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Portugal's competition bar

With Portugal's new competition law and its EU-mandated commitment to effective competition, it's a busy time for many of the country's competition lawyers. **Faez Samadi** meets the firms that continue to perform well despite the downturn

PORTUGAL'S stagnant economy has meant greater rivalry among the leading practices, as firms compete for the diminishing level of high-profile work. Several competition practices in Portugal have corporate departments that help maintain the workload, but the best of them manage to attract regular stand-alone cases.

For a small country, the range of firms is impressive, with domestic, Spanish and international firms all represented in Lisbon. Several firms field leading individuals with strong reputations, giving them an edge over their rivals.

Elite

Marques Mendes & Associados continues to be recognised as one of Portugal's leading competition practices. Led by renowned competition veteran and *Who's Who Legal* entrant Mário Marques Mendes, the firm has had a heavy transactional workload.

The firm is advising ETE on merger control issues regarding the public bid for provision of services at the Port of Lisbon, a case that has involved a bidding competitor filing claims with the competition authority and courts. Marques Mendes is also representing transport company Barraquero in its acquisition of Metro Sul do Tejo, which operates transport services near Lisbon.

International clients are also drawn to the firm's reputation. Marques Mendes continues to represent Canadian pulp and paper producer Fortress on potential acquisitions in Portugal, as well

as other competition advice. The firm is also acting for French machinery manufacturer Altrad over the purchase of a controlling stake in a Portuguese rival.

On the behavioural side, Marques Mendes has been retained as counsel to the European Commission in two high-profile litigation cases before the European courts, which Mendes describes as "extremely interesting work". The firm is defending the commission in three appeals from Portuguese companies in the pre-stressing steel cartel, and two companies in the animal feed cartel.

Marques Mendes is also handling some of the state aid work that is continuing in Portugal, representing public television broadcaster RTP regarding its financial restructuring.

With a downturn in merger work, leading antitrust firm *Morais Leitão Galvão Teles Soares da Silva & Associados* (MLGTS) has turned its attention to other competition matters, according to practice head and *Who's Who Legal* entrant Carlos Botelho Moniz. With fellow *Who's Who Legal* nominee Joaquim Vieira Peres in the firm's Porto office and several associates, the firm has successfully compensated for the lack of deals with other high-profile work.

State aid has been particularly high on the agenda, and MLGTS is advising Portuguese national airline TAP in the sale of a majority stake in Groundforce – the incumbent handling services company

at Portuguese airports. The firm is also advising the Portuguese government on compatibility with state aid rules in its financing of promotions in the wine sector.

MLGTS is heavily involved in the banking sector, advising state-owned Banco Português de Negócios (BPN) on its restructuring and privatisation, and

The best practices attract stand-alone antitrust cases

Millennium BCP – Portugal's largest private bank – on restructuring and recapitalisation plans.

That's not to say merger work has completely dried up. The firm is representing both parties in private investor Sonae's acquisition of Modelo Continente, Portugal's leading food retailer. MLGTS continues to act in several antitrust probes and private actions, which remain confidential. The firm has relationships with a number of pharmaceutical companies, including Abbott and Pfizer, which it regularly advises on competition law matters.

As the largest competition practice in Portugal, the 10-lawyer team at Pereira Sárrega Leal Oliveira Martins Júde & Associados (PLMJ) is recognised by peers as one of the country's leading practices.

The team is led by *Who's Who Legal* nominees José Luís da Cruz Vilaça and Ricardo Oliveira – although Vilaça will be leaving the practice in October having been appointed a judge at the European Court of Justice. A highly experienced practitioner, Vilaça spent 10 years at the EU courts, including six years as president of the General Court, before joining PLMJ in 1996.

The firm is advising on all privatisation deals carried out over the last year under the Portuguese bailout programme. These include acting for government holding company Parública in the privatisation of REN, Portugal's electricity grid manager, and ANA, the country's airport infrastructure manager. Oliveira is also advising Electrobrás in its acquisition of shares in EDP, Portugal's energy incumbent.

PLMJ is also advising cement company Cimpor in its acquisition by one of its Brazilian shareholders, and the London Stock Exchange on aspects of purchasing a controlling stake in clearing house LCH.Clearnet.

On the behavioural side, PLMJ continues to act in the catering cartel matter. It is the largest antitrust case ever brought by the authority, in which it fined five companies €14.7 million in December 2009. PLMJ is advising Eurest, the largest defendant, which is appealing against a €5.2 million fine. The authority is finalising a new decision after Lisbon's Commerce Court quashed the first ruling.

Renowned competition specialist and *Who's Who Legal* nominee Nuno Ruiz leads the highly regarded competition team at Vieira de Almeida. A testament to the firm's reputation is its hiring of experienced antitrust lawyer Miguel Mendes Pereira as counsel last July. Pereira was formerly legal adviser to the board of Portugal's Competition Authority, and also spent five years working at the European Commission.

The firm continues to work on several high-profile matters across all areas of competition law. In mergers, Ruiz led a team advising corporate group José de Mello in its €700 million acquisition of Brisa, Portugal's main highway operator.

International transactions are also part of the workload, with Pereira acting for leading Chinese construction outfit Sany Heavy Industry in its takeover of German legacy engineering business Putzmeister in one of the largest Chinese-German deals in recent times.

In antitrust matters, Ruiz has long been regular counsel to Portugal Telecom, and recently defended it in two separate Portuguese abuse of dominance claims. Ruiz is also advising the company in a European Commission investigation of an alleged non-compete agreement with Spain's Telefónica.

On the domestic front, Vieira de Almeida is defending local association ACAPO in an abuse of dominance claim brought by a printing company, and acting for raw milk producer Agroseber in claiming damages for abuse of dominance from Portugal's largest dairy company, Lactogal.

Highly recommended

Cuatrecasas Gonçalves Pereira's competition practice has a solid reputation. *Who's Who Legal* nominee Frederico Pereira Coutinho leads the team and he is joined in the partnership by António Vitorino.

The practice handles a range of competition work, often with input from the firm's litigation or regulatory departments. One of the largest cases on Coutinho's books is defending Banco Privado Português (BPP) at the General Court against a DG Comp decision declaring the €450 million the bank received in state aid illegal.

Coutinho is also advising Otoc, the Portuguese accountants' bar association, before the European Court of Justice over alleged anti-competitive activity in devising the conditions under which accounting training courses are valid. The firm is also advising in

Firm	Head of competition	Size	Clients
Elite			
Marques Mendes & Associados	Mario Marques Mendes	2p, 1sa, 2a	European Commission, RTP ETE, Barraqueiro, Ally Financial/GMAC, CAE Global Academy, Meta4, SAS Institute, Fortress, Fertagus, Altrad, Luxottica
Morais Leitão Galvão Teles Soares da Silva & Associados (MLGTS)	Carlos Botelho Moniz	2p, 5sa	EDP, Sonae, Optimus, Impresa, REN, Millennium BCP Bank, Abbott, Amgen, SCC (Heineken Group), TAÇ AdP-Águas de Portugal, Informa D&B, Espírito Santo Turismo
Pereira Sáragga Leal Oliveira Martins Júdice & Associados (PLMJ)	José Luís da Cruz Vilaça, Ricardo Oliveira	2p, 8a	Cimpor, Telefónica, REN, Tabaqueira, Unilever, JM, Eurest, London Stock Exchange, Essilor, ANA, Nestlé, Bayer, Coca-Cola, ZON, Párpública
Vieira de Almeida	Nuno Ruiz	1p, 1c, 6a	CTT, José de Mello, Espírito Santo, Semapa, Secil, Uniself, Apifarma, Lilly, Novartis, Portugal Telecom, ACAPO, Agroseber, Omega Pharma
Highly Recommended			
Cuatrecasas Gonçalves Pereira	Frederico Pereira Coutinho	2p, 4a	Pfizer, BMW, Daimler, Kia, Refrige, Galp, Bosh, Ferrero, Cabovisão, CEPISA, Explorer Investments, Banco Privado Português, OTOC, CEMIG
Garrigues	João Paulo Teixeira de Matos	1p, 5a	IBM, Kraft Foods Portugal, Samsung, Decathlon, Fertibéria, Magnum Industrial Partners, Volvo, Delta Cafés, BioMérieux, CEF, Lda
Linklaters	Carlos Pinto Correia	1p, 5sa, 1a	Nestlé, Auchan, Metro, Renoldi, BP Repsol, Pfizer, Secil, Semapa, Brisa, Arcus, Embraer
SRS Legal	Gonçalo Anástacio	1p, 1c, 4a, 2t	Air Liquide, Eni, Repsol, CTW, Essilor, European Commission, Galp, IMS Health, Ministry of Finance, Tecnovia, Warner Bros, ZON, Centromarca, ECS Capital, Nestlé, Sumol + Compal
Uría Menéndez – Proença de Carvalho	Joaquim Caimoto Duarte	1p, 1sa, 2t	Apifarma, Camargo Corrêa, Multiópticas, Otis, Socitrel, Smurfit Kappa, SC Johnson, Coty Astor, Damm, Uniarme

Key: p = partner, eq p = equity partner, c = counsel, sa = senior associate, a = associate, t = trainee

a domestic case regarding access to the information exchanged between competitors, which Portugal has no established case law settling.

On the merger front, Cuatrecasas is representing CEMIG, one of Brazil's largest electricity companies, on acquiring shares in recently privatised EDP, Portugal's electricity incumbent. The firm is also acting for investment fund Explorer Investments in its subsidiary's acquisition of several transport companies. Cuatrecasas continues to advise several

multinational companies on competition compliance in Portugal.

A well-established player in the Portuguese bar, Spanish firm Garrigues continues to run an effective competition practice. Sole partner and *Who's Who Legal* nominee João Paulo Teixeira de Matos leads the team, which continues to handle a range of transactional work despite Portugal's financial downturn.

Garrigues advised biotechnology company BioMérieux in its acquisition of French rival AES Skiva, and represented chemical business ADP Fertilizantes in its purchase of Nova.

De Matos says the firm is also busy with private equity purchases. It acted for a consortium of private investors in acquiring Clece, a leading Spanish

company on the Portuguese part of an EU-wide bid-rigging case.

Who's Who Legal nominee Gonçalo Anastácio leads the impressive competition team at SRS Legal. Despite difficult economic times, the firm has taken on two associates in the past 18 months. "We are definitely getting more work, particularly in competition law," says Anastácio.

This is illustrated in SRS Legal's work in a landmark private enforcement action last year that saw the first ruling of abuse of dominance by a Portuguese court. The firm acted for plaintiff IMS Health, one of the world's largest companies providing information services to the pharmaceutical industry.

SRS Legal is also advising long-time client and soft drinks market leader Sumol + Compal in a market investigation by Portugal's Competition Authority. It is advising Portuguese investment fund ECS Capital on several acquisitions. One deal obtained another ground-breaking decision: the Competition Authority waived suspension of the deal until a final decision is taken for the first time at pre-notification.

On the cartels side, the firm is acting against the European Commission in the bitumen cartel case, which is before the European courts. SRS Legal also successfully defended a chemical company in a Portuguese cartel case.

Head of practice and *Who's Who Legal* nominee Joaquim Caimoto Duarte says the Lisbon competition team at *Uría Menéndez - Proença de Carvalho* is well integrated with its counterparts in Madrid and Brussels, allowing for a broad spectrum of work to be handled quickly through close coordination. The amount of work the Lisbon practice handles belies its size, particularly on the behavioural side.

As well as several continuing matters before the Portuguese competition authority and courts, *Uría Menéndez* is heavily involved in litigation work before the EU authorities. It is advising steel company Socitrel in its appeal before the General Court against the European Commission's ruling in the pre-stressing steel cartel case. The firm is also Socitrel's parent Companhia Previdente in its appeal against joint liability for Socitrel's fine.

In another case, Duarte is advising Apipharma, Portugal's pharmaceutical industry association, in a complaint filed with DG Comp regarding the country's pharmaceutical sector.

Merger work is continuing amid the raft of behavioural work. *Uría Menéndez* is acting for Brazilian cement company Camargo Corrêa in its takeover of Cimpor, one of the most high-profile deals so far this year in Portugal.

SRS Legal advised on the first abuse of dominance ruling by a Portuguese court

supplier of maintenance services, and represented another group in buying car park operator Saba Infraestructuras.

The firm continues to provide antitrust advice to several companies, including a large multinational company present in the food sector, and another on possible abuse of dominance issues raised after it unilaterally terminated a contract.

It's been a busy time for transaction specialists Linklaters. Head of practice and *Who's Who Legal* nominee Carlos Pinto Correia says the modest team has been stable for some time now, and although the practice "doesn't do everything", what it covers is of a high quality. Litigation and state aid work are all on Linklaters' books, but it is mergers that the firm primarily deals with.

The firm is advising Nestlé on its acquisition of Pfizer's baby food division. Correia says it is the first time the practice has worked for Nestlé. Linklaters is also representing both BP and rival Repsol in a joint venture to expand BP's production capacity in Portugal. Correia is also representing cement company Secil in a bid to purchase rival Cimpor, and China's State Grid Corporation in acquiring a stake in Portugal's national energy network – the first time a Chinese company has bought a stake in a European utility network.

The firm is also advising on a high-profile proposed merger between Portugal's two milk producers, which is currently at Phase II before the authority. Another deal sees Correia representing Embraer, one of the world's largest aircraft manufacturers, on a joint venture building two new plants in Portugal.

Linklaters also does a good amount of behavioural work – among other cases, it is advising