



## EUROPEAN JUDICIAL NETWORK IN CIVIL AND MATTERS

### National report PORTUGAL

## Activities of the national contact point in 2013

#### Previous note:

*The Portuguese Contact Point activities during the year of 2013, along with the Portuguese High Council for Judiciary, were roughly affected by the lack of financial support awarded by the Portuguese Government due to budgetary restrictions imposed by the economic and financial adjustment plan that has been executed in Portugal.*

*These limitations had complicated and somehow compromised the possibility to promote events and activities to facilitate the dissemination of information on civil justice to local judicial authorities and to legal practitioners and also to give a swift response to put the Portuguese Contact Point website online again, which has been claimed by many of our national judicial practitioners as a very useful and reliable tool as their disposal.*

*The upcoming Network tasks are even more ambitious, with further cooperation instruments and revisions to be disseminated and seized by legal practitioners and general public, and a predicted increase of cooperation requests attached to it.*

*Under these circumstances I consider all the tasks were accomplished, but there is still a long path to walk until the EJNCC can fully respond to all its challenges.*

#### 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:



## EUROPEAN JUDICIAL NETWORK IN CIVIL AND MATTERS

- 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 Financial Management and Equipment of Justice - 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 members are regularly called to cooperate with the Portuguese Contact Point in specific domains of their competences and responsibilities for judicial cooperation in civil and commercial matters for the accomplishment of the tasks provided for by Article 5 of Council Decision of 28 May 2001.

There are no experts designated as members of the network. Whenever a request requires a specialized opinion the Portuguese Contact Point have always draw on the support of any of the other national authorities taking into account their expertise knowledge to collaborate in order to supply the information requested.

Although the Portuguese national network is a decentralized structure, their members are called to participate, at least, in one annual meeting.

The Portuguese contact point has been also invited to participate in seminars and workshops promoted by the national members dedicated to European cooperation instruments.

- **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;**

Information is supplied to other CP's , authorities mentioned in article 2(1) to (d) and local judicial authorities by mail or phone.



## EUROPEAN JUDICIAL NETWORK IN CIVIL AND MATTERS

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.

The Portuguese Contact Point's website also supplies up-to-date information regarding news, legal instruments, publications, jurisprudence and contacts.

### 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 2013;
- 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 the Judiciary of 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 High Council for the Judiciary opening hours, for the general public, is from Monday to Friday, from 9.30 to 12.30 and 14.00 to 16.00. However, customarily, the Portuguese Contact point staff is available from 9.00 to 18.00/19.00, with a pause for lunch, very often on alternating schedules.

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](mailto:redecivil@csm.org.pt) ; [florbela.f.martins@juizes-csm.org.pt](mailto:florbela.f.martins@juizes-csm.org.pt);



## EUROPEAN JUDICIAL NETWORK IN CIVIL AND MATTERS

**Web:** [www.redecivil.mj.pt](http://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

- **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 2013, the Portuguese Contact Point received a total of 226 requests, widely held by the Portuguese local judicial authorities, judges and public prosecutors.

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 immediately or 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 approximately from 8 to 10 days. The longest time it took us to answer, dependent of other Members State's contact point contribute, was about one and a half year, being that we have cases waiting for an answer for over six months.

From 2012 to 2013, 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 have decreased.

We have had more contacts requesting collaboration in order to provide support in the execution of requests of taking of evidence by videoconference, especially when the dates were very close. In those cases we have been succeeded on booking the videoconference with the cooperation of the requested courts and contact points.

Requests of information regarding contact numbers (telephone and videoconference) are still one of the most requested. Due to that case we believe it would be very helpful if each Member State sent a file containing all court contacts. In Portugal's case that information may be found at :

<http://www.dgaj.mj.pt/sections/files/destaques9463/destaques-laterais/aceso-rapido/contactos-dos-tribunais/>



## EUROPEAN JUDICIAL NETWORK IN CIVIL AND MATTERS

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 other international instruments, seeking solutions to difficulties risen 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, namely some fees and costs that started to be charged by the requested authorities on taking of evidence proceedings such as related with welfare reports and collection of ADN samples.

We've observed that the Portuguese judicial authorities are more informed about the European judicial cooperation proceedings, which is very positive.

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:

- 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. For cases like that some Portuguese judicial authorities have already informed that they will start to appeal to the competent authorities of the requested Member State through the diplomatic channels.
- **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 actively in the exchange of information between requested Member States' authorities (Germany, Spain, France, Luxemburg, United Kingdom, Ireland, Poland and Sweden) and Portuguese local judicial authorities giving support on proceedings concerning taking of evidence by videoconference, specially in cases where it's



## EUROPEAN JUDICIAL NETWORK IN CIVIL AND MATTERS

necessary to perform a test to the audiovisual signal or to reschedule the audition or whenever a lack of communication occurred (wrong contact numbers, connectivity problems) overcoming the lack of knowledge of many Portuguese court staff to communicate directly with the requested court by the swiftest possible means in other language than Portuguese.

- Giving support to a Portuguese court regarding a case involving a minor with Portuguese nationality. The referred court was interested in obtain documentation relating to a hearing held in a Maltese court, and also interested in any subsequent court proceedings involving the minor which were relevant for the judgement of a case in Portugal. The request was successfully concluded.
- **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 has reinforced during contacts with the Directorate-General of Justice Administration - Ministry of Justice – the crucial 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), and has availed participating in conferences and other events to speak about, and to make known, the European Judicial Network in civil and commercial matters and the European Regulations.

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](http://www.redecivil.mj.pt)

Since then and until October 5<sup>th</sup> 2013, the website was having about 1 000 visitors per day scattered around several countries (in the year of 2012 - 120 countries). Since then



## EUROPEAN JUDICIAL NETWORK IN CIVIL AND MATTERS

the website was hacked and has been down. That situation makes it impossible to gather information about the visualizations. The IT team is working on the problem and the site should be up and running in 2 or 3 months.

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 updated, 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, among others, has links to the EJN official website, European Judicial Atlas and e-Justice Portal.

In February 2013, the Portuguese Contact Point has launched its Facebook page at URL:<https://www.facebook.com/pages/Ponto-de-Contacto-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 for the Judiciary as its representative, as Contact Point, in both Networks.

- **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 March 2013 – Guest speaker in the specialization course in Family law – “Recovery of Maintenance Abroad”. This course was prepared by the Portuguese Centre for Judicial Studies especially for judges, Public Prosecutors and Legal Professions.

On January 2013 - Presenter Invited at the 6<sup>th</sup> Biennial of Jurisprudence, table discussion with the theme "Process for the Promotion and Protection of Children and Young People in Danger, International Law of the Family", organized by the



## **EUROPEAN JUDICIAL NETWORK IN CIVIL AND MATTERS**

Center for Judicial Studies, Center for Family Law and the Bar, University of Coimbra, Portugal

On June 2013 the Portuguese Contact Point participated in a meeting with some of 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.

September 2013 the Portuguese Contact Point participated in a meeting with the President of the Portuguese Chamber of Solicitors, where some impressions were discussed regarding the article 15 of the Regulation (EC) No 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents), and repealing Council Regulation (EC) No 1348/2000.

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.

Lisbon, January 17<sup>th</sup> 2014