

PORTUGAL

The global recession loosens its grip on Portugal's economy

The partnership of companies working in PPP projects helps the domestic economy, the government and private companies alike. Europe has seen over 1400 PPP deals in the last 20 years, which represents almost €260 billion. With the recession easing its grip, BAFOs have been scheduled for 3 December 2010 in the tender for the Hospital Central do Algarve PPP. The €250m 30-year DBFM concession is for a hospital of 549 beds, 10 surgical rooms and 46 offices.

“ José Luís Moreira da Silva from SRS Advogados talks about the benefit of PPP deals on the Portuguese economy: “PPP Projects made a serious impact in almost all European countries and Portugal is no exception. The major public projects and investments of the last decade like bridges, highways, high speed trains, airports, defence, schools and prisons were not possible without this kind of contracts. Governments, investment banks and private investors soon learned the advantages of participating in a PPP project and of carrying on such kind of projects: Most of them would never be possible in a traditional mode. Obviously the early European consideration as non public debt helped.”

The credit crunch could not have struck at worse time from a PPP point of view, as investments in public-sector infrastructure were regarded as an important means of maintaining economic activity. 2009 saw a 30% decline in PPP projects in Europe due to the global downturn, forcing governments to postpone, or in severe cases even cancelling ventures, as they had no other means of funding the development schemes.

“The recession we face has impacted severely in PPP deals. In

Portugal we saw the Government postponing all the major projects, like Hospitals, roads, airports and high speed trains. All were projects announced by the Government and prepared to go ahead by 2010. We were talking of more than 20 billion Euros projects that now are going to wait for better days.” says Mr Moreira da Silva.

Mr Moreira da Silva further explains how the Portuguese government implemented means of sheltering the country from financial difficulties in last few years: “The Portuguese Government took specific measures regarding PPP taking into consideration the recent financial difficulties and restraints. Apart from postponing several important projects the government also rescheduled investments and cut on expenditures. Those measures implied the need to renegotiate some PPP contracts in order to cut costs and to diminish the public debt.”

Although working with a governmental body may seem like a good idea, it is a somewhat expensive process advises Mr Moreira da Silva: “Anyone who wants to establish a profitable partnership with a public body has to be aware of the legal and financial constraints normally

surrounding these bodies. Also they have to be aware of the complex decision making process and of the long decision time frame. With the correct expert advisors it is possible to profit from a partnership with a public body.....I think the most needed legislation progress in Portugal regarding PPP is a major revision of the legal regimen of transfer of the project risks in order to establish the right balance between public and private. Another public intervention is needed in the creation of a unique public body to manage all the PPP thus creating know-how and experience. The governments should also try to revise the European criteria for public debt in order to promote more PPP projects.”

Economies all over can now breathe a sigh of relief, as we seemed to have endured the worst of the recession and now look forward to a more financially stable future. PPP will again become flavour of the month as companies will be able access funds more easily and enter into agreements with government bodies, building durable financial partnerships all over Europe. **LM**”

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SRS Advogados is a leading firm in the Portuguese legal market

“ José Luis Moreira da Silva is a partner of SRS Advogados. Mr Moreira is recognised as a specialist in Administrative Law by the “Ordem dos Advogados” and currently heads the Public Law Department. Mr Moreira has great experience in the field of Administrative Law, and is particularly specialised in PPPs/PFIs as well as regulatory work, providing advice to both private and public entities.

Additionally Mr Moreira has sat on the Council of the Administrative and Tax Courts and on the Council to the Judiciary, a position to which he was elected by Parliament.

Mr Moreira is regularly quoted in Chambers Global and Legal 500. Chambers Global have described him as “leading individual” and in the 2007-2008 edition as “an excellent professional and a very experienced lawyer” who has done “an excellent job in growing and developing the department”.

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