

LACK OF CHOICE

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João Canto e Castro (pictured) admits it is sometimes difficult getting law firms to work for Infraestruturas de Portugal, while saying there are few law firms with the expertise he needs



It's not easy being an in-house lawyer in the public sector in Portugal at the moment. Many public sector organisations in the country have suffered cuts to their legal budgets, which means they are being forced to do more of their legal work in-house and rely less on external legal advisers. That is unless public sector in-house lawyers are able to convince law firms to reduce their legal fees, in which case general counsel in public bodies may be able to find the budget to pay for some external advice. As legal director of the concessions directorate at Infraestruturas de Portugal, João Canto e Castro will be familiar with all these issues. Infraestruturas de Portugal is a public road and rail infrastructure company that was created by the merger between Rede

Ferroviária Nacional (REFER) and EP - Estradas de Portugal in 2015. Prior to the merger, Canto e Castro was legal director at EP - Estradas de Portugal. There are two lawyers in Infraestruturas de Portugal's legal department, which means the legal team tends to outsource big matters. The work that gets passed to external lawyers may include, for example, major arbitration cases – these often concern disputes with concession holders. However, Canto e Castro admits that it can be hard to convince some firms to work for Infraestruturas de Portugal. One of the reasons for this is because major firms in Lisbon and Porto are used to primarily working for private sector clients who, generally speaking, pay higher fees, so firms sometimes are less inclined to take lower paying work for public sector clients. "It can be difficult to get law firms to work for us," Canto e Castro says.

FEW FIRMS WITH A TRACK RECORD

Infraestruturas de Portugal sometimes invites law firms to bid for legal work, but generally the company chooses legal advisers based on the legal department's knowledge of the lawyer, their CV and their track record. One of the company's preferred firms is CMS Rui Pena & Arnaut, though Canto e Castro says the choice open to the company is sometimes narrow. "When it comes to public-private partnerships, there are not so many firms with a track record," he says. What does Infraestruturas de Portugal want from its lawyers? Canto e Castro values efficiency, and 'know-how' in particular, but he also wants external lawyers that are direct in the way they communicate. "Some firms are not direct," he says. "We sometimes get a big legal opinion from a firm that highlights two or three problems, but does not offer a solution." Canto e Castro adds that Infraestruturas de Portugal does not evaluate the performance of the law firms it uses in a formal way though he adds that the company is developing a tool that will enable the business to take a more sophisticated approach to such evaluations. He continues: "Some firms are not considered again because of their past performance, though legal work is intellectual work, so opinions on performance can be subjective."

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