

PORTUGAL

This document contains the Portuguese Republic's contributions to the questionnaire circulated by the Secretariat on Sub-item 6.a – Exchange of national practices on possibilities for the Ministry of Foreign Affairs to raise public international law issues in procedures pending before national tribunals and related to States' or international organisations' immunities.

1. Portugal has no specific domestic legislation on this issue. However, Portugal has acceded to the Convention on the Privileges and Immunities of the United Nations, approved by the General Assembly, on 13 February 1946 and has signed the European Convention on State Immunity.

2. The Portuguese Constitution, in its Article 111, clearly establishes that the organs of supreme authority, such as the Government and the Courts, are separate and interdependent. Article 203 states that "The courts shall be independent and subject only to the law". As a consequence, the Ministry of Foreign Affairs cannot intervene on cases pending before the Portuguese courts. However, following a request from a court, the Ministry of Foreign Affairs can provide legal information on International Law, namely on international legal obligations of the Portuguese State.

All domestic laws must respect the international legal obligations that are binding to the Portuguese State. According to article 8 (2) of the Portuguese Constitution, *"The rules set out in duly ratified or passed international agreements shall come into force in Portuguese internal law once they have been officially published, and shall remain so for as long as they are internationally binding on the Portuguese State"*.

There are no directives, guidelines or circulars issued on this particular subject.

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4. As stated before, due to the principle of the independence of the Judiciary, the Ministry of Foreign Affairs cannot intervene on pending cases before Portuguese courts.

The Ministry of Foreign Affairs cannot communicate with the Parties engaged in the procedures before national courts, except for any communication restricted to legal aspects