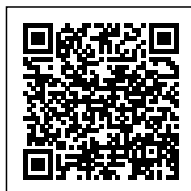


PORTUGAL'S LAWYERS IN RADICAL SHAKE UP

Posted on 25/02/2013



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The Troika Memorandum has already prompted a wave of reforms, and the latest pillar of Portugal to come under pressure is the professions.

Portuguese professionals, including doctors, accountants, notaries and, of course, lawyers, must undertake restructuring to make their sectors more competitive, under the country's obligations to the Troika. The proposed reforms are being watched closely by lawyers, who have identified a number of potential impact points to their business.

The current state of self-regulation is one topic of particular interest. Although concrete proposals are yet to materialise, the Bar Association regulates the profession based on guidelines handed down by Parliament. The Association has always guarded its autonomy, but the suggestion of more centralised involvement or a split in regulator – as was seen in England and Wales with the creation of the Solicitors Regulation Authority – has provoked a strong reaction.

It would be paramount to evolve from the partnership model to the company-like model, ensuring that at all times the profession keeps its integrity, independence and deontological principles, says

Nuno Azevedo Neves, a Partner at ABBC & Associados. This would be to prevent the legal profession turning into a mere business.

Other ideas, however, have been embraced. Trainees, for instance, are not always paid very well and have had to endure longer training periods. "Over time, the average length has gone from two years and it is now common to be a trainee for three or more years, which is very excessive," says Gonalo Anastácio, a Partner at SRS Advogados. "The plan is to cap it at 18 months so that the excessive length does not constitute a deterrent to access the profession and may not be perceived as a way to block the increasing numbers of law graduates."

Another reform would be to relax the rules on publicity. Portugal has historically been strict on law firms' public declarations, including prohibiting advertising and the naming of clients. This was viewed by some as anti-competitive because it allowed the established market names to remain in a strong position while new firms could not raise their profile. The rules have relaxed in recent times however – limited publicity is now allowed – so the scope for radical change has been narrowed. Perhaps the most controversial idea is the establishment of multi-disciplinary partnerships (MDP) between lawyers and other professions. Few countries have allowed the MDP model because of fears of uncompetitive practices or maintaining ethical standards. The UK, however, recently brought in a variant of MDP via the Legal Services Act – alternative business structures (ABSs) – which allows non-lawyers to be partners in law firms.

The proposals still require a great deal of work, and Azevedo Neves points to the need for transparency and consensus building if they are to advance.

"Traditionally we have seen many reforms that went wrong due to the lack of commitment of the parties involved and its unrealistic scope," he adds. "However, it is also crucial for lawyers to understand that the world is no longer what it used to be 20 years ago and that competition is an ever-growing reality that one will not be able to hide behind outdated and inadequate regulation." Lawyers and law firms will need to find a way of continuing to adjust to this new flat world without putting at risk the values and principles that must mandatorily govern this profession, otherwise it will be the whole legal system suffering the consequences of wrong moves.

Anastácio stresses that none of these potential reforms are set in stone and the market has yet to receive firm details about how any of them would work. In addition, the Bar Association is holding elections in November, and reforms have been put on the agenda, he says. "I am not sure there would be such a drastic reaction to these proposals if it was not for that election."

But, say lawyers, the fact remains that the door is open to a potentially radical shake up of the Portuguese legal profession as we know it. And it is believed that a number of Lisbon firms are already reviewing what the changes may entail for their business.