



ANNUAL REPORT 2015

PORTUGUESE CONTACT POINT

EJN CIVIL

European Judicial Network

in civil and commercial matters

Conselho Superior da Magistratura
Rua Mouzinho da Silveira, nº 10, 1279-273, Lisboa, Portugal
Tel. +351 213220042; E-mail: correio@redecivil.mj.pt
Web: www.redecivil.mj.pt

ACRONYMS AND ABBREVIATIONS

CA	Central Authority
DGAJ	Directorate General for Justice Administration
DGPJ	Directorate General for Justice Policy
DGRSP	Directorate General for Rehabilitation and Prison Services
ECS	European Certificate of Succession
The Commission	European Commission
ECJ	European Court of Justice
EJN Civil	European Judicial Network in Civil and Commercial Matters
EU	European Union
IberRed	Latin-American Countries Judicial Network
IGFEJ IP	Institute for Financial Management and Equipment of Justice
ISS, IP	Social Security Institute
MS	Member State
RJCPLP	Portuguese Speaking Countries Judicial Network
WG	Working Group

TABLE OF CONTENTS

Creating an European Judicial area for the benefit of citizens	3
Foreword	4
Structure of the network	6
Staff and expenditure	7
Operation of the national network	8
Implementing the <i>acquis communautaire</i>	11
Requests for information and judicial cooperation	12
A success story about videoconference	13
Building bridges	14
Dissemination of information	15
The website of the Portuguese contact point	16
Contacts and exchanges with legal practitioners at Member State level	17
Contacts established with other networks acting in related fields	18
Future Perspectives	19

Creating an European Judicial area for the benefit of citizens



According to recitals 3, 10 and 13 of the Decision establishing EJN Civil

(Council Decision N° 2001/470/EC amended by Council Decision N° 568/2009/EC)

- ◆ *The reinforcement of judicial cooperation in civil matters represents a fundamental stage in the creation of a European judicial area which will bring tangible benefits for every European Union citizen.*
- ◆ *The European Judicial network in civil and commercial matters seeks to facilitate judicial cooperation between Member States both in areas to which existing instruments apply and in those where no instrument is currently applicable.*
- ◆ *To attain its objectives EJN Civil needs to be supported by contact points designated by the Member States.*

Foreword

I am pleased to present the 2015 annual report on



the activities of the Portuguese contact point of EJM Civil.

In 2015, the cooperation between the national members of the network become routine either through trimestral meetings or through more restricted meetings set up by the contact point.

The national network has been focused on the tangible benefits of judicial cooperation for EU citizens. In that context, some working groups were created at national level, namely to reflect on child relocation cases and to foster the participation of national authorities in EU projects on electronic justice.

Regarding the WG on child relocation, the judicial and administrative authorities involved are aware that in the context of Brussels IIa Regulation Judges and citizens are faced with new problems.

The 1980 Hague Convention to which Brussels IIa refers, was drafted more than 30 years ago and intended to face a different reality: the illicit retention or removal of a child by the holder of parental responsibility who was not the principal care taker of the child in most cases. In such cases, the return of the child to his/her previous status quo was justified and urgent.

Nowadays, however, the reality shifted and become multifaceted. The free movement of citizens within the EU generated a greater number of transnational families. The shared custody spread among European legal systems. In case of family disruption or divorce, the child is often relocated by his or her principal care taker without the consent of the other holder of parental responsibility. It appears from pending cases that the principal care taker frequently faces a difficult eco-

nomic situation or even domestic violence in the country of the habitual residence of the child. Additionally, in some cases, the main care taker is not a national of that country. The decision of moving with the child is motivated by the need to find a job, to provide the child with better living standards or to escape from domestic violence.

To help Judges deal with this new reality, the European Court of Human Rights, when interpreting the 1980 Hague Convention in the context of article 8 of the European Human Rights Convention, concluded that the best interest of the child should be assessed individually, for each concrete child and not as an abstract principle enshrined in the 1980 Hague Convention.

This may lead to three main consequences in the context of the revision of the Brussels IIa Regulation.

Firstly, the Regulation could complement Article 13 of the 1980 Hague Convention, by clarifying the obligation for the authorities in the MS of the habitual residence of the child, to provide the Court deciding on the request for relocation with the mandatory social report/information on the past of that child and the quality of his/her family and social ties in the MS of habitual residence, before removal or retention.

Secondly, the Regulation could clarify that the arrangements made to secure the protection of the child after his/her return shall be concrete arrangements and not a mere legal possibility. This would be in line with the interpretation of Article 11(4) of the Regulation, already made by EJM Civil in the Guide on Brussels IIa Regulation.

Thirdly, without prejudice of the prohibition to decide on the merits of rights of custody set forth in Article 16 of the 1980 Hague Convention, the Regulation could clarify the possibility for the judicial or administrative authorities of the MS to which the child has been removed, to take a provisional measure regarding rights of access. Such a clarification would ensure the main interest of the child to maintain ties with both parents in cases of relocation, unless it is not appropriate (e.g. child abuse, drug/alcohol addiction, violence).

Another important issue related with child relocation, is mediation. The WG on child relocation set up by the national network has been reflecting on a way of extending the scope of mediation to transnational cases of child relocation.

The Mediation Directive is ambiguous with regard to family matters insofar as Article 1(2) of the Directive excludes from its scope rights and obligations which are not at the parties disposal under the relevant applicable law. This is the case of most rights and obligations in family matters under the Portuguese law.

Although Portugal has a family mediation system it is streamlined for national cases. Of course nothing prevents the parties from using it in a voluntary basis in transnational cases but in such cases, namely in relocation cases, some difficulties may arise. It is not possible to obtain previous information either on the linguistic skills of mediators or on their experience/training on transnational mediation by consulting the available lists of public and private mediators. It is not clear if legal aid can cover private mediation when the parties decide to choose a private mediator instead of a public mediator (whose fees are in part supported by the State).

Additionally, the national WG is focused on overcoming some other issues that have been identified in transnational cases of child relocation: the cost of translations, as it is not clear at national level, that it should be covered by legal aid; the cost of travelling to attend mediation and to ensure rights of access of the left behind parent in case of economic difficulties.

When discussing the above mentioned issues it became clear that family mediation is an important tool to relieve family tension and to improve the quality of parental ties, in cases of relocation. The national law on parental responsibilities, that was recently adopted, foresees that the Judge shall refer the parties either to mediation or to a hearing by specialised social workers — depending on the choice of the holders of parental responsibility — in an early stage of the proceedings.

Hopefully the WG will make some proposals to improve citizens rights in this area, within the limits of the available national resources.

In this regard the **Commission's informal consultation within the network, regarding the revision of the Brussels IIa Regulation and the Mediation Directive, allows a privileged space for debate and exchange of good practices.**

As for the electronic justice, the positive outcome of the coordination within the national network was the participation of two members — IGFEJ IP and DGAJ (the national CA for Maintenance) — in the **iSupport** project of the Hague Conference cofinanced by the EU and by some countries/parties. The electronic processing of caseload will probably fasten maintenance recovery.

With regard to the benefits brought by the EU in the daily life of ordinary citizens, the factsheets provided by EJM Civil are a significant source of practical information for citizens struggling to assert their rights. Unfortunately, as part of the factsheets is not yet translated, the Commission and EJM Civil are waiving an important means to raise awareness among EU citizens of the advantages of the EU in their daily lives. The fact that the Decision establishing EJM Civil does not allow contact points to give direct information to citizens should be compensated by prioritizing the translation of the factsheets addressed to them.

Finally the Portuguese contact point had the pleasure and the privilege to participate in the working group that drafted the recent guide on jurisdiction and applicable law regarding international employment disputes and expects judicial cooperation in 2016 to strengthen even further the rights of EU citizens.

*Paula Pott
Judge
Portuguese Contact Point of EJM Civil*



STRUCTURE OF THE NETWORK

The structure of the network remains unchanged since the last report of 2014.

Portugal designated one contact point for EJM Civil, a Judge appointed last time in June 2014 by the Portuguese High Council for Judiciary, for a period of three years, renewable.

Besides the Contact Point, there are eleven national members of the network:

1. Directorate General for Justice Policy (DGPJ) - Ministry of Justice
2. Directorate General for Justice Administration (DGAJ) - Ministry of Justice
3. Directorate General for Rehabilitation and Prison Services (DGRSP) - Ministry of Justice
4. Institute for Register and Notary Offices (IRN IP) - Ministry of Justice
5. Institute for Financial Management and Equipment of Justice (IGFEJ IP) - Ministry of Justice
6. Monitoring Council for Justice of Peace – Ministry of Justice
7. Social Security Institute (ISS IP) - Ministry of Labour Solidarity and Social Security
8. Commission for the Protection of Crime Victims (CPVC) - Ministry of Justice
9. Portuguese Bar Association
10. Portuguese Order of Solicitors and Private Bailiffs
11. Portuguese Order of Notaries.

The Central Authorities are:

Directorate General for Justice Administration (DGAJ) - Ministry of Justice

- ◇ Regulation (EC) N° 4/2009 of 18/12/ 2008
- ◇ Regulation (EC) N° 1393/2007 of 13/11/2000
- ◇ Regulation (EC) N° 1206/2001 of 28/5/2001
- ◇ Hague Convention of 1965 on the service abroad of judicial and extrajudicial documents in civil or commercial matters
- ◇ Hague Convention of 1970 on the taking of evidence abroad in civil or commercial matters
- ◇ Hague Convention of 2007 on the international recovery of child support and other forms of family maintenance
- ◇ New York Convention of 1956 on the recovery abroad of maintenance

Directorate General for Rehabilitation and Prison Services (DGRSP) - Ministry of Justice

- ◇ Regulation (EC) N° 2201/2003 of 27/11/2003
- ◇ Hague Convention of 1980 on the civil aspects of international child abduction
- ◇ Hague Convention on jurisdiction, applicable law, recognition, enforcement and co-operation in respect of parental responsibility and measures for the protection of children

Institute for Register and Notary Offices (IRN IP) - Ministry of Justice

- ◇ Regulation (EU) N° 650/2012 of 4/7/2012

Social Security Institute (ISS IP) - Ministry of Solidarity and Social Security

- ◇ Directive 2003/8/EC of 27/1/2003

Commission for the Protection of Crime Victims (CPVC) - Ministry of Justice

- ◇ Directive 2004/80/EC of 29/4/2004

Staff and Expenditure

The contact point's staff consists of:

A Judge Contact Point, Paula Pott

A legal assistant, César Melo

An administrative assistant, Marisa Martins.

The facilities are in the headquarters of the High Council for Judiciary, in Lisbon, Portugal.

The contact point and its staff accumulate functions in three networks of judicial cooperation in civil and commercial matters:

EJN Civil,
IberRede,
and RJCPLP.

Additionally, the contact point and its staff actively cooperate with the High Council for Judiciary in the organisation of international meetings, conferences and EU projects.

Expenditure (without salary)		3.008,03€
	Daily allowances	1.739,27€
	Transport	1.268,76 €
Gross salary	3 persons accumulating functions in two other networks of judicial cooperation	113.687,56€
	Net salary	68.941,05€
TOTAL Expenditure		116.695,59€

OPERATION OF THE NATIONAL NETWORK

The coordination of the national network in a decentralized structure was based on three tools:

1. Trimestral meetings set up by the contact point, where all the national members are present
2. Meetings restricted to some national members to solve specific issues
3. The setting up of national working groups where a closer cooperation between the national members is required.

The two first tools mentioned above proved to be useful already in 2014. The setting up of national WGs was experimented in 2015.

TRIMESTRAL MEETINGS WITH THE MEMBERS OF THE NATIONAL NETWORK

In the **meeting of 5 March 2015** the main subjects of the agenda were the following:

- ◇ State of play of the information provided by the Ministry of Justice to the Commission in the e-Justice portal, in the framework of the EU legal instruments
- ◇ Availability of dynamic forms on the national court management system to facilitate the task of court officials
- ◇ The smooth processing of legal aid in the context of the Maintenance Regulation
- ◇ The setting up of national WGs, respectively, on child relocation and e-justice projects

Follow-up of the meeting:

- ◇ The WG on child relocation was set up and met three times
- ◇ Two national members participated in iSupport (DGAJ and IGFEJ IP), another applied for ECLI (IGFEJ IP) having the High Council for Judiciary as a partner
- ◇ DGAJ (CA for the Maintenance Regulation) and ISS IP (CA for the Legal Aid Directive) experimented a simplified procedure to deal with legal aid requests under the Maintenance Regulation, which allowed them to speed up a few dozen cases
- ◇ Closer cooperation between the national authorities and the Commission regarding the technical difficulties on introducing dynamic forms into the court management system

In the meeting of 24 June 2015 the main subject of the agenda was Mediation.

Follow-up of the meeting:

- ◇ Collecting data on the functioning of national mediation
- ◇ Exchanging best practices at national level between the Monitoring Council for Justice of Peace which deals with the greatest number of mediation cases, DG PJ (Ministry of Justice) that set up the existing public mediation systems, ISS IP (Ministry of Labour Solidarity and Social Security) which deals with the hearing by specialized social workers in the context of parental responsibility cases, and the Order of Notaries which is implementing private mediation



- ◇ Preparing the meeting of EJN Civil on the revision of the Mediation Directive which took place in Brussels in 1 and 2 July 2015
- ◇ Providing the Commission with the relevant national data and information on mediation

In the **meeting of 9 October 2015** the main subjects of the agenda were:

- ◇ Transposing the Directive of interconexión of commercial registers—state of play
- ◇ The national experience on the issuing of ECS
- ◇ Fostering the participation of the national members of the network in the WGs set up at EU level either by EJN Civil or by the Council
- ◇ The state of play of the national participation in the Court Data Base project concerning the migration of the European Judicial Atlas to the e-Justice portal



Follow-up of the meeting:

- ◇ Enhancing cooperation among the national authorities responsible for transposing the Directive of interconexión of commercial registers (IGFEJ IP, IRN IP, DGPJ)
- ◇ Closer cooperation between the national authorities (DGAJ and IGFEJ IP), on the one hand, and the Commission, on the other hand, to overcome some problems that have arisen on the migration of the Judicial Atlas to the e-Justice portal
- ◇ Participation of the Order of Solicitors and Public Bailiffs on the Council WG on electronic sales — the Portuguese Order of Solicitors and Private Bailiffs successfully implemented the electronic auction at national level and can share good practices with other EU MSs
- ◇ Participation of two experts, one from IRN IP (CA for the Successions Regulation) and another from the Order of Notaries (national authority competent to deal with Succession litigation), respectively, in the WGs set up by EJN Civil to draft a Guide for Citizens regarding Successions and to exchange information on foreign law

IMPLEMENTING THE ACQUIS COMMUNAUTAIRE

The monthly Newsletter of the contact point

NEWSLETTER DO PONTO DE CONTACTO de Portugal da Rede Judiciária Europeia em Matéria Civil e Comercial - RJECC
Nº 12 - Outubro 2015 - www.redecivil.mj.pt



Neste Número:

♦ Editorial: A actividade da rede ♦ Acórdão do TJUE: A homologação de um acordo de partilha da herança celebrado pelo curador especial em nome dos filhos menores constitui uma medida à qual se aplica o Regulamento Bruxelas IIa ou o Regulamento Sucessões?

Editorial: A actividade da rede

A última reunião trimestral de membros nacionais da RJECC teve lugar no dia 9 de Outubro de 2015. ♦ Dela resultou que os testes do projecto isupport (cobrança electrónica de alimentos) no qual participam a DGAJ e o IGFEJ IP, estão previstos para a primeira metade de 2016. ♦ A transposição técnica da Directiva relativa à interconexão de registos comerciais está a ser levada a cabo pelo IGFEJ IP em estreita colaboração com o IRN IP. ♦ Relativamente ao Regulamento Sucessões, o IRN IP ainda não tinha registado, na data acima referida, nenhum pedido de emissão de CSE (Certificado Sucessório Europeu). ♦ No entanto, a aplicação informática que permitirá proceder à numeração sequencial dos CSEs, e registar a sua emissão e entrega, já está operacional, para o que contribuiu a colaboração do IGFEJ IP. ♦ O IRN IP disponibiliza o formulário adequado. ♦ O processo de actualização das coordenadas dos Tribunais no Atlas Judiciário Europeu está a ser levado a cabo pela DGAJ com o apoio do IGFEJ IP, em colaboração estreita com a DG Justiça e Consumidores da Comissão Europeia. ♦ Esta última, é responsável pelo processo de migração do Atlas Judiciário para o portal E-Justice, actualmente em curso. ♦ Enquanto decorre este processo, em casos de dúvida, os Tribunais podem pedir auxílio ao Ponto de Contacto português [correio@redecivil.mj.pt]. ♦ O projecto do guia sobre disputas laborais europeias, elaborado no seio de um grupo de trabalho de Pontos de Contacto da RJECC, do qual faço parte, está terminado. ♦ Será submetido à aprovação de todos os Pontos de Contacto, na reunião do dia 16 de Outubro de 2015, em Bruxelas. ♦ O tema principal desta reunião é o Regulamento Bruxelas I reformulado (reconhecimento e execução de sentenças estrangeiras). ♦ Por isso, convidei para me acompanharem três juízes nacionais que já profieram decisões a aplicar o Regulamento Bruxelas I. Com esta síntese da actividade da rede, desejo a todos um bom trabalho.

Paula Pott
Juiz Ponto de Contacto da RJECC

.A homologação de um acordo de partilha da herança celebrado pelo curador especial em nome dos filhos menores constitui uma medida à qual se aplica o Regulamento Bruxelas IIa ou o Regulamento Sucessões?

ACÓRDÃO DO TJUE (Tribunal de Justiça da União Europeia) de 6/10/2015 no Processo C - 404/14

Embora tenha declarado que o Regulamento Sucessões (Regulamento Nº 650/2012 de 4/7/2012) não é aplicável ao caso em análise, *ratione temporis*, o TJUE clarifica a fronteira entre o âmbito de aplicação deste Regulamento e do Regulamento Bruxelas IIa (Regulamento Nº 2201/2003 de 27/11/2003). Ou seja, define o que pertence ao domínio da responsabilidade parental e o que pertence ao domínio das sucessões.



The wedding,
Kazimir Malevich, 1907 (WikiArt.org - obra no domínio público)

Trata-se de saber se a homologação de um acordo de partilha de uma herança, no qual são

partes o progenitor (cônjuge sobrevivente) e os filhos menores, celebrado pelo curador especial dos filhos menores, é uma medida destinada à protecção dos interesses dos menores, abrangida pelo artigo 1(1)(b) do Regulamento Bruxelas IIa ou se, pelo facto de ser adoptada no contexto de um processo sucessório em curso, deve antes ser qualificada como uma medida relativa às sucessões e como tal ser excluída do âmbito de aplicação do Regulamento Bruxelas IIa por força do artigo 1(3)(f) deste.

O TJUE julgou que a homologação do acordo de partilha é uma medida que se destina a proteger o interesse do menor e está directamente ligada à capacidade jurídica deste. O facto de a sua homologação se inscrever num processo sucessório (e.g. de inventário) não determina que tal medida seja abrangida pelo direito das sucessões. A necessidade de obter a homologação pelo juiz é uma consequência directa do estado e capacidade dos menores e está ligada à administração, conservação e disposição dos bens destes no âmbito do exercício da responsabilidade parental.

Acresce que, se a legislação nacional que rege o direito das sucessões prever a intervenção de um representante legal do filho menor herdeiro, a sua nomeação rege-se pelas regras aplicáveis no domínio da responsabilidade parental. É para evitar, quer a sobreposição de normas dos dois Regulamentos, quer o vazio legal, que o artigo 1(2)(b) do Regulamento Sucessões exclui do seu âmbito de aplicação a capacidade jurídica das pessoas singulares.

Assim, a homologação de um acordo de partilha da herança celebrado pelo curador especial em nome dos filhos menores, num processo sucessório, constitui uma medida relativa ao exercício da responsabilidade parental à qual se aplica o Regulamento Bruxelas IIa (incluindo as regras de competência neste fixadas) e não uma medida relativa a sucessões.

In this number— nº 12, October 2015 — an editorial on the left column, describing the activities of the network.

On the middle and right columns, a summary of ECJ ruling on case C-414/14 of 6 October 2015. It is a preliminary ruling in which the ECJ assessed if, in case of an inheritance settlement agreement between the surviving spouse and minor children represented by a guardian *ad litem*, the requirement for approval of such an agreement by the court is a measure relating to parental responsibility or a measure relating to succession. The ECJ ruled that it is a measure relating to parental responsibility subject to the Brussels IIa Regulation.

The Newsletter of the Portuguese contact point is a monthly publication, sent by email to all national Judges and available in the website of the contact point.

REQUESTS FOR INFORMATION AND JUDICIAL COOPERATION

The Taking of Evidence Regulation as the most widely used tool

by Judges

The number of requests for information and judicial cooperation increased to 338 in 2015 (there were 176 requests in 2014). This possibly results from the increased visibility of the network at national level.

The large majority of the requests regards the taking of evidence Regulation — Regulation (EC) N° 1206/2001 of 28.5.2001. Meaning that the taking of evidence Regulation was the most widely used tool by Judges .

The remaining requests split between service of documents, recognition and enforcement of decisions, child relocation (child abduction), maintenance recovery, insolvency (bankruptcy) and uncontested claims among a few others.

The requesting authorities that have addressed themselves to the Portuguese contact point are judicial and central authorities in Portugal, Germany, France, Luxembourg, the United Kingdom, the Czech Republic, Romania and Latvia.

The requested MSs were France, Belgium, Spain, Italy, Austria, The Netherlands, the United Kingdom, Germany, Latvia and Sweden.

The contacts were established either with the contact points or with the judicial authorities in the other MSs, depending on the case.

As a general rule the communications were made by electronic mail or by phone.

The statistic maps of requests for information and cooperation are sent in annex to this report in the format requested by EJM Civil: one for the first semester and another for the second semester of 2015. A third annex consists on a statistic map containing more information about the requests kept by the contact point for internal registration. The overall figures are in the table below.

The requests originating from individuals/citizens/business or their representatives, are also recorded because they are answered, although the answer consists on explaining that according to the Decision establishing EJM Civil, the contact points cannot provide direct information to the general public. That information shall be provided only through the website and the available factsheets to which I refer them.

	PT requiring	PT requested	Total
Requests for information	199	14	213
Requests for cooperation	102	23	125
Total	201	37	338

A success story about videoconference

Mr. Guglielmo Marconi, born in Italy, was a Nobel Prize winning physicist and inventor. He is well known for having developed the first effective system of radio communication. Not surprisingly, this success story will end up with a videoconference with Italy.

Portuguese Judges frequently use videoconference in internal cases. Similarly, they request a great number of videoconferences with other EU countries, namely France, Spain, the Netherlands, the UK, Germany and Italy.

Barriers commonly encountered in videoconference with other MSs consist on incompatibility of videoconference devices, time difference and language.

To overcome the technical difficulties the contact point's staff met with the technical staff of IGFEJ IP from the Ministry of Justice (a national member of the network) and identified the following issues which shall be clarified by the courts to ensure the success of videoconference:

- ⇒ The kind of videoconference device
- ⇒ The communication protocol (e.g. H.323, H.320)
- ⇒ The video protocol (e.g. H.261, H.263 and H.264)
- ⇒ The audio protocol (e.g. G.711a, G.711u, G.722, G.729)
- ⇒ The protocol for sharing the content where applicable (e.g. H.239 or BFCP (SIP))
- ⇒ Security (e.g. H.235 and supported cypher)
- ⇒ Maximum bandwidth
- ⇒ Standalone, MCU or Gateway device
- ⇒ In case of MCU or Gateway, if it has IVR.
- ⇒ Connexion data RDIS (ISDN) and/or IP

Following this assessment the contact point has been advising the Portuguese courts that the information on the data mentioned above can be provided by the requesting court in point 12 of form I annex to the Regulation N^o 1206/2001, in order to facilitate the arrangements for the videoconference in the requested MS.

Also, to reduce the number of unsuccessful videoconferences, the contact point and its staff together with the technical staff assisting the courts in Portugal and abroad experimented different solutions by making tests before the scheduled videoconference.

Finally, when the available connection is IP it must always be done from Portugal to another MS (the other way around is not allowed by the national system). To that end, IGFEJ IP shall allow the connection. When the available connection is ISDN (connection through a telephone line) it can be made from a court abroad to the Portuguese court. The Portuguese courts are advised to inform the requested court on this issues.

The assessment and practice mentioned above proved effective by reducing the number of unsuccessful videoconferencies to a negligible marge since February 2015 when it started. Thanks to IGFEJ IP staff and the Italian technical staff, the first set of videoconferences with Italy (courts of Funchal and Rome) was possible in case 422/12.4TCFUN pending at the court of Funchal.

BUILDING BRIDGES

THE RESTRICTED MEETINGS WITH THE NATIONAL MEMBERS OF THE NETWORK THE WORKING GROUPS AT NATIONAL LEVEL

In 2015 the contact point organized: (i) three meetings with the authorities involved in the operation of the Brussels Ila Regulation [DGRSP (teh CA), ISS IP and DGPI];(ii) one meeting with the authorities involved in the operation of the Service of Documents Regulation [DGAJ (the CA) and the Order of Solicitors and Private Bailiffs]; (iii) one meeting with the authorities involved in the transposition of the Directive on the interconnection of Commercial Registers (IRN IP, IGFEJ IP, DGPI and the Order of Notaries).

As for the WG on child relocation, it met three times with the participation not only of members of the national network (DGRSP, DJPJ, ISS IP) but also of the Directorate General for Consular matters of the Ministry of Foreign Affairs and the president of the National Commission for Protection of Children.

**The aim of these meetings is
to enhance cooperation among national authorities
regarding the functioning of EU legal instruments
at national level**

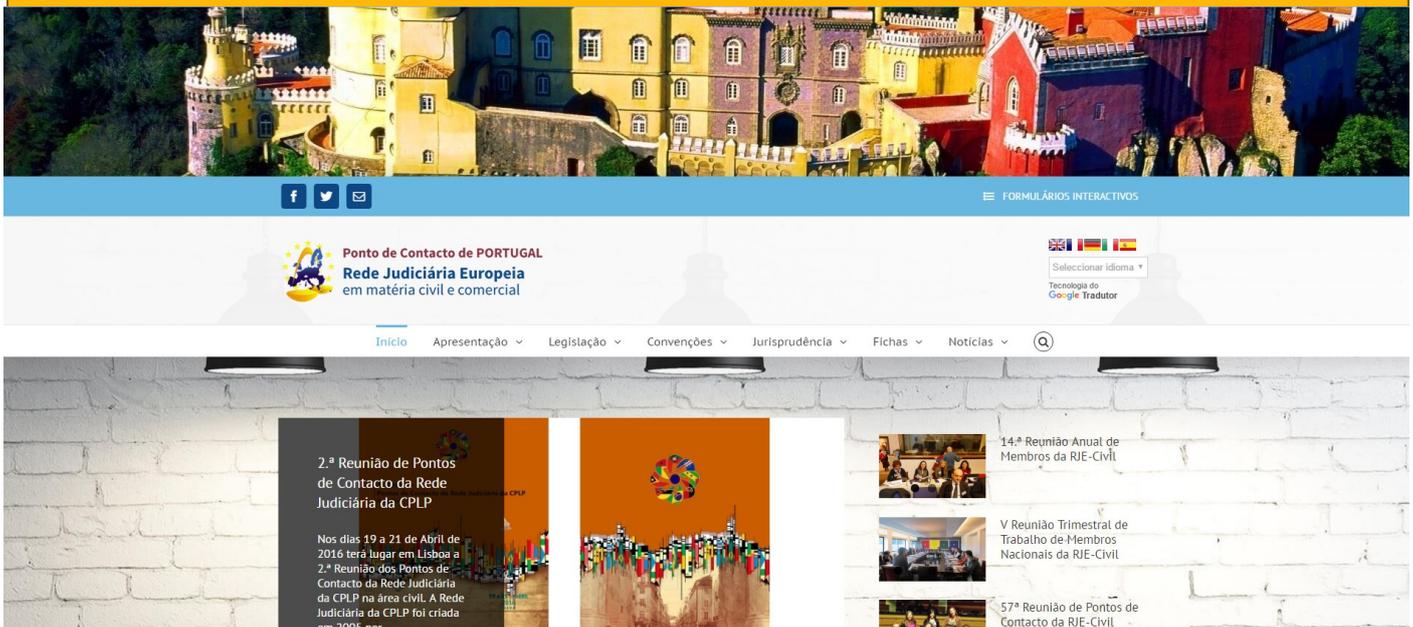
DISSEMINATION OF INFORMATION

- ⇒ Dissemination to Universities of the call for expression of interest with a view to establishing a Group of Experts to assist the Commission with the revision of the Brussels IIa Regulation. **As a result, several Portuguese experts from the Universities applied for and one of them was appointed and has actively participated in this group.**
- ⇒ Dissemination to Courts and Judges of the open competition for the Crystal Scales of Justice awarded by the European Commission for the Efficiency of Justice of the Council of Europe.
- ⇒ Dissemination to the Center for Judicial Studies (the national school for Judges and Prosecutors), the High Council for Judiciary and the national members of the network, of the judicial training call open to stakeholders.
- ⇒ Dissemination to the High Council for Judiciary, of the open call for a project regarding the quality of justice and court management in EU MSs, cofinanced by the Commission. **As a result the Portuguese High Council for Judiciary applied for and has been successfully selected to organize the project in cooperation with other EU partners.**
- ⇒ Dissemination to the national members of the network of the joint Conference organised on 19 November 2015 by the Commission, together with the Council of Notaries of the EU (CNUE), on practical implementation issues regarding the Successions Regulation.
- ⇒ Dissemination to all Judges, of the Conference organized by the Portuguese Ministry of Justice to celebrate the European Day to Protect Children from Sexual Exploitation and Sexual Abuse.

TO CELEBRATE THE EUROPEAN DAY OF JUSTICE

- ⇒ *200 guides on Judicial cooperation in civil matters in the European Union* were sent to the 23 District Courts.
- ⇒ *120 practice guides for the application of the Brussels IIa Regulation* were distributed by the Judges of Family and Minors.
- ⇒ *8 guides on Judicial cooperation in civil matters in the European Union* and *10 practice guides for the application of the Brussels IIa Regulation* were sent to the 5 national Appeal Courts.
- ⇒ *1 Compendium of European Union Legislation on Judicial Cooperation in Civil and Commercial Matters* was offered to the Portuguese Bar library.

<http://www.redecivil.mj.pt/>



The website of the Portuguese contact point

Information to the general public and practitioners is disseminated through the website of the contact point. The website is divided in pages organized according to the information one is looking for, namely:

- ◆ EU legal instruments separated by subject matter
- ◆ Other international legal instruments relevant in the EU
- ◆ European Court of Justice jurisprudence divided by Regulation/Directive to which it concerns
- ◆ EJM Civil factsheets
- ◆ The monthly newsletters of the contact point
- ◆ News related to the network

At the bottom of the home page all the presentations of the contact point as well as the annual reports, are now available. At the top, there is a link for the dynamic forms and a tool that allows the translation of the website content (through Google translator). Among other useful links there is of course a link to the e-Justice portal.

In 2015 the daily number of views of the site was 500.

To a lesser extent, the contact point uses **facebook** and **twitter** to disseminate conferences and important dates.

CONTACTS AND EXCHANGES WITH LEGAL PRACTITIONERS AT MEMBER STATE LEVEL

Invitations for:

- ⇒ The Swearing ceremony of the president of the Order of Notaries
- ⇒ The Conference organized by the Portuguese Ministry of Justice to celebrate the European Day to Protect Children from Sexual Exploitation and Sexual Abuse

Meetings:

- ⇒ Twice with the General Public Prosecutor Office to discuss the enforcement, in other EU countries, of national decisions on judicial costs (Brussels I, Brussels I recast, European Enforcement Order) and the recognition and enforcement of decisions on parental responsibilities
- ⇒ Once with the President of the National Commission for Protection of Children regarding the application of the Brussels IIa Regulation



Guest speaker:

- ⇒ Training course on the operation of the Brussels IIa Regulation and the Maintenance Regulation at the Center of Judicial Studies
- ⇒ Training Course in international family mediation organised by Missing Children Europe
- ⇒ Training course organised by the Order of Solicitors and Private Baillifs on the European Account Preservation Order Regulation
- ⇒ Conference organised by the Bar Association on the European Enforcement Order Regulation

CONTACTS ESTABLISHED WITH OTHER NETWORKS

ACTING IN RELATED FIELDS



The Portuguese Contact Point for EJM Civil accumulates functions as contact point in civil and commercial matters in two other networks:

- **IberRed**, the Latin American Judicial Network and
- **RJCPLP**, the Portuguese speaking countries judicial network.

The contacts established with these two networks result from the duties of the contact point.

IberRed includes 23 countries, 21 of them in Latin America and 2 in Europe. Its secretariat is in Madrid.

RJCPLP was established by an international agreement between the Ministries of Justice and includes 8 countries — located in Africa, Asia, America and Europe — having Portuguese as their main language. Its secretariat is in Lisbon.

The majority of the requests of cooperation are related with taking of evidence and service of documents. The exchanges are mainly with Brasil, (part of both IberRed and RJCPLP), Angola, Mozambique and Cape Verde (part of RJCPLP).

In 2015, besides preparing the meeting of the Contact Points of RJCPLP held in Lisbon in April 2016, the Portuguese contact point attended two meetings of IberRed: the plenary meeting of Contact Points of IberRed in Panama, in February 2015; and the meeting of Contact Points and central authorities for maintenance recovery, in Colombia, in September 2015. The main subjects discussed were, respectively, cooperation regarding child relocation cases and the comparative assessment of national legal systems on maintenance.

Finally, the contact point of EJM Civil has regular meetings with the Portuguese contact point of EJM Criminal to discuss common subjects of interest (e.g. training; coordination).



Future perspectives

In order to achieve tangible benefits for EU citizens the Order of Solicitors and Private Bailiffs suggests the future setting up of an electronic tool to calculate interests, available for citizens involved in judicial litigation. With the cooperation of the Ministry of Justice, namely of IGFEJ IP and DGAJ, this should be a short term project.

Also the contact point's staff is planning to make available in its website information on maintenance recovery specifically addressed to the general public, in particular to creditors.



The situation of migrant children was reported by some contact points in a meeting of EJN Civil. The matter has to be dealt with in light of the Dublin III Regulation. However, that should not prevent EJN Civil from reflecting on practical solutions under the existing legal framework in civil matters. Additionally, by channeling EU funds to subsidise specific programs to protect these children, cooperation between MSs — already struggling with budgetary and security problems — could be enhanced. As mentioned above in this report, EJN Civil is a privileged and informal forum of discussion, where contact points may exchange views and best practices on judicial cooperation, for the benefit of citizens.

Portuguese Contact Point of EJM Civil - 2016

This report is intended to the European Commission. Without prejudice to its use by the Commission according to the applicable legal framework, namely Decision 2001/470/CE of 28/5/2001 amended by Decision 568/2009/CE of 18/6/2009, no part of this report may be otherwise reproduced or used in any form by any means, graphic, electronic or mechanical, including photocopying, recording, taping, or information storage and retrieval systems, without the permission of the Portuguese contact point.

Thank you to the contact point staff and to the financial unit of the Portuguese High Council of Judiciary for their contribution.

Lisbon photos: taken by Joaquim Sousa

Other photos: files of the Portuguese contact point