

Real estate and start-ups help drive Portugal's revival

By Claudia Santos Cruz, consultant, and Luís Gagliardini Graça, partner,

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Portugal comprises both the mainland and two autonomous regions (the archipelagos of Madeira and the Azores) and is a member of the European Union, United Nations, NATO and the Community of Portuguese Language Countries, among others.

The Institute for Economics & Peace (IEP)'s *Global Peace Index 2018 – Measuring Peace in a Complicated World* ranks Portugal as the fourth most peaceful country in the world, following only Iceland, New Zealand and Austria.

After the economic and financial crisis experienced at the beginning of the decade, when the sovereign and banking sectors were cut off from market funding, Portugal requested EU (through the European Financial Stability Facility and the European Financial Stabilisation Mechanism) and International Monetary Fund (IMF) financial assistance. This resulted in a three-year programme prepared to help the country overcome the crisis.

In the European Commission (EC)'s *Ex Post Evaluation of the Economic Adjustment Programme – Portugal 2011-2014*, it concluded that Portugal had made good progress with reforms over the programme years but that it continued to face challenges that might only be fully resolved over a longer-term perspective. The EC's report also says that the "programme was effective in achieving its primary objective of restoring confidence in the Portuguese economy. It made tangible progress in putting the public finances on a more sustainable footing, improving competitiveness to support economic growth and addressing some of the weaknesses of the financial sector".

REAL ESTATE: PLATFORM FOR ECONOMIC GROWTH

In the period following the financial assistance programme, the real estate sector has been key to the growth of the Portuguese economy. In our view, there are three main factors contributing to the significant development of the sector.

The first is the introduction of a residence permit based on investment activity (ARI / Golden Visa). This regime, which entered into force in October 2012, allows foreign citizens to obtain a temporary permit to reside in Portugal for the purpose of undertaking investment

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activities. And one target for investment is real estate (although compliance with the established legal threshold is mandatory).

Among other rights, the Golden Visa allows its holders to reside in Portugal and to circulate through the Schengen Area. It allows a holder's family members to qualify for residence permits as well and, if maintained for a period of time and based on compliance with additional requirements, it allows a holder to qualify for permanent residence and subsequently for Portuguese citizenship. Considering the novelty of the regime, to this date there are yet no naturalised citizens based on this regime.

Second is the non-habitual residents special tax regime, introduced in 2009. This has contributed to the development of the sector and to the economy more broadly. The regime intends to attract persons with qualifications in highly specialised activities and also individuals with high net worth. Individuals become Portuguese tax residents (as long as they were not Portuguese tax residents in the previous five years) and enjoy this status for a period of 10 consecutive years. The regime broadly encompasses reductions or exemptions pertaining to capital income tax.

This initiative has been particularly successful with retirees from other European countries, who want to establish themselves in Portugal not only for this purpose, but also due to the safe environment and weather, among other factors.

In the specific case of pensions paid abroad to these individuals, they will be exempt from personal income tax (*imposto sobre o rendimento singular*) whenever such pensions are subject to tax under an existing Double Tax Treaty or in case the pensions are not perceived as having been obtained in Portugal and where related contributions do not allow for a personal income tax deduction in Portugal.

Finally, over the last few years, Portugal has experienced an

unprecedented growth in tourism, namely from countries that have not previously generated high numbers of visitors and from tourist seeking to travel throughout the whole country and not just in the capital and the Algarve. This has had an impact in the growth in real estate, boosting reconstruction and the renovation of existing buildings rather than new construction.

A new legal framework for so-called local accommodation (*alojamento local*) was introduced in 2014 and applies to properties where temporary accommodation services are provided to tourists and remuneration is received by the service providers. Especially in Lisbon and Oporto there has been a vertiginous increase in this type of establishment.

BANKING AND TECH START-UPS

The real estate sector's growth has impacted the banking sector, but other factors have also been of significant importance.

That Portuguese banks could successfully ride through the consequences of the EU / IMF bailout is largely due to the direct intervention of the Portuguese Central Bank into various banking institutions, the re-capitalisation as a result of acquisitions of Portuguese banks by Spanish banks and the decrease in bad housing credit in banks' portfolios as a consequence of the boost in the real estate sector and increased real estate acquisitions.

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Another very interesting development in the Portuguese economy, as already highlighted by global news outlets such as Forbes, is that “Lisbon is fast becoming a creative and tech start-up hub, helped by accelerator funding, tech incubators and newly refurbished coworking spaces popping up all over the city”.

In fact, in 2016 the Portuguese government launched the National Strategy for Entrepreneurship – Start-up Portugal, which was one of the government's priorities to boost competitiveness and attract both national and foreign investment.

Among other objectives, the National Strategy intended to create and support the start-up ecosystem on a national level; co-finance start-ups in the concept phase; and promote and accelerate Portuguese start-ups in foreign markets, among other things.

Assessing the first two years of the Programme, the Portuguese government concluded that: “[I]n just two years the Portuguese innovation ecosystem has radically changed. The number of start-ups and incubators has significantly increased, the tech companies have grown and the first Portuguese unicorns (Farfetch and Oustsystems, and Feedzai underway to gain such status) have appeared and dozens of new tech companies have been able to gain investments of millions of euros and have generated thousands of jobs (Unbabel, Venian, Codacy, Dashdash, SwordHealth or ProdSmart are just some of the recent examples)”.

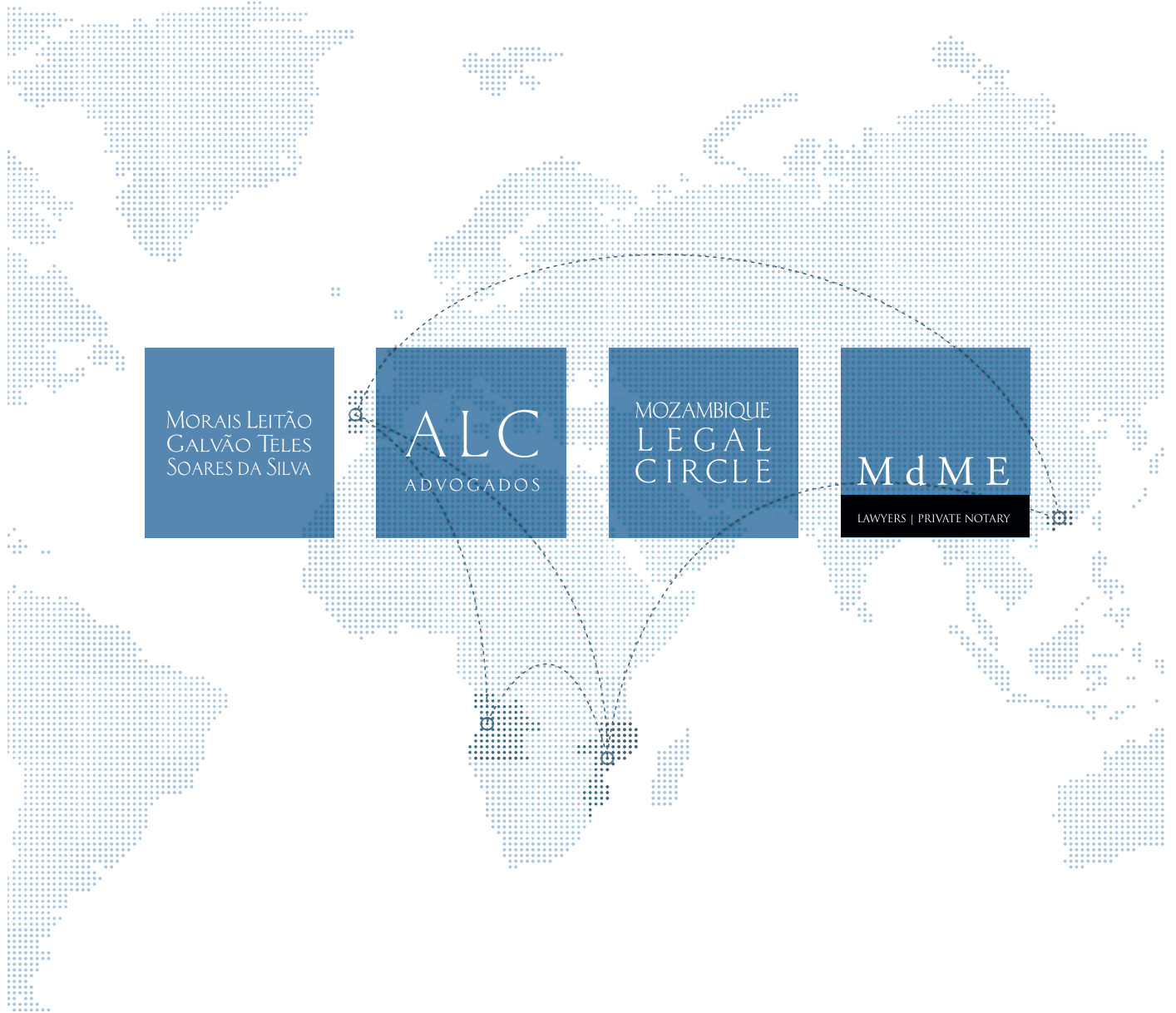
The gained international visibility for the country has already attracted foreign investors to Portuguese start-ups as well as drawing in multinational companies such as Google, Cisco, Fujitsu and Mercedes.

With a renewed and refreshed image, Portugal has been positioning itself as a key investment attraction, thanks to its growing economy and natural environment, such as safety, food, weather and the Portuguese people.

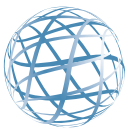
Portugal is today establishing an increasingly multicultural society, open to Europe and the world.

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About the author

Claudia Santos Cruz joined the firm as a consultant in 2015 assisting clients on the international and cross-border aspects of their investments in Portugal, Angola and Mozambique. She focuses on banking & finance, corporate & commercial, capital markets, energy and natural resources, oil & gas, shipping and the international aspects of foreign investment into Angola and Mozambique.

Claudia has close ties to both Africa and England. She was born in Mozambique; grew up in South Africa and holds dual Portuguese and Mozambican nationality.

She trained and practiced as an English solicitor from 1994 to 2005 at DLA Piper and Watson Farley & Williams in the City of London. From 2005 to date Claudia has been based in Lisbon and is registered with the Portuguese Bar Association. Before joining MLGTS she was a partner at Barrocas and AVM.

Claudia has written articles for international publications as well as participating as a speaker at international conferences in the areas of investment in emerging markets; oil & gas, corporate, banking & restructuring and shipping related matters.

She was the winner of the first “40 under Forty Award” organised by Iberian Lawyer, which distinguished the best 40 lawyers under the age of 40 in Iberia, and is ranked as a leading lawyer by the most prestigious international legal directories such as Chambers & Partners and IFLR.



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Luís Gagliardini Graça joined the firm in 2001 and became a partner in 2013. He is a member of the corporate and commercial team of MLGTS. He specialises in corporate and commercial and administrative and public procurement law (administrative litigation and arbitration).

He is a member of the coordinating team of the Africa Team, an internal structure that guarantees, on a permanent basis, and in close cooperation with the member firms of the MLGTS Legal Circle, personalised day-to-day assistance to clients on matters that involve or are related to the jurisdictions of the African Portuguese speaking countries. He is referred as “Key Portugal-based partner active in Lusophone Africa” in the 2013 edition of IFLR 1000 Energy & Infrastructure Sub-Saharan Africa Guide.

Luís has been very active in the area of concessions for public construction, providing start to finish legal advice from negotiation to contractual execution, as well as handling any litigation arising as a result of the construction activities. In 2003 and 2004 Luís acted in an advisory role to the entities responsible for the construction of several of the new football stadiums for Euro 2004 as well in the project and construction of motorways.

He has been involved in several M&A operations and the restructuring of companies, but he also has a strong background in litigation related to his practice areas.