

Home>Court procedures>Judicial auctions

Judicial auctions

Portugal

1. Notice of sale and prices of seized property

Currently, the sale of goods preferably takes place through the platform <https://www.e-leiloes.pt/>, pursuant to Article 837 of the Portuguese Code of Civil Procedure (*Código de Processo Civil* -- CPC) and Articles 20 et seq of Ministerial Implementing Order No. 282/2013 of 29 August.

The operating rules of the platform <https://www.e-leiloes.pt/> were approved by Order of the Minister for Justice No. 12624/2015, published in the Official Gazette of the Portuguese Republic (*Diário da República*), series 2, No. 219, dated 9 November 2015.

Notices of sale are governed by the provisions of Article 6 of Ministerial Order 12624/2015:

Article 6

Advertisement of the Auction

Auctions are published on the platform www.e-leiloes.pt, and, by decision of the Portuguese Solicitors' Association (*Câmara dos Solicitadores*), full or partial information can also be disseminated on other Internet sites, in print and via electronic mail, without prejudice to the enforcement agent assigned the procedure also publicising the sale through other means they deem appropriate.

The publication on the www.e-leiloes.pt portal must indicate, as a minimum:

The judicial proceedings number, court and organisational unit;

The auction start date;

The auction deadline (date and time);

The base value of the goods (or set of goods) to be sold;

The value of the final bid;

In the case of movable property, a photograph of the goods or set of goods included in the bidding lot;

A summary identification of the goods;

The nature of the goods;

In the case of real estate, its location and composition, land register entry and property description, district, municipality, parish and geographical coordinates of the approximate location, a photograph of the property's exterior and whenever possible of the interior, in the case of urban property or a building unit;

Identification of the trustee or the place of deposit;

Place and time at which the goods may be viewed, and contact details of the trustee;

Identification of the enforcement agent assigned the procedure, including their name, professional ID, telephone and mobile number, fax, email and hours of work;

Any circumstances which, under law, must be notified to any interested parties, including any pending objection to the enforcement or seizure, any pending appeal, the existence of encumbrances that are not due to lapse on sale, and any holders of pre-emptive rights put forward in the procedure;

The name of the enforcement debtor(s) to whom the goods to be sold belong.

The prices/values of the goods seized:

Base Value: This is the value of the goods or set of goods making up a lot, as determined within the scope of the procedure to which the sale relates, namely in accordance with the CPC or, in insolvency procedure, governed in accordance with the Insolvency and Business Recovery Code (*Código da Insolvência e da Recuperação de Empresas*).

Minimum Value: The 'minimum value' is the value above which the goods may be sold, and which corresponds, under Article 816(2) of the CPC, to 85 % of the base value. In some cases, the minimum value may be equal to the base value.

2. Third parties who may conduct the sale

The operating rules of the platform <https://www.e-leiloes.pt/> were approved by Order of the Minister for Justice No. 12624/2015, published in the Official Gazette of the Portuguese Republic, series 2, No. 219, dated 9 November 2015, and stipulated that the platform would be developed and administrated by the then Portuguese Solicitors' Association, now the Association of Solicitors and Enforcement Agents (*Ordem dos Solicitadores e Agentes de Execução*).

In civil enforcement procedures conducted by enforcement agents, only the latter may perform the sales proceedings.

3. Types of enforcement sale to which the rules may not be fully applicable

For example, goods that must be sold in regulated markets or that must be sold directly.

Article 837. of the CPC – Sale by electronic auction

Save for the instances referred to in Articles 830 and 831, the sale of seized immoveable property shall preferably be carried out by electronic auction, under terms to be defined by implementing order of the government minister responsible for justice.

Article 830 of the CPC – Goods sold in regulated markets

Financial instruments and commodities with a listing on a regulated market are sold in regulated markets.

Article 831 of the CPC – Direct sale

If the goods are legally required to be delivered to a particular entity, or have been promised for sale, with real effect, to a person wishing to exercise the specific right of enforcement, the sale is made directly to them.

It should be noted that, although electronic auction is the preferred mode of enforcement sale in Portugal, the CPC also provides for other alternative methods of sale:

sale by sealed bid;

sale in regulated markets;

direct sale to persons or entities that are entitled to acquire the goods;

sale by private negotiation;

sale at auction house;

sale at public or similar deposit facility;

sale by electronic auction.

4. Information from national property registers

Regulatory and registry entities include:

The Institute of Registries and Notary Services (*Instituto dos Registos e do Notariado, I.P.* -- IRN): this is a public institute with the task of enforcing and monitoring policies relating to registry services, with a view to providing services to citizens and companies within the remit of civil identification and civil registers, registers of nationality, real estate, commercial registers, and registers of moveable property and legal entities, as well as the regulation, monitoring and oversight of notarial activity – e.g.: real estate, vehicles, boats, planes etc.

The Securities Market Commission (*Comissão do Mercado de Valores Mobiliários – CMVM*): has the task of overseeing, supervising and regulating financial markets, as well as the agents operating within them, promoting investor protection – e.g. shares and financial instruments

The National Intellectual Property Institute (*Instituto Nacional de Propriedade Industrial – INPI*): its activity focuses on the assignment and protection of industrial property rights, internally and externally, in collaboration with the international organisations Portugal is member of, e.g. trademarks and patents.

5. Information on databases in which the creditor can identify the assets and credits of the debtor

Firstly, it is important to note that access to the databases is by the enforcement agent, confidentially, rather than by the creditor directly.

Ministerial Implementing Order No. 331-A/2009 of 30 March, as amended by Ministerial Implementing Order No. 350/2013 of 3 December, and by Ministerial Implementing Order No. 288/2015 of 17 September, governs access to public databases.

Ministerial Implementing Order No. 282/2013 of 29 August also governs access to the databases of the Bank of Portugal.

The databases to which the enforcement agent has direct electronic access are, among others:

The tax and customs authority (*Autoridade Tributária e Aduaneira*);

Social Security;

The Civil Service Pension Fund (*Caixa Geral de Aposentações*);

The Land Register;

The Commercial Register;

The National Register of Legal Persons;

The Register of Motor Vehicles;

The Bank of Portugal;

The Public Debt Management Institute (*Instituto de Gestão de Crédito Público*);

CITIUS citizens' justice portal.

6. Information on enforcement sales online

The operating rules of the platform <https://www.e-leiloes.pt/> were approved by Order of the Minister for Justice No. 12624/2015, published in the Official Gazette of the Portuguese Republic, series 2, No. 219, dated 9 November 2015.

The relevant information can be found at:

[Operating rules](#) of the electronic auction platform

[Answers to Frequently Asked Questions](#)

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