



## EUROPEAN JUDICIAL NETWORK IN CIVIL AND COMMERCIAL MATTERS

### National report [**PORTUGAL**]

## Activities of the national contact point (s) in 2010

### OUTLINE

#### I – Structure of the Network

- **Number of contact points**

Portugal has designated only one Contact Point for the European Judicial Network in Civil and Commercial Matters.

- **National networks** *[if applicable, describe how it works (decentralised? centralised structure?) and explain your activities to ensure coordination between the members of your national network or among the national members of the EJM. Please indicate also if your national network benefit from the assistance of experts or if your MS have designated experts as members of the Network – Article 2(1) (d) Council Decision 2001/470/EC];*

The national structure of the European Judicial Network in civil and commercial matters includes, besides the Contact Point, the following national members:

- Directorate-General for Justice Policy - Ministry of Justice
- Directorate-General of Justice Administration - Ministry of Justice
- Directorate-General of Social Reinsertion – Ministry of Justice
- Institute for Register and Notary Offices - Ministry of Justice
- Office for Alternative Dispute Resolution - Ministry of Justice
- Institute for Computing Technologies on Justice Services - Ministry of Justice
- Monitoring Council for Justices of the Peace – Ministry of Justice
- Institute of Social Security
- Commission for the Protection of Crime Victims – Ministry of Justice

These authorities are called to cooperate with the Portuguese Contact Point in specific domains of their competences and responsibilities for judicial cooperation in civil and commercial matters, on several levels: assisting them or the local judicial authorities in preparing operable requests for judicial cooperation and in establishing the most appropriate direct contacts, seeking solutions to difficulties arisen on the occasion of a request for judicial cooperation.



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There are no experts designated as members of the network or to assist them.

- **Ways of supplying information** to other CP's, the authorities mentioned in Article 2(1) to (d) and the local judicial authorities **on the Network and on the instruments adopted in civil matters and any other information necessary for the good judicial cooperation between the MS;**

All the instruments adopted in civil matters and any other necessary information for the good cooperation between the Member States are advertised through divulgations of the High Council of the Judiciary to all local judicial authorities.

The Contact Point for Portugal also provides to all Portuguese judicial authorities the brochures and any other promotional material related with the European Judicial Network and with the legal instruments adopted in civil and commercial matters.

## II – Personnel and resources

- *Please describe briefly your staff, financial resources and up-to-date means of communication for the effective operation of your service in 2009;*
- *If applicable, please indicate clearly the full address of your website (contact point website not the website address of your Ministry).*

The service of the Portuguese Contact Point of the European Judicial Network in Civil and Commercial matters is established in the premises of the High Council of the Judicial, based in Rua Mouzinho da Silveira, n. ° 10 - 1269-273 Lisboa – Portugal.

The facilities of the Contact Point services have are the office of the Judge Contact Point and a room for the administrative and legal services.

The staff is composed by the Judge Contact Point, one legal officer and one administrative assistant.

The Ministry of Justice is responsible for the transfer of the necessary funds to ensure the performance of the Contact Point's activity as well as the technical and administrative support services.

The Portuguese Contact Point service is opened Monday to Friday, from 9.00h to 12.30h and 14.00h to 17.30h. The contact details are: **Tel.:** (+351) 213 220 041/042/020; **Fax:** (+351) 213 474 918; **E-mail:**



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[redecivil@csm.org.pt](mailto:redecivil@csm.org.pt) and [florbela.f.martins@juizes-csm.org.pt](mailto:florbela.f.martins@juizes-csm.org.pt); **Web:**  
[www.redecivil.mj.pt](http://www.redecivil.mj.pt)

### III – Operation of the Network

- **Requests for information or for judicial cooperation**, which were submitted by other contact points and the authorities referred to in Article (1) (b), (c) and (d), and the local judicial authorities, provided for by Articles 5 and 6 (3), sorted out **by requested and requesting sources** (from whom). *[Please indicate and rank the requests by theme. Describe practical difficulties encountered and response timing (the shorter, the longer and the average time to reply). Please make a short comparison with 2008 regarding judicial cooperation workflow and volume of problems encountered];*

From January 1st until 31 December 2010, the Portuguese Contact Point received a total of 253 requests, widely held by the Portuguese local judicial authorities, judges and Public Prosecutors, and registered a total of 1446 claims for cooperation since the beginning of the Network.

The Portuguese Contact point goal is to reply in 48 hours, at least, which was accomplished in the majority of the cases. Most of the times, the answers are given on the same day. Whenever we need to collect information from third parties (other Member State's contact point, central authority or local judicial authority) the average time to reply is extended from 8 to 10 days approximately. The longest time it took us to answer, dependent of third parties' contribute, was about one month.

Comparatively during the same period of 2009 the Portuguese Contact Point received 189 requests.

From 2009 to 2010, regarding judicial cooperation workflow from local judicial authorities, we've noticed a decrease of requests from clerks concerning the completion of forms to prepare operable requests for judicial cooperation and an increase of demands from Judges and Prosecutors to gather information about best practices and interpretation of Regulations and Directives.

We've observed that the Portuguese judicial authorities are more informed about the European judicial cooperation proceedings. We have also noticed an increase of demands involving issues and obstacles that have occurred during the execution of the proceedings by the requested authorities.

We also received a large number of requests from local judicial authorities asking if the requested court had videoconference facilities and if it was possible to use it for direct taking of evidence, under article 17 of council regulation 1206/2001.



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The most significant problems were:

- Most of the requested authorities of the Member States (Portugal included) still don't reply to the requesting courts based on the acknowledgement of receipt form.
  - Most of the procedural time limits of the European judicial instruments are still not respected, and the notifications of delays are not processed.
  - Despite it has been communicated that the Portuguese language is acceptable for completion of the forms, some demands are still being rejected and returned by the requested authorities because the competent forms weren't filled in the official language of their Member State.
- **Concrete "success stories"** (requests for judicial cooperation) *[if you have any concrete "success stories, please describe briefly one of those by indicating facts, intervention requested and outcome];*
    - Collect information and seek solutions to difficulties raised on a request for recovery of maintenance from a Romanian citizen, regarding the transfer of the maintenance credit amount from the Portuguese Court to the applicant's bank account.
    - Exchange of urgent information between British Authorities and Portuguese Local administrative and judicial Authorities, related with child abduction cases in order to accelerate and facilitate the judgements in both jurisdictions.
    - Giving support to Portuguese judicial courts that encountered problems during videoconferencing proceedings for direct taking of evidence with other member state's authorities (Germany, Spain and United Kingdom), intermediating the competent contacts whenever a lack of communication occurred (wrong contact numbers, connectivity problems, insufficient knowledge of other language).
  - **Contribution to the implementation of the "acquis communautaire"** within the framework of judicial cooperation in civil and commercial matters (implementation of the principle of mutual recognition) *[please describe your actions in this regard and the major outcomes. Please indicate also any events or promotional activities to facilitate the dissemination of information on civil justice to local judicial authorities and to legal practitioners]*

We kept in mind the importance of disseminating the Network in order to make it a support of the streamlining of judicial cooperation and the



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diffusion of information on national law, as proposed by the European Union.

The Portuguese Contact Point reinforced during a meeting with the Directorate-General of Justice Administration - Ministry of Justice – the necessity to give training sessions on civil justice to all judicial officers.

The Portuguese Contact Point, Florbela Moreira Lança, has organized, on 15<sup>th</sup> December 2010, the annual meeting of National Members of the EJNCC, where all were represented, in order to exchange experiences, to provide a platform for discussion of practical and legal problems met and to deal with specific questions concerning the appliance of the Decision No 568/2009/EC of the European Parliament and of the Council, of 18 June 2009, amending Council Decision 2001/470/EC establishing a European Judicial Network in civil and commercial matters.

The new Portuguese Contact Point's website was presented during this meeting to all the national members in order to discuss its contents and give suggestions.

The Portuguese Contact Point is collaborating with the Portuguese Centre for Legal Studies (Portuguese Judicial School) as a lecturer in the Course on European and International Law, and has also held conferences where she spoke about the European Judicial Network in civil and commercial matters and Regulation 2201/2003.

Posters and promotional material allusive to the European Day of Civil Justice of 2010 were distributed and a banner was included on the High Council of the Judiciary website.

The Portuguese Contact Point is permanently in contact, namely, with judges, in order to explain what EJNCC is and how the structure can help in civil judicial cooperation.

- **Dissemination of information on civil justice to the general public** (citizens and business) [please describe actions occurred in 2009]

Regarding the website created by the Portuguese Contact Point, which was under maintenance since July of 2009 to be restructured and updated, it will be available at the end of January. For the general public it will be a simple and fast channel of consultation of effective and reliable information, pursuing the same goals provided by articles 14 and 15 of the Council Decision 2001/470/EC establishing a European Judicial Network in civil and commercial matters. The site will have links to the EJN official website, European Judicial Atlas and e-Justice Portal.



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- **Contacts established at Member State level between you and other networks acting in related fields, in particular with the European Consumer Centres Network (EEC-Net) and SOLVIT** [*if any, please describe them briefly and possible outcomes*]

The Portuguese Contact Point has been in contact with two Judicial Cooperation Networks: the Latin American Judicial Network on civil and criminal matters (IberRed) and the Portuguese Speaking Countries Judicial Network (RJCPLP – Rede de Cooperação Jurídica e Judiciária Internacional dos Países de Língua Portuguesa – Rede Judiciária da CPLP), as she was appointed by the Portuguese High Council of the Judiciary as its representative, as Contact Point, in both Networks.

The Portuguese Contact Point had a meeting with the Director of the Portuguese ECC where some impressions about the ECC-net (Portugal) and the EJM were exchanged. The tasks, activities and modus operandi of the EJM (Council Decision 2001/470/EC) and of the ECC-Net (Portugal) , the possibility of a future cooperation between the two Networks, according to Decision 568/2009/EC of the European Parliament and the Council, the amendment of the Decision 20017470/ES were discussed.

- **Contacts and exchange of experiences/information with legal practitioners at Member State level** (individually or professional associations) [*if you have these contacts in place, please report this experience and, if appropriate, highlight possible benefits* ]

On May 2010 the Portuguese Contact Point was invited by the Portuguese Bar Association to participate in a conference about family matters, where she lectured about Council Regulation 2201/2003.

Every time that the contribution of some professional order seems necessary to provide a more complete answer over queries related with European judicial instruments, given the specificity of the matters and the involvement of the legal practitioners that such orders represent with these instruments, the Portuguese Contact Point asks them to participate with their opinions.