



Portugal

e-manual appendix





**This publication was funded
by the European Union's
Justice Programme
(2014–2020)**

Disclaimer:

The content of this publication represents the views of the authors, only, and is their sole responsibility. The European Commission does not accept any responsibility for use that may be made of the information it contains.

What is enforced

The enforcement proceedings aim to collect the judicial payment of a debt, or ensure the collection of a certain item, or the execution of a mandatory act.

In order to start an enforcement process, you must have an enforceable title, that is, a document that the law considers sufficient to demonstrate that a debt exists, or that someone is obliged to hand over or do something.

Examples of enforceable titles are: court sentences; documents authenticated (by a notary, a lawyer or a solicitor) in which the debtor recognizes that the debt exists; credit papers (such as a check or promissory letters), and documents from the condominium assemblies.

Who enforces

There are two distinct professional classes of enforcement agents in Portugal: private and public. Private enforcement agents are referred to as the Enforcement Agents (Agentes de Execução), and public enforcement agents are referred to as the Judicial Officers (Funcionários Judiciais).

More than 90% of the enforcement procedure is handled by the private Enforcement Agents. The judicial officers only handle the public enforcement proceedings and some enforcement cases where the creditor is entitled to legal aid.

The IT tools and procedural methods are identical for both classes of professionals.

Enforcement procedure

Enforcement begins with the submission of the enforcement application, which is compulsorily submitted electronically through the CITIUS, platform to which only judicial representatives have access, or for cases where it is possible for the creditor to submit such an application, he/she will have to do so at the Court office.

It is not mandatory to indicate any assets known to the debtor at the time of submission of the enforced application, but it's possible to do that.

The Enforcement Agent will search through the databases to obtain and confirm the elements he considers useful or necessary for the identification of the debtor or the location of his assets.

All enforcement process is electronic except for the acts that must be done physically or in person.

Duration of enforcement procedure

The enforcement procedure is supposed to have a limit duration of 6 months. However, in most cases, this deadline is not possible to accomplish. For example: when a debtor, with no other known assets, sees his salary seized every month and pays only a small part every month, depending on the amount of the debt, it can take a long time for the claim to be fully satisfied. The debtor has also rights, so in circumstances of appeal or opposition, it also takes much more time to reach the end of the process.

Cost of enforcement procedure

In the circumstance of salaries, and if intended, the entities may ask the Enforcement Agent to determine the amount to be seized. However, in <http://www.solicitador.org/CE/#/penhoraSalarios> there is a simulator for the automatic calculation of the seizure.



Cálculo para Penhora de Salários

A penhora de salários é um dos meios mais comuns para um exequente recuperar o seu crédito.

Nesta página tem à sua disposição um simulador que lhe permite verificar qual o valor que será descontado sobre o salário.

Encontram-se ainda ao seu dispor um conjunto de perguntas e respostas tipo que o podem auxiliar a compreender melhor alguns dos aspetos relacionados com a penhora de salários.

Tabela de Cálculo	
A) Ano do cálculo:	2020
B) Salário mínimo nacional no ano do cálculo:	635 €
C) Salário + comissões, diuturnidades, subsídio de refeição, horas extraordinárias, subsídio de deslocação, etc:	1200 €
D) Retenção na fonte:	240 €
E) Taxa social única:	124 €
F) Salário líquido para efeitos de cálculo:	836 €
G) Valor impenhorável:	635 €
H) Valor Penhorável:	201 €

In the case above, for a gross salary of 1.200€ the amount that could be seized is only 201€.

The Enforcement Agent is entitled to receive fees for the services provided, as well as to be reimbursed for the expenses which he carries out and which are appropriately proven.

When the payment of the fees and expenses of the Enforcement Agent cannot be satisfied through the incomes of the assets seized and sold or by the amounts deposited or attached or also by the amounts resulting from the voluntary payment of the debtor, full or partial, as well as the debts to third parties to which the seizure, attachment or sales of the assets or goods originates, are always supported by the creditor. The creditor may claim his reimbursement to the debtor.

The non-payment within 10 days of the amounts due in respect of provisions, fees and expenses of the Enforcement Agent, by the creditor, causes the extinction of the procedure, and the Enforcement Agent may proceed against the creditor for the recovery of these amounts.

*Portuguese Republic's Journal, 1st series – number 166 – 29th August 2013
Law n. º 282 / 2013 – Enforcement Agent's fees*

*ANNEX VI – Provision (amount under the existent legal VAT tax)
UC: Means “Account units” (Unidades de Conta), which now is 102€.

ANNEX VII – Fixed remuneration (amount under the existent legal VAT tax)

	ACTS OR PROCEDURES	ACTS OR PROCEDURES INCLUDED	AMOUNT
1.	EXECUTION PROCEDURES FOR THE RIGHT AMOUNT PAYMENT		
1.1	Proceeding to the execution procedure for the right amount payment with credit recovery or guarantee, by debtor against with the execution is made, except spouses or persons that live together.	All the necessary acts until the procedure is finished, with the limit of six services of documents or notification by postal service and two external actions, except if the external action is made in the same place or in places not far from 15 kilometers.	2, 5 UC
1.2	Proceeding to the execution procedure for the right amount payment without credit recovery or guarantee, by debtor against with the execution is made, except spouses or persons that live together.	All the necessary acts until the procedure is finished, with the limit of six services of documents or notification by postal service and two external actions, except if the external action is made in the same place or in places not far from 15 kilometers.	1, 5 UC
1.3	Sale through private negotiation	Promotion of the sale through private negotiation, including participating in the sale documents.	1 % of the sale amount ¹
1.4	Electronic research to all the data bases according to the Article 37º	All the necessary notifications.	0, 15 UC

2	EXECUTIVE PROCEDURES FOR THE DELIVERY OF CERTAIN THING FOR EXECUTION OF A MANDATORY ACT		
2.1	Proceeding to the execution procedure for the delivery of certain thing	All the necessary acts to accomplish the delivery of the right thing (thing or group of things)	4 UC
2.2	Proceeding to the execution procedure for the action in fact	All the necessary acts to accomplish the action in fact (acts or group of acts).	4 UC
3	DECLARATIVE PROCEDURES		
3.1	Service of documents or notification by personal contact (with effective displacement to the address), by service of documents, per person	Notifications from number 5 of the Article 231º and Article 233º of the Civil Procedure Code (CPC), stamping authentication, procedure and postal service costs, except when the copies costs are superior to 0, 05 UC.	0, 5 UC
3.2	Service of documents or notification by personal contact (with effective displacement to the address but the debtor doesn't live there, wrong address, etc), by service of documents, per person.	Notifications from number 5 of the Article 231º and Article 233º of the Civil Procedure Code (CPC), stamping authentication, procedure and postal service costs, except when the copies costs is superior to 0, 05 UC.	0, 25 UC
3.3	Detached notification (with effectively displacement to the address) by notified.	Notifications from number 5 of the Article 231º and Article 233º of the Civil Procedure Code (CPC), stamping authentication, procedure and postal service costs.	0, 5 UC
3.4	Detached notification (with displacement to the address but not effectively made because the debtor doesn't live there, the address doesn't exist) by notified.	Notifications from number 5 of the Article 231º and Article 233º of the Civil Procedure Code (CPC), stamping, procedure and postal service costs.	0, 25 UC
4.	ATTACHEMENT AND INVENTORY PRECAUTIONARY PROCEDURES		
4.1	Attachment or inventory of movables in external action, by positive action in designated place, until 3 hours long.	Drafting case files, notification of the defendant by postal services, notifications that will be made to the petitioner.	0, 5 UC
4.2	Attachment or inventory of movables in external action, by negative action in designated place, until 3 hours long.	Drafting case files, notifications that will be made to the creditor.	0, 25 UC
4.3	Attachment or inventory of movables in external action, by each additional hour.		0, 15 UC
4.4	Attachment or inventory of immovable property, by immovable.	Drafting case files, notification of the debtor by postal services, when applicable, notifications that will be made to the creditor, registration submission, public notice affixation.	0, 5 UC
4.5	Attachment or inventory of bank accounts, periodical income and another credits or rights, by notification under the	Drafting case files, notification of the debtor by postal services, when applicable, notifications that will be	0, 25 UC

	form of service of documents by postal service.	made to the creditor, other sequent notifications.	
4.6	Attachment or inventory of bank accounts, periodical income and another credits or rights, by notification under the form of service of documents by personal contact.	Drafting case files, notification of the debtor by postal services, when applicable, notifications that will be made to the creditor, other sequent notifications.	0, 5 UC
4.7	Attachment or inventory of bank accounts, periodical income and another credits or rights by electronic means.	Drafting case files, notification of the debtor by postal services, when applicable, notifications that will be made to the creditor, other sequent notifications.	0, 10 UC
5	OTHER ACTS		
5.1	Paper certifications (until 20 pages)	Authentication of actions with stamping of documents	0, 25 UC
5.2	By each page en plus		0, 01 UC
5.3	Electronic certifications	No matter the number of pages	0, 16 UC

¹ This amount is added to the previous amount as referred in 1.1 when the enforcement agent is the one who makes the sale by private negotiation.

ANNEX VIII – Additional remuneration (amount per existing legal VAT tax)

Executive procedures for the right amount payment	Amount recovered or assured	Moment when the amount is recovered or assured		
		Before the first seizure	After the seizure and before the sale	After sale
		Apliable tax (by percentage)		
	Until 160 UC (A) ¹	10%	7, 5%	5%
	Over 160 UC (B) ²	4%	3%	2%

¹ If the amount recovered or assured by payment agreement is under or equal to 160 UC, we use the tax as referred in (A).

² If the amount recovered or assured by payment agreement is over 160 UC, we use the tax in (A) for the first 160 UC and to the amount en plus we use the tax as referred in (B).

You can estimate the procedural costs on the on-line simulator made available in <https://www.novocpc.org/honoraacuterios-2013.html>

SIMULADOR DE HONORÁRIOS

Nos termos do nº 7 do artigo 44º da Portaria 282/2013 de 29/08, é disponibilizado um simulador de honorários que tem carácter meramente informativo.

Este simulador destina-se exclusivamente aos processos de execução intentados após 1 de Setembro de 2013.



Esta aplicação tem por objectivo permitir simular os honorários devidos ao agente de execução nos termos da Portaria 282/2013. Caso encontre alguma imprecisão solicita-se que comunique para DINF@solicitador.net						
REMUNERAÇÃO FIXA						
Número de executados a quem foram penhorados bens ou que efetuaram pagamento.	1.1 do anexo VII	<input type="text" value="2"/>		Unitário	2,50 UC	Valor 510 €
Número de executados a quem não foram penhorados bens ou não houve pagamento.	1.2 do anexo VII	<input type="text"/>		Unitário	1,50 UC	0,00 €
Total de Executados:						510,00 €
Remuneração fixa (1.1 e 1.2 do anexo VII)						
ACRÉSCIMO POR ATOS REALIZADOS						
		Nº de Actos	Incluídos	A cobrar	Unitário	Valor
Citação ou notificação sob forma de citação por via postal, efetivamente concretizada.	a) nº 3 do artigo 50º	<input type="text" value="4"/>	12	0	0,25 UC	0,00 €
Notificação por via postal ou citação eletrónica.	b) nº 3 do artigo 50º	<input type="text" value="2"/>		0	0,05 UC	0,00 €
Ato externo concretizado (designadamente, penhora, citação, afixação de edital, apreensão de bem, assistência a abertura de propostas no tribunal).	c) nº 3 do artigo 50º	<input type="text" value="4"/>	4	4	0,50 UC	204,00 €
Por ato externo frustrado.	d) nº 3 do artigo 50º	<input type="text" value="6"/>		2	0,25 UC	51,00 €
						255,00 €
nº 3 do artigo 50º / 1.1 e 1.2 da tabela VII						
VALOR RECUPERADO						
	C/Garantia	Valor Recuperado		Valor		
Valor recuperado antes da penhora (processos com dispensa de citação prévia).	<input type="checkbox"/> Sim	<input type="text" value="0"/>		0,00 €		
Valor recuperado após a penhora.	<input type="checkbox"/> Sim	<input type="text" value="0"/>		0,00 €		
Valor recuperado após a venda.	<input type="checkbox"/> Sim	<input type="text" value="100000"/>		2489,60 €		
						2489,60 €
ANEXO VIII e nº 11 do artigo 50º						
VENDA POR NEGOCIAÇÃO PARTICULAR						
	Valor de Venda		Valor			
Honorários pela venda por negociação particular.	<input type="text" value="0"/>	<input type="text" value="1%"/>	0,00 €			
TOTAL DE HONORÁRIOS						3254,60 €
						(a)

(a) O valor não inclui IVA nem as despesas que possam ser devidas pela prática dos atos.

