Which country's court is responsible?

Πορτογαλία

1 Should I apply to an ordinary civil court or to a specialised court (for example an employment labour court)?

The general rule under Portuguese law is that district courts (*tribunais de comarca*) are competent to prepare and hear cases concerning matters that do not fall under the jurisdiction of other courts. District courts have both general and specialist competence (Article 80 of Law No 62/2013 of 26 August 2013 Jurisdiction is divided between the courts according to subject matter, value, rank and territory. (Articles 37, 40, 41, 42 and 43 of Law No 62/2013 of 26 August 2013).

This question is governed by the following legislation:

Law No 62/2013 of 26 August 2013 (Law on the Organisation of the Judicial System)

Decree-Law No 49/2014 of 27 March 2014 (Rules applicable to the Organisation and Functioning of the Courts)

2 Where the ordinary civil courts have jurisdiction (i.e. these are the courts which have responsibility for such cases) how can I find out which one I should apply to?

As mentioned above, the jurisdiction of the district courts is defined by default, i.e., they are competent to prepare and hear cases concerning matters that do not fall under the jurisdiction of other courts. District courts are divided into benches (*juízos*) of specialised and general competence, as well as local benches (Article 81 of Law No 62/2013 of 26 August 2013.

To find out whether you should go to the local civil bench of general competence, or to a central specialised bench, please see the reply to question 3 below. For example, you should go to the central civil bench for declaratory actions under the common procedure with a value exceeding €50 000 (Article 117 of Law No 62/2013 of 26 August 2013).

2.1 Is there a distinction between lower and higher ordinary civil courts (for example district courts as lower courts and regional courts as higher courts) and if so which one is competent for my case?

Yes. There is a distinction between higher and lower courts for the purpose of appealing court judgments. As a general rule, the Supreme Court of Justice (*Supremo Tribunal de Justiça*) hears appeals with a value exceeding the limit of the appeal courts (*tribunais da Relação*) and appeal courts hear cases with a value exceeding the limit of the courts of first instance (*tribunais judiciais de primeira instância*) (Article 42 of Law No 62/2013 of 26 August 2013).

The limits are laid down in Article 44 of Law No 62/2013 of 26 August 2013.

To determine which court is competent, it is necessary to apply the rules on competence based on subject matter, value, rank and territory laid down in Law No 62/2013 of 26 August 2013.

2.2 Territorial jurisdiction (is the court of city/town A or of city/town B competent for my case?)

The question of territorial jurisdiction is governed by Article 43 of Law No 62/2013 of 26 August 2013.

To find out whether the court of city A or city B is competent, you must consult Annexes I, II and III of Law No 62/2013 of 26 August 2013.

2.2.1 The basic rule of territorial jurisdiction

Natural persons

The general rule is laid down in Article 80 of the Code of Civil Procedure.

Legal persons and companies

The general rule is laid down in Article 81 of the Code of Civil Procedure.

Multiple defendants and cumulative applications

The general rule is laid down in Article 82 of the Code of Civil Procedure.

Cases where one of the parties is a judge, a judge's spouse or a particular relative of a judge

The rule laid down in Article 84 of the Code of Civil Procedure applies.

Hearing of appeals

The rule on competence to hear appeals is laid down in Article 83 of the Code of Civil Procedure.

2.2.2 Exceptions to the basic rule

2.2.2.1 When can I choose between the court in the place where the defendant lives (court determined by the application of the basic rule) and another court?

2.2.2.2 When do I have to choose a court other than that in the place where the defendant lives (court determined by the application of the basic rule)?

The following is a joint reply to these questions.

The exceptions to the above-mentioned general rules are laid down in Articles 70 to 79 of theCode of Civil Procedure .

The special provisions on enforcement are laid down in Articles 85 to 90 of theCode of Civil Procedure .

Labour law

The general rule is laid down in Article 13 of the Code of Labour Procedure.

Insolvency

The rule laid down in Article 7 of the Code of Insolvency and Corporate Recovery applies.

Inventory

For competence in inventory proceedings, see the factsheet on succession.

Maintenance for adults and minors and regulation of parental responsibility

For competence in declaratory actions relating to maintenance payments for adults and minors, in enforcement thereof and in actions relating to the regulation of parental responsibility, see the factsheet on maintenance.

2.2.2.3 Can the parties themselves attribute jurisdiction to a court that would not be competent otherwise?

Yes. Agreed competence is provided for in Article 95 of the Code of Civil Procedure.

3 Where specialised courts have jurisdiction how can I find out which one I have to address?

The jurisdiction of each court depends on the subject matter, as set out below:

Central civil benches (*Juízos centrais cíveis*)

The jurisdiction of central civil benches is laid down in Article 117 of Law No 62/2013 of 26 August 2013.

Central family and juvenile benches (*Juízos centrais de família e menores*)

The jurisdiction of family and juvenile benches is laid down in Articles 122 to 124 of Law No 62/2013 of 26 August 2013.

Central labour benches (*Juízos centrais do trabalho*)

The jurisdiction of labour benches is laid down in Article 126 of Law No 62/2013 of 26 August 2013.

Central commercial benches (*Juízos centrais de comércio*)

The jurisdiction of commercial benches is laid down in Article 128 of Law No 62/2013 of 26 August 2013.

Central enforcement benches (*Juízos centrais de execução*)

The jurisdiction of enforcement benches is laid down in Article 129 of Law No 62/2013 of 26 August 2013.

COURTS WITH WIDER JURISDICTION

Intellectual Property Court (*Tribunal da propriedade intelectual*)

The jurisdiction of the Intellectual Property Court is laid down in Article 111 of Law No 62/2013 of 26 August 2013.

Court for Competition, Regulation and Supervision (*Tribunal da concorrência, regulação e supervisão*)

The jurisdiction of the Court for Competition, Regulation and Supervision is laid down in Article 112 of Law No 62/2013 of 26 August 2013.

Maritime Court (*Tribunal marítimo*)

The jurisdiction of the Maritime Court is laid down in Article 113 of Law No 62/2013 of 26 August 2013.

HIGHER COURTS

Courts of Appeal

The definition, organisation and functioning of the Courts of Appeal is laid down in Article 67 of Law No 62/2013 of 26 August 2013.

Supreme Court of Justice

The organisation of the Supreme Court of Justice is laid down in Article 47 of Law No 62/2013 of 26 August 2013.

Applicable legislation:

Code of Civil Procedure

Law No 62/2013 of 26 August 2013 (Law on the Organisation of the Judicial System)

Decree-Law No 49/2014 of 27 March 2014 (Rules applicable to the Organisation and Functioning of the Courts)

Code of Labour Procedure

Code of Insolvency and Corporate Recovery

Warning

The Contact Point, the courts and other entities and authorities are not bound by the information contained in this factsheet. The legal texts in force and subsequent amendments thereto must also be consulted.

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