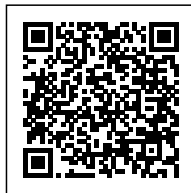


# GOING BACK TO MDPS: TOUGH TIMES AHEAD

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**Facing the challenge of new rules on MDPs, says Manuel Santos Vítor, law firms must step up their game if they want to be in the race**

Portugal is still dominated by small firms or sole practitioners, and large and even medium-sized

firms (30 to 50 lawyers) represent a fraction of the profession.

The vast majority of companies are small to medium-sized enterprises (SME), but, as a rule, they only consult lawyers when facing problems, not to prevent them.

As a result of the global crisis and its impact on Portugal, many SMEs have suspended or ceased business activities. The result is that there are fewer clients, and those that are surviving are less able to spend money on legal services.

### **Price dumping**

I am aware that the severe deterioration in the market has caused other firms to reduce their number of fee earners and the income of those remaining.

'Price dumping' is now a reality in the market and those that do it (to win new business no matter what the cost) disregard the impact this will have in the medium to long-term. This plague has now spread from the small/medium-sized to the larger law firms.

Little or nothing has been done by the Portuguese Bar Association (PBA) and its President to prevent or limit these practices and help lawyers and firms to overcome the crisis or limit its impact. In particular, they have failed to provide guidance on the development of the profession, the organisation of law firms and expansion into new markets. Elections at the PBA will take place at the end of the year, so not a lot is expected to happen before then.

### **Multidisciplinary practices**

Additionally, the rules governing the legal profession in Portugal will have to change as a result of a recent law allowing law firms to have non-lawyers as partners and consulting firms to integrate lawyers or law firms.

One would have expected the PBA to have launched a consultation to hear the views of lawyers and law firms – precisely those that will be affected by the new law – on how to address these changes. But this did not happen.

Hopefully this consultation will take place either in the context of the election campaign debates or in the follow-up to the elections. In any event, we are going to have a new discussion about an issue that was, to a large extent, already a reality in the 1990s when it had mixed results.

Back then, and it appears once again, law firms faced competition from very large consulting firms that became 'one-stop-shops' providing a full range of services from consulting to auditing, tax planning and legal services, etc. While some clients appreciated this, my experience shows that most passed up the opportunity and continued to rely on their 'trusted' legal advisers.

### **Retaining talent and clients**

There are probably many different reasons why this happened. I believe one of the most important was that the majority of law firms were able to retain their best lawyers.

Clients had the continued guarantee of quality of legal services as a main focus of the activity of the services provider rather than these being made available as ancillary or complementary to other services, as was the case with the large consulting firms.

Moreover, the profession is guided by principles that are paramount if a lawyer or a law firm wants to have a solid reputation and be seen as a reference – ethical considerations, legal professional privilege, building trust and personal client relationships – even in the case of large law firms.

A client knows that these are guiding aspects, and are undoubtedly factors that have an influence on a client's decision to instruct. Will this be replicated in consulting firms also providing legal advice? That question remains unanswered.

### **Taking advantage**

I am confident that law firms will rise to this new challenge, which represents an opportunity for them to modernise, step up their game and be more professional.

It will also be an opportunity for us to recruit professionals that complement the provision of legal services: architects, economists, accountants, etc. They can be helpful and clients will appreciate

the opportunity to continue to rely on the same firms, people, level of service and compliance with the guiding principles they have come to rely on. But now with the added benefit of additional complementary services.

So as law firms suffer through the crisis, and face the double blow of additional competition on the market, who will succeed, and who will fail, remains to be seen.

Manuel Santos Vitor is Managing Partner at PLMJ and also in charge of the firm's corporate and M&A practice.