

## **PORTUGAL ASJP – GROUP 3**

### **2023 Questionnaire of the 3st Study Commission IAJ-UIM - “Mutual cooperation in the investigation of criminal cases and in the presentation of evidence”**

1) Does your country have any legislation, or regulations, and/or court rules of procedure that are relevant to the topic of our focus this year - mutual cooperation in the investigation of criminal cases and in the presentation of evidence in a criminal proceeding at court? Please explain.

Answer:

The most important instrument is the International Judicial Cooperation Act in criminal matters that regulate situations of:

- extradition;
- transmission of criminal proceedings;
- execution of criminal sentencing;
- Transference of criminal convicts;
- mutual aid in criminal matters.

There are bilateral deals of cooperation signed by several countries.

There is extensive legislation within the scope of the European judicial network that allows for close cooperation between EU member countries, namely:

- the implementation in other EU countries of measures aimed at collecting evidence;
- obtaining electronic evidence easily and quickly;

- the creation of joint investigation teams comprising judges, prosecutors and authorities from several States

2. In your country, when a crime is being investigated does the judiciary have any role (a) in the request for information from a foreign state and/or (b) in the provision of information to a foreign state?

3. If your answer to either 2 (a) or 2 (b) is yes, what legislation, regulations or rules of procedure apply to the decision of a judge involved at the investigation stage?

Answer (2/3)

Yes. It is the investigating judge who performs all the concrete acts assigned to them by Portuguese legislation.

4. What is the legislation or court rules that relate to the taking of evidence from a witness in a foreign state, or the giving of evidence from a witness in your country to a court in a foreign country? Please explain these including the role played by a judge in both scenarios.

Answer

In both cases, it is requested and done in accordance with the legislation/convention that allows it and, in Portugal, always respecting the rights understood as fundamental.

5. As a judge, if you receive a request for assistance from a foreign country, whether at the investigation stage or in the context of a court proceeding (a hearing or a trial), is it relevant to your

determination of whether and how to assist that the basic human rights, principles of natural justice, and/or rules of procedural fairness that exist in your country are respected? Please explain.

Answer

Yes. Criminal procedural rules and substantive law are always applicable, understood as fundamental and in absolute respect for human rights.

6. Describe your own personal experience(s) as a judge that are relevant to the topic of our focus this year, whether it be presiding over an extradition hearing (a request to extradite an accused person to another country in order to be prosecuted in that other country), or receiving evidence in a court proceeding in your country from a witness who is testifying from another country and with the help of court officials in that other country, or helping to arrange for a witness in a court proceeding in another country to testify from a place in your own country, or responding to a request for assistance from an international court such as The Hague, or something else. These are just examples of things that you may have experienced; they are not meant to be exhaustive.

Answer

I don't have experience in the area.