

IBERIAN LAWYER DOLPHINS

Iberian Lawyer presents its 2021 50 Rising Stars, law firm and in-house lawyers, under 35 years old, from Spain & Portugal

INSPIRALAW 2021 NIGHT

InspirALaw 2021 recognised the most inspirational women lawyers in Spain and Portugal

IN-HOUSE PORTUGAL

Iberian Lawyer interviews Ida de Brandão Triães, global associate GC & Legal lead Portugal & Spain at McKinsey & Company

LAWYER AND ENTREPRENEUR

Antonio Mendes left a big Portuguese law firm to co-found Kore Partners

Iberian Lawyer introduces you to the second woman managing partner that Abreu appoints this century

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MULTIDISCIPLINARY LEGAL PRACTICE IN PORTUGAL: IF NOT NOW, WHEN?

by Eduardo Castro Marques – Partner

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The legal professions, in particular being a lawyer, continue to be fundamental in modern societies, performing a relevant public interest mission. The recognition of the public interest associated with these professions means that, all around, access to and the exercise of these activities is subject to special regulatory regimes.

In some countries, such as Portugal, a special aversion and somewhat intolerance has persisted when it comes to debating the deontological,

technical and disciplinary norms that surround the exercise of the legal professions, noting a tendency towards the “absolutisation” of certain values, which has resulted in regulatory excesses that act as real barriers to the access and exercise of legal professions, with emphasis on the practice of law. These barriers have often worked to the detriment of clients-consumers of legal services, ending up strangling the entire sector, preventing it from acquiring scale and overcoming a competitive disadvantage that is inconsistent with the principles and freedoms of the internal market.

Of the various limitations that we could name, we prefer to focus on the theme of multidisciplinary companies providing legal services, a theme that is linked to the ownership and management control of professional companies. In Portugal, the law that regulates professional public associations provides for the possibility of setting up multidisciplinary and/or multiprofessional companies, as such, in principle, the law does not prevent, for example, lawyers and tax consultants from forming a company. However, the

same law allows the statutes of each professional association to prohibit multidisciplinary. This is precisely what happens with the Portuguese Bar Association, which expressly prohibits law firms from exercising directly or indirectly their activity in any type of association or integration with other professions or activities whose scope is not the exclusive practice of law. In Portugal, it is also not possible for the capital of a law firm to be held by non-lawyers, nor is it possible for their management bodies to have as members non-lawyers. Recently, however, the issue of multidisciplinary has been reintroduced into the public debate, with the expectation that proposals to change the statutes of professional public associations will soon be presented to, among other things, allow the existence of multidisciplinary societies, opening up the capital and management of these companies to other professionals and non-professionals.

In spite of the fact that the outlines of the law proposals are not yet known, one thing is evident: multidisciplinary in the scope of legal services is not new in several countries. In the renewed debate on this matter, it is important to study the experience of those countries, perhaps to conclude that multidisciplinary did not result, from what is known, in a gross loss of independence and autonomy of lawyers, or in further violations of deontological rules. It seems to us that the most convincing argument in favour of multidisciplinary is the success of the international experience: the existence of these practices in other latitudes did not make the profession disappear, nor confusable with others, nor did it jeopardize its mission of public interest. Looking at the map, Germany, Belgium, Denmark, Spain, France, Finland, Italy, Ireland and the Netherlands are examples of countries that admit some form of

multidisciplinary legal practice and/or ownership and control of law firms by non-lawyers. Still in Europe, the United Kingdom is, perhaps, the most flexible arrangement in this matter, with the possibility of creating alternative business structures. Outside Europe, other examples of multidisciplinary practices are some provinces in Canada, some states in Australia, the US federal district and Singapore.

Despite the Portuguese reluctance to look at legal professions as economic activities which, moreover, underlie a public interest mission, the incentives to relax the rules of access and practice of law have multiplied. More and more lawyers feel the need to adapt the profession to the global vortex and the increasingly complex needs of clients, making it obvious that multidisciplinary and the opening of the capital and management of law firms is no longer - cannot be - an issue of if, but only of when.

