



## ENFORCEMENT OF JUDGMENTS

The enforcement of judgments in administrative litigation is today one of the most critical points in the relationship between citizens and the Administration. It is here that one can assess whether effective judicial protection is translated—or not—into concrete results.

In Portugal, this matter is extensively regulated in the Code of Procedure in the Administrative Courts (CPTA) and grounded in the Constitution of the Portuguese Republic, which imposes on the Administration the duty to comply with court decisions.

### LEGAL FRAMEWORK FOR THE ENFORCEMENT OF ADMINISTRATIVE JUDGMENTS

The CPTA dedicates a specific title to the enforcement of judgments issued by administrative courts against public entities.

Under Article 157(1), enforcement is structured into three main categories:

- enforcement of obligations to perform acts or deliver goods (Articles 162 et seq.);
- enforcement for payment of a specific sum (Articles 170 et seq.);
- enforcement of judgments annulling administrative acts (Articles 173 et seq.).

## ENFORCEMENT FOR PAYMENT OF A SPECIFIC SUM

In cases of condemnation to pay a specific amount, Article 170(1) provides that, unless otherwise established, the Administration must comply voluntarily within a maximum period of 30 days.

If it fails to do so, paragraph 2 of the same article grants the interested party a period of one year to request judicial enforcement, including the possibility to:

- offset the claim against debts owed to the same legal entity (or Ministry); or
- request payment through specific budget allocations provided for in the State Budget and assigned to the Higher Council of Administrative and Tax Courts, intended for payment of amounts due under judicial decisions.

These allocations must correspond, at a minimum, to the total amount of judgments issued in the previous year, plus statutory default interest.

## ENFORCEMENT OF ANNULMENT JUDGMENTS

In the case of **judgments annulling administrative acts**, Articles 173 et seq. clarify that enforcement requires the Administration to carry out all acts and material operations necessary to restore the legal order that was unlawfully affected, and to comply with duties it should have fulfilled absent the annulled act.

The aim is to reconstitute the legal and factual situation that would have existed had the unlawful act not been adopted.

Case law has emphasised that, where the annulled act is renewable, enforcement is achieved through the issuance of a new “replacement” act, free from the identified defect. Retroactive effect is admissible where necessary to comply with court decisions and provided it does not impose duties, sanctions or restrictions on rights (Article 156(2)(c) of the Administrative Procedure Code).

## ADMINISTRATION’S DUTIES AND PROCEDURAL MEANS OF RESPONSE

The Administration has no discretion to choose whether or not to comply with a judicial decision. It is legally bound to fully enforce the judgment and take all necessary steps to give it effect.

Failure to comply, in whole or in part, allows the use of enforcement mechanisms under the CPTA, namely:

- coercive enforcement at the request of the interested party after expiry of the voluntary compliance period, under Articles 170 et seq. (payment obligations) or 173 et seq. (annulment judgments);
- the imposition by the court of substitute or coercive measures, including recourse to specific budget allocations when the debtor entity fails to include the necessary funds in its budget;

- the use of injunctions (Article 109 CPTA) where a swift and definitive decision is required to secure performance of a due act. Case law has considered this mechanism particularly suitable in cases of prolonged administrative resistance; where a binding administrative act is concerned, the court may itself issue a judgment producing the effects of the unlawfully omitted act.

Case law also emphasises that the CPTA enforcement regime deliberately departs from the civil procedural model, given the nature of public-law defendants and the specific budgetary and organisational constraints of the Administration.

## PRACTICAL DIFFICULTIES AND CURRENT CHALLENGES

Despite a relatively robust legal framework, practice reveals several difficulties: significant delays in voluntary compliance, administrative resistance in structurally sensitive areas (such as urban planning, career progression and remuneration, and social benefits), and additional litigation regarding the scope and manner of enforcement.

Recurring issues include:

- **Late enforcement requests**, often due to lack of awareness or misinterpretation of the one-year deadline under Article

170(2) CPTA. This is a procedural deadline specific to administrative enforcement, independent from civil procedural time limits and of a preclusive nature; its expiry may prevent enforcement proceedings altogether.

- **Disputes over full compliance**, particularly where the Administration issues new “replacement” acts after annulment, which, although formally corrected, may still produce substantially similar adverse effects, raising the question of whether there has been genuine reconstitution of legality or merely apparent compliance.
- **Tension between budgetary constraints and the duty to comply with monetary judgments**, especially in financially constrained public entities. Although the CPTA provides mechanisms such as dedicated budget allocations for payment of judicial debts, their practical mobilisation is not always sufficiently swift, prolonging the satisfaction of recognised claims.

## FINAL REMARKS

The enforcement of judgments has gained increasing relevance in doctrine and in specialised analysis of administrative litigation. Beyond obtaining a favourable judgment, what matters is ensuring that the legal system provides—and effectively uses—procedural tools capable of transforming

judicial decisions into concrete changes in administrative acts, omissions and legal situations.

The CPTA, interpreted in light of the Constitution and consolidated case law, provides the formal instruments. The practical challenge lies in ensuring their timely and strategic use, so that effective

judicial protection becomes a tangible reality in citizens' daily lives.

Ultimately, it is at the enforcement stage that the credibility of administrative justice is truly tested.

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