrastructures, as well as the continuity of service and security of electricity supply.

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

This activity is carried out through the national distribution grid, which operates in medium and low voltage, and through the low voltage distribution grids. The operation of the national distribution grid is subject to a 35-year concession agreement. There are several other small players in this sector but with a very limited market share. Also, under Law 31/2017 of May 31, the municipalities are entitled to launch public tender proceedings to grant concession agreements for the exclusive operation of the municipal low-voltage distribution grids.

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

This company is responsible for purchasing all energy benefiting from a guaranteed remuneration regime. It also supplies customers who are still buying electricity under regulated tariffs. There are several other small players in this sector but with a very limited market share.

Administrative authorities

The Energy Services Regulatory Authority ("ERSE") is responsible for regulating the electricity sector. ERSE's activities aim to (i) protect the interests of consumers, particularly vulnerable customers, with regard to prices, service quality and access to information; (ii) ensure economic and financial balance conditions for the activities exercised by the regulated sectors in the public interest, when managed properly and efficiently; (iii) promote competition in the energy markets as regulator and under applicable law; (iv) encourage efficient energy use and protection of the environment; and (v) arbitrate and resolve disputes, encouraging out-of-court settlements.

The Directorate-General for Energy and Geology ("DGEG") is the Portuguese public administration authority. Its mission is to contribute to planning, promoting and evaluating energy and geological resources policies in terms of sustainable development, and ensuring security of supply.

DGEG is the competent licensing entity for production, storage and self-consumption of energy. The MIBEL (*Mercado Ibérico de Electricidade*) is a joint initiative of Portugal and Spain aimed at creating a regional electricity market. The idea is that consumers will be able to buy electricity in the competitive market from any producer or retailer in Portugal or Spain. The MIBEL initiative focuses on integrating the Portuguese and Spanish electricity systems to create a market with transparency and free competition, and it is self-financing and self-organized, with a single reference price. The market players are granted free access to the market, with equal conditions, rights and obligations.

Business opportunities

Considering the recent regulatory changes in Portugal, sponsors of renewable projects in operation benefit from different alternatives that allow for optimization and increase of return, including the following:

- Provided the same injection capacity is maintained, adding new production units using a different renewable source technology (hybridization) to a project in operation does not require a new connection permit (*título de reserva de capacidade*).
- Repowering and overpowering, treated as a non- material change to the project, are also exempt from a new connection permit, provided the same injection capacity is maintained.
- In a full repowering, and until the PNEC 2030 objectives are met, 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, it is also expected that grid capacity awarded through competitive auctions will continue to be fostered. The Portuguese Government has announced the intention to award around 10 GW of offshore wind projects to be commissioned until 2030, with the first auction expected to take place by the end of 2024.

10.3.2. Gas market activities

Legal overview

Portugal has no proven natural gas resources. The supply of natural gas to the Portuguese market is carried out through long term take-or-pay contracts entered into with Galp, where 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 organized in two large areas: (i) import, storage, transport and regasification of natural gas or LNG, where the only concession was issued to a subsidiary of Galp Energia (Transgás); and (ii) local and regional distribution under the license issued to the local or regional distribution companies.

Natural gas consumers with an annual consumption below 2 Mm^3 were supplied by regional or local distribution companies, whereas those with an annual consumption of at least 2 million m^3 were directly supplied by Transgás. For large customers, i.e., over 50,000 million m3, prices were at free-market rates, whereas for customers with an annual consumption below 50,000 million m3, prices were established in the concession agreements.

The current structure of the market was established by Decree-Law 30/2006 and Decree- Law 140/2006 (now revoked by Decree-Law 62/2020), under which the market was deregulated, giving any company free access to the market, unbundling energy suppliers from the distribution network, and strengthening ERSE's independent position. These new laws were imposed on the last-resort suppliers, whose gas price is regulated by the tariffs.

Decree-Law 62/2020 of August 28 establishes the organization and operation of the National Gas System ("SNG") and the respective legal regime and proceeds with the transposition of Directive 2019/692. This Decree-Law also establishes the legal regimes applicable to receipt, storage and

regasification of liquefied natural gas (LNG), underground gas storage, gas transmission and distribution activities, as well as the planning of the National Transport Network, Storage Infrastructures and LNG terminals (RNTIAT), and the planning of the National Gas Distribution Network (RNDG).

Regulation 827/2020 approves ERSE's Commercial Relations Regulations for the Electricity and Gas Sectors (RRC), applicable to the gas and electricity sectors throughout the entire national territory by regulating 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 of infrastructure operators and suppliers; (iv) definition of the supply, contracting, invoicing and payment obligations; (v) contracting, agent registration, organized markets and bilateral contracting regime, and change of supplier, supervisory framework for the operation of gas markets; and (vi) dispute settlement.

Activities

The Portuguese Natural Gas System (SNGN) is mainly organized based on exploiting the public network comprised of the National Transmission Network, the Underground Storage Facilities, the LNG Terminal and the National Distribution Network, subject to concessions and local distribution units subject to 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) logistic operations for the switch of supplier.

Tariffs are determined according to an add-in system and based on fixed assets rate of return, plus other allowed profits, and in some situations, other aspects as recovery of the tariff deficit. Commercialization is not subject to specific licensing, although it is subject to ERSE's Regulations and a registry.

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.

Here are the 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.

Administrative authorities

The reception, storage and regasification of LNG and the underground storage, distribution and supply of last resort, as well as the logistic operation of the change of supplier and of the management of organized markets are subject to ERSE, ENSE and DGEG regulation and supervision.

10.3.3. 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 the entry into force of Decree-Law 109/94.

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 custom duties and taxes. In addition, the entities trading in oil and oil products are subject to registration with ENSE, E.P.E. (defined below). Other requirements include (i) ensuring the regular supply; (ii) ensuring prices are published; and (iii) providing relevant 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 because of (i) insufficient content of the allocation plans, and (ii) insufficient regulation of the assessment of the environmental cumulative impact of investments, which is now changing due to the environmental impact assessments made in conjunction with the maritime plans for future wind offshore projects.

Activities

Portugal has no oil deposits and is almost fully dependent on imports. It has well- diversified crude oil supply sources. In 2018, Russia was Portugal's biggest oil supplier (19.6% of total crude oil imports), followed by Angola, Azerbaijan and Saudi Arabia.

The Portuguese oil sector comprises production, refinement storage, transport, distribution and commercialization.

Administrative authorities

The main administrative authority in the Portuguese oil sector is *Entidade Nacional para o Sector Energético* ("ENSE"), ensuring compliance with the obligations entered by Portugal 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, after enactment of Decree-Law 69/2018 of August 27, there were important modifications in the energy sector's regulatory and supervisory entities. As a result, ENMC was restructured and attributed supervisory powers to oversee the whole energy sector. This entity is now called the National Entity for the Energy Sector, E.P.E. ("ENSE, E.P.E."). Under this legislation, the former ENMC, E.P.E., now ENSE, E.P.E., has become the specialized inspection entity for the entire energy sector, without prejudice to the powers ERSE provided in its statues and under the energy sanctioning regime.

ENSE, through its oil reserve unit, the central storage entity (CSE), is responsible for ensuring a 30-day reserve for national security. Market operators are obliged to maintain security reserves of 90 days, 30 of which are secured by CSE. They are responsible for the remaining 60 days and for notifying ENSE E.P.E. of their location.

Current developments

Government sources indicated that a review of the current legislation could be in order, given that the current texts date from over 20 years ago and do not reflect the technological advances of the industry and the environmental and other relevant concerns. If these intentions are confirmed, approval of new legislation is likely to take several months.

Thirteen of the fifteen concession contracts for prospection, research and exploration of hydrocarbons in Portugal were canceled or revoked between 2017 and 2019, mainly motivated by environmental and political pressure. Some cancelations 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 on the Onshore Lusitanian Basin were terminated in September 2020.

The energy sector, particularly the oil and gas industry, has been disrupted by recent lockdowns, with a sharp fall in revenues, especially for oil. The COVID-19 pandemic frustrated all investment expectations and forecasts for 2021. Fuel supply investments were hit hard in 2020 and 2021.

However, there is no doubt that due to the high increase in oil and gas prices, following Ukraine's war, the oil and gas industry is in the front line of the world's comeback from the 2020 and 2021 COVID-19 crisis.

Also aiming to push for the development of a more sustainable approach in terms of energy production,

it is important to highlight that the Portuguese Government recently enacted the National Strategy for Hydrogen, which attests to the recent political will to invest in this specific type of energy source, aiming to pursue climate goals associated with the de-carbonization of the economy. To achieve carbon neutrality, as provided in RNC2050, a reduction of greenhouse gas emissions of between 85% and 90% was set for Portugal to be established by 2050, in comparison to 2005.

The remaining emissions will be offset through carbon sequestration through soil and forests. The emission reduction trajectory was fixed between 45% and 55% until 2030, and between 65% and 75% until 2040, all relating to the values registered in 2005.

The Portuguese Government has publicly stated that Portugal is prepared to lead the hydrogen transition in the European context. We should expect further development of the hydrogen regulatory framework in the next few months. Also, there are currently several investment projects being considered by the Government, and some of these will be chosen for financing through European funds.

We have seen a growing increase in downstream operators, particularly Spanish operators, looking to develop their business in Portugal. There are also several projects to expand the infrastructure of the LNG terminal in Sines, which include increasing storage capacity, increasing 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 because of the combination of 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. Currently, there does not appear to be political interest in developing Portugal's potential in this area. The Minister of Environment has made it clear that his priority is to combat climate change and reduce dependence on fossil fuels, ambitions difficult to reconcile with further oil and gas prospection.

In recent months, important legislative instruments were published for promoting renewable energy and the hydrogen economy in Portugal, where there was a regulation at three different levels: (i) targets regarding the consumption of energy from renewable sources; (ii) the implementation of projects and initiatives for the production and storage of energy from renewable sources; and (iii) the establishment of the system for the centralized purchase of renewable gases (biomethane and hydrogen), all through three different diplomas:

(i) Decree-Law 84/2022, which 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 national 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 the incorporation of renewable energy in the final consumption of energy, set out in the above Decree-Law, are even more ambitious and go beyond those established in the PNEC and the RNC2050. The country's overall target for renewables is now 49% for 2030, 2% higher than the commitment in the PNEC. Interim goals were also stipulated, which include achieving renewable incorporations in final consumption of 34% by 2024, 40% by 2026 and 44% by 2028.

(ii) Decree-Law 72/2022, which first amended Decree- Law 30-A/2022 of April 18 introducing exceptional measures for the implementation of projects and initiatives for the production and storage of energy from renewable sources. The new legislation aims to strengthen administrative simplification, highlighting projects with power below 1MW not being subject to prior control. In the case of projects with a capacity exceeding 1MW, municipalities may only reject the installation of renewable energy-generating centers if the municipal territory is already occupied by these facilities, equal to or greater than 2%, and the project has not been subject to a favorable or conditioned favorable environmental impact statement. Therefore, a rejection cannot be made for reasons relating to the negative impact on landscape heritage. Decree-Law 22/2024 of March 19 extends these measures until December 31, 2024.

(iii) Ordinance 15/2023, which established the 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: biomethane - 150 GWh/year (base higher calorific value PCS) and hydrogen - 120 GWh/year (base higher calorific value PCS). This ordinance also establishes that contracts will have a 10-year duration, starting from the date of the first supply.

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

10.4. Technology, media and telecommunications ("TMT")

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. 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, namely in the context of convergence of telecommunications, media and information technologies; (iii) ensuring the application and supervision of laws, regulations and technical requirements and communications operators' compliance with provisions of the respective licenses or concession contracts; (iv) ensuring the existence and 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), which transposed the European Electronic Communications Code (Directive (EU) 2018/1972, of the European Parliament and of the Council of December 11) into national law, was published, replacing the previous Electronic Communications Law (Law 5/2004 of February 10, 2004).

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

In addition to introducing other significant changes, the New Electronic Communications Act establishes (i) a legal regime applicable to electronic communications networks and services, to related resources and services, and to the management of the radio frequency spectrum, as well as to specific features of terminal equipment; (ii) the responsibilities of the Portuguese Regulatory Authority ("ARN") and other competent authorities in these areas; (iii) a broad definition of "electronic communications service," which encompasses a series of activities carried out by instant messaging applications, email, internet telephone calls, and personal messages provided through social media; and (iv) a general authorization regime imposing a duty of notification according to which undertakings intending to offer public electronic communications networks and publicly available electronic services must 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 equal and non- discriminatory provision of internet access services and related end users' rights. Although not prohibited, zero-rating would infringe the regulation and bandwidth throttling will be permitted where imposed by law, a court, or public authority decision.

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, and 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. Furthermore, the law mandates the ERC to facilitate collaboration among industry associations by establishing self-regulatory agreements and other cooperative measures on a monthly basis. Additionally, radio operators are obligated to furnish the ERC with all necessary information to ensure compliance with these Portuguese music requirements.

Regarding advertising, broadcasters are subject to several provisions that restrict the nature and amount of airtime of advertisements. Broadcasters must also respect the principles and rules of advertising established in the Advertisement Code (Decree-Law 330/90 of October 23) and in other sectorial legislation.

11

Insolvency

These are the key aspects of Portuguese insolvency law.

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

11.1. Definition of insolvency

Insolvency is defined as the debtor's inability to fulfill its obligations as they fall due (cash flow test). Insolvency proceedings are only triggered if the debtor becomes insolvent.

Legal entities are also considered to be in an insolvency situation when, according to accounting criteria, liabilities clearly exceed assets (balance sheet test).

11.2. Insolvency procedure

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

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

According to the Insolvency and Company Recovery Code (*Código da Insolvência e Recuperação de Empresas*,"CIRE"), the insolvency procedure is a universal enforcement procedure to satisfy creditors' claims through an insolvency plan aimed at the company's recovery integrated in the insolvency estate, or, if recovery is not possible, the liquidation of assets and the distribution of the proceeds among the creditors.

11.3. Voluntary insolvency

The debtor must file for insolvency within 30 days of becoming aware (or when it should have become aware) of its insolvency situation. If the debtor fails to fulfill this obligation, directors may become personally liable.

11.4. Mandatory insolvency

Creditors can file for mandatory insolvency against a debtor if any the following factors (which determine an insolvency situation) occur:

- Generalized suspension of payments of matured obligations.
- Default of one or more obligations which, given the amount or default circumstances, reveals the debtor's inability to meet most of its obligations in time.
- Abandonment by the owner or directors of the insolvent company or the place where it has its head office or performs its main activity as a result of the debtor's lack of solvency and provided no reputable substitute is appointed.
- Dissipation, abandonment, hasty or loss-making liquidation of assets and fictitious constitution of credits.

- Insufficient assets to seize for payment of credits verified in an enforcement procedure filed against the debtor.
- Default of obligations established in an insolvency plan or payment plan approved by the creditors in previous insolvency proceedings.
- Generalized default during the last six months of the following obligations:
  - Tax and social security obligations
  - Employment contracts, or breach or termination of employment contract obligations
  - Rent for any kind of lease, including financial leases, and installments on an acquisition price or a mortgage on the place where the debtor carries out its activity or has its residence or head office
- In the case of legal entities, the debtor's liabilities clearly exceed its assets according to the last approved financial statements, or there is a more than nine-month delay in the approval or deposit of the accounts.

11.5. Aggravated or culpable insolvency

Once a court declares insolvency, a procedure to classify the insolvency may be initiated. The insolvency may be considered fortuitous or culpable (where it is a result of the debtor's willful or gross negligence or of its legal or de facto directors within the three years before the beginning of the insolvency proceedings). The law provides for circumstances where (i) insolvency is automatically classified as culpable, and (ii) fraud or gross negligence is presumed.

11.6. Effects on debtors

Insolvency may be considered fortuitous or culpable

A declaration of insolvency transfers the power to run a company from its directors to an insolvency administrator, who becomes the debtor's representative for all intents and purposes. The debtor's management bodies may continue to operate (when requested by the debtor, if the insolvency is voluntary, or with the agreement of the creditors), but 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, provided they are not subordinated to a condition precedent.

Any judicial proceedings involving patrimonial matters, where the final result may affect the value of the insolvent company's estate, are attached to the insolvency proceedings, if the insolvency administrator requests it. A declaration of insolvency stays (and may then terminate) any pending enforcement proceedings, and creditors cannot initiate new enforcement proceedings against the debtor.

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

11.7. Effects on creditors

One of the keystones of the CIRE is that creditors must receive equal treatment. There are few exceptions to this rule, but those permitted by law abide by the rule that "ordinary credits" are considered equal. Based on this principle, credits can be a guaranteed, privileged, ordinary or subordinated:

- Guaranteed credits are those secured by a guarantee *in rem*, including special statutory liens (e.g., mortgage, pledge, income assignment, state credits over real estate property tax and, in some cases, credits arising from an employment contract, which simultaneously benefit from a special statutory lien). They are paid with the proceeds of the sale of the secured asset, after sale expenses and any amount allocated to credits over the insolvency estate are deducted. If the secured assets are insufficient to pay all debts to guaranteed creditors, any remaining debt is included in the common credits.
- Privileged credits benefit from general statutory liens (e.g., credits arising from an employment contract and credits held by the creditor who filed for the debtor's insolvency) over assets that make up the insolvent estate. Because of their nature, these credits are paid proportionally with the proceeds of the unsecured assets according to their inner ranking. There are several types of privileged creditors that are ranked differently.
- Common creditors can only be paid after creditors that rank in priority to them are paid in full. They are paid on a pro rata basis if the proceeds of the insolvency estate are insufficient to fully satisfy the debt.
- Subordinated creditors rank below common creditors. They follow the same pro rata rules applicable to common creditors. Holders of these credits are not entitled to vote at the general meeting of creditors, except for approving an insolvency plan.
- There is another special and prioritized category, known as "credits against the insolvency estate," which generally arise after the declaration of insolvency. These credits are not subject to ranking or acknowledgment and, in principle, must be paid by the insolvency administrator when they fall due and prior to any of the above.

11.8. Clawback actions

The insolvency administrator is entitled to revoke any act and contract considered detrimental to the insolvency estate, if they were performed or omitted within two years before the start of the insolvency proceedings.

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

Requirements of clawback actions:

Clawback actions generally require evidence of bad faith of the third party, which is presumed in acts performed or omitted within two years before the insolvency proceedings start, in which a person with a special relationship with the insolvent participated or took advantage of, even if there was no special relationship at the time. Furthermore, knowledge of any of the following circumstances is considered bad faith:

- That the debtor was in an insolvency situation.
- That the debtor was in an imminent insolvency situation at that time and the act was detrimental.
- That the insolvency proceedings had started.

Clawback actions without requirements

CIRE also lists acts subject to clawback actions without fulfillment of any other requirement.

11.9. 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 state 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 into a negotiation protocol, whose content they can freely establish and which is generally confidential, that must be filed with the commercial registry.

During negotiations, which may not exceed three months, creditors that have not subscribed the negotiation protocol may adhere to it at any time. Once the parties have entered 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 end, a restructuring agreement whose content is freely agreed by the participants is drawn up. 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 the 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 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 in financial difficulties or imminent insolvency whose recovery is still feasible to enter into negotiations with

creditors to reach an agreement leading to revitalization. By adopting the PER, it is no longer required to obtain the debtor's prior declaration of insolvency, as a situation of imminent insolvency or a difficult economic situation is enough to launch the proceedings. This allows debtors to achieve their recovery or viability through negotiation, without first being subjected to the stigma of being declared insolvent (which often prevents their viability).

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 possible ways of reaching 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 admitted. The judge may admit this consolidation of proceedings ex officio or at the request of the provisory judicial administrator.

Only the debtor may submit the request in court for PER under article 17-A of CIRE. This request must include a written statement jointly subscribed by debtor and creditors, although not related to the debtor company, holding at least 10% [18] of non-subordinated credits, expressing their intention to engage in negotiations leading to revitalization through approval of a recovery plan.

A recovery plan proposal must be attached to the PER application, as well as a statement describing the company's assets and financial situation.

Some companies [19] may also have to attach to the PER application a proposal for the classification of creditors affected by the recovery plan into different categories.

Companies legally required to have their accounting books reviewed must submit, along with the PER application, a statement issued by a certified accountant or an auditor asserting that the company is not currently in a situation of insolvency.

The debtor must also certify and declare, in writing, that it meets the conditions for revitalization. These statements are addressed to the court, which, after receiving them, immediately appoints an interim judicial administrator (*Administrador Judicial Provisório* or "AJP").

The order appointing the AJP is published on the CITIUS platform (the court's official website), and the debtor must inform all its creditors (that did not sign the statement mentioned above) 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 so the AJP may prepare a provisional list of credits, which will also be published on the CITIUS platform.

After the 20-day period and, specifically after the deadline for submitting appeals from the provisional list of claims, the negotiations must be completed within two months. This deadline may be extended for another month if previously agreed by the debtor and the AJP.

Any creditor can participate in the negotiation process as long as the negotiations last. The debtor can stop negotiations at any time.

Once the AJP is appointed:

- enforcement[20] or ongoing precautionary lawsuits against the debtor are stayed for a four-month period (which may be extended for an additional month); and
- any insolvency proceedings initiated against the debtor are stayed.

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.

Also, during this period, no creditor can file a declarative, enforcement or precautionary lawsuit against the debtor aiming to collect any credit.

The creditors must approve the recovery plan in any of the following cases:

- When voted by creditors whose claims represent at least one-third of the total claims with voting rights, as established in the provisional claims list, with favorable votes from more than two-thirds of all the votes cast, and more than half of them are from non-subordinated claims.
- When it receives favorable votes from creditors whose claims represent more than half of all the claims with voting rights, and more than half of these votes are from non-subordinated claims.
- When the creditors are classified into separate categories, and it receives favorable votes from more than two-thirds of the total votes cast in each category.

In any case, abstention is not counted.

The judge must then approve or reject the recovery plan within 10 days. This decision will be published in CITIUS and is binding for the debtor and for 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 it is not possible to reach an agreement for approval of the PER, the proceedings will end and will have no effect if the debtor is not deemed insolvent. Otherwise, the court will declare the debtor's insolvency within three business days, and the special process of revitalization will be attached to the insolvency proceedings.

If 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

PER can also be initiated by filing an extrajudicial recovery plan signed by debtor and creditors

18 The court can reduce this percentage if certain requirements are met.

19 Companies that have (i) more than 250 workers and (ii) an annual turnover exceeding €50 million or an annual balance sheet total exceeding €43 million.

20 Except those aiming to collect credits arising from employment contracts.

representing at least a majority of votes needed to approve the recovery plan in general. In this case, a simplified procedure will apply (which notably removes the need for negotiations).

Protection against clawback actions

To provide the debtor with the funds needed for recovery, the agreements executed in the context of the PER cannot be subject to clawback actions.

However, guarantees granted during the PER to provide the debtor with the means to finance its activity will be maintained, even if the PER ends and there is a declaration of insolvency within two years.

New money privileges

Finally, creditors that, during the PER or in the context of its execution, finance the debtor's activity by providing the means needed 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) in the remaining amount (i.e., where higher than 25 % of the debtor's non-subordinated debt), a general statutory lien over movable assets, ranked before the general statutory lien over movable assets granted to employees. Stakeholders and other persons who have a special relationship with the debtor may enjoy the benefit described in (iii).

PEAP

PEAP was created by Decree-Law 79/2017 of June 30. This procedure only applies to debtors that (i) are not companies; (ii) are in a difficult economic situation or an imminent insolvency situation; and (iii) aim to negotiate with their creditors to reach a payment agreement.

PEAP is intended to enable the recovery of individuals through the approval of a payment agreement that provides for the restructuring of their liabilities, thus avoiding their personal insolvency.

The PEAP regime is similar to the PER regime.

PEVE

PEVE was created by Law 75/2020 of November 27 and was in force until June 30, 2023.

These proceedings apply to companies in financial difficulties or imminent insolvency due to the COVID-19 pandemic but whose recovery is still feasible.

PEVE has an urgent nature, including in the appeal phases, taking priority over insolvency proceedings, PER and PEAP.

PEVE begins with the company submitting an application together a set of documents, including (i) a written declaration signed by the company's administrators attesting that the situation is due to the COVID-19 pandemic and that it meets the conditions for its viability; (ii) a list of all creditors signed by the company's administration body and certified by an accountant or statutory auditor, whenever auditing is legally required, and dated no more than 30 days prior; and (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 aiming 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 the list of creditors and request the non-approval of the viabilization agreement. Within the same period, the AJP will provide an assessment on whether the agreement offers reasonable prospects to ensure 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 it if it cumulatively (i) respects the legal approval majorities; (ii) presents reasonable prospects of ensuring the company's viability; and (iii) there are no circumstances under the law that require 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 of creditors, even if they did not take part in the out-of-court settlement, with regard to claims arising on the date the decision on appointing the AJP was taken.
The warranties agreed between the company and its creditors within the scope of PEVE, with the purpose of providing the company with the financial means needed to carry out its activity, are maintained, even if, at the end of the process, the company is declared insolvent within two years. Creditors, stakeholders and other persons who have a special relationship with the debtor who, in the context of the viabilization plan, finance the debtor's activity by providing the means needed for its recovery, benefit from a general statutory lien over movable assets, ranked before the general statutory lien over movable assets granted to employees.

The new PEVE legal regime resembles the PER modality established in article 17-I of CIRE. However, it differs in some areas, such as the following:

- PEVE is specifically aimed at companies that are in a difficult economic situation due to the COVID-19 pandemic; and
- When deciding whether to approve the agreement, it is up to the court to assess whether it offers reasonable prospects of ensuring the company's viability.

12

Dispute settlement

Most decisions issued in first and second instances are immediately enforceable, even if subject to appeal

12.1. 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); and (iii) territory.

In civil jurisdiction, courts of first instance are competent to hear all civil cases not expressly attributed to other courts by a specific legal provision. 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 claim in the place where the defendant resides, even though 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 provisions of the Portuguese Civil Procedure Code ("PCPC").

These procedures mainly consist of (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 to conciliate the parties, solve procedural issues, define the scope of the dispute and determine the issues to be decided, as well as to propose additional evidence (if any); and (iv) a final hearing, in which witnesses and experts are heard.

The PCPC is also residual to other procedures, including administrative procedures, meaning that it will apply if there is no specific provision regulating administrative procedures.

Appeals

Most first instance decisions can be appealed in a second instance court, frequently with a three-judge panel, usually depending on the value of the proceedings (*e.g.,* proceedings below €5,000 cannot be appealed). In these courts, there is usually no hearing, 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 is higher than €30,000; and (ii) the second instance court has not confirmed the decision issued by the first instance court. There are some exceptions to this rule (*e.g.,* when there is a general interest that justifies a Supreme Court decision on a particular case, or when there are contradictory rulings from appeal courts concerning a matter of law that must be clarified).

Portugal is a privileged seat for arbitration involving Portuguese- speaking countries, and Portuguese state courts have a practice of respecting the arbitral jurisdiction

Enforcement procedures

The PCPC also establishes enforcement procedures. Public instruments (documents issued before a notary public or equivalent) are directly enforceable if they contain a debt confession, which means that prior declaration proceedings is not necessary 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 order of the court.

The European order for payment simplifies collection in some cases of crossborder debts. It is recognized and enforced in almost all EU countries without requiring a declaration of enforceability.

12.2. Commercial arbitration and mediation

Arbitration

Commercial arbitration in Portugal is governed by Law 63/2011 of December 14, 2011 (the "Arbitration Act"), which is based on the UNCITRAL Model Law of June 21, 1985 (amended in 2006).

The Arbitration Act regulates domestic and international commercial arbitration. It applies to all arbitration procedures that take place in Portugal and establishes the rules for recognition and enforcement in Portugal of arbitral awards from arbitrations seated abroad.

Under the Arbitration Act, the parties can submit any economic dispute to arbitration, unless exclusively submitted under special law to state courts or to compulsory arbitration. If the dispute does not involve these kinds of matters but relates to issues that the parties can freely dispose of through a settlement agreement, the arbitration agreement is also valid.

The Arbitration Act contains several provisions to ensure that state courts respect the arbitration and to prevent parties not interested in having the dispute decided through arbitration from disrupting it. This is the case of the provision that establishes that, at the request of a party, state courts must refuse jurisdiction regarding any matter subject to an arbitration agreement, unless it determines, prima facie, that the same 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 rules of arbitration, as long as 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; and (iii) in all phases of the procedure, the principle of adversarial process will be guaranteed, with the exceptions established in the law.

Unless otherwise agreed by the parties, the arbitral award cannot be appealed and may only be set aside in very limited cases, *e.g.,* when the subject of the dispute cannot be decided by arbitration under Portuguese law or the content of the award conflicts with the principles of Portugal's international public policy.

Portugal is a privileged seat for arbitration involving Portuguese-speaking countries, and Portuguese state courts have a practice of respecting the arbitral jurisdiction.

Both *ad hoc* and institutionalized arbitrations take place 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 ("NY Convention"), which entered into force in Portugal on January 16, 1995. Portugal declared that it would apply the NY 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 regarding 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 are still taking place in *Julgados de Paz*, special types of courts that can rule on cases with a value that does not exceed €15,000 and on procedures submitted by the CMVM and consumer protection entities.

13

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

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).

13.1. 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 inseparable and part of an indivisible complex *in rem* right specifically established in the Portuguese Civil Code. Thus, 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, if they meet the applicable requirements.

The Portuguese legal framework also provides other *in rem* property rights, of which the surface right (*direito de superfície*) is the closest to ownership right, and it grants the surface right holder stronger rights over the properties.

This right does not include ownership of the land but 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. At the term of the surface right, when temporary, the construction built on the land will revert to the landowner.

The usufruct right (*direito de usufruto*) is also 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 responsibility for land registry rests with the Portuguese State through the Land Registry (*Conservatória do Registo Predial*), which keeps public records of each property's legal status, including ownership and encumbrances. The Land Registry is based on the principle of priority of registration whereby the first recorded *in rem* right prevails over other recorded *in rem* rights, even if the latter have been created prior to such registration date.

Any facts that create, acknowledge, transfer or modify any real estate right (including asset deals, as described below, leases with a duration of more than six years, easements, mortgages, horizontal property, usufruct and surface rights) are subject to mandatory registration with the Land Registry within two months (a fine may be applied after that deadline).

Ownership of a property is transferred by deed of sale and purchase or through a private agreement certified by a person or entity legally qualified for this procedure (see 13.2 below) and not by the registration. Final registration constitutes presumption of the existence of a right to the property that belongs to the registered holder.

Lack of registration of such facts in the Land Registry may entail lack of protection of the property purchaser vis-a-vis third parties (*erga omnes* effects) and the impossibility of transferring it.

13.2. 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, acquisition may occur through investment vehicles.

Although the most common property investment vehicles in Portugal are commercial companies - joint-stock companies (SA) and private limited companies (SQ)[21] - 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 person or entity legally qualified for this procedure (*e.g.,* a notary public, a lawyer or a paralegal officer). Apart from compliance with the tax obligations resulting from acquiring real estate[22], several documents are required to transfer property ownership, depending on the type of property, including the following:

- Land registry certificate and tax certificate
- Energy performance certificate
- Statement issued by the condominium manager, when transferring units, setting out (i) the amount of all outstanding condominium charges for that unit, specifying their nature, amount and payment deadlines; and (ii) any debts, their nature, amount, dates they were constituted and due dates. The purchaser can declare that it 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 of IMT and stamp duty (if applicable)
- Proof of registration of the UBO with the Portuguese Ministry of Justice in case purchaser or seller or both are corporate entities.

It is important to highlight that, from January 1, 2024, through the Urban Development Simplex (*Simplex Urbanístico*): (i) presenting a building permit or use permit and (ii) proving the existence of the housing technical data sheet when transferring ownership of urban buildings - are no longer required to transfer properties.

Although a property can be transferred without the required building permit or use permit, the duty to inform the buyer about the absence of such a permit or license applies, and a special mention of it must be included 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, which 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.

13.3. 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 a real estate property 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 established by both parties, the tenant may not assign its position in the lease agreement to a third party without the landlord's prior consent, except in the case of a transfer of 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, under penalty of nullity.

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).

21 Please refer to section 2 - Ways of doing business

22 Please refer to section 7 - Tax

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 market value of the property, as well as periodic installments.

13.4. 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 the rules of use, occupation and transformation of land, taking into consideration public interests in various sectors such as environment, defense, protection of wildlife and defining goals and principles to which land use should conform. These restrictions are considered public interest constraints and easements, and they 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 have a different nature, notably sectorial or special planning instruments, and a different scope (national, regional or municipal plans).

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

(i) "PDMs" – Municipal Master Plans (*Planos Diretores Municipais*); (ii) "PUs" – Urbanization Plans (*Planos de Urbanização*); and (iii) "PPs" – Detailed Plans (*Planos de Pormenor*).

Each of the three types of land use plans can be enacted by more than one municipality, as there can be intermunicipal land use plans.

The feasibility of a given project in a property requires compliance with the above 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 the regulations applicable to a certain urban project, and it establishes that they must all be concentrated in a single plan (the municipal or intermunicipal plan).

The RJUE is the legal regime that foresees the required administrative permits for construction and land development and defines which urban operations require prior control (i.e., licensing – *licenciamento*, prior communication – *comunicação prévia* or use permit – *autorização de utilização*). It also sets out the administrative procedure and the monitoring of the execution of the project.

Municipalities are the local entities responsible for assessing whether an urban project is executed according to the applicable laws and territorial management instruments.

However, although municipalities play an important role in executing urban projects, other entities may be asked to give their prior approval or an opinion (*e.g.,* the Public Heritage Department [*Direcção-Geral do Património Cultural*] or the Tourism Authority [*Turismo de Portugal*]). In some cases, their opinion can be binding, which means 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 obtain information on its viability and its 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 an additional year. If the favorable prior information complies with certain criteria, it can exempt a project from a subsequent prior administrative control prior to 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 relevant urban impact (generally maintenance works) or other interventions, provided certain responsibilities are taken on by the architects or engineers, may be exempt from prior checks and do not depend on any of these procedures, although they may be subject to municipal supervision. If an operation requires prior notification, developers cannot opt to submit the operation to a licensing procedure (although they can always opt for 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 on permits for urban development and to simplify and speed up procedures. For example, it expanded the range of urban development operations exempted from prior checks and added new cases of prior notification (limiting those that require a licensing procedure). A significant paradigm change was brought about by these amendments: the shift of municipalities' control of urban development operations from the pre-execution phase (prior control) to the moment of execution or even completion (simultaneous and successive checks).

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 there have been any changes to the original project.

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

14

Private equity

Private equity activities in Portugal is regulated by Decree-Law 27/2023, and supervised by the CMVM

14.1. 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, including private equity and venture capital activities in Portugal, which are supervised by the CMVM.

There is no real distinction under Portuguese law between private equity and venture capital, even though this distinction is commonly based on the stage of investment (venture capital includes seed capital, startup, early-stage and scale-up investment, while private equity, in the strict sense, includes expansion, capital replacement, turnaround, debt refinancing and management buy-out and buy-in investments). Therefore, since the distinction does not result from the law, the term "private equity" is also used in its broadest sense, comprising private equity activities in all their forms, 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 from time to time, into the Portuguese legal system. Also, the RGA ensures the application of Regulation (EU) 345/2013 of the European Parliament and of the Council, on European venture capital funds (EuVECA), and of Regulation (EU) 346/2013 of the European Parliament and of the Council, on European social entrepreneurship funds (EuSEF).

14.2. Regulatory frameworks

In line with the AIFMD, the RGA creates two distinct regulatory frameworks for private equity companies, depending on the global amount of assets under management.

- Full-fledged framework (above thresholds)

A more demanding and qualified regulatory framework applies to entities managing, directly or indirectly, assets exceeding (i) €100,000,000, when their portfolios include assets acquired with leverage; or (ii) €500,000,000, when their portfolios do not include assets acquired through leverage and when there are no reimbursement rights enforceable within five years from the date of the investment. For this purpose, increasing the risk exposure of the

portfolio or of the funds through cash or securities loans, derivatives or any other means is considered leverage.

Entities that fall within these thresholds are subject to tighter requirements regarding (i) authorization procedure; (ii) internal organization, including internal control structure; (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 European Economic Area countries under the marketing passport rules, as established in the RGA.

- Simplified framework (sub-thresholds)

The main changes regarding the simplified regulatory framework (i.e., the framework applicable to private equity companies managing assets that do not exceed (i) €100,000,000, when their portfolios include assets acquired through leverage; or (ii) €500,000,000, when their portfolios do not include assets acquired through leverage and with no reimbursement rights enforceable within five years from the date of the investment are as follows:

- Sub-threshold private equity companies must have a share capital (and own funds) of at least €75,000.
- Sub-threshold private equity companies are not subject to appointing a depositary to safekeep the fund's assets and oversee their management, provided they target only professional investors, as defined in MiFID II.
- A simplified risk management function may be put in place by sub-threshold private equity companies.
- When the global net value of the assets managed by sub-threshold private equity companies exceeds €250,000,000, they must have additional own funds for 0.02% of the global net value exceeding this threshold (with 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, main risk exposures and main concentrations of the private equity funds under management to the CMVM.

Sub-threshold private equity companies may opt to request authorization to carry out their activities under the full-fledged framework, as a private equity company above the thresholds (opt-in procedure) subject to a tighter legal framework to be able to benefit from the rights granted under the AIFMD (*e.g.,* applicability of the EU marketing and management passports).

Portuguese law establishes two distinct regulatory frameworks for private equity companies, depending on the global amount of the assets under management

Harmonization of the Portuguese framework

Following the revamping of the legislation applicable to collective investment schemes, the current legislation applicable to private equity companies (which qualify as alternative investment funds managers) is fully harmonized with the AIFMD.

It is worth highlighting the flexibility of the Portuguese regime, allowing for the possibility to create sub-funds (compartments), funds under a corporate form, open-ended and closed-end funds, self-managed funds, lack of depositary for funds targeting professional investors, and the flexibility to appoint a securities depositary rather than the depositary of the fund.

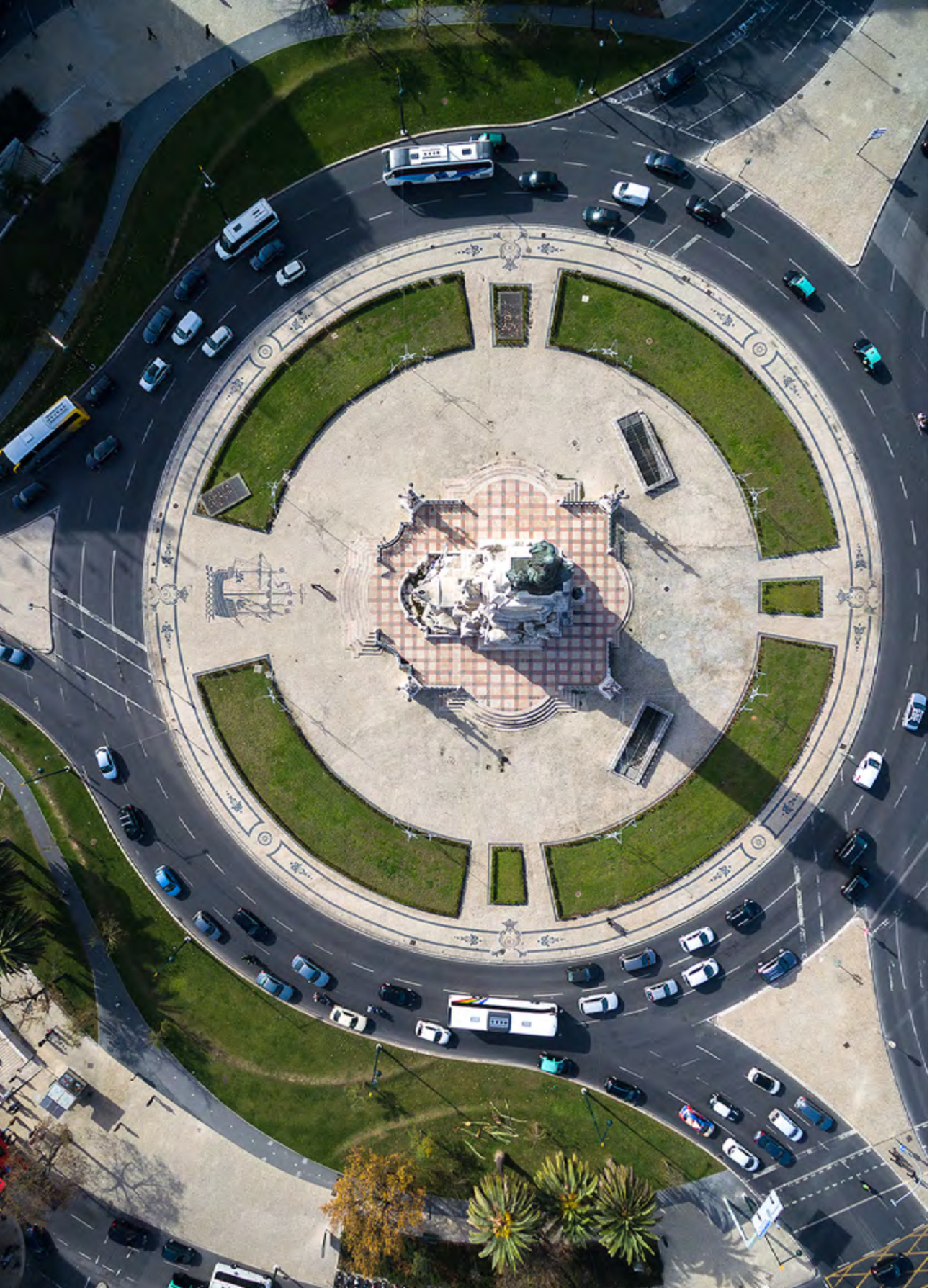
Private equity funds may also be managed, under certain conditions, by management companies authorized under Directive 2009/65/CE of the European Parliament and of the Council, provided they are authorized to manage alternative investment funds.

Other relevant legal aspects

The Portuguese legal framework leaves room for contractual freedom, since it enables fund investors and alternative investment managers or management companies to enter into an agreement to establish the governing rules (the management regulations of private equity funds) regarding the type of assets in which it can invest, portfolio composition, definition of investment policy and the fund's borrowing limits. There are laws and regulatory provisions that should also be considered regarding (i) asset investment diversification thresholds, (ii) permitted or prohibited transactions, (iii) conflict of interest, and (iv) winding-up and dissolution.

Conclusion

The legal regime for private equity is harmonized with EU regulations, particularly AIFMD. The regime ensures strong protection for the investor, establishing demanding rules in areas as diverse as supervision and sanctioning, activity access, information disclosure, risk and liquidity management and remuneration, and aligning the national framework with AIFMD and the practice in the rest of the EU.



15 Permit for investment activity program (ARI)

15.1. Investment program associated with residence permits

Under Portuguese law, non-EU citizens carrying out investment activities in Portugal may be granted a residence permit, provided they meet certain requirements.

Initially enacted through Law 23/2007 of July 4, approving the legal regime for entry, permanence, exit and removal of foreigners from Portugal, as amended, this investment program associated with residence permits has subsequently been developed by Law 84/2007 of November 5, as amended.

Residence permits are initially granted for two years and can be renewed for successive two-year periods. They provide holders with:

- a residence visa waiver for entering Portugal;
- a residence permit in Portugal;
- free access to the Schengen Area (29 countries);
- possibility of family reunification;
- opportunity of practicing a profession or carrying out a business in Portugal;
- the same access to the health and education systems as Portuguese citizens;
- access to justice; and
- possibility to apply for (i) permanent residence for ARI holders, after holding the temporary permit for at least five years; or (ii) citizenship after five years, if they meet the requirements.

15.1.1. Investment activities

Under Law 23/2007 of July 4, as subsequently amended, an investment activity is any activity carried out by an individual or through a company (in the case of a limited liability company with a sole quota holder) that generally leads to at least one of the following situations in Portugal for a minimum of five years:

- Creating at least 10 jobs

  Investors can either incorporate a company or invest in companies already incorporated in Portugal.

  Investors are also given the possibility of creating the 10 mandatory jobs individually, i.e., without incorporating a company in Portugal.

- Capital transfers of €500,000 or more to be applied to research activities carried out by public or private scientific research institutions that are part of the Portuguese scientific and technological system.

- Capital transfers of €250,000 or more to be applied to investing or supporting artistic output recovery or preserving Portuguese cultural heritage.

  The investment may be carried out through central and peripheral direct administration services, public institutes, entities that are part of the business public sector, public foundations, private foundations with a public utility statute, intermunicipal entities, entities that are part of the local business sector, municipal associative entities and cultural public associations pursuing artistic production, recovery or preservation of Portuguese cultural heritage.

- Capital transfers of €500,000 or more to be applied to the acquisition of participation units in non-real estate investment funds or in venture capital funds incorporated in Portugal, focused on the capitalization of companies.

  At the time of the investment, the funds must have a maturity of at least five years, and at least 60% of the invested capital must be carried out in companies based in Portugal.

  Following the legislative changes introduced by Law 56/2023, of October 6, which approves various housing measures, Law 23/2007, of July 4, which regulates the granting and renewal of Residence Permits for Investment Activity (Golden Visa), is the subject of several changes, one of the most relevant being the disqualification of direct or indirect investments in real estate as support for application to this legal regime (which includes investment funds that reinvest in real estate).

- Capital transfer of €500,000 or more to be applied to incorporating companies with a head office in Portugal, combined with the creation of five permanent jobs. This value may also be applied to investing in the increase of share capital of a company already incorporated, combined with creating at least five permanent jobs or maintaining jobs at least 10 jobs,(with a minimum of five permanent employees) and for a minimum of three years.

15.1.2. Family reunification

The law allows those with Portuguese residence permits and those who apply to ARI to also apply for residence permits for their family members, which include:

- the spouse;
- minor children, as well as adult children with disabilities;
- minor children adopted by the applicant when he or she is not married, by the applicant or by his or her spouse, by decision of the competent authority of the country of origin, if the law of that country recognizes adopted persons with rights and duties identical to those of natural filiation and the decision is recognized by Portugal;
- single, adult children studying full-time at a school or educational institute in Portugal or abroad and financially dependent on their parents;
- siblings who are minors, of which the investor has custody granted by the authorities in their country of origin and recognized in Portugal; and
- financially dependent parents of the investor and of the spouse.

15.1.3. Permanent residence permit

The residence permit granted under the investment program (ARI) offers the possibility of applying for permanent residence permits or permanent residence permits for ARI holders, provided the applicants:

Under certain conditions, ARI holders can apply for permanent residence permits and for Portuguese citizenship

- have had a temporary residence permit for at least five years;
- have not been sentenced, individually or cumulatively, to over one year of imprisonment in the past five years of residence in Portuguese territory;
- have the means to guarantee their livelihood;
- have accommodation; and
- have basic knowledge of the Portuguese language (A2 Level).

The permanent residency for ARI holders requires the investment activity that was carried out for the ARI concession to continue.

15.1.4. Portuguese citizenship

ARI holders can apply for Portuguese citizenship if they:

- are of legal age or emancipated under Portuguese law;
- have been legal residents in Portugal for at least five years;
- have sufficient knowledge of the Portuguese language (A2 level);
- have not been convicted of a crime punishable with three years or more of imprisonment under Portuguese law; and
- do not constitute a danger or threat to national security or defense through involvement in activities related to terrorism, violent, especially violent or highly organized crime.

Following the Government's proposal to change the system for counting the time of legal residency when applying for Portuguese citizenship, aimed at changing the currently required five years from the time the first residency card is issued to the time the application is submitted, the approved Law 1/2024, of March 5 (an amendment to Law 37/81, of October 3) came into force on April 1. It guarantees that the mandatory five years of legal residency to apply for Portuguese citizenship will start to be counted from the time applicants submit their applications for residency, if the process is subsequently approved and the residency card is issued.

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