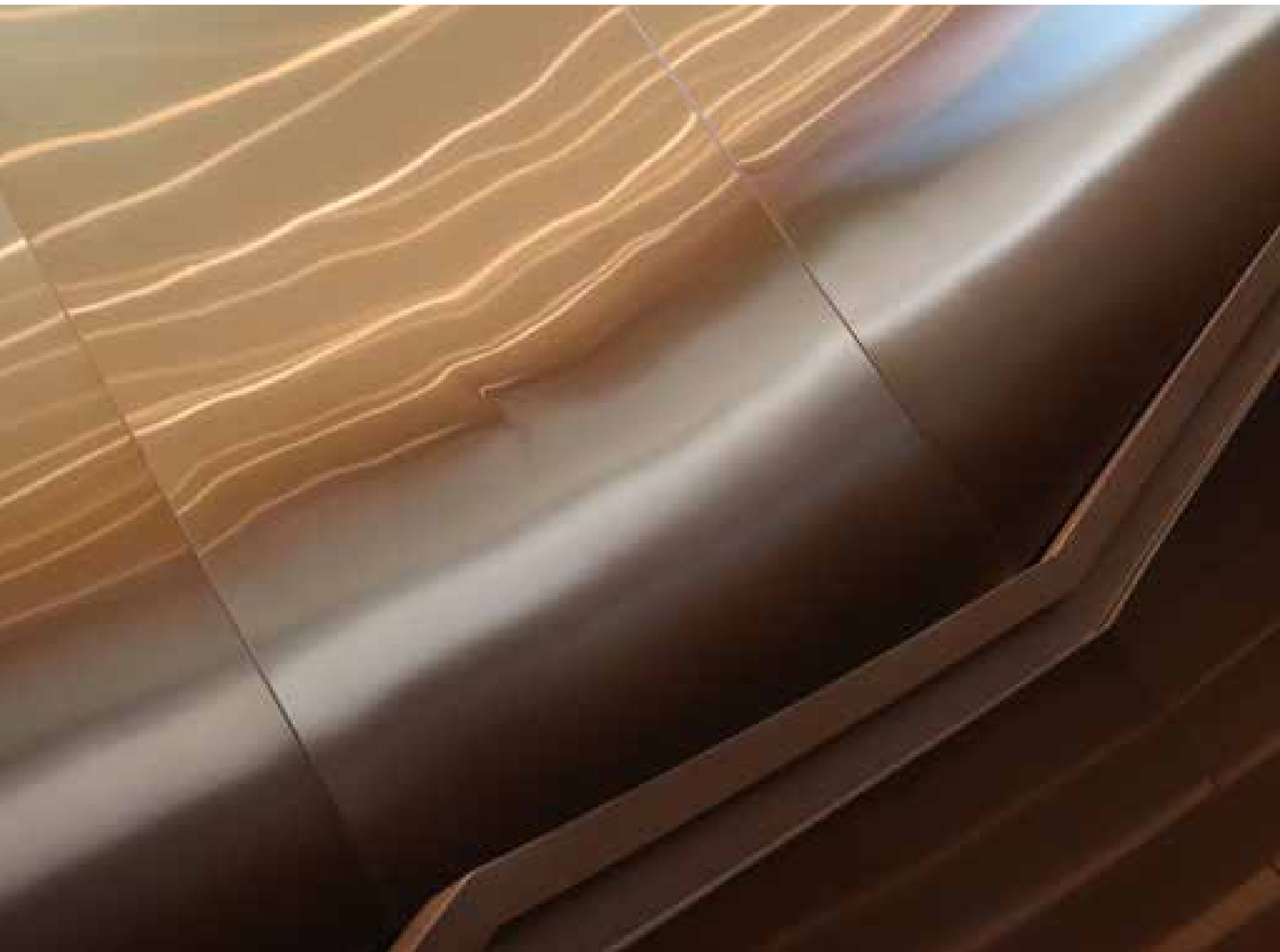
CUATRECASAS

Doing business in Portugal

A legal and tax perspective

2023 Edition



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Content

Introduction

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

About Cuatrecasas
Cuatrecasas is a law firm present in 13 countries with a strong strategic focus on Portugal, Spain and Latin America. It is also active in Africa, Asia, the Middle East, the UK and the US. In continental Europe, it has an alliance with leading law firms sin France, Germany and Italy. It has a multidisciplinary team of over 1,000 lawyers in 27 offices that advises on all areas of business law, organized by industry-specific practice areas. It combines maximum technical expertise with business vision to help clients with the most demanding matters, wherever they are based.

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

In Portugal, Cuatrecasas has over 180 lawyers with a proven track record on representing the interests of some of the country's major companies, institutions and international investors, and on handling large and 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 160 lawyers and the Porto office was established in 1989 and currently has around 25 professionals.

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List of acronyms

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

Madrid System	Madrid Arrangement and the Madrid Protocol
NHTRR	Non-habitual residents
NIPC	Corporate identification number
OECD	Organisation 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

1

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

Portugal at a glance

1.1. Unique 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 due to the implementation of tax and investment regimes for foreign investment. Portugal became a member of the EU in 1986. It has a population of approximately 10.3 million people and receives more than 20 million tourists per year. With strong cultural, economic and historical ties with Brazil, China, India, East Timor and several Portuguese-speaking African countries, it is the perfect bridge to Latin America, Europe, Asia and Africa and is a unique platform to channel investments in these economic areas. Portuguese is a global language with over 270 million speakers worldwide.

1.2. Portuguese legal system

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

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

Portugal has a civil law system based on written law, while case law 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.

2

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

Ways of doing business

2.1. Setting up a business

Limited liability companies

When setting up a business in Portugal, foreign investors generally 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 a 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 part of that company's activities, it does not have a 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 a 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:

- Enterprises complementary group ("ACE"): It does not have a separate legal personality other than that of its members. It is created to carry out specific projects or services, such as an engineering or construction project.

- European economic interest groups ("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. AEIEs are frequently created to provide centralized services for a group of companies. Entities of at least two different EU Member States must be involved.

- Silent partnership agreements, under which investors hold an interest 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 are 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 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. This is because their characteristics are more suitable, for the following reasons:

- Lower legal minimum capital requirements than an SA (€1 per quota, as opposed to €50,000).
- Statutory restrictions on the transfer of quotas are more stringent than for an SA.
- 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. While their more complex legal framework and more limited ability of shareholders to structure the company clash with the needs of small businesses, they offer large corporations the following advantages:

- Investing in the company is easier because its capital is divided into shares that can be listed on stock exchanges and are naturally transferable.
- Wider access to financing sources: 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. 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 shares and issued as certified or book entry shares. Shares of SAs can be negotiated on the stock market.
Disbursement	Capital contributions generally 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 generally must be paid on the date of incorporation. Parties may agree to defer payment of 70% of the cash capital contributions for up to five years. Non-cash capital contributions 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; that is, (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 a 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 on this issue.

	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/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.
Publicity 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 the content of the resolution 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 shares corresponding to 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 it. The maximum term of each office is four years, but directors can be reappointed for a new term. The board of directors cannot meet without the majority of its members being present or represented. Resolutions of the board of directors are approved by majority vote and, if not forbidden by the bylaws, the meetings can take place virtually.

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 less common, 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, apostilled according to the Hague Convention or legalized with a Portuguese consulate.

- Company name: A certificate approving the NewCo's proposed name must be obtained. (This usually takes 1 business day with an urgent request or up to 10 business days with 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. After obtaining the taxpayer number, the foreign shareholders and future nonresident directors receive a password to use the Portuguese tax authorities' website.

- Company's share capital and cash contributions: The company's initial share capital and any cash contributions made to the NewCo must be deposited in or transferred to a bank account in Portugal, opened in the name of the NewCo under incorporation.

Corporate bodies appointment: To be registered with the Commercial Registration Department, the members of the corporate bodies must issue acceptance letters, which have to be submitted to the Commercial Registration Department

- 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., in cases where the capital contributions are made through the transfer of real estate assets to the company).

- The bylaws also regulate the NewCo's internal affairs, including the corporate purpose, the registered office transfer of quotas or shares, the governance structure, the 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 office for registration and subsequent online publication. Corporate bodies appointment: To be registered with the Commercial Registration Department, the members of the corporate bodies must issue acceptance letters, which have to be submitted to the Commercial Registration Department.

- Registering with the tax and social security authorities: The Commercial Registration Department will inform the tax and social security authorities of the incorporation of the NewCo. The NewCo's accountant must confirm the start of the NewCo's activity with the tax department and provide the requested information.

- Ultimate beneficial owner ("UBO") registration: Under Portuguese law, the NewCo must submit an online ultimate beneficial owner form within 30 days from the date the NewCo's 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 Registration Department.

Requirements for acquiring a shelf company

- As in the case of a NewCo, 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 for information on these two steps.)

It is advisable to make a prior limited due diligence, confirming the status of the shelf company.

- 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 (change of corporate name, purpose, registered office, transfer rules and corporate governance). These corporate resolutions must be registered with the Commercial Registration Department.

2.4. UBO

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

RCBE is a database that organizes and maintains an updated record of information on individuals or natural persons who have, indirectly or through a third party, ownership or effective control of a commercial company (and other entities) (i.e., UBO). The main obligation is to file the UBO's disclosure form, which must include information on (i) the entity subject to RCBE; (ii) the identity of the directors or those who carry out management duties (e.g., those holding powers of attorneys, CEO if not a director); and (iii) the beneficial owners and the applicant.

Under Portuguese law, the UBO is the natural person 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 (which is considered as a direct or indirect 25% shareholding), and the natural person exercising control by any other means over that legal person.

The UBO declaration is made 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 field.

Breaching this obligation is a misdemeanor offense 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 permitted to distribute dividends or to participate in public services concession tenders, or to 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 generally 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 or the bylaws or carried out 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").

While the EU FDI Regulation is potentially applicable, in theory, to all sectors where the operations may represent a relevant risk to Portugal's security or public order, Decree-Law 138/2014 has a less comprehensive scope when compared to the EU FDI regime.

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 to the provision of essential services in the areas of energy, transportation and communication ("Strategic Assets") and sets specific criteria to assess that there is a threat to national defense and security or to the national interest; namely, on the grounds of risks to the international community as a result 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 destination of the Strategic Assets.

On its part, the regime established by the EU FDI Regulation (which entered into force on October 11, 2020) is similar, although with a wider scope. The regulation is potentially 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 (namely, energy, transport, defense, electoral, financial, and others). Both regimes are designed to address a serious risk for homeland security and public safety.

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. Unless material changes in circumstances occur, we do not expect a significant change in that political and economic approach.

3

Providing security

Portuguese law provides for a financial assistance prohibition, under which a Portuguese company cannot guarantee obligations related to financing incurred for its acquisition

3.1. Preliminary ideas

Overview

There are mainly two types of guarantees, depending on how the obligation is guaranteed:

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

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

The object of the security/guarantee and the secured obligations must be determined, or at least capable of being determined under the criteria defined by the parties. Portuguese law does not provide for the "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 parties' obligations, provided:

i. the company has a justified corporate interest; or

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

Given that there is some controversy relating to the criteria mentioned in (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/security.

Prohibition on financial assistance

Portuguese joint stock companies cannot provide financial assistance to acquire either the shares representing its share capital or the shares representing the share capital of its direct or indirect parent, and there is a discussion on whether this prohibition should also apply to SQs.

This prohibition includes indirect assistance; i.e., guarantees or security granted by 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., pledge 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/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 at stake.

Mortgages over real estate or registrable movable assets, such as aircraft, vessels and vehicles, are subject to registration with the competent registry office (real estate or other), whose registry is public. Pledges over shares are:

- subject to inscription in the respective share certificates and registration with the issuer in the respective share register book (or with a financial intermediary representing the issuer), in the case of certified shares;
- 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 integrated in a centralized clearing system), or certified shares integrated in a centralized securities system.

Pledges over quotas of SQs 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, it is common for the security provider to grant an irrevocable power of attorney to its beneficiary, under which the security provider grants certain powers to the beneficiary related to the creation and enforcement of the security. This irrevocable power of attorney must be notarized.

3.3. Special regime for financial guarantees

There is a special regime applicable 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 includes the following features:

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

Portuguese law provides for a special regime applicable to financial collateral arrangements

- If agreed by the parties, 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 for 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 arrangement.
- Financial collateral arrangements are enforceable in accordance with their terms and conditions, notwithstanding the starting 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 certain requirements are met.

4

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 or conduct occurring or having effects in Portugal. EU law also applies to those 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 CA's provisions are enforced by the Portuguese Competition Authority (Autoridade da Concorrência, or "AdC"). The CA has been amended by Law 17/2022 of August 17, which transposes Directive (EU) 2019/1 of the European Parliament and of the Council of December 11, 2018. This amendment entered into force on September 17, 2022.

In 2022, the AdC issued 12 sanctioning decisions with fines amounting to almost €490 million, affecting companies from the food retail distribution, health, vigilance and security, labor, data management, pharmaceutical, and teleradiology sectors. The AdC also issued five new Statement of Objections ("SO"), one of which concerned a case where the AdC has already issued a sanctioning decision in 2023.

In 2022, the AdC continued to test the new infringement structure, accusing several companies of a hub and spoke conspiracy, as a result of the dawn raids carried out in 2017 in the facilities of 44 entities active in the large food retail sector. In particular, the AdC issued four sanctioning decisions in which supermarket chains and individuals were accused of participating in a price-fixing scheme with suppliers – such as Unilever, Sumol+Compal, Beiersdorf, and Active Brands – leading to fines amounting to €237 million.

The AdC also accused six entities in the health sector of restricting competition in the contracting of hospital services by the public health subsystem ADSE, imposing a fine of €191 million.

In addition, the AdC fined seven companies a total of €41.3 million for bid rigging in the vigilance and security services market. The AdC also applied an accessory sanction of a ban of up to six months on the right to take part in the procedures for public works contracts.

Also, the AdC issued a sanctioning decision for gun-jumping—non-compliance with the mandatory prior notification to the AdC of a merger—against "Santa Casa da Misericórdia de Lisboa," leading to a fine of €2.5 million.

The AdC also sanctioned the "Liga Portuguesa de Futebol Profissional" and 31 football companies that participated in the 2019/2020 edition of the First and Second Leagues for entering a no-poach agreement. The fine amounted to €11.3 million, and it is the first sanctioning decision by the AdC regarding an anticompetitive agreement in the labor market.

Additionally, in 2022, the AdC accused two information services companies for entering a cartel regarding the marketing of business data. As both companies applied for leniency, the first one was granted total immunity from a fine and the other a reduction of 40%, resulting in a fine of only € 353,000.

Moreover, the AdC has issued two sanctioning decisions for bid rigging in public tenders for the provision of teleradiology services to hospitals and hospital centers in the national territory, leading to a total fine of €5.20 million.

Lastly, Farmodiética (a pharmaceutical company) was accused of retail price maintenance—fixing and imposing retail prices on distributors—for which the AdC imposed a fine of €1.25 million.

Simultaneously, the five SO issued by the AdC in 2022 refer to cases that are still pending before the AdC (two in the health sector, one in the energy sector and one in the payment services sector), and one case in the food retail distribution sector, for which the AdC has already issued a sanctioning decision in 2023. EU and Portuguese antitrust law can be applied to private litigation in Portuguese courts.

4.1. Restrictive practices

The CA prohibits collusive practices (anticompetitive agreements, concerted practices and decisions by associations of undertakings), abuse of dominant position and 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 aim to prevent, restrict or distort competition, are prohibited.

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

Prohibited agreements and practices, subject to some exceptions, are void and may be punishable, depending on the severity of the restriction on competition, with fines of up to 10% of the infringer's total worldwide 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 amount of the fine may not exceed 10% of the sum of the total, aggregated, worldwide turnover of each member active on the market affected by the association's infringement.

Other ancillary sanctions the AdC may apply 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 the right to take part in the procedures for public works contracts.

Under article 10 of the CA, prohibited agreements and practices can be exempt if they contribute to improving the production or distribution of goods and services or to promoting technical or economic progress, provided the restrictive practices (i) offer the users of goods or services a fair part of the benefit of these practices; (ii) do not impose unnecessary restrictions on achieving the objectives; and (iii) do not give the undertakings the possibility

of eliminating competition relating to a substantial part of the products in question. Also, the AdC may impose on the undertaking(s) concerned behavioral or structural measures considered indispensable for ending the sanctioned practice and its effects.

Abuse of dominant position

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, as a result, no equivalent alternative is available. Such abuses comprise, e.g., the refusal to deal with or the 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.

Abuse of economic dependence is punishable with fines of up to 10% of the company's total worldwide 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 on the undertaking(s) concerned behavioral or structural measures considered indispensable for ending the sanctioned practice and its effects.

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, as a result, no equivalent alternative is available. Such abuses comprise, e.g., the refusal to deal with or the 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.

Abuse of economic dependence is punishable with fines of up to 10% of the company's total worldwide 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 on the undertaking(s) concerned behavioral or structural measures considered indispensable for ending the sanctioned practice and its effects.

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 dissimulate 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 notifiable to the European Commission under the EU Merger Regulation, but which satisfy any of the thresholds listed below.

A concentration must be notified to the AdC when:

- a market share of at least 50% of the Portuguese market (or of a substantial part of it) for a specific product or service is acquired, created or reinforced as a result of the transaction;

- a market share of at least 30% but lower than 50% of the Portuguese market (or of a substantial part of it) for a specific product or service is acquired, created or reinforced, and the individual turnover in Portugal in the previous financial year of at least two undertakings involved in the transaction exceeds €5 million net of taxes directly related to that turnover; or

- the aggregate turnover in Portugal of all the undertakings involved in the transaction in the previous financial year exceeds €100 million net of taxes directly related to that turnover, and the turnover in Portugal of at least two undertakings involved in the transaction exceeds €5 million.

The CA provides for 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 2022, the AdC adopted one gun-jumping decision, which led to a fine of €2.5 million and investigated five possible cases of this infraction.

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 considers the application of discriminatory prices or sales conditions, the sale below the price of cost, the refusal of supply of 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 entities on a selective basis. 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 to and are 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 screening by Member States of foreign direct investments into 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 purports to screen foreign investments relating to strategic assets, particularly sensitive industry sectors, based on reasons of national defense and security or security of supply of services fundamental to the 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 at stake (including acts regarding the economic exploitation and the exercise of rights over the assets) would become null. To our knowledge, this procedure has not been enforced yet.

5.3. Foreign subsidies

The Foreign Subsidies Regulation ("FSR") comprises a new set of rules granting powers to the European Commission ("Commission") to investigate financial contributions granted by 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 granted by 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.

- 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.

Additionally, the Commission will have powers to investigate all other market situations on its own initiative (e.g., greenfield investments). The FSR entered into force on January 12, 2023, and it is generally applicable from July 12, 2023 .

6

Intellectual property rights and personal data protection

Under Portuguese law, intellectual, artistic and scientific creation is free, and this freedom embraces 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.
- 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 right holders can exercise their rights, under national regulations, in countries where they request protection. Unlike industrial property rights, copyright legal protection is acquired by creating a literary, artistic or scientific work. No registration or deposit is legally required: making the work apprehensible by our senses in any way is enough. Protection is automatic and exists from when the work is created. 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, namely regarding priority issues.

In Portugal, copyright and relating 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 producers of phonograms and videograms, performers and broadcasting companies).

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

For a work to be protected by copyright, it must be an original literary, artistic or scientific creation (not a simple copy of a pre-existing work) expressed in any way or form, whether tangible or intangible, 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, 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) rights of an economic nature, based on the exclusive right that is recognized to the author to use and benefit from the work, to 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 and 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, as stated, have no term of duration.

If these rights are infringed (depending on the type of infringement, but copyright breaches are generally considered a crime or an administrative offense) the holder can apply for cessation of the unlawful activity against the infringer and claim compensation for the material and moral damages caused. The holder can also request a preliminary injunction to obtain immediate protection, provided the applicable legal requirements are fulfilled. There are also other actions that can be applied regarding maintenance and obtaining evidence.

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

The legislative procedure for the transposition of Directive (EU) 2019/790 of the European Parliament and of the Council of April 17, 2019 (on Copyright and Related Rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC), although delayed, is currently underway, and will have a direct impact on the current wording of the Copyright and Related Rights Act. Law 11/2023 of March 22 authorizes—again—the Portuguese Government to legislate on this directive within 180 days.

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

6.2. Industrial property rights

Industrial property rights can be protected at different levels (national, EU and international). 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, provided the requirements are met).

Trademarks

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

National trademarks

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

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

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

EU trademark

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 registrations are 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, administered 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 designated in the application. Trademark owners will have a national title in each country designated in their application.

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 respective owner to use the design and to prevent third parties from using it without consent.

The two requirements for registering a design are novelty and individual character, meaning the overall impression it makes on informed users differs from these users' 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 the design's registration. The protection period is five years from the date the application is filed , which may be renewed for equal periods, up to a maximum of 25 years from the filing date.

EU Regulation on community designs is directly applicable in all Member States, including Portugal. Internationally, many conventions provide 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 on which 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 to 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 was 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, medicinal 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 license an authorized third party to exploit it. The Portuguese Industrial Property Rights Code provides the 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 under which a single application is filed 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 national rules of the countries listed on the application. Therefore, it is not valid throughout the entire EU territory.

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"): this objective has been achieved. Regulation 1257/2012 was approved and is now in force.

- A regulation establishing a language regime applicable to the unitary patent: this objective has also been achieved and 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 already in force.

- An agreement between EU countries to set up a single and specialized patent jurisdiction (the "Unified Patent Court – "UPC"): The UPC will come into existence and start its operations when the Unified Patent Court Agreement ("UPC Agreement") enters into force. Under Article 89 of the UPC Agreement, it will enter into force on the first day of the fourth month after the deposit of the thirteenth instrument of ratification, including Germany, France and Italy (the three Contracting Member States in which the highest number of European patents had effect in 2012, whose ratification is required for the entry into force of the UPC Agreement under its Article 89). After the ratification of already 16 Contracting Member States (including France and Italy), Germany deposited its instrument of ratification on February 17, 2023. Consequently, the UPC will come into existence on June 1, 2023.

The regulations implement enhanced cooperation to create unitary patent protection. All EU countries will participate in this enhanced cooperation, except for Croatia, Norway, Spain, Switzerland and Turkey.

In September 2015, Italy joined the unitary patent and became the 26th member of the enhanced cooperation on unitary patent protection. After Brexit, the U.K abandoned the cooperation agreement and the unitary patent and decided not to ratify UPC. Following the adoption of the two regulations in December 2012, the contracting countries, except for Poland but with the addition of Italy, signed the Agreement on a Unified Patent Court.

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 regarding personal data files is protected under Act 58/2019, of August 8, (the "Portuguese Data Protection Act"), which ensures the execution in the Portuguese legal system of 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 missions.

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 activities take place under Article 3.2 of the GDPR; or (iii) affects data that is registered in consular posts, whose data subjects are Portuguese persons 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 natural persons with regard to the processing of personal data and on the free movement of this 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 natural persons with regard to the processing of personal data by competent authorities to prevent, investigate, detect and prosecute criminal offenses or execute criminal penalties, and on the free movement of this 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 regulation 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 for 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 office when its 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) performing a privacy impact assessment ("PIA") of the personal data processing operations using new technologies that are likely to have an impact on the rights of the data subjects; and (vi) implementing the appropriate technical and organizational measures necessary 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 Regulation and protects the rights of the data subjects.

Administrative fines for non-compliance with the Regulation

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).

Contrary to the GDPR, the Portuguese Data Protection Act establishes the minimum fine values applicable. Breach of the data protection obligations may be fined with:

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

- penalties of €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 fine values applicable), as they contradict the GDPR, infringing the principle of the primacy of EU law.

7

Tax

7.1. Introduction

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

- Residence and source of income: CIT and PIT
- 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 considered carried out: VAT

These connection factors 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 facts, acts and contracts (e.g., in the level of real estate transfer tax, municipal property tax and stamp duty); and (ii) consider the specific nature of the transactions (e.g., in the case of VAT).

7.2. Main taxes

Below is a summary of the main Portuguese taxes:

- Corporate income tax ("CIT")
- Personal income tax ("PIT")
- Value-added tax ("VAT")
- Real-estate transfer tax("IMT")
- Municipal property tax ("IMI")
- Stamp duty

7.3. CIT

7.3.1. Preliminary remarks

Portuguese-resident companies are liable for CIT on their worldwide income, while non-resident entities 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 entities engaged in business results from the accounting profit or loss of the year, as well as certain positive and negative changes in the equity not reflected in the P&L account, which are subject to certain adjustments, as required by the CIT law.

CIT adjustments to the accounting results pertain to, *inter alia*, depreciation and amortization, inventory adjustments, impairment losses, losses arising from applying the fair market value, expenses for onerous acquisitions since January 1, 2014, of certain intangible assets with no limited useful life period, and with goodwill acquired in a corporate restructuring process (unless it arises from shareholdings).

Adjustments may also result from non-deductible expenses; for example: (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 penalty charges for tax infringements; and (iv) payments to residents in low-tax jurisdictions, unless the taxpayer can show that they relate to real transactions, do not have an abnormal nature, and are not excessive.

Net financial expenses are tax deductible only up to the higher of the following limits: (i) €1 million, or (ii) 30% of annual EBITDA (as adjusted for this purpose). Carry-forward of net financial expenses that are not tax deductible due to exceeding the above limits is possible, as well as the carry-forward of the unused EBITDA limit, for the five subsequent tax periods. This regime provides specific rules for companies taxed under the tax group regime. It excludes entities subject to the supervision of the Portuguese Central Bank and of the Portuguese Insurance and Pension Fund Supervisory Authority, and Portuguese branches of credit institutions, other financial entities, and insurance companies 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 the 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). Under double taxation treaties ("DTT") entered into by Portugal, this domestic regulation is overridden, and the PE's taxable income corresponds exclusively to that obtained through the PE itself.

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

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

Tax losses

Under the applicable rules amended by the Portuguese State Budget for 2023, the carry-forward 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.

In this respect, we highlight that the carry-forward 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 carry-forward period of 12 years applied to tax losses incurred in those years by micro, small and medium 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 number of years. In this respect, we highlight that a previously applicable requirement to use the oldest tax losses from previous years first ("FIFO") has been 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 carry-forward tax losses may be jeopardized when ownership of more than 50% of the share capital or voting rights changes.

The Portuguese Supplementary State Budget for 2020 introduced important amendments to deductibility of tax losses for 2020 and 2021.

Under these: (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 carry-forward 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 computed specifically in 2020 and 2021; and (iii) the elapse of the carry-forward periods applicable to tax losses incurred in 2019 and earlier was suspended for a period of 2 years, between 2020 and 2021.

Tax rates

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

Micro, small and medium-sized enterprises[2] (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, with the standard 21% rate referred to above applying to the remaining taxable income.

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%, defined yearly by each municipality.

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

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 over certain expenses incurred by the company:[1]

Expenses	Rates (%) [2]
Undocumented expenses	50/70
Expenses relating to light passenger vehicles, light commercial vehicles and motorcycles	10/27.5/35
Expenses relating to (i) plug-in hybrid light passenger vehicles whose battery may be charged by way of a connection 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, where their 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 Corporate Income Tax, arising from shares held for less than one year	23
Costs or expenses for compensation on the termination of managers' and board members' functions	35
Costs or expenses for bonuses and other variable remuneration paid to managers and board members	35

(1) Autonomous taxation relief is available in certain situations, provided certain requirements are met
(2) Autonomous taxation rates are increased by 10 percentage points when taxpayers compute tax losses in the relevant tax period, except for the first 2 years of activity.

Transfer pricing

Under the 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). Otherwise, the tax authorities may adjust the terms and conditions.

Regarding the personal scope, 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 under which the "related party test" is considered met.

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 in their annual tax and accounting return information on any transactions with related parties, their identity, amount and whether contemporaneous documentation was prepared.

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:** A participation exemption 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 economic double taxation on distributed profits and reserves and capital gains arising from the sale of shares or 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 normally imply a waiting period of more than one year before the regime can begin applying.

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

Portugal currently has 78 treaties to avoid double taxation in force, which generally follow the OECD model tax convention

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

  This regime provides for deferral of the CIT due, both for the 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 copy rights over computer software may be fully exempt from CIT.

7.3.3. Non-residents without a PE

Non-resident entities without a PE are liable for Portuguese CIT on the different types of Portuguese-sourced income listed in the CIT law, including income from local real estate, parts of capital 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 non-residents without a PE are generally liable for a 25% withholding tax.

If the requirements are met, 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 double tax treaty.

Portugal currently has 78 treaties to avoid double taxation in force, which generally follow the OECD model tax convention, despite a few reservations it has made on some of its articles, which are included in several DTTs.

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

- For dividends, the domestic rate is usually reduced to 5%, 10% or 15%.
- For interest, the domestic rate is usually reduced to 10%, 12% or 15%.

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 taxation, although there are some exceptions; e.g., regarding real estate-related rental income or capital gains, which require non-residents to file a tax return whose periodicity and deadlines depend on the type of income.

- For royalties, the domestic rate is usually reduced to 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 & Royalties Directive.[5]

7.4. PIT

General rules applicable to resident individuals

Portuguese-resident individuals are subject to PIT on their worldwide income, while non-resident individuals are only liable for PIT on 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:

- The individual stays in Portugal for more than 183 days (whether consecutive or not) in any 12-month period starting or ending that year.
- Although staying fewer than 183 days in Portugal on any day in the period referred to above, the individual has a house or home under conditions that make evident his or her intention to use it as a main residence.
- An individual may also be considered to have tax residence in Portugal in the following cases: (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 a partial residence concept, 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, the taxpayer will become resident in Portugal from the first day of his or her stay in the Portuguese territory and a non-tax resident from the last day of his or stay in Portugal, with a few exceptions.

The tax period is the calendar year and the PIT due by resident individuals is levied, on an annual basis, at general/progressive rates on the total income of the different categories subject to taxation, net the corresponding deductions.

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

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.

A favorable PIT regime applicable to non-habitual residents aims to attract skilled professionals for high value-added activities, as well as high-net- worth individuals.

There are six income categories, as follows:

Category A	Employment income, including fringe benefits and fees of members of corporate bodies (other than statutory auditors)
Category B	Business income, including income from a business or independent profession
Category E	Investment income
Category F	Rental income from 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 €78,834, 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).

There are exceptions to the progressive tax rates scale, e.g., relating to capital gains on the transfer of securities or to real estate rental income, to which a flat 28% rate applies (not applicable to short term sale of securities). 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 taxation is then levied under the progressive tax rate scale.

There are 3 different VAT rates for mainland Portugal: 6% (reduced), 13% (intermediate) and 23% (standard).

Non-habitual resident's PIT regime

A favorable PIT regime applicable to non-habitual residents ("NHTRR") aims to attract skilled professionals for high value-added activities, as well as high-net-worth individuals wanting to move their tax residence to Portugal for retirement or long-term leisure purposes.

The non-habitual tax resident status is granted to individuals who (i) become resident for tax purposes in Portugal in a given year, and (ii) have not had this status in the five preceding years. Eligible individuals can benefit from the NHTRR for a 10-year period, after which they will be subject to the standard PIT regime.

Among other beneficial taxation rules, under certain conditions, the NHTRR may provide for full Portuguese PIT exemption or reduced PIT taxation on foreign-sourced employment income, income from independent personal services, and royalties, as well as foreign-sourced investment income, certain capital gains, property rental income and pension income.

Domestic sourced employment and independent personal income from listed high value-added activities obtained by non-habitual tax residents are subject to a flat PIT rate of 20%, instead of being subject to the progressive tax rate scale.

Former residents' PIT regime

Individuals who become resident for tax purposes in Portugal in 2019, 2020, 2021, 2022 or 2023 may benefit from a 50% PIT exemption on employment and business income (income from Category A and B) provided these individuals (i) were not tax resident in the Portuguese territory in any of the previous three years; (ii) were tax resident in the Portuguese territory before December 31, 2015, in the case of taxpayers who became resident for tax purposes in 2019 or 2020, and before December 31, 2017, 2018 and 2019, in the case of taxpayers who became or will become resident for tax purposes in 2021, 2022 or 2023, respectively; 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

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 entered into in Portugal, as well as intra-community acquisitions of goods and services, and the importation of goods into Portugal.

There are 3 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 (which used to have rates identical to those applicable in 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 taxation (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 properties; 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]

7.7. IMI

IMI is a municipal tax levied annually based 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]

6 This rate does not, however, apply to individuals.
7 If the property is held in usufruct or pursuant to a surface right, IMI is due by the owner of these minor rights *in rem*.
8 This rate does not apply to individuals.

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 starting 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 deduction amounts to €1,200,000.

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

9 If the property is held in usufruct or pursuant to a surface right, AIMI is due by the owner of these minor rights *in rem*
10 Properties that benefited from IMI exemption in the previous year are excluded from the AIMI taxable base.
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.

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 operations, 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 term which funds are used, as follows:
  - Credit for less than one year: 0.04% per month or fraction of month
  - Credit for between one and five years: 0.5%
  - Credit for five or more years: 0.6%

In the case of credit granted by banks or other financial institutions, taxation 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 varying between 10% and 25% of the investments. 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% eligible R&D expenses incurred in the tax year (increased by 15% in the case of micro, small and medium 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 made in the North, Centre and Alentejo regions and in the Autonomous Regions of the Azores and Madeira: (i) for investments up to €15,000,000, a deduction of 25% of the applications is granted; (ii) for investments exceeding €15,000,000, (on the excess part of that amount) a 10% deduction is granted 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): This tax incentive foresees a deduction from the taxable profit corresponding to 4.5% of the net eligible capital increase over 10 tax periods. This deduction will not exceed, in each tax year, the higher of (a) €2,000,000, or (b) 30% of the tax EBITDA corrected for tax purposes. Eligible capital increases include (i) cash contributions made in connection with the incorporation of companies or the increase in the share capital; (ii) contributions in kind made within the scope of the share capital increase resulting from conversion of credits; (iii) share premium for issuing shares; (iv) retained earnings, including those used to increase capital reserves or share capital. The net eligible capital increase corresponds to the eligible capital increase after the deduction of the amounts refunded to the shareholders in the form of a share capital reduction, as well as distribution of reserves/retained earnings.
- Urban rehabilitation: IMI exemption for a three-year period and IMT exemption on the acquisition of urban properties intended for urban rehabilitation, and on the first sale when the urban rehabilitation is finished provided the property is in an urban rehabilitation area, or it was built more than 30 years ago. An autonomous PIT rate of 5% is also available for rental income and certain capital gains obtained from the sale of these properties.
- Acquisition of real estate for resale: IMI exemption for a three-year period and IMT exemption on the acquisition of real estate intended for resale.

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

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 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 fixe term basis and can be full-time or part-time.

Term (fixed term or 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).

Apart from specific types of 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.

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 autonomous document. If the offer comes from the employer, the employee is free to refuse. If the telework proposal 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, the following employees have the right to work under a telework regime:

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

- Employees with a child aged up to eight years of age or, regardless of age, 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.

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

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

Entering into an employment contract

Apart from specific types of contract, 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, e.g. employer identification (if the employer is a company, the information must include the company's group relations) and employee identification salary, category, working time, 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 be longer than:

- 240 days for managerial positions;
- 180 days for qualified employees, employees with trust functions, employees seeking their first permanent job and long-term unemployed;
- 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. As well as 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 2023, it is set at €760 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 normal working time is defined don an average basis), time bank (the employee has a time savings account) and concentrated working hours (where all working time is concentrated 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.

Geographical mobility

A change in 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 damage to the employee.

Employees may be transferred permanently or temporarily. In the first case, and in the situation described in (i) above, the employee may choose between being transferred and being 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 the employee can prove that the transfer causes serious damage.

In temporary transfers, the employee's expenses will be reimbursed. However, in normal circumstances, the temporary transfer cannot exceed six months. Employment contracts may include a transfer of workplace clause waiving the above limitation, but this clause will only be valid for a two-year period.

Other employment conditions modifications:

The employer can determine the employee's working timetable 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 an employee fails to comply with his or her 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 an 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 procedure applicable 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 notification 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) giving the final notification of the decision to the affected employees and the relevant ministry. Objective selection criteria on the grounds of redundancy must be used to select the affected employees.

Notification of termination must be served giving 15 to 75 days' notice, depending on the employee's seniority, and payment in lieu of notice is not permitted. 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 giving 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 severance equivalent to 12 days to 1 month's base salary and seniority 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 work 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 giving written notification and information to the employee and notification to the Authority for Working Conditions. The employee may also request this Authority's opinion on certain aspects of the company's decision.

Advanced notice, severance and parental protection are the same as in a 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; (iii) or the procedure is invalid. In the case of 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) choose between receiving compensation of 15 to 45 days' base salary and seniority allowance per year or fraction of year, of seniority (or 30 to 60 days for protected employees, such as employees under parental protection) or to be reinstated in the employees' previous work position.

The employee chooses between receiving compensation and being reinstated. The employer may oppose the reinstatement if it has up to nine employees, or if the employee had managerial functions; if opposition is accepted, the compensation will be 30 to 60 days' base salary and seniority allowance per year, or fraction of year, of seniority.

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

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

Termination agreement must be entered in writing. The employee may revoke the agreement within seven days from the date of entering into the agreement, unless both signatures (employer's and employee's) are certified din the presence of a notary public.

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

8.8. Transfer of undertaking

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 employees' working conditions. The new company assumes the position of employer, with the same obligations as the previous employer, becoming a party to the employment contracts.

However, employees have the right to object to the transfer when it may cause serious damage, mainly but not exclusively based on the transferee's lack of solvency or his or her 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 based on the same grounds.

A transfer of undertaking occurs when the transfer involves an autonomous economic entity, defined as an organized grouping of resources for the purpose of carrying 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 a two- year period starting on the transfer date, for all employment obligations existing before the transfer that have not yet been fulfilled Employment obligations include social security obligations

8.9. Collective representation and organizational rights

Trade union and workers council

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.

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

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 alter the company's object, alteration of the share capital or conversion of the company's activity. The workers council must be consulted on several matters, including on any measure that results or may result in a significant reduction of the number of employees, employment conditions or significant changes to the working organization.

Employees and unions are free to carry out union activities in the company. The initiative to start union activities depends on the employees, and the employer is not obliged to propose, organize or suggest any action on this area. The number of union representatives entitled to specific rights and protection granted by law is limited and relates to 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) hold meetings at the workplace; (ii) display information at the company's premises and distribute documentation directly to the employees; (iii) request information on matters and situations defined by law; and (iv) under certain circumstances, to have 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 union may negotiate and enter into collective bargaining agreements with employers or employer associations. Collective bargaining agreements generally only apply to their subscribers. However, the government may extend its application to employers carrying out the same activity or within a certain geographical 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 collective bargaining agreements that are specifically designed for self-employed workers. Economically dependent self-employed workers may also benefit from an existing collective bargaining agreement applicable to the company, under the specific terms provided for in them.

8.10. Social security issues

Social security contributions are compulsory for employers and employees. Employers must withhold employees' contributions from their salaries; employers are obliged to make this withholding. The monthly social security contribution is determined by applying the rates provided by law 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 the employees' health.

Employers that fail to comply with these obligations may face severe penalties.

Employers must 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. The fines depend on the employer's turnover.

The 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 instruments 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 the development of prices 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 start-ups and SMEs that want to raise funds to finance growth and benefit from the reputational advantages of being listed. It is subject to lower listing requirements.

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

Exchange management entities and listed companies are supervised by the Portuguese Securities Market Commission ("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 the settlement systems it manages (real-time and foreign currency), Interbolsa:

- settles operations in regulated markets and multilateral trading facilities;
- settles OTC (over-the-counter) operations between financial intermediaries (participants) affiliate to Interbolsa settlement systems;
- settles operations resulting from securities lending operations through the Securities Lending Management System (SGE – *Sistema de Gestão de Empréstimo*);
- carries out the financial settlement relating to the exercise of rights inherent to the securities registered or deposited in the Central Securities System; and
- calculates the corresponding financial settlements and sends the 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 the securities are created and transferred, and the number of securities outstanding and the 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).

The law provisions are mainly established in the Portuguese Securities Code and 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 the recommendation, 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., relating to 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.
- Higher mandatory insurance coverage for board members of listed companies.
- 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 remuneration policy statement on the directors' remuneration 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 which, 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, if it considers that the information would damage its interests, if this postponement is not likely to mislead the public, and 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 (≥ 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 this to the CMVM, which may publish them.

- **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 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, distinguishes two categories of market abuse that are 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 understood as 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 persons 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 conduct 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 the prospectus. This prospectus regulation 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 third-party 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 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 provided that 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 of 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 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.

The equitable price is understood as the highest 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 a minimum number of acceptances, removal of voting caps included in the target's bylaws, or 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 of the company's shares, the bidder holds, directly and indirectly, at least 90% of the target's voting rights.

The 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 the price offered din the takeover bid.

10 Regulated sectors

Banking, insurance, energy and telecommunications are 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. This includes payment services and electronic money.

Investment activities are developed 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. The latter 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 ("RGA"). This new statute promotes a comprehensive and in-depth review of the activity of 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**").

Regarding reporting duties, the supervisory authority CMVM has made available for public consultation four draft regulations on the implementation of an 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. The legal framework for the BUE is expected to be approved by the end of the first half of 2023. However, this project also aims to protect and support investors.

Finally, it is worth noting the launch of the Investor Portal Platform (*Portal do Investidor*). This will be a 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 (the "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

Introduction

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 ("PNEC 2030") was issued on July 10, 2020, establishing the main strategic objectives on national energy and climate for the next decade, as follows: (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.

In light of the recently enacted "REpowerEU" and "Fit for 55" European policies, the Portuguese Government has already declared its intention to review the PNEC 2030, establishing more ambitious objectives. In fact, the review project must be submitted to the European Commission by June 30, 2023, considering the different inputs resulting from a public consultation launched between March and April 2023.

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 H2 production, number of H2 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, the bioeconomy, energy-efficient buildings, and renewable energies.

Portugal has great potential as a renewable energy producer (solar, wind, hydro, thermal and wave energy). According to the DGEG's statistical information, between April 2022 and March 2023, the production of energy from renewable sources was 33,128 GWh, with Portugal having a total installed capacity of 17.374 GW by the end of that period.[17]

17 Provisory figures to be updated by the DGEG.

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 or 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 with the possibility of renewable energy projects benefitting from a guaranteed remuneration regime, such as feed-in-tariffs which historically helped to promote investment in this sector in Portugal. This being said, 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 remuneration special 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 complemented by Decree-Law 72/2022 of October 19. These measures include the following:

- Exemption from operation license to start operation: 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 subjection to an Environmental Impact Assessment (*Avaliação de Impacto Ambiental*).
- Wind projects generation: 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 to 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 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.

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 benefitting 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 (i) to protect the interests of consumers, particularly vulnerable customers, with regard to prices, service quality and access to information; (ii) to ensure economic and financial balance conditions for the activities exercised by the regulated sectors in the public interest, when managed properly and efficient (iii) to promote competition in the energy markets as regulator and under applicable law; (iv) to encourage efficient energy use and protection of the environment; and (v) to 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 the activities of production, storage, self-consumption of energy. The MIBEL is a joint initiative of Portugal and Spain, which aims to create 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 which 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, which allow for an optimization and increase of return, such as the following:

- Hybridization: provided the same injection capacity is maintained, the addition of new production units using a different renewable source technology 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 (*título de reserva de capacidade*), provided the same injection capacity is maintained.

- In the case of a full repowering, and until the PNEC 2030 objectives are met, any renewable project (except hydro plants above 10 MVA) may 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 Portugues Government has announced the intention to award around 10 GW of offshore wind projects to be commissioned until 2030, with the first auction being expected to take place in the last quarter of 2023.

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 Mm3 were supplied by regional or local distribution companies, whereas those with an annual consumption of at least 2 Mm3 were directly supplied by Transgás. For large customers, consuming over 50,000 Mm3, prices were at free-market rates, whereas for customers with an annual consumption below 50,000 Mm3, 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, 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 1129/2020 approves ERSE's Commercial Relations Regulations for the Electricity and Gas Sectors (RRC), applicable to the gas sector and the electricity sector, throughout the entire national territory, by regulating the following matters: (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 free, although subject to ERSE's commercial conditions regulation.

The Tariff Regulation (RT) for the gas sector, approved by ERSE (Regulation 368/2021 of April 28, as amended by Regulation 583/2022 of June 28), defines the revenues the regulated companies in the natural gas sector are allowed to recover through gas tariffs; the tariff structure; the procedures for setting, changing and publishing tariffs; and 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 free, 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 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 relating to the assessment of the environmental cumulative impact of investments.

It is important to stress that legislative reform is under way to review the oil sector legislation in Portugal.

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 the enactment of Decree-Law 69/2018 of August 27, there were important modifications sin 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 cancelled or revoked between 2017 and 2019, mainly motivated by environmental and political pressures. Some terminations have been challenged and are subject to arbitration procedures. Currently, two concession contracts remain in force (Batalha and Pombal), which have been operated by Australis Oil & Gas Portugal, Lda since September 30, 2015, on the Onshore Lusitanian Basin.

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 attest 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 for 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 use of 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 under governmental consideration, and some of these will be chosen to be financed 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 the promotion of 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 decree-laws:

(i) Decree-Law 84/2022, which sets targets regarding 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, two percentage points 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 made the first amendment to 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 in particular the case of 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.

(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). The referred ordinance also establishes that contracts will have a 10-year duration, starting from the date of the first supply. Until June 30, 2023, the Directorate-General for Energy and Geology will publish the announcement of the opening of the competitive procurement procedure for the above quantities.

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 16 August 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, the majority 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.

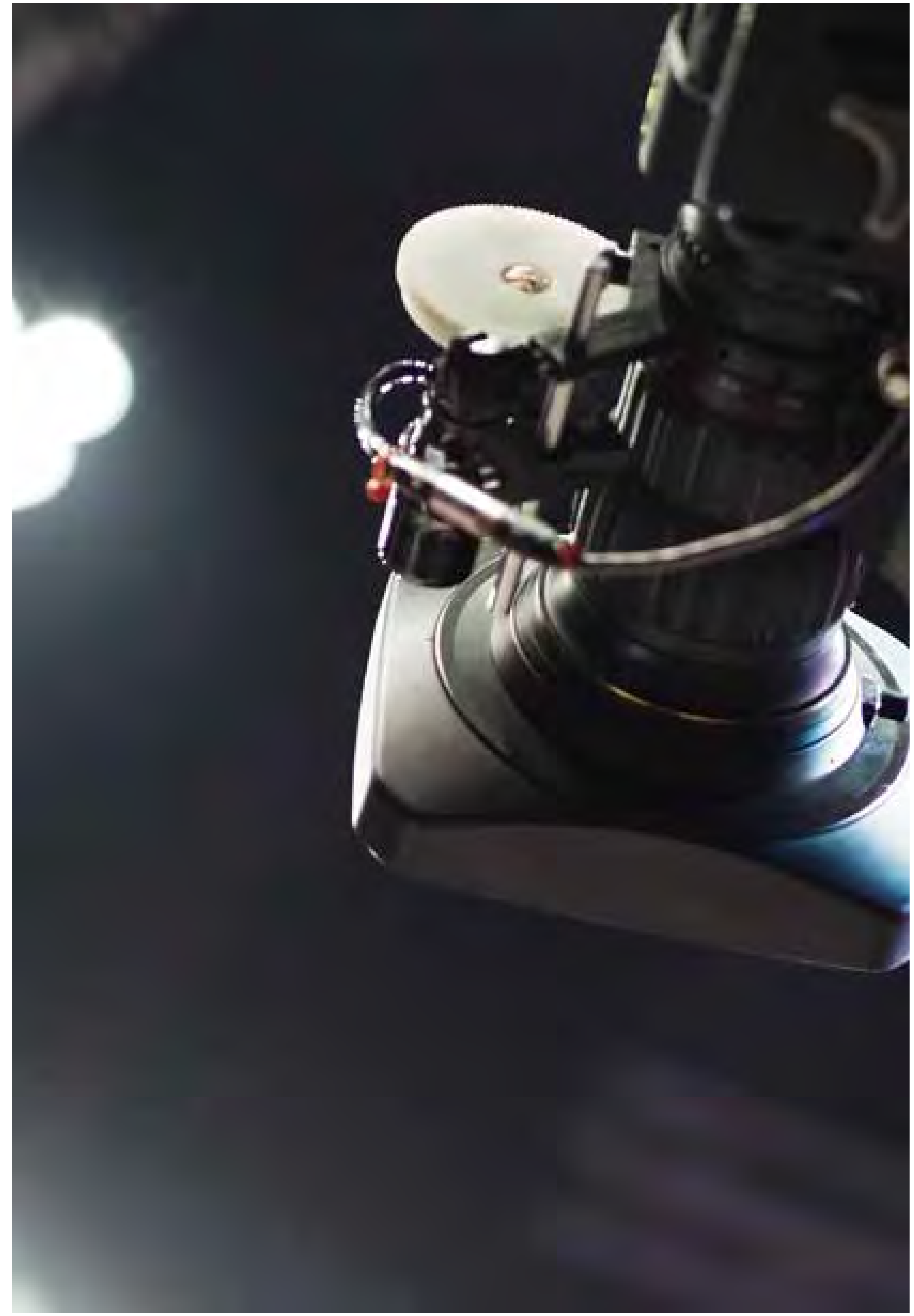
Under both the Television and Radio Law (Law 27/2007 July 30 and Law 54/2010 of December 24, respectively), television and radio broadcasting activities are subject to prior licensing, granted by the ERC.

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, officer with management duties and officers responsible for broadcast 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.

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

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

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

These are the key aspects of Portuguese insolvency law.

11.1. Definition of insolvency

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

Aside from this criterion, and in the case of legal entities, the debtor is also considered to be in an insolvency situation when, according to the accounting criteria, the debtor's liabilities clearly exceed its assets (balance sheet test).

11.2. Insolvency procedure

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

According to the Insolvency and Restructuring Companies Code ("CIRE"), the insolvency procedure is a universal enforcement procedure to satisfy creditors' claims, through an insolvency plan aimed at the recovery of the company integrated in the insolvency estate, or, if recovery is not possible, the liquidation of the insolvency 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 that the debtor is unable to meet most of its obligations in time.
- Owner or directors of the insolvent company abandon the company or the place where the company has its head office or performs its main activity as a result of the debtor's lack of solvability and provided no reputable substitute is appointed.

- Dissipation, abandonment, hasty or loss-making liquidation of assets and fictitious constitution of credits.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 contracts obligations

  - Rents for any kind of lease, including financial lease, installments related to an acquisition price or a mortgage on the place where the debtor carries out its activity or it 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.

Insolvency may be considered fortuitous or culpable

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 insolvency 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

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 proceeding, 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, and those permitted by law abide by the rule that "ordinary credits" are considered equal.

On this basis, a distinction is made between guaranteed, privileged, ordinary and subordinated credits:

- 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 owed 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 owned by the creditor who filed for the debtor's insolvency) over assets that comprise the insolvent estate. Due to their nature, these credits are paid on a pro rata basis with the proceeds of the unsecured assets and according to their inner ranking. There are several types of privileged creditors that are ranked differently.

- Common creditors can only be paid after creditors who 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 acknowledgement and, in principle, must be paid by the insolvency administrator when they fall due and prior to any of the abovementioned.

11.8. Clawback actions

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

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

Requirements of clawback actions:

Clawback actions generally requires evidence of the bad faith of the third party, which is presumed in acts performed or omitted within two years before the insolvency proceedings start and in which a person with a special relationship with the insolvent participated or took advantage, 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.
- The detrimental nature of the act and that the debtor was in an imminent insolvency situation at that time.
- That the insolvency proceedings had started.

Clawback actions without requirements

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

11.9. Key pre-insolvency instruments

Portugal offers entrepreneurs several agile legal mechanisms enabling them to revitalize companies (as well as individuals), 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 (Extrajudicial Business Recovery Regime), 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 the Council Resolution of Ministers 42/2016, of August 18).

RERE can be used by corporate or natural debtors (owners of companies) 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) aiming to reach an agreement for their recovery. The parties must enter into a negotiation protocol (They can freely establish the content between them and is it generally confidential that must be filed with the commercial registry office.)

During negotiations, which may not exceed three months, creditors that have not subscribed to the negotiation protocol may adhere to it at any time. Once the negotiation protocol is entered between the parties, 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 the negotiations end, a restructuring agreement is drawn up, the content of which is freely agreed between the participants. This agreement is a single written document signed by all parties and is generally confidential.

Once the restructuring agreement is filed with the commercial registry office:

- 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 who 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 for in the restructuring agreement, the court will then approve the restructuring agreement 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 16/201 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, but whose recovery is still feasible, to enter into negotiations with creditors to reach an agreement, leading to their 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).

The consolidation of several PERs for companies within the same group is admitted. The judge may admit this consolidation of proceedings ex officio or following the provisory judicial administrator's request.

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 the debtor and by creditors, although not related to the debtor company, holding at least 10%[18] of non- subordinated credits, expressing the intention to engage in negotiations leading to the revitalization, through the 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 revised must, along with the PER application, submit a statement issued by a certified accountant or an auditor asserting that the company is not currently in a situation of insolvency.

The debtor will also certify and declare, in writing, that it meets the conditions for revitalization. These statements are addressed to the court, which, after receiving these statements, 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. The creditors must submit their credit 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, subject to previous agreement 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 precautionary lawsuits ongoing against the debtor are stayed for a four-month period (which may be extended for an additional month); and

18 This percentage may be reduced by the court 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.

- 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 recovery plan will be approved by the creditors in each of the following cases:

- It is voted by creditors whose claims represent at least one third of the total claims with voting rights, as established in the provisional claims list, receiving favorable votes from more than two thirds of all the votes cast and more than half of them correspond to non-subordinated claims.

- It receives favorable votes of creditors whose claims represent more than half of all the claims associated with voting rights, and more than half of these votes correspond to non- subordinated claims.

- When the creditors are classified into separate categories, it receives, in each category, favorable votes from more than two-thirds of the total votes cast.

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 the 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 is 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 process of revitalization for two years.

PER under article 17-I of CIRE

PER can also be initiated by filing an extrajudicial recovery plan signed by the debtor and creditors representing at least a majority of votes needed to approve the recovery plan in 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 its recovery, the agreements executed in the context of the PER cannot be subject to clawback actions.

However, guarantees granted during the PER aiming to provide the debtor with the means needed 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 percent 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 percent of the debtor's non-subordinated debt), a general statutory lien over moveable assets, ranked before the general statutory lien over moveable assets granted to employees. Stakeholders and other persons who have a special relationship with the debtor may enjoy the benefit described in point (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 a 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, accompanied by 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 and dated, no more than 30 days prior, by the company's administration body and certified by an accountant or statutory auditor, whenever the auditing of accounts is legally required; and (iii) the viabilization agreement, signed by the company and by 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 approval of the agreement by the court, 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.

The creditors have 15 days (counted from the publication of the list of creditors) to challenge the list of creditors and to request the non-approval of the viabilization agreement. Within the same period, the AJP provides an assessment on whether the agreement offers reasonable perspectives to ensure the company's viability.

Within 10 days, the judge must decide on any challenges filed by creditors to the list of creditors and analyze the viabilization plan within 10 days, ratifying it, by decision, if it cumulatively (i) respects the legal approval majorities, (ii) presents reasonable perspectives 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 moveable assets, ranked before the general statutory lien over moveable assets granted to employees.

The new PEVE resembles, as far as its regime is concerned, the PER modality established in article 17-I of CIRE. However, the PEVE legal regime 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.
- 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

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

Dispute settlement

12.1. Litigation: jurisdiction and civil procedure

Jurisdiction

Jurisdiction is determined by several criteria: (i) subject (mainly civil and commercial, criminal, administrative, labor, tax, intellectual property, competition and family); (ii) instance (first instance court, second instance court or 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 specific 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 procedure; (ii) a statement of defense, together with the documents, witnesses and expert evidence that support the defense; (iii) a preliminary hearing that aims to attempt to conciliate the parties, to solve procedural issues, to 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 that particular case, or when there are contradictory rulings from appeal courts concerning a matter of law that must be clarified).

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 will not be 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 of the decision 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

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

Arbitration

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

The Arbitration Law regulates both 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 made in arbitrations seated abroad.

Under the Arbitration Law, 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 Law 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 Law 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

Real estate

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

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

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, 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 previously 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 on a pro rata basis and according to their respective quotas.

Each co-owner is allowed to sell his or her quota to third parties, with the remaining co-owners being entitled to a pre-emption right in any such sale. The co-ownership legal regime entails specific rules regarding the property management of the relevant property.

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, the building is divided in several units that may belong to different towners, and they are considered individual properties subject to their 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, forming part of an indivisible complex in rem right specifically established in the Portuguese Civil Code and, 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 these meet the applicable requirements.

The Portuguese legal framework also provides for other in rem property rights, of which the surface right (*direito de superfície*) is the closest to an ownership right and, therefore, grants the developer of the project 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 plantings on the property. At the end of 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 (with a 30-year limit for legal entities) or for life (in the case of a natural person).

Registration is essential to prove title over the property. The responsibility of the land registry rests with the Portuguese State through the Land Registry Office that 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 has been created prior to such registration date.

Any facts that create, acknowledge, acquire 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 office (*conservatória do registo predial*) within two months (there will be a fine after that period).

Ownership of a property is transferred by the 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. The final registration constitutes a presumption of the existence of a right to the property that belongs to the registered holder.

Lack of record of such facts in the land registry may entail lack of protection of the relevant property purchaser vis-a-vis third parties (*erga omnes* effects) and the impossibility of transferring such property.

13.2. Real estate transactions

Acquiring rights over real estate can be direct (i.e., by directly acquiring an asset ("asset deal"), or indirect (i.e., by acquiring shares of a company or any other vehicle that owns real estate property ("share deal"). In both cases, the acquisition may occur through an investment vehicle.

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 property investment funds (real estate investment funds – *fundos de investimento imobiliário* – or 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 at stake, including the following:

- The land registry certificate and the tax certificate
- The property's energy performance certificate
- The residential technical record (*ficha técnica de habitação*), when required for residential properties.
- The use permit (*alvará de utilização*) issued by the municipal authorities (although this document may not be required if the property was built before August 7, 1951, and no further construction subject to licensing was carried out in the meantime).
- The statement issued by the condominium manager, when transferring units, setting out (i) the amount of all outstanding condominium charges in respect of that owner's unit, specifying their nature, amounts and payment deadlines; and (ii) declaring any debts, their nature, amounts, dates they were constituted and due dates. The purchaser may declare that it waives the right to submit this statement and, consequently, accepts responsibility for any debt owed by the seller relating to the condominium. The waiver of any legal pre-emption rights.
- The waiver of any legal pre-emption rights.
- Proof of payment or exemption of IMT and stamp duty.
- Recently, proof of registration of the ultimate beneficial owner with the Portuguese Ministry of Justice is also required by law for corporate entities.
- Evidence of the bank transfer or of the bank check used for the payment of the amount.

21 Please refer to section 2 - Ways of doing business
22 Please refer to section 7 - Tax

In this regard, it is important to highlight that a draft law proposed by the government is in the process of being approved. Draft Law 77/XV/1 aims to simplify the formalities in real estate transactions by eliminating the requirement to:

i. prove the existence of the housing technical data sheet; and
ii. exhibit the use permit or prove that it is not needed.

Draft Law 77/XV/1 is still under parliamentary consideration and may eventually undergo changes within the approval procedure. For more information about this draft law and the measures included in the government's proposed More Housing Program, please see the Cuatrecasas Practical Guide.

Share deals

Share deals are usually formalized through private agreements (not subject to any specific formal requirements). Under these agreements, the parties agree on the terms and conditions for the transfer of shares, which generally include specific provisions on the real estate owned by the seller, namely through representations and warranties, conditions precedent and specific indemnities related to potential or actual contingencies identified din the property.

The legal requirements for transferring shares 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 and leases with an initial term of more than six years must be registered with the land registry office.

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 pre-emption right if the property is being sold.

The use of property under lease agreements must comply with the use permit issued for the property, under penalty of nullity.

Urban lease agreements can be divided into urban leases for (i) residential, or (ii) 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.

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 shall 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 a longer duration (although this would result in tax implications).

In January 2020, a new right entered into force allowing for access to residential properties – the right to durable housing (*direito de habitação duradoura*).

Under a durable housing right, the resident 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 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 the public policies at a local level. They are divided in three categories that shall be considered for each property project: (i) "PDMs" – Municipal Master Plans (*Planos Diretores Municipais*); (ii) "PUs" – Urbanisation Plans (*Planos de Urbanização*); and (iii) "PPs" – Detailed Plans (*Planos de Pormenor*).

Each of the three types of land use plans that are highlighted above 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 inter-municipal plan).

The RJUE is the legal regime which foresees the required administrative permissions 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*), and what is the administrative procedure to observe, as well as the monitoring of the respective execution.

Municipalities are the local entities responsible for assessing whether the execution of a certain urban project is 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 to proceed with a specific urban project, the project may need these entities' approval.

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 with 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 one year.

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*), prior communication (*comunicação prévia*) or use permit (*autorização de utilização*). Projects without relevant urban impact (generally maintenance works) may not depend on any of these procedures, although they may be subject to municipal supervision.

Once the project is completed, and the construction complies with the project that was submitted and approved (or, in advance notice procedures, not rejected by the municipality), a use permit will be issued. The use permit is the legal document that verifies (i) the completion of the construction works; (ii) that the works were executed in accordance with the respective building license (*licença de construção*); and (iii) the authorized use that may be given to the building.

On these planning and licensing matters, it is important to highlight that the Parliament is currently examining a draft law proposed by the government (Draft Law 77/XV/1), which, if approved, will introduce the following significant changes:

i. Eliminating licenses - new exemptions or waivers of prior administrative control by municipalities

ii. Eliminating the building permit title

iii. Removing, in certain cases, the need for an opinion from the competent cultural heritage

iv. Eliminating the authorization for the use of real estate

v. New simplified mechanism for reclassification of non-building land as building land in certain cases

vi. Conversion and construction of buildings for residential use

As explained in section 13.2., Draft Law 77/XV/1 may eventually undergo changes within the approval procedure. For more information about this draft law and the measures included in the government's proposed More Housing Program, please see the Cuatrecasas Practical Guide, please see the Cuatrecasas Practical Guide.

14

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

Private equity

14.1. Introduction

The Legal Framework on Asset Management, approved by Decree-Law 27/2023 of April 28, as amended ("RGA"), regulates collective investment undertakings, including private equity and venture capital activity in Portugal, which is 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 enclosing seed capital, start-up, early-stage and scale -up investment, while expansion, capital replacement, turnaround, refinancing of debt, management buy-out and management buy-in investments qualify as private equity in the strict sense). 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 transposes into the Portuguese legal system, among others, Directive 2011/61/EU of the European Parliament and of the Council, on alternative investment fund managers ("AIFMD"), as amended from time to time. 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

Simplified framework and qualified framework

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 a five-year period from the date of the investment. For this purpose, the increase of 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; namely, 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 are able to manage alternative investment funds domiciled in other jurisdictions and to 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 that have assets under management that do not exceed (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 with no reimbursement rights enforceable within a five-year period from the date of the investment) are as follows:

- Sub-threshold private equity companies will 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 assets of and oversee the management of the funds' assets, provided they target only professional investors, as defined in MiFID II.
- A simplified risk management function may be put in place in the case of sub-threshold private equity companies.
- When the global net value of the assets under management by sub-threshold private equity companies exceeds €250,000,000, they must have additional own funds corresponding to 0.02% of the global net value exceeding this limit (with a possible exemption of up to 50% of that amount if they benefit from a guarantee in the same amount issued by a EU or equivalent third-country credit institution insurance company).
- Private equity companies must report annually to the CMVM their main investments, main risk exposures and main concentrations of the private equity funds under management.

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).

Harmonization of the Portuguese framework
Following the revamp 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.

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

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 rules governing equity (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) assets 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)

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

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 the 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 granted for a two-year initial period and can be renewed for successive periods of three years, and provide holders with:

- a residence visa waiver for entering Portugal;
- a residence permit in Portugal;
- free access to the Schengen Area (26 countries);
- possibility of family reunification
- access to a profession or to carry 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 (general) or permanent residence for ARI holders, after holding the temporary permit for at least five years; or (ii) citizenship after five years if the requirements are met.

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 and for a minimum of five years:

- Capital transfer of at least €1.5 million

  Bank deposits of at least €1.5 million: The applicant must have a declaration issued by a credit institution authorized or registered in Portugal by the Bank of Portugal.

  Investing at least €1.5 million to purchase shares in listed or unlisted Portuguese companies, including those operating in Portugal or having investments in other countries (with registered office in Portugal, or in another Member State of the EU with a permanent establishment in Portugal, although the investment may be carried out abroad). Investing at least €1.5 million in public debt securities of the Portuguese State, including treasury bonds, savings certificates or treasury bills.

- 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 to create the 10 mandatory jobs individually; i.e., without incorporating a company in Portugal

- Acquiring real estate with a minimum value of €500,000

  The ARI rules determine that either rural or urban real estate can be acquired, and that real estate can be acquired for leasing, commercial, agricultural and tourism purposes.

  The acquisition of real estate can be through (i) joint ownership, provided the applicant is a joint owner and invests at least €500,000; (ii) a purchase and sale commitment agreement, if the down payment is at least €500,000; or (iii) a limited liability company with the applicant as the sole quota holder.

  From January 1, 2022, only residential real estate assets located in the Autonomous Regions of the Azores and Madeira or in the interior inland territories, as identified in the Annex to Ministerial Order 208/2017, of July 13, are qualified to obtain the ARI. Therefore, real estate investment for residential purposes is excluded from the Golden Visa scheme in the Lisbon metropolitan area, the Porto metropolitan area (except for Arouca and the parishes of Vale de Cambra) and in almost all of the Algarve.

- Purchasing real estate that was built at least 30 years ago or that is located in urban rehabilitation areas for rehabilitation purposes, for €350,000 or more. The investment includes the purchase price and the cost of the rehabilitation works.

In this case, the investment in real estate is reduced, considering that it is for rehabilitation.

The investor must submit proof that it filed a request for prior information or for the rehabilitation works' licensing and a works contract for the works on the property acquired. The contractor hired for the rehabilitation must be certified by the Portuguese Institute of Public Markets, Real Estate and Construction ("IMPIC").

In this case, the restrictions relating to residential real estate assets, the inter-municipal communities of the interior and the Autonomous Regions of the Azores and Madeira are also applicable. The Portuguese Government has created tax benefits for the activity of urban rehabilitation, introducing tax efficiency to investment opportunities.

- 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 cand technological system.

- Capital transfers of €250,000 or more to be applied to investment or to support artistic output recovery or maintenance of Portuguese cultural heritage.

  The investment may be carried out through central and peripheral direct administration services, public institutes, entities forming part of the business public sector, public foundations, private foundations with a public utility statute, inter-municipal entities, entities forming part of the local business sector, municipal associative entities and cultural public associations pursuing attributions in the area of artistic production, recovery or maintenance of Portuguese cultural heritage.

- Capital transfers of €500,000 or more to be applied to the acquisition of participation units in 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.

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

Since July 1, 2015, provided the investment is carried out in low-density territories, the minimum requirement for the real estate investment activities mentioned above may be 20% lower. For these purposes, low-density territories are the level III territories of the Nomenclature of Territorial Unities for Statistical Purposes (NUTS III) with fewer than 100 inhabitants/km2 or with a GDP per capita below 75% of the national average.

The law allows those with Portuguese residence permits or those who apply to ARI to also apply for residence permits for their family dependents

15.1.2. Family reunification

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

- spouse;
- children, as well as adult children with disabilities;
- adopted children;
- single, adult children studying 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 offers the possibility of applying for permanent residence permits or permanent residence permits for ARI holders, provided the applicants:

- 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).

  Regarding residence permits for ARI holders, the investment activity that was carried out for the ARI concession must be kept.

15.1.4. Portuguese citizenship

ARI holders can apply for Portuguese citizenship if they:

- have had a temporary residence permit for at least five years;
- are of legal age or emancipated under Portuguese law;
- have been legally residents in Portugal for at least five years;
- have sufficient knowledge of the Portuguese language (A2 level); and
- have not been convicted of a crime punishable with more than three years' imprisonment under Portuguese law.

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

It is important to highlight that the government is proposing a draft decree-law that is in the process of being approved. Under the terms of the Draft Decree-Law 71/XV/1, several investments within the ARI program will no longer be accepted. Although exceptions are expected, real estate investment will no longer be considered. However, these exceptions will only be known once the proposed decree-law has been approved and published. Applications submitted before the new decree-law enters into force will still be considered.

Draft Decree-Law 71/XV/1 may eventually undergo changes within the approval procedure. For more information about this draft law and the measures included in the government's proposed More Housing Program, please see the Cuatrecasas Practical Guide.

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