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Which country's court is responsible?

Portugal

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

First of all, it should be noted that the replies given in this factsheet refer only to judicial courts (commonly referred to as ordinary courts (*tribunais comuns*) in Portugal). In addition to judicial courts, there are other jurisdictional forums: the constitutional court, administrative courts, the court of auditors. There are also justices of the peace and arbitration tribunals.

To find out which forum is competent, the following rule applies: the judicial courts are competent for cases which are not assigned to other jurisdictional forums.

Moreover, within the order of judicial courts, the opposite of a specialised court is not an ordinary civil court. The opposite of a specialised court is a general competence court. The choice between a specialised bench or court and a general competence bench or court depends on the matter in hand and, in certain cases which are indicated below, also depends on the value involved.

The following laws apply:

Law No 62/2013 of 26 August 2013, which may be consulted in its most up to date version at:

[http://www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?nid=1974&tabela=leis](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=1974&tabela=leis)

Law No 49/2014 of 27 March 2014, which may be consulted in its most up to date version at:

[http://www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?nid=2075&tabela=leis&ficha=1&pagina=1&so\\_miolo=&](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=2075&tabela=leis&ficha=1&pagina=1&so_miolo=&)

The judicial courts of first instance are, as a general rule, broken down into courts with wider territorial jurisdiction and district courts (*tribunais de comarca*).

To find out which court of first instance you should go to, the following points also need to be considered.

The courts with wider territorial jurisdiction are specialised judicial courts with competence extended to the whole of the territory or a part of the territory that includes several districts. Portugal has the following courts with wider territorial jurisdiction: the maritime court (*tribunal marítimo*); the intellectual property court (*tribunal da propriedade intelectual*); the competition, regulation and supervision court (*tribunal da concorrência, regulação e supervisão*); the court for the application of sentences (*tribunal de execução das penas*); and the central court of criminal enquiry (*tribunal central de instrução criminal*).

District courts are broken down into central benches with specialised competence (*juízos centrais de competência especializada*) and local benches (*juízos locais*).

The central benches are all specialised and are broken down into central civil benches, central criminal benches, central criminal enquiry benches, central commercial benches, central enforcement benches, central family and juvenile benches and central labour benches.

The local benches are broken down into local civil benches, local criminal benches, local petty crime benches, local benches with general competence and local proximity benches.

Local proximity benches function as a branch of the district court: they merely receive documents relating to cases which have already been instigated at benches or courts with competence in the area of that district, provide information, hold video conferences and provide support for investigations. However, cases are not heard at a local proximity bench and in principle, must not be instigated there.

In specific cases, proceedings exist which must be instigated and heard by authorities other than judicial courts. Depending on the case, these proceedings are sent to the competent court at certain stages: when there is a challenge, appeal, or need to approve certain decisions. This is the case with the following proceedings:

Special eviction proceedings must be instigated electronically at the National Rental Office (*Balcão Nacional do Arrendamento*) in Porto, which covers the entire national territory.

Payment order proceedings to collect a debt must be instigated electronically at the National Payment Order Office (*Balcão Nacional de Injunções*) in Porto, which covers the entire national territory.

Inventory proceedings must be requested at one of the notary offices registered in the municipality where the succession has been opened (in principle, the place of the last residence of the deceased).

It is the responsibility of the public prosecutor at the competent court to decide on applications for: provision of consent (when the application relates to incapacity or the absence of a person); authorisation to carry out actions by the legal representative of the incapacitated person; authorisation for the disposal or encumbering of assets of the absent person; confirmation of actions carried out by representative of the incapacitated person; and notification of the legal representative to pronounce on the acceptance or rejection of gifts in favour of the incapacitated person.

Proceedings aiming to reach agreement between the parties must be instigated at any civil registry office with regard to: maintenance for adult or emancipated children; assignment of a house as a family residence; removal of the right to use the surname of the other spouse; authorisation to use the surname of the ex-spouse; conversion of judicial separation of persons and assets after divorce; regulation of or change in the regulation of parental responsibility for minor children.

### 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?

In this reply, ordinary local civil courts are understood to be the local civil benches and benches with general competence at the district courts. The competence of these courts is defined by default, in other words, they are competent when there is no other competent section or specialised court. Furthermore, their competence is also determined by the low value of the case.

You should therefore go to the local civil bench or, should none exist, to the local bench with general competence at the district court, when the following cases are involved:

civil declaratory actions of an ordinary nature with a value equal to or less than €50,000.00;

cases not assigned to other benches or courts with wider jurisdiction;

enforcement proceedings where there is no enforcement bench or other competent specialised bench or court;

urgent actions relating to minors in respect of civil guardianship, educational guardianship and promotion and protection, even when there is a family and juvenile section that is competent for such actions, in cases where the said family and juvenile section is in a different municipality;

warrants, letters, notices and communications which must be complied with locally at the request of other courts or competent authorities.

other competences conferred by law;

appeals against decisions made by the harbour master in maritime administrative offence proceedings, and ordinary declaratory actions of a value equal to or less than €50,000.00 under the competence of the maritime court, with respect to the subject matter, in the judicial districts not covered by the area of territorial competence of the maritime court;

small claims cases provided for in Regulation (EC) No 861/2007 of 11 July 2007.

To find out whether you should go to the local civil bench or local general competence bench, or to a central specialised bench, please also see the reply to question 3 below 'Where specialised courts have jurisdiction how can I find out which one I have to address?'.

## **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?**

According to the rules on competence with respect to hierarchy, judicial courts are broken down into courts of first instance, appeal courts (or courts of second instance) and the Supreme Court of Justice (*supremo tribunal de justiça*), which is the judicial court of last instance.

The law provides for cases where the admissibility of the appeal depends on the limit of the courts. The limit of appeal courts is €30,000.00 and that of the courts of first instance is €5,000.00 (values at the date when this factsheet was last updated). As a general rule, the Supreme Court of Justice hears appeals whose value exceeds the limit of the appeal courts and appeal courts hear cases whose value exceeds the limit of judicial courts of first instance.

Actions must be heard and start at courts of first instance. Furthermore, courts of first instance are competent for hearing appeals against the decisions of notaries and registrars and other decisions provided for by law. To determine which court of first instance is competent, it is necessary to apply the rules on competence with respect to the subject matter, the value and territory, which will be set out in the replies to the questions below.

In principle, appeal courts only hear appeals lodged against decisions of courts of first instance. Exceptionally, the law attributes them the first-instance hearing of certain cases. Appeal courts also hear conflicts of jurisdiction between courts of first instance, complaints against orders handed down in the first instance and the review of foreign court judgments in civil and commercial matters.

The Supreme Court of Justice hears appeals against decisions handed down by appeal courts. In special cases provided for by the law, it hears appeals against the decisions of courts of first instance. Exceptionally, the law confers on it the competence to hear certain cases as the sole instance. The Supreme Court of Justice also hears cases involving conflicts of jurisdiction between courts of appeal and extraordinary appeals for the unification of case-law.

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

### **Judicial Courts of First Instance**

In Portugal, there are twenty-three judicial district courts:

- Judicial Court of the District of the Azores
- Judicial Court of the District of Aveiro
- Judicial Court of the District of Beja
- Judicial Court of the District of Braga
- Judicial Court of the District of Bragança
- Judicial Court of the District of Castelo Branco
- Judicial Court of the District of Coimbra
- Judicial Court of the District of Évora
- Judicial Court of the District of Faro
- Judicial Court of the District of Guarda
- Judicial Court of the District of Leiria
- Judicial Court of the District of Lisbon
- Judicial Court of the District of Lisbon North
- Judicial Court of the District of Lisbon West
- Judicial Court of the District of Madeira
- Judicial Court of the District of Portalegre
- Judicial Court of the District of Porto
- Judicial Court of the District of Porto East
- Judicial Court of the District of Santarém
- Judicial Court of the District of Setúbal
- Judicial Court of the District of Viana do Castelo
- Judicial Court of the District of Vila Real
- Judicial Court of the District of Viseu

In addition to these courts, there are courts of wider territorial jurisdiction, of which the following three also have civil and commercial jurisdiction:

- Maritime Court;
- Intellectual Property Court
- Competition, Regulation and Supervision Court

### **Appeal Courts (*Tribunais da Relação*)**

In the second instance, there are five appeal courts referred to by the name of the municipality where they are located:

- Lisbon Court of Appeal
- Porto Court of Appeal
- Coimbra Court of Appeal
- Évora Court of Appeal
- Guimarães Court of Appeal

### **Final instance**

- Supreme Court of Justice, located in Lisbon.

The Supreme Court of Justice has competence for the whole of Portuguese national territory. Appeal courts and courts of first instance have competence in the area of their respective judicial districts, which is defined in the law on the organisation of the judicial system (Law No 62/2013 of 26 August 2013). To find out if the court of city A or city B is competent, it is necessary to consult Annexes I, II and III to the abovementioned law on the organisation of the judicial system.

## **2.2.1 The basic rule of territorial jurisdiction**

## Natural persons

The court of the defendant's domicile is competent unless otherwise provided for in a specific legal provision or in the rules set out below.

If the defendant does not have an habitual residence or his residence is unknown or he is absent, the case will be brought in the court of the place where the plaintiff lives.

Provisional or permanent custody of the assets of an absent person is requested at the court of the last known domicile this person had in Portugal.

If the defendant's domicile and residence are in a foreign country, the case will be brought in the court of the area where the defendant is present.

If the defendant is not in Portugal, the case will be brought in the court of the place where the plaintiff lives. When this latter domicile is in a foreign country, the Lisbon court will have jurisdiction for the case.

## Legal persons and companies

If the defendant is the State, the court of the defendant's domicile is replaced by the court of the plaintiff's domicile.

If the defendant is another legal person or a company, the case will be brought in the court of the area of the defendant's main registered address or that of the branch office, agency, subsidiary, delegation or representative, depending on whether the case is brought against the main company or the latter entities.

However, cases brought against foreign legal persons or companies which have a branch, agency, subsidiary, delegation or representative in Portugal can be lodged in courts in the areas where these have their registered addresses even though the case is being brought against the main company.

## Multiple defendants and cumulative applications

When there is more than one defendant in the same case, the case against them must be brought before the court in the domicile of the majority. If the number of defendants in different domiciles is the same, the plaintiff may choose the court of the domicile of any of the defendants.

If the plaintiff makes a number of applications for which different courts would be territorially competent, the said plaintiff may choose any of the courts to bring the case.

The only exception to this will be situations where the court is able to assess, of its own motion, its lack of competence for any of the applications, on account of the territorial scope, the value or an agreement. In this case, the action must be brought in the court which is competent for such an application. For example, this is what happens in certain cases where competence to hear one of the applications depends on the situation of the immovable property or the place of compliance with the obligation. It also applies to cases involving a protective order (*providência cautelar*) or preparatory steps (*diligência antecipada*) and to cases in which judges or their relatives are parties, certain enforcements, cases which must be heard as they are joined to other cases, cases where the decision is not preceded by a summons on the defendant or cases where the court is not competent due to the value involved.

When applications are accumulated which include a relation of dependency or subsidiarity, the case must be brought before the court which is competent to hear the main application.

## Cases where one of the parties is a judge, a judge's spouse or certain relatives

For cases involving a judge, a judge's spouse, any of the judge's descending or ascending relatives or a person with whom the judge has a common law relationship and where such cases must be brought in the judicial district where the judge works, the main court of the judicial district which is closest to the judge's judicial district will be competent.

If the case is brought in the judicial district where the barred judge works or if such a judge is placed there and the case is already being heard, the case is sent to the closest judicial district.

The abovementioned rules do not apply to judicial districts where there is more than one judge, as in this event, the case is given to a different judge in the same judicial district.

## Hearing of appeals

Appeals must be brought before the court which is hierarchically above the court which handed down the decision.

### 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 three questions.*

### Jurisdiction of the location of assets

Cases involving rights in rem or personal rights to use of immovable property, the division of jointly owned property, eviction, right of preemption, and foreclosure, as well as those cases involving reinforcement, substitution, reduction or release of mortgages must be brought before the court for the area where the property in question is located.

Cases for the reinforcement, substitution, reduction or release of mortgages on ships or aircraft will, however, be brought in the court for the judicial district in which the item in question is registered. If the mortgage covers ships or aircraft registered in several judicial districts, the plaintiff can opt for any of these.

When the object of the case is a group of moveable items belonging to the same person and intended for a single use, or movable and immovable assets, or real estate assets situated in different judicial districts, the case in question will be brought in the court in the district where the most valuable immovable assets are located. For this purpose, the land register values will be used. If the immovable asset which is the object of the case is located in more than one judicial district, the plaintiff may opt to bring the case in any of those judicial districts.

### Competence for compliance with the obligation

Cases for demanding compliance with obligations, compensation for non-compliance or for incomplete compliance with obligations and the termination of a contract due to noncompliance will be brought at the court of the defendant's domicile.

The creditor may opt for the court at the place where the obligation should have been fulfilled, when the defendant is a legal person, or when the domicile of the creditor is located in the metropolitan areas of Lisbon or Porto and the defendant is domiciled in the same metropolitan area.

For civil liability cases based on illegal acts or hazards, the court with jurisdiction is that of the area in which the act occurred.

### Divorce and separation

The court with jurisdiction over divorce cases or cases for legal separation and division of property is that of the area of domicile or residence of the plaintiff.

### Actions for recovery of fees

For actions for the recovery of fees for legal representatives or technical staff and for collecting sums advanced to the client, the competent court will be that where the service was provided. Cases for the recovery of fees are heard by being joined to the case for which the service was provided.

If the case in which the service was provided was instigated at the appeal court or the Supreme Court of Justice, the recovery action will take place in the district court of the debtor's domicile.

### Regulation and distribution of general average

The court of the port where a ship's cargo, which has been declared under general average rules, was or should have been delivered has jurisdiction to decide on and apportion this damage.

### Losses and damages resulting from a collision of ships

An action for losses and damages resulting from a collision of ships can be brought in the court of the area where the accident occurred, the court of the domicile of the owner of the ship which struck the other, the court for the place where this ship is registered or in which it is located, or the court for the first port of call of the ship which was struck.

#### **Salaries for salvaging or assisting ships**

The salaries owed for salvaging or assisting ships can be demanded in the court of the place where the fact occurred, the court of the area of domicile of the owners of the salvaged objects or the court for the place where the salvaged ship is registered or is to be found.

#### **Cancellation of privileges over ships**

A case in which a ship acquired free of charge or for consideration is to be declared as being free of any privileges will be brought in the court of the port where the ship is anchored at the time of the acquisition.

#### **Interim measures and preparatory steps**

Applications for seizure and impounding of goods may be made to the court where the related proceedings are to be brought, or in the place where the assets are located or, if there are assets in a number of districts, in one of them.

For an embargo on new work, the court where the work is to be done has jurisdiction.

For other interim measures, the court with jurisdiction is the court before which the related action is to be brought.

Preparatory steps taken to produce evidence are requested in the court of the district in which the steps are to be taken.

Proceedings for interim measures and preparatory steps to produce evidence are joined to the respective action and, if necessary, sent to the court where the action is being heard.

#### **Notifications**

Notifications to be served are requested in the court of the district in which the person to be notified resides.

#### **Implementation**

**As a general rule**, the court of the debtor's domicile is competent for enforcement unless otherwise provided for in a specific legal provision or in the rules set out below.

The creditor may opt for the court of the place where the obligation is to be complied with when the debtor is a legal person or when the creditor's domicile is in the metropolitan area of Lisbon or Porto and the debtor is domiciled in the same metropolitan area.

If the enforcement is for the handing over of a certain item or a debt with security in rem, the court of the place where the item is located or the place where the encumbered assets are to be found are respectively competent.

When the enforcement is to be brought in the area where the debtor is resident, and they are not resident in Portugal but do have assets here, the court for the place where these assets are located has jurisdiction.

The court where the assets are located is also competent when: the enforcement must be brought in a Portuguese court as it relates to the validity of the forming/winding-up of companies/other legal persons with a registered office in Portugal, or to the validity of the decisions of their corporate bodies; and none of the situations occurs as provided for in the preceding or following rules applicable to enforcement.

In cases involving several enforcements, the assessment of which falls within the jurisdiction of different courts, the court of the debtor's domicile will be competent.

**In the enforcement of a decision by the Portuguese courts**, the enforcement application is made as part of the proceedings in which the decision was handed down, and the enforcement is recorded in the same case file. If the case has subsequently gone to appeal, a copy of the file is transferred. When a specialised section is competent for enforcement, a copy of the judgment, the petition which gave rise to the enforcement and accompanying documents must be sent to this specialised section as soon as possible.

If the decision was handed down by arbitrators in an arbitration which took place in Portugal, the competent court for enforcement is the district court of the place where the arbitration took place.

If the case was brought before the appeal court or the Supreme Court of Justice, the court of the debtor's domicile is competent. If the debtor is a judge or certain relatives of the judge, the rules apply as mentioned above in '*Cases where one of the parties is a judge, a judge's spouse or certain relatives*'. In any case, the case file relating to the declaratory proceedings or a copy thereof is sent to the competent court for enforcement.

**In enforcements relating to costs, fines or compensation due as a result of bad-faith litigation**, the court where the proceedings led to notification of the respective bill or settlement is competent. Enforcements relating to costs, fines or compensation take place through joining to the respective case.

When the verdict to pay costs, fines or compensation has been given at an appeal court or the Supreme Court of Justice, enforcement takes place in the court of first instance which is competent in the area where the case was heard.

**For enforcement based on a foreign judgment**, the court of the debtor's domicile is competent.

**For a European order for payment**, (Regulation (EC) No 1896/2006 of 12 December 2006, amended by Regulation (EU) 2015/2421), the District Court of Porto, central instance, 1st civil section is competent.

#### **Labour law**

As a general rule, actions must be brought before the court of the defendant's domicile. Employers or insurers, as well as social security institutions are also considered to be domiciled in the place where they have a branch, agency, delegation or representation.

**Cases arising from a labour contract** brought by a worker against his employer can be lodged in the court for the area where the work in question is carried out or for the area in which the worker is domiciled.

If there are several plaintiffs, the court with jurisdiction is that for the area where the work in question is carried out or for the area in which any of the plaintiffs has their domicile.

If the work in question is carried out in more than one location, the cases can be put to the court of any of the respective areas.

**Cases resulting from work accidents and occupational disease must** be brought in the court for the area in which the accident occurred or in which the sick person worked for the last time on the duty which is suspected of having led to the illness.

If the accident occurs abroad, the case must be brought in Portugal, in the court for the area in which the person who suffered the accident is domiciled.

If there are several beneficiaries, the competent court is that for the area in which the greatest number of applicants live or, if equal numbers live in different areas, the area in which the first person to make an application lives.

If the person who suffered the accident, the sick person or the beneficiary is **registered as a seaman or aircraft crew member and the accident takes place during a journey or the disease is found during a journey**, the court of the first place on national territory reached by the ship or aircraft or the place where the ship or aircraft is registered also has jurisdiction for the case in question.

**In the case of collective dismissal**, interim suspension measures and objections must be brought in the court for the area in which the establishment where the work is done is located.

If the collective dismissal affects workers in several establishments, the competent court is that for the area in which the establishment with the largest number of dismissed workers is located.

### **Insolvency**

For **insolvency proceedings**, the court with jurisdiction is the court of the place of the debtor's registered office or domicile or that of the claimant of the inheritance at the date of death, depending on the case.

Equally competent is the court of the place where the debtor has the centre of his main interests. This is understood to be the place where he habitually administers such interests, and is recognised as such by third parties.

**The publication and public registration of a foreign decision** to open a case, as referred to in Articles 21 and 22 of Council Regulation (EC) No 1346/2000 of 29 May 2000, must be requested at the Portuguese court in the area in which the debtor's establishment is located. When the debtor does not have an establishment in Portugal, a request must be submitted to the Lisbon commercial section, should the insolvent estate involve a company. Should the insolvent estate not involve a company, the Lisbon civil section is competent.

The abovementioned competence rule applies to **the recognition of the insolvency declaration in a foreign case**.

### **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 succession.

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

Yes, within certain limits.

Domestically, through express agreement, the parties may decide to set aside the competence rules with respect to territory. This is referred to as **'agreed competence' (competência convencional)**.

Agreed competence may not be set in cases in which the court may declare, of its own motion, a lack of competence on the grounds of territorial scope. For example, this is what happens in certain cases where competence depends on the situation of the immovable property, the place of compliance with the obligation, or should the case involve a protective order or preparatory steps. It also applies to cases in which the parties are judges or their relatives, certain enforcement cases, cases which must be heard as they are joined to other cases, cases where the decision is not preceded by a summons on the defendant or cases where the court is not competent due to the respective value. In these cases, territorial competence may not be set aside by agreement.

Rules of competence with respect to the subject matter, hierarchy and the value of the case may never be set aside at the wish of the parties.

Competence based on agreement, when admissible, is as compulsory as that derived by law. Such an agreement must meet the requirements of the form of a contract, the source of the obligation. In any case, it must be in writing and must specify the issues it refers to and the criterion for determining the court which is now competent.

Internationally, the parties may agree which jurisdiction is competent to hear a specific case, or the cases possibly arising from a certain legal relationship, provided that the relationship at issue has a connection with more than one legal system. These cases are referred to as **'private pacts to attribute jurisdiction'**.

The agreed designation may involve attributing exclusive competence to certain courts or may simply be an alternative to the jurisdiction of Portuguese courts, where such exists. It is presumed to be exclusive in the event of doubt.

The choice of jurisdiction is valid only when all the following conditions are met:

the dispute involves available rights;

the attribution is accepted by the law of the designated court;

the choice is justified by a reason which is important either for both parties or for one of them, provided that this does not entail inconvenience for the other party;

the case does not relate to a matter within the exclusive jurisdiction of the Portuguese courts;

the choice is the result of a written agreement or an agreement confirmed in writing, which must expressly mention the court to which jurisdiction is attributed.

Both in the case of agreed competence (domestic), and in the case of private pacts attributing competence (international), a written agreement is considered to be any document signed by the parties or resulting from the exchange of letters, telexes, telegrams or other types of communication which leave written proof, whether these instruments actually contain the agreement or contain a clause referring to another document containing the agreement.

In labour law, agreements or clauses for the exclusion of territorial jurisdiction as provided for by law are null and void.

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

As already mentioned, in Portugal the specialised courts of first instance are the central benches at each district court, the local civil benches and courts with wider jurisdiction. The competence of each court with respect to the subject matter will be mentioned below to show which you should go to, depending on the subject of the litigation. As already explained, as a rule, the case starts at the courts of first instance and is only referred to higher courts in the event of an appeal.

#### **Central civil benches (Juízos centrais cíveis)**

civil declaratory actions of an ordinary nature with a value greater than €50,000.00;

enforcement proceedings of a civil nature with a value greater than €50,000.00, in judicial districts not covered by the competence of another section or court; proceedings for interim measures corresponding to actions under their competence;

actions, enforcements and interim measures which would fall to the commercial section in the districts where no such commercial section exists;

cases pending in local benches where there has been a change in the value to a sum equal to or higher than €50,001.00;

promotion and protection cases outside the areas covered by the jurisdiction of family and juvenile courts;

ordinary declaratory actions of a value equal to or less than €50,001.00 falling under the competence of the maritime court, with respect to their subject matter, in the judicial districts not covered by the area of territorial competence of the maritime court.

#### **Central family and juvenile benches**

*(Civil status of persons and family)*

non-contentious proceedings between spouses;

non-contentious proceedings in situations of non-marital cohabitation or relating to persons who live together as a shared household;

actions relating to legal separation and division of property and divorce cases;

actions to declare the non-existence or annulment of civil marriage;

judicial declaration of good faith by a spouse in the event of a putative marriage declared void or annulled;

actions for and enforcements of maintenance payments between spouses and between ex-spouses;

other actions relating to the civil status of persons and family;  
actions which are the competence of courts in cases of inventory proceedings instigated as a consequence of the separation of persons and property, divorce, declaration of nonexistence or annulment of civil marriage, as well as special cases involving the separation of property to which the rules for such proceedings apply.

*(Minors and adult children)*

establishment of guardianship and the administration of assets;  
appointment of a person to act in the name of a minor and appointment of a general guardian to represent a minor subject to parental authority in extra-judicial matters;  
granting adoption;  
deciding on the exercise of parental responsibility and hearing related issues;  
setting maintenance payments due to minors and adult or emancipated children where a court decision has set maintenance payments while they are minors;  
preparing and hearing the respective maintenance enforcements;  
ordering the judicial custody of minors;  
determining placement measures for a person selected for adoption or an institution with a view to future adoption;  
establishing a civil custody relationship (*apadrinhamento civil*) and revoking such decisions;  
authorising the legal representative of minors to carry out certain acts, to validate those acts which may have been carried out without authorisation and to make arrangements regarding the acceptance of gifts;  
taking decisions regarding the security which parents must provide in favour of minor children;  
decreeing the total or partial prohibition of parental authority and placing limits on the exercise thereof;  
determining maternity and paternity of its own motion and preparing and hearing challenges and investigations of maternity and paternity;  
in the event of disagreement between the parents, deciding on a minor's name and surname;  
when there is guardianship or administration of assets, determining the remuneration of the guardian or administrator, hearing matters relating to the withdrawal, release or removal of the guardian, administrator or member of the family council, demanding and assessing the accounts, authorising the substitution of the legal mortgage and determining the strengthening and substitution of the security provided and appointing a special guardian to represent the minor in extra-judicial matters;  
appointing a special guardian to represent the minor in any guardianship case;  
converting, revoking and reviewing adoption, demanding and assessing the accounts of the adopting party and setting the amounts of income necessary to support the adopted party;  
deciding on the strengthening and substitution of the security provided in favour of the minor children;  
demanding and assessing the accounts which the parents are required to provide;  
hearing other matters in the proceedings referred to in the previous paragraph;  
reappraising the decisions of other entities in cases in which the law reserves some of the competences mentioned in the previous six points for such entities.

*(Educational and protective guardianship)*

preparing, appraising and deciding on promotion and protection proceedings;  
applying promotion and protection measures and monitoring their implementation, whenever a child or young person is in a situation of risk and there is no case for intervention by the protection commission;  
carrying out jurisdictional actions relating to the investigation of educational guardianship  
appraising the facts qualified by law as a crime, carried out by a minor aged between 12 and 16, with a view to applying a guardianship measure;  
implementing and reviewing guardianship measures;  
declaring the termination or cancellation of guardianship measures;  
hearing the appeal against any decisions which apply disciplinary measures to minors who have been subject to a custodial measure.

*Note*

*The competence of central family and juvenile benches with respect to educational and protective guardianship matters ceases if: a non-suspended penalty involving deprivation of liberty is applied in criminal proceedings for a crime committed by a minor aged between 16 and 18; or the minor turns 18 years old before the date of the decision at first instance.*

### **Central labour benches**

*(In civil matters)*

matters relating to the annulment and interpretation of non-administrative instruments for the collective regulation of working conditions;  
matters resulting from employer-employee relations and relations established with a view to the conclusion of employment contracts;  
matters resulting from work accidents and occupational diseases;  
matters regarding nursing, hospitals, the supply of medicines arising from the provision of clinical services, prostheses and orthopaedic devices or any other services carried out or paid for in order to benefit the victims of work accidents or occupational diseases;  
cases brought to annul acts and contracts signed by any responsible bodies with the purpose of evading obligations resulting from the application of trade union or labour legislation;  
matters resulting from contracts considered by law as being equivalent to employment contracts;  
matters resulting from training and apprenticeship contracts;  
matters concerning workers employed by the same entity regarding rights and obligations resulting from actions carried out jointly in the conduct of their work relations or which result from an illegal act carried out by one of them during or on account of the performance of their duties; in this regard the criminal courts have jurisdiction over civil liability linked to criminal liability;  
matters arising between social security institutions, or those concerning family benefits, and beneficiaries, with regard to legal, regulatory or statutory rights, powers and obligations of any of these parties; this does not affect the jurisdiction of the administrative and tax courts;  
matters arising between trade union associations and members or people represented by them, or affected by their decisions, with regard to the legal, regulatory or statutory rights, powers and obligations of any of these parties;  
cases for the liquidation and sharing-out of the assets of social security institutions or trade union associations when there are no legal provisions preventing it;  
matter arising between social security institutions or trade union associations with regard to the existence, scope or nature of legal, regulatory or statutory powers or obligations of one of these parties which may affect the other;  
enforcements based on their decisions or other enforcement orders, whereby the jurisdiction assigned to other courts is respected;

matters arising between parties to a labour relationship or between one of these parties and a third party when resulting from relations connected with a work relationship and when the request is presented together with another for which the labour section has direct jurisdiction;

matters involving counterclaims connected to the action in accordance with that referred to in the previous point, except in the event of compensation, for which such connection is not required;

civil matters relating to strikes;

matters arising between workers' committees and the respective coordinating committees, the company or the company employees;

all matters relating to the control of the legality of the constitution, articles of association (including changes thereto), functioning and closure of union associations, employer associations and workers committees;

other issues assigned by law.

*(With regard to administrative offences)*

hearing appeals against decisions by administrative authorities in administrative offence proceedings with respect to labour and social security matters.

#### **Central commercial benches**

insolvency proceedings and special proceedings for company recovery;

actions to declare the non-existence, nullity and rescission of a company's articles of association;

actions relating to the exercise of rights in the company;

actions to suspend and annul company decisions;

actions for the judicial winding-up of companies;

actions for the winding-up of a European public limited liability company;

actions for the winding-up of holding companies;

actions referred to in the Commercial Registry Code;

actions for the winding-up of a credit institution or a financial corporation;

related issues, joined proceedings and enforcement of decisions, in the actions and cases mentioned in the previous points;

challenges to decisions by the keepers of the commercial registry;

challenges to decisions handed down by the keepers within the scope of administrative proceedings for the winding-up and liquidation of commercial companies.

#### **Central enforcement benches**

Civil enforcement proceedings, with the exception of: competences attributed to the intellectual property court, to the competition, regulation and supervision court, the maritime court, the family and juvenile benches, the labour benches, the commercial benches, as well as the enforcement of judgments handed down by the criminal bench which, pursuant to criminal proceedings, may not be brought before a civil bench.

### **COURTS WITH WIDER JURISDICTION**

#### **Intellectual property court**

actions relating to copyright and connected rights;

actions relating to industrial property;

actions for invalidation and annulment as provided for in the Industrial Property Code;

appeals against decisions by the National Institute of Industrial Property (*Instituto Nacional da Propriedade Industrial, I. P.*) which grant or reject any industrial property rights, or relate to transfers, licences or declarations of obsolescence, or have as their object actions which affect, modify or cancel industrial property rights;

appeal and review of decisions – or any other measures which can be legally challenged – taken by the National Institute of Industrial Property in administrative offence proceedings;

declaratory actions where the case centres on Internet domain names;

appeals against decisions of the National Foundation for Scientific Computing (*Fundação para a Computação Científica Nacional*) – as the body responsible for the registration of .PT domain names – which register, reject registration of or remove a .PT domain name;

actions where the case centres on firms or corporate names;

appeals against decisions of the Institute of Registration and Notary Affairs (*Instituto dos Registos e do Notariado, I. P.*) on the admissibility of firms and company names under the legal rules for the National Register of Legal Persons (*Registo Nacional de Pessoas Colectivas*);

actions where the case centres on unfair competition with regard to industrial property;

measures to obtain and preserve evidence and provide information when required for the protection of intellectual property rights and copyright;

related issues, joined proceedings and enforcement of decisions, in the actions and appeals mentioned in the previous points.

#### **Competition, Regulation and Supervision Court**

Appeal, review and enforcement of decisions, orders and other measures in administrative offence proceedings which can be legally challenged:

issued by the Competition Authority;

issued by the National Communications Authority;

issued by the Bank of Portugal;

issued by the Securities Markets Commission;

issued by the Media Regulation Authority;

issued by the Portuguese Insurance Institute;

issued by other independent administrative bodies with regulatory and supervisory functions;

appeal, review and enforcement:

of decisions by the competition authority handed down in administrative proceedings as referred to in the legal rules on competition;

of a ministerial decision which exceptionally authorises a concentration between companies that is prohibited by a competition authority decision;

of other decisions by the competition authority which allow appeal as provided for in the legal rules on competition;

related issues, joined proceedings and enforcement of decisions in all appeals, cases, actions and reviews mentioned in the previous points.

#### **Maritime Court**

compensation due to damages caused or suffered by ships, boats and other floating vessels, or resulting from their maritime use, under the general terms of the law;

matters relating to contracts for the construction, repair, purchase and sale of ships, boats and other floating vessels, provided that these are destined for maritime use;

matters relating to contracts for maritime transport or combined or multimodal transport contracts;

matters relating to contracts for river or canal transport, within the limits of maritime jurisdiction areas in inland waterways, and the respective beds and banks as defined by law;

matters relating to contracts for the maritime use of ships, boats and other floating vessels, namely those for charter and financial leasing;

matters relating to contracts for the insurance of ships, boats and other floating vessels destined for maritime use and their cargoes;

matters relating to mortgages and privileges relating to ships and boats as well as any guarantees in rem on floating vessels and their cargoes;

special proceedings relating to ships, boats and other floating vessels and their cargoes;

proceedings for interim measures relating to ships, boats and other floating vessels, their respective cargoes and cash and other assets belonging to the ships, boats and other floating vessels, as well as preliminary requests to harbour masters to stop the departure of the assets that are the object of such measures;

matters relating to general or particular average including damage caused to other floating vessels destined for maritime use;

matters relating to maritime assistance and salvage;

matters relating to towing contracts and piloting contracts;

matters relating to the removal of debris;

civil liability resulting from the pollution of the sea and other stretches of water under the court's jurisdiction;

the use, loss, discovery or appropriation of devices or gear for fishing or harvesting seafood, molluscs and marine plants, anchors, tackle, devices, supplies and other objects used for navigation or fishing, as well as damage caused to or caused by such items;

damage caused to assets in the public maritime domain;

ownership and possession of washed-up goods and objects coming from the sea or existing remains which lie on or in the seabed or which come from or may exist in inland waters, if these are of maritime interest;

seizures;

all general questions on matters of commercial maritime law;

appeals against decisions of the harbour master handed down in maritime administrative offence proceedings;

related issues, joined proceedings and enforcement of decisions, in the actions and cases mentioned in the previous points.

## **HIGHER COURTS**

### **Appeal Courts**

In the second instance, appeal courts include sections for civil matters, criminal matters, social matters, family and juvenile matters, commercial matters, intellectual property and competition, regulation and supervision. However, the creation of social, family and juvenile, commercial, intellectual property and competition, regulation and supervision sections depends on the volume and complexity of the service.

### **Supreme Court of Justice**

In the final instance, the Supreme Court of Justice has sections for civil matters, criminal matters and social matters.

### **Warning**

*The Contact Point, the courts or 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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