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National ordinary courts

Portugal

This section contains information on the organisation of the ordinary courts in Portugal.

Organisation of the ordinary courts

Apart from the Constitutional Court (*Tribunal Constitucional*), which is specifically competent to administer justice on legal-constitutional issues, the following categories of court exist in Portugal:

The Supreme Court of Justice (*Supremo Tribunal de Justiça*) and the judicial courts of first and second instance;

The Supreme Administrative Court (*Supremo Tribunal Administrativo*) and the other administrative and fiscal courts;

The Court of Auditors (*Tribunal de Contas*).

Maritime and Arbitration Courts and Justices of the Peace are also possible.

The law sets out the cases and ways in which the above-mentioned courts may constitute, separately or jointly, a conflict court (*Tribunal dos Conflitos* - court dealing with conflicts of jurisdiction).

Without prejudice to the provisions regarding military courts (*tribunais militares*), which may be created during states of war, courts with exclusive competence to rule on certain categories of crime are prohibited.

Judicial Courts

Supreme Court of Justice

The Supreme Court of Justice is the highest body in the hierarchy of the judicial courts, without prejudice to the competence of the Constitutional Court. It is made up of civil, criminal and social sections.

It has its seat in Lisbon and jurisdiction over the entire Portuguese territory.

The Supreme Court of Justice operates under the direction of a President (presiding judge), and sits as a full bench (consisting of all the judges who make up the different sections), in specialised divisions and in sections.

Save in the case of legally enshrined exceptions, the Supreme Court of Justice only deals with matters of law.

Courts of Appeal

The Courts of Appeal (*tribunais da relação*) are, as a rule, courts of second instance.

Courts of Appeal currently sit in Lisbon, Porto, Coimbra, Évora and Guimarães. They are presided over by a President (presiding judge) when sitting both in full bench and by section.

The Courts of Appeal have Civil, Criminal, Social, Family and Youth, Business, Intellectual Property and Competition, Regulation and Supervision sections.

The existence of the Social, Family and Youth, Business, Intellectual Property and Competition, Regulation and Supervision sections will depend on the quantity or complexity of the work that is needed. They are set up by order of the Supreme Council of the Judiciary on a proposal of the President of the respective Court of Appeal.

Courts of First Instance (*Tribunais judiciais de 1.ª instância*)

The Courts of First Instance are, as a rule, district courts (*tribunais de comarca*). They exercise jurisdiction in all matters that are not assigned to other courts. District Courts are of both general and specialised competence.

District Courts are divided into benches of specialised or general competence, as well as local 'satellite' benches. Benches are named in accordance with the type of proceeding they deal with and the name of the municipality in which they are located.

The following benches of specialised competence may be created:

Central Civil (*Central cível*);

Local Civil (*Local cível*);

Central Criminal (*Central criminal*);

Local Criminal (*Local criminal*);

Local Minor Criminal (*Local de pequena criminalidade*);

Criminal Enquiry (*Instrução criminal*);

Family and Youth (*Família e menores*);

Employment (*Trabalho*);

Commercial (*Comércio*);

Enforcement (*Execução*).

The judicial courts of first instance work either with judges sitting alone, with full benches, or with a full bench and jury, depending on the case. Each District Court has a President with powers of representation and leadership, case management and administrative and functional management.

When there are more than five judges in the same court or bench, the presiding judge, after having heard the other judges, may present a nomination for a judge-coordinator (*magistrado judicial coordenador*) to the Supreme Council of the Judiciary for one or more of the benches, with the prior consent of the respective judge. Under the guidance of the presiding judge, the judge-coordinator carries out the duties delegated to them by that judge, without prejudice to the right of the case to be delegated to a higher court (*avocação*), and has to provide an account of their work whenever called upon to do so by the presiding judge.

Administrative and Fiscal Courts

The administrative and fiscal courts are competent to rule on actions and appeals relating to the settlement of disputes arising from legal relations in administrative and fiscal matters. The administrative and fiscal courts are as follows:

The Supreme Administrative Court;

central administrative courts;

district administrative courts;

fiscal courts.

The Supreme Administrative Court

The Supreme Administrative Court is the highest body in the hierarchy of the administrative and fiscal courts, without prejudice to the competence of the Constitutional Court.

It has its seat in Lisbon and jurisdiction over the entire Portuguese territory.

The Supreme Administrative Court consists of a section for administrative disputes and a section for fiscal disputes. Its main responsibility is to rule on appeals against judgements handed down by the central administrative courts.

The Supreme Administrative Court operates under the direction of a President (presiding judge) assisted by three Vice-Presidents.

Depending on the subject-matter, the court functions with a full bench, a full bench for each section, or by section. The full bench and the full bench for each section examine points of law only.

Central Administrative Courts

The central administrative courts are, as a rule, courts of second instance of administrative jurisdiction. There are currently two central administrative courts (North and South).

Their main function is to rule on appeals against decisions made by district administrative courts and fiscal courts.

Each court consists of a section for administrative disputes and a section for fiscal disputes.

The central administrative courts operate under the direction of a President (presiding judge) assisted by two Vice-Presidents.

The central administrative courts examine facts and points of law.

District Administrative Courts and Fiscal Courts

These are courts of first instance, whose main function is to rule on disputes on administrative and fiscal matters. They may function autonomously, under the titles of district administrative courts or fiscal courts, or jointly, under the title of administrative and fiscal court.

They operate under the direction of a President, who is appointed for a five-year term by the CSTAF (*Conselho Superior dos Tribunais Administrativos e Fiscais* - Supreme Council of Administrative and Fiscal Courts).

These courts are generally presided over by a sole judge, but the law states that in certain case different arrangements may apply.

Justices of the Peace

Justices of the Peace (*juígados de paz*) offer an alternative method for the settlement of disputes that are exclusively civil in nature, in matters involving small sums of money and not involving family, inheritance or employment law.

Under the terms of the current version of Law No 78/2011 of 13 July 2011, Justices of the Peace are competent to assess and judge declaratory actions whose value does not exceed the jurisdiction of the courts of first instance (EUR 15 000).

Under Article 9 of this same law, Justices of the Peace are competent to hear and determine:

actions to enforce compliance with obligations, with the exception of those involving compliance with financial contracts of accession;

actions for the surrender of moveable goods;

actions arising from the rights and duties of joint property owners, where the respective general meeting has not made it mandatory for there to be arbitration to settle disputes between joint owners, or between the joint owners and the administrator;

actions for the settlement of disputes between the owners of buildings concerning temporary forced passage, natural drainage of water, works to protect against flooding, sharing of drains, channels, and hedges; opening of windows, doors, verandas and similar constructions; roof rainwater run-off, planting of trees and bushes, internal and external party walls;

actions for the recovery of property, possessory actions, actions relating to usucapion, acquisition and division (of assets held in common;

actions concerning the right to use and administrate jointly-owned property, surface rights, rights of usufruct, , rights of usage and habitation and the right in rem of time-share contracts;

actions concerning property leases, with the exception of evictions;

actions concerning civil liability, both contractual and non-contractual;

actions relating to the non-fulfilment of contracts, with the exception of employment contracts and rural leases;

actions involving the general guaranteeing of obligations.

Justices of the Peace are also competent to hear requests for civil compensation where charges have not been pressed or have been dropped, arising from:

bodily harm;

bodily harm caused by negligence;

slander;

libel;

theft;

damage;

defacing of landmarks;

fraud to obtain food, drink or services.

In accordance with Article 16, each Justice of the Peace has a mediation service available to those who require it as an alternative method for the settlement of disputes. The aim of this service is to encourage the early settlement of disputes by agreement between the parties. The service is competent to mediate in any disputes subject to mediation, even those which do not fall under the jurisdiction of the Justices of the Peace.

Last update: 29/01/2024

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