

FINDING NEW WAYS TO RESOLVE PORTUGUESE DISPUTES

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The Portuguese courts may have already been running at over-capacity before the onset of the financial downturn, but efforts are at least now being made to make litigation more efficient, and to encourage alternative dispute resolution mechanisms, says Jos  Maria Corr a de Sampaio, litigation partner with Abreu Advogados.

'The crisis has not brought anything new, but it is at least helping to drive new initiatives in IT and document management in the courts, and the

attraction of new arbitration centres – clients notably seem more willing to include arbitration clauses in their commercial agreements.'

Los Tribunales portugueses pueden ser dolorosamente lentos pero se están haciendo esfuerzos para mejorar su eficiencia a través del uso de IT, así como promover mecanismos de resolución alternativa de conflictos, dicen José Maria Corrêa de Sampaio y Leonor Chastre de Abreu Advogados.

The impact of such clauses may not be felt immediately, if at all, but efforts are already being made to promote arbitration for disputes involving public authorities, and parties in litigation can already now access court records and lodge documents electronically, which is beginning to help speed up judicial processes.

'We will also likely this year see new arbitration mechanisms for disputes with the national tax authority, which is a government initiative launched as a result of their own dissatisfaction with the slowness of the courts,' he says.

Last year also saw the first cases settled through Portugal's new intellectual property (IP) arbitration centre, ARBITRARE, says Leonor Chastre, IP partner with Abreu Advogados. 'The process still needs to be refined as issues emerged around the quality of the decision-making in some early cases, but as Portugal still lacks dedicated IP courts it is nonetheless an encouraging development.'

Clients should also note that mediation may not be a formal part of the dispute litigation process in Portugal, lawyers will inevitably seek to negotiate a resolution, even after the onset of litigation or

arbitration, says Corrña de Sampaio.

'Despite the procedural issues that can still delay litigation clients should not however be afraid of resorting to the courts. We will try all we can to resolve a dispute, and explore options such as negotiation or arbitration, but for those that do enter litigation in the courts patience is essential.'