How to bring a case to court

Portugália

1 Do I have to go to court or is there another alternative?

In Portugal, you do not necessarily have to go to a court to resolve a dispute. Alternative means of dispute resolution exist, namely:
arbitration centres,
mediation services,
Justices of the Peace, and
support systems for over-indebtedness.
The Alternative Dispute Resolution Office (*Gabinete de Resolução Alternativa de Litígios, GRAL*) is responsible for supporting the creation of such extra-judicial means of resolving disputes and putting them into practice.
Information on how to avail yourself of these alternative means of dispute resolution is available here.

2 Is there any time limit to bring a court action?

Yes. By law, the right to go to court must be exercised within a certain period, after which said right is forfeited.
The general rules on forfeiture are laid down in Articles 332 and 327(2) of the Civil Code (*Código Civil, CC*).
Special rules of forfeiture exist for the following:

a) the right to bring an avoidance action (Article 618 CC);
b) actions to annul the sale of defective goods (Article 917 CC);
c) actions to revoke donations (Article 976 CC);
d) the right to terminate lease contracts (Article 1085 CC);
e) actions to maintain and recover possession (Article 1282 CC);
f) actions concerning breach of a promise of marriage (Article 1595 CC);
g) actions to annul marriages due to a lack of witnesses (Article 1646 CC);
h) actions to contest paternity (Articles 1842 and 1843 CC);
i) actions to declare debarment from succession (Article 2036 CC);
j) actions to reduce gifts exceeding the disposable portion of an estate (Article 2178 CC);
k) actions to resolve provisions of wills (Article 2248 CC); and
l) actions to annul wills or provisions therein (Article 2308 CC).

3 Should I go to a court in this Member State?

Yes. Portuguese courts are competent internationally in the following cases:
when the action may be brought in a Portuguese court in accordance with the rules on Portuguese territorial jurisdiction established in Portuguese law;
when the fact which has caused the action, or any of the facts pertaining to it, occurred on Portuguese territory;
when the right invoked may only be upheld by means of the proposed action in Portuguese territory or there is appreciable difficulty for the plaintiff in taking the action abroad, because there is an important connection, personal or real, between the subject-matter of the dispute and the Portuguese legal system.
The general rules on international jurisdiction of Portuguese courts are laid down in Articles 59, 62, 63 and 94 of the Code of Civil Procedure (*Código de Processo Civil, CPC*).

4 If yes, which particular court should I go to in this Member State, given where I live and where the other party lives, or other aspects of my case?

For a detailed answer to this question, please consult the factsheet on this page entitled 'Jurisdiction'.

5 Which particular court should I go to in this Member State, given the nature of my case and the amount at stake?

For a detailed answer to this question, please consult the fact sheet on this page entitled 'Jurisdiction'.

6 Can I bring a court action by myself or do I have to go via an intermediary, such as a lawyer?

As a rule, parties may bring legal proceedings before a court themselves.
It is compulsory to be represented by a lawyer in the cases indicated in Articles 40 and 58 CPC.

7 To initiate the case, who exactly do I apply to: to the reception office or the office of the clerk of the court or any other administration?

As a rule, the initial application is submitted to the court *by electronic means, in accordance with the terms set out in Order No 280/2013 of 26 August 2009.*
Electronic processing of judicial cases
Article 144(7) CPC provides for cases in which applications may be lodged with the court in one of the following ways:
delivery to the court registry;
delivery by registered post;
delivery by fax.

8 In which language can I make my application? Can I do it orally or does it have to be in writing? Can I send my application by fax or by e-mail?

The language used in judicial documents is Portuguese, in accordance with Article 133 CPC.
Foreign nationals who need to be heard in a Portuguese court may use a different language if they do not speak Portuguese.
Format of procedural documents: in general, procedural documents may be formulated orally or in writing. The method selected should be the one that best corresponds to the intended purpose (Article 131 CPC).
Means of submitting procedural documents before a court: see reply to question 7.

9 Are there special forms for bringing actions, or, if not, how must I present my case? Are there elements that have to be included in the file?

Yes, there are. In addition to the forms set out in Community legislation, there are specific forms in Portugal for executive actions, which can be obtained on the:
Citius Portal.

National law provides that procedural documents may conform to templates approved by the competent authority; however, only templates concerning court office documents are considered to be mandatory (Article 131 CPC).
The following information must be included in the file:
In the initial application, the applicant must:
a) designate the court and section where the action is to be brought and identify the parties, indicating their names, domiciles or registered offices. As regards the plaintiff (and, wherever possible, the other parties), civil identification and tax numbers, professions and workplaces must also be provided;
b) indicate the business address of their legal representative;
c) indicate the type of action;
d) outline the essential facts which have given rise to the action and the reasons in law which form the basis for the action;
e) formulate the application;
f) declare the amount of the claim;
g) designate the enforcement agent with responsibility for issuing the summons or the legal representative responsible for promoting it.
When contesting a case, the defendant must:
a) identify the case;
b) present the factual and legal grounds for contesting the plaintiff's application;
c) set out the essential facts on which the objections raised are based; and
d) submit a list of witnesses and request other forms of evidence. When the defendant submits a counterclaim and the plaintiff responds, the defendant is permitted to amend their original request for evidence.

10 Will I have to pay court charges? If so, when? Will I have to pay a lawyer right from the introduction of my application?

Yes, as a rule it is necessary to pay court fees. Procedural costs include court fees, charges and the costs of the party.
The most relevant rules concerning procedural costs are essentially set out in Articles 145, 529, 530, 532 and 533 CPC and in the Procedural Costs Regulation.
Court fees are paid at the following junctures (Article 14 of the Procedural Costs Regulation):
Cases in which it is compulsory to appoint a legal representative:
The first or sole instalment of court fees must be paid by the time the procedural act in question is delivered.
If a second instalment is to be paid, this must be done within 10 days of notification of the final hearing.
Cases in which it is not compulsory to appoint a legal representative:
If the document is filed directly by the party, payment of the court fee for instigating proceedings is due only after notification, which specifies a period of 10 days to make the payment and the applicable penalties if the payment is not made.
A court fees simulator is available here.
Lawyer's fees are included in the costs of a party and are borne by the losing party in accordance with Article 533 CPC.
Parties entitled to costs must send the court and the unsuccessful party a detailed and descriptive invoice, pursuant to the terms and the timeframes set out in Article 25 of the Procedural Costs Regulation.

11 Can I claim legal aid?

Yes, you can, provided you satisfy the conditions for the granting of legal aid.
Law No 34/2004 of 29 July 2004, which governs the Access to Law and Justice, sets out the requirements for requesting legal aid and establishes the relevant arrangements.
The application for legal aid must be submitted to the Portuguese social security services (*Segurança Social*).
The form for submitting an application for legal aid, the applicable legislation and a practical guide can be found here.

12 From which moment is my action officially considered to have been brought? Will the authorities give me some feedback on whether or not my case has been properly presented?

An action is deemed to have been officially brought at the time the initial application is deemed to have been submitted, as follows:
If the application is submitted electronically, it is deemed to have been submitted on the date of sending.
If the application is delivered to the court registry, it is deemed to have been submitted on the day of delivery.
If the application is sent by registered mail, it is deemed to have been submitted on the date entered in the relevant postal register.
If the application is sent by fax, it is deemed to have been submitted on the date of sending.
(Articles 259 and 144 CPC)
The court registry is responsible for taking appropriate steps to summon the defendant and to inform the applicant of:
the steps taken and, if no summons is made, the reasons for this;
the lodging of any defence, if the defendant has done so.
(Articles 226 and 575 CPC)

13 Will I have detailed information about the timing of subsequent events (such as the time allowed for me to enter an appearance)?

Yes. The parties have the right to examine and consult the file. It is the responsibility of the court registries to provide this information (Article 163 CPC).
During the preliminary hearing (of by means of a notice), the judge schedules the acts to be carried out during the final hearing, the number of sessions and their probable duration, and the respective dates, after consulting with the legal representatives involved (Articles 591 and 593 CPC).

Applicable Legislation

Civil Code
Code of Civil Procedure
Electronic processing of judicial cases
Procedural Costs Regulation
Access to Law and Justice

Warning

The Contact Point and the courts are not bound by the information contained in this factsheet. The legislation in force and subsequent amendments thereto must also be consulted.
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