



WHY**PORTUGAL** 2025

# DISPUTE RESOLUTION IN PORTUGAL

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# ABOUT US

MACEDO VITORINO IS A LEADING PORTUGUESE LAW FIRM. WE ADVISE DOMESTIC AND FOREIGN CLIENTS IN A WIDE RANGE OF BUSINESS SECTORS, INCLUDING BANKING, DISTRIBUTION, INDUSTRY AND PROJECTS. WE ARE KNOWN FOR OUR PROFESSIONAL AND CLIENT-ORIENTED APPROACH TO COMPLEX AND DIFFICULT MATTERS.

Since the incorporation of the firm, we have been involved in several high-profile transactions in all of the firm's fields of practice, including banking and finance, capital markets, real estate, M&A, complex disputes and corporate restructurings.

We have strong relationships with many of the leading international firms in Europe, the United States and Asia, which enable us to handle effectively any cross-border legal matters.

We are mentioned by The European Legal 500 in most of its practice areas, including Banking and Finance, Capital Markets, Project Finance, Corporate and M&A, Tax, Telecoms and Litigation. Our firm is also mentioned by IFLR 1000 in Project Finance, Corporate Finance and Mergers and Acquisitions and by Chambers and Partners in Banking and Finance, Corporate and M&A, TMT, Dispute Resolution and Restructuring and Insolvency.

The multidisciplinary and integrated character of our corporate and commercial group allows us to efficiently solve the legal issues of our clients, in particular:

- Commercial contracts, distribution agreements and franchising
- Competition and European law
- Copyright, intellectual property, IT, patents and trademarks
- Corporate and acquisition finance
- Dispute resolution, litigation, mediation and arbitration
- Employment
- Foreign investment, mergers & acquisitions and privatisations
- Real estate acquisition and disposal
- Tax

If you want to find out more about MACEDO VITORINO, please visit our website at [www.macedovitorino.com](http://www.macedovitorino.com)

# I. INTRODUCTION

An important aspect for investors when entering in Portugal is to understand how the judicial system works. Foreign clients need help in understanding the law that applies to the specific matter at hand as well as a good understanding of the procedural rules that apply in Portugal. Most foreign clients will be intrigued with the formalistic approach of Portuguese procedures.

This briefing serves as an introduction to Portuguese judicial system giving an overview of the following matters:

- the legal framework: the Portuguese code of civil procedure and the International conventions concerning legal proceedings to which Portugal is a party;
- the court system; civil and administrative courts, powers of the courts;
- the legal proceeding: the claim and the defence, the court hearings and trial, the decision and the appeal process; and
- the court fees.

Other key information concerning the most relevant aspects about doing business in Portugal is available at [www.macedovitorino.com/en/Why-Portugal](http://www.macedovitorino.com/en/Why-Portugal). In the «Why Portugal» webpage, we review the main aspects that concern businesses and individuals investing in Portugal, including:

- [how to set up a business;](#)
- [forms of investment incentives and government grants available and how to apply;](#)
- [getting a Portuguese residence permit or a golden visa;](#)
- [hiring employees, employers' obligations and rules concerning the dismissal of employees; ;](#)
- [Portugal's main taxes, including among others personal and corporate income taxes, VAT and property taxes;;](#)
- [intellectual property protection, software, patents, trademarks and technology;](#)
- [real estate, acquisition and lease of property and financing and tax related issues;](#)
- [dispute resolution, the judicial system and of the main steps and costs of lawsuits.](#)



## 2. THE LEGAL FRAMEWORK

### 2.1. BACKGROUND

Portugal's legal system has its roots in Roman law. The first effort to codify Portuguese law dates back to the XV century.

After the French Revolution and following the enactment of the Napoleonic Code that repealed French common law in 1804, Portugal approved its first Civil Code in 1867. Other codes were approved in the XIX century, including but not limited: the Commercial Code of 1888, the Code of Civil Procedure of 1876 and the Criminal Code of 1852.

Presently most of Portuguese civil and commercial law is either codified or set out in statutes of law. Notwithstanding, case law still plays a considerable role, as judges look to precedents for guidance and support of their decisions.

### 2.2. THE PORTUGUESE CODE OF CIVIL PROCEDURE AND INTERNATIONAL CONVENTIONS

The main procedural rules in what regards civil procedural in court, appeals, judgement and the enforcement of judicial and arbitral decisions were codified by the Portuguese Code of Civil Procedure ("CPC") approved by Decree-Law 44129, of 28 December 1961 as amended from time to time.

Portugal is a party to various international Conventions, such as the Hague Conferences on Private International Law, in what regards civil and commercial matters, whether on procedural and substantial aspects. A few examples are (i) Convention of 1 March 1954 on civil procedure, (ii) Convention of 5 October 1961 abolishing the requirement of legalisation for foreign public documents, (iii) Convention of 15 November 1965 on the service abroad of judicial and extrajudicial documents in civil or commercial Matters, (iv) Convention of 1 February 1971 on the recognition and enforcement of foreign judgments in civil and commercial Matters, (v) Convention of 18 March 1970 on the taking of evidence abroad in civil or commercial matters, and (vi) Convention of 14 March 1978 on the Law Applicable to agency.

### 3. CIVIL COURTS

The Supreme Court of Justice is the supreme court and has national jurisdiction over civil, criminal, commercial and labour disputes. The Supreme Court of Justice decides the appeals of the lower courts, knowing only matters of law.

The Courts of Appeal are second-degree civil courts whose jurisdiction extends to several districts. Appeal Courts rule on appeals of the decisions of the courts of first degree.

The courts of first degree decide civil, criminal, commercial and labour actions.

There are 23 courts of first degree in the national territory, which unfold in judgments of generic jurisdiction and specialized jurisdiction (civil centre, civil place, criminal centre, criminal place, place of small crime, criminal instruction, family and minors, work, trade and execution), depending on the matter and the value of the action.

Also included in the courts of extended territorial jurisdiction, which have specialized jurisdiction and are responsible for certain types of disputes: (i) the Courts of Execution of Penalties, (ii) the Maritime Court, located in Lisbon, (iii) the Intellectual Property Court, located in Lisbon, (iv) the Court of Competition, Regulation and Supervision, located in Santarém, and (v) the Central Court of Criminal Investigation, located in Lisbon. In the judicial system, there are also Justices of Peace, which are extrajudicial courts that adopt a simplified procedure aimed at a swift resolution of disputes.

The jurisdiction of Justices of Peace extends, especially to civil property issues whose value does not exceed €15,000.

### 4. TAX AND ADMINISTRATIVE COURTS

The resolution of issues arising from administrative and fiscal relations falls under the purview of the administrative jurisdiction.

The Administrative Courts of Circle and Tax Courts are the first-instance courts responsible for proceedings concerning administrative disputes between private individuals or companies and the State and other entities with administrative and public powers.

The Central Administrative Courts operate as the second-tier courts within the administrative jurisdiction. They have regional jurisdiction and are as follows: the Central Administrative Court South (located in Lisbon), the Central Administrative Court North (located in Porto), and the Central Administrative Court Centre (situated in Castelo

Branco). Central Administrative Courts have jurisdiction to deal with the appeals of decisions of the administrative courts of the circle and the appeals of decisions of the tax courts. Exceptions are cases where, cumulatively, (i) the parties allege only questions of law, (ii) the value of the case is greater than the jurisdiction of the central administrative courts, and (iii) the amount of the loss is greater than half the jurisdiction of the court appealed against, in which case appeals against decisions on the merits handed down by Tax Courts fall within the jurisdiction of the Supreme Administrative Court.

The Supreme Administrative Court is the highest authority within the administrative and fiscal courts and is composed of two chambers: one for administrative litigation matters and the other for tax-related litigation.

## 5. POWERS OF THE COURTS

In general, courts have the power to issue decisions regarding any matter to be determined in the proceedings, which include the powers to order the payment of sums of money (in any currency), grant injunctions against the parties, order the performance of contractual obligations, order the rectification, setting aside or cancellation of deeds or other documents, declare divorces, order the division of assets caused by the death of her/his owner, etc.

Courts may also, following a request of an interested party or on their own accord:

- know exceptions that prevent the court from knowing the merits of the case or that consist of invoking facts that prevent, modify or extinguish the legal effect of the facts articulated by the author;
- declare protective orders;
- inspect things or persons in order to clarify any fact that is of interest to the decision of the case and may go to the place of the question or order reconstitution of the facts when it deems it necessary; or
- requiring a party to make an interim payment on account of the claim or to pay the costs of the process.

## 6. JUDICIAL PROCEDURE

### 6.1. THE CLAIM AND THE DEFENSE

Litigation begins when the plaintiff files a petition to the court (*petição inicial*), detailing what the defendant has done or failed to do that caused damage to the plaintiff, specifying the basis, factual and legal, for her/his claim against the defendant.

After being served with a plaintiff's claim, the defendant has, in general, a 30-day deadline to respond to the plaintiff. The defence is always provided in writing in the form of a briefing addressed to the court (*contestação*).

### 6.2. THE PRELIMINARY HEARING

After the claim and defence are filed in court, the judge will schedule a «pre-trial» meeting to attempt a settlement between the parties and consider any delaying objections alleged and, if possible, the merits of the case.

If the settlement fails, the «pre-trial» meeting will serve to discuss the facts and matter of law of the case, where the judge may decide on procedural questions or immediately on the merits of the case, determine the terms of the dispute and schedule the final hearing.

### 6.3. THE TRIAL

The final hearing starts with the judge inviting the parties to settle their dispute. If the settlement fails, the final hearing continues with the submission of evidence, which may include the depositions of the parties, expert testimonies and the deposition of witnesses.

Within 30 days after the final hearing, the court will rule on the case.

### 6.4. CHALLENGING THE DECISION

Judgments of the courts may be appealed depending on the value and subject matter. Decisions in actions regarding the status of a person or in actions for allocation of the house of family dwelling are always subject to appeal.

Common reasons for challenging a court's decision are errors in the interpretation or application of the law by the court or disregard of evidence.

Depending on the circumstances, the Court of Appeal will either confirm the ruling, reverse the ruling, or order the court of first instance to conduct a new trial.

After a ruling is given by the Court of Appeal, the parties may also appeal to the Supreme Court of Justice (*recurso de revista*), except in cases where the Court of Appeal confirms the decision of the Court of First Instance.

## 7. COURT FEES

Judicial or procedural costs are generally equivalent to the amount spent by the public service of justice enforcement by the courts.

The Constitution of the Portuguese Republic guarantees access to the courts for all citizens, but this does not imply the gratuity of the justice services, only that the cost to pay is not so high that it considerably hinders access to justice. This does not mean, however, that the procedural costs correspond to or allow the actual costs of the proceedings to be covered.

Court costs must be paid for each legal action brought to court, the amount of which depends on the value of the case.

The *ex-parte costs* are the legal costs incurred by the winning party and which will be borne by the other party if the plaintiff so requests. The amounts must be itemised and contain all the essential elements relating to the proceedings and the parties.

For court cases worth more than €250,000, the cost of the case, including court fees and parties court awarded costs are approximately 1.8% of the claim value; appeals to the Court of Appeal and the Supreme Court of Justice cost another 1.8%, with the total cost of around 3.6% of the value of the claim value. If the first judicial decision is not confirmed by the appeal court(s), the unsuccessful party is responsible for all costs of the proceedings.

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# ABOUT PORTUGAL

## TERRITORY, POPULATION AND LANGUAGE

Portugal is situated on the southwest coast of Europe, bordering only with Spain. With a territory of 92,152 Km<sup>2</sup>, Portugal has the largest maritime zone in Europe. Its continental platform borders the American platform.

Portugal has an 800-year history, and its European borders have been established for over 500 years. Because of this, the country has a homogeneous population, sharing similar values despite slight regional differences.

Portuguese is the sixth most spoken language in the world, spoken by 270 million people in Portugal, Brazil, Angola, Cape Verde, Mozambique, Guinea Bissau, São Tomé and Príncipe and Timor.

## POLITICAL SYSTEM

Portugal is a parliamentary republic. The legislative power lies with a national parliament (*Assembleia da República*), with 230 seats. The members of parliament are elected by universal vote for four-year terms. The Government depends on the parliament's support, which has the power to overthrow it. The cabinet of ministers is led by a Prime Minister, who holds the executive power.

The President of the Republic has limited powers but has the power to influence the Parliament's and the Government's decisions and dissolve the Parliament in extraordinary circumstances.

## INTERNATIONAL RELATIONS

Portugal has been a member of the EU since 1986, a founding member of the Euro and the Portuguese-speaking Countries Community (*Comunidade dos Países de Língua Portuguesa*, CPLP), which groups all Portuguese-speaking countries. Portugal is a member of the United Nations, NATO and the OECD.

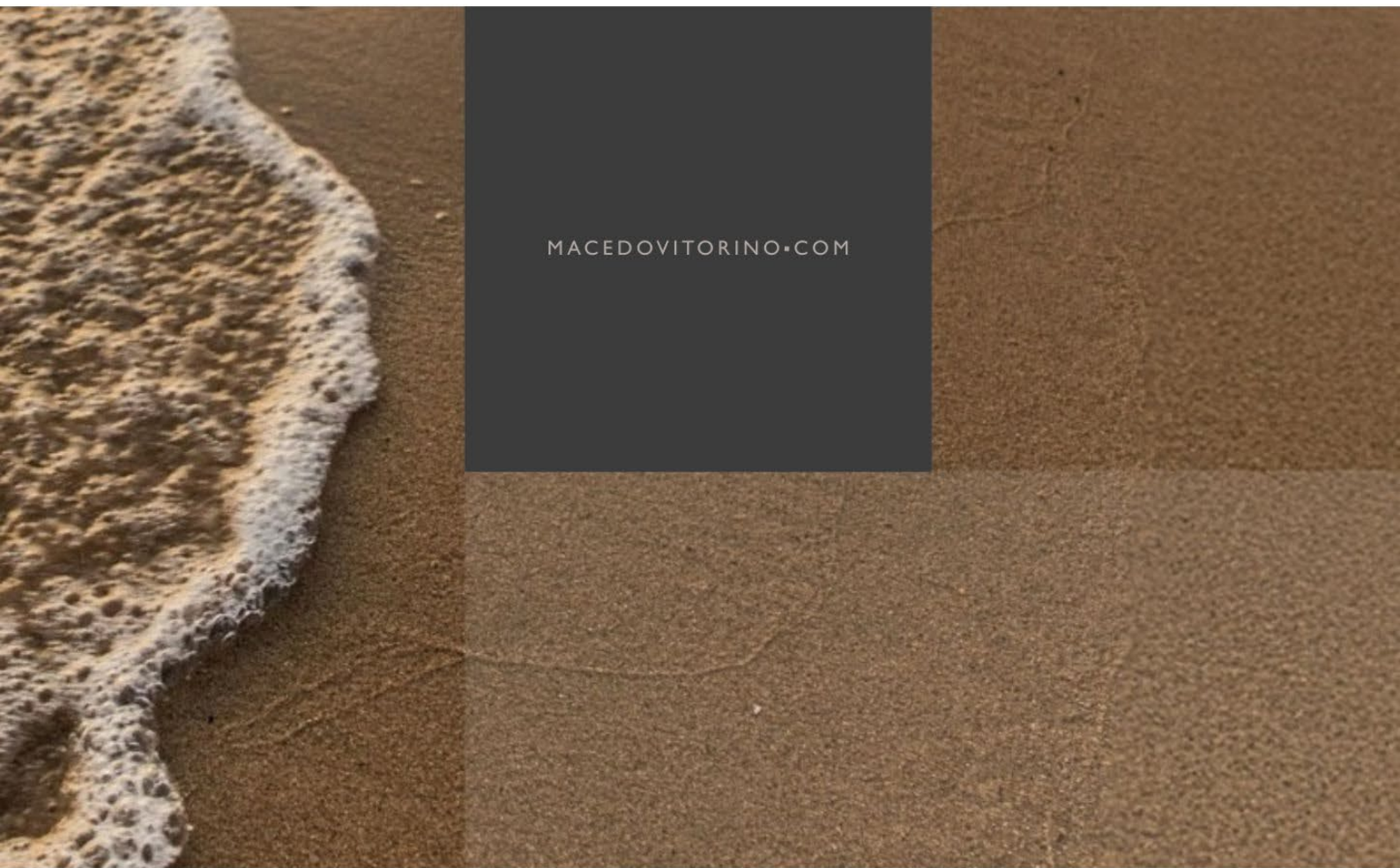
## CURRENCY AND BANKING SYSTEM

Portugal is one of the founding members of the «Euro», the currency of 20 European countries. The Euro is the second most traded currency in the World after the US Dollar. The currency symbol is «€». The Euro circulates with seven banknotes and eight different coins: banknotes of 500, 200, 100, 50, 20, 10, and five euros, and coins of two and one euro and 50, 20, 10, five, two and one cent.

The Bank of Portugal (*Banco de Portugal*, BdP) is the central monetary authority that oversees the banking system and is a member of the European System of Central Banks (ESCB).



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