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PORTUGAL: An Introduction to Public Law

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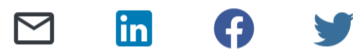
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Introduction to the current economic, legal and political trends

2019 in Portugal was marked by the legislative election held in October and won by the centre-left Socialist Party.

Despite falling slightly short of the majority required, the Socialist Party had a better result than in the previous legislative election (4 years before) and was given a clear mandate to form a government.

Comfortable with the experience of the preceding mandate, instead of seeking a formal union, the Prime Minister, António Costa, used the same recipe and chose to renew the informal cooperation with the left-wing parties with an unlikely alliance, popularly called "geringonça" ("odd contraption").

The economic outlook for Portugal is optimistic. After a long 10 years, Portugal finally managed to overcome one of its most serious crises with the economic indicators finally returning to pre-crisis levels.

Portugal's economy is doing better than many other EU countries, with a 2.1% GDP growth. Portuguese exports have increased by 1.3% to a record €5.83 billion and tourism saw the number of visitors coming to Portugal hit 21 million.

Portugal's recovery was largely fuelled by the real estate and tourism boom and, at the same time, foreign direct investment from multinationals and investment in property and from property funds has increased substantially over the past three years with a 20% year-on-year increase in the latter, netting around €4 billion annually.

The legislative programme proposed by the Socialist Party has already been approved in parliament and the perspective for the next four years is very encouraging.

There is a very strong commitment on the part of the Portuguese Government to grow public investment well above 23% by 2023 in order to meet two fundamental goals: to increase public services' supply and improve the infrastructures that will lead to greater competitiveness of the Portuguese economy.

Portugal will continue to invest in railways, and conclude the investments foreseen in the Programme Ferrovia 2020, and will invest in the expansion of the Lisbon and Oporto metros and in the Mondego light mobility system.

In addition to the investments in the rail sector, the Portuguese Government will also refurbish several roads and a set of cross-border connections. It will invest in the improvement of the national health service, building new hospitals and recovering different units and hospital services and will also invest in the modernisation and upgrading of schools, preferably using European funds.

At a financial level, the Portuguese Government intends to reform the financial supervision legal framework. Through this reform, which is the continuation of a process begun in the previous mandate, the Government aims to ensure the competitiveness of the Portuguese financial sector within the European framework, and, at the same time, that the

Portuguese financial sector safeguards the confidence of Portuguese savers and is an instrument at the service of financing and economic growth.

Finally, the Portuguese Government will continue the path towards administrative modernisation and digitalisation. The State will continue to be the forerunner and promoter of more practical and accessible digital channels for all citizens, through the use of information and communication technologies, finding ways to modernise and innovate, to improve practices, to simplify procedures, to dematerialise acts, to speed up processes and to increase the efficiency and the quality of the services provided.

What to expect from the Public Law sector in 2020

In 2019, taking a clear step towards the stronger implementation in Portugal of the gender equality, a considerable number of acts relating to the balanced representation of men and women in public administration bodies have been passed.

At the same time, and setting the pace for 2020, several acts related to administrative and tax reform were approved during 2019. Regarding public contracts, in addition to strengthening the implementation of electronic invoices with the approval of complementary regulation that was still missing, a very relevant change to the regime of public-private partnerships has been approved at the end of the year.

i. The impact of Administrative and Tax Reform

Parliament approved several acts on Administrative and Tax Reform in 2019, recasting the tax and administrative procedural regimes and the Statute of the Administrative and Tax Courts.

This reform has positively affected the previous scenario of tax and administrative justice. Portuguese tax and administrative courts were suffering from high constraints, due, inter alia, to the large amount of processes awaiting a court decision and the courts' inability to quickly resolve the cases they had to consider and decide.

This inability to rapidly resolve the judicial processes had a very negative impact on companies' activities and at the same time represented an obstacle to Portuguese economic growth and investment.

Although the acts only came into force in the second half of 2019, they have already sparked a feeling of confidence in the Portuguese judicial system, which is already positively influencing Portuguese economic growth, given the approved mechanisms that will speed up justice.

ii. The conclusion of the implementation of the electronic invoices and the changes introduced to the public-private partnerships legal framework

Regarding electronic invoices, the approval of the complementary regulation was very relevant given the numerous advantages for companies, as the electronic invoicing constitutes an opportunity to speed up invoicing, reduce the inherent costs and simplify faster payments.

In relation to public-private partnerships, the decree-law approved at the end of the year amended the Public Contracts Code, as well as the legal framework governing State intervention in the field of public-private partnerships, with the aim of adapting public-private partnerships to the current social reality.

Apart from a very relevant clarification that the public-private partnership regime does not apply to local authorities and autonomous regions, the amendments to the regime have introduced more flexibility to this type of contract, which is being interpreted as a sign that the public-private partnerships have not disappeared after all; despite all the political controversy surrounding this type of contract in recent years.

Any decision regarding the implementation and alteration of any public-private partnerships will now be taken at the highest level, by the Council of Ministers, but at the same time, the rule according to which the technical work is done by the Technical Unit for Project Monitoring continues to be applicable.

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