



Paulo LOPES DA SILVA

Partner Avocat à la Cour, Member of the Luxembourg Bar, 1998
Employment, Pensions & Immigration, German Desk, Italian Desk,
Litigation & Dispute Resolution, Real Estate, Zoning & Environment

Contact: paulo.dasilva@molitorlegal.lu

Bar Admission(s): Avocat à la Cour, Member of the Luxembourg Bar, 1998

Speaks: Speaks English, French, German, Luxembourgish and Portuguese

Associations: Paulo is a member of the International Bar Association (IBA), the European Employment Lawyers Association (EELA) and the Employment Law Specialists Association (ELSA).

CAREER TO DATE

Paulo has been a partner at MOLITOR Avocats à la Cour since 2002 and co-heads the Dispute Resolution & Litigation Department. He is regularly involved in commercial cross-border aspects of the law and is also very active in banking litigation, particularly matters involving the liability of banks and their directors.

RECOMMENDATIONS & LISTINGS

Paulo is ranked in The Legal 500 EMEA and The Legal 500 US Special Edition. He is seen as '*well reputed*' and an '*excellent counsel*', '*extremely professional*', '*empathetic to clients*' and has '*an entrepreneurial spirit*' (**Legal 500 EMEA**).

Chambers Europe ranks him as a key individual, stating that he receives excellent feedback from all sides. One source describes him as "*an excellent technician, a smart lawyer who goes straight to the point, identifying and understanding problems quickly*".

EDUCATION

1997 Strasbourg University, France (DEA en Droit des Affaires/Master in Commercial law)

1996 Strasbourg University, France (Maître en Droit)

TRANSACTIONS

ACTION AGAINST TENANTS

MOLITOR is acting for a client who is currently involved in proceedings relating to several tenants of the same 'group' who are failing to pay the rent and are also carrying out some works without authorisation. MOLITOR was retained to review all the agreements and contracts in order to reach a settlement.

ARGENTINE BONDS

MOLITOR was retained by a major US law firm to assist with a matter involving the issuance by the Republic of Argentina of certain debentures, notes, bonds and other evidences of indebtedness. The deal relates to the well-publicised default of Argentinian Bonds.

CHAPTER 11 LITIGATION

MOLITOR were retained in a matter referred to them by a leading US law firm. MOLITOR advised the client, who was in the oil refinery business, in the context of US litigation following its being put under Chapter 11. Some creditors, through a litigation trust, sued the company following the take-over by a wealthy Russian of a much larger company worth 20 billion dollars (so huge leverage) on the basis that previous valuations were far less per share. The companies were merged and, due to the size of the debt, collapsed. Some creditors received compensation but unsecured creditors sued everyone they could find, including the Luxembourg entity. The client approached MOLITOR after receiving unsatisfactory advice from another quarter.

CONSTRUCTION LITIGATION

An enormous amount of litigation arose from a major commercial and residential development in the south of Luxembourg. Nearly all the tenants' claims have been settled. Regarding the disputes with constructors, 5 out of 5 have been won, with two more pending on appeal. In one case, MOLITOR are co-defendants with Linklaters opposing a claim that the developer took over the duties of a sacked contractor so that the new contractor claims 5 million euros in missing payment. In the other cases, around 4 to 5 million euros is at stake. An expert has been appointed and the matter will very likely go to court.

CORPORATE LIABILITY

MOLITOR have been requested to address a number of queries regarding possible civil liability claims that some directors may face, as well as being asked to assess the risks from a criminal law perspective. This involved an energy joint venture agreement between two majors players in the sector linked to special purpose vehicles and solar installations in Italy. Criminal investigations are in progress with several people having been arrested by the Italian authorities.

DAY-TO-DAY ASSISTANCE TO INVESTMENT MANAGEMENT COMPANY

MOLITOR were retained by a leading international investment management company specialising in open-ended real estate funds for private and institutional investors with "non-acquisitional/dispositional" day-to-day real estate-related legal matters in relation to its real estate portfolio in Luxembourg. MOLITOR issued legal advice, drafted/reviewed/negotiated lease agreements and their amendments, project-monitoring contracts, property-management contracts, architectural agreements and other real estate-related contracts and represented the client in litigation.

DUE DILIGENCE

MOLITOR have been recommended to the client by the Belgian law firm. The client intended to sell the shares he held in a Belgian commercial company, which has several branches in Europe and one in Luxembourg. The Luxembourg branch performs some commercial activities in Luxembourg through several shops located in the centre of Luxembourg and in shopping centres. MOLITOR performed a due diligence and drafted a due diligence report on documents involving the Luxembourg branch and concerning corporate, real estate, environmental, commercial, IP-IT and labour matters.

ESPIRITO SANTO

MOLITOR acted and are acting on many matters relating to the Banco Espirito Santo insolvency, including several companies that were in possession of bonds in one or more companies of the Espirito Santo Group. MOLITOR drafted and submitted proof of claims to the receivers (Commercial Court) in Luxembourg and reviewed proof of claims.

MANAGERIAL LIABILITY

MOLITOR have been requested by a Luxembourg BiG 4 audit firm in its capacity as liquidator of a Luxembourg SICAV to determine the potential liabilities that the different players (the employees and legal representatives of the Investment Managers, Board of Directors, Investment Managers, Custodian Agents, Administrative Agents, domiciliary agents, Auditors) involved in the management, operation and supervision of the Fund may have to face due to the incorrect calculation of NAV and the payment of undue performance fees, etc.

MANAGERIAL LIABILITY FOR HEALTH AND SAFETY

MOLITOR advised a large engineering firm on the liability of top managers as regards health and safety issues when employees work in other countries especially when outside the EU.

PRE-LITIGATION ADVICE TO AN ITALIAN BANK IN RELATION TO SIF FUNDS

A leading Italian law firm, acting as main counsel to an Italian bank, contacted MOLITOR to advise the bank on the Luxembourg legal features of certain investments in two Luxembourg "specialised investment funds" (SIF). MOLITOR analysed the specific Luxembourg-law aspects of the investments and, to date, have advised the bank (in cooperation with the Italian lead counsel) to reach in Luxembourg an out-of-court amicable settlement with the first fund.

SHAREHOLDERS AGREEMENT

We advised, with a German Firm, a client active in the fields of e-learning, and its shareholders. A new investor decided to invest EUR 13,000,000 by acquiring existing shares and subscription to a capital increase. We advised on an entirely new shareholders' agreement, with an exit strategy within 4 years, and on contracts to retain the key managers, to address any possible failure to attain objectives, and to amend the company's Articles of Association and all board and shareholders resolutions.

TERMINATION OF SERVICE AGREEMENT

A long-standing client of MOLITOR became involved in a major dispute with their former warehouse managing company after terminating the service agreement between them. The warehouse manager sued for 1 million euro in damages and MOLITOR's client claimed the warehouse manager had overcharged for the last four years. Even more problems arose around employment issues.

WORLDWIDE HYPERMARKET CHAIN

MOLITOR are assisting a worldwide hypermarket chain on labeling compliance, advertising and commercial sweepstakes issues as well as e-commerce and data protection regulations.