

Zen & The Art of Legal Networking

INSIGHTS & COMMENTARY ON RELATIONSHIP BUILDING WITHIN THE INTERNATIONAL LAWYERS NETWORK

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Modernization of the States and of the Administration - Mr. Joao Tiago Silveira

During our 2011 23rd Annual Meeting, we were fortunate to welcome the Secretary of State for Presidency of the Council of Ministers, Mr. Joao Tiago Silveira, as our speaker. His topic, "Modernization of the States and of the Administration," covered the Portuguese government's efforts to streamline their services by putting them online and making them more efficient.



Mr. Silveira began by welcoming the delegates to Portugal, and sharing his pleasure at speaking to the group about cutting red tape and the achievements that the Portuguese government has had. He said that they're pushing forward a strong policy around cutting red tape, mainly by using two plans - the Simplex plan, a plan directly linked to reducing bureaucracy, and the Technological plan, which is a plan for using the internet and new technologies.

The government identified three clear goals for these two programs:

1. To eliminate and simplify the acts and procedures, mainly in registration offices. In Portugal, civil registration, company registration, industrial property trademarks and patents, land registration and car registration are dependent on the Ministry of Justice. So one of the government's goals is to simplify the procedures in this field.
2. To de-materialize by using the internet and electronic procedures in the registration sector. The government now uses e-filing, the internet and new technologies to achieve

faster and more cost-effective registrations.

3. To de-materialize judicial acts and procedures before the courts. This also incorporates the use of the internet and electronic solutions to allow lawyers and people to get more access to the courts, as well as reducing costs and saving time.

Mr. Silveira then offered seven examples of how the government is achieving these goals, saying that these would be directly related to the lawyers in the audience.

One-Stop-Shop Company Creation

The first example that Mr. Silveira noted was a symbolic idea with the goal of showing people that it was possible to change. He said that in Portugal, the creation of a new company took 45-53 days, according to a Doing Business in Portugal report from the World Bank. In 2005, the Portuguese government launched a one-stop-shop where it became possible to create a company in 35 minutes. In 2005, they only had six locations where this was possible, but over time, they've expanded and it has now become a regular service for Portugal and its territories. It is now the most common way that a company is created in Portugal, and over 100,000 companies have been created using this service. Mr. Silveira commented that this was recognized by the World Bank, and that they received an award from the European Commission for their efforts.

Online Company Incorporation

In addition to the one-stop-shop, it is now possible to create a company using the internet in Portugal. Users can log into a portal and create the company by using the digital signature that Portuguese citizens have on their identification cards. More than 20,000 companies have been created online this way.

Mr. Silveira commented that as of yet, citizens of most other countries cannot log in and create a company in Portugal, because they do not have the same digital signatures. They do have a reciprocal agreement with Estonia, who also have digital signatures on their identification cards, and he foresees that this may happen in the future with other countries. The portal is quite commonly used by Portuguese lawyers and notaries, with most of the 20,000 companies created being done by them.

The Permanent Certificate

Until recently, in Portugal, when you needed to know the registrations of a company or piece of land, you had to go to a registration office to get the information by hard copy. However, with the introduction of the permanent certificate, you can get the information through the internet when you buy access. The information is valid only for a certain period of time (approximately 6 months), and is regularly updated. When you buy access, you are given a code, and this code can be used for all official purposes. For example, if a client needs to sell part of their company, you can use this code to see which registrations are enforced considering that company.

Mr. Silveira added that lawyers from other countries can also have access to this information, and can find out about registrations for a piece of land or company in Portugal. The information is also translated into English. He said that the service has started to be the common way in Portugal to know the status for registration purposes. It's both inefficient and more expensive to request the information from a registration office. The permanent certificate can be used for land, car, and company registrations.

On-the-Spot Branch Office

In addition to being able to create a company in Portugal at a registration office quickly, it's also possible to create a branch office. People can go to any one of the hundreds of registration offices in Portugal and create their branch office in one day. More than 300 branch offices have been created using this system. Mr. Silveira said that when the system was first launched, they had lined up a Swiss bank that was planning to open a branch office to be the first to use the new system. Unfortunately, a man in northern Portugal knew that the service was being launched and quickly created his own branch office first. Mr. Silveira said they were happy that people were using the system.

He added that this idea had come from a lawyer during a training session for the new services and internet facilities, not the Portuguese government.

Intellectual Property - Patents and Trademarks

In Portugal, patents and trademarks fall under the jurisdiction of the Ministry of Justice. They made it possible for companies to use the internet to register a trademark or patent, with no public attendance needed. Using the internet, companies can send all of their documents, make payments, and receive the registration of their trademark or patent. This system also enables users to access all of the information for Portuguese trademarks and patents.

Mr. Silveira noted that there are still desk attendants that can handle these requests, but it is uncommon for someone to request this in person. More than 90% of all requests for patents and trademarks are made through the internet - 85% of patents are submitted via the internet, and 98% of trademarks.

He added that today, in Portugal, using a notary is no longer mandatory. It is not necessary to perform a public deed to sell your home, for example, even if you have a mortgage, or to create a company. The information about these actions must be sent in for registration purposes, but users can access the online services to do this. Mr. Silveira commented that this isn't a common change for a European country, but they felt it was the right thing to do, and it saved a lot of time and money.

One-Stop-Shop for Dissolution & Liquidation of Companies

The Portuguese also created a system that allows companies to dissolve, merge and de-merge via the internet. Previously, there were territorial competencies for registration offices, so if a company was located in Lisbon, they were required to perform all registration acts of the

company (such as presentation of annual accounts, changes to the articles of association, changes to the board) before that particular registration desk in Lisbon. This was the same for car and land registrations as well. But now, it is possible to perform these acts at any registration desk in Portugal.

Citius - Access to the Courts

Citius is the government's project that allows lawyers access to the courts - it allows for e-filing. As a lawyer in Portugal, you may submit your pleadings, rebuttals and documents through this system. Mr. Silveira said it didn't involve sending an email to the courts, but logging in to a secure portal with their digital signature.

Currently, more than 50% of the cases brought to the courts in Portugal are using this system and there are a number of benefits to this, including not having to race to the courts to get your filing in at the last second and having a fee reduction. The other benefit of Citius is that it allows the lawyers access to the status and documents of a case. Previously, lawyers would have to request this information from the officer of the court, and if he or she was unethical, they might put delays in place.

Another benefit of Citius is that it allows lawyers to be notified of electronic sentences and judicial decisions. When Mr. Silveira left the Ministry of Justice 18 months ago, there were more than 1.5 million acts and decisions that were signed and put into Citius by judges. He noted that when a lawyer consents to use Citius, he or she is accepting electronic notification of decisions.

Mr. Silveira summed up by saying that there were many other examples in other areas, such as education and energy, but that the main point is the same - to save time and money, and modernize public services in Portugal for users. He invited the lawyers in the room to use these services whenever possible, and welcomed questions over lunch.

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