

PORTUGAL: An Introduction to Public Law

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Introduction to the current economic, legal and political trends

2018 ended in a very good way for the Portuguese economy given the fact that, after a long period of 10 years, Portugal finally managed to overcome one of its deepest crises as the economic indicators finally returned to pre-crisis levels. In fact, the Portuguese economy exceeded the dimension presented in 2008, a year in which GDP set a record. Therefore, despite some recent economic slowdown, the Portuguese economy has been growing steadily.

The Portuguese Government proved, once again, unexpectedly resilient, and able to carry out its programme while managing to secure the approval of national budgets and committing to the long-term stability plan required by the European Union.

As a result of the country's economic growth and governance stability, seven years after it put Portuguese sovereign debt on the junk level of the speculative investment, Moody's moved it to a quality investment with a steady outlook (as Fitch and S&P had done in 2017).

In 2018, as in 2017, tourism and real estate growth continues to be one of the major economic and social phenomena in Portugal.

2018 was also marked by the announcement of relevant operations and projects in several sectors. Concerning the transport sector, the Portuguese Government announced a significant increase in investment in the rail sector and decided to proceed with the construction of the new airport infrastructure in Lisbon, which will complement the current (and only) Lisbon airport.

With respect to the digital sector, Portugal continued on the route of investment by large technology-based firms, as in 2018 major international companies of this sector, such as Google or Amazon, decided to settle part of their services in the country and companies like Mercedes or Volkswagen decided to open technology centres.

What to expect from the Public Law sector in 2019

2018 saw several changes regarding the entering into force of the Public Contracts Code and the General Data Protection Regulation (GDPR), and, ultimately, the submission for approval of the framework law regarding the deconcentration of State competencies to local government, and the presentation of two bills regarding the administrative and tax reform, which will set the pace in 2019.

i. The impact of the Public Contracts Code and GDPR

The resulting changes in the revised Public Contracts Code will continue to turn out in 2019 and in the meantime there were other relevant changes that will take place during this year. Decree Law nr. 123/2018, from 28 December, establishes an organisational model for the implementation of electronic invoicing in public procurement. Briefly, Decree Law nr. 123/2018 regulates two subjects: i) the delay of the dates from which electronic invoicing is mandatory in public procurement; and, ii) the delegation, in the Public Administration Shared Services Entity (Entidade de Serviços Partilhados da Administração Pública – ESPAP), of the coordination task regarding the implementation of electronic invoicing.

Additionally, as a result of the entering into force of GDPR there are several implications under the administrative activity and public procurement which will continue to operate in 2019.

ii. The Administrative and Tax Reform

During 2018, two bills have been submitted at the Portuguese Parliament regarding the Administrative and Tax Reform at Portuguese legal framework. In this sense, on 11 January 2019, in plenary session n.º 38, they were unanimously approved. It is foreseen to come into force by 2019 and, as explained below, it will have significant impacts within Public Law in Portugal.

These bills bring amendments, on the one hand, to tax and administrative procedural regimes and, on the other hand, to the Statute of the Administrative and Tax Courts.

This reform affects the current scenario of tax and administrative justice. Portuguese tax and administrative courts have been suffering constraints nowadays, namely the large amount of processes and their consequent lack of capacity to swiftly solve them. This lack of capacity to respond has a very negative impact on companies' activities and it represents an obstacle to economic growth and investment. Thus, these bills aim to develop tools to speed up justice and to fight against procedure delays. This may have a strong impact in public procurement and administrative contracts litigation.

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