

PORTUGUESE FIRMS BOOSTING DISPUTE TEAMS TO HANDLE RISE IN CROSS-BORDER CASES

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Lawyers in Lisbon report that international arbitration is a practice area that has undergone 'extraordinary growth' in terms of both income and billable hours

The domestic banking crisis, as well as the growth of outbound and inbound foreign investment, has generated a significant increase in cross-border dispute work for Portugal's leading law firms, with international arbitration, in particular, having major growth potential.

It is a trend that is putting pressure on firms to boost the size of their dispute resolution teams in order to meet the needs of clients. "Cross-border litigation has been on the rise and has also been evolving into increasingly complex and sophisticated cases, not only from a legal standpoint, but also from a technical and financial point of view, demanding larger and more specialised teams," says Fernando Aguilar de Carvalho, partner in Uría Menéndez's Lisbon office. "Not that many firms have this kind of muscle and expertise, which reduces the number of Portuguese firms who are able to compete at this level." Aguilar de Carvalho adds: "Globalisation is also felt in the legal arena. This means that Portuguese firms compete with English and American law firms for a presence on arbitration panels and for representation in cross-border litigation." In the banking sector, notable examples include bondholders attempting to halt the sale to the US private equity fund Lone Star, of a 75 per cent stake in Novo Banco, the 'good' bank that emerged from the collapse of Banco Espírito Santo.

The troubles that have afflicted the Portuguese banking sector have indeed been a major source of cross-border disputes. "This is to a big extent a result of the issues the Portuguese banking sector has been dealing with, and the resolution measures applied by the Bank of Portugal to two Portuguese banks that, due to its unprecedented nature and cross border impact, gave – and are still giving – rise to a myriad of claims involving both national and foreign investors," says Rita Samoreno Gomes, partner at PLMJ.

Disputes and risk management in Angola and Mozambique are also having an impact, although Linklaters partner Nuno Lousa points out that there are differences between the work generated by the the two countries. "Due to the very low price of oil, the Angolan state is exercising some pressure on the operators and investors to change the allocation of profits between the investor and the state – in Angola it's a dispute model similar to that in other markets such as Nigeria about 15 years ago," says Lousa. "In Mozambique it's a different ballgame – there we are seeing large investment projects linked to natural gas in the northern region." Lousa adds that the firm's "advice is not actually disputes related, but it is about designing the best protection for investors – it's about negotiating good arbitration clauses and devising agreements linked to bilateral investment treaties".

Specialising in arbitration

International arbitration is now a major growth area for Portugal's top disputes lawyers, whether acting as counsel or arbitrator. Portuguese lawyers are becoming increasingly specialised in arbitration, enabling them to compete with their international counterparts. Pedro Metello de Nápoles (pictured left), a partner specialising in arbitration at PLMJ, says: "Arbitration is an important part of our firm's activity and this year it has experienced extraordinary growth, both in terms of income and billable hours. The progressive recognition that arbitration is a specialised area has also led to an increase of hourly fees."