

## Mark Kirkby

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### PROFILE

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At **SÉRVULO** since 2004, Mark Kirkby is a partner in the Public Law department and co-heads the firm's Projects department. He holds a Master in Law from the Faculty of Law of the University of Lisbon and a Degree in Law from the same Institution. He has a diploma from the AESE Business School, where he attended the Advanced Management in Energy (AMEG) course, a program aimed at top-level managers and executives working in the energy sector, developed in partnership with the Portuguese Energy Association. Researcher at the Centre for Research in Public Law (CIDP) of the Faculty of Law of the University of Lisbon, Mark is also frequently a guest lecturer on a variety of matters related to public procurement and public contracts on graduate courses carried out at Faculties of Law around the country. He was a Lecturer at the Faculty of Law of the University of Lisbon, on the undergraduate degree in Law, from 1996 to 2010. He served as an aide and chief of staff of the office of several ministerial cabinets from 1998 to 2004. Member of the Portuguese Bar Association since 1998.

### RELEVANT EXPERIENCE

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Legal advice on the conclusion and renegotiation of concession contracts, especially with regards to public-private partnerships in the highway and railway sectors.

Legal assistance in transactional matters related to the conclusion and execution of public contracts and in different regulatory areas of public law.

Extensive experience in the field of litigation and arbitration of administrative law, often being an arbitrator in disputes related to public contracts.

Drafting of legislation for various public entities in Portugal and in other Portuguese-speaking countries.

Providing regular legal assistance to public and private entities on public procurement matters, including in the preparation and submission of proposals by tenderers and in the preparation, launching and execution of public procurement procedures by public-sector entities.

Specialized practice in the energy sector, advising public and private entities in the structuring and development of projects and transactions in this area, with a particular focus on renewable energies.

Experience in the execution and coordination of legal mandates and large-scale projects in Mozambique, Cape Verde and São Tomé and Príncipe.

## EXPERTISE

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- Arbitration
- Energy
- Infrastructure
- Media and Telecommunications
- Public Law
- Transport

## RECOGNITION

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### **Chambers Europe 2022**

#### **Projects - TIER 4**

Mark Kirkby regularly advises on tender processes, project developments and concession agreements. Clients appreciate that 'he is accessible, he demonstrates a need to understand the client and has technical knowledge'.

#### **Public Law - TIER 2**

Mark Kirkby has considerable experience assisting domestic and international clients from the public sector with public procurements and the amendment of concession agreements. Clients say: 'He is very well prepared technically'.

#### **Energy & Natural Resources - TIER 5**

Mark Kirkby frequently advises public and private entities on the structuring and development of large-scale projects. He is regularly mandated to advise on renewable energy projects.

### **Chambers Europe 2021**

#### Projects - TIER 4

Clients appreciate Mark Kirkby's 'creative ability to find the best legal solutions'. He regularly advises on tender procedures for the development of renewable energy and transport projects.

#### Public Law - TIER 2

Mark Kirkby has considerable experience representing clients in arbitration proceedings arising from breach of contract, as well as urban rehabilitation projects. Clients single out his 'technical knowledge and proximity to the client'.

### **Chambers Europe 2020**

#### Projects - TIER 4

Clients claim that Mark Kirkby demonstrates 'availability, speed of response and technical quality'. He often supports clients in the energy and transport sectors as well as several government entities.

#### Public Law - TIER 2

Mark Kirkby possesses broad expertise on matters relating to energy and infrastructure projects. He is proficient in handling public tenders, contracts, training courses and litigation.

### **Chambers Europe 2019**

#### Projects - TIER 4

Sources commend his 'huge experience, expertise and availability'.

#### Public Law - TIER 2

Clients value Mark Kirkby's 'availability, knowledge and ability to explain matters in a language which is understandable to those who aren't legal specialists'.

### **Chambers Europe 2018**

#### Projects - TIER 4

[He] is praised by clients for his 'ability to solve complex problems and timely responses.'

#### Public Law - TIER 3

The 'very sharp' Mark Kirkby is noted for his activity in public contracts.

### **Chambers Europe 2017**

#### Projects - TIER 3

[He] is noted for providing "strong knowledge and experience in the field.

Public Law - TIER 3

[He is] "a very proactive, assertive and helpful lawyer.

### **Chambers Europe 2016**

Public Law - TIER Recommended

Mark Kirkby is commended as "a very capable lawyer in this area."

Projects - TIER Recommended

### **Chambers Europe 2015**

Projects - TIER Recommended

Mark Kirkby is "down to earth and solution-driven," according to one client, who adds: "We trust him completely."

Public Law - TIER 3

### **Chambers Europe 2014**

Projects - TIER Recommended

Public Law - TIER 3

[He is a] first-league lawyer; he is very business-minded and pragmatic.

### **Chambers Global 2022**

Projects - TIER 4

### **Chambers Global 2021**

Projects - TIER 4

Clients appreciate Mark Kirkby's 'creative ability to find the best legal solutions'. He regularly advises on tender procedures for the development of renewable energy and transport projects.

### **Chambers Global 2020**

Projects - TIER 4

Clients claim that Mark Kirkby demonstrates 'availability, speed of response and technical quality'. He often supports clients in the energy and transport sectors as well as several government entities.

### **Chambers Global 2019**

Projects - TIER 4

Mark Kirkby leads the team and his practice involves advising public entities on the development of aircraft and

space projects. Sources commend his 'huge experience, expertise and availability'.

### **Chambers Global 2018**

Projects - TIER 4

[He] is praised by clients for his 'ability to solve complex problems and timely responses'.

### **Chambers Global 2017**

Projects - TIER 3

Projects co-head Mark Kirkby is noted for providing "strong knowledge and experience in the field."

### **Chambers Global 2016**

Projects - TIER Recommended

### **Chambers Global 2015**

Projects - TIER Recommended

Mark Kirkby is "down to earth and solution driven," according to a happy client who adds: "We trust him completely."

### **Chambers Global 2014**

Projects - TIER Recommended

### **Legal 500 2021**

Energy and Natural Resources - TIER Recommended

Mark Kirkby is recommended for his strong knowledge of the sector and public law.

Projects and Project Finance - TIER Leading Individual

Mark Kirkby is a very competent and experienced professional. The most valued is the quality of the advice provided and the efficiency in the solutions presented for decision making.

Public Law - TIER Recommended

Mark Kirkby is an expert in PPPs and concessions.

Transport - TIER Recommended

Mark Kirkby is a key point of contact in the team.

### **Legal 500 2020**

Energy and Natural Resources - TIER Recommended

The work was always done under the careful coordination of Mark Kirkby, who demonstrated deep legal knowledge and intelligence in finding solutions that met the client's goals.

### Projects and Project Finance - TIER Leading Individual

I worked closely with Mark Kirkby and valued, above other aspects, the close relationship and permanent availability with the client; the scrupulous compliance with the stipulated deadlines and the delivery of highly specialised and multifaceted services.

### Public Law - TIER Recommended

Mark Kirkby acts for the government and other public entities in relation to the preparation and negotiation of concessions and PPPs, with a particular emphasis on the transport, energy and defence sectors.

### **Legal 500 2019**

Projects and Project Finance - TIER Recommended

Public Law - TIER Recommended

### **Legal 500 2018**

Projects and Project Finance - TIER Recommended

Public Law - TIER Recommended

### **Legal 500 2017**

Projects and Project Finance - TIER Recommended

Public Law - TIER Recommended

### **Legal 500 2016**

Public Law - TIER Recommended

Projects and Project Finance - TIER Recommended

### **Legal 500 2015**

Dispute Resolution - TIER Recommended

Projects and Project Finance - TIER Recommended

Public Law - TIER Recommended

### **Legal 500 2014**

Project Finance - TIER Recommended

Public Law - TIER Recommended

### **Best Lawyers 2022**

Litigation - TIER Recommended

Administrative Law - TIER Recommended  
Energy Law - TIER Recommended  
Public Law - TIER Recommended  
Arbitration and Mediation - TIER Recommended  
Project Finance and Development Practice - TIER Recommended

### **Best Lawyers 2021**

Administrative Law - TIER Recommended  
Public Law - TIER Recommended  
Energy Law - TIER Recommended  
Arbitration and Mediation - TIER Recommended

### **Best Lawyers 2020 Global Business Edition**

Administrative Law - TIER Recommended  
Arbitration and Mediation - TIER Recommended  
Energy Law - TIER Recommended  
Public Law - TIER Recommended

### **Best Lawyers 2020**

Administrative Law - TIER Recommended  
Arbitration and Mediation - TIER Recommended  
Energy Law - TIER Recommended  
Public Law - TIER Recommended

### **Best Lawyers 2019**

Administrative Law - TIER Recommended  
Public Law - TIER Recommended

### **Best Lawyers 2018**

Public Law - TIER Recommended  
Administrative Law - TIER Recommended

### **Best Lawyers 2017**

Administrative Law - TIER Recommended



Public Law - TIER Recommended

**Best Lawyers 2016**

Administrative Law - TIER Recommended

Public Law - TIER Recommended

**Best Lawyers 2015**

Public Law - TIER Recommended

**IFLR1000 2021**

Project development - TIER Highly regarded

**IFLR1000 2021/22**

Project Development - TIER Highly regarded

**IFLR1000 2020**

Project development - TIER Highly regarded

**IFLR1000 2019**

Project Development - TIER Highly regarded

**IFLR1000 2018**

Project Finance - TIER Highly Regarded

**IFLR1000 2016**

Project Finance - TIER Recommended

**Who's Who Legal 2021**

Government Contracts - Iberia National Leaders - TIER Recommended

**Who's Who Legal 2020**

Government Contracts - TIER Recommended

**Who's Who Legal 2019**

Government Contracts - TIER Recommended



## BOOKS AND ACADEMIC ARTICLES

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### 2022

Mark Kirkby and Catarina Pita Soares participate in the report on Power Purchase Agreements in international publication by Bird & Bird

2022 | in Bird & Bird & Corporate PPAs

### 2021

Sérvulo writes report on Power Purchase Agreements in international publication by Bird & Bird

2021 | in Bird & Bird & Corporate PPAs

A Jurisprudência do Tribunal de Contas no âmbito das Parcerias Público-Privadas – Alguns elementos de autonomia e outros de extravagância

2021 | in Revista de Direito Administrativo #2

### 2017

Uma lei geral das concessões em Angola?

2017 | in Atas do II Congresso Internacional de Compras Públicas: Para um crescimento da economia assente na contratação pública sustentável, inteligente e inovadora, Edição NEDIP, pp. 383-397

Contratação Interadministrativa na Revisão do CCP/2016 - Os Contratos de Transferência ou Delegação de Poderes Públicos e os Contratos de Cooperação no Âmbito de Tarefas Públicas

2017 | in Estudos em Homenagem a Mário Esteves de Oliveira, Coimbra: Edições Almedina, pp. 521-547

### 2014

Direito dos Resíduos

2014 | Direito dos Resíduos, ERSAR - Entidade Reguladora dos Serviços de Água e Resíduos/ Instituto de Ciências Jurídico-Políticas da Faculdade de Direito de Lisboa - coordenador científico da obra

Os mistérios em torno da possibilidade de escolha do ajuste direto quando em procedimento anterior todas as propostas tenham sido excluídas

2014 | in Revista de Contratos Públicos, n.º 10, 2014

### 2013

Public contracts at the epicenter of the crisis: pondering the variable intensity of the competition

principle

2013 | in European Review of Public Law, Vol.25 -1/2013

A contratação pública nos setores da água e do saneamento (âmbitos subjetivo e objetivo de aplicação do regime de contratação pública nestes setores)

2013 | in Série de Cursos Técnicos 3 - Direito da Água, ERSAR e Faculdade de Direito da Universidade de Lisboa, pp. 329-357

A contratação pública nos setores da água e do saneamento (âmbitos subjetivo e objetivo de aplicação do regime de contratação pública nestes setores)

2013 | in Direito da Água, ERSAR - Entidade Reguladora dos Serviços de Água e Resíduos/ Instituto de Ciências Jurídico-Políticas da Faculdade de Direito de Lisboa - coordenador científico da obra

## **2012**

Actos administrativos sujeitos a procedimentos adjudicatórios de contratação pública - o artigo 1.º, n.º 3, do Código dos Contratos Públicos

2012 | in Revista de Contratos Públicos", n.º 5, pp. 167-212

## **2011**

Contratos sobre o exercício de poderes públicos

2011 | Coimbra Editora

## **2010**

Conceito e critérios de qualificação do contrato administrativo: um debate académico com e em homenagem ao Senhor Professor Sérvulo Correia

2010 | in Estudos em homenagem ao Prof. Doutor Sérvulo Correia, Volume II, Coimbra Editora

A contratação pública nos "sectores especiais"

2010 | in Estudos de Contratação Pública - II, Coimbra Editora, pp. 41-102

## **2009**

Aspectos relativos à aplicabilidade objectiva e subjectiva das novas regras da contratação pública

2009 | in Revista da Faculdade de Direito da Universidade de Lisboa, Volume XLIX, N.ºs 1 e 2, Coimbra Editora

## **2008**

O Diálogo Concorrencial

2008 | in Estudos de Contratação Pública - I, Coimbra Editora, pp. 275-326

**2005**

Elementos de estudo de Direito Administrativo - Exercícios práticos, testes, exames finais e jurisprudência administrativa

2005 | Associação Académica da Faculdade de Direito de Lisboa

**2002**

Contratos Administrativos de Subordinação (Natureza, Funções e Limites)

2002 | Assoc. Académica da Faculdade de Direito de Lisboa

**2001**

Os Contratos de Adaptação Ambiental - A concertação entre a Administração Pública e os particulares na aplicação de normas de polícia administrativa

2001 | Assoc. Académica da Faculdade de Direito de Lisboa