

COMMITTING TO COMPLIANCE - F CASTELO BRANCO

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Clients are much more aware of their compliance obligations, especially in view of the so-called ‘Commitment Law’, according to Miguel Lorena Brito, Head of Public Law at F. Castelo Branco & Associados. “This Law has been one of the major changes of 2012 and clients are still asking many questions about it.”

According to this Law, a public entity cannot enter into a contract without prior budgetary provision and a specific sequential numeric code. “Clients are also responsible for ensuring their contracts comply with these new provisions and regulations,” explains Lorena Brito, “and if they accept non-compliant job orders or awards they are in danger of not getting paid for the goods supplied or the services provided.”

The framework for public procurement in Portugal also includes the recent introduction of a unified Entity for Shared Services for Public Administration that supervises most of the Government and Central Authorities’ purchases. This results from a merger of former procurement agencies, the main being the ANCP– National Agency for Public Procurement.

“For many products and services we therefore have a ‘central shopping’ Entity that organises public tenders and approves lists of suppliers and capped prices,” he says. In certain sectors, suppliers now know that they have one opportunity to deal with the Government and if they don't get listed they can be out of the public sector for two or three years.

Reinforcement of the Audit Court's supervision powers should also be mentioned, as contracts with public and municipal companies above certain amounts are now subject to the Court's prior clearance.

While it's too early for any criticism, these amendments have been welcomed as creating a more transparent and efficient public procurement system, concludes Lorena Brito.