Portugal

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Portugal: Doing Business In

1. Is the system of law in your jurisdiction based on civil law, common law or something else?

Similar to other European countries, the legal system in Portugal is a civil law system based on the Roman law tradition and written law. It is comprised of the codification of several laws as per follows:

i. Constitutional laws, which include the Republic Constitution, the separate Constitutional Laws and the Constitutional Revision Laws;
ii. Rules and principles of general or common international law; rules contained in international conventions duly ratified or approved; rules issued by the competent bodies of international organisations of which Portugal is a member; the provisions of the treaties governing the European Union; and the rules issued by institutions in the exercise of their respective powers;
iii. Ordinary laws, which include the laws issued by the National Parliament, the Government Decree-Laws and the Regional Legislative Decrees by the Legislative Parliament of the Autonomous Regions of Azores and Madeira;
iv. Acts with equivalent force to laws, such as those approving international conventions, treaties or agreements, Constitutional Court decisions expressly representing that they are unconstitutional or illegal with generally binding force, collective labour agreements and other instruments for the collective regulation of labour; and
v. Regulations, i.e., normative instruments of a lower grade than laws, which aim to detail and complement the law in order to enable their application or execution.

As a member of European Union, Portugal has adopted several laws based on European Union directives, law, and international treaties.

2. What are the different types of vehicle / legal forms through which people carry on business in your jurisdiction?

Limited liability companies and branches are the most common chosen vehicles through which business is usually carried on in our jurisdiction.

Individuals or companies that intend to carry on a business activity in Portugal may acquire shares/quotas in a company already incorporated and which is already operating in Portugal, or they may decide to incorporate a new company under one of the corporate structures legally available. The most common and usual types of legal forms adopted to incorporate a company in Portugal are "*Sociedade Anónima*" ("*S.A.*") and "*Sociedade por Quotas*" ("*Lda.*"), which are limited liability companies, with separate legal personality and autonomous from their shareholders/quota holders. The liability of the company towards its creditors is limited to the assets of the company. In the case of "*Sociedade por Quotas*" this is applicable, unless otherwise expressly provided for in the articles of association.

The legal form "*Sociedade por Quotas*" comprises a lighter corporate structure than "*Sociedade Anónima*", being more appropriate for short-term investments."*Sociedade Anónima*" is usually recommended for enduring investments, represented by many investors.

In the case of "*Sociedade por Quotas*", the share capital is represented by quotas and the quota holders are jointly liable for all the share capital entry contributions. The quota holders and respective quotas are identified in the commercial registration extract, meaning that is part of the company's information that is publicly available. In case of "*Sociedade Anónima*", the share capital is represented by shares, meaning the liability of shareholders is limited to their respective shares paid/acquired.

The share capital of these companies can be fully owned by a sole shareholder whenever specific legal requirements are met. In the case of "*Sociedade por Quotas*" whenever the quota representing the entire share capital is held by one sole quota holder, the reference to such nature – "*Sociedade Unipessoal por Quotas*" – must be added to the corporate name of the company, so that any third party becomes aware that it is a private limited liability company having the entire share capital held by one sole quota holder. This type of company adopts a simpler corporate structure.

In the case of "*Sociedade Anónima*" the minimum legal number of shareholders is five, unless it is a legal person holding the entire shares representative of the company's

share capital. In such a case it would incorporated with a sole shareholder. The shareholders are identified and registered in the company's shares registration book. Such information may be, in some cases, referred to in the Ultimate Beneficiary Owner declaration, but the shareholders are not identified in the company's commercial registration extract.

There are other corporate structures under Portuguese law for the incorporation of a new company such as *"Sociedade em Nome Colectivo"* and *"Sociedade em Comandita"*, which are rarely used, and both of them imply unlimited liability for their shareholders.

Non-domestic companies may also carry on business activity in Portugal by setting up a branch. A branch is an extension of the foreign entity (parent company), without having legal personality or autonomy; the parent company of a branch will be liable for its obligations and debts.

Another vehicle option is a joint venture, formed by two or more natural or legal persons, such as "*Agrupamento complementar de empresas*" ("*ACE*"), or "*Agrupamento de Interesse Económico*" ("*AEIE*"), involving different European Union countries, which are recommended to develop, improve or increase the economic activity of their members, by sharing resources, activities and/or know-how and providing centralised services.

As the above-mentioned scenarios are subject to registration before the Commercial Registry, its legal effectiveness before third parties depends on the conclusion of the commercial registration.

3. Can non-domestic entities carry on business directly in your jurisdiction, i.e., without having to incorporate or register an entity?

A non-domestic entity may intend to start promoting business activity in the Portuguese market without setting up a legal structure by means of entering into commercial contracts such as agency, franchising or distribution contracts with a third party that is already carrying on business activity in Portugal.

Pursuant to the applicable law, whenever non-domestic companies do not have their central management and control in Portugal and intend to carry on their business activity within the Portuguese territory for a period exceeding more than one year, they are required to set up a permanent representation/branch in Portugal and to comply with the legal provisions in force, as well as with the commercial registration. A branch shall be considered as an extension of the foreign entity, without having legal personality or autonomy from the parent company that shall be liable for the branch's obligations and debts.

A non-domestic company may carry on business directly in Portugal through the acquisition of shares/quotas in the share capital of a Portuguese company or by means of incorporation of a new Portuguese company.

Without prejudice to any other applicable compliance rules, such as anti-money laundering and counter-terrorist financing regulations that are applicable to any company or individual carrying on business activity in Portugal, there are no restrictions from a corporate legal perspective on foreign shareholders of domestic or non-domestic companies carrying on business activity in Portugal. As such, there is no discrimination of investment on the basis of nationality. Corporate rules are applicable for foreign and Portuguese shareholders. There is no legal provision demanding a mandatory minimum number of Portuguese residents to act as shareholders, but any shareholder requires to hold in advance a Portuguese registered taxpayer number.

Despite there being no restrictions for the acquisition of shares in Portuguese companies, the ultimate beneficial owner ("UBO") applicable rules demand additional obligations of disclosure of information in the Central Registry of Beneficial Owners ("*Registo Central do Beneficiário Efetivo*"). Shareholders holding, directly or indirectly, more than 25% of the share capital in a Portuguese company, qualify as beneficial owners of the company.

Depending on the nature of the business activity intended to be carried on, mandatory registration, licenses or authorisations may be additionally needed to start operating in specific business activities (licenses to operate or registrations/authorisations/notices under regulated activities).

4. Are there are any capital requirements to consider when establishing different entity types?

In the case of "*Sociedade por Quotas*", the share capital may be freely agreed by the quota holders under the articles of association, and it shall correspond to the total amount of the quotas of each quota holder. The minimum nominal amount of each quota is one euro. Therefore, in the case of a private limited liability company with the share capital fully owned by a sole quota holder ("*Sociedade Unipessoal por Quotas*"), as per the legal provisions applicable, the share capital may have the

minimum amount of one euro. Unless otherwise expressly foreseen in the Incorporation Act regarding the deferred payment of initial contributions to be paid in cash, the total amount of share capital has to be fully paid up in cash on the signature date of the Incorporation Act. Nevertheless, the quota holders may expressly represent and undertake under the Incorporation Act that the entire payments in cash will be paid up by the end of the first financial year.

The legal minimum amount for the share capital of "*Sociedade Anónima*" is currently fifty thousand euros. The share capital is divided into nominative/registered shares that may be physically represented (shares certificates) or electronically represented (book entry shares). In case of initial capital contributions paid in cash, 30% of the initial capital contributions must be paid immediately in the Incorporation Act, while paying-in of the remaining 70% of the amount of shares may be deferred; the payment of any premium upon issue, when provision is made for one, cannot be deferred. Non-capital contributions must be fully paid up on the date of incorporation.

In any of the above situations, initial capital contributions represented by services are not permitted. All assets in kind are subject to a prior report from an independent auditor.

5. How are the different types of vehicle established in your jurisdiction? And which is the most common entity / branch for investors to utilise?

The most common vehicles in our jurisdiction are limited liability companies – either "*Sociedade Anónima*" or "*Sociedade por Quotas*" – and branches.

The incorporation of a company and the setting up of a branch are subject to commercial registration before the competent Commercial Registry´s Office. Transfer of quotas is also subject to commercial registration, whilst the sale and purchase of shares is subject to registration in the company's shares registration book.

The incorporation of a new company – either as "*Sociedade Anónima*" or "*Sociedade por Quotas*" – starts with the approval of its corporate name before the competent Portuguese authority ("*Registo Nacional de Pessoas Coletivas*"). All foreign shareholders and future non-resident directors/representatives are required to obtain, in advance, a Portuguese registered taxpayer number. If any of them are resident in a non-EU/EEA country, they shall also be required to appoint a tax representative who must be the holder of a Portuguese taxpayer number. A natural person taxpayer may be exempt from the requirement to appoint a tax representative resident in Portugal provided that some requirements are fulfilled, namely if he/she adheres to any of the dematerialised notification channels of the Portuguese Tax Authorities (electronic notifications and electronic mailbox). This exemption is not applicable to individuals resident in non-EU/EEA country who still require to appoint a tax representative.

This rule is applicable also for the scenario of acquisition of quotas/shares in the share capital of a company already incorporated, as non-resident investors are required to obtain, in advance, a Portuguese registered taxpayer number.

The Incorporation Act shall be signed by quota holders/shareholders or by an attorney in fact duly empowered for that purpose, holding a specific power of attorney which is subject to specific formalities such as legalisation or apostille in some cases. The Incorporation Act is usually a private written document containing the company's articles of association (which rule the company), signed by the new company's quota holders/shareholders or their representatives (signatures required to be legalised or "authenticated"). It may be required to be executed as a notarial deed whenever the shareholder contributions involve the transfer of real estate assets to the company. There is also a simplified procedure to incorporate companies executed by a competent authority, based upon pre-approved template documents. The incorporation of a company is subject to (i) the conclusion of the registration before the Commercial Registry followed by (ii) the submission of the initial declaration at the Central Register of the Ultimate Beneficial Owner. Prior to starting to carry on its business activity it is also required to conclude (iii) the opening of a bank account, (iv) the enrolment with the Portuguese Tax Authority and with the Portuguese Social Security Authority and, whenever applicable, the license/permits required for specific activities. A licensed accountant must also always be appointed.

A branch will have to carry on the same corporate activity as the parent company and adopt the same corporate name followed by the reference "*Sucursal em Portugal*" (which means "branch in Portugal"). The branch is required to have a registered office address in Portugal and an appointed representative to act on its behalf. Notwithstanding the requirement to appoint a legal representative, the branch may have attorney-in-facts too, empowered within the limits and extension of the respective power of attorney granted. To set up a branch it shall be required to conclude (i) the submission and

registration before the Commercial Registry, (ii) the submission of the initial declaration at the Central Register of the Ultimate Beneficial Owner, (iii) the opening of a bank account and (iv) the enrolment with the Portuguese Tax Authority and with the Portuguese Social Security Authority. A licensed accountant must also be appointed.

6. How is the entity operated and managed, i.e., directors, officers or others? And how do they make decisions?

The "*Sociedade Anónima*" may have a board of directors or a sole director (whenever the company's share capital does not exceed two hundred thousand euros), plus a supervisory body and/or a statutory auditor. Alternatively, it may adopt a structure comprised of a board of directors with an audit committee and a statutory auditor or an executive board of directors, a general and supervisory board, and a statutory auditor.

The management of limited liability companies incorporated as "*Sociedade por Quotas*" may be executed by one or more appointed directors ("*gerentes*"). If no director is appointed – either in the Incorporation Act or later in a general meeting resolution – it shall be assumed that all quota holders intend to act also as directors of the company. The company's articles of association may indicate that the company has a supervisory body and whenever the company does not have a supervisory body, a statutory auditor must be appointed when certain thresholds are met regarding the company's total balance sheet, total net turnover, and average number of employees.

The directors' resolutions are taken by the Board of Directors or by the management board, depending on whether it is a "*Sociedade Anónima*" or a "*Sociedade por Quotas*". However, certain decisions are mandatorily resolved by shareholders at a general meeting or by a written resolution.

In the case of branches, it is the branch's appointed representative who manages the daily activity. The parent company may decide to limit the powers of the appointed branch representative by means of a power of attorney granted by the parent company.

In the case of a company or a branch, an attorney-in-fact may be additionally empowered to act on behalf of the company or branch but limited to and within the powers provided in the respective power of attorney.

7. Are there general requirements or restrictions relating to the appointment of (a) authorised representatives / directors or (b) shareholders, such as a requirement for a certain number, or local residency or nationality?

There are no specific restrictions on foreign managers. However, it should be noted that any director, representative, quota holder, shareholder or registered attorney-in-fact of a Portuguese company is required to have in advance a Portuguese registered taxpayer number.

Whenever the director, representative, quota holder, shareholder, or attorney-in-fact to be appointed is a resident in a non-EU/EEA country, it shall be required to appoint a tax representative who is required to be a holder of a Portuguese taxpayer number. A taxpayer may be exempt from the requirement to appoint a tax representative resident in Portugal, provided some requirements are fulfilled, namely if he/she adheres to any of the dematerialised notification channels of the Portuguese Tax Authorities (electronic notifications and electronic mailbox).

This exemption is not applicable to individuals resident in non-EU/EEA country who are still required to appoint a tax representative.

In the case of "*Sociedade Anónima*", the legal minimum number for its incorporation is five shareholders, unless there is one legal person holding the entire shares representative of the company's share capital, where the entity may be incorporated with a sole shareholder. There are no restrictions to the maximum or minimum number of directors to be appointed, which will be the number foreseen in the company´s articles of association. A sole director may be appointed, provided that the share capital of the company does not exceed two hundred thousand euros. A company may execute the role of director and be appointed as such capacity, provided that it appoints an individual to act on their own behalf (rather than in the name of the originally appointed company).

The appointment of directors and branch representatives are subject to registration before Commercial Registry and for that purpose it is a legal requirement to also submit a signed declaration from the appointed directors or branches representative expressly confirming their acceptance to such appointment and to act in such capacity and furthermore, that they are not aware of any circumstance that could prevent them from acting in such capacity nor from performing the duties as company's directors or branch's representative, as it may

be the case.

There are no restrictions on the appointment of authorised representatives, unless the articles of association foresee otherwise.

8. Apart from the creation of an entity or establishment, what other possibilities are there for expanding business operations in your jurisdiction? Can one work with trade /commercial agents, resellers and are there any specific rules to be observed?

From a corporate law perspective, there are no restrictions in expanding business operations in Portugal. Unless specifically foreseen in the articles of association, an entity or establishment is free to work with trade/commercial agents and resellers. However, it should be within the business activity carried on by the company and which is expressly foreseen in the articles of association.

Another option for expanding the business is entering into commercial contracts such as franchising agreements, agency agreements or distribution agreements, or to promote a joint venture under the ACE model.

9. Are there any corporate governance codes or equivalent for privately owned companies or groups of companies? If so, please provide a summary of the main provisions and how they apply.

The Corporate Governance Code revised in 2023 and published by the Portuguese Institute of Corporate Governance, is used as guidance and best practice to listed companies and privately owned companies, on several matters such as, transactions with related parties, conflict of interests, non-executive management, monitoring and supervision, executive management, evaluation on performance, remuneration and appointment, risk management, financial statements and accounting.

The Corporate Governance Code is voluntary, and its compliance is based on the comply or explain principle, applicable to all recommendations.

10. What are the options available when looking to provide the entity with working capital? i.e., capital injection, loans etc.

The options available for company financing are, amongst others:

i. Third parties/banking loans of different natures;
ii. Share capital increase subject to legal requirements;
iii. Shareholders' capital contributions (supplementary contributions – "*prestações suplementares*" and ancillary contributions – "*prestações acessórias*");
iv. Shareholders' loans;
v. Bond and equity issues.

11. What are the processes for returning proceeds from entities? i.e., dividends, returns of capital, loans etc.

Unless the articles of association or a general meeting resolution foresees or resolves otherwise, half of the distributable profits of the financial year must be distributed to the shareholders/quota holders. Dividends cannot be distributed if they are necessary to cover losses or to comply with company reserves, mandatory by law and/or additionally provided for in the company's articles of association.

Any advance on the dividends must be expressly provided for in the articles of association, and resolved by the management. An advance can only be paid in the second half of the financial year. In any case, any advance dividends are subject to a cap as they can't exceed half of the amount of dividends that would be distributable.

Shareholder loans reimbursement depends on the contractual term (if any), otherwise they may be reimbursed at any time.

Shareholder loans are subordinated loans in the case of company bankruptcy.

The reimbursement of shareholders' supplementary contributions ("*prestações suplementares*") must be approved by a general meeting and may only occur if the financial situation of the company allows it, i.e., the company's equity cannot be/become less than the sum of the share capital and the legal reserve, and as long as the shareholder has paid his/her/its entry.

The supplementary contributions ("*prestações suplementares*") cannot be reimbursed after company bankruptcy has been declared.

The reimbursement of shareholders' ancillary contributions ("*prestações acessórias*"), depend on the

terms of the agreement and/or resolution. If nothing is foreseen regarding the reimbursement, it will be necessary to assess the nature of the contributions, i.e., if the contributions were executed as loans or supplementary contributions ("*prestações suplementares*").

12. Are specific voting requirements / percentages required for specific decisions?

The law requires specific voting percentages/and requirements for decisions, amongst others, regarding amendments to the articles of association, including capital increase and decrease; mergers; split-offs; company transformation; dissolution and liquidation.

Depending on the company type, the majority will be 2/3 ("*Sociedade Anónima*") of the votes or 3/4 ("*Sociedade por Quotas*") of the votes.

The majority also depends on whether the resolution is taken in a first or second call of the general meeting and specific percentages of shareholders must be present or represented.

13. Are shareholders authorised to issue binding instructions to the management? Are these rules the same for all entities? What are the consequences and limitations?

The management must comply with and execute shareholders/quota holders' resolutions.

Nonetheless, in "*Sociedade Anónima*", the shareholders and management have specific competences and thus, shareholders cannot adopt decisions nor resolve management matters. Such decisions would be considered null and void. In company "*Sociedade por Quotas*", the quota holders may in some cases make resolutions on management matters.

14. What are the core employment law protection rules in your country (e.g., discrimination, minimum wage, dismissal etc.)?

Right / Protection	Details
National Minimum Wage	All employees are guaranteed a minimum monthly wage, annually defined through specific legislation. For 2025, the national minimum wage is eight hundred- and seventy-euros gross per month. Higher minimum wages may be established by collective bargaining agreements.
Holiday	Every calendar year, employees are entitled to a period of 22 working days of paid holiday, referred to the work rendered in the previous calendar year. In the first year of employment, the employee is entitled to two working days of holiday per each month of the labour contract's duration, with a limit of 20 days, which can be taken only after six months of work. Additional holiday may be established by collective bargaining agreements.
Working hours	The Portuguese Labour Code establishes a maximum of eight daily working hours and 40 weekly working hours. Labour law foresees flexibility in daily or weekly working hours, through collective bargaining or by individual agreement between employer and employee. The limit of 12 hours per day or 60 hours per week may never be exceeded and employees are entitled to the corresponding additional rest periods.
Rest periods	Employees are guaranteed a minimum of 11 continuous hours of rest between two consecutive working days. However, there are activities (e.g. airports) where continuous service must be ensured. Such activities are subject to specific rules. Generally, the working day must be interrupted by a period of between one and two hours to avoid employees working for more than five consecutive hours. However, the collective bargaining agreement may allow employees to work for up to six consecutive hours or may lengthen, shorten or eliminate the rest break.
Pension rights	Social Security is solely responsible for the payment of mandatory pensions. Employers are allowed to implement complementary private pension plans.
Discrimination	Portuguese Labour Code establishes the principle of equal treatment regarding access to employment, professional training and working conditions. It is prohibited to discriminate based on: – Lineage; – Age; – Gender; – Sexual orientation; – Gender identity; – Marital/civil status; – Pregnancy/maternity; – Family situation; – Education; – Social condition; – Genetic heritage; – Reduced working capacity; – Disability; – Chronic illness; – Nationality; – Ethnic origin or race; – Language; – Religion; – Political or ideological beliefs; and – Trade union membership. In order to reinforce the prevention on the practice of harassment at the workplace, companies with seven or more employees must adopt a code of conduct to prevent and avoid harassment at the workplace. Harassment is defined by Portuguese Labour law as an undesired behaviour, based on discrimination factors, practiced during the provision of work or at work or professional training, with the purpose or causing the effect of disturbing or embarrassing the person, affecting his/her dignity or creating an intimidating, hostile, humiliating or destabilising environment.
Maternity leave / pay	The working mother is entitled, by the birth of a child, to an initial parental leave of 120 or 150 consecutive days, which they may share and take after the child's birth. The working mother can enjoy up to 30 days of the initial parental leave before giving birth. The conditions applicable to adoption cases are very similar. Social Security is solely responsible for the payment of maternity leave. **Please refer to "Shared Parental Leave" below.** The working mother must take 42 consecutive days of maternity leave right after birth of the child.
Paternity leave	The working father must enjoy a paternity leave of 28 working days, in a row or split, in the 42 days following the birth of the child. Seven of those days must be enjoyed in a row immediately after the birth. After the enjoyment of the leave referred to in the preceding paragraph, the working father has the right to an additional leave of seven working days, in a row or split, if enjoyed simultaneously with the enjoyment of the initial parental leave by the mother. Social Security is solely responsible for the payment of paternity leave.
Shared parental leave	**Please refer to "Maternity Leave / Pay" above.** The first 42 days after the child's birth correspond to a period of compulsory leave enjoyed by the mother. After that period and up to the end of the 120 or 150 consecutive days of the initial parental leave, the leave might be shared by both parents. Social Security is solely responsible for the payment of shared parental leave.
Statutory sick pay	Sick leave may last up to three years. After three days of sick leave, the employee will be enrolled in the Social Security system for protection against illness. Social Security is solely responsible for the payment of sick leave.
Statutory notice periods	Prior notice applies in the following cases: – In case of non-renewal of fixed-term or when terminating an uncertain term employment contract; – When an employment contract terminates during the trial period; – In case of a collective dismissal or dismissal due to extinction of workplace, the employer must observe notice periods which vary in accordance with each employee's seniority. The mandatory duration of prior notice periods depends on the duration of the employment relation/seniority of the employee.
Unfair dismissal	Portuguese Labour Code states that any dismissal must be grounded on objective or subjective reasons, whether they are related to the employee or to the employer. If a dismissal is considered unfair by the Court, the employee will be entitled to receive all the wages regarding the period between the dismissal and the Court's decision plus a compensation for seniority. Alternatively, to the compensation for seniority, the employee may opt to be reinstated.
Statutory redundancy payment	The redundancy payment depends on the motive of the employment contract's termination: In the event of expiration of a fixed-term or uncertain-term contract due to an employer's decision, the employee is entitled to compensation of 24 days of salary per each year of work. In the event of collective dismissal or dismissal due to extinction of the workplace, the employees are entitled to compensation. Such compensation should be calculated as follows: – One month's salary per each year of work rendered until 31 October 2012; – 20 days' salary per each year of work rendered between 1 November 2012, and 30 September 2013; – 12 days of salary per each year of work rendered between 1 October 2013, and 20 April 2023; and – 14 days of salary per each year of work rendered after 1 May 2023. The compensation has the following maximum limits: – The salary to consider for the calculation may not exceed 20 times the national minimum wage; – The global amount of compensation may not exceed 240 times the national minimum wage.
Statement of particulars	In Portugal, hiring through the conclusion of permanent employment contracts is (at least in theory) the general rule. Fixed-term and uncertain-term employment contracts are only acceptable in exceptional circumstances, as specifically provided by law, e.g. temporary working needs, unemployment decrease policies or starting a business or establishment with less than 250 employees. Permanent employment contracts do not have to meet formal requirements, while fixed-term and uncertain-term employment contracts (amongst others) must be made in writing. According to article 106 of the Portuguese Labour Code, although permanent employment contracts do not have to meet formal requirements, the following information has to be provided in writing to every employee: – Employer's identification; – Employee's workplace; – Employee's occupational category or the summary description of the correspondent functions; – Date of conclusion of the (oral or formal) employment contract and date of start of employment; – The stipulated term or the predictable duration of the employment contract, in case, respectively, of fixed-term or uncertain term contracts; – Vacations; – The formal requirements to observe by the employer and the employee regarding the termination of the employment agreement, or the criteria for its determination; – Employee's remuneration, including payment methods and description of its constitutive elements; – Normal weekly and daily working periods; – Applicable regime in case of overtime work and organization by shifts; – Applicable collective bargaining agreements, if any; – Number of the work accidents insurance policy and identification of the insurance company and; – Identification/mentioning of the Work Compensation Warranty Fund; – In case of temporary worker, the identification of the user company; – Duration and conditions of probation period; – Individual right to professional training; – In case of intermittent work, the annual number of the hours of work or the days of work in full-time, the duration of the provision of work and the respective remuneration compensation; – The social protection regimes applicable to the employee; – The parameters, criteria, rules and instructions that fundament the algorithms or artificial intelligence systems affecting decisions on access and maintenance of employment, or employment conditions, including the elaboration of profiles and control of professional activity.

15. On what basis can an employee be dismissed in your country, what process must be followed and what are the associated costs? Does this differ for collective dismissals and if so, how?

Dismissal with just cause

The employer can unilaterally terminate employment with just cause, i.e. when the employee wilfully commits such a serious offense that the maintenance of the labour relationship is no longer possible.

Portuguese legislation elaborates on what may constitute just cause, such as illegitimate disobedience to a superior's order, violation of the employees' rights and guarantees, physical or verbal violence within the company, amongst others.

Upon obtaining knowledge of the employee's offense, the employer must initiate the disciplinary procedure within 60 days.

If necessary to reunite evidence and grounds for the accusation, the employer can, alternatively, initiate a previous inquiry. In this case, the previous inquiry must be implemented within 30 days after the employer obtains knowledge of the employee's offense.

When proceeding in firsthand with a previous inquiry, the employer has to notify the employee of the accusation within 30 days after the conclusion of the said previous inquiry.

The employer can also determine, within the course of the disciplinary procedure, that the employee is suspended from providing his work, being certain that his/her remuneration must still be paid during the duration of the suspension.

If the employer intends to suspend the employee prior to the notification of the accusation, the employer is obliged to communicate the accusation to the employee within a maximum of 30 days counting from the said suspension.

When the employer notifies the employee of the accusation within the disciplinary procedure, it should send copies of the accusation to the employee's representative body, if existent within the Company.

After being notified of the accusation, the employee has ten working days to consult the disciplinary procedure's file and to answer to the accusation, defending him/herself and requesting the production of evidence diligences. The employee can request the hearing of a maximum of ten witnesses.

The employer must conduct the diligence requested by the employee, unless the employer finds them to be impertinent and manifestly delaying. In this case, the employer must justify thoroughly the non-execution of the employee's requested diligence.

Once the evidence diligence is concluded, the employer must present the disciplinary procedure's file to the employees' representative, if existent, and they can present, within five working days, their opinion.

After concluding the evidence diligence and receiving the representative's opinion, the employer has 30 days to issue the final decision, which must be made in writing and have thorough justification.

Upon receiving the final decision, the employment contract is immediately terminated, and the employee has 60 days to resort to judicial courts.

If a dismissal is considered unfair by the Court, the employee will be entitled to receive all the wages regarding the period between the dismissal and the Court's decision plus a compensation for seniority. Alternatively, to the compensation for seniority, the employee may opt to be reinstated.

Collective dismissal

A collective dismissal corresponds to the termination of several employment contracts by an employer simultaneously or within a period of three months (at least two employees, if the company has less than 50 employees / at least five employees, if the company has 50 or more employees), for market, structural or technological reasons.

Collective dismissals may only occur after following a procedure prescribed by law (specific legal formalities and timings shall be observed).

- The procedure for collective dismissal begins with a written communication addressed to the works' council or, if there is no such council, to the company union or inter-union representative body in the company. If none of these structures exist, the affected employees will be informed, in writing, of the intention to perform a collective dismissal and employees will be invited to nominate a representative committee (or up to five employees) that will act as a representative body for that purpose.
- At the same time, a copy of the communication and the annexed documents shall be sent to the competent department of the Portuguese Ministry of Employment.
- Within a five-day period following the initial communication, a phase of information and negotiation between the company and the employees' representatives must be initiated to try to reach an agreement on the dimension and effects of the measures taken. After a minimum of 15 days after the initial communication, the employer may send a written communication to each one of the dismissed employees, containing the dismissal decision, expressly indicating the motives and date of the dismissal, the amounts of the compensation and the labour credits, as well as the manner, moment, and place of their payments.
- The employer must observe minimum notice periods which vary in accordance with each employee's seniority.

In the event of a collective dismissal, the employees are entitled to compensation. Such compensation should be calculated as follows:

- One month's salary per each year of work rendered until 31 October 2012;
- 20 days' salary per each year of work rendered between 1 November 2012, and 30 September 2013; and
- 12 days of salary per each year of work rendered between 1 October 2013, and 20 April 2023; and
- 14 days of salary per each year of work rendered after 1 May 2023.

The compensation has the following maximum limits:

- The salary to consider for the calculation may not exceed 20 times the national minimum wage;
- The global amount of compensation may not exceed 240 times the national minimum wage.

16. Does your jurisdiction have a system of employee representation / participation (e.g., works councils, co-determined supervisory boards, trade unions etc.)? Are there entities which are exempt from the corresponding regulations?

In theory, there are two channels of workplace representation for employees – through the workplace union representatives and through an elected works council. However, works councils only exist in large companies where unions have a strong representation. The rights of workplace union representatives and works councils are limited to information and consultation and they cannot block management decisions.

When existing, workplace union representatives and

works councils are subject to mandatory regulations.

17. Is there a system governing anti-bribery or anti-corruption or similar? Does this system extend to nondomestic constellations, i.e., have extraterritorial reach?

Bribery and corruption in the private and public sector are criminal offences as set out in articles 372, 373 and 374 of the Portuguese Criminal Code ("PCC").

Furthermore, Law no. 20/2008, of 21 April, as amended, envisaged the criminalisation of specific facts in respect to international trade and the private sector namely by introducing the crime of active corruption with prejudice to international trade, passive corruption in the private sector and active corruption in the private sector (articles 7 to 9 of the aforementioned law). This regime provides for the criminal responsibility when: (i) the facts carried out by Portuguese citizens or by foreigners who are found in Portugal, irrespective of the place where they were committed and (ii) irrespective of the place where the acts were committed, when the person giving, promising, requesting or accepting the advantage or promise is a national civil servant or holder of national political office or, being of Portuguese nationality, is an employee of an international organization.

Portuguese law makers have also introduced legislation envisaging more methods for public authorities to investigate and prevent bribery, corruption, and related crimes more notably through Law no. 36/94, of 29 September, as amended, on measures to fight corruption and economic and financial crime.

More recently, Decree Law no.109-E/2021, was published, which approved the legal framework for the prevention of corruption. This regime provided for the creation of a new public entity responsible for the enforcement of the regime (MENAC) and a range of obligations, namely the adoption and implementation of an anticorruption compliance program which includes the drafting and implementing of (i) a prevention of corruption and related offences risks plan, (ii) a code of conduct, (iii) prior assessment procedures, (iv) training programs and (v) a whistleblowing internal channel in accordance with Law no. 93/2021, which transposed to the Portuguese jurisdiction Directive 2019/1937/EU on the protection of persons who report breaches of Union law. This regime is applicable to, amongst other entities, companies registered in Portugal with 50 or more employees and branches in Portugal of foreign companies with 50 or more employees, and therefore its extension to nondomestic constellations is limited.

In what concerns the potential extraterritorial reach of the criminal liability, as a general rule, Portuguese Criminal Law is applicable to facts (i) practiced in Portuguese territory, regardless of the agent's nationality; and (ii) on board of Portuguese ships and aircrafts. Notwithstanding, article 5 of the PCC foresees specific situations under which this general rule may be waived.

18. What, if any, are the laws relating to economic crime? If such laws exist, is there an obligation to report economic crimes to the relevant authorities?

Economic crimes are punishable under Portuguese law pursuant the PCC, Law no. 36/94, as amended, on measures to fight corruption and economic and financial crime; Decree-Law no. 28/84, as amended, on offences against the economy and against public health; and Law no. 20/2008, as amended, which sets forward the regime of criminal liability for corruption offences committed in international trade and private activity.

Pursuant the anti-money laundering and terrorist financing ("AML/CFT") rules, (i.e. see point below) obliged entities, and in certain circumstances its legal representative or employees, must report to the Portuguese authorities, under the penalty of committing administrative offences, whenever they suspect that certain funds or other property, irrespective of the amount or value involved, originate from criminal activities or are related to terrorist financing.

In this respect, to note Law no. 93/2021, which transposed into the Portuguese legal order Directive 2019/1937/EU on the protection of persons who report breaches of Union law and establishes protective measures for persons who report breaches to the authorities (or "whistleblowers").

19. How is money laundering and terrorist financing regulated in your jurisdiction?

Money laundering and terrorism financing prevention ("AML/CFT") is regulated by (i) Law no. 83/2017, as amended, which sets out the legal framework on the measures to combat money laundering and terrorism financing and which transposed to the Portuguese jurisdiction Directive 2015/849/EU and Directive 2016/2258/EU of the Parliament and Council, (ii) Law no. 52/ 2003, as amended, on measures to combat terrorism, and by (iii) the Portuguese Criminal Code, approved by Decree-Law no. 48/95, which establishes the crime of money laundering as typified in its article 368-A. In this

respect, it is also worth mentioning Law no. 89/ 2017, which regulates the Central Registry of Beneficial Ownership.

Moreover, Portuguese supervisory authorities of regulated sectors have implemented sets of rules and recommendations in this matter having in mind the specific areas of activity and underlying AML/CFT risks, such as: Bank of Portugal Regulation no. 1/2022 for the banking sector (as amended by Regulation no. 1/2023, regulating AML/CFT duties applicable to virtual asset service providers, and by Regulation no. 3/2024), CMVM Regulation no. 2/2020 for investment firms, as amended, IMPIC Regulation no. 603/2021 for the real estate sector and ASAE Regulation no. 1191/2022 for a wide range of economic operators.

In broad terms, this legal framework envisages the preventive duties which the obliged entities must comply with, namely: (i) a duty of control; (ii) a due diligence duty; (iii) a duty of communication and reporting to the authorities; (iv) a duty to refrain from performing suspicious operations; (v) a duty to refuse; (vi) a duty to cooperate with the authorities; (vii) a duty of audit trail maintenance; (viii) a duty of exam and (ix) a duty of training. Furthermore, this regime establishes the administrative offences associated with the non-compliance of this framework.

Also, to note Law no. 92/2017, which puts forward the legal limitations on cash transactions. For this purpose, it is forbidden to pay or receive cash transactions of any nature involving amounts equal or higher than three thousand euros or its equivalent in foreign currency. Notwithstanding, non-resident individuals in the Portuguese territory cannot pay and/or receive ten thousand euros or equivalent foreign currency in cash. Payments of invoices can only be made in cash up to one thousand euros or its equivalent in foreign currency. Finally, payment in cash of taxes exceeding five hundred euros is prohibited. The transactions which surpass this threshold must be carried out through a payment method which allows for the identification of the respective recipient, namely: bank transfer, order cheque or direct debits.

20. Are there rules regulating compliance in the supply chain (for example comparable to the UK Modern Slavery Act, the Dutch wet kinderarbeid, the French loi de vigilance)?

No. Notwithstanding, as a European Union Member State, Portugal, its institutions, and authorities follow closely the guidance issued by EU Authorities, of relevance the EU guidance "On due diligence for EU businesses to address the risk of forced labour in their operations and supply chains".

21. Please describe the requirements to prepare, audit, approve and disclose annual accounts / annual financial statements in your jurisdiction.

Prior to the approval by the shareholders general meeting of the annual accounts:

- The financial accounts shall be drafted by the licensed accountant and approved by the management;
- A management report shall be drafted and approved by the Management (unless the company is considered a "micro-entity");
- A report and a legal certification of accounts shall be drafted by the statutory auditor and approved by the management (unless the company is a company incorporated as "*Sociedade por quotas*" and does not exceed specific requirements legally foreseen for that particular case).

All the documents mentioned above shall be provided to the shareholders 15 days before the annual general meeting, and must be approved by them, within three months of the closing date of each financial year, or within five months of that date in the case of companies that must present consolidated accounts or apply the equity method.

After the annual account's approval, the financial statements must be filed before the Tax Authorities by the licensed accountant or legal representative, by the 15th day of the seventh month following the end date of the financial year.

22. Please detail any corporate / company secretarial annual compliance requirements?

All general meeting/management resolutions/minutes, including those related to the approval of the annual financial statements, and their annexes, shall be signed/initialised and printed and filed in the respective original company's minutes book.

23. Is there a requirement for annual meetings of shareholders, or other stakeholders, to be held? If so, what matters need to be considered and approved at the annual shareholder meeting?

Yes. An annual general meeting of shareholders/quota

holders must be held within three months of the closing date of the financial year or within five months of the same date in the case of companies that must present consolidated accounts or apply the equity method.

The shareholders must resolve on:

- The management report (if applicable), the accounts of the last financial year and the report and legal certification of accounts of the statutory auditor (if applicable);
- The proposal for the allocation of results;
- The general appraisal of the company's management and supervision body;

Also, and if applicable, the shareholders/quota holders must resolve on:

- The appointment of the governing bodies;
- The acknowledge of the situation of loss of half of the company's share capital and on the measures to be adopted.

24. Are there any reporting / notification / disclosure requirements on beneficial ownership / ultimate beneficial owners (UBO) of entities? If yes, please briefly describe these requirements.

Yes. Entities subject to the UBO regime, namely commercial companies, are required to identify the natural person(s) who, directly or indirectly, hold more than 25% of the entity or have effective control over it.

Changes and/or updates to the information contained in the CRBO must be registered in CRBO platform within 30 days from the date of the fact that determines the change.

As a general rule, it is necessary to confirm annually the accuracy, sufficiency and any updates to the information on the UBO, through an annual declaration by 31 December. However, this obligation will be waived in cases where an update of the information has occurred during the respective financial year and no fact has occurred in the meantime that determines a new amendment to the information.

Companies usually confirm annually UBO information within the procedures of submission, deposit and disclosure of their annual financial statements.

25. What main taxes are businesses subject to in your jurisdiction, and on what are they levied (usually profits), and at what rate?

Corporations and other entities with their head office or place of effective management in Portugal qualify as tax residents and are subject to Corporate Income Tax (CIT) regarding their worldwide income. Non-resident corporations and entities are also subject to CIT in regards to income obtained or related to a Portuguese permanent establishment or, in spite of that, for any income deemed to come from a Portuguese source.

The current CIT tax rate is 20%, but for small and medium-sized companies the tax rate applicable to the first fifty thousand euros of tax income is 16%. Also, for companies established in the Autonomous Regions of Madeira and Azores the current rate is 14.7%.

Resident entities are subject to municipal and state surcharges. Municipal surcharges are defined by each municipality every year and can be levied up to a maximum of 1.5%. In what regards to the state surcharges, it varies under the following conditions:

- 3%, for a taxable income raging between one million and five hundred thousand euros to seven million and five hundred thousand euros;
- 5%, for a taxable income raging between seven million and five hundred thousand euros to thirty-five million euros;
- 9%, for taxable income over thirty-five million euros.

26. Are there any particular incentive regimes that make your jurisdiction attractive to businesses from a tax perspective (e.g. tax holidays, incentive regimes, employee schemes, or other?)

Dividends:

- Dividends paid by Portuguese entities to foreign entities can be exempt from withholding tax if all the following requirements are met:
  - The foreign shareholder is resident in another EU member state or EEA member state compliant with tax co-operation matters equivalent to those applicable in the EU, or in a state with which Portugal has signed a Double Taxation Treaty in which tax co-operation matters are established.
  - The foreign shareholder is subject to, and not exempt from, a tax referred in the Parent-Subsidiary Directive or a similar tax levied at a rate that is at 60% of the Portuguese CIT tax rate.
  - The foreign corporate shareholder holds, direct or indirectly, a minimum of 10% of the share capital

or voting rights of the entity that pays the dividends. This shareholding must be held uninterruptedly for one year before the distribution of dividends.

- Dividends received from foreign entities may be exempt from CIT if all the following requirements are met:
  - The beneficiary holds (directly or indirectly) a minimum of 10% of the share capital or voting rights of the distributing company.
  - That stake was held uninterruptedly for one year before the distribution of dividends or, if held for less time, it is maintained for the required time to complete that period.
  - The distributing company is subject to, and not exempt from, a tax referred in the Parent-Subsidiary Directive or a similar tax levied at a rate that is at of 60% of the Portuguese corporate income tax rate.

Interests and IP Royalties:

- Interests and IP Royalties paid by a Portuguese entity to a foreign shareholder may benefit from the exemption to CIT if all the following requirements are met:
  - The Portuguese entity and the beneficiary are subject to, and not exempt from, an income tax mentioned in the Interest and Royalties Directive.
  - Both entities are incorporated under a corporate structure as defined in the Interest and Royalties Directive.
  - The beneficiary is a resident in an EU member state and is not considered a non-EU resident for tax purposes under a Double Taxation Treaty.
  - The recipient is the beneficial owner of the interest.
  - A direct 25% shareholding must be held by one of the companies in the share capital of the other, or a third company must directly hold at least 25% of the capital of both companies and, in any case, the shareholding must be held uninterruptedly for at least two years.
- In the case of interests, if the parties have a special relationship under transfer pricing rules, the exemption does not apply to any excess interest that, in the absence of such relationship, would not have been agreed between the payer and the beneficial owner.

Withholding tax:

- Withholding tax may also be eliminated or reduced under an applicable Double Taxation Treaty.

27. Are there any impediments / tax charges that typically apply to the inflow or outflow of capital to and from your jurisdiction (e.g., withholding taxes, exchange controls, capital controls, etc.)?

Dividends paid by Portuguese resident entity to foreign shareholders are normally subject to withholding tax at a rate of 25%. Also, dividends received by entities incorporated in Portugal are also subject to CIT under the general tax rules.

In the same way, interest paid by Portuguese resident companies to foreign corporate shareholders are subject to withholding tax at 25%.

Under the Portuguese controlled foreign company (CFC) rules, income or profits obtained by non-resident companies, that are subject to a clearly more favourable tax regime, are allocated to Portuguese taxpayers who hold, directly or indirectly, even by means of a trustee, fiduciary or interposed person, at least 25% of the shares, voting rights or rights over the income or assets of those companies.

The CFC rules provides that a company is considered to be subject to a clearly more favourable tax regime when any of the following applies:

- It is resident in a jurisdiction listed in Portuguese regulations.
- It is exempt from, or not subject to, a tax equivalent to the Portuguese CIT.
- The tax rate is less than 50% of the CIT that would be due under Portuguese law.

28. Are there any significant transfer taxes, stamp duties, etc. to be taken into consideration?

Stamp duty is levied on deeds, contracts, documents, titles, books, papers, financial operations and other tax relevant facts that take place or have a connection with Portugal, which are not subject to or exempt from VAT. Some tax facts and operations, taking place abroad, may be subject to stamp duty if they are presented for legal purposes in Portugal. Stamp duty is charged to the entity that has an economic interest in the operation.

The tax rates are stipulated in the General Table of Stamp Duty that is attached to the Stamp Duty Code.

Exemptions may be applicable concerning certain financial operations, such as operations between companies under the same group; shareholder loans, up to one year; loans granted by companies in a control or

group relation for treasury needs; and cash pooling deals, up to one year, involving companies in a control or group relation.

29. Are there any public takeover rules?

Yes. The main legal framework governing public takeovers in Portugal comprises, amongst others ancillary regimes:

- Portuguese Securities Code, approved by Decree-Law no. 486/99 of 13 November 1999, as amended (the Securities Code);
- Regulation no. 1/2023 of the Portuguese Securities and Exchange Commission – *Comissão do Mercado de Valores Mobiliários* ("CMVM") on the issuer's duties of information and the regime applicable to public takeovers that repealed, between others, Regulation no. 3/2006 of the CMVM that established the general rules applicable to issuers and public offerings, including the procedures and formalities required;
- Regulation (EU) 2017/1129 of the European Parliament and of the Council, of 14 June 2017, as amended, on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market.

Takeovers are defined by the Portuguese Securities Code as an offer to purchase securities of a target company addressed to all its holders. The object of the offer may include the shares representing the entire share capital of the target company as well as any other type of securities issued by the target company.

If the takeover does not entail the acquisition of all the shares of the target company and securities which confer the right to their subscription or acquisition, neither the offeror nor any other individual or entity which, due to its relationship with the offeror or otherwise, is assumed to be acting in articulation with the offeror pursuant to article 20(1) of the Portuguese Securities Code, may accept the offer.

Under Portuguese law, the following transactions are expressly regulated: (i) public takeover offers, addressed to undetermined recipients, for the acquisition of shares or other securities granting subscription or acquisition rights (such as options and warrants) issued by listed companies; (ii) mandatory takeover offers; and (iii) squeeze-out arrangements.

Takeovers of listed companies and the compliance with the Portuguese Securities Code are overseen by the Portuguese Securities and Exchange Commission – *Comissão do Mercado de Valores Mobiliários* ("CMVM").

Most commonly, takeovers are implemented in the following ways: (i) by way of a series of acquisitions of shares until a mandatory offer is required; or (ii) with the launch of a public takeover offer to acquire all or part of the shares and voting rights of a target company.

If a person reaches or exceeds 90% of the voting rights corresponding to the share capital of the target company through the takeover offer, that person may, in the following three months, acquire the remaining shares for cash consideration.

Under Portuguese law, a mandatory offer must be made if a person whose shareholdings exceed, directly or indirectly, one-third or half of the voting rights corresponding to the share capital of the target company, in which case such person must immediately launch a public takeover offer for all the remaining shares issued by the target company and other securities issued by the target company granting the right to their subscription or acquisition.

This rule is not applicable when the person who would be required to launch the mandatory offer proves to CMVM that it cannot exercise dominant influence over the target company.

The Portuguese Securities Code provides an exemption from the obligation to launch a mandatory offer when the relevant threshold of the voting rights is exceeded as a result of: (i) the acquisition of shares as a result of a public takeover offer launched for all the securities of the target company, without any restriction as to the maximum quantity or percentage of securities to be acquired; (ii) the implementation of measures aimed at rescuing a target company in financial difficulties, within the scope of any of the types of recovery or reorganisation provided for by law; (iii) the merger of companies, if the resolution of the general meeting expressly states that the merger will result in a new controlling interest; (iv) the acquisition of securities by inheritance or bequest, if the company's articles of association provide for this.

The principal stages of the public takeover offer process include the main following steps:

- D Day – Upon making the decision to launch a takeover offer, the offeror shall send the preliminary offer announcement to the CMVM, the target company and the market operators on which the securities covered by the takeover offer, or otherwise forming

part of the consideration to be proposed under the takeover offer, are admitted to trading, and shall immediately proceed with publication of the offer announcement.
- D + 8 – Issuing of an opinion on the mandatory offer by the target company's board of directors eight days after receipt of the draft prospectus and draft offer announcement.
- D + 20 – Submission to the CMVM of the application for registration of the mandatory offer within 20 days after the publication of the preliminary offer announcement.
- D + 28 – Decision by the CMVM within eight days after receiving: (a) the application for registration of the mandatory offer, or (b) any additional information requested by CMVM. The CMVM may suspend this deadline if, for example, the offer is conditional on obtaining regulatory or competition approvals.
- D + 28 plus 14 to 70 days – Offer period after registration of the offer with the CMVM: between two to ten weeks, which can be extended by decision of the CMVM or at request of the offeror in case of review of the offer, launch of a competing offer or if such extension is justified by the protection of interests of the addressees.

The key documents in a public takeover offer are the following: (i) preliminary offer announcement; (ii) draft prospectus; (iii) proof of the deposit of the consideration in cash or issuance of a bank guarantee securing its payment; (iv) proof of blocking of the securities already issued that are subject of the offer; and (v) public announcement of the results of the offer.

In addition to the above key documents, CMVM shall also be provided with the following complementary documents for registration purposes: (i) a copy of the resolution regarding the offer adopted by the offeror's relevant corporate bodies and of the applicable administrative decisions; (ii) a copy of the articles of association of the target company; (iii) a copy of the articles of association of the offeror company; (iv) updated commercial certificate of the target company; (v) an updated commercial certificate of the offeror company; (vi) a copy of the management reports and financial accounts, reports of audit bodies and legal certification of the offeror's accounts for the periods required under the applicable European Union law; (vii) an auditor's report/opinion; (viii) a copy of the agreement signed with the financial intermediary assisting with the offer, if applicable; (ix) a copy of the underwriting contract and of the underwriting syndicate agreement, if any; (x) a copy of the market making agreement, stabilisation agreement and green shoe agreement, if any; (xi) proforma financial information, when required; and (xii) expert reports, when required.

30. Is there a merger control regime and is it mandatory / how does it broadly work?

Merger control is regulated by Law no. 19/2012 of 8 May (as amended).

All concentration operations that meet one of the following criteria are legally subject to the obligation of prior notification to the Competition Authority:

- As a result of its implementation, it acquires, creates or strengthens a share of 50% or more of the national market for a certain good or service, or for a substantial part thereof;
- As a result of its implementation, it acquires, creates or strengthens a share equal to or greater than 30% and less than 50% in the domestic market of a certain good or service, or a substantial part thereof, provided that the turnover carried out individually in Portugal in the last financial year, by at least two of the undertakings involved in the concentration, is greater than five million euros, net of taxes directly related thereto;
- All the undertakings involved in the concentration have generated in Portugal, in the preceding financial year, an aggregate combined turnover exceeding one hundred million euros, net of taxes directly related thereto, provided that the turnover achieved individually in Portugal, by at least two of those undertakings, exceeds five million euros.

Prior notification of mergers shall be submitted to the Competition Authority:

i. Jointly by the parties intervening in a merger over the whole or part of one or more or several companies;
ii. Individually, by the party acquiring sole control of all or part of one or more companies.

After being notified, the Competition Authority assesses potential obstacles to competition that may arise from the merger, and it may be necessary to conduct an in-depth investigation. If obstacles to competition are detected, the Competition Authority may require that commitments are made by those involved to eliminate the risks identified.

As Portugal is a Member State of the European Union, mergers having effects in Portugal may also be subject to EU merger regulation and to the exclusive jurisdiction of the European Commission where the relevant thresholds

are met.

31. Is there an obligation to negotiate in good faith?

Article 227 of the Portuguese Civil Code, concerning fault in contract formation, provides that "whoever negotiates with another party for the conclusion of a contract must, both in the preliminaries and in its formation, proceed according to the rules of good faith, subject to being liable for the damages wrongfully caused to the other party".

Thus, under Portuguese contract law, good faith is the guiding principle of conduct to which the parties must be bound throughout the transaction process, including the preliminary phase, the negotiations and agreement conclusion.

The principal duties embodying good faith are understood as: i) duty of protection – whereby the parties must avoid any conduct likely to cause harm to the other party; ii) duty of information – by force of which the parties are bound to provide the necessary information to the negotiating party for knowledge of circumstances that may be relevant to the formation of contractual consensus; and iii) duty of loyalty – preventing the parties from adopting behaviours that create unjustifiable obstacles to contract formation, or assuming behaviours that lead the counterparty into error or that cause unjustified damage.

Therefore, a party may be liable to indemnify the other party for the damages occurred due to disregard of these duties, i.e., the failure to act in accordance with the principles of good faith (*culpa in contrahendo*).

This includes the breakdown of negotiations, the conclusion of an ineffective contract, as well as protection against "undesirable" contracts, specifically the execution of a contract not meeting legitimate expectations due to the provision of incorrect information or failure to provide necessary clarification.

In respect to pre-contractual liability, only damages pertaining to the *negative contractual interest* are susceptible to being indemnified, i.e., the damages that would not have been suffered if the negotiations had not taken place, placing the non-defaulting party in the same position as it was before the negotiations.

32. What protections do employees benefit from when their employer is being acquired, for example, are there employee and / or employee representatives' information and consultation or co-determination obligations, and what process must be followed? Do these obligations differ depending on whether an asset or share deal is undertaken?

I. TUPE

According to the Portuguese Labour Code, *the transfer of undertaking (TUPE) legislation applies in cases of transmission, by any title, of the ownership of a company / ownership of business premises or a part of a company / part of business premises that constitutes an economic unit.*

As TUPE intends to protect the employee's position in the case of a transfer of employer, it is common understanding that TUPE legislation is not applicable to "pure share deals" (in which there is no change of employer but only change of employer's shareholding's structure).

II. Mandatory TUPE procedures

Transferor's side

Within a reasonable time and at least ten working days before the consultation procedure, the transferor must inform (i) the employees' representatives (employee committees, union associations, inter-union committees, union committees or union deputies) or, in their absence, (ii) the employees affected by the transfer, in writing, of the following:

- Date of and reasons for the transfer;
- Legal, economic and social implications of the transfer for the employees;
- Projected measures for the employees;
- Content of the contract between transferor and transferee.

In the absence of any sort of employee representatives, the employees affected by the transfer may elect, among themselves and within five working days from the receipt of the above-mentioned information, a representative committee with:

- up to three members, if the transfer affects up to five employees;
- up to five members, if the transfer affects over five employees.

Afterwards, the transferor must begin a consultation

procedure with the employees' representatives or with the elected representative committee, in order to obtain an agreement regarding the measures to be applied to the affected employees after the transfer.

In the absence of a representative committee elected by the employees, the transferor must inform the employees affected by the transfer of the agreement reached with their representatives or that no agreement has been reached within the consultation.

If the transferor has 50 employees or more it must inform the Portuguese Labour Authority (ACT) regarding:

- The content of the contract between transferor and transferee;
- If the transfer constitutes a transfer of an economic unit, all the elements that forms such unit.

Transferee's side

Within a reasonable period and at least ten working days before the consultation procedure, the transferee must inform (i) the employees' representatives (employee committees, union associations, inter-union committees, union committees or union deputies) or, in their absence, (ii) the employees, in writing, on the following:

- Date of and reasons for the transfer;
- Legal, economic and social implications of the transfer for the employees;
- Projected measures for the employees;
- Content of the contract between transferor and transferee.

Governmental intervention

The services of the Portuguese Employment Ministry may participate in the consultation procedure at request of any of the parties involved in the TUPE transfer.

Conclusion of the TUPE transfer

The TUPE transfer may only be concluded not earlier than seven working days after:

- The termination of the period for the employees to appoint the representative committee, if no committee is appointed; or
- The consultation procedure is finished with or without an agreement.

Employees' right of opposition and right of termination

Any employee affected by the transfer is entitled (i) to oppose to the transfer of the respective employment contract or (ii) to terminate the employment contract with just cause whenever the transfer may cause him serious loss, namely by the transferee's evident insolvency or difficult financial situation, or if the employee does not trust the transferee's policies regarding work organization.

For the purposes of exercising the right of opposition, the employee must inform the employer, in writing, of its intention within five working days after:

- The termination of the period for the employees to appoint the representative committee, if no committee is appointed;
- The consultation procedure is finished with or without an agreement.

The employee's opposition to the transfer keeps the transferor as the respective employer.

In case of termination of the employment contract with just cause, the employee will be entitled to severance compensation corresponding to 12 days of base salary and seniority allowances multiplied by his/her seniority, capped by 12 base salaries and seniority allowances or 240 times the national minimum wage.

Joint liability

Transferor and transferee will be jointly liable for all credits arising from the employment contracts, their breach and termination, as well as for the inherent social charges, for two years following the date of conclusion of the TUPE transfer.

33. Please detail any foreign direct investment restrictions, controls or requirements? For example, please detail any limitations, notifications and / or approvals required for corporate acquisitions.

As a general rule, there are no restrictions in Portugal with respect to foreign direct investment.

The rules applicable to foreign direct investments are similar to those that rule domestic investment, such as mandatory registration obligations or compliance with regulatory obligations in specific activities.

Notwithstanding this, Portugal has in place a legal regime for the safeguard of assets which are deemed strategic for the national defence and security – Decree-Law no. 138/2014 (that is complemented with Regulation (EU) 2019/452 of the European Parliament and of the Council

of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union).

Under this legal framework, the Portuguese government can assess any transaction resulting directly or indirectly in the acquisition of control, by an investor from a country outside the EU and the EEA, over strategic assets such as in the energy, transport and telecommunications sectors, and in exceptional circumstances and by means of a duly justified decision, oppose those transactions if it considers them a material and serious risk, to the national defence and security and/or to the security of supply of services which are fundamental for the national interest. This assessment follows objective, transparent and non-discriminatory criteria, regarding the strategic assets, the defence and national security and the acquirer.

The law does not require mandatory notifications of any transaction. However, the investors may request the Portuguese government official responsible for the area of the respective strategic assets for an *ex-ante* confirmation that an opposing decision will not be adopted regarding the envisaged acquisition. Such confirmation shall be considered granted if, within 30 days from the receipt of the request, the investors are not notified by the Portuguese government of the beginning of an assessment procedure.

The Portuguese government may also initiate *ex officio* an opposition procedure within 30 days from the conclusion of the transaction or from the date it becomes publicly known in order to assess the risk of such operation to the national defence and security and/or to the security of the country's supply in vital services for national interest. During this procedure, the investor must disclose relevant information and documentation regarding the transaction.

Within 60 days, upon the receipt of all pertinent information deemed relevant for the foreign direct investment assessment, the relevant authorities must decide on the approval or opposition to the transaction. Failure to adopt a decision within this period will result in a tacit decision of non-opposition.

If an opposing decision is adopted, all legal acts and transactions relating to the operation in question are null and void. The opposing decision may be subject to judicial review by the administrative courts, but this will not have suspensive effect.

34. Does your jurisdiction have any exchange control requirements?

Foreign exchange operations are, in principle, intermediated by an entity authorised to carry out foreign exchange activities.

However, residents may carry out directly or through any means of payment denominated in foreign currency, their payments/receipts to/from non-residents or net-off their obligations towards non-residents. Residents may also incur debts or grant loans among themselves in foreign currency or in units of account used in international payments and clearing (Decree-Law no. 295/2003, as amended). Notwithstanding, temporary restrictions may be imposed on the conduct of these operations on the grounds of serious political reasons or urgency.

Residents and non-residents may open and operate bank accounts in Portugal, held by authorised institutions, denominated in euros, foreign currency, gold or units of account.

Residents in Portugal may also open and operate accounts with non-resident institutions.

Any natural person entering or leaving Portuguese territory, originating, or terminating in a territory outside the European Union, and carrying an amount of cash equal to or exceeding ten thousand euros must declare the said amount to the customs authorities. If these cash movements are carried out within European Union Member States, the said amount must be declared only if requested by the customs authorities.

In terms of the exchange control systems in place, the Portuguese authorities envisage mandatory periodic reporting to the Bank of Portugal, for statistical purposes, of end of period external positions (balances) on deposits loans and credits pursuant the regulations governing external and foreign exchange transactions between Portuguese residents and non-residents.

Thus, banks and other entities settling transactions on behalf of customers must comply with the COL report (communication of settlement transactions) and all legal persons residing or pursuing their business in Portugal, conducting external economic or financial transactions or foreign exchange operations exceeding a total annual amount of one hundred thousand euros must comply with the COPE report (communication of external transactions and positions) (article 44 of RGICSF, Decree-Law no. 295/2003, Decree-Law no. 82/2024 and Bank of Portugal Instruction no. 27/2012, as amended from time to time).

35. What are the most common ways to wind up / liquidate / dissolve an entity in your jurisdiction? Please provide a brief explanation of the process.

The most common way to wind up an entity in Portugal is through the simplified liquidation procedure where dissolution is resolved with immediate liquidation, by means of a general meeting resolution approving the dissolution followed by immediate distribution of remaining assets, which can solely be resolved in cases where the company does not have any debts nor liabilities, employees, agreements in force, litigations or disputes. In this particular case, there is no need to appoint a liquidator and the procedures are simplified.

In the above-mentioned simplified liquidation procedure, the company is dissolved and liquidated in one single step, by means of an extraordinary general meeting approving the final company's accounts, resolving on the dissolution and liquidation, the assets distribution to the shareholders/quota holders (if any), and the appointment of a tax representative and depository of the books, documents and further information and data of the company. The resolution must be taken by the shareholders/quota holders and be registered with Commercial Registry Office.

Another simplified procedure of dissolution and liquidation of the company is by means of a global transfer of assets and liabilities to one or more quota holder/shareholders with the express written agreement of all the creditors of the company. The resolution must be taken by all shareholders/quota holders that also approve the final company's accounts and be registered with Commercial Registry Office.

The standard liquidation procedure requires two steps (i) the approval of the dissolution and appointment of a liquidator and (ii) the liquidation resolution, both by means of a shareholders/quota holders general meeting. Between the two resolutions the liquidator is required to take the necessary steps to liquidate the company within a period of two-three years.

Companies may also be dissolved by an administrative decision if, the company (i) has no activity for two consecutive years, (ii) carries out an activity that is not foreseen in its corporate object, or (iii) the latter becomes impossible to pursue, or (iv) has not the minimum required quota holders/shareholders for a period exceeding one year.

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