

A photograph of the Pena Palace in Sintra, Portugal, a colorful and ornate castle built on a hillside. The palace features a large blue dome, a red tower, and various architectural styles. The background shows a blue sky and a view of the surrounding landscape.

# IBERIA

PENA PALACE IN SINTRA, PORTUGAL

SPECIAL ADVERTISING SECTION

A report by Camilla Sutton

**T**HE FEAR of financial default in Iberia is very real. Legal practitioners are feeling the impact of the eurozone debt crisis.

#### **PUBLIC DEBT**

Both Spain and Portugal have suffered a downgrading of their credit ratings and are now under immense pressure to slash their national deficits. Without the option of quantitative easing to create more liquidity, the Portuguese and Spanish governments have had to face unpopular policy decisions on raising taxes and postponing or axing public investment.

'The major issue is whether such deflationary measures will narrow the internal market and economy to such an extent that they will dampen potential growth and turn a liquidity issue into a solvency problem,' says Luís Oliveira, a corporate and M&A partner who specialises in project finance at Miranda Correia Amendoeira & Associados (Miranda).

## **PORTUGAL**

#### **TIGHTENED SPENDING**

Public spending on projects has all but dried up in Portugal. During 2009 some PPP projects were implemented, but generally this was because they were already in progress before the global financial crisis and were too far advanced in implementation to be stopped.

'Logistics and transport infrastructure has witnessed most of the latest investment,' says Luís Oliveira. 'This includes, for instance, in association with private investment, the setting up of various logistics hubs, mostly through intermodal connections at the major airports and ports, aimed at leveraging the geographical advantages from being at a crossroads between Europe, America and Africa. But it also includes investment in high-speed rail lines, in particular to link Lisbon with Madrid and from there, to the rest of Western Europe.'

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Hospitals have also been the object of project finance in the framework of PPPs.'

Miranda has recently been advising a Government SPV on the framework for the operation of transport services in future lines and also on designing and launching an international tender for the procurement of rolling-stock.

'Because of an aggressive public investment policy pursued by the Government (finally reversed this week), projects work has continued to flow,' says João Vieira de Almeida, the managing partner of Vieira de Almeida & Associados. 'Our teams have been extremely busy advising on road projects and energy deals.' His firm recently advised the winning consortium on the €1.3bn high-speed rail link.

Looking ahead, it is a different story. 'The reduction of public expenditure has caused several road projects to be suspended or postponed, as well as the new Lisbon airport and the second concession for the high-speed train,' says Luís Branco, head of banking and finance at Moraes Leitão, Calvão Teles, Soares da Silva &

Associados (MLGT). In 2010 MLGT closed a number of deals including the €1.3bn Pinhal Interior road concession and the €500m Eneop windfarm financing project.

'It is now clear that the Government is slowing most projects where this is possible and new projects will be delayed to reduce public expenditure,' says Manuel Santos Vitor, a corporate and M&A lawyer and co-managing partner of A. M. Pereira, Sáragga Leal Oliveira Martins, Júdice e Associados (PLMJ). He continues: 'In the private sector there was a significant reduction of new projects and a substantial part of the work performed concerned the restructuring of existing deals and transactions and/or transactions involving companies or assets in distress.'

'Project finance credit access has become more difficult,' adds Nelson Raposo Bernardo, global senior partner of Raposo Bernardo. 'Nowadays, a project finance operation takes much longer to put together than before, as now banks are not as receptive and willing to lend. Still, the firm has advised a relevant number of important deals, mainly in the renewables, PPP and public infrastructural sectors.'

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## IBERIA

**AREAS OF ACTIVITY**

The economic turmoil of recent months has translated into an increase in instructions from certain sectors. 'The areas of practice of labor and litigation experienced a significant growth in work demand as a result of the restructure of companies and their inability to comply with undertakings and contractual obligations,' says Manuel Santos Vitor. 'The same applies to the tax area of practice as a result of additional difficulties of clients and accrued pressure from the tax administration to collect additional revenues.' His firm, PLMJ recently assisted in the purchase by Barclays Bank of the credit card division of Citibank in Portugal and advised on the divestment by GALP – one of the largest oil and gas companies in Portugal – of its aviation and LPG business, formerly operated by ESSO in Portugal.

Looking back over the last year, areas of activity can be pin pointed. 'Matters related with real estate litigation, white collar, tax, and employment have been quite busy,' comments Miguel Castro Pereira, a banking and finance partner at Abreu Advogados. 'We were also requested to assist municipalities and regional governments to set up eurostat compliant funding structures (in order to avoid the increase of the governmental indebtedness). Public law and environmental issues have also boosted. M&A and capital markets simply stopped. However, we had a significant growth of work related to derivatives.'

Others have noted the beginnings of an upturn in the market. 'We are feeling a slight recovery in M&A and capital markets and we hope that this recovery will stay during the remainder of 2010,' says Manuel Castelo Branco, the managing partner of Cuatrecasas, Gonçalves Pereira, Castelo Branco. His firm is advising the Banco Privado Português on the establishment of a special investment fund, on the launching of a public offer of acquisition and on the scope of the recovery and reorganization measures ordered by Bank of Portugal. It is also assisting in the liquidation of the strategies commercialized by the Bank that were excluded from the investment fund and from the public offer.

There have also been practice areas that have been seemingly unaffected by the financial crisis. 'Some sectors are still as dynamic as in previous years, namely renewable energies, biotech and IT,' comments Nelson Raposo Bernardo. His firm, Raposo Bernardo recently advised New Energy Fund and Fomentinvest in the negotiation for the acquisition of two solar thermal power plants in Spain, with a value of €700m.

**PLANNING FOR RECOVERY**

In recent months Portugal has seen tentative signs of economic recovery. 'Portugal's GNP grew 1% during the 1st quarter of 2010,' says Manuel Castelo Branco. 'But, because the recent turmoil resulting from the Greek contagion forced the Portuguese Government to approve and apply restrictive measures to fight against public deficit and public indebtedness, I am sure any expectations of economic recovery for the foreseeable short term are frozen. So times ahead will not be easy for Portugal or for Spain.'

'The Portuguese Government announced that Portugal's economy had the highest growth rate in the EU during the first quarter of 2010, attaining a 1.7% increase in comparison with the first quarter of 2009,' says Miguel Castro Pereira. 'The Government also announced a recovery plan entailing a reduction of public expenses and several tax increases. The message sent was well received by the stock exchange and hopefully foreign investors will also look at Portugal differently.'

'Much will depend upon the capacity of private investment to innovate and create opportunities in new technology sectors,' says Luís Oliveira. 'These are crucial in enhancing the country's international competitiveness and are those where green shoots have already started to appear: alternative energy sources, electric vehicles, advanced consumer electronics, and so forth.'

'The good news is that the politicians seem to have finally realized that they need to take action,' concludes João Vieira de Almeida. 'Tough measures have been announced and I believe this will finally set us on the path to recovery, although it will not happen overnight. There are good deals to be made in the local market, if investors are willing to take a medium term approach.'

**SPAIN****TAKING STOCK**

Spain too has gone through the economic wringer. 'There are too many signs that make our economy unstable,' laments Fernando Vives, the co-managing partner of Garrigues. 'Our manufacturing output continues to fall and our labor market is in desperate need of a radical shake-up, but there are so many interests at stake it is hard to reconcile. This has caused the highest unemployment rate in the Eurozone, amounting to 20% of the workforce. The consequent public deficit represents 11% of our GDP. To make things worse, S&P downgraded our sovereign debt in April to AA.' But

## IBERIA

recently there have been positive signs that Spain is ready to turn a corner. Having recorded growth of 0.1% in the first quarter of 2010, market feeling is that the Spanish economy is preparing for recovery. 'Our Government has announced radical budget cuts, demonstrating a true commitment to reign in our deficit, a commitment which until now had not been as evident,' continues Fernando Vives. 'These measures should help convince investors of the Government's political will to cut public spending, and, alongside some structural reforms, they will bring us back to a growth path.'

'Given these signs of recovery, international investors are again showing interest in the Spanish and Portuguese economies, with some companies having already obtained financing as they prepare to face the recovery phase,' says Javier Villasante head of Cuatrecasas, Gonçalves Pereira's international practice.

'What we have now is an enhanced understanding of where we stand,' says Pedro Pérez-Llorca Zamora, senior partner of PEREZ-LLORCA. 'Hopefully a floor for green shoots in the near future.'

**THE RETURN OF TRANSACTIONS**

As with other jurisdictions affected by the credit crunch, the volume of work in counter-cyclical practice areas such as bankruptcy, restructuring, labor and litigation has increased in Spain.

'The significant increase in operations of restructuring, debt rescheduling or insolvency, among others, had a positive impact on the market for legal advice, offsetting the effect of lower economic activity,' says Manuel Martín, managing partner of Gómez-Acebo & Pombo Abogados. His firm advised Martinsa-Fadesa, one of the largest companies in the real estate market quoted on the Madrid Stock Exchange, and six of its subsidiaries on its insolvency in one of the largest bankruptcies in the history of the Spanish judicial system.

Transactional work is also reappearing. 'In recent months, we've experienced the come back of transactional work and we are now foreseeing the start of a new M&A cycle,' says Fernando Vives. 'We have seen international investors interested in certain assets, like Liberty Acquisition Holdings, which invested \$900m in the leading media conglomerate in Spain, Prisa. It was

## IBERIA

interesting to see Moorpark Capital Partners investing in real estate assets from Banco Sabadell. Also we have noticed an increase in companies coming from the emerging markets. A perfect example (where we have been involved as its main legal advisor) has been CNS of Brazil bidding for Portuguese Cimpor. We should not generalize, but we believe our middle market is becoming more and more attractive for both national and international investors.'

'We have seen increased activity in transactional work. Not just restructuring, but also new financing and M&A,' comments Pedro Pérez-Llorca Zamora. 'We see the large PE funds back and willing to do deals. We see some corporate clients willing to take new positions in the market. And we also see a lot of interest by funds specialised in distressed situations, of which there are many.' His firm, PEREZ-LLORCA, is advising Colonial on the spin-off of assets worth €1.3bn as part of its €4.9bn restructuring and is assisting Polaris World on its €1.2bn restructuring, followed by a further €100m second-stage restructuring, as well as on related insolvency and corporate law matters.

'Severe adjustments on valuations have caused private equity and M&A deal-flow to be seriously affected,' says Francisco Aldavero, an M&A, venture capital and private equity specialist at Aroz & Rueda. 'Both M&A

deal volumes and values fell in 2009. However, in the last four months we have seen that after one year of absolute paralysis in LBOs, banks are now willing to provide finance – although at very high prices and with tighter conditions than ever before – and growth capital deals seem to be reactivating. In our opinion, investors are particularly interested in logistics business, business support, healthcare, infrastructure companies and, needless to say, any cash cow business, irrespective of the sector of activity.' His firm has advised Grupo Daorje, a leading Spanish group within the industrial and environmental sector, on the restructuring of the group, including the restructuring of its debt. The firm has also acted for the lenders of Grupo Bodybell, a leading retailer in perfumes and beauty products in Spain, on the restructuring of its debt.

**ENERGY OUTPUT**

In addition to benefitting from foreign investment, over the last few years the Spanish Government promoted the renewable energy and infrastructure sectors enabling both to develop considerably.

Today the energy sector is still undergoing restructuring and experiencing changes. 'The disinvestment arising from the merger between Unión Fenosa and Gas



Royal Palace, Madrid

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Natural, and Enel's entry into the Spanish market by buying Endesa generated a large volume of work,' says Javier Villasante. His firm, Cuatrecasas, Gonçalves Pereira recently advised on the refinancing of Gas Natural.

'Renewables was very vibrant as a source of financing and transactional work,' says Pedro Pérez-Llorca Zamora. 'We are now closely watching possible regulatory changes, which may have a huge impact on the business and generate non-transactional work.'

Araoz & Rueda recently advised Abraxa Integrated Financial Solutions SGEER on the negotiation of an investment framework agreement and a shareholders agreement for the development, construction and financing of a solar farm portfolio of up to 92MW located in France.

'Despite all the uncertainty that we are seeing these days, we believe that the renewable energy is still quite vibrant,' says Fernando Vives. The energy sector generally has been keeping his firm busy. Garrigues recently advised GALP Energía SGPS and Morgan Stanley Infrastructure in its agreement to acquire a portion of the gas distribution assets of Gas Natural.

Gómez-Acebo & Pombo Abogados recently advised United Arab Emirates wholly state owned International Petroleum Investment Company, an investment company focused on hydrocarbons and related sectors, in its acquisition of 37.5% stake in Compañía Española de Petroleos, a Madrid-based oil and gas exploration and production company, from Banco Santander and Union Fenosa.

#### MOVING ON

'The main challenge facing law firms in 2010 is to maintain the excellence and competitive edge of their services against the backdrop of austerity and restrictions,' says Javier Villasante.

'We are aware of the economic cycle, but we have our plans and we will continue to implement them. The best is not to blink,' says Manuel Martín, 'not to over react and not to lose sight of our plans.'

'We expect 2010 to be difficult for law firms, but not worse than 2009 -we all have now grown a little wiser in terms of understanding where challenges and opportunities are,' concludes Pedro Pérez-Llorca Zamora. ■

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