

# Recent Developments in Portuguese Law

## Dublin 11/12 June 2010

### **Court decision:**

1. On the 11<sup>th</sup> February the Supreme Administrative Court (SAC) decides to revoke the Regional Administrative Court decision to grant an injunction requested by the owners of a land against the Ministry of Economy. The decision appealed was an authorisation to build overhead power lines for the distribution of electricity generated by a wind farm nearby. The SAC declared that it's up to the applicants to demonstrate the potential health damages arising from the presence of power lines in their home's vicinity. Moreover, in a rather polemic statement, the SAC still declared that that "the so called precautionary principle" cannot reverse the burden of proof.

### **Pending cases:**

2. New mediatic environmental corruption cases go to court – Rare criminal procedures against the promoters as well as the public officials of the competent authorities who authorised the cutting down of two thousand cork trees for the construction a touristic project in Benavente (in the north east of Lisbon). All charged of corruption and document falsification ("*Portucale*" case). In another criminal procedure a waste management entrepreneur and an ex-minister are charged of corruption, fiscal fraud and criminal association ("*Face oculta*" case) in the business of metal scrap management.

### **Disputed project:**

3. In 2007 the strategic environmental impact assessment of the national dam plan gives green light to ten new huge hydroelectric dams. This project is considered of strategic importance to ensure the national compliance with the Kyoto Protocol. In 2010, the result of the environmental impact assessment (EIA) of the main dams is favourable, albeit with extensive environmental and social conditions. The EIA of four more dams is expected until the end of summer.

After receiving a complaint on the National Dam Program, the European Commission orders a detailed report on the National Dam program. The result is a document called «Technical assessment of the Portuguese National Programme for Dams with High Hydropower Potential (Arcadis/Atecma, July 2009). On the 18<sup>th</sup> December 2009 the Government authorises citizens to have access to the "Technical assessment" but on the 14<sup>th</sup> January 2010 the European Commission notifies de Government that the report was produced in the context of an infringement procedure to be installed against Portugal, and thus shall not be made public.

### **Institutions:**

4. The statutes of five new regional water management organisms for the main national water basins are approved on the 14<sup>th</sup> April.

5. A Commission to follow the incineration of dangerous wastes in cement kilns is created on the 15<sup>th</sup> March.

### **Strategic plans:**

6. The plan for the prevention of domestic wastes 2009-2016 is approved on the 22<sup>th</sup> February.

7. National energy strategy 2020 is approved on the 15<sup>th</sup> April.

### **Initiative:**

8. A country wide private initiative to collect abandoned wastes is launched on the 21<sup>st</sup> March. The government creates an exceptional waste management regime to help cope with the problem of abandoned wastes.