

Portugal

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

Courts of first instance (*Tribunais judiciais de 1.ª instância*)

The courts of first instance are, as a rule, the district courts (*tribunais de comarca*). They are responsible for trying cases in all matters that do not fall under the jurisdiction of other courts. The district courts have both general and specialised competence.

The district courts are divided into benches of specialised or general competence, as well as local benches. The benches are named in accordance with their competence 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 following specialised courts have a wider territorial competence:

Court for Intellectual Property (*Tribunal da propriedade intelectual*);

Court for Competition, Regulation and Supervision (*Tribunal da concorrência, regulação e supervisão*);

Maritime Court (*Tribunal Marítimo*);

Court for the Application of Sentences (*Tribunal de execução das penas*);

Central Court of Criminal Enquiry (*tribunal central de instrução criminal*).

Benches having specific competence

Of these benches, the following are especially relevant:

Central civil

These benches are competent to:

try civil declaratory judgment actions under the common procedure for values higher than EUR 50,000.00;

carry out, as part of civil enforcement procedures for values higher than EUR 50,000.00, the duties provided for in the Code of Civil Procedure relating to geographical areas for which there are no competent benches or courts;

try urgent interim proceedings on matters that fall under their competence;

carry out the other responsibilities attributed to them by law.

Family and youth benches

In matters relating to **the civil status of persons and family**, these benches try:

non-contentious proceedings between spouses;

non-contentious proceedings in situations of non-marital cohabitation or relating to persons who live together as a shared household;

actions relating to the separation of persons and property, and to divorce;

actions to declare the nullity or annulment of civil marriage;

actions put in motion based on Article 1647 and on Article 1648(2) of the Civil Code, approved by Decree-Law No 47344, of 25 November 1966;

actions for and enforcements of maintenance payments between spouses and between ex-spouses;

other actions relating to the civil status of persons and family.

As well as powers in this area, these benches also exercise powers that the law attributes to the courts relating to inventory procedures arising from the separation of people and property, divorce, or the declaration of nullity or annulment of civil marriage, as well as relating to special cases of separation of property which are covered by the appropriate laws.

In the area of **minors and of adult children**, the benches are competent to:

establish guardianship and the administration of assets;

appoint a person to carry out legal transactions in the name of the minor and also to appoint a general guardian who will represent, out of court, the minor who is the subject of parental responsibility;

grant adoptions;

govern the exercise of parental responsibility and hear issues that relate to it;

set the maintenance payments that are due to minors and to the adult or emancipated children referred to in Article 1880 of the Civil Code, approved by Decree-Law No 47344, of 25 November 1966, and to try actions for the enforcement of maintenance payments;

order the placement of minors in care while awaiting adoption;

determine placement under the measure of promotion and protection with the person selected for adoption, or an institution with a view to future adoption;

establish a relationship of civil custody (*apadrinhamento civil*) and revoke such decisions;

authorise the legal representative of the minor to carry out certain acts, to validate those that have already been carried out without authorisation and to make arrangements relating to the acceptance of donations;

make decisions on the payment of the financial security that the parents must make over in favour of their minor children;

determine the total or partial prohibition of, and establish limits to, the exercise of parental responsibility as provided for in Article 1920 of the Civil Code, approved by Decree-Law No 47344, of 25 November 1966;

carry out the official determination of maternity and paternity, and try challenges and investigations relating to issues of maternity and paternity;

decide, when the parents are in disagreement, on the first name and family name of the minor.

In addition to the competences in this area, the benches are also responsible for:

where guardianship or the administration of assets exists, determining the remuneration of the guardian or administrator; hearing and determining the release, resignation or removal of the guardian, the administrator or the member of the family council; demanding and evaluating the accounts, authorising the substitution of the legal mortgage and determining the reinforcement and the replacement of the security provided; and appointing a special guardian to represent the minor out of court;

appointing a special guardian who will represent the minor in all guardianship proceedings;

changing, revoking and reviewing the adoption; demanding and evaluating the accounts of the adopter and stipulating the amount of money from income that is to be spent on maintenance of the adoptee;

deciding on the increase to and the substitution of the security provided in favour of minor children;

demanding and evaluating the accounts that the parents must provide;

deciding on any other matters relating to the procedures referred to in the previous paragraphs[a) to m)].

In relation to **matters of educational guardianship and of protection**, the courts are responsible for:

trying promotion and protection proceedings;

applying measures of promotion and protection and monitoring their implementation when required, whenever a child or young person is in a situation of risk and when intervention by the protection committee is not applicable;

carrying out the jurisdictional acts required for the investigation of educational guardianship;

evaluating the facts that qualify as crimes under the law, carried out by minors between the ages of 12 and 16, with a view to the application of measures of guardianship;

implementing and reviewing measures of guardianship;

declaring the termination or removal of measures of guardianship;

hearing appeals against decisions applying disciplinary measures on minors who are the subject of custodial orders.

Employment benches

These hear, in civil matters and others, the questions that arise from employer-employee relationships and from relationships established with a view to the signing of contracts of employment, relating to accidents at work and occupational illnesses, of contracts that are comparable under the law to employment contracts, and of apprenticeship and traineeship contracts, as well as questions relating to strike-related civil issues.

Commercial benches

These benches try:

insolvency proceedings and special restructuring measures;

actions to declare the non-existence, nullity and rescission of memoranda and articles of association;

actions relating to the exercise of company rights;

actions for the suspension or cancellation of company resolutions;

actions for the judicial winding-up of companies;

actions for the winding-up of companies created under the European Company Statute (ECS);

actions for the winding-up of holding companies;

actions referred to in the Code of Company Registration;

actions for the winding-up of credit institutions and finance companies.

They are also responsible for judging challenges to orders made by the registrars of company registry offices, as well as challenges to the decisions made by registrars as part of the administrative procedures carried out for the winding-up or liquidation of companies.

Enforcement benches

These benches are responsible for civil enforcement procedures as laid down in the Code of Civil Procedure, except those cases attributed to the Court for Intellectual Property, the Court for Competition, Regulation and Supervision, the Maritime Court, family and youth benches, employment benches and commercial benches. Enforcement benches also deal with the enforcement of judgments given in criminal proceedings that, under the terms of the law of criminal procedure, should not be dealt with in a civil court.

Courts with wider territorial competence

Courts for Intellectual Property

hear issues relating to:

actions in which the cause of action relates to copyright and connected rights;

actions in which the cause of action relates to industrial property, in any of the modalities provided for by law;

actions of invalidation and annulling of patents, supplementary protection certificates, utility models and topographies of semiconductor products provided for in the Code of Industrial Property (*Código da Propriedade Industrial*) and other applicable legislation, as well as requests for the declaration of the invalidation or annulling of registrations of drawings or models, brands, logotypes, rewards, designations of origin and geographical indications that are the subject of counter-claim proceedings;

appeals against decisions made by the National Industrial Property Institute (*Instituto Nacional da Propriedade Industrial, I. P. - INPI, I. P.*) which grant or reject any type of industrial property rights or decisions relating to transfers, licences or declarations of obsolescence, or to any other acts that affect, modify or extinguish rights of industrial property;

the appeal and review of the decisions, or of any other measures that may legally be challenged, made by the National Industrial Property Institute in cases relating to infringements and fines;

declaratory judgment actions in which the cause of action relates to Internet domain names;

appeals against decisions made by the Foundation for National Scientific Analysis (*Fundação para a Computação Científica Nacional*), which is the competent authority responsible for registering, rejecting or renewing .pt domain names;

actions in which the cause of action relates to companies or company names;

appeals against decisions made by the Institute of Records and Notaries (*Instituto dos Registos e do Notariado, I. P. - IRN, I. P.*) relating to the admissibility of companies and trading names under the legal framework of the National Register of Legal Entities (*Registo Nacional de Pessoas Coletivas*);

actions in which the cause of action relates to the practice of acts of unfair competition or of the infringement of trade secrets related to industrial property;

measures for obtaining and preserving evidence and for the provision of information, when required for the protection of intellectual property rights and copyright.

Court for Competition, Regulation and Supervision

Amongst other issues, this court hears questions relating to the appeal, review and enforcement of decisions, orders and other measures arising from cases of infringement that can be legally challenged, issued by several regulatory bodies, namely the Competition Authority (*Autoridade da Concorrência*), the Portuguese Civil Aviation Authority (*Autoridade Nacional da Aviação Civil*), the Bank of Portugal (*Banco de Portugal*) and the Portuguese Securities Market Commission (*Comissão do Mercado de Valores Mobiliários*).

Maritime Courts

hear issues relating to:

compensation due for damage caused or suffered by ships, boats and other floating vessels, or resulting from their use at sea under the general terms of the law;

contracts for the construction, repair, purchase and sale of ships, boats and other floating vessels, provided they are intended for maritime use;

contracts for transport by sea or combined or multi-modal transport contracts;

contracts for transport by river or canal, within the limits set out in table No 1 attached to the general regulations for harbours (*Regulamento Geral das Capitanias*), approved by Decree-Law No 265/72, of 31 July 1972;

contracts for the chartering or leasing of sea-going ships, boats and other floating vessels;

contracts for the insurance of ships, boats and other floating vessels intended for maritime use, and their cargoes;

mortgages and privileges in respect of ships or boats, and any collateral with respect to floating vessels and their cargoes;

special procedures relating to ships, boats and other floating vessels and their cargoes;

urgent interim proceedings relating to ships, boats and other floating vessels, their respective cargoes and bunker oil, and other assets belonging to the ships, boats and other floating vessels, as well as preliminary requests to the harbour master to support the outward movement of the items that are the object of these proceedings;

matters of general average or particular average, including those that refer to other floating vessels for maritime use;

maritime assistance and salvage;

contracts for towing and pilotage;

removal of debris;

civil liability in relation to pollution of the sea and other waters under their jurisdiction;

the use, loss, finding or appropriation of methods or equipment for fishing or for the gathering of seafood, molluscs and seaweed, irons, equipment, weapons, supplies and other objects for the use of sailing or fishing, as well as damage caused or suffered by this same material;

damage caused to assets belonging to the maritime public domain;

ownership and possession of debris from vessels that has washed ashore, and of items or any existing remains that originate or come from the ocean and which are resting on the soil or subsoil or which come from or exist in inland waters, if this is of maritime interest;

arrests;

all general issues on matters of commercial maritime law;

appeals against decisions made by the harbour master in cases of maritime infringements.

Court for the Application of Sentences

This court monitors and supervises enforcement, and makes decisions on modification, substitution and ending of the penalty or custodial measure set out in the judicial decision after sentencing has taken place. The court is competent to:

determine the enforcement of the supplementary penalty of deportation, declaring the prison sentence to be at an end, and determine the early implementation of the supplementary penalty of deportation;

declare the end of a prison sentence, of a sentence with no fixed time frame in law (*pena relativamente indeterminada*) or of a security measure of internment;

issue warrants for arrest, detention and release;

issue a declaration of non-compliance and order the seizure of assets relating to a convicted person who has intentionally removed themselves, in full or in part, from the implementation of a prison term or custodial measure;

decide on the provisional cancellation of facts or decisions that were entered on a criminal record.

Central Court of Criminal Enquiry

This court carries out criminal enquiries, makes sentencing decisions and has jurisdiction over the investigation when the criminal activity occurs in districts belonging to different Courts of Appeal (*Tribunais da Relação*) and whenever the following crimes are involved:

crimes against peace and humanity;

crimes of terrorist organisation and terrorism;

crimes of endangering the security of the State, with the exception of electoral crimes;

trafficking of narcotics, psychotropic substances and drug precursors, except for situations of direct distribution to the consumer, and criminal association relating to trafficking;

money laundering;

corruption, embezzlement, and graft and corruption;

malicious insolvency;

maladministration of economically-independent public sector organisations;

fraud relating to the obtaining or misappropriation of grants, awards or loans;

economic and financial offences committed in an organised manner, in particular involving the use of information technology;

economic and financial offences that are international or transnational in scope.

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