



## EUROPEAN JUDICIAL NETWORK IN CIVIL AND COMMERCIAL MATTERS

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

## Activities of the national contact point (s) in 2011

### OUTLINE

#### I – Structure of the Network

- **Number of contact points**

Portugal has nominated 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
- Portuguese Bar Association
- Portuguese Chamber of Solicitors
- Portuguese Notary Association

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.

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



## EUROPEAN JUDICIAL NETWORK IN CIVIL AND COMMERCIAL MATTERS

- **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 notices of the High Council of the Judiciary to all local judicial authorities.

The Portuguese Contact Point also provides to all national judicial authorities the brochures and 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 for Judiciary, based in Rua Mouzinho da Silveira, n. ° 10 - 1269-273 Lisboa – Portugal.

The facilities of the Contact Point services include 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 Contact Point's activity as well as the technical and administrative support services.

The Portuguese Contact Point service is opened from 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:** [redcivil@csm.org.pt](mailto:redcivil@csm.org.pt) and [florbela.f.martins@juizes-csm.org.pt](mailto:florbela.f.martins@juizes-csm.org.pt); **Web:** [www.redcivil.mj.pt](http://www.redcivil.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*



## EUROPEAN JUDICIAL NETWORK IN CIVIL AND COMMERCIAL MATTERS

*comparison with 2010 regarding judicial cooperation workflow and volume of problems encountered];*

From January 1st until December 31st of 2011, the Portuguese Contact Point received a total of 176 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.

Comparatively during the same period of 2010 the Portuguese Contact Point received 253 requests.

The Portuguese Contact Point's purpose 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 and a half month, being that we have a case that's still waiting for an answer over a year and a half.

From 2010 to 2011, regarding judicial cooperation workflow from local judicial authorities, we've noticed that the requests from clerks concerning the completion of forms to prepare operable requests for judicial cooperation maintained its tendency to decrease.

On the other hand, an increase of demands from Judges and Prosecutors to gather information about best practices and interpretation of Regulations and Directives, to seek solutions to difficulties arising on the occasion of a request for judicial cooperation and also to facilitate coordination of the processing of requests for judicial co-operation with the requested Member State, particularly on cases of direct taking of evidence based on videoconference.

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've observed that the Portuguese judicial authorities are more informed about the European judicial cooperation proceedings, which is very positive, regarding the lack of training of the judicial clerks on such matters.

We also have received many critics from citizens and legal regarding the lack of updating of the factsheets present on the official webpage of the EJNCC.

The most significant problems encountered 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



## EUROPEAN JUDICIAL NETWORK IN CIVIL AND COMMERCIAL MATTERS

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];*
  - Exchange of urgent information between a British authority and a Portuguese local judicial authority, to determine whether the mother/defendant was in a position to be responsible for her underage daughter as the holder of parental responsibilities, given that the minor was currently institutionalised in Portugal.
  - Exchange of urgent information between a German judicial authority and a Portuguese local judicial authority in order to collect critical information to issue a decision on an application for return of a minor from Germany to Portugal
  - 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 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 decisive necessity to provide training sessions on civil justice to all judicial officers.

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 the Regulation 2201/2003.

Posters and promotional material allusive to the European Day of Civil Justice of 2011 were distributed and a banner was included on the High Council of the Judiciary website.



## EUROPEAN JUDICIAL NETWORK IN CIVIL AND COMMERCIAL MATTERS

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

- **Dissemination of information on civil justice to the general public (citizens and business)** [please describe actions occurred in 2011]

The Portuguese Contact Point has launched its new webpage on June 2011, at URL: [www.redecivil.mj.pt](http://www.redecivil.mj.pt)

Since then and until December 31<sup>st</sup>, the website was visualized by 29293 visitors and presented 494.317 page impressions from 83 countries.

The most searched subjects were the information factsheets, specially the ones about insolvency, parental responsibility, service of documents and legal aid, followed by the European legal instruments and jurisprudence.

For the general public is 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 website has links to the EJCNC official website, European Judicial Atlas and e-Justice Portal.

- **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 was invited by the Director of the Portuguese ECC to participate as a lecturer in a Seminary entitled “*Shopping cross-border just one click away! New legal framework of consumer rights in the European Union*”, where she presented a dissertation about the European small claims procedure in cross-border litigation.



## EUROPEAN JUDICIAL NETWORK IN CIVIL AND COMMERCIAL MATTERS

- **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 January 2011 the Portuguese Contact Point has met with the Portuguese General Direction of Consumer where some impressions about the Regulation 861/2001 and the collaboration to revise a brochure to be elaborated by the General Direction were discussed.

On September 2011 the Portuguese Contact Point participated in a teleconference with Dr. Geraldo Vidigal Neto, responsible for the Portuguese and Spanish sections of “think tank, RAND Europe” for the elaboration of a study to the European Commission about the implementation of the European Enforcement Order for uncontested claims in the Member States, where some impressions were discussed regarding its execution in Portugal.

Every time that the contribution of some professional order seemed 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 always asked them to participate with their opinions.