

# DOING BUSINESS THROUGH PUBLIC LAW - ESQUÍVEL ADVOGADOS

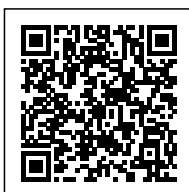
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**José Luis Esquível**

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**In the current climate there is even greater need for regulatory issues to be looked at from a commercial perspective, says José Luís Esquível, principal of niche Lisbon firm Esquível Advogados.**

"Clients do not want academic opinions and as a commercial adviser you cannot sit on the fence. What is vital is that they are in the best possible position in the contracts they already have and in those they contemplate entering into."

New opportunities in the infrastructure and projects sectors may be much fewer as a result of the financial difficulties Portugal now faces, but concessionaires, financing entities and construction companies must ensure they remain up-to-date with both legislative and political developments, he

believes.

"Some major projects remain in the planning phase while the merits of others are being reassessed. It is not simply the case that the Government has stopped executing projects, it just means that they are now looking at them in much different, perhaps longer-term, ways."

Portugal still needs investment in the rail and airport sectors but the most expensive projects are inevitably on hold. Significant transport concessions are still up for tender, albeit the Government wants to get the best financial terms.

"The Portuguese Audit Court has put clear restraints on the ability of companies to renegotiate contracts but the Government still often wants to make adjustments. Companies have to be prepared to negotiate where necessary."

Portugal's municipalities are in a worse economic situation than the central Government, he says, so contracts at a local level may be more vulnerable to alteration. "Different types of demands are being placed on companies in the water sector, which is managed locally, for example, than the transport sector which is often managed at the national level."

Ultimately what clients require is to understand the risk matrix, says Esquível. "This means deconstructing the client's aims and the Administration's desires, and inevitably placing more emphasis on contractual terms that may have previously avoided or not demanded scrutiny."