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2010

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Laws and institutions

1 Multilateral conventions

Is your country a contracting state to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards? Since when has the Convention been in force? Were any declarations or notifications made under articles I, X and XI of the Convention? What other multilateral conventions relating to international commercial and investment arbitration is your country a party to?

Portugal ratified the New York Convention by Parliament Resolution No. 37/94, of 10 March 1994, with a reservation limiting the application of the Convention to the recognition and enforcement of awards rendered in states that have also ratified the Convention.

Portugal is also a party to the Washington Convention on the Settlement of Investment Disputes between States and Nationals of other States of 1965 (ratified in 1984) and in the Inter-American Convention on International Commercial Arbitration signed in Panama in 1975.

2 Bilateral treaties

Do bilateral treaties relating to arbitration exist with other countries?

Portugal has entered into bilateral treaties on international juridical and judiciary cooperation with the PALOP states (Portuguese Speaking African Countries), namely:

- Legal and Judiciary Cooperation Agreement between Portugal and the Republic of Angola dated 30 August, 1995, in force since 2006;
- Legal and Judiciary Cooperation Agreement between Portugal and Cape Verde dated 2 December 2003, in force since 2005;
- Legal Cooperation Agreement between Portugal and the Republic of Guinea-Bissau, dated 5 July 1988 (with Additional Protocol dated 5 March 1989), in force since 1994;
- Legal and Judiciary Cooperation Agreement between Portugal and the People's Republic of Mozambique dated 12 April 1990, in force since 1996; and
- Judiciary Agreement between Portugal and São Tomé e Príncipe dated 23 March 1976 (with Additional Protocol dated 18 July 1997), in force since 1979.

There is also a Legal and Judiciary Cooperation Agreement in force between Portugal and the Special Administrative Region of Macau in the People's Republic of China, dated 17 January 2001.

3 Domestic arbitration law

What are the primary domestic sources of law relating to domestic and foreign arbitral proceedings, and recognition and enforcement of awards?

All matters relating to voluntary arbitration are governed by Law No. 31/86, of 29 August 1986, as amended by Decree-Law 38/2003

of March 2003 (the Arbitration Law), although some provisions of the Civil Procedure Code (the CPC) may also be applicable. Both acts govern domestic and international arbitration. The CPC is fully applicable to the enforcement of awards, except for enforcement of awards rendered in signatory states to the New York Convention or rendered in states signatory to other international conventions on the recognition and enforcement of arbitral awards.

The Arbitration Law has adopted an economic criterion to define international arbitration. According to such law, an arbitration is deemed to be international whenever interests of international trade are at stake.

4 Domestic arbitration and UNCITRAL

Is your domestic arbitration law based on the UNCITRAL Model Law? What are the major differences between your domestic arbitration law and the UNCITRAL Model Law?

The Arbitration Law is not based on the UNCITRAL Model Law and accordingly there are differences between them, notably:

- different criteria to define international arbitration (see question 3);
- the Arbitration Law is silent on interim measures and preliminary orders;
- the Arbitration Law requires that the arbitral tribunal comprises an odd number of arbitrators; and
- the Arbitration Law allows more freedom to the parties and arbitrators to define procedural rules, as it contains fundamental principles only, not supplementary rules.

5 Mandatory provisions

What are the mandatory domestic arbitration law provisions on procedure from which parties may not deviate?

The Arbitration Law sets forth the fundamental and basic principles that must be complied with in the arbitration proceedings:

- absolute equality in the treatment of the parties;
- the defendant must be summoned to the proceedings; and
- observance of an adversarial system and the right of the parties to present their cases (either orally or in written) before the final award is rendered.

6 Substantive law

Is there any rule in your domestic arbitration law that provides the arbitral tribunal with guidance as to which substantive law to apply to the merits of the dispute?

Yes, and these provisions vary depending on whether the arbitration is domestic or international.

In domestic arbitration, arbitrators shall in principle apply Portuguese law (or other substantive law elected by the parties, notwithstanding Portuguese mandatory rules, which are always applicable) or decide *ex aequo et bono*.

In international arbitration, arbitrators shall alternatively apply the substantive law chosen by the parties or judge *ex aequo et bono*, with the consent of the parties. If the parties fail to reach an agreement, either in choosing the applicable substantive law or in giving their consent to *ex aequo et bono* arbitration, arbitrators are empowered to adopt the law they deem most appropriate to the specifics of the dispute.

7 Arbitral institutions

What are the most prominent arbitral institutions in your country?

The creation of arbitral institutions in Portugal is governed by a specific decree-law and a special permit from the minister of justice is required for these institutions to operate. Presently, there are approximately 30 arbitral institutions in Portugal empowered to solve disputes in various matters, notably consumer-related disputes, intellectual property, car insurance and commercial disputes. Presently, the major Portuguese arbitration centre is the Arbitration Centre of the Portuguese Chamber of Commerce and Industry (the ACL).

Arbitration Centre of the Portuguese Chamber of Commerce and Industry

Rua das Portas de Santo Antão No. 89
1169-022
Lisbon
Portugal
www.port-chambers.com

In this institution, arbitrators are selected from an existing list and the proceedings usually take place at the above address, although the arbitrators may choose another place they deem more convenient. The costs involved in an arbitral proceeding include the fees and personal expenses of the arbitrators, administrative fees and the expenses incurred in the presentation of evidence. The chairman of the ACL sets the value of the proceedings, corresponding to the immediate economic utility of the claim. Arbitrators' fees are determined depending on the value of the proceedings and according to a predetermined scale.

Arbitration proceedings submitted to the ACL are governed by new rules in force since 2008, which are in line with current tendencies of commercial arbitration (eg, foreseeing the possibility of multiparty arbitrations and providing for interim measures).

Arbitration agreement

8 Arbitrability

Are there any types of disputes that are not arbitrable?

According to the Arbitration Law, any dispute that does not concern inalienable rights may be subject to arbitration provided that the particular dispute is not legally reserved to the judicial courts (eg, insolvency proceedings and criminal suits) or to a specific mandatory arbitral tribunal. The adoption of this legal criterion has been strongly criticised since its application in practice has led to various problems.

9 Requirements

What formal and other requirements exist for an arbitration agreement?

The arbitration agreement must be made in written form. According to the Arbitration Law, an agreement is deemed to fulfil the said requirement whenever it is inserted in a document signed by the parties or in an exchange of letters, telexes, telegrams or other means of telecommunication of which there is a written record (whether such documents contain the agreement directly or refer to a secondary

document that contains the agreement). The Arbitration Law considers two different types of arbitration agreements: arbitration contracts (submitting a present dispute to arbitration) and arbitration clauses (commonly inserted in contracts) that set forth that certain types of disputes should be settled by arbitration.

10 Enforceability

In what circumstances is an arbitration agreement no longer enforceable?

The arbitration agreement may be revoked (by a written document signed by the parties prior to the rendering of an award), and may cease if the award is not rendered within a preset deadline or if an arbitrator is not able to carry out his or her function (eg, dies, is challenged and not replaced). On the other hand, the invalidation of a contract that contains an arbitration clause does not necessarily affect the force of such clause (arbitration might be called upon to evaluate the invalidation of the contract itself) and the death or the liquidation of a particular party to a contract does not necessarily lead to the invalidation of the arbitration agreement.

Regarding the insolvency of a party, the Insolvency Law expressly states that the insolvency decision shall suspend the effectiveness of an arbitration agreement if the dispute to be settled by arbitration is deemed to affect the value of the insolvent assets. If an arbitral proceeding is already pending when an insolvency proceedings relative to one of the parties begins, then the insolvency administrator takes the place of the insolvent party in the arbitral proceedings. In this case, if the arbitral award requires the insolvent party to make payments the prevailing party must claim the said payments within the insolvency proceedings alongside the other creditors.

11 Third parties

In which instances can third parties or non-signatories be bound by an arbitration agreement?

The Arbitration Law is silent on this matter. As a general rule, only the signatories of the arbitration agreement are subject to arbitration proceedings and accordingly bound to comply with the award rendered therein.

12 Third parties – participation

Does your domestic arbitration law make any provisions with respect to third-party participation in arbitration such as joinder or third-party notice?

See question 11.

13 Groups of companies

Do courts and arbitral tribunals in your jurisdiction extend an arbitration agreement to non-signatory parent or subsidiary companies of a signatory company, provided that the non-signatory was somehow involved in the conclusion, performance or termination of the contract in dispute, under the 'group of companies' doctrine?

Both the Arbitration Law and the CPC are silent on multiparty arbitration. Portuguese courts have already been confronted with a number of cases that should have been handled as multiparty arbitrations but were not qualified as such. Accordingly, a non-signatory to the arbitration agreement will not be bound to the award unless such party gives its express consent.

14 Multiparty arbitration agreements

What are the requirements for a valid multiparty arbitration agreement?

As referred to above, the Arbitration Law does not contain any rules providing for multiparty arbitrations, either regarding the selection

of arbitrators or the course of the proceedings. Therefore, special caution should be taken when drafting an arbitration agreement involving more than two parties.

Rules governing the most frequently used arbitration centres do not refer to this issue, one of the exceptions made to the rules adopted in 2008 by the ACL (see question 4).

Constitution of arbitral tribunal

15 Appointment of arbitrators – restrictions

Are there any restrictions as to who may act as an arbitrator?

The Arbitration Law only states that arbitrators must be natural persons enjoying full legal capacity. Other restrictions may arise from other legal instruments, such as institutions' lists of arbitrators, the legal framework applicable to judges (stating that only judges who are retired or on long-term unpaid leave may act as arbitrators).

16 Appointment of arbitrators – default mechanism

Failing prior agreement of the parties, what is the default mechanism for the appointment of arbitrators?

The Arbitration Law contains a default provision concerning the appointment of arbitrators whenever a party fails to indicate an arbitrator or the party-appointed arbitrators fail to appoint a chairman. According to such default provision, the president of the Portuguese Court of Appeals is given the power to choose the arbitrators. In institutional arbitrations, a failure to appoint arbitrators is usually remedied by the administering institution.

17 Challenge and replacement of arbitrators

On what grounds and how can an arbitrator be challenged and replaced?

The challenging of an arbitrator according to the Arbitration Law is made in the same way judicial judges are challenged under the CPC. This framework has been criticised by practitioners.

Challenging an arbitrator is only possible if the arbitrator has not been appointed by agreement of the parties and notably in the following situations:

- the arbitrator is a party in the dispute, is the legal representative, spouse or relative of a party in the dispute;
- the arbitrator or the arbitrator's spouse or relative has a legal interest in the outcome of the dispute;
- the arbitrator or the arbitrator's spouse or relative has intervened in the dispute as a lawyer or an expert;
- a party has initiated a civil lawsuit for damages or presented criminal charges against the arbitrator; or
- the arbitrator is called to intervene as a witness in the case.

If the party who has appointed an arbitrator acknowledges any of the above circumstances only after the appointment is made, it is possible to initiate a challenge and replacement procedure at the Court of Appeals. The death or illness of the arbitrator are specifically foreseen in the law and result in the arbitrator's substitution according to the appointment rules referred to above.

From this regime it is usually inferred that arbitrators shall be impartial and independent (said requirements are not directly referred in the Arbitration Law).

18 Relationship between parties and arbitrators

What is the relationship between parties and arbitrators?

The juridical relationship between the parties and the arbitrators is of both contractual and jurisdictional nature. No substantial difference is established in the law about party-appointed arbitrators regarding neutrality.

Arbitrators are entitled to receive remuneration and be reimbursed for expenses incurred. In institutional arbitrations, institutions normally have tables or formulas to calculate the amounts due.

Arbitrators' liability towards the parties may arise as provided for in the Arbitration Law in the event of the arbitrator's unjustified withdrawal from office or unjustifiable obstruction to the rendering of the award within a determined time limit.

Jurisdiction

19 Court proceedings contrary to arbitration agreements

What is the procedure for disputes over jurisdiction if court proceedings are initiated despite an existing arbitration agreement, and what time limits exist for jurisdictional objections?

A lack of jurisdiction of a judicial court based on an arbitration agreement must be claimed by the defendant with its answer to the judicial claim presented by the plaintiff. The defendant is entitled to ask the court to dismiss the proceedings on such grounds. The time limit to do so is the same as the time limit for presenting a response to the claim and may vary according to the type of proceedings (generally, 20 or 30 days as of the date on which the defendant is served with the claim).

20 Jurisdiction of arbitral tribunal

What is the procedure for disputes over jurisdiction of the arbitral tribunal once arbitral proceedings have been initiated and what time limits exist for jurisdictional objections?

The Arbitration Law states that the arbitral tribunal can rule on its own jurisdiction. The party wishing to claim lack of jurisdiction must allege it before the submission of its response to the claim or in such submission. Judicial courts will only intervene after the award is rendered if the losing party invokes such argument in a judicial suit against the award.

Arbitral proceedings

21 Place and language of arbitration

Failing prior agreement of the parties, what is the default mechanism for the place of arbitration and the language of the arbitral proceedings?

If the parties fail to agree on the rules of procedure to be followed in the arbitration or regarding the place of arbitration, such decisions shall be made by the arbitrators. The same principle should be applicable to the language adopted in the procedure.

22 Commencement of arbitration

How are arbitral proceedings initiated?

The party wishing to submit a dispute to an arbitral tribunal shall give notice of that fact to the other party. Such notice shall be made by means of registered mail with an acknowledgment receipt and shall refer expressly to the arbitration agreement, specify the object of the dispute, appoint the respective arbitrator and invite the other party to appoint the other arbitrator (unless other appointment system is defined in the arbitration agreement or a different system from a particular institutional arbitration centre is to be followed).

23 Hearing

Is a hearing required and what rules apply?

The Arbitration Law does not require that a hearing is held. However, practice shows that a hearing is usually scheduled in order for the witnesses and experts to contribute orally to the proceedings.

24 Evidence

By what rules is the arbitral tribunal bound in establishing the facts of the case? What types of evidence are admitted and how is the taking of evidence conducted?

As mentioned in question 21, the parties are entitled to define the procedural rules applicable to the arbitral proceedings (such definitions are usually set out in the arbitration agreement). It is common to define the rules for the taking of evidence in the agreement, subject to compliance with the fundamental principles referred to in question 5.

There is a tendency to accept the same types of evidence that are accepted in judicial courts under the CPC (ie, witnesses, experts, documents, inspection by the arbitral tribunal, party evidence), although it is generally acknowledged that in an arbitration procedure these rules may be somewhat relaxed and adapted to the particular case (eg, party or party officers, who are not allowed to testify in courts, are usually accepted as witnesses by an arbitral tribunal). Discovery and cross-examination are not commonly used and written statements are accepted only in specific circumstances.

25 Court involvement

In what instances can the arbitral tribunal request assistance from a court and in what instances may courts intervene?

According to the Arbitration Law, judicial courts provide specific assistance (not intervention) in arbitration proceedings, such as taking evidence if witnesses fail to appear before the arbitral tribunal, ordering a party or third party to provide the arbitral tribunal with documents if it refuses to do so voluntarily, appointing and challenging of arbitrators as referred to in questions 16 and 17, judging lawsuits in which the setting aside of an arbitral award is claimed, ruling on appeals of arbitral awards (if applicable) and conducting enforcement proceedings for arbitral awards.

26 Confidentiality

Is confidentiality ensured?

The Arbitration Law is silent on this matter. Accordingly, it is typical for the parties to include a confidentiality provision in the arbitration agreement or to set it out as a rule of the procedure. Lawyers involved in arbitral proceedings are required by the Portuguese Bar Association Statute to not comment proceedings publicly. Unless otherwise defined by the parties, the original of the award shall be deposited with the registry of the judicial court of the place of arbitration.

Interim measures**27 Interim measures by the courts**

What interim measures may be ordered by courts before and after arbitration proceedings have been initiated?

This issue is not yet clearly resolved; there are few court decisions related to it, some contradictory. Only the courts have *jus imperii* and this is a very important issue when enforcing interim measures: the recourse to judicial courts to enforce any measure (when the parties do not comply voluntarily) is always needed. The parties' right to resort to judicial courts to obtain interim measures should always be granted so to ensure the right of access to justice (which is a constitutional right).

28 Interim measures by the arbitral tribunal

What interim measures may the arbitral tribunal order after it is constituted? In which instances can security for costs be ordered by an arbitral tribunal?

The Arbitration Law does not contain any provisions concerning interim measures. It is generally accepted that arbitral tribunals may

issue interim measures that do not require *jus imperii* for their implementation, but only as long as the arbitration agreement expressly authorises them to do so.

The new regulation of the ACL (see question 7) already contains references to interim measures.

Awards**29 Decisions by the arbitral tribunal**

Failing party agreement, is it sufficient if decisions by the arbitral tribunal are made by a majority of all its members or is a unanimous vote required? What are the consequences for the award if an arbitrator dissents?

The award shall be signed by the majority of the arbitrators and shall include an appropriate identification of any dissenting opinion. Failure to fulfil this provision of the Arbitration Law allows parties to judicially challenge the award.

30 Dissenting opinions

How does your domestic arbitration law deal with dissenting opinions?

See question 29. Arbitrators refusing to sign the award may be held liable for damages in certain circumstances.

31 Form and content requirements

What form and content requirements exist for an award? Does the award have to be rendered within a certain time limit?

The final award of the arbitral tribunal must be in written form, shall state the reasons on which it is based and also contain:

- the identity of the parties;
- a reference to the arbitration agreement;
- the subject matter of the dispute;
- the identity of the arbitrators;
- the place of arbitration and the place and date on which the award was rendered; and
- the arbitrators' signatures (and, if applicable, a mention of the arbitrators who could not or were not willing to sign the award).

It also has to contain a decision on the allocation of the costs of the proceedings.

The time limit for rendering the award can be agreed by the parties and if they are silent on this it shall be rendered within six months of the date on which the arbitral tribunal was constituted.

32 Date of award

For what time limits is the date of the award decisive and for what time limits is the date of delivery of the award decisive?

The date of delivery of the award is decisive as it is from such date that the time limit of one month to challenge and ask the judicial court to set the award aside begins to run. Upon notification of the award to the parties, the deadline to present an appeal (if applicable) also starts running.

The powers of the arbitrators to correct the award are debatable since the Arbitration Law is silent on this matter and states that the arbitrators' jurisdictional power shall terminate upon the notification of the deposit of the award or, if the tribunal has been relieved of the necessity of making such deposit, upon the notification of the award to the parties.

33 Types of awards

What types of awards are possible and what types of relief may the arbitral tribunal grant?

There is no such provision in the Arbitration Law and typically the tribunal issues a final award on the merits of the dispute.

Update and trends

More than 20 years have passed since the Arbitration Law was enacted and accordingly Portugal needs a new arbitration law in line with modern trends and concepts prevailing in the field of commercial arbitration. A government initiative along these lines has long been awaited by practitioners and it is expected to be implemented within the next four years (as announced by the current government, the executive is planning to issue new legislation on this subject during its term of office). A project to update the law has been disclosed by an independent association, the APA (Associação Portuguesa de Arbitragem), which has also promulgated and encouraged the discussion of a code of ethics for arbitrators.

Although there are no statistics available, it can be said that the use of arbitration is presently increasing in Portugal, especially in disputes regarding commercial agreements involving large sums. Several initiatives are taking place and are expected to show results during 2010, such as the creation of arbitral tribunals with powers to conduct enforcement proceedings and a new framework of mandatory arbitration to decide on disputes concerning the minimum services to be provided during strikes.

34 Termination of proceedings

By what other means than an award can proceedings be terminated?

The proceedings may terminate in the circumstances described in question 10 or through a settlement (the Arbitration Law does not specify any formal requirements on this matter, therefore it is strongly recommended that the form and content requirements listed in question 31 are fulfilled by the settlement).

35 Cost allocation and recovery

How are the costs of the arbitral proceedings allocated in awards? What costs are recoverable?

The Arbitration Law is silent on this matter, and the parties are therefore free to determine the criteria for the allocation of costs when defining the rules of the procedure. In the absence of such an agreement the arbitrators will decide, and frequently arbitrators resort to the rules applicable to judicial suits. In institutional arbitrations the institutions generally have their own regulations stating the costs and criteria for allocation (eg, the ACL Rules referred to in question 7).

36 Interest

May interest be awarded for principal claims and for costs and at what rate?

Interest may be awarded if claimed by the party. The default rate applicable to civil debts is 4 per cent and the default rate applicable to commercial debts is 8 per cent (this rate is revised every six months by the government).

Proceedings subsequent to issuance of award**37 Interpretation and correction of awards**

Does the arbitral tribunal have the power to correct or interpret an award on its own or at the parties' initiative? What time limits apply?

See question 32.

38 Challenge of awards

How and on what grounds can awards be challenged and set aside?

Under the Arbitration Law there are two ways of challenging an arbitral award: legal action for the annulment or setting aside of the award (non-waivable) and appeals. The right to appeal may be waived by the parties and whenever arbitrators decide according to equity that the right to appeal is automatically waived. Some institutional arbitration regulations foresee that adoption of their

procedural rules implies a waiver to appeal, (eg, the ACL Rules referred to in question 7).

An appeal may be filed by the party that has lost the case on the same grounds as in a judicial decision.

An arbitral award may be challenged in a judicial court by means of a legal action for its annulment (setting aside) if:

- the subject-matter of the dispute is not arbitrable;
- the arbitral tribunal did not have the competence or the constitution of the arbitral tribunal was irregular;
- there was a breach of the fundamental principles referred to in question 5;
- the award did not include the arbitrators' signatures or the dissenting opinions, if any, duly identified, or it is not reasoned; or
- the arbitral tribunal decided on issues that the parties had not submitted to it or failed to address all the issues that the parties had submitted.

39 Levels of appeal

How many levels of appeal are there? How long does it generally take until a challenge is decided at each level? Approximately what costs are incurred at each level? How are costs apportioned among the parties?

Considering that an arbitral award has the same juridical value as a judicial decision there are, in principle, two levels of appeal (to the courts of appeal and, with some limitations, to the Supreme Court of Justice). The judicial decision on the legal action setting aside an award is also subject to appeal.

The costs of appealing vary according to the value of the claim and there is a table of court fees, which increase according to the economic value of the claim. Typically the losing party bears the costs.

It is not possible to estimate the time that an appeal will take to be decided since it vary according with the competent court and the complexity of the matter, but usually it takes from eight months to two years for appeals to be decided.

40 Recognition and enforcement

What requirements exist for recognition and enforcement of domestic and foreign awards, what grounds exist for refusing recognition and enforcement, and what is the procedure?

In domestic arbitrations, the Arbitration Law states that arbitral awards shall be enforced on the same terms as a decision of a judicial court of first instance, and therefore there is no need to adopt a recognition or confirmation procedure.

Regarding foreign arbitral awards, there are two different scenarios to consider: first, arbitral awards issued by an arbitral tribunal located in a state that is a signatory to the New York Convention and, second, awards issued in a non-signatory state.

If issued in state that is not a signatory to the Convention, the award is subject to recognition and confirmation by a Portuguese court of appeal. The grounds for refusal of recognition and confirmation are:

- the award presented is not an original or true copy, or it is not legalised by the country where it was made (or apostilled under the terms of the Hague Convention of 1961);
- the award cannot be understood; or
- the award is found not to be valid and final under the law governing the arbitration procedure.

Further to these grounds, the opposing party may present to the court the following arguments against the recognition and confirmation:

- lack of jurisdiction of the arbitrators to issue the award;
- the same dispute is pending in a Portuguese judicial court;
- the same dispute was already settled by a Portuguese judicial court;
- the parties were not treated equally or did not have the opportunity to present their defences in the arbitral proceedings; or

- the recognition or confirmation of the award would be contrary to the Portuguese public policy.

41 Enforcement of foreign awards

What is the attitude of domestic courts to the enforcement of foreign awards set aside by the courts at the place of arbitration?

Portuguese courts still take a conservative attitude to enforcing foreign awards.

42 Cost of enforcement

What costs are incurred in enforcing awards?

The costs incurred in the enforcement of an arbitral award will be equivalent to the costs incurred in the enforcement of judicial decisions. Such costs comprise court fees and due to the enforcement agent, and will vary according to the economic value of the suit.

The enforcement of a foreign award will accrue the court fees applicable to the recognition and confirmation procedures.

Other

43 Judicial system influence

What dominant features of your judicial system might exert an influence on an arbitrator from your country?

As a civil law jurisdiction, Portuguese arbitral practice remains closely linked to litigation practice in judicial courts and civil procedure legislation, notably to the CPC. There is nevertheless an increasing tendency to accept the influence of 'soft law' and case law from common law jurisdictions.

44 Regulation of activities

What particularities exist in your jurisdiction that a foreign practitioner should be aware of?

There are no limitations arising from the nationality of an arbitrator other than visa requirements for non-EU citizens (citizens of states with bilateral agreements with Portugal may also be exempt from visa requirements). From a tax point of view, non-resident arbitrators should be aware that a 20 per cent VAT rate is applicable to independent service providers and that income withholding tax shall also apply to the amount received as fees. Foreign attorneys may face certain constraints according with the regulations of the Portuguese Bar Association.

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