Types of legal professions

Португалия

This page provides you with an overview of the legal professions in Portugal.

Judicial court judges and administrative and tax court judges

As set out in the Portuguese Constitution, judges belong to a sovereign body – the Courts.

Bound only by the law, judges administer justice on behalf of the people.

Judicial court judges are governed by the Constitution and the Statute of Judicial Court Judges (*Estatuto dos Magistrados Judiciais*). In accordance with the hierarchy of the respective courts, there are three types of judicial court judge:

Judges of the Supreme Court of Justice (*Supremo Tribunal de Justiça*), designated as *Conselheiros*;

Judges of the Appeal Courts (*Tribunais das Relações*), designated as *Desembargadores*;

Trial court judges at courts of first instance, designated as *Juízes de Direito*.

Administrative and tax court judges are governed by the Constitution, the Statute of the Administrative and Tax Courts (*Estatuto dos Tribunais Administrativos e Fiscais*) and on a subsidiary basis by the Statute of Judicial Court Judges. In accordance with the hierarchy of the respective courts, there are three types of administrative and tax court judge:

Judges of the Supreme Administrative Court (*Supremo Tribunal Administrativo*), designated as *Conselheiros*;

Judges of the Central Administrative Courts, designated as *Desembargadores*;

Circuit administrative court and tax court judges, designated as *Juízes de Direito*.

Access to the profession of judge is a three-stage process comprising: a public competition; a theoretical and practical training course undertaken at the Centre for Judicial Studies (*Centro de Estudos Judiciários*); and an apprenticeship. If they successfully complete all three stages, they will be appointed *Juízes de Direito*.

Judges continue their training throughout their career.

The High Council for the Judiciary (*Conselho Superior da Magistratura*) conducts regular inspections at the courts of first instance, and the High Council for the Administrative and Tax Courts (*Conselho Superior dos Tribunais Administrativos e Fiscais*) does the same for judges at these courts. Following each inspection, judges are ranked by merit, using the categories very good, good with distinction, good, sufficient and poor. If a judge is ranked in the 'poor' category, they will be suspended from duty and an inquiry will be launched to assess their suitability for the job.

The High Council for the Judiciary and the High Council for the Administrative and Tax Courts are responsible for appointing, assigning, transferring, promoting and taking disciplinary action in respect of judges of the judicial courts and the administrative and tax courts.

To ensure that judges are independent and impartial, the Constitution lays down that: practising judges may not carry out any other duties, be they public or private, with the exception of unpaid teaching or scientific research in the field of law. judges can only be transferred, suspended, retired or dismissed in the cases provided for by law; judges may not be held accountable for their decisions, other than where the law provides for exceptions.

More information can be found at https://www.csm.org.pt/ and https://www.cstaf.pt/.

Prosecutors in the Public Prosecution Service (*Ministério Público*)

Prosecutors in the public prosecution service are responsible for representing the State, carrying out prosecutions and defending the democratic rule of law and the interests determined by law. Public prosecutors have their own statute and autonomy as provided for by the law.

Access to the profession of public prosecutor is by public competition, consisting of knowledge tests, a CV evaluation and a psychological selection test, all undertaken at the Centre for Judicial Studies (*Centro de Estudos Judiciários*).

Candidates who are admitted are appointed as trainees (*auditores de justiça*). On successfully completing theoretical and practical training at the Centre for Judicial Studies, they are appointed apprentice deputy prosecutors.

The career of a public prosecutor consists of five levels, listed in hierarchical order:

Prosecutor-General (*Procurador-Geral da República*);

Vice-Prosecutor-General (*Vice-Procurador-Geral da República*);

Deputy Prosecutor-General (*Procurador-Geral Adjunto*);

District Prosecutor (*Procurador da República*);

Deputy District Prosecutor (*Procurador da República Adjunto*).

The Prosecutor-General's Office (*Procuradoria-Geral da República*) is the highest body in the Public Prosecution Service and is presided over by the Prosecutor-General. It also comprises the High Council of the Public Prosecution Service (*Conselho Superior do Ministério Público*), the Consultative Council, official legal advisers and support services.

The High Council of the Public Prosecution Service is responsible for appointing, assigning, transferring and promoting public prosecutors and taking disciplinary action against them.

More information can be found at http://www.ministeriopublico.pt/.

Lawyers (*Advogados*)

Lawyers are legal professionals who, once they have registered with the Bar Association, provide legal representation and legal advice, consisting in the interpretation and application of the rules of the law at the request of a third party.

Registration with the Bar Association (*Ordem dos Advogados*) is required to practise as a lawyer in Portugal.

In order to access the profession, it is necessary to:

hold a Portuguese law degree or a university-level law qualification from outside Portugal, if this qualification is deemed to be equivalent to a degree or has been recognised as being of the same level;

complete a traineeship lasting 18 months, comprising two stages of training: the first training stage, lasting six months, and the additional training stage, lasting 12 months;

pass the written and oral Bar exam.

Foreign citizens who have obtained their degree in Portugal may register with the Portuguese Bar Association in the same way as Portuguese citizens, provided that their country of nationality grants identical rights to Portuguese citizens.
Lawyers from other EU Member States wishing to establish themselves permanently, with a view to practising in Portugal under the professional title of their country of origin, must register with the Bar Association. In such cases, they may provide legal representation in court only under the guidance of a lawyer who is registered with the Bar Association. If they want to practise as lawyers with the same rights and obligations as Portuguese lawyers, they must register with the Bar Association and sit a written and oral exam in Portuguese.
The Bar Association is the public association representing professionals who are practising lawyers acting in accordance with the Association's statute. It ensures access to the law, regulates the profession and takes disciplinary action against lawyers and trainee lawyers (the only body that does so), protects the social role, dignity and prestige of the profession and promotes access to knowledge and application of the law.
More information can be found at https://portal.oa.pt/.

Legal Advisers (*Consultores jurídicos*)

In the Portuguese legal system, there is no distinction between lawyers and legal advisers.

Legal agents (*Solicitadores*)

Legal agents are independent professionals who provide their clients with legal advice and legal representation in court, within the limits imposed by their statute and procedural legislation. They may represent the parties in court whenever legal representation by a lawyer (*advogado*) is not mandatory.
Legal agents may also provide citizens and businesses with legal representation outside of court, for instance, before the tax administration, notary offices, registrar offices and public administration bodies.
In order to access the profession, it is necessary to:
hold an officially recognised law degree and not be registered with the Bar Association, or hold an officially recognised degree in legal agent studies. Foreign nationals of another EU Member State must hold the academic and professional qualifications legally required to exercise the profession in their respective State of origin;
complete a traineeship lasting between 12 and 18 months;
obtain appropriate references during the traineeship, provided by the trainer and traineeship centres, and pass a national examination set in accordance with the relevant rules.
Professionals from another EU Member State or the European Economic Area are registered with the College of Legal Agents (*Colégio dos Solicitadores*) in accordance with Law No 9/2009 of 4 March 2009, as amended.
The Order of Legal Agents and Enforcement Agents (*Ordem dos Solicitadores e dos Agentes de Execução, OSAE*) is the public association representing these legal professionals. It is responsible, among other things, for exercising disciplinary powers over its members and giving opinions on draft legislation relating to its competences.
More information is available at http://www.osae.pt/.

Enforcement agents (*Agentes de execução*)

Enforcement agents are professionals to whom powers are granted at national level to carry out civil enforcement activities. They are independent and impartial professionals and do not represent any of the parties, but are responsible for carrying out all the formalities for enforcement, including seizure, service of documents, notices and sales of seized assets. In some cases their duties may be carried out by a court official.
Enforcement agents are appointed by the party seeking enforcement or by the court.
Enforcement agents must hold a degree in legal agent studies or in law and must:
be Portuguese nationals;
not be covered by any of the restrictions laid down in the Statutes of the Order of Legal Agents and Enforcement Agents or the Bar Association;
not have been included on the official public list of debtors in the last ten years;
have successfully completed the enforcement agent traineeship;
sit the exam for legal assistants after having worked for more than three years as an enforcement agent and receive a favourable opinion from the Commission for Legal Assistants (*Comissão para o Acompanhamento dos Auxiliares de Justiça*, CAAJ);
register with the relevant professional association within three years of successfully completing their traineeship;
have the minimum IT structures and resources as laid down by a regulation approved by the general assembly.
The Order of Legal Agents and Enforcement Agents and the Specialised College of Enforcement Agents (*Colégio de Especialidade dos Agentes de Execução*) are the bodies responsible for regulating the profession.
The CAAJ, which is independent from the Order of Legal Agents and Enforcement Agents, is the body responsible for supervising and exercising disciplinary action over enforcement agents.
More information is available at http://www.osae.pt/ and https://caaj.justica.gov.pt/.

Notaries (*Notários*)

Notaries are specialist professionals authorised to perform duties in certain legal contexts. They play a major role in commerce, both nationally and internationally.
Notaries are empowered to:
draw up private contracts and advise the parties, while treating each party fairly; draw up official documents, taking responsibility for the legality of the document and for any advice given; inform the parties of the implications and consequences of the commitments that they plan to enter into (notaries are duty bound to do this);
carry through legal transactions agreed in their presence. The act can be entered directly in the official register or, if one of the parties fails to meet their obligations, it can be enforced without the intervention of a judge;
act as mediators, in an impartial way and in full compliance with the law, to enable the parties to reach a mutually acceptable agreement;
draw up documents for and the terms of inventory proceedings, except for those matters that must not be decided in inventory proceedings, due to the nature or legal or factual complexity of the matter; such matters must be decided by the judge in the district court (*tribunal de comarca*) that has jurisdiction for the notary's office where the proceedings were lodged (Law No 2/2013 of 5 March 2013, which approved the Legal Framework for Inventory Proceedings, granted notaries this power, thereby creating a system of shared powers).
The reform of the profession of notary and the consequent privatisation of the sector mean that notaries have a dual role: they are public officials and also liberal professionals but are no longer civil servants.
As public officials, notaries come under the auspices of the Ministry of Justice, which has regulatory powers, and also has the power to take disciplinary action against notaries. Given the profession's new liberal status, the Order of Notaries has been regulating notaries' activities, in conjunction with the Ministry of Justice, since 2006, ensuring that notaries abide by the code of ethics that they are required to observe and guaranteeing the pursuit of the public

interest as is incumbent on notaries; this does not affect the Ministry's power to intervene, which, given the nature of the profession, is conferred upon it by law.
More information is available at http://www.notarios.pt/OrdemNotarios/pt.

Registrars (*Conservadores*)

Registrars are public officials with responsibility for registering and publicising legal acts and facts relating to immovable property, moveable property that must be registered, business activity and events in people's lives. Their role essentially involves carrying out legal checks in respect of the above and the related documents and ensuring that the rights contained in the documents attesting to the facts to be registered are correctly defined and comply with the legally stipulated order of registration; they are also responsible for publicising this information and may decide whether or not to enter the legal act or fact into the register.
Depending on the subject areas of their duties, registrars may be:
Registrars for the civil register (*conservadores do registo civil*), whose duties involve defining and publicising legal facts and acts relating to the lives of natural persons. Their competence includes the registration of acts such as birth, marriage, death, adoption and the declaration and establishment of maternity/paternity; the organisation of proceedings such as those related to divorce and separation by mutual consent; and the issuing of certificates and copies of registered documents.
Registrars for the land register (*conservadores do registo predial*), who publicise the legal status of land and property with a view to ensuring the legal certainty of property transactions.
Registrars for the vehicle register (*conservadores do registo de veículos*), whose duties relate to the publicity of rights to moveable property that must be registered (motor vehicles, ships and aircraft) and who publicise the legal status of motor vehicles and trailers with a view to ensuring the legal certainty of transactions.
Registrars for the commercial register (*conservadores do registo commercial*), who publicise the legal status of sole traders, commercial companies, civil-law companies having a commercial form, individual establishments with limited liability and other entities that must be registered in the commercial register with a view to ensuring the legal certainty of transactions.
Access to the profession requires a law degree from a Portuguese university or equivalent academic qualification. Candidates must also pass aptitude tests and undertake a six-month long university extension course focusing on the legal and registration-related subjects needed by registrars. They then complete a year-long traineeship, followed by a public competition. Candidates are assessed at every stage of this process and may be eliminated if they are unsuccessful at any stage. The final stage is a public competition organised by the Institute of Registries and Notaries (*Instituto dos Registos e do Notariado*).
The Institute of Registries and Notaries is responsible for directing, coordinating, supporting, evaluating and supervising the activity of registry offices.
More information is available at https://irn.justica.gov.pt/.

Court officials (*Oficiais de Justiça*)

Court officials are a category of justice official (*funcionário de justiça*) who provide procedural assistance in the courts or public prosecution services. However, the notion of justice official also covers IT technicians, administrative, technical and support staff and maintenance workers.
Access to the career of a court official starts with the entry-level roles of auxiliary clerk (*escrivão auxiliar*) in the judicial service and auxiliary legal clerk (*técnico de justiça auxiliar*) in the public prosecution services. Access is open to persons who have completed a professional training course and who have been approved via an admission procedure.
Justice officials are governed by a specific Statute (*Estatuto dos Funcionários de Justiça*), as set out in Decree-Law No 343/1999 of 26 August 1999, as amended. They play an important role in international judicial cooperation, particularly in terms of implementing European Directives and Regulations.
The Directorate-General for the Administration of Justice (*Direção-Geral da Administração da Justiça*) is the Ministry of Justice body with responsibility for recruiting, managing and administering justice officials.
The Council of Court Officials (*Conselho dos Oficiais de Justiça*) is the body responsible for assessing the professional merit of court officials and for exercising disciplinary authority over them.
More information can be found at https://dgaj.justica.gov.pt/.

Mediators (Mediadores)

In Article 2(b) of Law 29/2013 of 19 April 2013, a mediator is defined as '(...) an impartial and independent third party, with no power to impose a course of action on the parties receiving mediation, who helps them reach a final agreement on the disputed matter'. This Law also protects the status of mediators working in Portugal and lays down provisions for their inclusion on the lists of each of the public mediation services; this is done via a selection procedure, which is governed by Implementing Order (*Portaria*) No 282/2010 of 25 May 2010.
Mediators' work is very important, as they help the parties reach an agreement and this in turn helps maintain and, in some cases restore, social harmony. In Portugal, there are specialist mediators who deal with family, labour and criminal matters. There are no NGOs working in the area of mediation, but there are private associations that provide mediation services and training for mediators.
There is no nationwide code of ethics for mediators, but the Mediation Law referred to above does include a chapter on the rights and duties of mediators, who must also act in accordance with the principles laid down in the European Code of Conduct for Mediators, which form part of their training.
Mediators' conduct is monitored by a public mediation service which is divided into three parts focusing on civil, labour and criminal matters. Each part of the public mediation service is managed by a public authority, which is identified in the authority's articles of association.
In Portugal, mediators do not receive training from a public body; instead, they are trained by private bodies that are certified by the Directorate-General for Justice Policy (*Direção Geral da Política de Justiça*, DGPJ) in accordance with Implementing Order No 345/2013 of 27 November 2013, with a particular focus on compliance with the quality framework.
The DGPJ, through its Alternative Dispute Resolution Office (GRAL), manages the public mediation services. Although it does not provide information on how to find a mediator, it does keep lists of mediators, and mediators can join these lists by taking part in the selection procedure laid down in the rules approved by Implementing Order No 282/2010 of 25 May 2010.
More information can be found at http://www.dgpj.mj.pt/.

Judicial administrators (*Administradores Judiciais*)

Judicial administrators are responsible for supervising and coordinating the acts that are part of the special recovery process (*processo especial de revitalização*); they also manage or liquidate the insolvency estate in insolvency proceedings, and carry out all the duties conferred upon them by statute or by law. A temporary judicial administrator, insolvency administrator or trustee is appointed depending on the tasks they will carry out during the proceedings.
The judicial administrator's role is set out in Law No 22/2013 of 26 February 2013.
A judicial administrator must:
have a relevant university degree and appropriate professional experience;
complete a six-month traineeship for judicial administrators;

pass the admission test specifically designed to assess the knowledge acquired during the traineeship;
not be in a situation that is incompatible with their professional duties;
be suited to the profession.
The Commission for Legal Assistants (*Comissão para o Acompanhamento dos Auxiliares da Justiça*, CAAJ) is responsible for the admission procedure for judicial administrators and monitors their work.
More information is available at https://caaj.justica.gov.pt/.

Industrial property officer (*Agente Oficial da Propriedade Industrial*)

Industrial property officers are professional specialists in industrial property whom companies and individuals can call on to help them defend their rights and interests in this field.
Industrial property officers are authorised by the National Industrial Property Institute (*Instituto Nacional da Propriedade Industrial*) to carry out industrial property acts on behalf of their clients without having to present their power of attorney.
Access to this activity in Portugal is regulated by Decree-Law No 15/95 of 24 January 1995 (as amended) and Implementing Order No 239/2013 of 25 July 2013.
More information can be found at https://inpi.justica.gov.pt/.

Organisations that provide free legal services (*pro bono*)

The Ministry of Justice, in cooperation with the Bar Association and local authorities, ensures the existence, throughout Portuguese territory, of Offices for Legal Advice (*Gabinetes de Consulta Jurídica*), where citizens may receive free legal advice from legal professionals. A list of these offices, together with relevant contact details, can be found online, including on the website of the Directorate-General of Justice Policy.

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