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LANDWELL

Rua Dr. Eduardo Neves 9 - 7º
1050-077 LISBOA
Tel. (351) **217 91 40 74 / 21791 41 11**
Fax (351) 217 997 041/051 / **21 791 41 01**

Rua Professor Mota Pinto 42 F-S/1.29
4100-353 PORTO
Tel. (351) 226 156 800
Fax (351) 226 162 439

E-mail: mmaster@lmsa-adv.pt

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OLIVEIRA, MARTINS, MOURA, ESTEVES E ASSOCIADOS

SOCIEDADE DE ADVOGADOS

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LISBOA

Luís M.S. Oliveira
Maria Adelaide Mata de Moura
Belarmino Gonçalves Martins
Maria Clara Lopes

António Esteves da Fonseca
Maria José Santana
Paula Albergaria
João S. Carneiro
Maria Regina Costa
Carla Martins Branco
Margarida Roda Santos
Sofia Gouveia Pereira

Armando Ribeiro
José Limón Cavaco
Maria Alves Pereira
Marta Pereira da Silva
Luís Miguel Reis
Patrícia Vasconcellos
Margarida Lino Santos
Rita Vieira Matias
Gonçalo Ilharco
Gonçalo Maia Camelo
Vera Martins Silva

Grietje van de Wiel
(Avocat à la Cour)

Pilar Sancho Mateos
(Abogada – Colegio de
Abogados de Madrid)

Erik Yan
(Jurista - Tributação
Internacional)

PORTO

Jaime Carvalho Esteves

Teresa Nogueira
Lino França
Paulo Simões Rodrigues
Ana Teresa Salgado
Miguel Koch Rua
Ana Teresa Duarte
Rosário Paixão
Carla Alexandra Malhão
Carla Fraga

Curriculum Vitae

MARIA CLARA LOPES.

Date of birth: 28th December 1941;

Academic and professional

Qualifications:

LL.L., University of Lisbon, 1964

Lawyer admitted in Portuguese Bar Association since 1966

Areas of practice:

Civil and Commercial law, Insurance Law, Transports Law, and Arbitrations

Professional Career:

Member of OMMEA – Sociedade de Advogados – since 2000

Member of CRA – Coelho Ribeiro e Associados, Sociedade de Advogados 1994 –1999

Independent lawyer – 1964/1998

Member of the Board of Directors of the Portuguese Bar Association in the triennials 1975/1977, 1978/1980 and 1981/1983;

President of the Law Society – District of Lisbon – in 1984/86;

Organiser and General Secretary of the V Lawyers Congress of the Portuguese Bar Association in 2000;

Professor of the trainees in the Portuguese Bar Association – District of Lisbon;

Honorary Title: Comendador da Ordem do Infante D. Henrique, 1996, conferred by the Presidente da República, on the occasion of the consecration of 15 jurist's women;

Member from its begin of the APDE (Portuguesa Association of the European Law);

Member of the UIA (Union Internationale des Avocats) and of the AEA (Association Européene des Avocats);

Published books: Seguro de Responsabilidade Civil Automóvel; Responsabilidade Civil Extra Contratual (e Seguros Obrigatórios);

Published articles: Insurance Law, Civil and Commercial Law, in law magazines and periodicals;

Several interventions in seminars and congresses in the above mentioned areas of practice;

Spoken and written languages: Portuguese, French and English.

OLIVEIRA, MARTINS, MOURA, ESTEVES E ASSOCIADOS

Directors, Officers and Managers Personal Liability

The Legal Position in Portugal

Maria Clara Lopes

Bruno Pina

OLIVEIRA, MARTINS, MOURA, ESTEVES E ASSOCIADOS
Sociedade de Advogados

A member of LANDWELL

LISBON OFFICE: Rua Dr. Eduardo Neves, 9, 7.º
1050-077 Lisboa
Telephone: (351 1) 217 997 040/050
Fax: (351 1) 217 997 041/051
E-mail: mmaster@lmsso-adv.pt

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1. Structure of Portuguese Corporate Entities

The most common types of Portuguese Corporate Entities in which shareholders have limited liability are the Private Limited Liability Company (“sociedade por quotas” or Lda.) and the Joint-stock or Public Limited Company (“sociedade anónima” or S.A.).

However, the Portuguese Companies Code also defines other types of corporate entities – General Partnership (“sociedade em nome colectivo”), Limited Co-partnership (“sociedade em comandita simples”) and Limited Co-partnership by shares (“sociedade em comandita por acções”)– which are, nowadays, seldom used, given the fact that they imply unlimited liability for all or for some of the shareholders.

1.1. Private Limited Liability Company

For the incorporation of an Lda. Company, each individual or corporate shareholder (a minimum of two or only just one for a “sociedade unipessoal por quotas”) subscribes one “quota”, which represents his/her/its share of the total share capital. On a subsequent capital increase, each shareholder will subscribe a new “quota” or increase the value of the initial “quota”.

The minimum registered and subscribed share capital is Euro 5,000.00 and at least 50% of the share capital, with a minimum of Euro 5,000.00, must be paid up and deposited in a special bank account at the time of incorporation, while the remaining must be paid within a maximum of five years. Shareholders are responsible towards the Company for the amount unpaid of the quota they subscribe. However, until the share capital is fully paid up, shareholders are jointly liable towards the Company for the total unpaid capital. Share capital may also be realised in kind via the contribution of assets, the transfer of which to the Company must be made prior to or when the public deed of incorporation is signed.

The face value of individual “quotas” – which are disclosed in the Company’s articles of association - cannot be lower than Euro 100.00 each. The “quotas” can only be transferred by public deed and, apart from pre-emptive option rights or other conditions as may be established in the articles of association, the Company’s consent is generally required.

These Companies may be managed by one or more Directors.

1.2. Public Limited Company

An S.A. Company is created through the issue of shares or stocks (acções) and each shareholder (these Companies must have at least five shareholders on incorporation) has a liability limited to the value of the shares he/she/it has subscribed and cannot be jointly liable with the other shareholders.

The minimum registered and subscribed share capital is Euro 50,000.00 and normally the shares are freely transferred.

These Companies are managed either by (i) a Board of Directors (“Conselho de Administração”) or (ii) a Board of Directors (“Direcção”) and a General Board (“Conselho Geral”).

In either case, the Board of Directors must have an odd number of members, who must be individual Portuguese nationals or foreigners, shareholders or not. However, a single Director may be appointed, provided that the Company’s issued share capital is less than Euro 200,000.00. The General Board in structure (ii) may only be included by shareholders in odd number and up to fifteen.

2. Who are Directors, Officers and Managers?

As a general rule, Portuguese or foreign individuals (not including companies or other types of corporate entities), fully responsible for their acts, can be appointed as Directors, Officers and Managers.

They can either be appointed in the by-laws or be elected in the General Meeting and they do not have to be shareholders.

In case of S.A. Companies, corporate entities may be appointed as Directors, but they should designate an individual, acting on his/her own name on the Board. In this case, the corporate entity will remain jointly liable for all acts and decisions taken by the designated individual.

3. Legal basis of Directors, Officers and Managers Liability in Portugal

3.1. Statutory, civil or contractual legal framework

The legal framework regarding the Directors, Officers and Managers liability is reasonably complex and comprises different statutes depending on the subject.

The main rules, as established in the Portuguese Companies Code (CSC) and in the Securities Code, have to be, in each case, observed along with the contractual dispositions of the Company’s by-laws.

3.2. Duties and requirements of Directors, Officers and Managers

Pursuant to article 64 of the Portuguese Companies Code, Directors are required to act with the skill and carefulness of a “diligent Manager”, on behalf of the Company’s interests, though always taking into account the interests of the shareholders and employees.

The degree of diligence required is not easily determined. In practice, the degree of diligence varies not only in relation to the circumstances under which the Director or Manager act, but also in respect of the nature of the act and its purpose. It is only in the light of a particular case that it can be determined, based on the conduct of the Director or Manager, whether they acted with such diligence as was required and appropriate.

Although the Law does not provide details of the duties of a “diligent Manager” in a precise and explicit way, it is assumed that Directors are expected to run the Company’s business as if it were their own business, always observing the relevant legal provisions, fulfilling the Company’s responsibilities and commitments within the required time, disclosing to shareholders relevant, true and accurate information regarding the Company’s business, meeting punctually the Company’s tax and social security liabilities, never entering into agreements or arrangements that may deprive the Company from sufficient means to satisfy its debts, unless there are strong commercial and reasonable grounds for doing so, nor enter into agreements which may prejudice shareholders’ interests.

Additionally, Directors are accountable for all their acts undertaken within the powers granted to them by the law and/or by the articles of association and with respect to the carrying out of the Company’s activity.

In the exercise of their powers and duties, Directors and Managers might act illicitly, causing damages to third parties, to shareholders or to the Company itself. Their liability for such acts is outlined and ruled both by legal and statutory rules. They are answerable not only for civil aspects, but also for fiscal and criminal transgressions.

3.3. Is there an equivalent in Portugal to the US Business Judgement Rule?

According to the Business Judgement Rule, as it is stated in Part IV of the Principles of Corporate Governance, the Director or the Officer who makes a business judgment in good faith fulfils the duty of care if such Director or Officer (i) is not interested in the subject of the business judgement; (ii) is informed with respect to the subject of the business judgement to the extent the Director or Officer reasonably believes to be appropriate under the circumstances; and (iii) rationally believes to be appropriate under the circumstances. The most similar rule existing in the Portuguese Law is the above-mentioned article 64 of the CSC.

Due to the lack of Portuguese case law on this matter, it is rather difficult to support in Portugal the same interpretation as it has been sustained in the United States for the Business Judgement Rule according to which there is no Directors or Managers liability in case of negligent substantive decisions and therefore the scope of such liability shall only comprise gross negligence and irrational decisions.

Some recent Portuguese doctrine tends to assume that the business judgment of Directors and Managers shall only be considered illegal when there is a gross negligence or a fraudulent conduct. However, this interpretation has not yet a safe legal basis that might permit to exclude the Directors liability in the event of negligent conduct.

3.4. Duties of Directors, Officers and Managers towards the corporation

3.4.1. Legal Liability

The Director’s liability towards the Company is defined in general terms by the dispositions of Chapter VII of the Companies Code. In light of these dispositions, Directors are accountable to the Company for damages caused by actions or omissions

undertaken with disregard for legal or contractual duties, unless they can prove they were not at fault. This means that Directors and Managers are personally liable for any damage caused in an unlawful and culpable way (including negligent conducts).

Whenever the Director does not exercise his lawful right of opposition when he was in position to do so, the law assumes that Directors are all jointly and severally liable for the acts which they could have opposed, but failed to.

Moreover, Directors are still liable for their acts and omissions, even when the Company's Statutory Auditor has issued a favourable advice in the matter concerned or even when he approves such acts or omissions.

As stated under article 73 of the Companies Code, Directors or Managers shall be held jointly and severally liable for external affairs. This means that any Manager or Director may have to answer for the act in question to the Company, as well as to the shareholders and to the creditors. Internally, amongst the Directors or Managers themselves, redress may legitimately be sought from one or more of them up to the extent of their culpability. Nonetheless, the burden of proof lies with the Manager or Director who claim to be less at fault.

3.4.2. Contractual Liability

Any clause in the articles excluding or limiting this liability or imposing a requirement that any action to enforce Directors' duties requires prior approval of the shareholders shall be deemed null and void.

However, the Company may waive its right to compensation through a shareholders resolution, provided that holders of 10% or more of share capital do not oppose the resolution.

Moreover, the fact that a duly convened General Meeting has decided to approve the accounts or management decisions of the executive bodies does not mean that the shareholders have renounced to any and all rights to indemnity on behalf of the Company. However, if the facts that cause liability have been expressly brought to the attention of the shareholders before such approval, and the General Meeting still approves the accounts and management, the Company is deemed to have renounced to any and all rights to compensation.

3.4.3. Limits to the Liability of Directors

The liability of the Director or Manager is excluded, in any of the following situations:

- The Director or Manager is able to prove that he did not act at fault.
- The Director or Manager did not attend the meeting or voted against the relevant resolution, and, within five days, he registered his vote in the minutes book or else notified the Supervisory Board in writing or by means of a public notary declaration of his intention to do so.
- The act or omission of the Director or Manager was based on a decision of the General Meeting, even if it has been void. In this case, neither the Director nor the

Manager is liable for any damages resulting from it, once the Company itself, through its shareholders, is held responsible.

3.5 Duties of Directors, Officers and Managers towards majority and minority shareholders

Directors and Managers are liable towards shareholders and third parties only for damages caused directly in the course of their duties. Such liability is also personal but more restricted than that provided for in the Companies Code concerning the relation existing between the Director and the Company.

The right of the Company to compensation for the damages caused by the Director can only be excluded or limited when there is a previous resolution of the General Meeting, which was not contested by shareholders holding more than 10% of the Company's capital.

3.6 Duties of Directors, Officers and Managers in case of bankruptcy

If the Company is declared in liquidation due to insolvency under the Special Procedures of Bankruptcy and Recovery Undertakings Code, the Court will have to analyse the circumstances under which the Company has become insolvent.

When the Company's insolvency is due to fraudulent intent to avoid honouring the Company's obligations towards its creditors, the Directors may be sentenced to up to five years imprisonment or to a daily fine of up to 600 days. In case of a negligent conduct which also prevents honouring the Company's obligations towards its creditors, the Directors may be sentenced to up to one-year or to a daily fine of up to 60 days. The amount of the daily fine is determined by the Court and varies according to the economical and financial status of the defendant, varying between Euro 1 and Euro 498.79.

The Criminal Code also considers criminally liable the Director or Manager, who, while knowing the Company's insolvency or that such insolvency is imminent, acts in order to favour certain creditors to the detriment of the others, by paying them debts before due or settling the debts other than in cash or in the usual form or giving to those creditors a simulated guarantee. In these situations, Directors may be subject to an imprisonment of up to 2 years or to a daily fine of up to 240 days.

However, if the Company's insolvency is due to negligent conduct, such as incurring unnecessary costs, the sentence applicable is up to one-year imprisonment or a daily fine of up to 120 days.

As an effect of insolvency, the law states that the Company's Directors shall always be barred from engaging in business activities or becoming a Director of other Companies for a period of five years. The Court can lift this prohibition at any time, upon application of the persons involved, provided that no criminal charges were pressed and the Court is reasonably convinced that the applicant Directors acted with a normal degree of diligence.

Pursuant to article 126-A of the Special Procedures of Bankruptcy and Recovery Undertakings Code it is established that, if the Company's bankruptcy is due to acts that

have been committed by the Directors or Managers of the Company during the past two years before the date of the Court decision declaring the bankruptcy of the Company, the Court, if required by any of the creditors or even by the Public Prosecution Service, must declare Directors jointly liable with the Company in order to honour the Company's obligations towards its creditors.

3.7 Status of the enforcement of Directors, Officers and Managers liability with respect to tax, labour, social security contributions and environmental regulations

3.7.1. Tax

According to article 24 of the General Tax Law and article 8 of the General Law for Tax Infringements, Directors and Managers are liable for taxes related to the period during which they hold office, if the Company's assets have become insufficient to pay such taxes and this insufficiency is due to misconduct on their part.

Additionally, considering the deadlines for payments due within the period when Directors have held office, they must prove that such payments did not occur on their fault (the law assumes that the Directors of a Company are guilty, until they prove differently).

Nevertheless, the Law does not define or specify the acts and obligations of a diligent Director in relation to payment of a Company's tax liabilities. Therefore, the decision on whether the Director acted with the required diligence and skill without any fraudulent intention is left up to case law, as defined by the Tax Courts.

In both of the situations referred, the Company is always the entity primarily responsible, while the Directors' liability only operates when the Company's assets are found insufficient after enforcement procedures have been pursued.

3.7.2. Social Security contributions

Pursuant to the article 1, no. 1, paragraph d) of the General Law for Tax Infringements, the violations of social security contributions by the Directors are regulated in the same terms as those above-referred for the tax violations.

3.7.3. Labour

According to Portuguese Labour Law, Directors and Managers shall be jointly liable with the Company for the payment of cash penalties that may result from labour transgressions.

3.7.4. Environmental

There is no specific Portuguese legislation regarding Directors environmental liability. However, concerning the environmental crimes set forth in the Portuguese Criminal Code, we cannot exclude a possible scenario of criminal liability for environmental transgressions based on Directors' conduct (even when acting on behalf of the Companies).

3.8. Directors, Officers and Managers criminal liability

The criminal liability of Directors, Officers and Managers is regulated by the Portuguese Companies Code, the Securities Code and, as subsidiary legislation, the Criminal Code, all of them stipulating penalties in the event of an illegal action of the Directors and Managers of the Companies. The most significant of which are highlighted below.

3.8.1. Illegal actions related to the moment when the share capital is overdue and remains unpaid

Directors are required to take all actions and procedures to collect outstanding amounts in respect of shares subscribed by the shareholders. This basically includes notifying such shareholders when their contributions are to be paid and enforcing collection of overdue contributions. Failure to take the necessary action renders Directors liable and their liability varies with the degree of fault and the specific loss caused to the Company, to the shareholders or to a third party.

Negligence is punishable with a daily fine of up to 60 days, while a fraudulent procedure may carry a daily fine of up to 120 days depending on the degree of fault.

If significant loss, which could have been foreseen or anticipated by Directors, is caused to a non-consenting shareholder, to the Company or to third parties, they may be subjected to a prison term of up to three years or to a maximum daily fine of up to 360 days.

3.8.2. Illegal acquisition of shares

Directors acting on behalf of the Company, who undersign stock or bond certificates, or consent to their signature being applied to the same by third parties, without a proper approval from the Company's competent bodies, may incur a daily fine of up to 120 days.

3.8.3. Illegal acquisition of Company's own shares

The Portuguese law limits the acquisition by an S.A. Company of its own shares to a maximum of 10% of its share capital, although acquisitions above this limit may be considered under precise terms and conditions as established by the law.

If the Directors breach the above referred limitation of the Company to acquire its own shares, or if they provide Company's financial resources or give Company guarantees to enable a third party to acquire such shares, they will incur on a daily fine of up to 120 days.

3.8.4. Illegal distribution of Company's assets

The distribution of Company's assets, except for special cases laid down in the law, is subject to a resolution of the General Meeting. Directors must not implement any resolution that approves the distribution of Company's assets without verifying the following aspects:

- The resolution does not involve the distribution of amounts that will cause the Company's net equity to become smaller than the sum of its share capital and non-distributable reserves;
- Alterations subsequently occurred that cause the execution of the resolution to have the effects of the previous paragraph;
- The resolution does not involve distributing amounts which are necessary to cover accumulated losses or which should otherwise be transferred to reserves, as required by the law or by the Company's articles;
- Company's start up costs and research and development costs are not yet totally depreciated, unless there are free reserves plus accumulated profits equal, at least, to the non-depreciated part of such costs;
- The resolution does not involve using hidden reserves;
- The resolution is not based on incorrect accounts, which, when corrected, would demonstrate that distribution could not have been made.

In light of the above, the Directors, within eight days after deciding not to implement the resolution of the General Meeting, must present to the competent Court a petition, on behalf of the Company, for a judicial enquiry to verify the existence of the circumstances on which they based their decision. This obligation does not exist if the Company has already been notified of any claim to have the resolutions of the General Meeting declared null or void for reasons coinciding with those upon which the Directors based their decision not to implement the resolution of the General Meeting.

Directors are also legally bound not to implement any resolution that approves the distribution of Company's assets after the company is notified of any claim to have the resolution of the General Meeting that approved the accounts and the distribution of profits declared null or void.

Non-compliance with the above obligations will render the Directors liable towards any persons or entities for loss caused.

Additionally, the law also establishes criminal responsibility of Directors if they submit to the General Meeting a proposal for a resolution comprising an illegal distribution of company's assets, as described above. Daily fines may be considered of up to 60 days, which will be increased up to 90 days in cases where such distribution actually takes place in full or in part. The daily fine may even be up to 120 days in a case where the Directors illegally distribute Company assets without a resolution of the General Meeting.

If serious loss, that could have been avoided or anticipated by the Directors involved, is caused to a non-consenting shareholder, to the Company or to third parties, Directors may be subject to a prison term of up to three years or to a maximum daily fine of 360 days.

3.8.5. Illegal refusal concerning Company's information

According to Portuguese law, there are some circumstances under which the Directors have to ensure that some information is available at the head office or, if requested, the information must be disclosed to shareholders before a General Meeting is held.

Penalties are imposed for any breach of this legal obligation, which may include imprisonment of up to three months and a daily fine of up to 60 days.

If serious loss, which could be foreseen or anticipated by the Directors involved, is caused to a non-consenting shareholder, to the Company or to third parties, the Directors may be subject to a prison term of up to three years or to a maximum daily fine of 360 days.

Whenever, at a General Meeting, Directors withhold, directly or indirectly, information, which they are under the obligation to disclose or which is requested in writing, they can incur a daily fine of up to 90 days. However, if the Directors acted without lack of diligence in the protection and defence of the Company's or the shareholders' interests, though misinterpreting the scope of such interests, they will not be liable.

3.8.6. False information given

For false, incomplete or misleading information given by the Directors, the rules above described shall apply.

If Directors are found to have acted for fraudulent purposes, the penalty will be increased to up to six months imprisonment and a daily fine of up to 90 days.

If serious loss, which could be foreseen or anticipated by the Directors, is caused to a non-consenting shareholder, to the Company or to third parties, the Directors may be subjected to imprisonment for up to one year and to a daily fine of up to a maximum of 120 days.

3.8.7. Obstruction to supervision

Directors are expected to co-operate with supervision, surveillance or audit bodies. For opposing or obstructing the exercise of such functions, the Directors may be subject to imprisonment for up to six months and to a daily fine of up to a maximum of 120 days.

3.8.8. Insider trading

According to article 378 of the Portuguese Securities Code, Directors in possession of classified information regarding companies having issued shares, bonds and other securities that is likely to affect their market value, are obliged to keep this information confidential, to refrain from using it and to prevent its use, either directly or indirectly (by any third party), to gain economic benefits through the sale or purchase of the Company's shares. Non-compliance of this rule could lead the Director to imprisonment for up to three years or to a daily fine of up to a maximum of 360 days.

3.8.9. Securities market manipulation

Directors are prohibited from giving false or misleading information in respect of the Company's business, carrying out fictitious or artificial operations or effecting any fraudulent actions to manipulate the market with the purpose of achieving an economic benefit for themselves or for third parties. Infringement of this rule could lead Directors to be sentenced with a prison term of up to three years and a daily fine of up to 360 days.

Directors are also obliged to take all the necessary steps to prevent the adverse affects resulting from price tampering practices carried out by third parties, whenever they are aware of those practices. The infringement of this rule carries a prison sentence of up to two years and a daily fine of up to 240 days.

4. Who can sue?

4.1. Actions presented by the Company, so-called *Ut Universi* Company Actions

The Company may sue its Directors or Managers by shareholders resolution ratified by simple majority in the General Meeting. This Company Action must be presented within the six months period after the date of the resolution.

By shareholders resolution, a special person may be elected to act on behalf the Company in the Court. If this is not the case or if there are reasons for its replacement, shareholders holding a minimum of 5% of share capital, may require to the Court the designation of another person.

Nevertheless, shareholders actions concerning Directors' liability must be filed within a five years period as form the effective guilty conduct or the effective damages caused. If the Director's conduct is considered as a criminal offence and the criminal statute of limitation is longer than the above-mentioned five years, the action may be filed within the longer period.

4.2. Actions presented by a minority of Shareholders, so-called *Ut Singuli* Company Actions

Shareholders may also decide to sue Directors or Managers for damages caused to the Company if they hold at least 5% of the capital share. In these actions, shareholders act on behalf of the Company.

This action, also called *Ut Singuli* Company Action, can only take place if the Company does not take the initiative of suing Directors or Managers in the precise terms mentioned in the previous paragraph.

4.3. Class actions

Concerning S.A. Companies and under the Portuguese Securities Code it is foreseen a class action which may be used by shareholders (normally minority shareholders).

This class action is provided for the protection of the common individual or collective interests of non-institutional investors (comprising all entities that are not credit institutions, investment firms, collective investment institutions and their respective managing companies, insurance companies and pension fund managing companies) in securities.

According to the Portuguese Securities Code, the persons or entities that have the right to the class action are limited to non-institutional investors, the associations for the defence of

investors and the foundations that have as their objective the protection of investors in securities.

4.4. Actions presented by individual shareholders in order to protect their own interests

The specific above-referred actions do not preclude starting individual actions that may be filed by individual shareholders in order to be indemnified for the damages caused by Directors' conduct (within a five years period as from the effective guilty conduct or the effective damages caused).

4.5. Actions presented by the creditors

Creditors may sue Directors and Managers if these are responsible for damages caused to them. Additionally, if the Company or shareholders do not exercise the compensation right that they might have as a result of Directors' conduct, the creditors, if they want, could act as their substitute in a Company Action.

4.6. Actions concerning insolvency administrators

Pursuant to Special Procedures of Bankruptcy and Recovery Undertakings Code and under the bankruptcy situations where Directors and Managers are jointly liable with the Company, the Court may establish a deadline until which they have to honour their debts. If, after the final date fixed, Directors and Managers have not yet deposited the amounts due, the Court, against a petition presented by any of the creditors or by the Public Prosecution Service, shall declare, in addition to the Company's bankruptcy, the insolvency of the Director.

4.7. Regulatory authorities

Concerning the management of Portuguese Companies, there are different regulatory public authorities depending on the issue in question and the type of Company.

For S.A. Companies, there is a specific regulatory authority with supervision and examination powers, named Securities Market Commission, so-called CMVM.

Limited Liability Companies generally are not under the supervision of a specific regulatory authority. Still we have to consider the general supervision provided by public authorities as well as the specific supervision, e.g. for employment and labour matters, the regulatory authority is the Institute for the Development and Inspection of the Labour Conditions (IDICT).

4.8. Actions presented by the Employees

The Portuguese law does not establish a specific action for suing Directors, Officers and Managers for discrimination, sexual harassment and wrongful employment practices.

Under these situations, and according to general rules, the following options are available:

- a. The employee may file a legal action against the Company for wrongful employment practices (even when those practices have been carried out by the Manager or Director in the labour context); and/or
- b. The employee may present a criminal claim if the facts are considered as a criminal offence; and/or
- c. The employee may present a petition against Directors, Officers and Managers for damages caused.

5. What is the enforceability of a foreign judgement on Portuguese Directors, Officers and Managers under Portuguese Law?

According to article 49 of the Portuguese Procedure Code, revision and ratification by a Portuguese Court are required for the execution of a foreign judgement on Portuguese Directors, concerning their civil liability.

6. Can the Directors and Officers be liable for punitive damages under Portuguese law?

There is no legal disposition or case law on punitive damages under Portuguese law.

7 Insurance

Portuguese law requires that Directors of S.A. Companies provide a guarantee to the Company that will cover their liability, in an amount to be defined in the company's articles of association, with a minimum of Euro 5,000.00. This guarantee may be provided through an insurance policy, whose cost may be paid by the Company only if the cover exceeds the minimum required by law. The guarantee or insurance policy must be given or provided by the Directors within 30 days after their appointment or election and must be kept valid until the end of the year in which they cease to act as Directors, otherwise the Company may immediately rescind their appointment.

Companies may, however, waive this right through a specific provision included in the articles or through a resolution of the General Meeting of shareholders. This waiver is not applicable to companies whose shares are issued to the public. Because of this rule it is very common for Directors not to provide this guarantee or insurance policy.

According to Portuguese law these rules or similar do not exist for limited liability companies, which are free to adopt them or not.

7. General comments

We may conclude that the management of Portuguese Companies requires necessarily a diligent manager with serious professional standards of conduct.

Assuming that all matters are relevant and must not be neglected, the real critical areas of potential liabilities tend to be those related to taxes, where a very high degree of caution in

assessing potential problems is advisable, and those related to criminal conducts, where, if convicted, the Managers or Directors could bear heavy penalties.

However, due to the small number of Portuguese case laws related to Directors, Officers and Managers personal liability, it could be stressed that in Portugal there is still not a consolidated tradition of bringing the Directors of the Companies to the Courts.

This article provides an outline of relevant Portuguese laws in force in April 2002 regarding the legal position on Directors, Officers and Managers Personal Liability.

Since the Portuguese legislation in particular can be extremely complex and subject to frequent changes, we accept no responsibility for actions taken or omissions made on the basis of this article and therefore strongly advise that action should not be taken as a result of information contained herein without prior expert advice.