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# Brussels IIb Regulation - Matrimonial matters and matters of parental responsibility (recast)

Portugal



Portugal

## FINDING COMPETENT COURTS/AUTHORITIES

The search tool below will help you to identify court(s)/authority(ies) competent for a specific European legal instrument. Please note that although every effort has been made to ascertain the accuracy of the results, there may be some exceptional cases concerning the determination of competence that are not necessarily covered.

Article 103 (1) (a) (1st part) – Public authorities or other authorities authorized to establish an authentic instrument referred to in point (2)(b) of Article 2(2), and public authorities authorized to register an agreement referred to in point (3) of Article 2(2)

The authorities referred to in point 2(b) of Article 2(2): not applicable.

The authorities referred to in point 3 of Article 2(2): not applicable.

Article 103 (1) (a) (2nd part) – Administrative authorities granting legal aid referred to in Article 74(2)

The authorities referred to in Article 74(2):

- i. in mainland Portugal: the Social Security Institute (*Instituto da Segurança Social I. P.*);
- ii. in the Autonomous Region of Madeira: the Social Security Institute of Madeira (*Instituto de Segurança Social da Madeira, I.P.-RAM*);
- iii. in the Autonomous Region of the Azores: the Social Security Institute of the Azores (*Instituto da Segurança Social dos Açores, I.P.R.A.*);

The contact details for these authorities can be found [here](#).

iv. throughout Portuguese national territory: civil registrars (*conservadores do registo civil*) insofar as legal aid has been granted by them on the basis of a statement issued by parish councils (*juntas de freguesia*) attesting to a citizen's financial situation (Article 34(1) of Decree-Law No 135/99 of 22 April 1999 in conjunction with Article 16(1)(rr) of Law No 75/2013 of 12 September 2013) or a declaration issued by a public social welfare institution where the person has been admitted (Article 10(3) of the Regulation on registration duties and notarial fees (*Regulamento Emolumentar dos Registos e do Notariado*)).

The contact details for these authorities can be found [here](#).

Article 103 (1) (b) (1st part) – Courts competent to issue certificates for a decision pursuant to Article 36(1), and courts and authorities competent to issue a certificate for an authentic instrument or agreement referred to in Article 66

For the issuing of certificates related to decisions provided for in Article 36(1):

- i. in matrimonial matters and matters of parental responsibility: family and minors courts (*Juízos de família e menores*); where these do not exist, local civil courts (*Juízo locais cíveis*); where these do not exist, general courts (*Juízos de Competência Genérica*); civil registry offices (*Conservatórias de registo civil*);
- ii. in matters of parental responsibility: commissions for the protection of children and young people (*comissões de proteção de crianças e jovens*);
- iii. for the return of children, and provisional and protective measures: family and minors courts; where these do not exist, local civil courts; where these do not exist, general courts;
- iv. for matters related to provisional and protective measures: commissions for the protection of children and young people.

For the issuing of certificates related to the authentic instruments referred to in Article 66: not applicable.

For the issuing of certificates related to agreements covered by Article 66:

- i. in matrimonial matters and matters of parental responsibility: family and minors courts; where these do not exist, local civil courts; where these do not exist, general courts; civil registry offices;
- ii. in matters of parental responsibility: commissions for the protection of children and young people.

Article 103 (1) (b) (2nd part) – Courts competent to rectify certificates referred to in Article 37(1), Article 48(1), and courts competent to issue a certificate specifying that the lack or limitation of a certified decision referred to in Article 49; and courts and authorities competent to rectify the certificate, issued under Article 66(1), referred to in Article 67(1);

To rectify the certificates referred to in Article 37(1):

Family and minors courts; where these do not exist, local civil courts; where these do not exist, general courts. Civil registry offices and commissions for the protection of children and young people (only in matters of parental responsibility).

To rectify certificates referred to in Article 66(3): not applicable.

To rectify the certificates referred to in Articles 48(1) and 49(1):

- i. family and minors courts; where these do not exist, local civil courts; where these do not exist, general courts for decisions granting rights of access and decisions entailing the return of the child in accordance with Article 29(6);
- ii. civil registry offices and commissions for the protection of children and young people for decisions granting rights of access.

Article 103 (1) (c) – Courts competent for recognition of a decision (Article 30(3)) and for the refusal of recognition (Article 40(2)), as well as the courts and authorities competent for refusal of enforcement, for challenge or appeal, and for further challenge or appeal referred to in 58(1), 61(2) and 62

For the purposes of Article 30(3), Article 52, Article 40(1), and Article 58(1):

Family and minors courts; where these do not exist, local civil courts; where these do not exist, general courts.

For the purposes of Article 62 or Article 61(2):

The court that delivered the contested judgment will be – depending on the case – the family and minors court, the local civil court, or the general court, which will refer the appeal to the Court of Appeal (*Tribunal da Relação*) for examination. In the event of a further appeal following the decision of the Court of Appeal, the appeal is submitted to the Court of Appeal, which then refers it to the Supreme Court of Justice (*Supremo Tribunal de Justiça*) for examination.

Article 103 (1) (d) – Authorities competent for enforcement referred to in Article 52

Family and minors court; where these do not exist, local civil courts; where these do not exist, general courts.

Article 103 (1) (e) – Redress procedures against a decision on the application for refusal of enforcement referred to in Articles 61 and 62

The redress procedures available for the situations provided for in Articles 61 and 62 are as follows:

I. The redress procedures against a decision of the court of first instance (*tribunal de primeira instância*) regarding the refusal of recognition or enforcement are those provided for in Articles 32 and 33 of the Legal Framework for the Civil Guardianship Procedure (*Regime Geral do Processo Tutelar Cível*) referring to the Civil Procedure Code (*Código de Processo Civil*). They can be:

- i. An ordinary appeal lodged with the Court of Appeal in accordance with Article 644 of the Civil Procedure Code;
- ii. An ordinary appeal for review lodged with the Supreme Court of Justice against the judgment of the Court of Appeal concerning a decision of the court of first instance, which rules on the merits of the case or closes the proceedings, acquitting the defendant or some of the defendants with regard to the claim or counterclaim presented, in accordance with Article 671 of the Civil Procedure Code;
- iii. An extraordinary appeal for review lodged with the Court of First Instance that gave the decision and that will consider the appeal, on the grounds of any of the situations provided for in Article 696 of the Civil Procedure Code.

II. Redress procedures against the civil registrar regarding refusal of recognition are provided for in Articles 286 and 291 of the Civil Register Code (*Código do Registo Civil*) and can be:

- i. Hierarchical appeals to the president of the Institute of Registry Offices and Notaries (*Instituto dos Registos e do Notariado, I. P.*); or
- ii. Legal challenges submitted to the court under the jurisdiction of which the civil registry office is located.

Whenever a hierarchical appeal has been rejected, the interested party, if it has not done so already, can challenge the initial decision given by the registrar in the court under the jurisdiction of which the civil registry office is located within 10 days from the notification of the decision.

Appeals against a decision of the court of first instance concerning a registrar's decision can be brought before the Court of Appeal. Appeals against judgments of the Court of Appeal cannot be brought before the Supreme Court of Justice, except in the cases provided for in Article 629(2) of the Civil Procedure Code where an appeal is always admissible.

Article 103 (1) (f) – Names, addresses and means of communication for the Central Authorities designated to assist with the application of the Regulation in matters of parental responsibility. In case more than one Central Authority is designated, geographical and functional jurisdiction of each Central Authority to be indicated as referred to in Article 76

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Article 103 (1) (g) - If applicable, categories of close relatives, in addition to parents, with which the child may be placed within the territory of a Member State, without the prior consent of that Member State as referred to in Article 82

Grandparents, uncles/aunts or siblings.

Article 103 (1) (h) - Languages of the institutions of the European Union other than the own language of a Member State, in which communications to its Central Authorities can be accepted as referred to in Article 91(3))

Portuguese, English and French.

Article 103 (1) (i) - Languages accepted for the translations of requests and accompanying documents sent under Articles 80, 81, 82, and of the free text fields of the certificates as referred to in Article 91(2)

Portuguese.

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