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Small claims

Portugal



Portugal

FINDING COMPETENT COURTS/AUTHORITIES

The search tool below will help you to identify court(s)/authority(ies) competent for a specific European legal instrument. Please note that although every effort has been made to ascertain the accuracy of the results, there may be some exceptional cases concerning the determination of competence that are not necessarily covered.

Article 25 1 (a) Competent courts

Local civil courts and courts with general jurisdiction.

Article 25 1 (b) Means of communication

Registered post, fax and electronic data transmission.

Article 25 1 (c) Authorities or organisations providing practical assistance

DGAJ - Directorate-General for Justice Administration (<http://www.dgaj.mj.pt/DGAJ/sections/home>).

Article 25 1 (d) Means of electronic service and communication and methods for expressing consent for thereof

The following means of communication are available:

- Electronic communication via the IT system that supports the work of the courts, URL <https://citius.tribunaisnet.mj.pt/habilus/myhabilus/Login.aspx>, when the parties have appointed legal representatives. To this end, the legal representative of the party must first apply for registration with the body tasked with managing access to the IT system (Articles 132(1) and (3), 247 and 248 of the Code of Civil Procedure and Articles 3, 5, 25 and 26 of Ministerial Implementing Order (*Portaria*) No 280/2013 of 26 August 2013).
- Communication by registered letter addressed to the party's residence or headquarters, or to the address chosen for notification purposes, if the party has not appointed a legal representative (Article 249 of the Code of Civil Procedure).

Article 25 1(e) Persons or professions, obliged to accept service of documents or other written communications by electronic means

Legal representatives, judges, prosecutors and court officials, via the IT system that supports the work of the courts (<https://citius.tribunaisnet.mj.pt/habilus/myhabilus/Login.aspx>) (Articles 3 and 5 of Ministerial Implementing Order No 280/2013 of 26 August 2013).

In the case of legal representatives, they must first apply for registration with the body tasked with managing access to the IT system. It should be noted that the system certifies the date on which the notification is issued and this is presumed to have been done on the third day after it is drawn up or alternatively on the first business

day afterwards (Articles 247 and 248 of the Code of Civil Procedure).

If the party has not appointed a legal representative, notifications are sent by registered letter addressed to the residence or headquarters of the party or to the address chosen for receiving notifications. The notification is presumed to have been made on the third day after the date of registration or alternatively on the first business day thereafter (Article 249(1) of the Code of Civil Procedure).

Article 25 1 (f) Court fees and the methods of payment

- In cases where the amount involved is up to €2 000.00: €102 (1 unit of account);
- In cases where the amount is higher than €2 000.00 but not more than €5 000.00: €204 (2 units of account).

If the case proves to be particularly complex, the judge may decide to apply the following costs:

- In cases where the amount involved is up to €2 000.00: €153 (1.5 units of account);
- In cases where the amount is higher than €2 000.00 but not more than €5 000.00: €306 (3 units of account).

(Article 6(1) and (5) of the Regulation on Procedural Costs, approved by Decree-Law No 34/2008 of 26 February 2008, as last amended).

If, pursuant to Article 17(1)(a) of Regulation (EC) No 1896/2006, within the scope of the European order for payment procedure, the defendant enters a statement of opposition and the proceedings continue, the amount paid within that procedure is reduced by the amount of the procedural costs owed for the European Small Claims Procedure, in the case of the claimant.

The reduction can be €102 (1 unit of account) or €153 (1.5 units of account). (Article 7(6) of the Regulation on Procedural Costs, approved by Decree-Law No 34/2008 of 26 February 2008, as last amended).

Where there is a counterclaim – in which case the amounts involved in the two claims are added together for the purposes of calculating the costs, which can lead to cases where the amount involved is up to €10 000.00 – the costs for cases where the amounts involved are between €8 000.01 and €10 000.00 will be 3 units of account (€306.00) or 4.5 units of account (€459.00) for particularly complex cases. It should be noted that for cases where the amount involved is between €5 000.01 and €8 000.00, the costs are kept at 2 units of account (€204.00) or 3 units of account (€306.00) in particularly complex cases (Article 11 of the Regulation on Procedural Costs, approved by Decree-Law No 34/2008 of 26 February 2008, as last amended, in conjunction with Articles 145(5) 530(2), 299(1) and (2) and 297(2) of the Code of Civil Procedure).

The accepted payment method is by bank transfer.

Article 25 1 (g) Appeal procedure and courts competent for an appeal

An appeal is admissible only in situations provided for in Article 629(2) of the Code of Civil Procedure or in Article 696 of that Code.

Therefore, pursuant to Article 629(2) of the Code of Civil Procedure, irrespective of the value of the case and of the loss borne by the defeated party, an appeal is always admissible:

- on the grounds of an infringement of the rules of international jurisdiction, the rules of subject-matter jurisdiction or hierarchical jurisdiction, or where there is a conflict with a final court decision;
- against decisions in respect of the value of the case or related amounts, on the grounds that the value exceeds the value limit of the court in which the case was brought;
- against decisions given in the same legislative field and on the same fundamental point of law that run counter to the uniform case-law of the Supreme Court of Justice;
- against an appeal court judgment that contradicts another judgment by the same or another appeal court in the same legislative field and on the same fundamental point of law, and against which no ordinary appeal

can be brought for reasons other than those in the court's jurisdiction, unless a judgment has been given setting out a uniform case-law that is consistent with it.

Pursuant to Article 696 of the Code of Civil Procedure, a final decision may only be the object of review when:

- (a) another final decision has proved that the decision was the result of an offence committed by the judge in the performance of his duties;
- (b) it is established that documentary evidence or official court testimony or a statement given by an expert or arbiter is false and, in any of these cases, may have been a determining factor in the decision to be reviewed, and the matter was not discussed during the proceedings in which the decision was given;
- (c) a document is presented of which the party was unaware, or of which he could not have made use in the proceedings in which the decision to be reviewed was given and that in itself is sufficient to alter the decision in favour of the defeated party;
- (d) a confession, withdrawal or agreement on which the decision was based is invalid or may be declared invalid;
- (e) the action and execution have taken place in default, with no participation whatsoever by the defendant, and it is shown that *i*) no summons was issued or that the summons issued is null and void; *ii*) the defendant was not aware of the summons for which he is not responsible; and *iii*) the defendant cannot lodge a defence on grounds of force majeure.
- (f) it is incompatible with the final decision of an international appeal body which is binding on the Portuguese State;
- (g) the dispute was based on an act simulated by the parties, and the court, having failed to realise that a fraud had been perpetrated, did not use the powers conferred on it under Article 612;
- (h) may give rise to civil liability on the part of the State for damage resulting from the exercise of judicial functions.

Pursuant to Article 638(1) of the Code of Civil Procedure, the time limit for lodging an appeal is 30 days from notification of the decision.

Pursuant to Article 697(2) and (3) of the Code of Civil Procedure, an extraordinary appeal for review may not be lodged if more than five years have elapsed since the final decision. The time limit for lodging such an appeal is 60 days, counting:

- i. In the case of Article 696(a), from the date of the final decision on which the review is based;
- ii. In the case of Article 696(f), from when the decision on which the review is based became final;
- iii. In other cases, from when the appellant obtained the document or was informed of the circumstance on which the review is based.
- iv. In the case of Article 696(g), the time limit for lodging the appeal is two years, counting from when the appellant is informed of the ruling, without detriment to the five-year time limit mentioned previously.

The courts with jurisdiction to decide on the appeal are the Tribunais de Relação (appeal courts) in the circumstances provided for in Article 629(2) of the Code of Civil Procedure, and the courts that gave the decision that is to be reviewed as indicated in paragraph a) in the circumstances provided for in Article 696 of the Code of Civil Procedure.

Article 25 1 (h) Review of the judgment procedure and courts competent to conduct such a review

The appeal is lodged at the court that gave the decision that is to be reviewed and the appellant must state the facts that constitute the grounds for the appeal. When lodging the appeal, the appellant must submit a

certificate concerning the decision or document on which the request is based (Articles 697(1) and 698 of the Code of Civil Procedure).

The courts with jurisdiction to decide on the appeal are the courts that gave the decision to be reviewed as indicated in paragraph a).

Article 25 1 (i) Accepted languages

English, French and Spanish.

Article 25 1 (j) Authorities competent for enforcement

The *juízos de execução* (enforcement courts) have jurisdiction for enforcement. If there are no enforcement courts, the jurisdiction lies with the local civil courts and the courts with general jurisdiction.

For the enforcement of decisions given by the Portuguese courts, the enforcement request is submitted in the proceedings in which the decision was given (Article 85(1) of the Code of Civil Procedure). The enforcement request, the accompanying documents and the copy of the decision are then sent urgently to the enforcement court with jurisdiction, if such exists (Article 85(2) of the Code of Civil Procedure).

If the decision was given in another Member State, the court with jurisdiction is the court at the domicile of the defendant (Article 90 of the Code of Civil Procedure).

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