The Dispute Resolution Review

Third Edition

Editor
Richard Clark

Law Business Research

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THE DISPUTE RESOLUTION REVIEW

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PORTUGAL

João Maria Pimentel[*]

I INTRODUCTION TO DISPUTE RESOLUTION FRAMEWORK

Although the importance of arbitration and other alternative dispute resolution methods is increasing, it is fair to say that in Portugal the state is the uncontested leader in dispute resolution. In fact, the majority of conflicts are solved through the legal system, supported by a large network of courts with specific and complex procedural rules.

There are three levels of jurisdiction in Portugal: first and second instance courts and the Supreme Court. Within first instance there are specialised courts for specific matters, such as civil, criminal, commercial, labour and family courts. In major urban areas and for civil and criminal issues there are different courts depending on the importance of the dispute.

In recent years, the state has been actively amending the legal system, not only implementing procedural rules but also improving infrastructure (new courts, new technologies), to respond to the increase in litigation. However, resources are limited and regardless of investments, many proceedings (such as divorce proceedings) and tasks (such as assets foreclosure) are being taken away from courts and given to other state agencies or even private entities.

II THE YEAR IN REVIEW

In 2010, new legislation regarding enforcement and criminal proceedings came into force.

In relation to enforcement proceedings, the new provisions enacted by the Portuguese legislature aim to increase the use of new technologies in communications

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between the parties, the court and the bailiff, the independent professional who is responsible for the seizure and judicial sale of the debtor's property.

With regard to criminal proceedings, the Portuguese Criminal Procedure Code now sets forth a wider range of situations in which the defendant may be arrested as a precautionary measure during the investigation stage conducted by the public prosecutor. Pursuant to the new provisions, the public prosecutor is entitled to appeal from the court decisions regarding the application, revocation and extinction of precautionary measures. The terms within which the investigation shall be carried out by the public prosecutor were also extended. The Portuguese Criminal Procedure Code sets forth that the court proceedings which are open to the public in general are the instruction debate and the hearings that take place during the trial.

In 2010, some alterations were also introduced to the Criminal Law Code, especially with regard to corruption and economic crimes. The Portuguese legislature rephrased the wording of the provisions referring to certain crimes and set out new crimes: the crime of undue receipt of economic benefits by public servants and two crimes related to the breach of Urban Law provisions.

Further, after a controversial debate, the period of court holidays was re-extended and it now runs from 16 July until 31 August. During this period the terms are suspended. However, the courts are not closed and even some decisions continue to be issued and the urgent proceedings continue to be conducted.

Lastly, as a result of the economic crisis which continued to be felt over the course of 2010, the rise in lawsuits and insolvency proceedings of heightened complexity and value continued. These insolvency proceedings have sometimes involved important businesses and local companies. The majority of these proceedings led to the liquidation of the companies. Nevertheless, there were some in which the companies successfully recovered and thus were able to continue to operate.

III COURT PROCEEDINGS

i Overview

Both civil and criminal proceedings include different stages. Generally, proceedings are initiated by the parties submitting pleadings, followed by a stage in which evidence is provided. Subsequently, the trial takes place and the court issues its decision. Finally, the parties can appeal said judgment provided that certain conditions are met.

ii Proceedings and time frames

There are two kinds of civil proceedings: declarative and enforcement. Through the former the court's decision has *res judicata* effect. As a general rule, the court may only decide on issues raised by the parties and sentence the defendant to the extent requested by the claimant.

Enforcement proceedings may serve three purposes:

a the payment of an amount;

b the delivery of a certain object; or

c forcing the counterparty to carry out a certain action. These proceedings are filed based on a previous court decision or on certain documents established at law (for instance, mortgages, deeds and cheques).

Ordinary declaratory proceedings in Portugal may take from one to three years until a final court decision is issued, while enforcement proceedings may take from one to two years.

To avoid damages resulting from the delay in court decisions and to assure the effectiveness of the final decision, claimants may request the court to issue an adequate preliminary injunction. Preliminary injunctions may be granted when the following conditions are met: the claimant proves the likelihood of success on the merits of the claim (*fumus boni iuris*), and there is a serious risk of irreparable harm to the claimant's right (*periculum in mora*). Preliminary injunctions in Portugal may take from three to six months.

Please note that any of the referred time frames are indicative, as such proceedings may be longer or shorter, depending on the workload of the court (before which the claim is filed) and the particular circumstances of the case as well as the arguments put forward.

Unlike in civil proceedings where the parties play a major role, in criminal proceedings the court has total control of the case and the duty to seek the truth. In this respect, the court may order the execution of any proceedings to uncover the truth.

Generally, ordinary criminal proceedings in Portugal take two years. However, in certain cases, like white-collar crimes, proceedings may take longer. As for civil proceedings, the term provided here is also indicative.

iii Class actions

Class actions are allowed under Portuguese law, there being a specific proceeding called *acção popular* to deal with a group of related claims. This procedure is based on the Portuguese Constitution and in specific regulations, which grant all citizens, individually or through organisations created for the defence of relevant interests, the right to initiate a class action, in the cases and within the terms established therein. It includes the right of an injured party or parties to request compensation to:

a promote the prevention, termination or the judicial persecution of infringements against public health, consumer rights, quality of life and the preservation of the environment and cultural heritage; and

b guarantee the defence of state property, the property of the autonomous regions or of the local authorities (e.g., municipalities).

Generally, class actions are not restricted to a particular area of law or to a specific sector. Notwithstanding this, the law specifies certain areas to be specially protected by these actions such as public health, consumer rights, quality of life and the environment, cultural heritage and public dominium.

Class or group proceedings can be brought by individuals, associations and foundations created for the defence of relevant interests (regardless of their direct interest

in the case), and local authorities regarding the interests of their residents, within their respective area.

However, Portuguese law establishes certain compulsory features for associations and foundations which intend to bring a class action, such as:

a they must have legal personality;

b their purpose, established in their articles of association, must expressly comprise the defence of relevant interests in these types of actions; and

c they must not carry out any kind of professional activity that may compete with companies or independent professions.

iv Representation in proceedings

In civil proceedings, parties must be represented by a lawyer whenever the economic value exceeds €5,000 or when the proceedings are taking place before higher courts.

In criminal proceedings, individuals considered formal suspects (*arguidos*) must be assisted and represented by a lawyer at several stages. Therefore, the assistance of lawyers is mandatory, among other things, during interrogation, trial and appeal. As regards the representation of victims, certain acts must also be carried out together with the assistance of lawyers as, for instance, filing personal claims or appeals. Conversely, witnesses may also be assisted by lawyers, but only to ensure that they know their rights.

v Service out of the jurisdiction

Pursuant to the Civil Procedure Code, when the defendant's domicile is outside Portuguese jurisdiction, the initial summons or other notices requesting attendance to court will be served by mail, by means of a registered letter with acknowledgement of receipt, unless international treaties or conventions set out otherwise.

Other notices will be served to the lawyer appointed by the party. Service of judicial and extrajudicial documents in civil and commercial matters within the European Union are governed by Council Regulation No. 1348/2000 of 29 May, in which the particular formalities are set out, especially concerning the obligation to serve notices through public authorities of the addressed state and comply with certain rules of the relevant jurisdiction.

In criminal proceedings, notices for parties whose domicile is outside Portuguese jurisdiction will be served according to the rules set out in international treaties and conventions. Portugal is a party to the Convention on Mutual Assistance in Criminal Matters between Member States of the European Union of 29 May 2000. Pursuant to this convention, as general rule, each Member State will send procedural documents directly to the persons who are in the territory of another Member State, by mail (article 5). However, in certain cases (e.g., if the procedural law of the state requires proof of service of the document on the addressee, other than the proof that an ordinary letter can provide), the documents will be sent through the competent authorities of the requested Member State. Portugal is also a member of the European Convention on mutual assistance in criminal matters of 20 April 1959, and other codes of practice. Pursuant to this convention, documents will be served by means of letters rogatory sent to the competent entities of the state concerned.

vi Enforcement of foreign judgments

Within the European Union, Council Regulation No. 44/2001 of 22 December 2000 sets out the conditions under which a judgment (concerning civil and commercial matters) issued in a Member State can be enforceable in another.

Therefore, pursuant to this regulation, a judgment issued in a Member State and enforceable in that Member State may be enforceable in Portugal when, upon application by the interested party, it has been declared enforceable. The application of enforceability is filed in the competent superior court (*tribunal da relação*).

Without prejudice to international conventions and treaties in force (for instance, the Lugano Convention), under Portuguese law, it is generally possible to enforce foreign court civil judgments provided that these are subject to a prior confirmation procedure before a Portuguese court. Said conformation will be granted whenever:

a there are no grounded doubts concerning the authenticity of the submitted documents;

b the decision is final according to the law of the country where the judgment was rendered;

c the object of the decision does not fall within the exclusive international jurisdiction of Portuguese courts and the jurisdiction of the foreign court has not been determined fraudulently;

d there are no other proceedings between the same parties, based on the same facts and having the same purpose, and no ruling on the same case has been issued by a Portuguese court;

e the defendant was duly notified of all the proceedings according to the law of the country where the judgment was rendered;

f the foreign court proceedings complied with the procedural law requirements and each party received an adequate opportunity to fairly present their case; and

g the acknowledgement of the decision is not patently incompatible with the international public policy of the Portuguese state.

vii Assistance to foreign courts

Portuguese courts can provide assistance to foreign courts when such is required by means of letters rogatory, unless the execution of the requested proceedings violates Portuguese public policy, the letter rogatory is not duly legalised, or the execution of the requested proceeding leads to the execution of a foreign court decision subject to confirmation of Portuguese courts.

viii Access to court files

The Civil Procedure Code sets out, as a general rule, that court files may be accessed by parties, lawyers or by anyone with a relevant interest in the proceedings. However, the examination of court records is more restricted when the disclosure of information may cause damage to a person's dignity, privacy, or is contrary to public values (e.g., adoption and divorce proceedings) or may lead to the ineffectiveness of the decision to be issued by the court, as for instance in interim applications proceedings.

In addition, the Criminal Procedure Code sets out, as a general rule, the possibility of parties and lawyers accessing court records. Nevertheless, the examination of court

records at the investigation stage always requires the public prosecutor or the judge's authorisation. Third parties who have relevant interests in the course of the proceedings may also request authorisation to access court files, unless the proceedings are secret. However, upon the public prosecutor or judge's request the parties and respective lawyers may be forbidden from accessing such records during the investigation stage when disclosure could interfere with the investigation or cause damage to any of the parties.

ix Litigation funding

In Portugal, disinterested third parties cannot fund litigation.

IV LEGAL PRACTICE

i Conflicts of interest and Chinese walls

In Portugal, the regulation of conflicts of interests is increasingly strict. The regime seeks both to protect and promote the dignity and independence of the lawyer in his role as a true participant in the administration of justice and to ensure the relationship of trust that must be established between a lawyer and client.

The main sources of law regarding conflicts of interests of lawyers are the Regulations of the Portuguese Bar Association ('the Regulations'), the regulations of law firms ('Regime Jurídico das Sociedades de Advogados') and the Criminal Code. These sources are complemented by the opinions and decisions of the Portuguese Bar Association. Finally, the provision of legal services in Portugal by lawyers from the European Economic Area is also subject to the Code of Conduct for Lawyers in the European Union, as approved by the Council of the Bars and Law Societies of Europe.

The current legal system still considers conflicts of interests as a central issue, establishing the prevention and prohibition of any conduct which may create a conflict of interests for the lawyer or firm.

The Portuguese Bar Association is primarily responsible for ensuring compliance with and enforcement of the law, having disciplinary power over its members. However, the decisions of the Bar Association can be appealed before administrative courts, under Article 6 of the Regulations. Furthermore, the courts are responsible for the enforcement of the law in any proceedings other than disciplinary proceedings.

The Criminal Code establishes, in article 370.2, that certain abuses of conflicts of interest by lawyers are criminal offences. Thus, a lawyer who acts in a situation where the interests of its clients are conflicting, with the intention of benefiting or damaging either, will be penalised with up to three years' imprisonment or with a fine.

The Regulations establish the duties with which lawyers are obliged to comply in their relationships with clients. Article 94 deals specifically with possible causes of conflicts of interest, establishing several duties upon lawyers in order to prevent them:

a a lawyer must refuse an assignment – judicial or not – in which he or she has intervened in any other capacity, or that is connected with another case in which he or she represents, or has represented, the counterparty;

b a lawyer must refuse sponsorship against a party he or she sponsors in any other pending cause;

c a lawyer cannot advise, represent or act for two or more clients, in the same matter or in related matters, if any conflict exists between the interests of those clients;

d if there is any conflict between the interests of two clients, or there is a risk of a violation of the duty of confidentiality or a diminution of independence, a lawyer must cease to act for both clients involved in that conflict;

e the lawyer must refuse to represent a new client if that represents any risk of violating his or her duty of confidentiality against a former client, or if the knowledge of the issues of the former client represents an illegitimate or unjustified advantage for the new client;

f whenever a lawyer acts in association with other lawyers, whether or not in a law firm, the foregoing rules apply to the association and to each of its members.

The lawyer's wilful or negligent violation of the foregoing rules may give rise to disciplinary liability, which is independent of any eventual civil or criminal liability.

It is particularly worth noting that Portuguese law is evolving towards the exclusion of Chinese walls or 'firewalls' as valid mechanisms to overcome limitations imposed upon law firms. However, the practical application of the law has yet to be fleshed out by case law or opinions or decisions of the Portuguese Bar Association. While further new legislation is unlikely, we can expect decisions that will detail what is expected of lawyers.

ii Money laundering, proceeds of crime and funds related to terrorism

The European Parliament and the Council decided to create special rules to prevent and to punish money laundering within EU territory. For that purpose, the relevant EU bodies passed two important directives (Directive Nos. 2005/60 and 2006/70.

Portugal transposed the aforementioned directives in Law No. 25/2008 of 5 July. From this date, financial institutions and a large amount of service providers, such as notaries, civil servants, etc., are bound, among others, not to accept involvement in any suspicious or criminal activities relating to money laundering and to report such activities to the public prosecutor and to the Unit of Financial Information.

Obviously, confidentiality issues arise when legislators decide to extend such obligations to service providers such as lawyers, bound by the rules of secrecy. To avoid conflicts, Portuguese law sets out that the disclosure of facts under the obligations of the Regulations must be made directly to the President of the Portuguese Bar Association, who must, under the terms established by law, report such facts to the public prosecutor.

V DOCUMENTS AND THE PROTECTION OF PRIVILEGE

i Privilege

The Portuguese legal system acknowledges that some professions of social importance cannot exist without confidentiality, as people only feel comfortable disclosing personal or troubling facts when they are certain that those facts will remain secret.

In light of the above, lawyers, priests, doctors, journalists, chartered accountants, civil servants, public officials and corporate bodies of financial institutions, among others, have, in broad terms and under the terms established by law, the right not to testify in

court or not to comply with orders issued by any private or public entities to disclose or provide information or documentation, whenever the said disclosure regards facts or documents relating to the professional activity.

In some cases, this prerogative also entails special protection against searches and seizure. For instance, searches inside law firms must be conducted by a judge, unlike in most other cases where the presence of the district attorney suffices. Evidence obtained in criminal matters pursuant to illegal searches or seizures will be considered null and illegitimate in court.

Notwithstanding this, the scope of protection granted under Portuguese law differs according to the professional's particular practice. Priests and lawyers, for instance, benefit from a broader and stricter protection while employees and corporate bodies of financial institutions do not. In fact, while financial secrecy can easily be waived with the consent of the interested client, the disclosure of facts by lawyers always depends on the intervention of the Portuguese Bar Association.

However, privilege is not an absolute right and, in most cases, excluding religious matters, it is possible to break it, albeit through a complex procedure. The key rule on this issue is found in Article 135 of the Portuguese Criminal Procedure Code, which stipulates that only superior courts may decide whether privilege should be broken and thus consequently force the disclosure of protected facts.

The existence of the said rule does not jeopardise the general protection granted to professional privilege in Portugal as the superior court's decision must always be taken according to the principle of the most important prevailing interest, which binds the court to, among other things, consider the seriousness of the crime and the interests pursued in the criminal procedure.

The application of this principle has driven courts to decide that, for instance, it is inadmissible to break privilege to investigate minor offences.

Although Portuguese law widely respects this privilege, there have been some troubling recent court decisions, limiting the scope of the privileged protection of lawyers.

The Lisbon Court of Appeal decided that the seizure of a TV station's internet server, in which professional files of the station's lawyers were stored, did not require the involvement of a judge or compliance with the rules applicable to searches in law firms. The court argued that these rules are only applicable to lawyers who do not have employment agreements, although this argument is questionable to say the least.

Finally, under Portuguese law, the scope of rights and duties granted to Portuguese lawyers applies to any foreign lawyers as long as they comply with the Portuguese Bar Association procedures. Under these conditions, foreign lawyers are also subject to the rules of privilege.

ii Production of documents

When a party intends to gain access to a document held by the other party, it may require the court to order the production of said document within a particular term. If the order is ignored, the court may consider the party's refusal for probative value and impose the reversal of the burden of proof.

However, there are some documents that parties do not have to produce in litigation, such as correspondence between the lawyer and the counterparty or between the parties' lawyers themselves. Furthermore, in relation to the latter, this cannot be considered as evidence by the courts. In relation to correspondence between the lawyer and the counterparty, they are also considered to be privileged and protected professional secrets. In such cases the party can claim a lawful excuse. The court may only deny the lawful excuse if it decides that the document is indispensable for the statement of facts and if the importance of the case is higher than the protection of professional secrecy. This statutory regime is also applicable to state secrets and to civil servants.

When the relevant document is held by a third party (e.g., a parent company), a party may request the court to order such third party to produce it.

Foreign deeds have the same legal value as those executed in Portugal, provided that some legal conditions are duly complied with. We note that the public official's signature of the official deed has to be recognised by a Portuguese diplomatic or consular agent in the respective state and this signature has to be certified with the respective consular seal. In addition, in judicial acts, documents must be written in Portuguese. Therefore, when the document required is stored overseas it must be translated and duly certified.

The rules applicable to electronic documents are substantially the same as to those applicable to any other document. In all cases, the law sets out several restrictions in the production of documents in relation to general correspondence, letters or any type of mail, which are protected by law, based on the principles of protection of privacy. Furthermore, the Portuguese Constitution expressly forbids any intrusion in correspondence from the authorities. In conclusion, if a party is notified to produce correspondence in court, which is not related to the case in question, it can claim this legal protection. There is, however, an exception in the Portuguese Constitution and in the Portuguese Criminal Procedural Code related to authorised police searches.

If a party is notified to produce electronic documents which are no longer accessible, such party can argue that it is unable to do so. Nevertheless, in criminal proceedings the judges may order a search of the home or other premises of the defendant and in such cases evidence may be found through the reconstruction or the back-ups of deleted documents.

VI ALTERNATIVES TO LITIGATION

i Overview of alternatives to litigation

The greatest criticism of the Portuguese legal system is the length of time proceedings take. According to the latest data from the Portuguese National Institute of Statistics, the average duration of a civil action at trial is 30 months.

Furthermore, during the past decade the annual number of actions filed before court has increased dramatically. Several factors may have caused this increase: the development of citizens' awareness of rights, the relatively low costs of litigation at court (for a claim worth €100,000, the losing party will only have to pay around €2,200) and the lack of tradition to apply for alternative means of dispute resolution ('ADR').

In light of the above, both the civil society and the government have been encouraging the promotion of ADR, namely arbitration, mediation, conciliation and resolution by Justices of the Peace. In 2001, the government created the Cabinet for Alternative Dispute Resolution ('GRAL'), a department of the Ministry of Justice exclusively dedicated to ADR.

ii Arbitration

In recent years, arbitration has been flourishing in Portugal. The creation of the GRAL, of the Portuguese Arbitration Association and of the 'Portuguese chapter' of the Spanish Arbitration Club have played an important role. However, above all, the awareness of the swiftness and flexibility of arbitration has outweighed its costs, becoming the most relevant factor for the increase of arbitration. Parties have progressively added arbitral agreement to contracts and there is a general sense that Portugal may become a privileged forum for arbitrations between companies based in Portuguese-speaking countries such as Brazil, Angola and Mozambique.

Arbitrations in Portugal are governed by the Portuguese Arbitration Act ('PAA'), enacted by Law No. 31/86 of 29 August 1986, further amended by Decree-Law No. 38/2003 of 8 March 2003. The PAA is now almost 25 years old and one of the oldest arbitration acts in Europe. Hence, amendments to the PAA are under consideration. Although changes are without doubt necessary – it still does not address relevant issues such as multiparty arbitrations or provisional and conservative measures – the PAA is nevertheless in line with the general principles of international arbitration.

According to the PAA, parties may submit to arbitration disputes related to rights they are free to dispose of (objective arbitrability). Unless otherwise agreed, the arbitral tribunal is composed of three arbitrators: one appointed by the claimant, another appointed by the defendant, and the third arbitrator, who acts as chairman of the arbitral tribunal, appointed by the other two arbitrators. Arbitral awards should be rendered within six months and the grounds for challenging the award are restricted.

The PAA allows, nevertheless, a wide room for parties to alter the rules pertaining to the creation, organisation and operation of the arbitral tribunal. Parties may agree, for instance, on the number of arbitrators, the rules for appointing the arbitrators, the rules of the proceedings (including the taking of evidence), the language and seat of arbitration, and the term for rendering awards. Parties may agree on a decision *ex aequo et bono* and may refer to institutional arbitration.

The government has been financing arbitration centres for the resolution of consumer-related disputes and encouraging companies to submit their disputes to those centres. According to the new and recent Commercial Licensing Act – enacted by Decree-Law No. 21/2009 of 9 January 2009 – the submission of consumer-related disputes to arbitration centres is an important factor for the approval of a commercial establishment.

Still, the leading arbitral centre is the Arbitration Centre of the Portuguese Commercial Association.

Although arbitration is growing, the difficulties of enforcing arbitral awards remains one of main downfalls of the PAA. It is important to suppress some of the burdensome legal means to challenge the merits and enforceability of arbitral awards.

As for domestic arbitration, the PAA provides that, unless otherwise agreed, the arbitral award may be appealed before the courts (on the contrary, in international arbitrations appeal is only admissible if the parties so agree). Furthermore, and even if no appeal is admissible, the losing party may always challenge the award before the courts, even on enforcement proceedings, and subsequently appeal the decision on the challenge up to the Supreme Court (provided that the value of the case exceeds €30,000). This is heavily criticised as it provides means for delaying the enforcement of the award.

As regards foreign arbitration, Portugal is party to the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. However, and although Portuguese jurisprudence is arbitration-friendly, narrowly interpreting the grounds for refusal of recognition or enforcement of foreign arbitral awards, the interested party may also appeal against the decision of the first instance court that recognises or declares the foreign arbitral award enforceable before the Supreme Court, provided that the above-mentioned requirements as to the value of the action are met. Thus, parties should always seek adequate guarantees to secure the fulfilment of the contracts they enter into, or to secure compensation for the breach of such contracts.

iii Mediation

Mediation and conciliation are still underdeveloped in Portugal despite the government's efforts to change this. Traditionally, settlements in Portugal are negotiated between the parties' attorneys, in the majority of the cases during pending lawsuits. Parties are usually very reluctant to use mediation and conciliation.

There is no specific law or act that governs mediation and conciliation. However, in 2006 and 2007, the government created centres for mediation and conciliation, coordinated by GRAL, to resolve family, labour and criminal-related disputes. Mediation in labour-related disputes has been, by far, the most successful, although there is still a long way to go in establishing a culture that opts for mediation and conciliation.

iv Other forms of alternative dispute resolution

Besides arbitration, mediation and conciliation, the most popular form of ADR is conducted by a justice of the peace, who is governed by Law No. 78/2001 of 13 July 2001, and presently 19 centres have been created under the supervision of a special commission (Conselho de Acompanhamento dos Julgados de Paz). Justices of the peace have jurisdiction on civil matters of low value (up to €5,000). Justices of the peace must have a law degree, but need not have further legal education.

Until recently, courts did not agree on whether the jurisdiction of the Justices of the Peace was exclusive or concurrent to that of the courts, and decisions went both ways. Finally, the Portuguese Supreme Court settled the issue by ruling that their jurisdiction was concurrent (Decision No. 11/2007 of 24-05-2007).

Justices of the peace are proving to be useful in simple disputes but there is still strong suspicion of the quality of the decisions on the merits. Conversely, efficiency is undermined since they depend on the agreement of all parties involved, and usually one of the parties in not interested in a summary trial, but rather prefers long-lasting proceedings at court. In this respect, the government is rumoured to be planning to grant exclusive jurisdiction to justices of the peace in certain disputes.

VII OUTLOOK AND CONCLUSIONS

The positive effects of significant legislative alterations which have been enacted in recent years concerning civil and criminal proceedings and court fees have not been felt yet. Furthermore, judges and lawyers are very doubtful and have not become familiar with the said legislative alterations.

The announced governmental reforms aiming at the reduction of public expenditure may have a negative impact on the judicial system.

Appendix 1

ABOUT THE AUTHORS

JOÃO MARIA PIMENTEL

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João Maria Pimentel has joined Campos Ferreira Sá Carneiro & Associados in February 2011 as senior of counsel and heads the litigation/arbitration and restructuring/insolvency practices.

Before that, he was a lawyer at Uría Menéndez Lisbon Office since 2004, when his previous firm, Vasconcelos, F Sá Carneiro, Fontes & Associados Associados – one of the most prestigious Portuguese law firms – integrated with Uría Menéndez.

He focuses his practice on Litigation, covering all areas of professional litigation and non-litigation practice, including all types of civil, commercial and criminal proceedings in all court instances. He is also involved in proceedings before arbitration courts as counsel to the parties and arbitrator as well as insolvency proceedings.

João Maria Pimentel is qualified to practice in Portugal and Macau and at the start of his career he used to practise in the latter. He also has been adviser to the Portuguese Minister of Justice.

He is a regular speaker at seminars and conferences on themes related to his field of expertise.

Chambers Global says that 'João Maria Pimentel is a solid and hard-working professional who has an excellent global perspective' and he 'shows a crystal-clear understanding of the clients' position'.

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