

Specialised courts - Portugal



Tento text byl přeložen strojově. Za kvalitu překladu neručíme.

This page provides information on the organisation of specialised courts in Portugal.

Judicial courts of 1

Judicial courts of 1st instance are, as a rule, the district courts. It is the responsibility of these courts to prepare and prosecute cases relating to cases which fall outside the jurisdiction of other courts. District courts have general jurisdiction and specialised jurisdiction.

District courts have made judgments, which may be a specialist competence, generic and local jurisdiction. The judgements are called for by the competence and the name of the municipality in which they are installed.

Specialised jurisdiction judgments may be created:

1. Civil power plant;
2. Civil;
3. Criminal power station;
4. Criminal site;
5. Petty crime;
6. Criminal investigation;
7. Family and minors;
8. Work;
9. Trade;
10. Implementation.

There are also broad jurisdiction courts, which have specialised jurisdiction:

1. The intellectual property court;
2. The competition, regulatory and supervisory court;
3. The maritime court;
4. The court for the enforcement of sentences;
5. The central criminal investigation court.

Expert judgment

Of these judgements, the following in particular are to be noted:

Civil power plant

These judgments are:

- The preparation and trial of the ordinary civil declaration actions of a value greater than EUR 50.000,00;
- Exercise, in civil enforcement proceedings of a value exceeding Euro 50 000,00, the powers laid down in the Code of Civil Procedure, in areas which do not fall within the jurisdiction of judgment or court;

- Preparing and giving judgment in respect of interim proceedings in respect of which action falls within its competence;
- Exercise other competences conferred by Law.
- Family judgments and minors

On **civil status for people and families**, prepare and believe:

1. Cases of voluntary jurisdiction in relation to spouses;
2. Non-contentious proceedings relating to a consensual union or a common economy;
3. Legal separation and divorce proceedings;
4. Actions for a declaration that civil marriage is non-existent or has been annulled;
5. Actions brought on the basis of Article 1647e and Article 1648(2) of the Civil Code, approved by Decree-Law No 47344 of 25 November 1966;
6. Actions and enforcement actions for maintenance between spouses and between former spouses;
7. Other actions concerning the marital status of persons and families.

In addition to its powers in this field, they shall also exercise the powers which the law confers on the courts in the inventory proceedings brought as a result of the separation of persons and property, divorce, declaration of absence or annulment of civil marriage, as well as in the special cases of separation of property to which the regime of such proceedings applies.

In the field of **minors and adult children**, they shall be responsible for:

1. To hear applications for wardship and administration of property;
2. Appoint a person who has entered into business on behalf of the child and appoints a general person who represents the child out of court as the child subject to parental responsibilities;
3. To grant adoption;
4. Regulate the exercise of parental responsibilities and be aware of issues relating to parental responsibilities;
5. To fix the amount of maintenance due to minors and to the children who are minors and the children who are the largest or emancipated children referred to in Article 1880 of the Civil Code, approved by Decree-Law No 47344 of 25 November 1966, and to prepare and prosecute enforcements by maintenance;
6. Order the judicial trust of minors;
7. Grant the measure of promotion and protection of confidence to the person selected for adoption or the institution with a view to future adoption;
8. Establish the relationship between civil sponsors and revoke them;
9. To authorise the legal representative of minor children to carry out certain acts, confirm those which have been carried out without authorisation and make provisions in relation to the acceptance of testamentary gifts;
10. To decide on any security to be provided by parents in favour of minor children;
11. Order the total or partial inhibition of parental responsibilities laid down in Article 1920 of the Civil Code, approved by Decree-Law No 47344 of 25 November 1966;
12. Investigating, ex officio, maternity and paternity, and preparing and prosecuting the actions for challenging and investigating motherhood and fatherhood;
13. To decide, in the case of disagreement between the parents, on the first name and surname of the minor child.

In addition to expertise in this field, it is up to them to:

1. If there is a supervisory or administration of assets, determine the remuneration of the guardian or administrator, be aware of the appointment, removal or removal of the guardian, the administrator or the member of the family board, require and declare the accounts, authorise the replacement of the legal mortgage and determine the reinforcement and replacement of the security provided and appoint a special guardian representing the minor out of court;
2. To appoint a special trustee to represent the minor child in any trustee proceeding;
3. To convert, revoke and appraise the adoption, and demand and examine the accounts, and fix the amount of income to be used for the maintenance of the adopted person;

4. To decide on the strengthening and replacement of the security provided for minor children;
5. To demand and examine the accounts to be provided by the parents;
6. Be aware of any other incidents in the cases referred to in points (a) to (m).

With regard to the **protection and educational matter**, it is their task to:

- Preparing, assessing and deciding on promotion and protection procedures;
- Implement promotion and protection measures and monitor their implementation where requested, where a child or young person is in danger and where the protection commission is not in danger;
- Practice judicial acts in respect of the educational survey;
- To assess the facts classified by law as a criminal offence, committed by children between the ages of 12 and 16 years, with a view to implementing protective measures;
- Implement and review guardianship measures;
- Declare that the guardianship measures cease or terminate;
- To hear appeals against decisions imposing disciplinary measures on minors to whom they have been applied.

Labour judgements

They know, in civil matters, among other issues, issues arising from subordinate working relationships and established relationships with a view to the conclusion of employment contracts, accidents at work and occupational diseases, contracts assimilated by law to the employment, apprenticeship and training contracts, as well as civil matters relating to the strike.

Trade judgments

Prepare and believe:

1. Insolvency proceedings and special revitalisation procedures;
2. Actions of declaration of non-existence, nullity and rescission of memoranda and articles of association;
3. Actions relating to the exercise of employment rights;
4. Actions for the suspension or cancellation of company resolutions;
5. Judicial liquidation proceedings in respect of companies;
6. Actions for the winding-up of a European public limited company;
7. The winding-up of holding companies;
8. Actions relating to the Companies Registry Code;
9. The winding-up proceedings of credit institutions and financial corporations.

They are also responsible for making appeals challenging the orders of the Registrars of the Registrar of the Commercial Register, as well as the objections to decisions by the conservators in connection with the administrative procedures for the winding-up and liquidation of commercial companies.

Enforcement judgements

They shall, in civil enforcement proceedings, exercise the powers laid down in the Code of Civil Procedure, to the exclusion of proceedings in the courts of intellectual property, to the courts of competition, regulation and supervision, to the maritime court, to their family and family judgments, to the courts of commerce, and to enforcement of judgments in proceedings of a criminal nature which, under the law of criminal procedure, are not to be brought before a civil judgment.

Extended jurisdiction courts

Intellectual property courts

Are you aware of issues relating to:

1. Actions where the cause of action relates to copyright and related rights;
2. Proceedings where the cause of action relates to industrial property, in any form provided for by law;

3. Actions for the annulment and invalidation of patents, supplementary protection certificates, utility models and topographies of semiconductor products provided for in the Industrial Property Code and other applicable legislation, as well as applications for a declaration of invalidity or cancellation of design registrations, trade marks, logos, rewards, designations of origin and geographical indications derived in a counterclaim;
4. Appeals against decisions of the Instituto Nacional da Propriedade Industrial, I. P. (INPI, I.P.) which grant or refuse industrial property rights or relate to transmissions, licences, declarations of obsolescence or any other act which affects, modifies or extinguishes industrial property rights;
5. Appeal and review of decisions or any other legally challengeable measures taken by the INPI, I.P., in infringement proceedings;
6. Declaration actions in which the cause of action relates to domain names on the Internet;
7. Appeals against decisions of the Foundation for National Scientific Computing, as a competent authority for registration of domain names of.PT, which register, refuse registration or remove a domain name of.EN;
8. Actions where the cause of action concerns a company name or a company name;
9. Appeals against decisions of the Instituto dos Registos e do Notariado, I. P. (IRN, I.P.) concerning the admissibility of names and denominations under the legal regime of the Registo Nacional de Pessoas Colectivas (National Register of Legal Persons);
10. Actions where the cause of action relates to the commission of acts of unfair competition or infringement of business secrets in the field of industrial property;
11. Obtaining and preserving evidence and providing information when required by the protection of intellectual property rights and copyright.

Competition, regulation and supervision

It shall, inter alia, deal with matters relating to the appeal, review and enforcement of decisions, orders and other measures which are legally liable to challenge a number of regulatory bodies, such as the Competition Authority, the National Civil Aviation Authority, the Banco de Portugal and the Comissão do Mercado de Valores Mobiliários (Securities Market Authority).

Maritime Court

Are you aware of issues relating to:

1. Compensation due for damage caused or suffered by ships, boats and other floating vessels, or resulting from their maritime use in the general terms of the law;
2. Contracts of construction, repair, purchase and sale of ships, boats and other floating craft, provided they are intended for maritime use;
3. Contracts for transport by sea or combined or multi-modal transport contracts;
4. Contracts of transport by inland waterway or by channels, within the limits of Table 1 annexed to the General Harbour Master Regulation, approved by Decree-Law No 265/72 of 31 July 1999;
5. Contracts of maritime use of ships, boats and other floating craft, in particular those which are chartered and financially leased;
6. Insurance contracts for ships, boats, other floating craft intended for maritime use and their cargoes;
7. Mortgages and privileges in respect of ships or boats, in addition to any real guarantees with respect to floating craft and their cargoes;
8. Special proceedings relating to ships, boats, other floating craft and their cargoes;
9. Precautionary proceedings in relation to ships, boats and other floating craft, their respective cargoes and other valuable items belonging to the ships, boats and other floating craft, in addition to a preliminary application to the port authority to prevent the departure of vessels constituting the object of such proceedings;
10. Joint or individual losses, including those relating to other floating craft destined for maritime use;
11. Maritime assistance and salvage;
12. Contracts of towage and pilotage;
13. Removal of shipwrecks;

14. Civil liability in relation to pollution of the sea and other waters under its jurisdiction;
15. The use, loss, discovery or appropriation of fishing tackle or fishing nets or nets for catching shellfish, molluscs and marine plants, anchors, ships tackle, weapons, provisions and other objects intended for navigation or fishing, in addition to damage caused to or sustained by such materials;
16. Damage caused to property in the maritime public domain;
17. Ownership and possession of land and property arising from or arising from sea waters or existing remains which lie in their soil or subsoil, or which come from or exist in inland waters, if there is a maritime interest;
18. Arrests;
19. All issues in general on maritime commercial law matters;
20. Appeals against decisions of the port captain on a case involving a maritime infringement.

Court of Performance of Penalties

Monitor and supervise the execution and decide on their modification, replacement and termination of the custodial sentence or measure involving deprivation of liberty issued by the judgment after their final judgment. In particular, it is responsible for:

- To determine the execution of the additional sentence of expulsion, declaring the sentence to be imprisonment to be extinguished, and to determine the early execution of the additional sentence of expulsion;
- Declare that there is no longer term of imprisonment, a relatively unspecified sentence and a secure detention order;
- Issue arrest, arrest and release orders;
- To make the judgment in absentia and order the seizure of property, in so far as the offender has been convicted, wholly or in part, of the execution of a custodial sentence or a detention order;
- Deciding on the provisional removal of facts or decisions entered in the criminal record;

Central Criminal Investigation Tribunal

Conducts a criminal investigation, decides on the pronouncement and exercises the judicial functions relating to the investigation when the criminal activity takes place in the districts of different Courts of Appeal and where the following offences are at stake:

1. Against peace and humanity;
2. Terrorist organisation and terrorism;
3. Against State security, with the exception of electoral offences;
4. Illicit trafficking in narcotic drugs, psychotropic substances and precursors, except in cases of direct distribution to the consumer, and criminal association for trafficking;
5. Money-laundering;
6. Corruption, embezzlement and economic participation in business;
7. Wilful insolvency;
8. Damaging administration in the economic unit of the public sector;
9. Fraud in the acquisition or misappropriation of allowance, grant or credit;
10. Economic and financial offences committed in an organised manner, including through the use of computer technology;
11. Economic and financial infringements with an international or transnational dimension.

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