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National courts and other non-judicial bodies

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Portugal



Portugal

National Courts

If their fundamental rights are violated, citizens can bring the matter before the courts. The Portuguese courts (civil and administrative courts) are responsible for administering justice, safeguarding citizens' legally-protected rights and interests, prohibiting breaches of the democratic rule of law, and settling public or private disputes (Article 202 of the Constitution of the Portuguese Republic).

The Constitutional Court has a particular responsibility for administering justice in legal and constitutional matters. Where ordinary appeals have been exhausted (Articles 70/2 and 72 of the Organic Law of the Constitutional Court), the party who, during the proceedings, invoked the unconstitutionality of a law that was applied is entitled to appeal to the Constitutional Court.

For more information, please see the page on [Judicial systems in the Member States - Portugal](#).

National Human Rights Institution

- **Ombudsman (*O Provedor de Justiça*)**

Since 1999 the Portuguese Ombudsman has, in addition to the functions described below, occupied the role of National Human Rights Institution, accredited with 'A status' by the United Nations Organisation as being in full compliance with the Paris Principles.

Accordingly, the Ombudsman's work includes promoting and protecting fundamental human rights, paying particular attention to the rights of those who are most vulnerable on the basis of age or psychomotor impairment: children, the elderly and people with disabilities.

Complaints are lodged and processed according to the procedure referred to in the section on the Ombudsman.

Ombudsman (*O Provedor de Justiça*)

The Ombudsman is the statutory body whose task is 'to defend and promote the rights, freedoms, guarantees and legitimate interests of citizens' (Article 1(1) of Law No 9/91 of 9 April 1991 and its amendments) which may be unduly infringed in citizens' dealings with the public authorities. When there is no other avenue open to them, whether because all means of appeal (administrative and/or judicial) have been exhausted or because the time limit for an appeal has expired, they can contact the Ombudsman and lodge their complaint at no cost, setting out the grounds for their position.

As noted above, in Portugal the Ombudsman is also the National Human Rights Institution with the role of National Preventive Mechanism.

It was in May 2013, under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, that the Council of Ministers decided to assign the Ombudsman the role of National Preventive Mechanism. Accordingly, the Ombudsman is responsible for conducting inspection visits to places of confinement - prisons, clinics, psychiatric hospitals, juvenile education centres, etc. - to monitor the quality of accommodation and food for persons deprived of liberty, to check whether inmates' fundamental rights are upheld (including, where possible, the right to privacy and to legitimate contact with relatives and legal representatives) and to ascertain the existence (or otherwise) of individual therapeutic programmes.

Complaint processing:

Complaints can be lodged with the Ombudsman by letter, fax or email. An electronic form is also available to citizens on the website. Complaints can also be lodged by phone, or in person at the Ombudsman's Office or any Public Prosecutor's Office.

Not all communications received by the Ombudsman are actual complaints - often they are anonymous explanations, simple requests for information and legal advice, or general statements on specific issues. These cannot be given any follow up.

Complaints give rise to a procedure (not necessarily a new one, since complaints concerning similar matters may be handled in a single procedure for reasons of speed and procedural economy) that is duly investigated. In other words, the necessary enquiries are made to establish the facts, e.g. by hearing the entity against whom the complaint has been made and even the complainant themselves, who may also request a hearing with the Ombudsman.

At the end of this procedure, complaints may give rise to recommendations, suggestions, remarks and other alternative ways of reconciling conflicting interests, and may also lead to requests for a review of constitutionality or legality.

In addition to responding to complaints from citizens, the Ombudsman may open procedures on its own initiative in order to investigate situations that come to its attention by any means and that fall within its remit.

Specialised human rights bodies

• Organisation for the Protection of Children's Rights

National Commission for the Promotion of the Rights and Protection of Children and Young People (*Comissão Nacional de Promoção dos Direitos e Proteção das Crianças e Jovens - CNPDPCJ*)

The CNPDPCJ coordinates the action of all public and private entities, structures and intervention programmes in the promotion of the rights and protection of children and young people. It issues recommendations and monitors, supports and supervises the work of the Child and Youth Protection Committees (*Comissões de Proteção de Crianças e Jovens - CPCJ*) throughout the country.

CPCJs are official non-judicial institutions with functional autonomy that aim to promote the rights of children and young people and prevent or put a stop to situations that may affect their safety, health, training, education or overall development. The Public Prosecutor's Office (*Ministério Público - MP*) monitors the work of the Child and Youth Protection Committees and assesses the legality and merits of their decisions, exercising judicial review where necessary.

The committees operate in plenary mode and restricted mode. The plenary committee is responsible for implementing actions to promote rights and prevent dangerous situations for children and young people.

The restricted committee intervenes in situations in which a child or young person is in danger, in particular by: attending to and advising people who approach the protection committee; carrying out a preliminary assessment of situations the protection committee is aware of, and investigating cases; deciding on the application of promotion and protection measures and monitoring and reviewing them (except for the measure involving approval of a selected person for adoption or of an adoption institution).

Complaint processing:

Anyone can communicate information concerning a dangerous situation directly to the CPCJ by letter, phone, fax or email, or in person at the committees' offices. The protection committees are responsible for the municipal area in which they are located. [Click here](#) to see the contact list of Protection Commissions according to the area in which the child lives.

CPCJ intervention requires the consent and agreement of the parents and may lead to implementation of the following measures:

- Support for the parents;
- Support for another family member;
- Granting of guardianship to a suitable person;
- Support for an independent life;
- Family foster care;
- Placement in an institution.

Promotion and protection measures are carried out in the normal living environment or on a placement basis, depending on their nature.

• Equality Bodies

Commission for Citizenship and Gender Equality (*Comissão para a Cidadania e a Igualdade de Género* - CIG)

The Commission for Citizenship and Gender Equality is the national body responsible for promoting and upholding the principle of equality between men and women. It works in the following areas: citizenship education; equality between men and women; protecting motherhood and fatherhood; promoting means to facilitate the equal participation of women and men in the different areas of life; reconciling the work, private and family life of women and men; combating domestic and gender-based violence and human trafficking, and supporting victims.

The CIG is a central service under direct State administration and has administrative autonomy. It is part of the Presidency of the Council of Ministers and falls under the authority of the Secretary of State for Citizenship and Equality.

In particular, it is responsible for receiving complaints concerning cases of discrimination or gender-based violence and submitting them, where appropriate, issuing opinions and recommendations to the competent authorities or entities involved.

Complaint processing:

Complaints concerning cases of discrimination or gender-based violence are received by the CIG by email, through the Commission's Facebook page, and on paper.

Complaints received are analysed and classified by the internal services, who respond directly to the complainant via the same channel. Opinions and/or recommendations may be sent to the entities concerned and/or cases may be referred to the competent authorities (e.g. Public Prosecutor's Office, ASAE (*Autoridade de Segurança Alimentar e Económica* - Food Safety and Economic Authority), ERC (*Entidade Reguladora para a Comunicação Social* - Regulatory Authority for the Media) with a copy to the entities involved.

High Commission for Migration (*Alto Comissariado para as Migrações* - ACM)

[Commission for Equality and Against Racial Discrimination (*Comissão para a Igualdade e Contra a Discriminação Racial* - CICDR)]

The High Commission for Migration (ACM) is a public institution which implements public policies on migration. Its role is to combat all forms of discrimination based on colour, nationality, ethnic origin or religion. It is

responsible for receiving information relating to discriminatory practices and coordinating the operation of the Commission for Equality and Against Racial Discrimination (CICDR).

The CICDR is an independent advisory body of the ACM which specialises in combating racial discrimination. It aims to prevent and prohibit racial discrimination in all its forms and to punish acts that violate fundamental rights or restrict or prevent the exercise of economic, social or cultural rights by a public authority, a service or a natural person on the grounds of their belonging to a particular race, colour, nationality or ethnicity.

Complaint processing:

Complaints can be lodged with the ACM or directly with the CICDR by letter, fax, email or phone call. An [electronic complaint form](#) is also available on the CICDR's website.

The High Commissioner sends on the complaint to the Inspectorate-General of the competent Ministry, who must submit a report after having sought to establish the truth of the alleged facts. The report is submitted to the Standing Committee of the Commission for Equality and Against Racial Discrimination, which issues an advisory opinion. On that basis a decision is made by the High Commissioner for Migration. The decision may include the imposition of a fine of up to five minimum wages for natural persons and up to 10 minimum wages for public entities/companies.

The Commission keeps a record of the practice of discriminatory acts and of the corresponding penalties imposed. It makes breaches of the law public with a view to deterring such acts and raise public awareness on issues of equality and non-discrimination.

• Data Protection Body

National Data Protection Commission (*Comissão Nacional de Proteção de Dados - CNPD*)

The CNPD is an independent administrative body under the direction of the Assembly of the Republic. Its role is to monitor and oversee the processing of personal data in full compliance with human rights and the freedoms and guarantees enshrined in the Constitution and the law. The Commission is the National Authority for the Monitoring of Personal Data. The CNPD cooperates with the data protection supervisory authorities of other States to protect and uphold the rights of people living abroad.

Complaint processing:

Complaints and applications by individuals concerning personal data violations should be addressed in writing to the CNPD. Complaints may also be submitted electronically through the [form](#) on the CNPD's website. The name, address and signature of their authors must be provided.

Once a complaint has been registered, it is investigated and submitted for prior assessment by a member of the CNPD. Where the issue raised does not fall within the CNPD's remit or it is not possible to issue a decision owing to the nature of the individual's statement, it may be assessed or duly forwarded by the member to whom it was assigned.

The CNPD's decisions are adopted by a majority, are binding and are subject to complaint and appeal.

• Other Specialised Bodies

National Institute for Rehabilitation, IP (*Instituto Nacional para a Reabilitação, IP - INR, I.P.*)

The National Institute for Rehabilitation, I.P. is an integrated public institution currently under the authority of the Ministry of Labour, Solidarity and Social Security, with administrative autonomy and its own assets. The Institute works to ensure equal opportunities, combat discrimination and empower people with disabilities by promoting their fundamental rights.

The INR, I.P. can receive complaints regarding discrimination on the grounds of disability provided for in the

Discrimination Act. Discrimination is deemed to be any act that violates any fundamental right or denies or restricts the exercise of any rights by any person, on the grounds of any disability.

Complaint processing:

A full description of the situation deemed to be discriminatory should be sent to the Institute to launch the complaint procedure. A [complaint form](#) is available on the website and can be sent by email.

The complaint must identify the complainant (full name, ID number or citizen's card number, taxpayer number, full address, telephone or other contact details) and give a clear account of all the facts. It must specify witnesses, giving their names, addresses and contact details, and must be backed up, as far as possible, by items, evidence or documents that testify to the occurrence of the discriminatory act.

After the complaint has been lodged, the case will be sent to the competent administrative authority (inspectorate-generals, regulatory authorities or other competent bodies) with inspection and/or sanctioning powers for the pre-trial phase during which evidence will be collected, after which either the case is closed or a fine is imposed (together with any additional penalties). A copy of the decision is sent to the National Institute for Rehabilitation, I.P.

Perpetration of a discriminatory act is subject to the payment of a fine that can range between five and 30 times the value of the minimum guaranteed monthly wage, depending on whether the violations are committed by natural or legal persons.

Depending on the severity of the offence and the culpability of the offender, additional penalties may be imposed, such as seizure of belongings, prohibition from carrying out professions or activities, denial of the right to subsidies or benefits granted by public authorities, closure of establishments and the publication of convictions.

Commission for Equality in Labour and Employment (*Comissão para a Igualdade no Trabalho e no Emprego* - CITE)

The CITE is a tripartite and equilateral collegiate body with administrative autonomy and legal personality. It promotes equality and non-discrimination between men and women at work, in employment and in vocational training, and cooperates in the application of legislation and obligations under agreements in this field, as well as obligations relating to the protection of parenthood and the reconciliation of professional life with family and private life in the private sector, the public sector and the cooperative sector.

Among its main tasks, it assesses complaints submitted to it or situations it is aware of which point to the violation of legal provisions on equality and non-discrimination between women and men at work, in employment and in vocational training. It also works to ensure the protection of parenthood and the reconciliation of professional life with family and private life, and provides information and legal aid in this connection.

Complaint processing:

Anyone can lodge a complaint about job advertisements and other employee recruitment methods that do not guarantee the right to equality between men and women in access to employment.

Any worker can lodge a complaint in the event of discrimination between men and women in access to employment, in work and in vocational training.

Complaints can be lodged by letter, fax or email. They can also be lodged by phone via toll-free number 800 204 684, or at the CITE's premises by prior appointment – tel. 21 780 37 09.

The CITE is required to report opinions confirming or pointing to the existence of labour practices that are discriminatory on the grounds of gender to the service responsible for labour inspection (the Authority for Working Conditions), which may open administrative offence proceedings as described below.

Authority for Working Conditions (*Autoridade para as Condições do Trabalho - ACT*)

The Authority for Working Conditions is a State service whose aim is to promote the improvement of working conditions throughout the Portuguese mainland by monitoring compliance with labour regulations in the context of private labour relations and promoting occupational safety and health in all private sectors.

It also monitors compliance with occupational safety and health legislation in all sectors and in the central public administration's departments and bodies (direct, indirect and local), including public institutes and the procedures for providing personalised services or public funds.

Complaints can be lodged regarding shortcomings in facilities or non-compliance with provisions which fall within the competence of the ACT, including: safety and health conditions at work; fixed-term employment contracts; inequality and discrimination at work; posting of workers; duration and organisation of working time; collective representation of workers; undeclared or irregular work; temporary work; work by immigrants.

Complaint processing:

Any worker, employee representative or other interested party can lodge a complaint by completing the [electronic form](#) available on the ACT website.

Where in the exercise of his or her duties the labour inspector personally and directly (even after the event) verifies or proves any infraction of rules punishable by a fine, an official report is drawn up. For violations that are not personally proven, the labour inspector draws up an incident report supported by the evidence available and names at least two witnesses.

After the report has been drawn up, the accused is notified and given a period of 15 days in which to pay the fine voluntarily, submit a written response together with any supporting documents and a list of witnesses, or appear in person to be heard.

The deadline for completing the investigation is 60 days, which may be extended for equal periods in duly substantiated cases.

Very serious administrative offences or repeats of serious administrative offences committed intentionally or by gross negligence may be made public by way of an additional penalty. In the event of a repeat of the abovementioned administrative offences, further additional penalties may be imposed, e.g. a temporary ban on carrying out activities, withdrawal of the right to participate in auctions or public tenders, or publication of the sentence, taking into account the detrimental effects on the employee or the economic benefit withdrawn by the employer.

Where the offence consists of the omission of a duty, payment of the fine does not exempt the offender from complying with the duty if it is still possible. If the offence results from the non-payment of amounts, the ACT may, in addition to the fine, decide that the amounts owed to the workers must be paid within the deadline for paying the fine.

Portuguese Environment Agency (*Agência Portuguesa do Ambiente - APA*)

The Portuguese Environment Agency's task is to propose, develop and monitor the integrated and participatory management of environmental and sustainable development policies in coordination with other sectoral policies and in collaboration with public and private entities who are working towards the same purpose. It works for a high level of environmental protection and enhancement and for the provision of high-quality services to citizens. It is also the national authority responsible for implementing the environmental liability system.

Environmental damage includes: (i) damage to protected species and natural habitats; (ii) water damage; (iii) land damage.

Observations concerning environmental damage or imminent threat of such damage can be submitted to the Agency and it can be requested to take action. The person submitting the observation should also submit any relevant data or interventions at their disposal.

Complaint processing:

Any individual/interested party can send a request by post or email. An [electronic contact form](#) is also available on the Agency's website.

The competent authority examines the request for action and informs the interested parties whether it is accepted or rejected. If the competent authority confirms the existence of environmental damage and upholds the applicant's request, the operator is notified of the request for action with a view to the adoption of a decision on the measures to be adopted.

Inspectorate-General of Agriculture, Sea, Environment and Spatial Planning (*Inspeção-Geral da Agricultura, do Mar, do Ambiente e do Ordenamento do Território* - IGAMAOT)

IGAMAOT is a central service under direct State administration and is responsible for the control, audit and supervision of departments and bodies within IGAMAOT's sphere of activity, in terms of administration, management and mission. In the areas of food regulation and food security, it monitors support from national and EU funds. In the areas of environment, spatial planning and nature conservation it ensures ongoing monitoring and assessment of legality.

Its work covers the public sector and private operators, as well as individual citizens in matters relating to environmental legislation, spatial planning or nature conservation, and beneficiaries of national or European support in agriculture and fisheries.

IGAMAOT receives complaints regarding acts that fall within its remit. It intervenes in matters of greatest potential risk in conjunction with the other competent authorities, depending on the situation reported.

Complaint processing:

IGAMAOT has an e-desk on its website through which complaints can be lodged by completing an [electronic form](#) with a detailed description of the situation observed together with the complainant's name and contact details. The complainant may request that these details remain confidential by ticking the respective box on the form.

Complaints, statements, incident reports and other requests submitted to IGAMAOT which contain material that may be examined in the context of an inspection will lead to the opening of a specific administrative procedure conducted in accordance with the Administrative Procedure Code.

Anonymous requests are given no further consideration, except where they are sufficiently substantiated or documented.

During the administrative procedure, IGAMAOT sets a deadline for replying to its requests for information or the sending of information by the bodies concerned.

Within the scope of the investigation, steps may still be taken with the entities concerned with a view to collecting information and evidence that will enable a judgment to be made on whether to carry out an inspection.

Once the case has been examined, and without prejudice to the mandatory report for criminal purposes, a reasoned proposal is drawn up for submission to the Inspector General, who may decide to either close the case, monitor it, take extraordinary action or refer the matter to the member of the Government responsible for IGAMAOT, who decides how it should be dealt with.

Inspectorate-General of the Justice Services (*Inspeção-Geral dos Serviços de Justiça* - IGSJ)

The IGSJ is a central service of the direct State administration, with administrative autonomy, whose task is to audit, inspect and supervise all entities, departments and bodies under the jurisdiction of the Ministry of Justice or subject to its oversight or regulation, including prison services, with a view to correcting illegalities or irregularities and optimising the functioning of services.

Complaints may be lodged regarding acts and omissions that are deemed to be illegal, notably delays in the provision of public service; poor service; improper behaviour of employees or agents; poor conditions of premises; and, in general, any irregularity or shortcoming in the functioning of services.

Complaint processing:

Complaints can be lodged without any special formality in one of the following ways: in person, by standard mail, or by phone, fax or email. An [electronic form](#) for this purpose is available on the IGSJ website.

Complaints, incident reports and statements lodged in person to the IGSJ are received by the inspector rostered on for this purpose.

Complaints lodged are always assigned a case number. The complainant is notified of the case number and must refer to it in any contact with the IGSJ. Where appropriate, the complaint may be combined with an ongoing or pending inspection or audit process.

Complainants can request information from the IGSJ on the status of their case by any means and by quoting the case number. If the complaint was lodged through the IGSJ website, its progress can be tracked using the access password that was generated upon electronic submission.

Anonymous complaints will only be analysed if the statements made are deemed to be coherent and detailed. No information will be given to the complainant regarding the outcome of any investigations carried out, nor will it be possible to access the information on the status of the respective case through the IGSJ website, as access to this information depends on the user's registration.

Inspectorate-General of Home Affairs (*Inspeção-Geral da Administração Interna* - IGAI)

The IGAI is an independent service for the external control of police activity. It falls under the authority of the Ministry of Home Affairs (*Ministério da Administração Interna* - MAI) and its remit encompasses all the security services and forces (GNR (*Guarda Nacional Republicana* - National Republican Guard), PSP (*Polícia de Segurança Pública* - Public Security Police) and SEF (*Serviço de Estrangeiros e Fronteiras* - Foreigners and Borders Service)) that depend on this Ministry. It carries out high-level audits, inspections and supervision of these bodies and defends citizens' rights, with particular emphasis on protecting human rights and maintaining public order.

Any person (Portuguese or foreign), groups of people, associations, companies or other corporate bodies can lodge a complaint regarding acts and omissions deemed to be illegal, in particular complaints relating to violations of the fundamental rights of citizens by professionals of the bodies under the authority of the MAI. Such violations include: delays in the provision of public service, poor service, improper behaviour of public service employees or other employees within the remit of the MAI, poor conditions of premises, and, in general, any irregularity or shortcoming in the functioning of services.

Complaint processing:

Complaints can be lodged without any special formality by standard mail, in person or by email.

The complaint should give a detailed description of the situation observed, identify the person responsible, specify the exact date and place (street and door No, town, parish and municipality) and, if possible, be accompanied by a location map of the reported situation.

If it is not possible to submit evidence at the time of the incident report, it must be submitted as soon as possible thereafter.

The IGAI will ensure that all complaints falling within its remit are duly scrutinised and that all identified complainants receive a response to their statements. Information can be requested from the IGAI on the status of cases by quoting the case number.

Anonymous complaints will only be analysed if the statements made are deemed to be coherent and detailed.

Inspectorate-General of Education and Science (*Inspeção-Geral da Educação e Ciência* - IGEC)

The IGEC monitors the legality and regularity of acts carried out by bodies, departments and agencies of the Ministry of Education or under the authority of the respective member of Government. It also monitors, audits and supervises the functioning of the education system in pre-school and school education (primary, secondary and higher) . Its remit covers special forms of education, out-of-school education, science and technology and

the bodies, departments and agencies of the Ministry.

The IGEC's ombudsman safeguards, defends and promotes the legitimate rights and interests of citizens and the fairness and justice of the education system. His or her work involves analysing and handling complaints from users and agents of the education system and may entail an investigation or disciplinary procedure.

Complaint processing:

Complaints can be lodged by letter, fax or email. Before filing a complaint with the IGEC, users and agents of the education system should, whenever possible, explain the situation to the competent bodies of the school cluster/non-grouped school, higher education institution or body/service.

The ombudsman's work is carried out by the IGEC's territorial inspection areas, which are responsible for assessing complaints submitted by users and agents of the Education System and determining the procedure deemed most appropriate for handling it. They may also carry out a preliminary investigation that essentially seeks to define the subject of the complaint and set out the grounds for complaint quickly and efficiently. When such complaints relate to matters within the competence of the head of the school cluster/non-grouped school, the rector/chair/director of the higher education institution/establishment or the director-general of schools, through the regional education delegates, complaints are referred directly to them. Complaints regarding education/science bodies/services are analysed directly by the IGEC after hearing the parties involved.

Complaints received at the IGEC's Headquarters are sent to the territorial inspection areas to determine the most appropriate procedure.

Directors of school clusters/non-grouped schools and the rector/chair/director of the higher education institution/establishment have disciplinary authority over teaching staff, non-teaching staff and students. In turn, the director-general of schools, through the regional education delegates, has disciplinary authority over the administrative and management body of school clusters/non-grouped schools.

However, where it is established via an inspection that disciplinary offences have taken place, the Inspector General has the power to open the corresponding disciplinary procedure.

Complaints received at Headquarters or in the territorial inspection areas concerning the operation of other sectors of the administration and/or the action of private entities which do not fall under the authority of the Ministry of Education and Science are referred to the competent central, regional or local government services and the interested party is notified of this.

Inspectorate-General of Health Activities (*Inspeção-Geral das Atividades em Saúde* - IGAS)

The Inspectorate-General of Health Activities is a central service under direct State administration, whose task is to ensure compliance with the law and high technical levels of performance in all areas of healthcare provision, both by bodies of the Ministry of Health or those under its authority, and by public, private or social sector bodies.

Any irregularities or shortcomings in the functioning of services may be reported to the IGAS, such as: acts and omissions deemed to be illegal, misuse of money or public funds, fraud or corruption, obstacles to or inequalities in access to healthcare in a particular provider or establishment, misconduct on the part of healthcare employees or professionals, etc.

If the reported fact does not fall within the competence of the IGAS, statements or complaints from duly identified bodies are forwarded to the competent body.

Complaint processing:

Any person (Portuguese or foreign), groups of people, associations, companies or other corporate bodies can lodge their complaints by post or email.

Complaints/statements can be lodged at any time and must be complete and substantiated, giving, where possible, detailed information about the person or organisation concerned, the facts, the dates and places they took place, personal identification (name and contact details) and information on whether the

complaint/statement has been lodged with another body.

The IGAS analyses complaints/statements in which the time, method and place of facts or acts, their authors and potential liability are deemed to be coherent and detailed.

Complaints/statements may lead to an inspection or clarification procedure in accordance with the IGAS's Inspection Regulation.

In the case of inspection procedures, the principle of adversarial proceedings is always observed. This enables those concerned to be heard, except in cases provided for by law, i.e. cases in which the investigation of criminal proceedings and the taking of evidence may be objectively hampered.

Duly identified interested parties are informed of the outcome of the IGAS's intervention.

Health Regulatory Authority (*Entidade Reguladora da Saúde* - ERS)

The Health Regulatory Authority (ERS) is an independent public body whose task is to regulate the activity of healthcare establishments, i.e. all public, private and social sector healthcare establishments that serve the public in mainland Portugal except pharmacies.

The task of regulating and supervising providers involves: handling complaints from users, providers and institutions; conducting inspections and audits of the facilities of healthcare providers; investigating situations which may jeopardise users' rights; conducting administrative offence proceedings and imposing penalties; issuing instructions, recommendations and opinions; carrying out studies on the organisation of the health system.

Complaints that fall within the ERS's remit concern:

- Access to healthcare
- Discrimination
- Quality of healthcare assistance
- Quality of administrative assistance
- Users' rights
- Waiting times to be seen
- Waiting times for appointments
- Financial issues
- Legal issues
- Quality of facilities

Complaint processing:

Users of health services can lodge a complaint through the complaints book that has to be made available in establishments where public service is provided, or directly to the company or service provider/supplier after the event.

It is also possible to make statements directly to the ERS by post, phone, in person or via the [Online Complaints Book](#), available on the ERS website. The ERS handles complaints lodged through the Online Complaints Book in exactly the same way as it handles complaints from the traditional complaints books available at the premises of healthcare providers.

If the complainant has written their statement in the complaints book available at the provider's premises, they can send the ERS the copy of the statement which should have been handed to them at the time of the complaint (blue sheet). The provider has 10 business days to send the complaint to the ERS.

If the user addresses their statement directly to the provider by sending a formal letter (post), fax or email, they may send a copy of the original document to the ERS.

Upon receipt of the complaint, the ERS requests the complainant to lodge any statements he or she deems relevant. Depending on the content of the complaint and the statements lodged, the ERS will take such action as it considers appropriate in accordance with the powers conferred on it by law. If a complaint is not properly identified or sufficiently coherent it will be closed. If the complaint does not fall within its remit, the ERS informs

the complainant of the body responsible for handling it and forwards it accordingly.

Inspectorate-General of the Ministry of Labour, Solidarity and Social Security (*Inspeção-Geral do Ministério do Trabalho, Solidariedade e Segurança Social* - IGMTSSS)

The IGMTSSS is a service under direct State administration and is part of the Ministry of Labour, Solidarity and Social Security (*Ministério do Trabalho, Solidariedade e Segurança Social* - MTSSS). It oversees the services and bodies of the MTSSS or those under the authority of the respective Minister.

The IGMTSSS assesses the legal and regulatory compliance of acts of the departments and bodies of the Ministry or under the authority of the respective Minister, and evaluates their performance and management through inspections and audits. It evaluates the quality of services provided to citizens and recommends changes and measures to correct shortcomings and irregularities detected.

Complaints or incident reports regarding violations committed by bodies under the authority of the Ministry, including institutions belonging to the *Santa Casa da Misericórdia* (Holy House of Mercy) and Private Social Solidarity Institutions, can be addressed to the Inspectorate.

Complaint processing:

Complaints can be lodged by post, by email or by means of an [electronic form](#) available on the website. In addition to identifying the subject of the complaint and the date of the facts, the complaint should include a brief and clear description of the events which led to it.

Food and Economic Security Authority (*Autoridade de Segurança Alimentar e Económica* - ASAE)

The ASAE is the national administrative authority specialising in food security and economic monitoring. It is responsible for assessing and communicating risks in the food chain and for regulating economic activities in the food and non-food sectors by monitoring compliance with the respective regulatory legislation.

All suppliers of goods or service providers that carry out their activity in a fixed, permanent, physical establishment, that have direct contact with the public, and that provide goods or services in Portugal, are required to have a complaints book.

Complaint processing:

If a customer is not completely satisfied when being provided with a service or purchasing a product, they can request the complaints book which can be used to explain the reason for their dissatisfaction. Service providers must send the original complaint forms to the ASAE within 10 working days.

Unlawful acts can also be reported via an [electronic form](#) available on the ASAE's website and can relate to administrative offences or criminal matters within the remit of this Authority.

If the unlawful act reported does not fall within the ASAE's remit, the complaint is referred to the competent authority.

The complaint must be drawn up in a complete and substantiated manner, giving, wherever possible, detailed information on the facts and the body being reported, the place of occurrence of the facts (address and/or other reference points), the grounds for the complaint and other relevant issues. If a report is made anonymously, further information cannot be provided at a later date.

Upon receipt of the complaint and any respective statements, the ASAE will initiate the appropriate procedure if the facts of the complaint indicate an administrative offence referred to in the applicable specific rule. If this is not the case, the ASAE will notify the goods or service supplier so that they can lodge the statements they deem appropriate within 10 working days.

After analysing the content of the statements and the substance of the complaint, the ASAE may send the complaint on to another body with competence in the subject matter of the complaint or propose that the complaint be closed if there is no justification for action.

If analysis of the facts presented in the complaint results in litigation, and after all necessary steps have been taken to resolve the situation, the ASAE informs the complainant in writing (if he or she has been duly identified) of the procedures or measures that have been or will be taken following the complaint.

Other bodies

Institute of Social Security I.P. (*Instituto da Segurança Social I.P.* - ISS)

The Institute of Social Security, I. P. is a public institution with special status under the law. It is under the indirect administration of the State and has administrative and financial autonomy and its own assets.

It is responsible for ensuring the granting of legal protection. Legal protection is a right of persons and non-profit entities who are unable to pay the expenses associated with court proceedings in the event of dismissal, divorce, eviction, seizure, etc., or out-of-court proceedings in the case of divorce by mutual consent.

Legal protection includes:

Legal Advice – consultation with a lawyer for technical clarification regarding the law applicable to specific issues or cases in which legitimate personal interests or rights are infringed or at risk of infringement (does not apply to non-profit entities).

Legal Aid – appointment of a lawyer and payment of their fees or payment of the fees of the court-appointed counsel (name given to lawyers in the case of a defendant in criminal or administrative proceedings), exemption from legal costs or the option of paying in instalments, and assignment of an enforcement agent (a bailiff always performs the duties of enforcement agent).

The following have the right to legal protection:

- Portuguese citizens and citizens of the European Union.
- Foreigners and stateless persons with a valid residence permit in a Member State of the European Union.
- Foreigners without a valid residence permit in a Member State of the European Union – if the laws of their countries of origin grant the same right to Portuguese citizens.
- Persons who live or reside in a Member State of the European Union other than the Member State in which the proceedings are to be held (cross-border disputes).
- Non-profit legal persons – only have the right to legal aid in the forms of exemption from legal fees and other procedural costs, appointment and payment of the lawyer's fees, payment of the court-appointed counsel's fees and assignment of an enforcement agent.

All persons listed above must demonstrate that they are unable to afford the costs associated with the lawsuit, hiring a lawyer, etc.

According to Portuguese law, people who, on the basis of the income, assets and ongoing expenditure of their household, are not in an objective position to pay the costs of proceedings are deemed to be suffering financial hardship.

Application forms for granting legal aid can be obtained free of charge from any Social Security Services customer service office or in [electronic format](#) on the Social Security website.

The application can be delivered in person or sent by post to any Social Security customer service office (please attach all necessary documents).

Entitlement to legal protection can be checked through the legal protection simulator, available in the right-hand column of [this web page](#).

For more information, see the [Legal aid](#) page.

Commission for the Protection of Crime Victims (*Comissão para a Proteção das Vítimas de*

Crimes)

The Commission for the Protection of Crime Victims is the body of the Ministry of Justice responsible for receiving, analysing and deciding on claims for State compensation brought by victims of violent crime and victims of domestic violence.

The obligation to pay compensation lies with the person who committed the crime, but in some cases the State can advance compensation where the perpetrator is unable to pay or it is impossible to obtain the compensation within a reasonable time frame, and the damage has caused considerable disruption to the victim's standard of living and quality of life.

The claim for compensation may be filed up to one year from the date of the crime or, in the case of criminal proceedings, up to one year after the final decision in the proceedings. Victims who were minors at the time of the crime can submit a claim up to one year after reaching the age of majority or being emancipated.

The claim must be filed on the appropriate form, which is available at the Commission's premises or at the APAV's Victim Support Offices. An [electronic form](#) is also available on the Commission's website.

The claim is exempt from the payment of any costs or expenses by the victim, and the documents and certificates required for the claim can also be obtained free of charge.

If the crime was committed in the territory of another Member State of the European Union, the claim for compensation to be paid by the State in question can be submitted to the Commission for the Protection of Crime Victims if the claimant is habitually resident in Portugal.

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