

Home>Gerechtiglijke procedures>Civiele zaken>In welk land is de rechtbank bevoegd?

Which country's court is responsible?

Portugal

### 1 Should I apply to an ordinary civil court or to a specialised court (for example an employment labour court)?

First of all, it should be noted that the replies given in this factsheet refer only to judicial courts (commonly referred to as ordinary courts (*tribunais comuns*) in Portugal. In addition to judicial courts, there are other categories of court: the Constitutional Court, administrative courts, the Audit Court (*Tribunal de contas*). There are also Justices of the Peace (*Julgados de Paz*) and courts of arbitration (*Tribunais arbitrais*).

To find out which category has jurisdiction, the following rule applies: the judicial courts have jurisdiction over cases which are not assigned to another category of court.

Moreover, within the category of judicial courts, the opposite of a specialised court is not an ordinary civil court. The opposite of a specialised court is a court of general jurisdiction. The choice between a specialised bench (*juízo*) or court and a bench or court of general jurisdiction depends on the subject-matter of the action and, in certain cases, which are indicated below, it also depends on how much the case is worth.

The following laws apply:

Law No 62/2013 of 26 August 2013, which may be consulted in its most up to date version at:

[http://www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?nid=1974&tabela=leis](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=1974&tabela=leis)

Decree-Law No 49/2014 of 27 March 2014, which may be consulted in its most up to date version at:

[http://www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?nid=2075&tabela=leis&ficha=1&pagina=1&so\\_miolo=&](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=2075&tabela=leis&ficha=1&pagina=1&so_miolo=&)

The judicial courts of first instance are, as a general rule, broken down into courts with wider territorial jurisdiction (*Tribunais de competência territorial alargada*) and district courts (*Tribunais de comarca*) (Article 33 of Law No 62/2013)..

To find out which court of first instance you should apply to, the following points also need to be considered.

The courts with wider territorial jurisdiction are specialised judicial courts with competence extended to the whole of the territory or a part of the territory that includes several districts. Portugal has the following courts with wider territorial jurisdiction: Maritime Court (*Tribunal marítimo*); Intellectual Property Court (*Tribunal da propriedade intelectual*); Competition, Regulation and Supervision Court (*Tribunal da concorrência, regulação e supervisão*); the Court for Enforcement of Sentences (*Tribunal de execução das penas*); the Central Criminal Investigation Court (*Tribunal central de instrução criminal*) (Article 83 of Law No 62/2013).

The district courts are divided into courts of specialised, general competence and local jurisdiction (Article 81 of Law No 62/2013).

The central benches are all specialised and are broken down into central civil benches, central criminal benches, central criminal enquiry benches, central commercial benches, central enforcement benches, central family and juvenile benches and central labour benches.

The local benches are broken down into civil local benches, criminal local benches, local benches for petty crime, local benches with general jurisdiction and proximity local benches.

Proximity local benches function as a branch of the District Court: they merely receive documents relating to cases which have already been brought before benches or courts with jurisdiction in the area of that district, provide information, hold video conferences and provide support for proceedings. However, cases are not heard at a proximity local bench and, in principle, must not be brought there (Article 130(5) and (6) of Law No 62/2013).

In specific cases, proceedings exist which must be brought before and heard by authorities other than judicial courts. Depending on the case, these proceedings are referred to the court with jurisdiction at certain stages: when there is a challenge, appeal, or need to approve certain decisions. This is the case with the following proceedings:

Special eviction proceedings must be lodged electronically at the National Rental Office (*Balcão Nacional do Arrendamento*) in Porto, which covers the whole of Portugal. Please consult: [here](#)

Payment order proceedings to collect a debt must be lodged electronically at the National Payment Order Office (Balcão Nacional de Injunções) in Porto, which covers the entire national territory. Please consult: [here](#)

Inventory of succession proceedings (*processo de inventário*) must be applied for in judicial courts in some cases, whereas in other cases they may be brought either in court or alternatively at a notary office.

It is the responsibility of the public prosecutor at the competent court to decide on applications for: exemption from the requirement for consent (when the application relates to the incapacity or absence of a person); authorisation to carry out actions by the legal representative of the incapacitated person; authorisation for the disposal or encumbrance of assets of the absent person; confirmation of acts performed by the representative of the incapacitated person; and notification of the legal representative to pronounce on the acceptance or rejection of gifts in favour of the incapacitated person.

Proceedings aiming to reach agreement between the parties on the following matters must be commenced at any civil registry office: maintenance for adult or emancipated children; maintenance for children who are minors, when both parents agree; who gets the family home; removal of the right to use the surnames of the other spouse; authorisation to use the surnames of the ex-spouse; separation and divorce by mutual consent with or without joint property; conversion of judicial separation of persons and assets into divorce; regulation of or change in the regulation of parental responsibility for minor children.

### 2 Where the ordinary civil courts have jurisdiction (i.e. these are the courts which have responsibility for such cases) how can I find out which one I should apply to?

In this reply, ordinary local civil courts are understood to be the local civil benches and benches with general jurisdiction at the district courts. The jurisdiction of these courts is defined by default, in other words, they have jurisdiction when no other section or specialised court has jurisdiction. They also have jurisdiction when the value of the case is low.

You should therefore go to the local civil bench or, should none exist, to the local bench with general jurisdiction at the district court, when the following cases are involved:

civil declaratory actions of an ordinary nature with a value equal to or less than €50 000.00;

cases not assigned to other benches or courts with wider jurisdiction;

enforcement proceedings where there is no enforcement bench or other specialised bench or court with jurisdiction;

urgent acts relating to minors in respect of civil guardianship, educational guardianship and upbringing, even when there is a family and juvenile section that has jurisdiction over such actions, in cases where the said family and juvenile section is in a different municipality;  
warrants, letters, notices and communications which must be complied with locally at the request of other courts or authorities with jurisdiction;  
other cases laid down by law;  
appeals against decisions made by the harbour master in maritime administrative offence proceedings, and ordinary declaratory actions of a value equal to or less than €50 000.00 within the subject-matter jurisdiction of the Maritime Court in judicial districts not covered by the territorial jurisdiction of the Maritime Court;  
small claims cases provided for in Regulation (EC) No 861/2007 of 11 July 2007.

To find out whether you should apply to the civil local bench or local bench with general jurisdiction, or to a specialised central bench, please also see the reply to question 3 below *Where specialised courts have jurisdiction; how can I find out which one I have to address?*.

**2.1 Is there a distinction between lower and higher ordinary civil courts (for example district courts as lower courts and regional courts as higher courts) and if so which one is competent for my case?**

According to the rules of jurisdiction with respect to hierarchy, judicial courts are divided into courts of first instance, Courts of Appeal (*Tribunais da Relação*) (or courts of second instance) and the Supreme Court of Justice (*Supremo Tribunal de Justiça*), which is the judicial court of last instance (Article 42 of Law No 62/2013).

The law provides for cases where the admissibility of the appeal depends on the limit of the courts:

Courts of Appeal may award up to EUR 30 000.00

Courts of first instance (*Tribunais de primeira instância*) may award up to EUR 5 000.00 (values at the date when this factsheet was last updated).

As a general rule, the Supreme Court of Justice hears appeals with a value which exceeds the limit of the Courts of Appeal and Courts of Appeal hear appeals with a value which exceeds the limit of the judicial courts of first instance (Article 44 of Law No 62/2013).

Actions must be brought and commence before courts of first instance. Furthermore, courts of first instance have jurisdiction to hear appeals against the decisions of notaries and registrars and other decisions provided for by law. To determine which court of first instance has jurisdiction, it is necessary to apply the jurisdictional rules on subject-matter, value and territory, which will be set out in the replies to the questions below.

In principle, Courts of Appeal hear only appeals lodged against decisions of courts of first instance. Exceptionally, the law confers on them jurisdiction to certain cases at first instance. Appeal courts also hear conflicts of jurisdiction between courts of first instance, complaints against orders made at first instance and the review of foreign court judgments in civil and commercial matters.

The Supreme Court of Justice hears appeals against judgments delivered by Courts of Appeal. In special cases provided for by the law, it hears appeals against judgments made at first instance. Exceptionally, the law confers on it jurisdiction to hear certain cases as the court of first and last instance. The Supreme Court of Justice also hears cases involving conflicts of jurisdiction between Courts of Appeal and exceptional review procedures for the standardisation of case-law.

**2.2 Territorial jurisdiction (is the court of city/town A or of city/town B competent for my case?)**

**Courts of first instance**

In Portugal, there are 23 District Courts (*tribunais judiciais de comarca*):

District Court of the Azores  
District Court of Aveiro  
District Court of Beja  
District Court of Braga  
District Court of Bragança  
District Court of Castelo Branco  
District Court of Coimbra  
District Court of Évora  
District Court of Faro  
District Court of Guarda  
District Court of Leiria  
District Court of Lisbon  
District Court of Lisbon North  
District Court of Lisbon West  
District Court of Madeira  
District Court of Portalegre  
District Court of Porto  
District Court of Porto East  
District Court of Santarém  
District Court of Setúbal  
District Court of Viana do Castelo  
District Court of Vila Real  
District Court of Viseu

(Article 33 of Law No 62/2013).

In addition to these courts, there are courts of wider territorial jurisdiction, of which the following three also have civil and commercial jurisdiction:

Maritime Court (*Tribunal Marítimo*),

Intellectual Property Court (*Tribunal da Propriedade Intelectual*),

Competition, Regulation and Supervision Court (*Tribunal da Concorrência, Regulação e Supervisão*)

(Article 83 of Law No 62/2013).

**Courts of Appeal**

At second instance, there are five Courts of Appeal referred to by the name of the municipality where they are located:

Lisbon Court of Appeal

Porto Court of Appeal

Coimbra Court of Appeal

Évora Court of Appeal  
Guimarães Court of Appeal  
(Annex I as referred to in Article 32(1) of Law No 62/2013).

#### **Final instance**

Supreme Court of Justice, located in Lisbon.  
(Article 31 of Law No 62/2013).

The Supreme Court of Justice has jurisdiction over the whole of Portugal. Courts of Appeal and courts of first instance have jurisdiction within their respective judicial districts, which are defined in the law on the organisation of the judicial system (Law No 62/2013 of 26 August 2013). To find out if the court of city A or city B has jurisdiction, it is necessary to consult Annexes I, II and III to the abovementioned law on the organisation of the judicial system.

#### **2.2.1 The basic rule of territorial jurisdiction**

##### **Natural persons**

The court of the defendant's domicile has jurisdiction unless otherwise provided for in a specific legal provision or in the rules set out below (Article 80 of the Code of Civil Procedure):

If the defendant does not have an habitual residence or their residence is unknown or they are absent, the case will be brought in the court of the plaintiff's domicile.

An application for provisional or permanent custody of the assets of an absent person is made to the court of the person's last known domicile in Portugal. If the defendant's domicile and residence are in a foreign country, the court of the place where the defendant is located has jurisdiction.

If the defendant is not in Portugal, the court of the plaintiff's domicile has jurisdiction. When this plaintiff's domicile is also in a foreign country, the Lisbon Court has jurisdiction.

##### **Legal persons and companies**

If the defendant is the State, in cases where the court of the defendant's domicile would have jurisdiction, jurisdiction passes to the court of the plaintiff's domicile (Article 81 of the Code of Civil Procedure).

If the defendant is another legal person or a company, the court of the place of its head office or of the place of its branch, agency, subsidiary, delegation or representation will have jurisdiction, depending on whether the action is brought against the legal person or the latter entities.

However, cases brought against foreign legal persons or companies which have a branch, agency, subsidiary, delegation or representation in Portugal may be brought in courts in the areas where these have their registered addresses even where application is made for service on the head office.

##### **Multiple defendants and cumulative applications** (Article 82 of the Code of Civil Procedure)

When there is more than one defendant in the same case, they must all be sued in the court where the majority of them are domiciled. If the number of defendants in the different domiciles is the same, the plaintiff may choose the court of the domicile of any of the defendants.

If the plaintiff is making multiple applications for which various courts would have territorial jurisdiction, the plaintiff may choose any of the courts to bring the action.

The only exception to this is situations where the court is able to assess of its own motion whether it lacks jurisdiction with regard to any of the applications for territorial or value reasons or under an agreement. Where the court determines this case, the action must be brought before the court with jurisdiction over the application concerned. This is what happens, for example, in certain cases where jurisdiction to hear one of the applications depends on the situation of the immovable property or the place of compliance with the obligation. It also applies in cases involving a protective order (*providência cautelar*) or preparatory steps (*diligência antecipada*) and to cases in which judges or certain of their relatives are parties, certain enforcement proceedings, cases which must be joined to other cases, cases where notice is not served on the defendant before judgment or cases where the court does not have jurisdiction due to the value of the case.

When there are multiple applications between which there exists a relationship of dependency or subsidiarity, the case must be brought before the court which has jurisdiction to hear the main application.

##### **Action where one of the parties is a judge, a judge's spouse or certain relatives** (Article 84 of the Code of Civil Procedure)

For actions involving a judge, a judge's spouse, any of the judge's relatives in the descending or ascending line or a person with whom the judge lives together in a shared household and where such cases must be brought in the judicial district where the judge exercises jurisdiction, the main court of the judicial district which is closest to the judge's judicial district has jurisdiction.

If the action is brought in the judicial district where the judge prevented from acting exercises jurisdiction or if such a judge is posted there and the case is already being heard, the case is transferred to the closest judicial district.

The abovementioned rules do not apply to judicial districts where there is more than one judge, as in this event, the action is assigned or transferred to a different judge in the same judicial district.

##### **Hearing of appeals**

Appeals must be brought before the court to which the court from whose decision the appeal is brought is hierarchically subordinate (Article 83 of the Code of Civil Procedure).

#### **2.2.2 Exceptions to the basic rule**

##### **2.2.2.1 When can I choose between the court in the place where the defendant lives (court determined by the application of the basic rule) and another court?**

##### **2.2.2.2 When do I have to choose a court other than that in the place where the defendant lives (court determined by the application of the basic rule)?**

*The following is a joint reply to these three questions.*

##### **Jurisdiction of the location of assets**

Actions involving rights in rem or in personam over immovable property, the division of jointly owned property, eviction, right of pre-emption, and foreclosure, as well as actions involving the remortgaging, substitution, reduction or release of mortgages must be brought before the court for the area where the property in question is located.

However, actions involving the remortgaging, substitution, reduction or release of mortgages on ships or aircraft are brought in the court of the judicial district of the relevant place of registration. If the mortgage covers ships or aircraft registered in several judicial districts, the plaintiff can opt for any of these.

When the object of the action is a group of moveable items belonging to the same person and intended for a single use, or moveable and immovable assets, or real estate assets situated in different judicial districts, the action in question is brought in the court in the district where the most valuable immovable assets are located. For this purpose, the land register values will be used. If the immovable asset which is the object of the action is located in more than one judicial district, the plaintiff may opt to bring the action in any of those judicial districts (Article 70 of the Code of Civil Procedure).

##### **Competence for compliance with the obligation**

Actions seeking enforcement of obligations, compensation for non-compliance or for incomplete compliance with obligations and termination of a contract due to non-compliance are brought in the court of the defendant's domicile.

The creditor may opt for the court at the place where the obligation should have been fulfilled when the defendant is a legal person or when, the domicile of the creditor being located in the metropolitan areas of Lisbon or Porto, the defendant is domiciled in the same metropolitan area.

In an action to establish civil liability based on an unlawful act or risk, the court with jurisdiction is the court of the place where the act occurred (Article 71 of the Code of Civil Procedure).

#### **Divorce and separation**

The court with jurisdiction over divorce and legal separation proceedings is that of the area of domicile or residence of the plaintiff (Article 72 of the Code of Civil Procedure).

#### **Actions for payment of fees**

For seeking payment of the fees of legal representatives or experts and recovery of sums advanced to the client, the court with jurisdiction is the court in which the service was provided. Actions seeking the payment of fees are joined to the case for which the service was provided.

If the case in which the service was provided was brought in the Court of Appeal or the Supreme Court of Justice, the action seeking payment of fees must be heard in the District Court of the debtor's domicile (Article 73 of the Code of Civil Procedure).

#### **Determination and apportionment of general average**

The court of the port where the cargo of a ship that has suffered general average was or should have been delivered has jurisdiction to determine and apportion general average (Article 74 of the Code of Civil Procedure).

#### **Loss and damage due to a collision between ships**

An action for loss and damage due to a collision between ships may be brought in the court of the area where the accident occurred, the court of the domicile of the owner of the ship which struck the other, the court of the place where this ship is based or where it is located, or the court of the place of the first port of call of the ship which was struck (Article 75 of the Code of Civil Procedure).

#### **Awards for salvaging or assisting ships**

Applications seeking payment of the awards due for salvaging or assisting ships may be lodged in the court of the place where the event occurred, of the place of domicile of the owner of the salvaged objects or of the place where the salvaged ship is registered or is to be found (Article 76 of the Code of Civil Procedure).

#### **Extinction of liens over ships**

An action for a declaration that a ship acquired free of charge or for consideration is free of any liens is brought in the court of the port where the ship is anchored at the time of acquisition (Article 77 of the Code of Civil Procedure).

#### **Interim measures and preparatory steps**

Applications for seizure and impounding of goods may be made to the court where the corresponding action must be brought, or in the place where the assets are located or, if there are assets in a number of districts, in any one of them.

For a protective order seeking the immediate suspension of new construction works (*embargo de obra nova*), the court of the place where the works are to be done has jurisdiction.

For other interim measures, the court with jurisdiction is the court before which the corresponding action is to be brought.

Preparatory steps taken to produce evidence are requested in the court of the district in which the steps are to be taken.

Proceedings for interim measures and preparatory steps to produce evidence are joined to the corresponding action and, if necessary, transferred to the court in which the action was brought (Article 78 of the Code of Civil Procedure).

#### **Judicial notifications**

Applications for judicial notifications are made to the court of the district in which the person to be notified resides (Article 79 of the Code of Civil Procedure).

#### **Enforcement** (Article 89 of the Code of Civil Procedure)

**As a general rule**, the court of the debtor's domicile has jurisdiction for enforcement unless otherwise provided for in a specific legal provision or in the rules set out below.

The party applying for enforcement may opt for the court of the place where the obligation is to be performed when the party against whom enforcement is sought is a legal person or when the domicile of the party applying for enforcement is in the metropolitan area of Lisbon or Porto and the party against whom enforcement is sought is domiciled in the same metropolitan area.

If the enforcement proceedings seek the return of goods or a debt secured in rem, the court of the place where the item is located or the place where the encumbered assets are to be found are respectively has jurisdiction.

When enforcement proceedings must be brought in the court of the place of domicile of the party against whom enforcement is sought and that party has no domicile in Portugal but they do have assets there, jurisdiction for the enforcement proceedings lies with the court for the place where the assets are located.

The court where the assets are located also has jurisdiction when: the enforcement proceedings must be brought in a Portuguese court as they concern the validity of the formation/winding-up of companies/other legal persons with a registered office in Portugal, or the validity of decisions of their organs; and none of the situations provided for in the preceding or following rules applicable to enforcement proceedings apply.

In cases involving several enforcements proceedings which fall within the territorial jurisdiction of different courts, the court of the place of domicile of the party against whom enforcement is sought has jurisdiction.

**In the enforcement of a decision by the Portuguese courts**, the enforcement application is made as part of the proceedings in which the decision was handed down is recorded in the same case file. If the case has subsequently gone to appeal, the enforcement is included in the certified copy. When a specialised section has jurisdiction for enforcement, a copy of the judgment, the application initiating the enforcement proceedings and the accompanying documents must be sent to this specialised section as a matter of urgency.

If the decision was made by arbitrators in an arbitration procedure which took place in Portugal, the court with jurisdiction for enforcement is the District Court of the place where the arbitration procedure took place (Article 85 of the Code of Civil Procedure).

If the action was brought before the Court of Appeal or the Supreme Court of Justice, the court of the domicile of the party against whom enforcement is sought has jurisdiction. If the party against whom enforcement is sought is a judge or certain relatives of the judge, the rules apply as mentioned above in *Cases where one of the parties is a judge, a judge's spouse or certain relatives*. In any event, the case file relating to the declaratory proceedings or a copy thereof is sent to the court with jurisdiction for enforcement (Article 86 of the Code of Civil Procedure).

**In enforcement proceedings relating to costs, fines or compensation due to vexatious litigation**, the court where the proceedings led to notification of the respective bill or settlement has jurisdiction. Enforcement proceedings relating to costs, fines or compensation are joined to the corresponding case.

When the order to pay costs, fines or compensation was made in the Court of Appeal or the Supreme Court of Justice, the enforcement proceedings take place in the court of first instance which has jurisdiction in the area where the proceedings took place (Articles 87 and 88 of the Code of Civil Procedure).

**For enforcement based on a foreign judgment**, the court of the defendant's domicile has jurisdiction (Article 86, *pursuant to* Article 90 of the Code of Civil Procedure).

**For a European order for payment**, (Regulation (EC) No 1896/2006 of 12 December 2006, amended by Regulation (EU) 2015/2421), the District Court of Porto, central instance, 1st civil section has jurisdiction.

#### **Labour law**

As a general rule, actions must be brought before the court of the defendant's domicile. Employers or insurers, as well as social security institutions are also considered to be domiciled in the place where they have a branch, agency, delegation or representation (Article 13 of the Law governing employment courts).

**Actions arising from an employment contract** brought by a worker against their employer may be lodged in the court of the place where the work is performed or the place where the worker is domiciled.

If there are several plaintiffs, the court of the place where the work performed or of the place where any of the plaintiffs has their domicile has jurisdiction.

If the work is performed in more than one place, the cases arising from the employment contract may be brought in the court of any of those places (Article 14 of the Law governing employment courts).

**Actions arising from work accidents and occupational disease** must be brought in the court of the place where the accident occurred or where the sick person last worked in a job that could have caused the illness.

If the accident occurs abroad, the action must be brought in Portugal, in the court of the place of the victim's domicile.

If there are several beneficiaries, the court of the place of residence of the greatest number of applicants has jurisdiction or, if the number of applicants is equal, the court of the place of residence of the first person to make an application.

If the injured or sick worker or the beneficiary **is registered as a seaman or aircraft crew member and the accident takes place during a journey or the disease is found during a journey**, the court of the first place on national territory reached by the ship or aircraft or the place where the ship or aircraft is registered also has jurisdiction for the case in question (Article 15 of the Law governing employment courts).

**In the case of collective redundancies**, interim measures of suspension and challenges must be brought in the court of the place where the establishment where work is performed is located.

If the collective redundancy affects workers in several establishments, the court of the place where the establishment with the largest number of dismissed workers is located has jurisdiction (Article 16 of the Law governing employment courts).

#### **Insolvency**

**For insolvency proceedings**, the court with jurisdiction is the court of the place of registered office or domicile of the debtor or of the testator at the date of death, depending on the case.

The court of the place where the debtor has the centre of their main interests also has jurisdiction. This is understood to be the place where the debtor habitually administers such interests in a manner which is habitual and ascertainable by third parties (Article 16 of the Code of Insolvency and Corporate Recovery).

**The publication and registration in a public register of a foreign judgment** opening proceedings, referred to in Articles 21 and 22 of Council Regulation (EC) No 1346/2000 of 29 May 2000, must be requested in the Portuguese court in the area where the debtor's establishment is located. Where the debtor does not have an establishment in Portugal, the request must be made to the Lisbon commercial section, should the insolvent estate involve a company. Should the insolvent estate not involve a company, the Lisbon civil section has jurisdiction.

The abovementioned rule of jurisdiction applies to the **recognition of the insolvency declaration in a foreign case** (Article 288 of the Code of Insolvency and Corporate Recovery).

#### **Inventory of succession**

For jurisdiction in inventory of succession proceedings, see the factsheet on succession.

#### **Maintenance for adults and minors and determination of parental responsibility**

For jurisdiction in declaratory actions relating to maintenance payments for adults and minors, in enforcement thereof and in actions relating to the determination of parental responsibilities, see the factsheet on maintenance.

#### **2.2.2.3 Can the parties themselves attribute jurisdiction to a court that would not be competent otherwise?**

Yes, within certain limits.

Domestically, by express agreement, the parties may decide to depart from the rules on territorial competence. This is the so-called **agreed jurisdiction** (*competência convencional*) (Article 95 of the Code of Civil Procedure).

Agreed jurisdiction may not be established in cases in which the court may declare, of its own motion, lack of territorial jurisdiction. This is what happens, for example, where the court's jurisdiction depends on the situation of the immovable property, the place of performance of the obligation, or in the case of a protective order or preparatory steps. It also applies in actions where the parties are judges or certain of their relatives, certain enforcement proceedings, cases which must be joined to other cases and cases where notice is not served on the defendant before judgment. In these cases, it is not possible to depart from territorial jurisdiction by agreement.

It is never possible to depart from the rules of jurisdiction as to subject-matter, hierarchy and the value of the case at the discretion of the parties.

Jurisdiction based on agreement, where admissible, is as mandatory as that enacted by law. Such agreement must meet the formal requirements of the contract, which is the source of the obligation. In any case, the agreement must be in writing and must specify the issues to which it relates and the criterion applied to determine the court which will have jurisdiction.

Internationally, the parties may agree which court has jurisdiction to settle a specific dispute, or disputes which may arise from a certain legal relationship, provided that the relationship at issue has a connection with more than one legal system. These are the **private agreements conferring jurisdiction** (*actos privados e atributivos de jurisdição*) (Article 94 of the Code of Civil Procedure).

Designation by agreement may involve conferring exclusive jurisdiction or jurisdiction which is merely an alternative to that of the Portuguese courts, where it exists. It is presumed to be exclusive in cases of doubt.

The choice of jurisdiction is valid only when all the following conditions are met:

it concerns alienable rights;

the choice is accepted by the law of the designated court;

the choice is justified by a serious interest of both parties or of one of them, provided it this does not entail any significant inconvenience for the other party;

the subject-matter does not fall within the exclusive jurisdiction of the Portuguese courts;

the choice is the result of a written agreement or an agreement confirmed in writing, which must expressly mention the court with jurisdiction.

Both in the case of agreed competence (domestic), and in the case of private agreements conferring jurisdiction (international), a written agreement is considered to be any document signed by the parties or emerging from an exchange of letters, telexes, telegrams or other means of communication which leave written proof, whether these instruments contain the agreement directly or contain a clause referring to another document containing the agreement.

In employment courts, agreements or clauses for the exclusion of the territorial jurisdiction provided for by law are null and void (Article 19 of the Law governing employment courts).

### 3 Where specialised courts have jurisdiction how can I find out which one I have to address?

As already mentioned, in Portugal the specialised courts at first instance are the central benches at each District Court, the civil local benches and courts with wider jurisdiction.

The subject-matter jurisdiction of each of them will be mentioned below to show which of them you should apply to, depending on the subject-matter of the dispute. As already explained, as a rule, the case starts in the courts of first instance and is only referred to higher courts in the event of an appeal.

#### **Civil central benches** (Article 117 of Law No 62/2013)

ordinary civil actions for a declaration with a value greater than €50 000.00;  
enforcement proceedings of a civil nature with a value greater than €50 000.00, in judicial districts not covered by the jurisdiction of another section or court;  
proceedings for interim measures corresponding to actions within their jurisdiction;  
actions, enforcement proceedings and interim measures which would fall to the commercial section in the districts where no such commercial section exists;  
cases pending in local benches where there has been a change in the value to a amount equal to or higher than €50 001.00;  
proceeding relating to the upbringing of a minor outside the areas covered by the jurisdiction of family and juvenile courts;  
ordinary declaratory actions of a value equal to or less than €50 001.00 falling within the subject-matter jurisdiction of the Maritime Court in the judicial districts outside the territorial competence of the Maritime Court.

#### **Central family and juvenile benches**

*(Civil status of persons and family)*(Article 122 of Law No 62/2013)

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 legal separation and divorce;  
actions for a declaration of nullity or annulment of a legal marriage;  
judicial declaration of good faith of a spouse in case of a putative marriage declared null and void;  
actions for and enforcements of maintenance payments between spouses and between ex-spouses;  
other actions relating to the civil status of persons and family;  
actions within the jurisdiction of the courts in cases of inventory proceedings brought as a consequence of legal separation, divorce, declaration of nullity or annulment of a legal marriage, as well as in special cases of the separation of property to which the rules governing those proceedings apply.

*(Minors and adult children)*(Article 123 of Law No 62/2013)

establishment of wardship and the administration of assets;  
appointment of a person to act in the name of a minor and appointment of a guardian (*curador-geral*) to represent a minor outside court, subject to parental responsibilities;  
granting adoption;  
regulating the exercise of parental responsibilities and dealing with related issues;  
setting the amount of maintenance payments due to minors and adult or emancipated children in respect of whom there is a court decision assigning them maintenance payments as minors;  
dealing with the respective enforcement proceedings for maintenance;  
ordering the placement of minors in care while awaiting adoption (*confiança judicial de menores*);  
ordering measures for placement with a person selected for adoption or an institution with a view to future adoption;  
establishing a permanent foster care relationship (*apadrinhamento civil*) and revoking such decisions;  
authorising the legal representative of minors to carry out certain acts, to validate those acts which may have been carried out without authorisation and to make arrangements regarding the acceptance of gifts;  
taking decisions regarding the guarantee (*caução*) which parents must provide in favour of minor children;  
ordering the total or partial prohibition of parental responsibility and placing limits on the exercise thereof;  
determining maternity and paternity of its own motion and dealing with challenges to and investigations relating to maternity and paternity;  
in the event of disagreement between the parents, deciding on a minor's name and surnames;  
when there is guardianship or administration of assets, determining the remuneration of the guardian or administrator, hearing matters relating to the withdrawal, release or removal of the guardian, administrator or member of the family council (*conselho de família*), demanding and assessing the accounts, authorising the substitution of the statutory mortgage (*hipoteca legal*) and ordering an increase in or replacement of the guarantee provided and appointing a special guardian to represent the minor in extra-judicial matters;  
appointing a special guardian to represent the minor in any guardianship case;  
converting, revoking and reviewing adoption, demanding and assessing the accounts of the adopting party and setting the amounts of income necessary to support the adopted party;  
deciding on an increase in or replacement of the guarantee provided in favour of the minor children;  
demanding and assessing the accounts which the parents are required to provide;  
hearing other matters in the proceedings referred to in the previous paragraph;  
reviewing the decisions of other entities in cases in which the law reserves some of the competences mentioned in the previous six points for such entities.  
*(Educational and protective guardianship matters)* (Article 124 of Law No 62/2013)  
preparing, appraising and deciding on proceedings relating to the upbringing of a minor;  
applying measures relating to the upbringing of a minor and monitoring their implementation, whenever a child or young person is in a situation of risk and there is no case for intervention by the commission for the protection of children;  
performing the judicial acts relating to the educational guardianship inquiry (*inquérito tutelar educativo*);  
appraising the acts qualified by law as a crime, committed by a minor aged between 12 and 16, with a view to applying a guardianship measure;  
implementing and reviewing guardianship measures;  
declaring the termination or cancellation of guardianship measures;  
hearing the appeal against any decisions which apply disciplinary measures to minors who have been subject to a custodial measure.

#### Note

*The jurisdiction of central family and juvenile benches with respect to educational and protective guardianship matters ceases if: a non-suspended penalty involving deprivation of liberty is applied in criminal proceedings for a crime committed by a minor aged between 16 and 18; or the minor turns 18 years old before the date of the decision at first instance.*

#### **Central benches for employment**

*(Civil matters)* (Article 126 of Law No 62/2013)

matters relating to the annulment and interpretation of non-administrative instruments for the collective regulation of working conditions;  
matters resulting from employer-employee relations and relations established with a view to the conclusion of employment contracts;  
matters resulting from work accidents and occupational diseases;  
matters regarding nursing, hospitals, the supply of medicines arising from the provision of clinical services, prostheses and orthopaedic devices or any other services carried out or paid for in order to benefit the victims of work accidents or occupational diseases;  
actions brought to annul acts and contracts signed by any responsible bodies with the purpose of evading obligations resulting from the application of trade union or employment legislation;  
matters resulting from contracts considered by law as being equivalent to employment contracts;  
matters resulting from apprenticeship and internship contracts;  
matters concerning workers employed by the same entity regarding rights and obligations resulting from actions carried out jointly in the conduct of their work relations or which result from an illegal act carried out by one of them during or on account of the performance of their duties; in this regard the criminal courts have jurisdiction over civil liability linked to criminal liability;  
matters arising between social security institutions, or those concerning family benefits, and beneficiaries, with regard to legal, regulatory or statutory rights, powers and obligations of any of these parties; this does not affect the jurisdiction of the administrative and tax courts;  
matters arising between trade union associations and members or people represented by them, or affected by their decisions, with regard to the legal, regulatory or statutory rights, powers and obligations of any of these parties;  
cases for the liquidation and sharing-out of the assets of social security institutions or trade union associations when there are no legal provisions preventing it;  
matter arising between social security institutions or trade union associations with regard to the existence, scope or nature of legal, regulatory or statutory powers or obligations of one of these parties which may affect the other;  
enforcements based on their decisions or other enforcement orders, whereby the jurisdiction assigned to other courts is respected;  
matters arising between parties to an employment relationship or between one of those parties and a third party when resulting from relations connected with a work relationship and when the request is presented together with another for which the employment section has direct jurisdiction;  
matters involving counterclaims connected to the action in accordance with that referred to in the previous point, except in the event of compensation, for which such connection is not required;  
civil matters relating to strikes;  
matters arising between workers' committees and the respective coordinating committees, the company or the company employees;  
all matters relating to the control of the legality of the constitution, articles of association (including changes thereto), functioning and closure of union associations, employer associations and workers committees;  
other issues assigned by law.

*(With regard to administrative offences)*

hearing appeals against decisions by administrative authorities in administrative offence proceedings with respect to employment and social security matters.

**Commercial central benches** (Article 128 of Law No 62/2013)

insolvency proceedings and special proceedings for company recovery;  
actions to declare the non-existence, nullity and rescission of a company's articles of association;  
actions relating to the exercise of rights in the company;  
actions to suspend and annul company decisions;  
actions for the judicial winding-up of companies;  
actions for the winding-up of a European public limited liability company;  
actions for the winding-up of holding companies;  
actions referred to in the Commercial Registry Code;  
actions for the winding-up of a credit institution or a financial corporation;  
related issues, joined proceedings and enforcement of decisions, in the actions and cases mentioned in the previous points.  
challenges to decisions by the registrars of the commercial registry;  
challenges to decisions handed down by the registrars within the scope of administrative proceedings for the winding-up and liquidation of commercial companies.

**Central enforcement benches** (*Juízos centrais de execução*) (Article 129 of Law No 62/2013)

Civil enforcement proceedings, with the exception of: competences attributed to the intellectual property court, to the competition, regulation and supervision court, the maritime court, the family and juvenile benches, the employment benches, the commercial benches, as well as the enforcement of judgments handed down by the criminal bench which, pursuant to criminal proceedings, may not be brought before a civil bench.

## **COURTS WITH WIDER JURISDICTION**

**Intellectual Property Court** (*Tribunal da propriedade intelectual*) (Article 111 of Law No 62/2013).

actions relating to copyright and connected rights;  
actions relating to industrial property;  
actions for invalidation and annulment as provided for in the Industrial Property Code;  
appeals against decisions by the National Institute of Industrial Property (*Instituto Nacional da Propriedade Industrial, I. P.*) which: grant or reject any industrial property rights, or relate to transfers, licences or declarations of obsolescence, or have as their object actions which affect, modify or cancel industrial property rights;  
appeal and review of decisions – or any other measures which can be legally challenged – taken by the National Institute of Industrial Property (*Instituto Nacional da Propriedade Industrial, I. P.*) in administrative offence proceedings;  
declaratory actions where the case centres on Internet domain names;  
appeals against decisions of the National Foundation for Scientific Computing (*Fundação para a Computação Científica Nacional*) – as the body responsible for the registration of .PT domain names – which register, reject registration of or remove a .PT domain name;  
actions where the case centres on firms or corporate names;  
appeals against decisions of the Institute of Registration and Notary Affairs (*Instituto dos Registos e do Notariado, I. P.*) on the admissibility of firms and company names under the legal rules for the National Register of Legal Persons (*Registo Nacional de Pessoas Colectivas*);  
actions where the case centres on unfair competition with regard to industrial property;

measures to obtain and preserve evidence and provide information when required for the protection of intellectual property rights and copyright; related issues, joined proceedings and enforcement of decisions, in the actions and appeals mentioned in the previous points.

**(Competition, Regulation and Supervision Court)** (*Tribunal da concorrência, regulação e supervisão*) (Article 112 of Law No 62/2013)

Appeal, review and enforcement of decisions, orders and other measures in administrative offence proceedings which can be legally challenged:

issued by the Competition Authority;

issued by the National Communications Authority;

issued by the Bank of Portugal;

issued by the Securities Markets Commission;

issued by the Media Regulation Authority;

issued by the Portuguese Insurance Institute;

issued by other independent administrative bodies with regulatory and supervisory functions;

appeal, review and enforcement:

of decisions by the competition authority handed down in administrative proceedings as referred to in the legal rules on competition;

of a ministerial decision which exceptionally authorises a concentration between companies that is prohibited by a competition authority decision;

of other decisions by the competition authority which allow appeal as provided for in the legal rules on competition;

related issues, joined proceedings and enforcement of decisions in all appeals, cases, actions and reviews mentioned in the previous points.

**Maritime Court** (*Tribunal marítimo*) (Article 113 of Law No 62/2013).

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

matters relating to contracts for the construction, repair, purchase and sale of ships, boats and other floating vessels, provided that these are destined for maritime use;

matters relating to contracts for maritime transport or combined or multimodal transport contracts;

matters relating to contracts for river or canal transport, within the limits of maritime jurisdiction areas in inland waterways, and the respective beds and banks as defined by law;

matters relating to contracts for the maritime use of ships, boats and other floating vessels, namely those for charter and financial leasing;

matters relating to contracts for the insurance of ships, boats and other floating vessels destined for maritime use and their cargoes;

matters relating to mortgages and liens over ships, boats as well as any guarantees in rem on floating vessels and their cargoes;

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

proceedings for interim measures relating to ships, boats and other floating vessels, their respective cargoes and cash and other assets belonging to the ships, boats and other floating vessels, as well as preliminary requests to harbour masters to stop the departure of the assets that are the object of such measures;

matters relating to general or particular average including damage caused to other floating vessels destined for maritime use;

matters relating to maritime assistance and salvage;

matters relating to towing contracts and piloting contracts;

matters relating to the removal of debris;

civil liability resulting from the pollution of the sea and other stretches of water under the court's jurisdiction;

the use, loss, discovery or appropriation of devices or gear for fishing or harvesting seafood, molluscs and marine plants, anchors, tackle, devices, supplies and other objects used for navigation or fishing, as well as damage caused to or caused by such items;

damage caused to assets in the public maritime domain;

ownership and possession of washed-up goods and objects coming from the sea or existing remains which lie on or in the seabed or which come from or may exist in inland waters, if these are of maritime interest;

seizures;

all general questions on matters of commercial maritime law;

appeals against decisions of the harbour master handed down in maritime administrative offence proceedings;

related issues, joined proceedings and enforcement of decisions, in the actions and cases mentioned in the previous points.

## HIGHER COURTS

**Courts of Appeal** (Article 67 of Law No 62/2013).

At second instance, Courts of Appeal include sections for civil matters, criminal matters, social matters, family and juvenile matters, commercial matters, intellectual property and competition, regulation and supervision. However, the creation of social, family and juvenile, commercial, intellectual property and competition, regulation and supervision sections depends on the volume and complexity of the service.

**Supreme Court of Justice** (*Supremo Tribunal de Justiça*) (Article 47 of Law No 62/2013)

At final instance, the Supreme Court of Justice has sections for civil matters, criminal matters and social matters.

## Relevant legislation

[Code of Civil Procedure](#)

[Law No 62/2013](#)

[Law governing employment courts](#)

[Code of Insolvency and Corporate Recovery](#)

## Warning

*The Contact Point, the courts or other entities and authorities are not bound by the information contained in this factsheet. The legal texts in force and subsequent amendments thereto must also be consulted.*

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