



## THE COMMISSION FOR THE EFFICIENCY OF ENFORCEMENT PROCEDURES (PORTUGAL)

### BRIEF PRESENTATION

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### 1. THE CPEE'S MISSION: A PUBLIC, DEMOCRATIC AND INDEPENDENT ORGAN OF SUPERVISION OF THE ENFORCEMENT AGENTS ACTIVITY IN PORTUGAL

On 31st March of 2009 the **Commission for the Efficiency of Enforcement Procedures** (CPEE) started its activity as a new body to serve the civil Justice, based on democratic principles, independent and pluralistic, which works as a Plenary and Executive Board, responsible, among others, for (article 69.º-C of the Statute of the Chamber of Solicitors, as amended by Decree-Law nr. 226/2008, November 20th:

- a) The emission of recommendations towards the efficiency of enforcement procedures;
- b) The emission of recommendations towards the training of Enforcement Agents (an independent professionals working as bailiffs);
- c) Quality, access and final evaluation demands and procedures of training period to become Enforcement Agents;
- d) Analysis the fulfillment of legal rules and upholding of the incompatibilities and impeachments of Enforcement Agents;
- e) The initiation of disciplinary proceedings and the application of proper penalties/ sanctions to Enforcement Agents;
- f) Performing regular inspections to the Enforcement Agents.

The Commission for the Efficiency of Enforcement Procedures was created after a rigorous and in-depth analysis, made from 2005 to 2007, of all legal constraints found in enforcement procedures after the reform of 2003 entered into force, and is based on a legal resolution after a wide spread political and parliamentary consensus, thus originating Decree-Law nr. 226/2008, November 20th, approved in the use of the legal authorization granted by the Parliament, through Law nr 18/2008, of 21st of April.



Our website (<http://www.cpee.pt>) concretizes our goal to ensure the transparency and clearness of our activity by publicizing our agenda, documents and other works done by the Commission and simultaneously presents a wide range of information that we consider very useful to those who need to analyze the enforcement procedures (debt collections) or the statute of Enforcement Agents in Portugal, presented in a simple and decoded way, thus aiming to create a trustful link between the Commission and all those that visit our website, regardless of being justice operators, users of justice or business men.

## 2. MAIN GOALS AND GUIDELINES

The Commission for Efficiency of Enforcement Procedures– shortly CPEE – is an independent body that started its activity on 31st March of 2009, which main goals are:

- a) The emission of recommendations towards the efficiency of enforcement procedures and the training of Enforcement Agents (independent professionals working as bailiffs);
- b) Increase the quality of training of Enforcement Agents, promoting high level of rigor and quality in the access, admission and evaluation of the enforcement agents trainees;
- c) Ensure the required discipline of enforcement agents through the initiation of disciplinary proceedings and the application of proper penalties to the enforcement agents to all faults occurred after 31/03/2009;
- d) Performance of regular inspections to Enforcement Agents.

**Efficiency** measures the relation between obtained results and expected results. In an enforcement procedure it is expected to satisfy the rights of the plaintiff (as a rule of thumb, debt payment) in a reasonable time frame, wasting only the required time to concretize the citizen rights (speed) and thus obtain the desired effect, in the most economical way (economic efficiency).

These are the **supporting foundations of enforcement procedures: *speed and efficiency***.

As such, CPEE will be driven by the following **guidelines**:

**2.1. Efficiency:** The enforcement procedure must be simple, uncomplicated and nonbureaucratic especially through the dematerialization of the process and of the communications expediency between all parties involved.

**2.2. Speed:** The enforcement procedure must be as fast as possible, from the moment the pleading is presented until the completion of mentioned process, bearing in mind a balance between the rights of the plaintiff and the respondent.

**2.3. Electronic Enforcement Procedure:** 21st century enforcement procedure is based on a paper free policy: a modern, transparent and fast process.

**2.4. Paper free acts performed by judicial operators:** Judges, attorneys (lawyers, trainee-lawyers, solicitors) and enforcement agents work on an electronic platform facilitating communications among themselves.



**2.5. Transparency:** The electronic record of all actions taken ensures a complete and clear view of the entire enforcement procedure thus enabling to identify all blockades to the process and trigger their resolution.

**2.6. Legality, ethics and deontology:** The enforcement agent must comply with the rigorous application of the Law and with deontological aspects related to his actions. CPEE will guarantee public interest thorough regular inspections to the enforcement agents and simultaneously through the initiation of disciplinary proceedings if deemed necessary or in sequence of denounced illegal enforcement procedure against the responsible enforcement agent. In case proven unlawful or even criminal practice, CPEE will present the situation to the injured part and to the competent authorities.

### 3. COMPOSITION AND COMPETENCES

#### 3.1. THE PRESIDENT

**The President** is elected by all members of the Plenary, has a term of three years (from March 2009 to March 2012), renewable for three more years (until March 2015), and is immovable.

On the period from Mars 2009 until Mars 2012, the President Master Paula Meira Lourenço, Assistant Professor of the Law Faculty of the University of Lisbon and Member of the Scientific Council of the International Association of Enforcement Agents (UIHJ), was elected unanimously by all members at the 1<sup>st</sup> Plenary meeting which took place on the 31th of Mars 2009.

**It is the responsibility of the President of CPEE:**

- a) To represent the Commission;
- b) To promote CEEP on a national and international level;
- c) To schedule and prepare the meeting agenda;
- d) To preside the meetings;
- e) To require of each of the Plenary Members the necessary information to prepare the Plenary meetings, mainly the Executive Board preparation of documents; also execute the necessary procedures for the Plenary to exercise its responsibilities:
  - i) Set the number of candidates to be admitted in each training program of enforcement agents.
  - ii) Select and appoint the external entity responsible for developing, defining the criteria for assessment and evaluation of the examination for admission to the training program of the enforcement agents;
  - iii) Approval of the annual activity report ;
- f) To in advance suspend or close the Plenary meetings, whenever exceptional circumstances require so, but only by reasoned decision and it has to be included on the minutes.
- g) Promote compliance with resolutions of CEEP.
- h) To guide, coordinate and supervise the management of the Executive Board activities;
- i) To introduce to the Plenary the basis for the resignation of a Member of the Executive Board, that has been chosen by the President and approved by the Plenary;



- j) Establish rules of action concerning the Commission that don't contradict the law and this regulation;
- k) Exercises the Plenary competences which were delegated by Rule nr. 5696/2010, Mars 29th, of "*Delegation of the Plenary competences on the President of the CPEE*".
- l) Exercise other powers conferred by law.

### 3.2. THE PLENARY

#### **The Plenary of CEEP is composed by:**

- a) The President of the Commission, elected unanimously by all members: Master Paula Meira Lourenço;
- b) One member appointed by the Supreme Judicial Council: Dra. Laurinda Gemas;
- c) One member appointed by the member of government responsible for justice: Dra. Ana Vargas, from the Directorate General of Justice Policy;
- d) One member appointed by the Government member responsible for finance: Dra. Maria da Guia Meirinha, from the Directorate-General for Information Technology and Support Services Tax and Customs;
- e) One member appointed by the member of government responsible for social security: Dra. Luísa Guimarães, from the Institute of Social Security;
- f) One member appointed by the President of the Solicitors Chamber: Enforcement Agent Armando A. Oliveira;
- g) One member appointed by the president of the Bar Association: Dra. Márcia Gonçalves, by the Bar;
- h) The President of the Specialty Enforcement Agents College: Enforcement Agent Carlos de Matos;
- i) One member appointed by the associations of consumers or users of justice services: Dra. Célia Marques (General Union of Consumers);
- j) Two members appointed by confederations with a seat on the Permanent Committee for Social Dialogue of the Economic and Social Council: Dr. Vasco Álvares de Mello (Confederation of Trade and Services of Portugal) and Dr. Joaquim Dionisio (General Confederation of Portuguese Workers).

Members of the Plenary are appointed for a period of three years and may be replaced when necessary by the designated entities, except the President of CEEP, who has a term of three years and is immovable.

There is the possibility of designating a vowel by the Board of Administrative and Fiscal Courts and by the Board of the Public Ministry, with seat and vote in the Plenary of CEEP, when the agenda includes matters within the competence of the court administrative or prosecutor, respectively.

Can take part in Plenary meetings representatives of other entities relevant to the discussion and implementation of specific tasks, but without voting rights.

#### **The Plenary of CEEP assumes deliberative nature and has the power to:**

- a) Issue Recommendations on the effectiveness of enforcement executions;



- b) Issue Recommendations on the training of enforcement agents;
- c) Set the number of candidates to be admitted in each enforcement agents stage;
- d) Select and appoint external entity responsible for developing, defining the criteria for assessment and evaluation of the examination for admission to the enforcement agents stage;
- e) Decide appeals on the decisions of the Executive Board of the Commission imposing penalties of suspension and expulsion of the enforcement agents;
- f) Approve the annual activity report;
- g) Exercise other powers conferred by law to the Commission.

### 3.3. EXECUTIVE BOARD

**The Executive Board comprises:**

- a) President of the Commission for the Efficiency of Enforcement Procedures: Master Paula Meira Lourenço;
- b) President of the Specialty Enforcement Agents College, inherently;
- c) Three members chosen by the President and approved by the Plenary.

**The Executive Board is the executive branch of CPEE and has the following responsibilities:**

- a) Dismiss the enforcement agent;
- b) Instruct disciplinary procedures to enforcement agents;
- c) Apply disciplinary penalties to executions agents;
- d) Conduct inspections to enforcement agents;
- e) Conduct audits to enforcement agents;
- f) Decide issues related to impediments of the enforcement agents;
- g) Decide issues relating to the suspicions towards the enforcement agents;
- h) Prepare documents and complete the procedures necessary to exercise the following powers of the Plenary of the Commission:
  - i) Setting the number of candidates to be admitted in each training program of the enforcement agents;
  - ii) Select and appoint external entity responsible for developing, defining the criteria for assessment and evaluation of the examination for admission to the training program of the enforcement agent;
  - iii) Approve the annual activity report;
- i) Uphold all directives charged by the Plenary of the CEEP.