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## **PORTUGAL**

### **1. What is the title, rank and position of the Legal Adviser?**

The “Department of Legal Affairs” (DLA) of the Portuguese Ministry of Foreign Affairs (MFA) was created 10 years ago, in February 1994, replacing the previous legal office (legal and treaty office). The Department is headed by a Director, who holds the rank of a Director-General within the MFA. The Director can be a diplomat or be recruited outside of the diplomatic service (civil servants, lawyers, professors of law, etc.). Since 1994, there have been three directors, who were recruited outside of the diplomatic service.

### **2. What are the principal functions of the OLA?**

The DLA is a central service that provides support and advice to the Minister and to the other services of the MFA with regard to both international and domestic law. Its “core business” is international law, though it has responsibilities also with regard to domestic law. There are other services in the MFA outside the DLA that deal with legal issues, namely regarding European law.

The DLA also gives support and advice in the negotiation of international treaties and other instruments and is responsible for finalising the process of their internal approval.

The Director of the DLA has acted as agent for the Government before the International Court of Justice (but not before the European Court of Human Rights, which is currently dealt with by the Ministry of Justice and the Office of the Attorney-General, or the European Court of Justice).

The DLA is responsible for following the principal international legal forums such as the COJUR with the CFSP in the European Union, the CAHDI of the Council of Europe and the 6th Committee of the United Nations General Assembly.

It also has important responsibilities in the field of international judicial co-operation: it receives and transmits extradition requests as well as all other judicial acts involving foreign courts.

### **3. Please give a brief description of the staff employed by the OLA, including overseas staff.**

There are currently 9 persons working in the DLA in Lisbon, including the Director, from which 2 are career diplomats. The other 7 are lawyers, professors of international law, civil servants and consultants with a law degree. There are also at the moment 2 trainees that help with research work and 1 translator.

The DLA has no overseas staff, although there are posts of legal advisers in several diplomatic missions and embassies (e.g. Permanent Missions to the UN in New York and Geneva, Permanent Representation to the EU in Brussels, Embassies in Madrid and Maputo, etc.).

**4. Briefly describe the organisation and structure of the OLA.**

The DLA is structured around two services: international law service and domestic law service. Each service has a director that reports to the Director of the DLA. These directors are either diplomats or civil servants. The staff is divided between these two services (5 in the international law service, including the director, and 3 in the domestic law service).

There is also a translation section.

The DLA has no financial autonomy, the budget being administered by the Secretary-General and the Department of Administration of the MFA.

**5. What is the OLA's place within the Ministry of Foreign Affairs?**

The DLA is a central service of the MFA, whose head ranks as Director-General and reports directly to the Minister and Secretaries of State. The Director and his staff are not part of the diplomatic service, but career diplomats may also be posted in the DLA while in Lisbon.

**6. What are the main contacts of the OLA within Government?**

The DLA gives support and advice in the negotiation of international treaties and other instruments and is responsible for finalising the process of their internal approval. Therefore, all international agreements and other instruments concluded by Portugal, even if negotiated by other departments in the MFA and other governmental departments have to be approved by the DLA.

**7. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.**

The MFA/DLA may hire lawyers in private practice, when need arises, such as for example, to act as counsel and advocate in proceedings before international courts and tribunals. Legal opinions may also be requested to lawyers in private practice or to academics.

At the moment, the DLA employs 2 professors of international law (the director and a consultant) and sometimes entrusts academics that are specialists in given fields to attend certain international meetings (International Criminal Court negotiations, etc.).

**8. Please provide a brief bibliography on the OLA, if available.**

There is currently no bibliography on the Portuguese DLA.