

LISBON ANNUAL REPORT 2012: LISBON ON LIFE SUPPORT

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Law firms across Portugal are facing an uphill battle against a wealth of challenges. Severe austerity measures, wounded clients, cost cutting, price wars, managing talent and downsizing are among some of the issues faced. The road ahead is long and most definitely winding, and law firms are being realistic rather than optimistic. But there is the sense that, with a little imagination, agility and dynamism, they will come out fighting.

El rescate de la Troika el año pasado en Portugal sacó al país del abismo. Sin embargo, las acciones del Gobierno no son bienvenidas ni aceptadas por todos. La batalla por sobrevivir acaba de empezar. Los despachos tienen que enfrentarse a años difíciles, con ajustes de mercado y menos inversiones. Muchos afirman que la crisis sigue ofreciendo oportunidades a los emprendedores e incluso a despachos de abogados dispuestos a ofrecer servicios jurídicos diferenciados. Portugal está débil pero sigue en plena actividad.

Last year's Troika Bailout saw Portugal take its first steps back from the edge. But not all its Government strides have

been welcomed, or indeed tolerated. Recent demonstrations in the heart of many of the country's cities saw an unprecedented number of people take to the streets in peaceful protest at the most recent wave of austerity measures. The Portuguese, by nature, are a people used to fighting for survival, say lawyers. They've been through revolutions, military coups, dictatorships and civil war. And while the crisis is proving an extremely worthwhile adversary, it will take more than this to make them hold up the white flag.

That's not saying it will be easy – far from it. The battle for survival is barely underway, and the road ahead is hardly visible under a cloud of economic depression, lack of liquidity and a paralysed domestic market.

Austerity measures

While the Government's objective has been to try to reduce the deficit before it can begin to address recovery, one area that has seen some level of recovery is Portugal's credibility with the international financial markets, says Pedro Guimarães, Partner at F. Castelo Branco & Associados, as clearly shown by the reduction in interest rates due on Portugal's sovereign debt.

Portugal had an unacceptable fiscal deficit that required drastic measures to avoid bankrupting the country. The Troika has since recognised that the country is meeting its commitments under the MoU, and this has led to an increase in the foreign direct investment, say lawyers. But they are concerned as to whether the Government is actually taking steps in the right direction, principally because the austerity measures themselves are seen as affecting the growth of the economy.

"We're in an economic depression and everything is decreasing," says António Soares, Head of Corporate Finance at Linklaters, Lisbon. "The question is whether the austerity measures are creating the environment for the economy to grow or destroying it."



“We are focusing our efforts on offering highly specialised services and I believe an international strategy relies on finding alliances based on the same basis. Usually, there's more than one option.”

Manuel Martín, Managing Partner, Gómez-Acebo & Pombo

For the time being, the severe austerity measures imposed by the Government are having a devastating effect on the economy, according to Carlos Aguiar, Managing Partner at Carlos Aguiar, Ferreira de Lima & Associados, with unemployment increasing sharply, internal consumption diminishing drastically and a very heavy tax burden

imposed on the Portuguese, in particular the middle class.

In fact, all the key economic indicators have deteriorated since the austerity programme began, and there is concern that Portugal may be heading towards a death spiral says Rui Amendoeira, Managing Partner at Miranda, Correia, Amendoeira & Associados, where austerity leads to more recession, which in turn forces more austerity, which causes even more recession.

Economic recovery requires also further investment, says Miguel Castro Pereira, Managing Partner at Abreu Advogados, and public investment is the motor of the Portuguese economy. "One cannot expect that private investment will push the economy on its own. Exports are growing, but the Portuguese economy needs local consumption to push it further." If the internal income available is oppressively reduced through an excessive increase of tax burdens, the economy simply will not recover.

Demanding clients

For Nelson Raposo Bernardo, Managing Partner at Raposo Bernardo, clients currently fall into three categories – companies that failed, those able to handle the situation with their own funds, and those that have suspended projects or activities in Portugal and are investing abroad.

Liquidity is scarce in almost every economic sector and financing is practically non-existent, with these factors playing a major role in the increase of insolvency of corporate clients, says Felipe Baião do Nascimento, Partner at Baião, Castro & Associados, a business law and dispute resolution boutique. Lawyers are seeing many Portuguese companies having to restructure their businesses and downsize, or obtain alternate sources of finance outside of Portugal, or even the EU, to stand a chance of surviving.

And while some are adopting a 'wait and see' approach, the majority fall into the 'internationalisation' category, with the word attaining an almost 'do or die' business status. For Amendoeira at Miranda, virtually all of their Portuguese clients now have strategies in place towards finding new international markets which can compensate for a very depressed domestic market. Even old companies that were traditionally very domestic market-centred are now looking to the

international markets as a 'must have' piece of their growth strategies. If a company, no matter its size, is perceived as not having an international approach of some sort, this is viewed as poor management these days.

Internationalising within the Portuguese-speaking countries is an area where Portugal has an advantage over its EU counterparts. Its historic, economic and linguistic ties give companies, and law firms, the benefit of being able to capitalise on some of the world's most rapidly developing economies. Angola, Mozambique and Brazil are currently top of the list of markets that clients are turning towards.

But while the opportunities to thrive are there, the Portuguese Government seems to be working against them when it comes to supporting those making the move abroad.

Many Portuguese companies are doing much better there than back home, but when trying to repatriate foreign income, many often feel penalised by stringent tax laws.

"Yes there is opportunity abroad, but is that money actually coming back and being invested or reinvested into Portugal?" ask Claudia Santos Cruz, Managing Partner of AVM Advogados in Lisbon. "The Government seems to be focusing on attracting international buyers and investors but nothing is being done to facilitate and promote the return or re-investment from our own companies doing well abroad."

The costs

Minimising taxes in general has become paramount to clients, second only to cutting costs across the board. And law firms are feeling the effects. "Clients are reducing costs and therefore reducing providers," says Soares at Linklaters. "They want to pay less, split payments and allocate work to different law firms by selecting lawyers and comparing hourly rates, rather than going with just the one law firm."

The scope of work and fees are being reduced or limited and caps are being imposed forcing law firms to review their expectations and strategies in the short, medium and long-term. Firms will probably put much more pressure on rigorously defining the scope of work, says Lino Torgal, recently appointed Managing Partner at Sérvulo & Associados, because the market is constantly demanding law firms to set reduced fees caps.

“ Our strategy has not changed an inch. Our principal commitment is to Africa and will remain so for the foreseeable future. ”
Rui Amendoeira, Managing Partner,
Miranda Correia Amendoeira



Ultimately, clients look at law firms as contractors, says Manuel Santos Vítor, Co-Managing Partner at PLMJ. "They want to know how much the entire service is going to cost; not the hours it will take nor the number of people involved." Clients are now much more demanding.

A challenging market

The current sector and market developments have been a challenge to all law firms, says Maria João Ricou, Co-Managing Partner at Cuatrecasas, Gonçalves Pereira, and firms are currently being asked to provide services addressing clients' needs in very competitive conditions, without of course decreasing quality and creativity.

According to lawyers, the legal market's adjustment, however, has been surprisingly slow. Most of the biggest law firms have not yet effectively, or publicly, downsized. For Benjamim Mendes, Founding Partner at ABBC, there is a certain trend in some firms to lower their fees, which usually tends to backfire against the legal market and does not solve the real problem, as the economic environment is asking for capability and efficiency.

The climate is therefore demanding that management skills within law firms become much more developed and efficient, says Gonalo Anastácio, a Partner at SRS Advogados, and law firms need to adapt to these tougher conditions.

'Efficiency' is the buzzword of the moment among lawyers, and the majority are taking a good long hard look at their internal structures, management, resources and cost. "Recognition of such efficiency by the market is essential, as players are becoming more and more rigorous in what concerns 'value for money'," according to Castro Pereira at Abreu Advogados. "Being able to provide legal solutions, instead of simply legal services, is crucial."

As well as their day-to-day fee-earning, it is also crucial that lawyers bill in a timely manner and follow up on any unpaid invoices, as law firms are currently being driven by their bottom line. Collecting on invoices has become a huge challenge for many firms, similarly to the rest of the economy, says Anastácio at SRS advogados. "With the current economic crisis,

you must expect many corporates to face problems and hold on to their liquidity.”

Many law firms will need to reconfigure departments, specialise in areas of work that they did not offer before, and create added value for the clients, says Torgal at Sérvulo. But the mere reallocation of teams alone may not be enough to cope with the crisis.

Most likely the legal market will be facing downsizing and the appearance of new firms that are more efficient in their cost structures. “We believe that they will have to find alternative ways,” says Mendes at ABBC, “and we would not be surprised to see new and smaller specialised law firms emerging from this scenario”.

Lawyers also agree the key is to change their clients’ perception as to the true value of legal services. “The investment in specialised legal advice is always a good investment,” says Leonor Chastre, a Partner at Gómez-Acebo & Pombo in Lisbon, “especially in an economic crisis, where organisations have to defend/attack on several fronts in order to protect their own interests.” Law firms need to demonstrate that the clients will get a positive return on their investment in legal services and show the end truly does justify the means.

Internationalising

Internationalisation is probably the biggest challenge facing law firms in Portugal, says João Caiado Guerreiro, Managing Partner at Caiado Guerreiro. There are more and more deals being done in Portuguese, and the Portuguese-speaking world is possibly the 4th largest economy in the world – Brazil alone is the 5th.

As their clients are rapidly getting rid of their ties to the domestic market and seeking better returns of investment abroad, so too are law firms trying to solve the puzzle of how to ensure they have the capacity to follow clients wherever they go. Or risk losing them to someone who can.

The domestic market is and will continue to be depressed over the next couple of years as the long-term plan seems to be a move away from a consumption led economy. The environment for public and private investment is also not expected to evolve favourably in the short-term due to scarcity of equity and debt funding in the domestic market. However, the privatisation programme of the Government provides the chance to work with foreign investors willing to invest in Portuguese companies.

“Therefore, the question is to what extent can we work with clients who are trying to internationalise more and more?” says António Rocha Alves, Campos Ferreira, Sá Carneiro & Associados. “The challenge is to work more competitively in the international market, and you either need an international network or a global alliance.”



“ In light of the varying pressures law firms face and the rapid expansion of clients to new parts of the world, it is not possible any longer to have a single international strategy. ”
Joan Roca, Managing Partner, Roca Junyent

Law firms also need a lot of imagination and to constantly search for new opportunities. “Any crisis, even severe, creates new possibilities,” says José Alves Pereira, Senior Partner at Alves Pereira & Teixeira De Sousa. Most clients are actively looking to internationalise their services or exporting their goods; therefore, being able to help them through the creation of a solid and reliable network of contacts and partnerships is of the utmost importance.

But caution must be used in wholly focusing on the international market. “Going international is not a magic bullet,” says João Vieira de Almeida, Vieira de Almeida & Associados. “We need to fight for the Portuguese market, and the work is there if you look for it.”

(Over)size

Many law firms that grew in the boom years did so on the basis of a perception within the market that ‘bigger is better’ – but this is no longer a credible proposition. The domestic market cannot support the weight of the number of 100+ fee-earner firms currently around, say lawyers, and many are clearly struggling to maintain the same levels of activity that their lawyers had pre-crisis. Some structures are almost too top heavy to withstand any more battering by the crisis.

“I see cuts in the workforce, demergers and partners being asked to leave, and the longer it takes, the more extensive and painful it will be,” says Pedro Cardigos, a Partner at Cardigos. Keeping face at all costs has been defeated by the toughest and most persistent negative outlook that any Managing Partner must now call ‘reality’.

With their clients visibly making cuts in their workforce to better manage the demands of the crisis, law firms are not, and will not, be immune to this necessary trend. The biggest test, say lawyers, is to work out whether you can survive the

crisis in your current size and structure.

Rather than facing the question of size head on, however, some law firms are responding by lowering fees and extending hours to feed their structures and keep their lawyers, seemingly, busy.

Pricing

The market has become client-driven, and lawyers are under increasing pressure to lower their fees. Already a country with the lowest hourly rates in Europe, the temptation to go even lower in the name of retaining clients can be excruciating, say lawyers. And they can always find a strategic reason to justify doing so – feeding a structure, or to occupy their lawyers – but how to stop this from happening is the issue. And for managing partners, this is one of the struggles they are facing on a daily basis.

If all law firms start price dumping, says Nuno Galvão Teles, Managing Partner at MLGTS, it would be a form of collective suicide. “We have to ask ourselves, whether we are prepared to lose work and not to bid so as not to participate in a fee war.” The challenge is convincing their colleagues that it’s better to lose clients than to damage the profession.

Smaller firms are already feeling the effects of price dumping coming from the larger firms, according to Rui Esperança, Managing Partner at Alvim Cortes, Esperança, Vaz Osório & Associados.

The need to feed huge and expensive structures is growing in parallel with the decline in market activity, and the result is that big firms have lowered their fees and are approaching small firms in order to dispute their natural markets. And legal fees are often being proposed at levels that fall below our professional dignity, adds Dulce Franco, a Founding Partner at AAA Advogados.

Both internal and external lawyers, therefore, need to work together to ensure that they do not destroy the value of the market in the long run.

“The rates drop is extremely serious and we should be all aware of this,” says Duarte Garin, Managing Partner at Uría Menéndez Proença de Carvalho. “Mercedes isn’t going to sell cars for less than their true value, and we all need to ensure that we put a fair value on our services and stick to it.”

“It’s not about where you have an office, but about where you can demonstrate you credibly work”

Javier Fernández-Samaniego,
Managing Partner, Bird & Bird, Spain



Law firm leaders

With all the challenges they are facing, law firms need someone sturdy at the helm to navigate them through the rough seas they are sure to encounter over the coming years.

‘Tough times’ doesn’t quite seem to cover what lawyers predict lies ahead. What they are all very clear on is the attributes needed to ensure that they fight the good fight and come out the other side as unscathed, and competitive, as possible. At a time when no one knows what tomorrow will bring, the ability to see the wider picture is key, says João Macedo Vitorino, Managing Partner at Macedo Vitorino & Associados.

Flexibility, resilience and never losing focus on providing the best service possible are all characteristics that managing partners identify as being central to their roles. And the ability to take the right long-term decisions while tackling overriding short-term concerns is crucial, says Baião do Nascimento at Baião, Castro & Associados. Also, they need to be very aware of the fact that they cannot hold onto the hope that the past glory years will return, but being courageous enough to embrace the ‘now’ and reinvent their firms strategically in line with the times.

Law firm leaders have to provide direction and lead the process of adaptation to a new market – lower demand, different clients, different products and more sensitivity to pricing, says Pedro Siza Vieira, National Managing Partner, Linklaters. This will require firms to go through significant changes that will require clarity of purpose, the ability to lead the partnership in making the hard choices, and decisiveness in execution.

They need to create the conditions for the effective implementation of the right strategy for the firm, says César Bessa Monteiro, a Partner at pbb, and the environment for such a strategy to be understood and implemented within the firm. Many see this environment as being based on the concept of solidarity, with a leader having to ensure every individual within the team sticks together to form a united front.

Managing human capital is proving a key challenge that managing partners across Portugal face. “The management of human resources is a real key issue nowadays,” says Isabel Martínez de Salas, Managing Partner at Garrigues in Lisbon, “because that is our only asset”.

The difficulty is in managing the expectations and the career of associates, when they can see what is happening within

their firm and want to know how they fit in and when they will make partner, says Garin at Uría Menéndez Proença de Carvalho. Law firm leaders therefore need to address how they manage their partnership, how to tackle motivation, and, most importantly, how to retain the talent for when the market picks up. “Retaining talent and managing careers are big challenges at the moment,” says Galvão Teles at MLGTS, “and balancing them can be difficult”. But now, even more than ever before, a law firm leader needs to be a rain maker, says Pedro Rebelo de Sousa, Managing Partner, SRS. This, many identified as a leader’s greatest asset. And Portuguese law firms could definitely use a little rain right about now.

Just another year

Looking ahead, many believe that the Government’s austerity drive may be jeopardising the return to life of the Portuguese economy. And the worry among lawyers is that a renegotiation of the Troika’s terms or a second bail out is on the cards.

2012 is seen as a continuation of 2011. And the view among lawyers is that 2013 will be more of the same. Law firms need to dig in for the coming years, adjust to the market and be prepared to make less money. We have to get ready for whatever comes after the crisis, says Martínez de Salas at Garrigues in Lisbon, and the key is strategic planning and to maintain and motivate the best lawyers.

For Santos Vitor at PLMJ, the crisis does, however, offer a clear opportunity for entrepreneurs, including law firms, who understand the current difficulties. Those who are agile, flexible, look to the market and try to understand what is happening, anticipate trends and manoeuvre themselves into the best position possible. “The ones who stand still and are not dynamic will not manage to overcome these difficulties.”

And the deleveraging of the economy in the years to come could also generate significant work opportunities for lawyers, says Siza Vieira at Linklaters, including privatisations, takeovers, M&A and other asset sales, credit portfolio sales, restructurings and capital markets financings.

“As lawyers, since we depend on the activity rather than the health of the economy, we are always the last to suffer and the first to benefit,” says Vieira de Almeida at VdA.

As law firms are clearly suffering, now is the time to ensure that they also benefit from the opportunities out there.

Portugal may be down, but it is not out, and it is clear that while the mood is realistic rather than optimistic, its law firms will come out fighting.