



EUROPEAN JUDICIAL NETWORK IN CIVIL AND COMMERCIAL MATTERS

National report PORTUGAL

Activities of the national contact point in 2012

I – Structure of the Network

- **N° of contact points** *[if you have more than one contact point, please describe how coordination is ensured between you];*

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 Rehabilitation and Prison Services – Ministry of Justice
- Institute for Register and Notary Offices - 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 - Ministry of Solidarity and 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.



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- **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 presented 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 2012;
- 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.

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: **Address:** Rua Mouzinho da Silveira, n. ° 10 - 1269-273 Lisboa – Portugal. **Tel.:** (+351) 213 220 042/020; **Fax:** (+351) 213 474 918; **E-mail:** redecivil@csm.org.pt and florbela.f.martins@juizes-csm.org.pt; **Web:** www.redecivil.mj.pt
Facebook: <https://www.facebook.com/pages/Ponto-de-Contacto-de-Portugal/364371800242216?ref=ts&fref=ts>

III – Operation of the Network



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- **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 2011 regarding judicial cooperation workflow and volume of problems encountered];*

From January 1st until December 31st of 2012, the Portuguese Contact Point received a total of 247 requests, widely held by the Portuguese local judicial authorities, judges and public prosecutors, and registered a total of 1869 requests for cooperation since the beginning of the Network.

Comparatively during the same period of 2011 the Portuguese Contact Point received 176 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 two years and a half.

From 2011 to 2012, 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, we have about the same number 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 professions regarding the absence of updating of the factsheets present on the official webpage of the EJNCC.

The most significant problems encountered were:



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- 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 forms.
 - Most of the procedural time limits of the European judicial instruments are still not respected, and the notifications of delays are not processed.
 - Sometimes cooperation requests we made are not answered in due time specially in cases where we have requested for a contact point's intervention and we are called to explain to the requesting authorities why does the Network take more than one and even two years to gather information and give them an answer. The Portuguese Judicial authorities have three cases suspended and waiting for responses from the French authorities about three letters of request: two related to the Council Regulation (EC) No 1206/2001, since 23.05.2012, and the other related to the Regulation (EC) No 1393/2007 of the European Parliament and of the Council, since 01.6.2010.
- **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];
 - Helping in the exchange of information between British authorities and Portuguese local judicial authorities to speed up care proceedings concerning a Portuguese 14 year old girl living in the UK with her father. The girl was at the time subject to an interim care order and living in foster care. There was the need to gather documentation of a Portuguese judicial proceeding and also information on the whereabouts of the mother in Portugal.
 - Giving support to a Northern Ireland's judicial Authority regarding a case involving a minor with Portuguese nationality. The referred authority was interested in obtaining documentation relating to a hearing held in April 2009 in a Portuguese court, and also interested in any subsequent court proceedings involving the minor. Our assistance also requested to providing a direct line of communication between the Irish and the Portuguese child protection authorities so that amongst other matters there could be a free flow of information between the two.
 - 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, Luxemburg 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



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(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 has collaborated with the Portuguese Centre for Legal Studies (Portuguese Judicial School), the European Judicial Training Network and other Institutions as a lecturer in several conferences where she spoke about the European Judicial Network in civil and commercial matters and the European Regulations.

Posters and promotional material allusive to the European Day of Civil Justice of 2012 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 and legal officers, in order to explain what EJNI 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 2012]**

The Portuguese Contact Point has launched its webpage on June 2011, at URL: www.redecivil.mj.pt

Since then and until December 31st 2012, the website was visualized by 235 820 visitors and presented 1 784 649 page impressions from 120 countries.

The most researched subjects were the information factsheets, especially the ones about insolvency, parental responsibilities 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, namely, to the EJNI official website, European Judicial Atlas and e-Justice Portal.

In February 2012, the Portuguese Contact Point has launched its Facebook page at



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URL: <https://www.facebook.com/pages/Ponto-de-Contacto-de-Portugal/364371800242216?ref=ts&fref=ts>

- **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 collaborate on a brochure titled “O Processo Europeu Para Ações de Pequeno Montante – Uma Alternativa Judicial Simplificada “(European Small Claims Procedure – A Simplified Judicial Alternative).

Link:

https://docs.google.com/viewer?a=v&q=cache:2gces7-jggJ:www.cm-santarem.pt/apoioaomunice/Informao%2520ao%2520Consumidor/O%2520Processo%2520Europeu%2520para%2520A%25C3%25A7%25C3%25B5es%2520de%2520Pequeno%2520Montante_Uma%2520Alternativa%2520Judicial%2520Simplificada.pdf+&hl=ptPT&pid=bl&srcid=ADGEESiciCJOVDjOUDTavcLKKrNVf1o8glZMWfA9Nn6wfuWQ9tH1d6wyHaec7I5S1tRBiyPsfErrn8hVMsrybZ6gEb7KxEELbOlhhWZwzBkovMumwe93JIZxEL341UpwJ6cb7uNDq&sig=AHIEtbSlcJKO3f2gdBYVf8GA9jJ10YgjRw

- **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*]

The Portuguese Contact Point has met with the Portuguese General Direction of Consumer to collaborate on the drafting of a brochure, about the European Small Claims Procedure.

On February 2012 the Portuguese Contact Point participated in a meeting with all the staff of International Judicial Cooperation division of the Directorate-General of Justice Administration, where some impressions were discussed regarding the Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations.



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On March 2012 - Moderator in the Portuguese Directorate General for Justice Administration Seminar: "Judicial Network in Civil and Commercial Matters - National Members and applicable international legal instruments".

On May 2012 - Guest speaker in the specialization course in Family Law - "Family Law: Regulation 2201/2003". This course was prepared by the Portuguese Centre for Judicial Studies especially for Judges, Public Prosecutors and Legal Professions.

On December 2012 - Moderator in the meeting held by the Directorate-General for Justice Policy of International Law on "Jurisdiction, Applicable Law, Recognition and Enforcement of Decisions and Authentic Instruments in Matters of Succession and the Creation of a European Certificate of Succession: The Regulation (EU) N. ° 650/2012" – December 2012

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.

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]