IBERIAN
MONTHLY REPORT

OCTOBER 2018

SPAIN

TOP DEAL OF THE MONTH
Minor International acquires additional 47.76% stake in NH Hotel Group

INTERVIEW WITH
Javier Bustillo Guzmán from Bustillo Abogados
(Spanish & English version)

PORTUGAL

TOP DEAL OF THE MONTH
W.P. Carey acquires logistics facility in Portugal for EUR 43m

INTERVIEW WITH
Helena Vaz Pinto from Vieira de Almeida
(English version)

PORTUGAL

ENTREVISTA · INTERVIEW

HELENA VAZ PINTO

Vieira de Almeida

Partner - M&A

Helena regularly leads numerous M&A and financial transactions, including company restructurings, privatisations, capital markets and venture capital transactions, provides legal support to both domestic and international companies, notably banks and other financial entities.

ENTREVISTA · INTERVIEW

TTR: How would you assess the performance of the M&A market in Portugal since the beginning of 2018?

H.V.P.: The assessment of the Portuguese M&A market in 2018 is quite positive. It has shown clear signs of maturity. It is a market that is no longer driven by the privatizations of large companies (which seems to be a closed chapter), nor a market predominantly integrated by restructuring processes and distressed M&A.

There is abundant liquidity, in particular from the part of foreign investors, and in a context of low interest rates, the M&A market tends to become more dynamic.

Although the distressed M&A component is still relevant, there has been a significant flow of operations that do not qualify as such and that evidence the existence of a certain development of the Portuguese transactional market. Obviously, the size of the transactions is adjusted to the dimension of the national economy, thus focusing mainly on midcap companies.

There was a clear preponderance of some sectors: real estate, financial (banking and insurance) energy, real estate and infrastructure (transport, health, tourism, education, telecoms, etc.).

TTR: In your opinion, what are the biggest constraints to M&A operations in Portugal today?

H.V.P.: There are a number of structural factors that affect the Portuguese business ecosystem and that impact on the attractiveness of companies for the purpose of enticing investment. Amongst those factors it is worth mentioning the (still) excessive indebtedness and the limitations and restrictions on access to funding in the national banking system and the limited use of alternative sources of financing, namely via the capital market.

There continues to be a structural problem of financing the Portuguese economy, with repercussions in the M&A market. In M&A operations there is a very significant prevalence of foreign investment (of the most diverse origins) that is funded outside the Portuguese financial system. Obviously, it is also the difficulty to obtain finance and capital that pushes Portuguese companies and groups to rationalize their structures, through the sale of assets, the formation of partnerships with third parties or the sale of businesses, generating a significant part of the Portuguese transactional market workflow.

On the other hand, the majority of transactions are not large enough to attract the major international Private Equity houses who have minimum tickets of much greater value.

From another perspective, the fact that the current governmental solution is centered in an alliance between the socialist minority Government and the leftwing parties, led to the approval in 2018 of new legislation imposing the need to obtain the prior permission of employees in the transfer of businesses structured as asset deals. Depending on how courts will interpret and apply such legislation, this may be a relevant obstacle that may jeopardize or restrict the election for such transactions.

Corporate transactions in regulated sectors (financial, health, infrastructure concessions) still involve a lot of bureaucracy and excessive delay in the authorization processes to which they are subject. The issue of excessive delays is particularly relevant in the health sector where we see transactions that take more than one year to be authorized by the competent authorities. This issue is also present in the transactions of distressed assets carried out in a judicial context.

TTR: The performance of Venture Capital funds in Portugal has had quite an interesting year in 2018. How do you see the scenario of Portuguese legislation in the face of international models and practices, both for investors and for those seeking funding?

H.V.P.: There was, in fact, more activity in Venture Capital in 2018 that is based on an economic and political context of incentive to entrepreneurship and innovation. There is a boom of start-ups, venture capital funds, incubators, accelerators and programs and policies to stimulate this type of investment.

In 2018 Venture Capital investments have been on track, but it is particularly worth mentioning that there has been some successful exits this year (which are an essential element of the Venture

ENTREVISTA · INTERVIEW

Capital investment cycle) and which are breaking the stagnation experienced in recent years in the sector (the most striking illustration of this was the IPO Anglo-Portuguese unicorn Farfetch).

The Venture Capital industry in Portugal has always been and remains extremely open and sensitive to international trends, adhering to US-based models and practices. The existing Portuguese regulatory framework in not however adequate for Venture Capital investment, and the adoption of a specific legal regime for this type of investment would thus be highly recommended.

In fact, the Portuguese legislation - in particular, corporate law with respect to investment models and corporate governance -, is not in line with the Venture Capital Anglo-Saxon based legal system, and the design and structuring of a Venture Capital transaction usually requires some adjustments to cope with international standards and practices. These adjustments are not very well understood by foreign investors and may give room to a certain level of entropy.

In this context, we have seen the relocation of Portuguese companies to other jurisdictions with more “investor friendly” corporate and governance structures, such as the USA, but also other European jurisdictions such as the UK and Luxembourg.

TTR: Which transactions would you highlight in terms of importance and complexity this year, whether you have acted directly or with the participation of Vieira de Almeida?

H.V.P.: On the team’s work in 2018, in terms of importance I would highlight the following transactions the sale of Alitce/PT’s telecommunication tower businesses in Portugal, creating the first telecommunication tower company in Portugal.

There were also a number of deals in the energy sector (solar and wind) a large number of restructuring transactions that always involve a certain level of complexity.

In terms of complexity, I would also like to highlight the closing of the sale to Mirova Core Infrastructure in the beginning of 2018 of the combined shareholding stakes of two PPP in the road sector in Madeira Island (VIAEXPRESSO and Vialitoral). The sale of the stakes in the two companies was made by two different groups of shareholders with different interests and positions (some sold the entire stake in each different company and some just sold part of its position and remained shareholders of the target companies). Although the sale of the stakes in each company were deal with by two separate agreements, they have been designed in terms that one transaction could not be completed without the other.

Finally, and with regard to the the financial sector, we would like to highlight the sale process launched by CGD (the Portuguese public bank) of its foreign subsidiaries in Spain and South Africa (still ongoing).

TTR: With the end of 2018 approaching, is there any scenario or trend that we should be aware of within the Portuguese M&A market for 2019? And which sectors do you think have the greatest potential for growth?

H.V.P.: Taking in consideration the current context of excess liquidity and the existence of very attractive investment opportunities in the Portuguese market (and which are scarce in more mature markets), the outlook for 2019 is very positive, with the prospect of a quite active M&A market (it is of course assumed that the current Italian battle with the EU Commission will be sorted out with no major damage to the Euro zone).

There are a number of sectors that are still in the process of consolidation, contributing to the dynamism of the M&A market. This is the case in the financial sector (banking and insurance), already in the pipeline with some relevant transactions that will take place in 2019, as well as in the energy sector. Regarding the latter, we anticipate the next chapters in the EDP Tender Offer and some brownfield renewable energy projects (solar and wind) that continue to attract the interest of investors, in particular infrastructure funds with long-term strategies. ■