

## Portugal, Judges' strike in 2017

### Member State

 Portugal

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### Topic

Rule of law, freedom of association of judges and prosecutors

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### Deciding Court Original Language

Not applicable.

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### Deciding Court English translation

Not applicable.

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### Registration N

Not applicable.

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### Date Decision

2017

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### ECLI (if available)

Not applicable.

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### National Follow Up Of (when relevant)

Not applicable.

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### EU legal sources and CJEU jurisprudence

Not applicable.

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### ECtHR Jurisprudence

Not applicable.

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### Subject Matter

Trust – Judges – Judges' right to strike

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## Legal issue(s)

The legal issue here is whether a judge, as a sovereign body, may or may not strike.

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## Request for expedited/PPU procedures

Not applicable.

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## Interim Relief

Not applicable.

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## National Law Sources

Articles 57, 110, 202, 213, 216 and 217 of the Portuguese Constitution

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## Facts of the case

In 2017 the judges went on strike which led to several constraints in the administration of justice.

This strike sparked public discussion on whether the Constitution allows judges to strike.

Some scholars claim that if a judge, like the military, cannot be enrolled in a political party then he also has no right to strike. In addition, the argument is also that judges are not subordinates and are not in a position close to that of workers in private companies or public administration. They are not employed by the State. They are - like the President of the Republic, deputies and ministers - sovereign bodies.

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## Reasoning (role of the Charter or other EU, ECHR related legal basis)

The dispute did not reach the courts, although important legal scholars have publicly contested the strike, namely Jorge Miranda, a renowned Portuguese constitutionalist and one of the main mentors of the Portuguese Constitution that was approved in 1975. See here:

<https://www.publico.pt/2017/06/09/sociedade/opiniao/os-juizes-nao-tem-direito-a-greve-1775012>

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## Relation of the case to the EU Charter

Not applicable.

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## Relation between the EU Charter and ECHR

Not applicable.

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## Use of Judicial Interaction technique(s)

Not applicable.

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Horizontal Judicial Interaction patterns (Internal – with other national courts, and external – with foreign courts)

Not applicable.

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Vertical Judicial Interaction patterns (Internal – with other superior national courts, and external – with European supranational courts)

Not applicable.

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Strategic use of judicial interaction technique (purpose aimed by the national court)

Not applicable.

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Impact on Legislation / Policy

Not applicable.

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Notes on the national implementation of the preliminary ruling by the referring court

Not applicable.

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Impact on national case law from the same Member State or other Member States

Not applicable.

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Connected national caselaw / templates

Not applicable.

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Other

Not applicable.

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(Link to) full text

Not applicable.

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