

Name of the country: Portugal

Transposition act = Lei n° 29/2018 Transpõe a Diretiva (UE) 2015/1794 (supplementing Lei n° 96/2009 de 3 de Setembro - Conselhos de empresa europeus)

1. Presence of legally based administrative or judicial conflict solving procedures for:

		No	Yes	Unclear	brief explanation
A	SNB (including the pre-SNB phase, i.e. requesting the necessary information about the company, staff distribution, etc.)		Yes		
B	EWC based on Art. 6 agreements		Yes		
C	EWC based on art. 13 agreement			No differentiation / mention in law	
D	EWC based on subsidiary requirements		Yes		

2. Litigation on different sets of rights: presence of national provisions

		No	Yes	Which authority (e.g., court) is competent ¹
A	Breaches against the provision of information to the SNB as per art. 4 (4) of Directive 2009/38/EC (information on the number of employees)/Failure to establish a SNB		Yes ²	<p>Geographical jurisdiction</p> <p>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.</p> <p>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.^{3 4}</p>
B	Operation of the EWC: breaches and compliance with the law (statutes), agreement or Subsidiary Requirements		Yes	

¹ Material and geographical competence.

² Art. 405 of the labour code, Art. 8 of the EWC act.

³ https://e-justice.europa.eu/85/EN/which_country_s_court_is_responsible?PORTUGAL&clang=en

⁴ 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. Source: https://e-justice.europa.eu/85/EN/which_country_s_court_is_responsible?PORTUGAL&clang=en



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				<p>Material competence: “In Portugal the specialised courts [labour court is a specialised court] at first instance are the central benches at each District Court, the civil local benches and courts with wider jurisdiction. [in case of EWCs this would be: Central benches for employment⁵]</p> <p>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.”⁶</p>
C	Challenging management on the use of confidentiality and secrecy/withholding information)		Yes ⁷	
E	Individual rights of the SNB/EWC members under national EWC legislation		Yes ⁸	
F	(Others to be filled in)			

3. Capacity to act in court

		Brief explanation/ differences for 2A-2F above)
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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).

⁵ (Civil matters) (Article 126 of Law No 62/2013)

⁶ https://e-justice.europa.eu/85/EN/which_country_s_court_is_responsible?PORTUGAL&clang=en. The Central benches for employment handle disputes relating to:

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; matters arising between workers’ committees and the respective coordinating committees, the company or the company employees; 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.

⁷ Art. 20.5 of the EWC Act.

⁸ Art.



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1	Who/which body can start a judicial procedure?	EWC
2	What legal status (ius standi) is a requirement to start a judicial procedure? (legal personality, capacity to act in courts, other forms?)	Legal capacity to act in courts
3	What is the legal status of the EWC (legal personality or other capacity to act in court)?	Collective capacity to represent employees ⁹
4	In case of lacking capacity to act in court: how can it be circumvented (think of representation by trade unions)?	
5	Who represents the EWC in law?	
6	What is the capacity to act in court of joint type ('forum' or French-type) EWCs composed of both management and employees' representatives and can it be an obstacle?	No mention in law.

4. Starting a procedure and timelines

		Brief explanation
1	Does the law set conditions as to how the EWC can take a valid decision on entering a judicial procedure? Think of voting, quorum, the necessity of a physical meeting to take a decision,...	No
1.a	Does the law contain any requirements on the internal rules concerning question 1?	No
2	How does one file a case in court? (Who, format, steps)	Described in detail by Art. 144 of the Code of Civil Procedure ¹⁰

⁹ Art. 404 of the labour code: "collective defense and pursuit of their rights and interest".

¹⁰ 'Article 144

Submitting procedural documents to the court

1 – Procedural documents that must be submitted in writing by the parties shall be submitted to the court electronically, pursuant to the Ministerial Implementing Order provided for in Article 132(2), with the date the document is sent being valid for procedural purposes.

2 – Submission of a procedural document in accordance with the previous paragraph shall also include any documents which must accompany it. It is not necessary to send the respective original documents, except when the format or size of the files to be sent does not allow them to be sent electronically, in accordance with the Ministerial Implementing Order provided for in Article 132(2).

3 – (Repealed.)



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4 – Documents submitted as described in paragraph 2 above shall have the evidential value of the originals, as defined in the provisions relating to certificates.

5 – The provision set out in paragraph 2 above shall not preclude the need to present procedural documents in paper format and the originals of the documents which the parties have submitted as attachments electronically, whenever the court so requires, pursuant to procedural law, more specifically, when:

- a) it questions the authenticity or genuineness of procedural or other documents;
- b) it is necessary to perform expert tests on the handwriting or signature on the documents.

6 – When a duplicate or copy is required of any procedural document or other document submitted electronically for purposes of summons of notification of the parties, the court office shall be responsible for taking such copies.

7 – For cases that do not require a legal representative, and where the party has no lawyer, the procedural documents referred to in paragraph 1 shall be submitted to the court in one of the following ways:

- a) delivery to the court office, with the date the document is delivered being valid for procedural purposes;
- b) by registered delivery post, with the date the document is sent by registered delivery being valid for procedural purposes;
- c) by fax, with the date the documents are sent counting as the date on which the pleadings are lodged.
- d) electronically, in accordance with that set out in the Ministerial Implementing Order provided for in Article 132(2), with the date the documents are sent counting as the respective dispatch date.

8 – If a party has a legal representative, and there is a reasonable impediment to the procedural documents being submitted in accordance with paragraph 1 above, the documents may be submitted in accordance with the previous paragraph.

9 – Without prejudice to the provisions of Article 37(4) of Law No 34/2009 of 14 July 2009, the provisions of paragraph 7 shall also apply to the submission of procedural and other documents by experts and other parties to proceedings who do not have legal representation.

10 – When a procedural document is submitted electronically and the respective information system provides forms with fields to be completed with specific information:

- a) this information must be provided in the respective field, and may not be submitted only in attached files;
- b) in the event of any discrepancies between the information in the forms and that of the files, the information in the forms will prevail, even when they are not completed.

11 – When procedural and other documents are submitted in hard copy, in accordance with that set out in previous paragraphs, the court office shall scan and enter them into the information system, except in cases where the format or condition of the document does not allow, pursuant to that established in the Ministerial Implementing Order provided for in Article 132(2).

12 – The provisions of paragraph 4 shall apply to documents scanned by the court office pursuant to the previous paragraph.



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		<p>Also: In addition to the forms set out in Community legislation, there are specific forms in Portugal for specific actions, which can be obtained on the Citius Portal at the following link: https://www.citius.mj.pt/portal/Artigos.aspx?CategoryId=24</p> <p>There are specific forms to apply for enforcement actions and court orders in Portugal. When filed by professionals, who must be registered for the purpose on the Citius platform, the following should preferably be filed electronically through the IT system for court activities:</p> <ul style="list-style-type: none"> • procedural and other documents submitted to the court by lawyers, solicitors and enforcement agents, insolvency administrators and notaries; • proof of payment of court fees (that are part of court costs); • proof of or applications for legal aid. <p>Articles 552 and 572 of the Code of Civil Procedure, cited below, set out the information that plaintiffs must provide when filing a suit, and the documents that defendants must file if they wish to contest, respectively.</p>
3	What is the deadline to start a judicial procedure?	For labour matters there is none. (Compare other matters
4	Are there other relevant deadlines in the judicial procedure?	10 days for the Ministry of Labour to reply to a request for conciliation ¹¹
5	What is the role of out of court settlements once a case has been filed?	There is voluntary arbitration ¹² and mandatory arbitration in some disputes. In any case, At all times, the parties may agree to submit to arbitration the labour issues resulting from, inter alia, the interpretation, integration, conclusion or revision of a collective contract. ¹³
6	How long does a judicial procedure typically take?	

13 – When procedural and other documents are submitted in accordance with 7(a), after being scanned, the documents are returned to the respective person, and the provisions of paragraphs 4 and 5 shall apply with the necessary adaptations.

14 – In the cases provided for in the previous paragraph, should the court office note that the scan does not allow for proper examination of a procedural or other document, the said court office shall file and keep the original document in the hard copy submitted’.

¹¹ Art. 524 Labour Code: “Within 10 days of submission of the application, the competent department shall verify the regularity of the petition and summon the parties to the beginning of the conciliation and, in case of revision of a collective agreement, invite the trade union association or employers participating in the conciliation process to conciliation. (...)”

¹² Art. 506 ff. Of the Labour Code.

¹³ Art. 506 of the Labour Code.



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7	Is an injunction or a summary procedure possible?	Yes
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5. Costs

		Brief explanation
1	What are the court fees for a judicial procedure?	<p>Mediation in labour matters: 50 EUR</p> <p><i>As a rule it is necessary to pay court fees, calculated according to the amount in question. This is without prejudice to Community legislation, which sets out exemptions from court fees in some cases.</i></p> <p><i>The Code of Civil Procedure sets out the rules defining the notion of costs and the methods to prove they have been paid in the respective case.</i></p> <p><i>The most relevant rules concerning costs are essentially set out in Articles 145, 529, 530, 532 and 533 of the Code of Civil Procedure (https://e-justice.europa.eu/34/EN/how_to_bring_a_case_to_court?PORTUGAL&member=1)¹⁴</i></p>

¹⁴ 'Article 145

Proof of prior payment of court fees

1 – When the filing of a procedural document requires the payment of a court fee, pursuant to the terms set out in the Litigation Costs Regulation [Regulamento das Custas Processuais], proof of prior payment of the court fee due or of the granting of legal aid must be provided, unless, in the latter case, said proof has already been included in the case file.

2 – Attaching proof of prior payment of court fees amounting to a sum that is less than the fees due shall, under the Litigation Costs Regulation, be deemed equivalent to not attaching any proof.

3 – Without prejudice to the provisions relating to the initial application, failure to provide the proof of payment referred to in paragraph 1 of proof of the granting of legal aid shall not result in the procedural document being rejected. The party must attach the document within 10 days of the procedural document being filed, failing which the penalties set out in Articles 570 and 642 shall apply.

4 – Prior payment of the court fees or the granting of legal aid shall be proved:

a) when the procedural document is sent electronically, in accordance with that set out in the Ministerial Implementing Order provided for in Article 132(2);

b) when the procedural document is submitted in one of the manners provided for in 7(a) to (c) of the previous Article, by attaching the document confirming proof of payment or the granting of legal aid.

5 – Whenever a case does not require the appointment of a legal representative and the party has directly filed the document, the said party shall be notified to attach proof of payment or of the approval of legal aid, failing which they shall be subject to legal penalties.'



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'Article 529

Litigation costs

1 – Litigation costs shall include court fees, charges and the costs of the party.

2 – Court fees shall correspond to the amounts due in relation to the case for each party and shall be set according to the value and complexity of the case, under the Litigation Costs Regulation.

3 – Charges shall consist of the expenses incurred as a result of conducting the proceedings, whether requested by the parties or ordered by the trial judge.

4 – Costs shall consist of the amount each party has incurred on the case and for which it is entitled to compensation on the grounds that the court found against the other party, in accordance with the Litigation Costs Regulation.'

'Article 530

Court fees

1 – Court fees shall be paid only by the party which brings the action, whether as plaintiff or defendant, creditor or debtor, claimant or respondent, appellant or defendant, in accordance with the Litigation Costs Regulation.

2 – In the case of a counterclaim or main intervention, an additional court fee shall be due only when the counterclaimant makes an application distinct from that of the plaintiff.

3 – An application shall not be considered distinct when the party intends to achieve, for their own benefit, the same legal effect as the plaintiff proposes to obtain, or when the party intends to obtain compensation only.

4 – If different parties join in one application, the party that appears as the first party on the original petition, counterclaim or application must pay the entire court fee, without prejudice to the right of recourse against the joint parties.

5 – If different parties join in more than one application, each plaintiff, counterclaimant, creditor or claimant shall be responsible for paying the respective court fee, the value being that stipulated in the Litigation Costs Regulation.

6 – For actions brought by commercial companies which have in the previous year brought 200 or more actions, proceedings or enforcements in any court, the court fees shall be set in accordance with the Litigation Costs Regulation.

7 – For the purposes of ordering payment of court fees, actions and precautionary procedures shall be considered particularly complex when they:

a) contain prolix pleadings or claims;

b) relate to highly specialised legal issues or highly specific technical matters or require a combined analysis of legal issues from very different contexts; or

c) involve hearing a large number of witnesses, the analysis of complex evidence or various lengthy steps to produce proof.'



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2	Is legal representation by a lawyer required in a judicial procedure?	In civil proceedings, parties must be represented by a lawyer whenever the value at stake exceeds €5,000, or when the proceedings are taking place before the higher courts. ¹⁵

‘Article 532

Charges

1 – Except as provided for in the regulations governing access to the law, each party shall pay the charges which it has incurred and which are caused during the proceedings.

2 – Charges shall be the responsibility of the party which requested the action or, where it has been held ex officio, the party that takes advantage of it.

3 – When all the parties have the same interest in the action or the reason for the expenditure, benefit equally from the action or expenditure or when it is not possible to determine who is the interested party, the charges shall be divided equally among the parties.

4 – Charges for actions that are clearly unnecessary and of a dilatory nature shall be exclusively borne by the party bringing the action, irrespective of whether or not they are ordered to pay costs.

5 – The application of the regulation described in the previous paragraph shall always be subject to a ruling by the trial judge.’

‘Article 533

Costs of the parties

1 – Without prejudice to the provisions set out in paragraph 4, the costs of the successful party shall be borne by the unsuccessful party, on a sliding scale based on the extent of the failure of their application, pursuant to the terms set out in the Litigation Costs Regulation.

2 – The following expenses shall constitute the costs for each party, namely:

- a) court fees paid;
- b) the charges actually incurred by the party;
- c) the remuneration paid to the enforcement agent and the expenses incurred by the said agent;
- d) the legal representative's fees and expenses incurred by the said legal representative.

3 – The sums mentioned in the previous paragraph shall be set out in a detailed invoice, which shall also contain all the essential information relating to the case and the parties.

4 – If a plaintiff could have recourse to alternative dispute resolution mechanisms, but opts for judicial proceedings, they must bear their own costs regardless of the outcome of the action, unless the other party has made it impossible to use this form of alternative dispute resolution.

5 – The alternative dispute resolution mechanisms mentioned in the previous paragraph shall be those set out in a Ministerial Implementing Order issued by the member of the Government responsible for justice.’

¹⁵ <https://thelawreviews.co.uk/title/the-dispute-resolution-review/portugal>



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		Articles 40 and 58 of the Code of Civil Procedure, cited below, set out the cases in which it is compulsory to appoint counsel. Apart from such cases, as a rule, individuals can represent themselves in proceedings. ¹⁶
3	Who pays the costs for:	Each party shall pay the charges which it has incurred and which are caused during the proceedings. Charges shall be the responsibility of the party which requested the action or, where it has been held ex officio, the party that takes advantage of it. ¹⁷
	- Legal expert	
	- Court fees	<i>COURT FEES</i>

¹⁶ 'Article 40

Compulsory representation by counsel

1 – It shall be compulsory to be represented by counsel:

- a) in matters which fall within the jurisdiction of courts that are subject to thresholds and in which an ordinary appeal is allowed;
- b) in cases in which appeals are always allowed, regardless of the value;
- c) in appeals and cases brought in the higher courts.

2 – Even where it is compulsory to be represented by counsel, trainee lawyers, solicitors and the parties themselves may make applications in which matters of law are not raised.

3 – In cases where, although it is not compulsory to appoint a lawyer, the parties have not established a legal representative, the examination of witnesses shall be conducted by the judge, who shall also adjust procedure to suit the specific circumstances.'

'Article 58

Compulsory legal representation

1 – The parties shall be represented by a lawyer in enforcement proceedings for a value higher than the limit applied to the court of first instance, and in such proceedings for a value higher than the limit applied to the Court of Appeal, or in proceedings for a value equivalent to or lower than that but higher than the limit applied to the court of first instance, when this involves any procedure that is heard under a declaratory process.

2 – In ancillary proceedings to verify claims, appointing a lawyer shall only be necessary when the value being claimed is higher than the limit applied to the court of first instance, and only to assess the claim.

3 – The parties shall be represented by a lawyer, trainee lawyer or solicitor in enforcement proceedings for a value higher than the limit applied to the court of first instance not covered in the previous provisions.'

¹⁷ https://e-justice.europa.eu/34/EN/how_to_bring_a_case_to_court?PORTUGAL&member=1



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	<p><i>The above rules of the Code of Civil Procedure are set out in practical terms defining the amounts of court fees in the Litigation Costs Regulation approved by Decree-Law No 34/2008 of 26 February 2008.</i></p> <p><i>The most recent version of the Litigation Costs Regulation can be consulted at the following link: http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=967&tabela=leis&so_miolo=&</i></p> <p><i>The Ministry of Justice has developed a court fee simulator, which is available at: http://justica.gov.pt/Servicos/Simulador-Taxas-de-justica</i></p> <p><i>Court fees are paid in accordance with Article 14 of the Litigation Costs Regulation, in one or two instalments.</i></p> <p><i>Cases in which it is compulsory to appoint a legal representative</i></p> <p><i>The first (or only) instalment of court fees must be paid by the time the following court documents are filed, processed electronically, and the proof must be attached to the respective document (proof being provided in accordance with Ministerial Implementing Order No 280/2013 of 26 August 2013, as referred to in Article 132 of the Code of Civil Procedure):</i></p> <p><i>action by the plaintiff (application); first intervention by the defendant (defence); first intervention by the appellant (claims) or respondent (counterclaims); first intervention by the claimant in precautionary proceedings (initial application) or by the respondent (objections); first intervention by the creditor (enforcement application) or the debtor (application objecting to the enforcement/stays of enforcement or applications for objections or objections to the attachment); and in the other situations described in Table II, namely the claimant in the event of the procedural issues set out in the Code of Civil Procedure and in the event of extraordinary incidents or proceedings (proceedings that are outside the normal scope of the action, which are to be charged in accordance with the principles governing the assignment of costs – Article 7(8) of the Litigation Costs Regulation). If a second instalment is due, it shall be paid within 10 days from the notification of a final hearing and the party concerned must submit proof of the respective payment within the same time period (Article 14(2) of the Litigation Costs Regulation).</i></p> <p><i>Cases in which it is not compulsory to appoint a legal representative</i></p>
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If the document is filed directly by the party, the payment of the court fee for instigating proceedings is only due after notification, which specifies a period of 10 days to make the payment and the applicable penalties if the payment is not made.

Exemption from paying the second instalment of court fees

Article 14-A of the Litigation Costs Regulation establishes exemptions from paying the second instalment of court fees in the following civil or commercial proceedings [among others]:

- *proceedings that end before objections are submitted or in which, owing to the absence of objections, a verdict is issued, even when preceded by claims;*
- *proceedings that end before the date is set for a final hearing;*
- *Exemption from prior payment of court fees*

This is merely a postponement of the time when the party is obliged to pay the court fee.

Payment must be made within a period of 10 days from the notification of the decision in the main case. With the notification of the decision in the main case, the parties are notified that they must pay within a period of 10 days and attach the respective proof to the court file.

The following civil or commercial cases are exempt from the prior payment of court fees (Article 15 of the Litigation Costs Regulation):

The claimant and the respondent, in claims for civil damages brought in criminal proceedings, when the respective value is equal to or higher than 20 UC (units of account) (in 2021 the value of one UC is 102 Euros);

The parties in proceedings concerning the status of a person;

The parties in proceedings concerning jurisdiction of minors.

CHARGES

Charges are all the expenses incurred as a result of the proceedings, whether requested by the parties or ordered by the trial judge.

Charges are paid by the claimant or interested party, immediately or within a period of 10 days of receiving notification of the letter ordering an action, requiring the sending of or compliance with a letter rogatory or setting the date for a trial hearing (Article 20(1) of the Litigation Costs Regulation and Article 532(1) and (2) of the Code of Civil Procedure). Each party is liable to pay the charges it has incurred or from which it has benefited, even if the charges were ordered by the court of its own motion.



		<p><i>Charges for which an exempt party (e.g. beneficiaries of legal aid) is liable are advanced by the Institute for Financial Management and Infrastructure in the Justice System (Instituto de Gestão Financeira e Equipamentos da Justiça, I.P. (IGFEJ, I.P.)).</i></p> <p><i>Types of Charges (Article 16 of the Litigation Costs Regulation):</i></p> <p><i>Refunds to IGFEJ, I.P. for:</i> <i>advances for expenses;</i> <i>legal aid costs, including the payment of fees;</i> <i>refunds of expenses advanced by the Directorate-General for Taxation;</i> <i>actions by security forces;</i> <i>payments to produce or deliver documents, provide services or other similar payments, when ordered by the judge, by an application or of his or her own motion (except for certificates obtained by the court of its own motion);</i> <i>compensation for witnesses;</i> <i>payment for certificates required by procedural legislation, when the person liable benefits from legal aid – when a beneficiary of legal aid requests a certificate to be added to a case, the respective cost must be mentioned, which is entered into the charges for the final determination of costs;</i> <i>payment for the use of public stores;</i> <i>payments for interventions by third parties. Third parties consist of:</i> <i>experts;</i> <i>translators and interpreters;</i> <i>technical consultants;</i> <i>liquidators, administrators and entities charged with extrajudicial sales;</i> <i>transport expenditure and allowances for actions that are part of proceedings.</i></p> <p><i>The court registry calculates expected expenditure related to a given matter (based on Table IV attached to the Litigation Costs Regulation) and issues invoices for the prior payment of charges, up to five days before the action is to take place, which are sent to the party or parties liable to pay.</i></p> <p><i>If the charges are paid in advance, payment for an action is made as soon as the action takes place. The amounts charged in this manner are immediately distributed to the entities entitled to the said amounts.¹⁸</i></p>
	- Other costs (travel/interpretation)	
4	Does a EWC normally have an independent	No

¹⁸ https://e-justice.europa.eu/34/EN/how_to_bring_a_case_to_court?PORTUGAL&member=1



	budget and/or an own bank account under a given national legislation?	
5	Can the EWC be sentenced to pay the costs of the other party in the judicial procedure?	<p><i>Yes, it's possible: Without prejudice to the provisions set out in paragraph 4, the costs of the successful party shall be borne by the unsuccessful party, on a sliding scale based on the extent of the failure of their application, pursuant to the terms set out in the Litigation Costs Regulation.¹⁹</i></p> <p>COSTS OF THE PARTIES</p> <p><i>Costs consist of the amount each party spent on the case and for which it is entitled to compensation on the grounds that the court found against the other party, pursuant to the Litigation Costs Regulation.</i></p> <p><i>They are determined as part of the court's ruling on costs, except:</i></p> <p><i>in the case of the division of costs as set out in Article 536 of the Code of Civil Procedure;</i></p> <p><i>in the case of litigation in bad faith as set out in Article 542(2) of the Code of Civil Procedure (Article 26(1) of the Litigation Costs Regulation).</i></p> <p><i>The successful party is entitled to receive costs from the unsuccessful party, on a sliding scale based on the extent of the failure of their application (Article 533(1) of the Code of Civil Procedure).</i></p> <p><i>The costs of the parties are not included in the account of court costs. They are paid directly and extra-judicially by the unsuccessful party to the successful party, except in cases set out in Article 540 of the Code of Civil Procedure.</i></p> <p><i>Parties entitled to costs must send the court and the unsuccessful party a detailed and descriptive invoice, pursuant to the terms and the time frames set out in Article 25 of the Litigation Costs Regulation, with the following information:</i></p> <p><i>identification of the party;</i></p> <p><i>identification of the case;</i></p> <p><i>identification of the legal representative;</i></p> <p><i>identification of the enforcement agent, if applicable;</i></p> <p><i>the costs paid by the party with regard to court fees;</i></p> <p><i>charges effectively paid and expenses incurred by the enforcement agent;</i></p>

¹⁹ https://e-justice.europa.eu/34/EN/how_to_bring_a_case_to_court?PORTUGAL&member=1



		<p>indication of the sums paid for legal counsel or enforcement agent fees; indication of the amount to be received. The successful party can request that the costs to which it is entitled be settled using any remaining balance to be returned to the unsuccessful party and to this end it is sufficient to expressly request this in the invoice.</p> <p>When the period of 10 days in which to challenge the invoice or voluntarily pay party costs concludes, the application is deemed to have been tacitly approved – Article 29(3) of Ministerial Implementing Order No 419-A/2009.²⁰</p>
6	Can the EWC members be sentenced to pay the costs of the other party in the judicial procedure?	
	Legal Aid	It is possible to claim legal aid provided you (the EWC) satisfy the conditions for the granting of legal aid. (→ unclear if EWCs can claim it)

6. Sanctions

	Brief explanation
How is a breach of law classified?	<p>Generally: administrative offences in labour matters (Art. 29 of the EWC Act)</p> <p>Obstructing negotiations for an SNB/EWC: <i>very serious administrative offence</i> (Art. 5)</p> <p>infringing confidentiality (for management?): <i>very serious administrative offence</i> (Art. 7.10)</p> <p>infringing the frequency of information provision to EWC: <i>serious administrative offence</i> (Art. 8.3)</p> <p>not ensuring proper contents of the EWC agreement: <i>serious administrative offence</i> (Art. 9.5) or <i>very serious administrative offence</i> (regarding financial resources for EWC, Art. 9.5)</p> <p>infringing obligations to provide resources for EWC (for management?): a serious or very serious administrative offence (Art. 22.8)</p>

²⁰ https://e-justice.europa.eu/34/EN/how_to_bring_a_case_to_court?PORTUGAL&member=1



		infringement of Calculation of the number of employees: very serious administrative offence
		A fine of up to 120 days or imprisonment of up to 1 year. ²¹
1	What are the sanctions for breaches of EWC laws?	Defined in Labour Code and Administrative Procedure Code ²² : Fines depend on company's turnover (!!!) ²³ and for infringements of collective representation of interests (including EWCs) the fines are doubled (Art. 556 of the Labour Code).

²¹ Art. 407: "Article 407

Crime for violation of trade union autonomy or independence, or by discriminatory act

1 - An entity that violates the provisions of paragraphs 1 or 2 of article 405 or in the previous article shall be punished with a fine of up to 120 days.

2 - The administrator, director, manager or other worker who occupies the position of leadership who is responsible for the act referred to in the previous number shall be punished with a prison sentence of up to one year"

²² Art. 22 of the EWC Act: The procedural rules on administrative offences in labour matters contained in the respective law and the provisions of the Labour Code [Código do Trabalho] on administrative liability shall apply to the administrative offences resulting from infringement of this Law.

²³ Labour Code, Article 554

Amount of fines

1 - Each fine shall be a variable fine depending on the company's turnover and the degree of guilt of the offender, except for the provisions of the following article.

2 - The minimum and maximum limits of the fines corresponding to a minor administrative offense are as follows:

a) If carried out by an undertaking with a turnover of less than EUR 10 000 000, from 2 UC to 5 UC in case of negligence and from 6 UC to 9 UC in case of intent;

b) If carried out by a company with a turnover of EUR 10 000 000 or more, from 6 UC to 9 UC in case of negligence and from 10 UC to 15 UC in case of intent.

3 - The minimum and maximum limits of the fines corresponding to serious administrative offenses are as follows:

a) If carried out by a company with a turnover of less than EUR 500 000, from 6 to 12 UC in case of negligence and from 13 to 26 UC in case of fraud;

b) If carried out by a company with a turnover of EUR 500,000 or less than EUR 2 500 000, from 7 UC to 14 UC in case of negligence and from 15 UC to 40 UC in case of fraud;

c) If it is carried out by an undertaking with a turnover of EUR 2 500 000 or more and less than EUR 5 000 000, of 10 UC to 20 UC in case of negligence and 21 UC to 45 UC in case of intent;

d) If carried out by an undertaking with a turnover of EUR 5 000 000 or more and less than EUR 10 000 000, from 12 UC to 25 UC in case of negligence and from 26 UC to 50 UC in case of intent;

e) If carried out by a company with a turnover of EUR 10 000 000 or more, from 15 UC to 40 UC in case of negligence and from 55 UC to 95 UC in case of intent.

4 - The minimum and maximum limits of the fines corresponding to very serious administrative offenses are as follows:

a) If carried out by a company with a turnover of less than EUR 500 000, from 20 UC to 40 UC in case of negligence and from 45 UC to 95 UC in case of intent;

b) If it is carried out by a company with a turnover of EUR 500 000 or less than EUR 2 500 000, from 32 UC to 80 UC in the case of negligence and from 85 UC to 190 UC in case of intent;

c) If carried out by an undertaking with a turnover of EUR 2 500 000 or more and less than EUR 5 000 000, from 42 UC to 120 UC in case of negligence and 120 UC to 280 UC in case of intent;

d) If carried out by an undertaking with a turnover of EUR 5 000 000 or more and less than EUR 10 000 000, of



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		<p>Also: 1 - When the violation of the law affects a plurality of employees individually, the number of infractions corresponds to the number of employees concretely affected, according to the following numbers (applicable to infringements of individual EWC members rights?; Art. 558 Labour Code).</p> <p>Also: Art. 558.4 of the Labour Code: “4 - If the offender has obtained an economic benefit from the offense, it must be considered in determining the fine according to Article 18 of the general administrative offense regime, as amended by Decree - Law no. 244/95, of 14 September” → possible to argue in EWC cases.</p> <p>Also: recidivism is taken into account²⁴</p>
2	Can the court rule to stop or reverse the companies' decision-making?	<p>Yes, probably: For other interim measures, the court with jurisdiction is the court before which the corresponding action is to be brought.</p> <p>Preparatory steps taken to produce evidence are requested in the court of the district in which the steps are to be taken.</p> <p>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).²⁵</p>
3	Whom should fines be paid to?	<p>“(…), half of the proceeds of the imposed fine will be returned to the latter, by way of compensation for operating costs and procedural expenses, with the remainder having the following destination: a) Work Accidents Fund, in the case of a fine imposed on occupational safety and health;</p>

55 UC to 140 UC in case of negligence and 145 UC to 400 UC in case of intent;

e) If carried out by a company with a turnover of EUR 10 000 000 or more, from 90 UC to 300 UC in case of negligence and 300 UC to 600 UC in case of intent.

5 - Turnover refers to the calendar year preceding the year in which the offense was committed.

6 - If the company has no activity in the calendar year prior to the commission of the infringement, the turnover of the most recent year shall be considered.

7 - In the year of commencement of business, it applies the limits for companies with a turnover of less than EUR 500 000.

8 - If the employer does not indicate the turnover, it applies the limits for companies with a turnover equal to or greater than EUR 10 000 000.

9 - The acronym UC corresponds to the unit of procedural account.

²⁴ Art. 561 and 562 of the Labour Code: “Article 562

Related sanctions

1 - In the case of a very serious administrative offense or a repeat offense of serious administrative offence, committed with gross negligence or gross negligence, the agent shall be charged with ancillary sanction of publicity”

²⁵ https://e-justice.europa.eu/85/EN/which_country_s_court_is_responsible?PORTUGAL&clang=en



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		b) 35% for the department responsible for the financial management of the social security budget and 15% for the State Budget in respect of another fine” (Art. 566 of the Labour Code)
4	Can a member of management be held personally liable (personal vs. corporate liability)	Yes (probably)
5	Can individual EWC members be sentenced to pay fines or be subject to other sanctions?	Yes (probably), at least in confidentiality cases.
6	Can the EWC collectively be sentenced to pay fines or be subject to other sanctions?	

Sanctions: 1 UC = 96 EUR

7. Out of court settlements

		Brief explanation
1.	In general, are alternative conflict resolutions available in a given country can out of court settlements be reached once a case has been filed? Does it happen in practice?	<p>Conciliation²⁶ Mediation²⁷ and Arbitration²⁸ are possible. Mediation costs are carried by the Ministry of Labour.</p> <p>Portugal has a centralised government body responsible for the regulation of mediation activities – the Directorate-General for Justice Policy (Direção-Geral da Política de Justiça).</p> <p>This Directorate-General is a department in the Ministry of Justice, located at:</p> <p>Av. D. João II, Lote 1.08.01-E, Torre H, Pisos 2/3 1990-097 Lisbon.</p>

²⁶ Art. 523 ff. Of the Labour Code.

²⁷ Article 528

Mediation by another entity

1 - The parties may request the minister responsible for labour matters, by means of a joint application, to have recourse to a person appearing on the list of presiding arbitrators to perform the functions of mediator.

2 - If the minister agrees and the chosen personality accepts to be a mediator, the corresponding charges are borne by the ministry responsible for the labour area.

3 - In case the mediation is not carried out by the competent department of the ministry responsible for the labour area, it must be informed by the parties of the corresponding beginning and end

²⁸ Article 529

Arbitration

Collective labour disputes which do not result from the conclusion or revision of a collective contract may be settled by arbitration according to Articles 506 and 507.



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		<p>Contact details:</p> <p>E-mail correio@dgpj.mj.pt Telephone: (+351) 217924000 Fax: (+351) 217924048 or 217924090. The DG's website contains most of the information available on public mediation services as well as other methods of alternative dispute resolution.</p> <p>It does not tell you how to find a mediator, although it does have lists of mediators. Once mediation has been decided on in accordance with the rules governing public mediation services, a mediator is automatically selected.</p> <p>There are no non-governmental organisations (NGOs) working in the area of mediation in Portugal. However, there are private associations that provide mediation services and training programmes for mediators.²⁹</p> <p>Where mediation takes place at the initiative of the parties, the costs for each party depend on the subject matter of the dispute, as follows: Employment mediation: EUR 50 to be paid by each party. When parties with financial problems have to pay fees related to the mediation process, they may apply for legal aid and obtain an exemption from the competent body (social security authorities – Instituto de Segurança Social).³⁰</p> <p>In Portugal, judicial litigation is the most widely used type of dispute resolution, however, owing to the lack of efficiency of the Portuguese judicial system, the importance of arbitration and other alternative dispute resolution (ADR) methods has been increasing significantly. In fact, in 2020, more than 15,000 arbitration proceedings were initiated before arbitral institutions in Portugal³¹</p>
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8. Resources for EWCs

		Brief explanation
1.	Can unions provide legal support or financing for litigation?	Third-party litigation funding is not regulated or prohibited by Portuguese law and is increasing in use in Portugal.

²⁹ https://e-justice.europa.eu/64/EN/mediation_in_eu_countries?PORTUGAL&member=1

³⁰ https://e-justice.europa.eu/64/EN/mediation_in_eu_countries?PORTUGAL&member=1

³¹ <https://thelawreviews.co.uk/title/the-dispute-resolution-review/portugal>



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2.	<p>What other resources are available in terms of legal support to EWCs and/or EWC members in your country (e.g., Arbeiterkammer, legal support centres)</p>	<p>The Alternative Dispute Resolution Office (Gabinete de Resolução Alternativa de Litígios, GRAL) is responsible for supporting the creation of such extra-judicial means of resolving disputes and putting them into practice.</p> <p>Detailed information on how to use one of the means of alternative dispute resolution is available at: http://www.dgpj.mj.pt/sections/gral.</p>
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