

Pradžia>Šeimos teisė ir pavaldėjimas>Valko įkurdinimas kitoje valstybėje, be kita ko, globėjų šeimoje
Cross-border placement of a child including foster family

Portugalija

1 Is there an obligation under your national law for prior consultation and the obtaining of consent before the cross-border placement of a child? Please mention possible exceptions.

Yes, consultation and prior consent are necessary for decisions to place a minor with a foster family or in an institution in Portugal.

Consultation and prior consent are not necessary if the child is entrusted to a person with family ties, e.g. grandparents, uncles and aunts, or older siblings. In such cases, it is sufficient for the authority deciding on the placement simply to inform the central authority for Portugal.

2 If prior consultation and consent are required, which authority is to be consulted and to give the consent?

The central authority for Portugal for the purposes of Regulation (EC) No 2201/2003 is:

DGRSP – Directorate-General for Rehabilitation and Prison Services (*Direcção-Geral de Reinserção e Serviços Prisionais*)

Legal Assistance and Dispute Department (*Gabinete Jurídico e Contencioso*)

Travessa da Cruz do Torel 1

1150-122 Lisbon (Portugal)

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Website

3 Please describe shortly the procedure for consultation and the obtaining of consent (including required documents, deadlines, modalities of the procedure, and other relevant details).

Stages of the procedure for placing young people in Portugal under Article 56 of the Brussels IIa Regulation

ACP = central authority for Portugal

Stage 1 – Prior authorisation for placement by the ACP

prior authorisation request from the central authority of the requesting country;

review of the documentation submitted and assessment against the criteria and conditions for placement;

issuance of a prior authorisation approval or refusal by the ACP;

purely indicative deadline: 1-3 months from receipt of all the documents required in support of the request, depending on the complexity of the case.

Stage 2 – Declaration of enforceability by the Court

An application for recognition and enforceability is filed with the Court (the Family and Minors Division (*Juízo de Família e Menores*) of the area in which the foster family or institution is located) by the foster family, the framework institution or the institution to which the child was entrusted. This application must be accompanied by documentation attesting to the prior consent of the ACP and by supporting documents giving details of the placement: duration, intervention plan, declaration from the foster family that they are able to financially support themselves.

Or, alternatively:

The placement decision/ruling issued by the administrative or judicial authority of the country of origin is sent to the ACP, together with additional documentation giving details of the placement: duration, intervention plan, declaration from the foster family that they are able to financially support themselves.

The ACP forwards the application for enforceability of the measure to the Public Prosecutor's Office (*Ministério Público*) at the competent Court, where it will be officially lodged on behalf of the child.

The Court issues its decision. In the event of a declaration of enforceability, the Court may indicate the Social Security Institute (*Instituto da Segurança Social, IP*) as the body responsible for monitoring the implementation of the measure within Portugal.

Stage 3 – Execution of the placement measure in Portugal

Once the decision of enforceability has been issued, the child or young person may come to Portugal and commence their placement measure.

If the application for a declaration of enforceability was sent via the ACP (and in any case where the Court informs the ACP of its decision), the ACP should forward the Court's decision to its counterpart.

The Social Security Institute monitors the measure and drafts periodic reports on the implementation of the measure to be sent to the Court and the ACP, where the Court so orders.

Any extension of the measure is subject to a new prior authorisation by the ACP, followed by the rest of the procedure set out above.

For information, a list of the documents required by the ACP before authorising the placement of a child with a foster family or institution in Portugal can be found in English at the following [link](#).

4 What is a "foster family" according to the national law of your Member State?

Article 12 of Decree-Law No 139/2019 laying down rules for the application foster family measures in Portugal reads as follows:

'1. A foster family may be:

a) a single person;

b) two married or unmarried persons;

c) two or more persons linked by family ties and living in the same household.

2. In the cases referred to in points (b) and (c) of the previous paragraph, one member of the foster family shall be the person responsible for the fostering.

3. The persons referred to in paragraph 1 who are entrusted with the care of a foster child or young person may not have any family relationship with that child or young person.

Article 6 of this Decree-Law lays down that management of the foster family system is the responsibility of the Social Security Institute and the Lisbon Holy House of Mercy (*Santa Casa da Misericórdia de Lisboa*), working together with the framework institutions designated by national law as specific social solidarity bodies, or similar, working in the field of children and young people and which have entered into cooperation agreements with the Social Security Institute.

Article 5(2) of the Decree-Law lays down that foster care measures decided upon in court proceedings are to be managed and monitored by the Court, designating the specific teams for this purpose provided for in Law No 147/99 on the protection of children and young people in danger.

5 Does the notion of "foster family" encompass relatives or not? If yes, which ones?

No, under Portuguese law the concept of 'foster family' does not cover relatives (cf. Article 16(3) of Decree-Law 139/2019, referred to in the reply to the previous question).

Final note:

This information is not binding on the Portuguese contact point, the courts, or other bodies or persons consulting it. Despite the care put into the drafting of this information, it remains necessary to consult the legislation in force at any given time.

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