

# Tax Controversy

*Contributing editor*  
**Richard Jeens**



2017

GETTING THE  
DEAL THROUGH

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**Richard Jeens**  
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# Portugal

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## Overview

### 1 What is the relevant legislation relating to tax administration and controversies? Other than legislation, are there other binding rules for taxpayers and the tax authority?

The General Tax Law, approved by Decree-Law No. 398/98, of 12 December 1998, and the Tax Process and Procedure Code, approved by Decree-Law No. 433/99, of 26 October 1999, are arguably the most important pieces of legislation currently governing tax administration and controversies. The former sets out the main tax principles and rules of the Portuguese tax system while the latter governs in detail the procedural aspects and relevant material actions pertaining to tax administration, from the notification of taxpayers and issuance of tax certificates, to tax litigation on both first instance and appeal courts and enforcement of tax debts.

It is also worth mentioning the Tax and Customs Audit Procedure Regime, approved by Decree-Law No. 413/98, of 31 December 1998 – governing in detail the legal aspects of tax audits – and the General Regime of Tax Infringements, approved by Law No. 15/2001, of 5 June 2001 – stating the different tax crimes and misdemeanours, the corresponding penalties, and the procedural rules of taxpayers' defence.

Finally, Decree-Law No. 10/2011, of 20 January 2011, approved the Legal Regime of Tax Arbitration, introducing arbitration as an alternative dispute resolution mechanism available to taxpayers concerning most tax disputes.

In addition to ordinary legislation, the Portuguese Constitution, EU law and international treaties complete the legal framework applicable to tax administration and controversies. Tax rulings and tax authorities' guidance information and circular letters are not binding to taxpayers but only to the tax authorities.

### 2 What is the relevant tax authority and how is it organised?

The Tax and Customs Authority (hereinafter tax authorities) is the relevant administrative service of the Ministry of Finance in charge of administering taxes and custom duties. Overseen by the Minister of Finance (and by the State Secretary for Tax Affairs), the tax authorities operate under the direction of a director-general and form a hierarchical structure with a multitude of specialised services, divisions and units.

In broad terms, the tax authorities' structure is topped by central services, which operate in close proximity to the director general to prepare and implement decisions and measures concerning tax policy, directing, coordinating and controlling tax administration actions regarding the assessment, audit and collection of the several taxes. In addition to these central services, there are territorial-based decentralised services, at the regional and local levels, designed to pursue tax administration services in close proximity to taxpayers (with the regional services playing a supporting role to local tax offices in their area of jurisdiction).

In 2013, the government introduced a special unit within the tax authorities exclusively dedicated to corporate taxpayers and high-net-worth individuals qualified as 'large taxpayers' – for example, companies with an annual turnover above €200,000,000 or individuals with an annual income above €750,000. This unit deals with all matters regarding such taxpayers and provides them with a dedicated tax manager who acts as a preferential contact when dealing with the tax authorities.

## Enforcement

### 3 How does the tax authority verify compliance with the tax laws and ensure timely payment of taxes? What is the typical procedure for the tax authority to review a tax return and how long does the review last?

Tax authorities may request clarifications and documents supporting the information disclosed by the taxpayers in their tax returns.

Further control may be carried out through tax audits, which may take place internally within the tax authorities' services or externally, at the taxpayer's premises.

Tax audits may start until the limitation period for tax assessment or infringement proceedings expires and may last up to six months. This deadline may be extended for another six months.

Once the investigation ends, the tax authorities issue a draft audit report. The taxpayer then has the right to a hearing regarding the content of such draft audit report. The tax authorities may only issue the final audit report once the taxpayer has filed its hearing or the deadline granted thereto expired.

Corrections laid down within the final audit report constitute the basis for additional tax assessments issued by the tax authorities.

### 4 Are different types of taxpayers subjected to different reporting requirements? Can they be subjected to different types of review?

Individual taxpayers undertaking independent business activities with an annual gross income above €200,000,00, corporations and companies undertaking a business activity are required to prepare financial statements and file an annual fiscal and accountancy information statement.

Country-by-country reporting obligations exist for resident business entities that either hold or control, directly or indirectly, one or more non-resident entity. These obligations entail for instance the disclosure of financial and fiscal information regarding non-resident group subsidiaries or branches.

### 5 What types of information may the tax authority request from taxpayers? Can the tax authority interview the taxpayer or the taxpayer's employees? If so, are there any restrictions?

The tax authorities' mission is to perform all necessary steps to satisfy the public interest and to discover material facts not being subordinated to the initiative of the applicant regarding the collection of relevant information and data within a tax proceeding.

Accordingly, the tax authorities may collect a wide range of data and evidence from the taxpayers or third parties.

This task is particularly relevant within tax audits as the tax authorities benefit from special prerogatives regarding the collection of information and documents. Therein the tax authorities may, for instance, examine the taxpayer's accounting books, records and transaction documents, access their computer system, request documents in the possession of third parties economically related with the taxpayer under audit, notaries, public registrars and other public entities as well as interview the taxpayers, their employees, directors, chartered accountants and any other person of interest.

Taxpayers may however refuse to disclose information regarding their intimate life as well as legally privileged information (see question 7).

Access to banking information and documents is subject to a specific administrative proceeding. However, previous court authorisation is not required.

#### **6 What actions may the agencies take if the taxpayer does not provide the required?**

If the taxpayer does not voluntarily provide information requested within a tax audit, the tax authorities may take cautionary measures to safeguard such information, such as seizing accounting documents and respective computer equipment, sealing the taxpayers' facilities or assets or certifying the taxpayer's books and documents.

Moreover, if the taxpayer unjustifiably fails to cooperate within a tax audit, the tax authorities may resort to assessing tax by indirect evaluation of the taxable base.

Furthermore, refusal to surrender or exhibit accounting or other relevant documents may be punished with a fine ranging between €375 and €150,000.

#### **7 How may taxpayers protect commercial information, including business secrets or professional advice, from disclosure?**

Taxpayers may lawfully refuse to provide information legally qualified as confidential such as business secrets or information under attorney-client privilege. If faced with such refusal, the tax authorities may only access the information if authorised by court.

#### **8 What limitation period applies to the review of tax returns?**

The tax authorities may review tax returns and assess additional tax until the limitation period for tax assessment expires.

As a general rule, the right to assess taxes expires if the assessment is not properly notified to the taxpayer within four years. For periodic taxes the limitation period starts to run from the end of the year in which the taxable event occurred, whereas for single-incident taxes, this period starts to run from the date in which the taxable event occurred. As regards VAT and income taxes imposed by final withholding, the limitation period is counted from the beginning of the calendar year following that in which, respectively, the chargeability or taxable event occurred.

Where the review of tax returns connects with events under criminal investigation, the limitation period extends until the investigation is closed or the case decided by court, plus one year.

The limitation period extends to 12 years when the tax assessment relates to undisclosed taxable events connected with blacklisted tax havens or undisclosed deposit or securities' accounts held in financial institutions located outside the EU.

The limitation period suspends, for instance, upon notification of the taxpayer of a service order or notice at the beginning of an external tax audit.

#### **9 Describe any alternative dispute resolution (ADR) or settlement options available?**

Tax assessments may be challenged within administrative proceedings before the tax authorities. The decision issued in these proceedings is solely governed by law. No administrative or bargaining agreement on facts or on the applicable legal regime is admissible. The taxpayer may file a hierarchical appeal against the first-tier decision issued in this procedure.

Taxpayers may request binding rulings from the tax authorities, regarding the application of law on certain facts.

At the request of the taxpayer, duly justified, the binding information may be provided urgently within 90 days. A fee ranging between €2,550 and €25,500 is due by the taxpayer in such cases.

Large taxpayers may request an advance clearance on the tax and legal qualification of certain highly complex transactions, for instance when such transaction may be subject to anti-avoidance rules or involve non-resident entities.

Mutual agreement procedures in accordance with double taxation treaties and advanced transfer pricing agreements are also set forth in Portuguese tax law.

Finally, a tax arbitration procedure was enacted in 2011 as an alternative to the ordinary judicial tax disputes mechanisms (see questions 24, 25, 30, 31 and 38).

#### **10 How may the tax authority collect overdue tax payments following a tax?**

The tax authorities collect overdue tax payments through enforcement procedures.

Within the enforcement procedures, the tax authorities may seize the debtor's assets, for instance, bank accounts, credits over third parties, immovable or movable assets, shares and other securities.

If necessary, seized assets are sold by the tax authorities in a public auction and the earnings used to settle the tax debt.

Taxpayers may request the suspension of the enforcement procedure if the legality of the tax assessment or the enforceability of the tax debt is undergoing litigation and a suitable guarantee is provided by the taxpayer or waived by the tax authorities.

#### **11 In what circumstances may the tax authority impose penalties?**

Tax offences specifically set out by law may be punished by penalties imposed by the tax authorities.

Such tax offences fall into two broad categories: (i) failure to withhold and/or surrender withheld or received tax; and (ii) failure to comply with ancillary obligations set out in tax law (eg, failure to submit tax declarations, failure to keep up accounting documents, etc).

Penalties are only applicable to the extent that the tax authorities prove that the taxpayers acted with negligence or malice.

#### **12 How are penalties calculated?**

Penalties vary according to the specific tax offences set out by law and may entail both fines and ancillary sanctions.

Tax offences relating to the failure to withhold or deduct and/or surrender withheld or deducted tax, penalties entail a fine calculated according to the amount of tax at stake, whereas penalties arising from failure to comply with ancillary obligations usually entail fines; their fixed minimum and maximum limits set out by law.

Further to the fines, the tax authorities may punish tax offences with ancillary sanctions such as, for instance, the withdrawal of tax benefits or activity licenses.

#### **13 What defences are available if penalties are imposed?**

Taxpayers may challenge penalties before the tax courts.

Within this process, taxpayers may present all evidence to ground their claim against the penalties imposed by the tax authorities.

Taxpayers, the tax authorities or the public prosecutor's office, may appeal the first instance decision held within this judicial process to a higher court.

#### **14 In what circumstances may the tax authority collect interest and how is it calculated?**

Tax authorities may collect both compensatory interest and late-payment interest.

Compensatory interest is due, currently at a 4 per cent annual rate, if through the taxpayer's fault (i) the assessment of the tax due, the delivery of tax payable in advance or withheld is delayed; or (ii) a larger refund is paid by the tax authorities.

Late-payment interest is due if the taxpayer fails to pay the tax due within the legal deadline. The yearly interest rate corresponds to the annual average of the monthly average of the 12-month EURIBOR rate plus 5 per cent.

#### **15 Are there criminal consequences that can arise as a result of a tax review? Are these different for different types of taxpayers?**

Actions carried out with the purpose of avoiding the assessment, the delivery or payment of taxes, or obtaining a tax benefit or refund through (i) the concealment or amendment of facts or amounts that should be recorded in the accounting books or tax returns and used by the tax authorities to assess and determine the taxable base; (ii) the concealment or amendment of facts or amounts that should be disclosed to the tax authorities; or (iii) the execution of sham transactions, may be criminally punished as tax fraud.

Moreover, failure to deliver, totally or partially, more than €7,500 of tax withheld or received (in the case of VAT) may be criminally punished as embezzlement.

Both individual taxpayers and business entities may be punished for these crimes. Directors of business entities are also criminally liable for such crimes.

#### **16 What is the recent enforcement record of the authorities?**

According to the latest information publicly available, in 2015 the tax authorities collected €1,286.9 billion through enforcement procedures that translates to an increase in the amount collected in comparison with 2014 (€1,147.6 billion).

#### **Third parties and other authorities**

#### **17 Can a tax authority involve or investigate third parties as part of the authority's review of a taxpayer's returns?**

The tax authorities are entitled, under the legally set-out cooperation principle, to request information and demand cooperation from third parties – and they often do. Unlawful non-cooperation may amount to a tax infringement and lead to the application of fines.

The main limitation to the cooperation principle arises from the proportionality principle, according to which the tax authorities may not request cooperation from third parties that proves too burdensome or greatly interferes with the normal course of business or activity of the entities concerned. Likewise, tax authorities must refrain from requesting information that they already have on record or can obtain directly from the taxpayer. Historically, Bank secrecy and other professional privilege regimes were major barriers to tax information requests; but nowadays, following a trend of legal amendments aiming to enhance tax authorities' effectiveness, those are easily overcome by tax officials, most of the time without the need to resort to judicial clearance (although still being subject to judicial review after the fact).

On the other hand, any information provided to the tax authorities by third parties is covered by tax secrecy, meaning that it may not be disclosed to other entities. Breaching this secrecy is punishable as a criminal offence.

#### **18 Does the tax authority cooperate with other authorities within the country? Does the tax authority cooperate with the tax authorities in other countries?**

The tax authorities actively cooperate with other public authorities within the country. Together with the police, they often form task forces to detect and fight contraband of goods and control taxpayer compliance in areas such as road and vehicle taxes. Another good example of such cooperation with public authorities happens between the tax authorities and the economic and food safety authority, operating jointly to tackle the shadow economy and fight tax evasion. However, perhaps the most relevant cooperation occurs with the public prosecutor's office. Tax authorities are consistently called upon to provide assistance in the investigation and prosecution of virtually all tax crimes; from tax fraud to embezzlement, but also in white-collar crimes not directly tax-related, such as money laundering or corruption.

Regarding cooperation with foreign tax authorities, first reference must be made to EU Directive 2011/16/EU, which provides for extensive and comprehensive cooperation on tax matters between all EU member states. Regarding non-EU countries, cooperation exists under bilateral exchange of information agreements or under double taxation treaties, which typically follow the OECD model convention and include exchange of information provisions.

Finally, it is worth noticing that since 2015, Portugal is party to the OECD/Council of Europe multilateral Convention on Mutual Administrative Assistance in Tax Matters. The tax authorities, therefore, are currently full participants in what is becoming an international network with the goal of enhancing application and effectiveness of national tax rules worldwide.

#### **Special procedures**

#### **19 Do any special procedures apply in cases of financial or other hardship, for example when a taxpayer is bankrupt?**

As a rule, bankruptcy entails the stay of foreclosure procedures, including those formed to collect tax debts, and their appendment to the bankruptcy procedure.

The tax authorities take part and claim payment of tax debts within the bankruptcy procedure together with all other creditors, with the sole but significant difference that tax debts cannot legally be pardoned with

the context of measures aiming at recovering the failed entity from bankruptcy. Nevertheless, in those circumstances payment by instalments of tax debts may benefit from extended instalment plans, of up to 150 months, while in the absence of any financial hardship the maximum number of monthly instalments is 36.

#### **20 Are there any voluntary disclosure or amnesty programmes?**

Although experience shows that from time to time amnesty programmes are implemented to encourage voluntary disclosure and compliance by evading taxpayers – between 2005 and 2015 there have been no less than four different extraordinary regularisation programmes – no such programme is currently in force.

#### **Rights of taxpayers**

#### **21 What rules are in place to protect taxpayers?**

Proper taxpayer protection is first and foremost a consequence of the rule of law, which in Portugal is clearly asserted by the Constitution. From the rule of law and the constitutional provisions regarding citizens' fundamental rights, it is clear, for instance, that judicial review of tax authorities' actions must be possible and tax law cannot discriminate taxpayers on the grounds of 'ancestry, gender, race, language, place of origin, religion, political or ideological beliefs, education, economic situation, social circumstances or sexual orientation'.

Grounded in constitutional provisions, ordinary law does specify certain tax procedural rules of the utmost importance to taxpayers. Notably, the General Tax Law expressly foresees the taxpayer's right to be informed on decisions concerning them and, what is more, the requirement for such decisions to be clearly and explicitly grounded on both the facts and the law. Additionally, taxpayers also have the right to take part in the tax procedure, including the right to comment on draft decisions that directly affect them.

The General Tax Law also includes the statute of limitation deadlines for tax assessment (as a general rule, four years from the taxable event) and for tax collection (as a general rule, eight years from the taxable event), which is an important facet of a taxpayer's right to legal certainty

#### **22 How can taxpayers obtain information from the tax authority? What information can taxpayers request?**

Taxpayers have a general right of information on matters pertaining to their tax status as well as on the application of tax law provisions. Information requests can be made over the telephone (through a dedicated call centre destined to address taxpayers' queries), via the tax authorities' website, by post, and physically at the tax authorities' local tax offices.

The level and legal value of the information obtained varies greatly, ranging from general information on existing taxes and payment deadlines (available to everyone), to specific information about the status of tax procedures and the taxpayer's information on record (that typically may only be obtained by the taxpayer concerned or their representatives).

In this regard, taxpayers are entitled to ask the tax authorities for binding information on the way a certain tax rule or regime applies, or may apply, to their specific situation. If the taxpayer sees fit, they may choose to present a draft reply together with the binding information request and pay an urgency fee, in which case, if no reply exists within 90 days, the draft reply is considered tacitly accepted and the tax authorities become bound to it.

When tax authorities fail to adequately reply to a formal information request, a court order may be sought by the taxpayer to force such a request to be met and the information to be provided. Additionally, conforming with the tax authorities' reply to a binding information request may be judicially challenged in court by the taxpayer concerned.

#### **23 Is the tax authority subject to non-judicial oversight?**

No. However, to some extent, the Portuguese ombudsman, who often receives and reviews taxpayer complaints, can intervene requesting explanations from the tax authorities (and make recommendations to government and parliament) that is aimed at protecting taxpayers' legal rights.

### Update and trends

Following a trend in recent years, the tax authorities are increasingly focusing on transactions and business arrangements attaining the benefit of tax exemptions or simply not being subject to tax. Fuelled by budget constraints, but also by social pressures to tackle tax fraud and avoidance, the tax authorities are resorting, as never before, to provisions such as the general anti-abuse rule to question the economic substance of tax planning structures, giving rise to a significant volume of associated litigation. Understandably, in such a context, taxpayers are mostly concerned with preserving the value of legal certainty despite the great leeway given to tax authorities in applying concepts such as 'abuse', 'economic substance', or 'valid business reasons' to specific cases. Unfortunately, up until now, tax courts have been capable only to a point of clarifying the limits of the tax authorities' latitude, particularly because fact patterns vary between cases, but also because the number of cases decided on these matters is still relatively scarce. Moreover, the non-appealable aspect of tax arbitration decisions entails that many cases may escape review from higher courts, even if decided at odds with the prevailing jurisprudence.

On a separate but related note, in the near future legislation amendments are expected to implement the EU Commission's Anti-Tax Avoidance Package. As a result, adjustments to existing anti-avoidance measures will almost certainly be made and exchange of tax information between Portugal and other EU member states will predictably be streamlined. Although such measures will perhaps improve the tax authorities' efficiency, they unfortunately do very little in protecting taxpayers from their potential misuse. Additional litigation is therefore anticipated.

### Court actions

#### 24 Which courts have jurisdiction to hear tax disputes?

In Portugal, there are courts specialising in dealing with tax disputes. Except for Lisbon, where there is a first instance court dealing with tax disputes only, the rest of the courts around the country also have jurisdiction over administrative matters.

The tax arbitration courts, created in 2011, are an alternative means to settle tax disputes.

There are three courts of appeal: the administrative central courts (North and South) and the administrative supreme court.

#### 25 How can tax disputes be brought before the courts?

Tax claims are filed in writing. There are different types of legal actions depending on the type and purpose of the claims. There is not a minimum threshold amount applicable to those claims.

Taxpayers, including individuals and legal persons (jointly and severally liable or with an ancillary liability), may bring claims if they can evidence a legal interest worth protecting.

Tax claims are subject to legal costs. To present a claim, taxpayers have to pay an amount between €102 and €1,632 depending on the total value of the litigation.

Unlawful tax assessments may be challenged based on (including but not limited to) the incorrect qualification or quantification of the taxable income, the tax authorities' insufficient powers and the infringement of procedural requirements.

Arbitration proceedings are subject to specific rules that, however, do not vary greatly from those above.

#### 26 Can tax claims affecting multiple tax returns or taxpayers be brought together?

Yes, provided that the type of tax, the grounds and the court for the decision are identical.

Insofar as the requirements above are fulfilled, and as long as it does not prejudice the progress of the proceedings, it is also possible to attach judicial claims on different tax assessments already in course.

#### 27 Must the taxpayer pay the amounts in dispute into court before bringing a claim?

No, there is no such obligation.

#### 28 To what extent can the costs of a dispute be recovered?

The reimbursement of the judicial costs and fees (up to 50 per cent of the sum of the judicial costs borne by both parties) should be claimed by the losing party within five days as from the date on which the decision becomes definitive. Any fees exceeding that threshold may be claimed in an action for damages arising from non-contractual liability of the Portuguese state.

#### 29 Are there any restrictions on or rules relating to third-party funding or insurance for the costs of a tax dispute, including bringing a tax claim to court?

There are no restrictions on or specific rules regarding third-party funding or insurance.

#### 30 Who is the decision maker in the court? Is a jury trial available to hear tax disputes?

The first instance court is constituted by a single independent judge who will make the first ruling on the tax dispute.

The rulings of courts of appeal are taken by a panel of judges formed (in most cases) by three judges.

In tax arbitration courts, if the taxpayer decides not to appoint an arbitrator and the amount at stake is less than €10,000,01 the court operates with a single arbitrator. The remaining cases take place before a panel of three arbitrators, chosen by the Ethics Committee of the Arbitration Centre or appointed by the parties.

#### 31 What are the usual time frames for tax trials?

No up-to-date statistics are available in this regard.

Notwithstanding, practice shows that first instance decisions are often taken within five years from first being filed. For courts of appeal, the time frame is normally lower because rulings are delivered in about three years.

Arbitration courts are more efficient and most of the decisions are obtained within six months.

#### 32 Describe the discovery process for a tax trial.

In principle, evidence is produced with the initial application.

Additional documentation may be brought forward by the parties during the course of the proceedings to the extent they do so by no later than 20 days before the trial hearing. After that date, only documents that became available at a later stage may be presented. The opinions of lawyers, professors or technicians may be submitted at any time.

#### 33 What testimony is permitted in a tax trial?

Whenever the parties or the court consider it convenient, the testimonies of the taxpayers, witnesses and experts can be taken.

Normally, affidavits are not allowed and testimonies have to be made in person or 'live' through a teleconference.

Foreign testimonies do require translation as well as the original language documents.

#### 34 Who can represent taxpayers in a tax trial? Who represents the tax authority?

Where the value of the tax case exceeds €2,500 or the case is at a court of appeal level, the taxpayer is required to be represented by lawyer.

If a taxpayer cannot afford legal counsel, it is possible to request legal aid before through social services, which, depending on that person's financial situation, can include the exemption of payment of fees and legal costs or their payment in periodic instalments.

Normally, public officers with a law degree represent the tax authorities in a tax trial.

#### 35 Are tax trial proceedings public?

Generally, trial proceedings are public. However, the judge can decide otherwise in order to protect the taxpayer's dignity and public moral, or in order not to disrupt the proceedings in progress.

#### 36 Who has the burden of proof in a tax trial?

As a general principle, the burden of proof regarding a certain fact falls on the party invoking it.

Nevertheless, when the evidence of a certain fact is in the possession of the tax administration, the burden of proof is considered to be met by the taxpayer simply on an accurate identification of the relevant.

In addition, should the facts concerned be reflected in tax returns, accounts and any supporting documentation, the burden of proof falls on the tax authorities.

### 37 Describe the case management process for a tax trial.

After the presentation of a claim regarding tax assessments, the court notifies the tax authorities to provide their response within 90 days. Within that same time frame, the tax authorities have to bring forward evidence as well as the administrative procedure.

Subsequently, the trial hearing takes place and the statements of the parties, witnesses and experts are taken.

After that, the parties are notified to present (in a maximum of 30 days) their written arguments (that should summarise the grounds for the claims). Then the public prosecutor has the opportunity to submit his or her opinion and finally the judge issues his decision.

### 38 Can a court decision be appealed? If so, on what basis?

Any party disagreeing with a first instance court decision regarding tax assessments and being negatively affected by it may lodge an appeal within 10 days of the decision's notification. If the disagreement is exclusively based in matters of law, the Administrative Supreme Court will be the

relevant court of appeal. For other situations, the Administrative Central Court (North or South) will be the competent court of appeal.

For cases valued less than €1,250.01 the first instance courts' rulings are definitive.

Courts of appeal rulings may also be disputed on the basis of either a contradiction of a previous judgement (within 10 days from the high court ruling's notification, or when the question at stake is of fundamental importance at a juridical or social level, or is clearly relevant for a better application of the law (in which case a time frame of 30 days applies).

Where a constitutional issue is raised during the proceedings, it is also possible to lodge an appeal to the Constitutional Court.

Appeals on arbitration courts' awards are quite restricted. They are possible only to the extent that they are based on a conflict of previous judgements (in which case they have to be lodged before the Administrative Supreme Court), or on constitutional issues (lodged before the Constitutional Court).

Finally, it is also important to note that the courts of appeal and the arbitration courts are obliged to present a request for a preliminary ruling to the European Union Court of Justice whenever there are uncertainties regarding any potential infringement of EU law.

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