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REPORT ON ROMANIA

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THE EUROPEAN UNION**

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RESTREINT UE/EU RESTRICTED

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SIXTH ROUND OF MUTUAL EVALUATIONS**

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February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime
and of Council Decision 2008/976/JHA on the European Judicial Network in criminal
matters"**

REPORT ON ROMANIA

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1. EXECUTIVE SUMMARY

The 6th round of mutual evaluations' on-site visit to Romania was carefully prepared and organised by the host authorities. The evaluation team has appreciated the accuracy of the presentations made to it and the answers provided to all of its questions. All this gave the evaluation team an opportunity to gain more familiarity with the practical details of Romania's particular situation, its legal and judicial system as well as the role that Eurojust and the EJM can play to support the competent national authorities in the fulfilment of their duties in the domain of EU judicial cooperation in criminal matters.

The opinion of the evaluation team is very positive overall. Its main findings are as follows.

1. Eurojust and the EJM are in general well known and well perceived by the competent practitioners in Romania. The Romanian authorities generally deal with requests from other Member States appropriately and promptly. The Romanian system of international cooperation in criminal matters seems to function well and to rely mostly on informal contacts between practitioners and experienced specialists devoted to providing legal information and practical solutions. The specialists, posted in the Ministry of Justice, Directorate for International Law and Judicial Cooperation, in the courts of appeals, prosecutions offices of the courts of appeal and in the central prosecution services, know each other and work together.
2. With the exception of some magistrates working in the criminal sections of the 15 courts of appeal, judges seem generally to be involved in international criminal co-operation to a much lesser extent than prosecutors, mainly due to the fact that competence at the pre-trial stage belongs to the prosecutors together with the judicial police. However, judges are represented within the EJM contact points and the ENCS.

3. Cooperation with Eurojust started prior to the accession of Romania to the EU on 1 January 2007. An agreement was signed on 2 December 2005, by virtue of which a Romanian liaison magistrate was posted to Eurojust on September 2006. Cooperation with the EJM also dates back to 2001.
4. Romania has implemented all provisions of the Council Decisions regarding Eurojust and the EJM into national law duly and on time. Romanian legislation contains many details that serve both the letter and the spirit of those texts.
5. Eurojust and the Romanian National Desk and National Member have a good reputation among practitioners. Since the previous and the current National Members are also prosecutors, in particular within the Directorate for Investigating Organised Crime and Terrorism (DIICOT), this means they are well-known among the practitioners and formality is thus kept to a minimum with the result that assistance in both directions is most often very timely. The National Member has easy access to national criminal registers and other pertinent information systems. She prepares an annual report which is widely disseminated (MoJ, Central Prosecution Offices, Superior Council of Magistracy and Parliament).
6. Most contact with Eurojust takes place via the nationwide specialised prosecution services for organised crime (DIICOT) and corruption (National Anti-Corruption Directorate, DNA), not only at central level but also at local level; this goes through the ENCS. DNA has a judicial police unit that is especially dedicated to it.

In the few cases where non-specialised prosecutors and judges had contact with Eurojust, the experience was described as positive and helpful.

7. The ENCS, set up to provide a domestic context for better EU cooperation, is now in place; its practical implementation is on-going and may be expected to develop further over time.
8. Romania is one of the few countries (alongside Bulgaria, Finland and the Netherlands) that has successfully set up a secure connection to Eurojust to facilitate the implementation of Article 13 of the Council Decision.
9. Coordination meetings have been used with success, but could certainly be used more frequently by Romania. Similarly, joint investigation teams are seen as an important and useful tool with practical added value. The Romanian authorities acknowledged nevertheless that Romania could request the intervention of Eurojust more often by Romania for the setting-up and the funding of JITs.
10. The Center for International Police Cooperation, a central body established in 2005 under the Ministry of Home Affairs, houses several law enforcement agencies (Europol national unit, SIRENE office, Interpol etc.) and deserves mentioning as a model for cooperation and coordination. It is good that the Head of this Center is part of the ENCS.
11. Romania has a relatively small number of EJM contact points compared to other Member States of a similar size. However, Romania takes an active part in the EJM's activities. The EJM is mirrored by a *Romanian Judicial Network* established in 2004 and composed of judges, prosecutors and personnel of the Division of the International Judicial Cooperation in Criminal Matters within Directorate for International Law and Judicial Cooperation - Ministry of Justice, and the system as a whole seems to work well. It is noteworthy that the National Member at Eurojust is also a member of the Romanian Judicial Network in Criminal Matters.

12. The question of whether cases should be allocated to Eurojust or the EJM is a difficult one and efforts have been made to address this issue by law, albeit with a few criteria which are non-exhaustive. The allocation of cases is also addressed during training sessions for magistrates.

13. Training and awareness-raising regarding international judicial cooperation seem to be fairly well organised and effective in Romania. Eurojust and the EJM are part of the initial training undertaken by the National Institute of Magistracy. On-going training sessions are also organised on a regular basis. However, according to the Ministry of Justice, there are still pending issues and periodic training could still be improved, notably to reach practitioners in the more remote parts of the country. In this regard a strategy is under consideration.

14. The evaluation team has identified a number of best practices in the Romanian system. These are underlined in the conclusions below.

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2. INTRODUCTION

Joint Action 97/827/JHA of 5 December 1997¹ established the mechanism used to evaluate the application and implementation at national level of international undertakings in the fight against organised crime.

In line with Article 2 of the Joint Action, the Working Party on General Matters including Evaluation (GENVAL) decided on 22 June 2011 that the sixth round of mutual evaluations should be devoted to the practical implementation and operation of Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime², as amended by Decisions 2003/659/JHA³ and 2009/426/JHA⁴, and of Joint Action 98/428/JHA of 29 June 1998 on the creation of a European Judicial Network⁵, subsequently repealed and replaced by Council Decision 2008/976/JHA on the European Judicial Network in criminal matters⁶.

¹ Joint Action of 5 December 1997 (97/827/JHA), OJ L 344, 15.12.1997, p. 7 - 9.

² Council Decision of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime (2002/187/JHA), OJ L 63, 2.3.2002, p. 1-13.

³ Council Decision 2003/659/JHA of 18 June 2003 amending Decision 2002/187/JHA setting up Eurojust with a view to reinforcing the fight against serious crime, OJ L 245, 29.9.2003, p. 44-46.

⁴ Council Decision 2009/426/JHA of 16 December 2008 on the strengthening of Eurojust and amending Decision 2002/187/JHA setting up Eurojust with a view to reinforcing the fight against serious crime, OJ L 138, 4.6.2009, p. 14-32.

⁵ Joint Action 98/428/JHA of 29 June 1998 adopted by the Council on the basis of Article K.3 of the Treaty on European Union, on the creation of a European Judicial Network, OJ L 191, 7.7.1998, p. 4-7.

⁶ Council Decision 2008/976/JHA of 16 December 2008 on the European Judicial Network, OJ L 348, 24.12.2008, p. 130-134.

The evaluation aims to be broad and interdisciplinary and to not focus solely on Eurojust and European Judicial Network (EJN) but rather on the operational aspects in the Member States. This means that, apart from cooperation with prosecution services, it also encompasses, for instance, how police authorities cooperate with Eurojust National Members, how the national units of Europol will cooperate with the Eurojust National Coordination System and how feedback from Eurojust is channelled to the appropriate police and customs authorities. The evaluation emphasises the operational implementation of all the rules on Eurojust and the EJN. Thus, the evaluation will also cover operational practices in the Member States as regards the first Eurojust Decision, which entered into force in 2002. Experiences from all evaluations show that Member States will be in different positions regarding their implementation of the relevant legal instruments, and the current process of evaluation could also provide useful input to Member States that may not have implemented all aspects of the new Decision.

The questionnaire for the sixth round of mutual evaluations was adopted by GENVAL on 31 October 2011. As agreed in GENVAL on 17 January 2012, Eurojust was also provided with a questionnaire. The questionnaire to Eurojust was adopted by GENVAL on 12 April 2012. The answers to the questionnaire addressed to Eurojust were provided to the General Secretariat of the Council on 20 July 2012, and have been taken into account in drawing up the present report.

The order of visits to the Member States was adopted by GENVAL on 31 October 2011. Romania was the nineteenth Member State to be evaluated during this round of evaluations.

In accordance with Article 3 of the Joint Action, the Presidency has drawn up a list of experts for the evaluations to be carried out. In response to a written request made by the Chairman of GENVAL to delegations on 15 July 2011, Member States have nominated experts with substantial practical knowledge in the field. The evaluation teams consist of three national experts, supported by two staff from the General Secretariat of the Council and observers. For the sixth round of mutual evaluations, GENVAL agreed with the proposal from the Presidency that the European Commission, Eurojust and Europol should be invited as observers.

The experts charged with undertaking the evaluation of Romania were Mr François Dalli (Malta), Mr Samuel Lainé (France) and Mr Gabor Jancso (Hungary). Three observers were also present: Ms Mariana Lilova and Ms Stephanie Bovensiepen (Eurojust), and Ms Carine Hanssens (Commission) – together with Ms Anne Cecilie Adserballe and Ms Claire Rocheteau from the General Secretariat of the Council.

This report was prepared by the expert team with the assistance of the General Secretariat of the Council, based on findings from the evaluation visit that took place in Romania between 22 and 25 October 2012, and on Romania's detailed replies to the evaluation questionnaire together with its detailed answers to the ensuing follow-up questions.

3. GENERAL MATTERS AND STRUCTURES

3.1. General information

The principles, the structure and the manner of organisation of the Romanian judiciary are established by the Constitution and Law no. 304/2004 regarding the judicial organisation, republished. In total, Romania has 4000 judges and 3000 prosecutors for 22 million inhabitants. The recruitment and career of both prosecutors and judges and their appraisal and training are conducted under the responsibility of the Superior Council of Magistracy (SCM), the "guarantor of the independence of the judiciary system". This body is also in charge of monitoring the implementation of the Cooperation and Verification Mechanism with Romania and of reporting on its developments to the European Commission.

In the domain under evaluation the distribution of judicial offices is as follows:

- The supreme court "High Court of Cassation and Justice"
- 15 courts of appeal established at district level, with sections specialised in criminal matters
- 42 tribunals established at county level, with sections specialised in criminal matters
- 179 first instance courts.

Moreover, attached to every court there is a prosecution office.

Most of the cases where Eurojust may exercise its competence are dealt with centrally (mainly by DIICOT and DNA) or at district level (court of appeal or prosecution office).

In Romania the investigative phase of the criminal proceedings is conducted by the public prosecutor – while certain measures such as arrests and house searches must be authorised by a judge. Prosecutors are thus the main competent issuing and executing authorities for judicial cooperation in criminal matters at the pre-trial stage, with the following provisions:

- prosecutors are not competent for the execution of EAWs, recognition of foreign decisions and transfer of proceedings – they ask the courts to issue a decision in that respect; as for the incoming requests for videoconference, prosecutors are competent to execute them only if the case in which the MLA request was issued is at the pre-trial stage;

- on the other hand, courts are competent for the execution of incoming requests for videoconferences if the MLA request was issued in a case which is at the trial phase in the issuing state, as well as the execution of EAWs, recognition of foreign decisions and transfer of proceedings.

During the trial and post-trial stages courts are competent to issue MLA requests and EAWs in all cases within their jurisdiction.

The Division for International Judicial Cooperation in Criminal Matters belongs to the Directorate for International Law and Judicial Cooperation, a specialised legal department within the Ministry of Justice. This division - according to Law 302/2004 on international judicial cooperation in criminal matters and other legislation - cooperates as a judicial (central) authority regarding extradition, EAWs, transfer of sentenced persons, validity of foreign judgments, freezing, confiscation, financial penalties (EU), transfer of proceedings, mutual legal assistance requests related to the trial and post-trial stages and in some cases within pre-trial stage". As a central authority the Division for International Judicial Cooperation in Criminal Matters deals with an average of 25.000 files per year. It also plays a key role in the coordination of actors dealing with Eurojust and EJM matters.

The activities of all prosecution offices are coordinated independently by the Prosecution Office attached to the High Court of Cassation and Justice, headed by the General Prosecutor of Romania. This general prosecution office plays the role of a central authority for MLA requests in criminal cases at the pre-trial stage.

It is important to mention here that two specialised prosecution services have been created with exclusive competence for investigations regarding organised crime and terrorism (DIICOT⁷) and corruption (DNA).

This organisational structure, due mainly to criminal policy and to the management of crime trends in Romania, leads to a situation where most contact with Eurojust stems from investigations led by DIICOT and DNA since their competences are quite similar to the competences of Eurojust. Other non-specialised prosecution offices have more contact with the EJM or the Romanian Judicial Network (RJN).

DIICOT, the Directorate for Investigating Organised Crime and Terrorism, is a major structure with its own legal personality and budget, composed of 280 specialised prosecutors, 200 law clerks and administrative staff and 40 experts. It consists of a central structure based in Bucharest, 15 territorial services established at district level and 26 local offices spread throughout the national territory. DIICOT's *Office for Representation, International Cooperation and International Judicial Assistance* deals with an average of 1000 working files per year, more than 80 % being MLA requests. The head of this so called "*COOP office*" is responsible for the functioning of the Romanian Eurojust National Coordination System (ENCS) and is also an EJM contact point.

⁷ Article 12 of Law 508/2004 establishes a list of offences in the competence of DIICOT. A major part of this list corresponds to the area defined by Article 4 of the Eurojust Council Decision (drug trafficking, trafficking in human beings, illicit trade in human organs and tissue, illegal immigrant smuggling, forgery of money and means of payment, computer crime, smuggling in goods, offences related to illegal money laundering activities, terrorism and financing of terrorism etc.). For some offences the Law mentions that DIICOT is competent only in presence of a criminal organisation.

DNA, the National Anti-Corruption Directorate, is also organised as a specialised and autonomous structure. Its jurisdiction focuses on high and medium level bribery and corruption crimes, crimes against the financial interests of the European Communities and serious economic crimes. DNA has a central structure, 15 territorial services established at district level and 3 local offices. It is worth mentioning that the 130 DNA prosecutors are supported in criminal investigations by DNA's own judicial police officers (170) and 45 highly qualified experts in various domains. Since 2006 DNA has dealt notably with 326 active MLA requests and 104 passive requests and has requested Eurojust support around 30 times.

Romania also knows and appreciates the institution of Liaison Magistrates and uses it to second some of its prosecutors specialised in international cooperation to various other Member States.

3.2. Formal implementation of Council decisions 2002/187/JHA of 28 February 2002 setting up Eurojust and 2009/426/JHA on the strengthening of Eurojust

Council Decision 2002/187/JHA was implemented by Government Emergency Ordinance no. 123 dated 5 November 2007 on measures to strengthening the judicial cooperation with Member States of the European Union. This Ordinance was approved by the Romanian Parliament through Law no. 85 of 8 April 2008. It was amended in 2012 by Law no. 35 dated 19 March 2012, in order to implement Council Decision 2009/426/JHA of 16 December 2008.

This legal act consists of three titles, respectively dedicated to *Institutional and operational measures necessary for the exchange of liaison magistrates* (Title I), *Cooperation with Eurojust* (Title II) and *the Functioning of existing and future networks at the national and EU levels in the field of judicial cooperation* (Title III).

The evaluation team appreciates the quality of the Romanian legislation implementing the Council Decisions: not only has it been conceived only along the lines of the consolidated Eurojust Decision, but it is also detailed and comprehensive.

3.3. Implementation of the Eurojust National Coordination System

3.3.1. National correspondents

(For reference see Article 12 of the Government Emergency Ordinance no. 123 dated 5 November 2007).

In Romania there are 12 national correspondents for Eurojust. All of them are high-ranking and experienced officials designated from authorities having, at the national level, competences for types of crime and offences in respect of which Eurojust has general and/or specific competences, as well as for matters on which Eurojust cooperates with Europol, OLAF and the European Judicial Network.

The 12 national correspondents are:

- within the central structure of DIICOT, the respective Heads of Office in charge of:
 - Organised Crime,
 - Drug Trafficking,
 - Economic and Financial Crime,
 - Computer Crime,
 - Terrorism Crimes and Offences against National Security (the latter Head of Office being the national correspondent for Eurojust for terrorism matters),
 - Cooperation, Legal Representation and International Judicial Assistance (the latter Head of Office being responsible for the overall functioning of the ENCS);
- within the Central Unit of DNA, the Head of the Service for International Cooperation, Information and Public Relations;
- within the Prosecution Office of the High Court of Cassation, the Head of the Bureau for International Judicial Cooperation in Criminal Matters;

- the Head of the Anti-Fraud National Department;
- within the National Office for the Prevention and Suppression of Money Laundering, the Director of the General Operative Directorate;
- within the Ministry of Interior, the Head of the Centre for the International Police Cooperation, and;
- within the Ministry of Justice, the Head of the Division for judicial cooperation in criminal matters, in her capacity as National Correspondent for the European Judicial Network.

According to Romanian law, without prejudice to the principle of direct contact between the Eurojust National Member and the competent judicial or police authorities, the national correspondents are his privileged contact points.

3.3.2. Eurojust National Coordination System (ENCS)

(For reference see Article 13 of the Government Emergency Ordinance no. 123 dated 5 November 2007).

Romania said it had opted for a balanced and pragmatic approach when designating the members of the ENCS, having in mind the competences of both investigative authorities and those dealing with judicial cooperation (some of the members of the ENCS only have criminal investigation experience, others have experience only of judicial or police cooperation, while others have both). The same criteria were applied as regards the relationship between the EJM and Eurojust, especially in view of the need for selection of the cases where exclusive or shared actions/competences have to be taken / implemented.

All of the national correspondents for Eurojust are part of the ENCS. A large proportion of the EJM contact points are also involved in the ENCS, some of them also being national correspondents for Eurojust. As already mentioned, the person responsible for the functioning of the ENCS is also an EJM contact point.

Apart from the authorities referred to in Article 12 of the new Eurojust Decision, other authorities have been designated within ENCS: the Center for International Police Cooperation (where the Europol, Interpol and Sirene Offices are located), the Romanian Anti-Fraud Department, the Romanian ARO and the National Office for Preventing and Combating Money-Laundering.

For the time being there is no specific or exclusive competence conferred to the members of the ENCS other than to work closely with the National Desk at Eurojust, if requested for the performance of the tasks allocated to Eurojust, or if the particularities of the national case he or she is responsible for so require. Eurojust matters take priority over any others.

The main partner to the National Member at Eurojust is DIICOT (because of its special competences), however through ENCS the National Member may contact all the competent heads of department directly. On this point, the implementation law of 2012 actually formalised a relationship that was already present and working in the Romanian criminal system. However, the expert team sees clear added value in the fact that the recent law creates a clear duty for the ENCS members to assist the Eurojust National Member.

3.3.3. Operation of the ENCS and connection to the CMS

According to the new Eurojust Decision, the ENCS has been set up to coordinate the work carried out by the national correspondents for Eurojust, the national correspondent for Eurojust for terrorism matters, the national correspondent for the European Judicial Network and up to three other contact points of the European Judicial Network, as well as representatives in the Networks for Joint Investigation Teams, War Crimes, Asset Recovery and Corruption.

To the evaluation team, the ENCS does not seem to work as a separate body or a national background office for the Romanian National Member at Eurojust. It may appear that the system has been conceived as such on purpose - the Romanian authorities acknowledged that the ENCS is a loose system of contact points to assist the National Member on request, rather than an actual organisation. Due to the specific background of the Romanian judicial system this might be a suitable way of ensuring support for the National Member, since the positions chosen to be part of the ENCS are the ones most frequently asked for assistance. In that perspective it would be good if Eurojust were to support the exchange of experience and best practices between the ENCS of all Member States, e.g. by regularly updating the Fiches Suédoises and organising meetings of the persons responsible for the functioning of ENCS;

The Romanian authorities underlined that, even if the ENCS has not been conceived as a formalised national body, the law provides for the possibility of organising and running meetings of the ENCS members. A meeting may be initiated upon an informal proposal from a member of the ENCS or the Eurojust National Member, addressed to the national correspondent for Eurojust responsible for the functioning of ENCS.

Such meetings may focus on a general or specific topic of special interest to some or all members of the ENCS or National Desk at Eurojust (consultation meetings) or could be dedicated to a concrete case (working meetings). The Head of the Europol national unit may be invited to attend the meetings and be asked to provide information about the requests for police cooperation handled via Europol. The advantages and disadvantages of a specific location for the meeting and financial aspects should be considered.

The first meeting of the ENCS took place in September 2013.

National law also provides that ENCS may be involved when the allocation of cases between Eurojust and the EJN or others is to be decided.

No requests have been addressed to the ENCS yet. However, there is informal consultation and coordination between members of the ENCS on a daily basis via e-mail and/or telephone.

It is worth pointing out that according to Article 13 of GEO no.123/2007, members of the ENCS have the right of access to the CMS but only to the extent allowed by the Eurojust Decision (Article 16b) and if the Eurojust National Member so decides after consultation with the national correspondents for Eurojust. Currently none of the members of the ENCS is connected to the Eurojust Case Management System.

3.3.4. Cooperation of the ENCS with the Europol national unit

It is enshrined in national law that: *“the ENCS shall keep in close contact with the Europol national unit. To this end the Head of the Europol national unit shall participate in the meetings of Members of the ENCS and inform them about any requests for police cooperation managed by the Romanian liaison bureau at Europol, with a special focus on Europol requests to Romanian authorities for the participation of Europol personnel in joint investigation teams in Romanian territory or for initiating, conducting and coordinating criminal inquiries”*.

Moreover the Europol national unit and SIRENE office are under the supervision of the Head of the Center for International Police Cooperation, who is one of the national correspondents for Eurojust and consequently a member of the ENCS.

Representatives of other law enforcement authorities were included in the ENCS either in their capacity of national correspondents for Eurojust or contact points to different existing EU networks.

In this context, the conditions are met for a close daily working relationship between the ENCS members in matters related to operational work on individual cases and to international cooperation in criminal matters.

3.4. National desk at Eurojust

(For reference see Articles 14, 14¹, 14², 15, 17, 18, 19 and 20 of the Government Emergency Ordinance no. 123 dated 5 November 2007).

3.4.1. Organisation

Romania concluded an agreement on cooperation with Eurojust in January 2006 and appointed a Liaison Magistrate who later became the first Romanian National Member at Eurojust. In 2013, a new National Member was appointed.

For the time being the National Desk at Eurojust consists of the National Member and his or her Deputy, whose regular place of work is at the seat of Eurojust; the secretary (administrative assistant) of the Desk is a member of the Eurojust staff.

While the legal framework foresees the possibility for the Romanian authorities to appoint assistants to the National Member and seconded national experts, these options are not used at the moment. During the on-site visit the evaluation team was advised that the resources given to the National Desk were considered to be sufficient in relation to the current workload of the Desk.

3.4.2. Selection and appointment

According to Romanian law the position of National Member is open only to prosecutors, while the position of deputy is open to both prosecutors and judges.

For both positions the person must have:

- A minimum of 12 years' experience as a prosecutor or judge,
- Relevant experience in combating organised crime, corruption or terrorism,
- Practical experience in the field of international judicial cooperation.

The National Member and his/her deputy are appointed by the Minister for Justice with the advisory opinion of the Superior Council of Magistracy. A public announcement is made along with the invitation for all potential candidates to submit their *Curriculum Vitae*. Short-listed candidates are invited to an interview held in front of a commission headed by the Minister for Justice. A similar procedure is foreseen for the appointment of an assistant to the National Member.

3.4.3. Powers granted to the National Member

3.4.3.1. General powers

The National Member acts under the authority of the Ministry of Justice, while keeping his/her functional independence as a prosecutor.

His/her functions and powers are laid out in Articles 14-15 of the Government Emergency Ordinance no. 123 dated 5 November 2007, republished. The Romanian National Member has been granted all the operational powers provided for by Articles 9-9e of the new Eurojust Decision.

Two specific powers that have to be underlined are related to controlled deliveries, hot pursuit and cross border surveillance. Following the conditions set forth in Romanian law and the applicable legal instrument between Romania and the requested state, the National Member has the power to authorise and coordinate controlled deliveries and to authorise hot pursuits and cross border surveillance.

The Romanian National Member cannot:

- execute requests for judicial cooperation in connection with a criminal case in progress, or those for authorisation/use of undercover investigators or interception of telephone and electronic communications;
- execute the decisions on judicial cooperation which are, by law, within the jurisdiction of the courts or those solved by resolutions, orders or judgments which, by law, are subject to complaints or appeal, as appropriate.

The Romanian National Member can only request Romanian authorities to take actions. She has no hierarchical means to force them to comply with a request. However, there have never been any cases in practice of a competent local authority refusing to cooperate with the National Member. Moreover, Romania has chosen to establish an explicit legal obligation for all national authorities to cooperate with Eurojust and to give reasons for each refusal to fulfil a request from Eurojust.

3.4.3.2. Access to national databases

According to Article 15 of the Ordinance of 5 November 2007 and in his/her capacity of a national prosecutor, the National Member has access to the Romanian Criminal Record Database and other relevant databases under the same conditions as the other judicial authorities. He/she is more generally entitled to ask for any information necessary for the fulfilment of his/her tasks.

Currently the National Member does not have direct access to any national database. As the requisite secure connections do not exist, the information contained in the registers indicated above is instead obtained via national authorities.

3.4.4. *Access by the National Desk to the restricted part of the Case Management System (CMS)*

The National Member is responsible for the management of the temporary work files which she opens and for everything related to the Case Management System (functioning, access etc.). She has sole responsibility for the deciding whether access to a temporary work file is restricted to other members of the National Desk, to other Eurojust National Members or to the Eurojust staff. The same level of access has been granted to the Deputy of the National Member.

3.5. EJM contact points

3.5.1. Selection and appointment

Romania has participated in the EJM meetings since 2001, where it had the status of an observer until its accession to the EU in 2007.

Title III, Article 24 of Government Emergency Ordinance no. 123 of 5 November 2007 establishes the authority of the Minister for Justice to appoint the national contact points to the European Judicial Network and to the other EU and national networks in the field of judicial cooperation.

Based on this law, in 2010, the Minister for Justice adopted Order no. 608/C. This order regulates the functioning, at national level, of the European Judicial Network and the Romanian Judicial Network in criminal matters. Section 1 is dedicated to the European Judicial Network and sets out the tasks and activities of the EJM contact points and of the members of the Romanian Judicial Network in criminal matters.

The EJM contact points are appointed by the Minister for Justice with the advisory opinion of the Superior Council of Magistracy.

Romania currently has nine EJM contact points, representing the following authorities responsible for or dealing with international judicial cooperation in criminal matters:

- the Prosecution Office of the High Court of Cassation and Justice,
- DIICOT,
- DNA,
- the Ministry of Justice, Directorate for International Law and Judicial Cooperation,
- the High Court of Cassation and Justice,

- the courts of appeal with significant caseload and experience in relation to Eurojust and EJN (currently Bucharest and Craiova),
- the Superior Council of Magistracy.

There is no approval procedure. Upon the invitation of the Ministry of Justice each of the authorities indicated nominates one or more persons as EJN contact points. The persons nominated are then included as such in the order delivered by the Minister for Justice. The minimum criteria for nominating a person as an EJN contact point are those referred to in Article 5 (12) of Order no. 608/C.

Due to the sophisticated structure of the rules on jurisdiction in the Romanian system, the evaluation team finds that it is rather difficult for a foreign practitioner to determine the competent person at once. This might be the reason why EJN contact points are appointed on a practical basis. In short, contact points in Romania comprise:

- Officials dealing with international cases - they are usually asked for assistance anyway, also other prosecutors know them by their offices,
- Specialised appellate judges, from the statistically most active areas - who are supposed to have the better experience and being able to help the most - also being members of the Romanian Judicial Network.

The Romanian Judicial Network

In 2004 Romania established a Romanian Judicial Network in Criminal Matters. It is presented as the Romanian counterpart of the EJN. Its secretariat is assured by the *Division for judicial cooperation in criminal matters (Directorate for International Law and Judicial Cooperation* within the Ministry of Justice).

The network is composed of judges from all courts of appeal and the High Court of Cassation and Justice, of prosecutors belonging to Prosecution Offices of the same level, and of officials from the Ministry of Justice (44 Members in total). The Eurojust National Member and the Romanian liaison magistrates are also members of the national network.

Members of the Romanian Judicial Network exchange experiences and discuss the practice and the legislation on judicial cooperation in criminal matters. They hold periodic meetings at least once every six months. The purposes of these meetings are to:

- a) Enable the members to get to know each other and exchange experiences, in particular, as regards the application of the EU instruments based on the principle of mutual recognition;
- b) Provide a platform for discussion of practical and legal problems encountered by the judges and prosecutors in the course of judicial cooperation;
- c) Identify best practices in judicial cooperation in criminal matters;
- d) Exchange views.

3.5.2. Practical operation of the EJM contact points in Romania

The EJM national correspondent is based at the Ministry of Justice (*Directorate for International Law and Judicial Cooperation, Head of Division for Judicial Cooperation in criminal matters*) and ensures swift coordination of the activities of the Romanian EJM contact points and relations with the EJM Secretariat.

Romania's EJM contact points organise at least one national meeting every year, focused on operational matters and issues of interest for the enhancement of judicial cooperation in criminal matters with other Member States and third countries.

Contact points fulfil the tasks specified in the EJM Decision, acting as active intermediaries in MLA and other judicial cooperation requests. They also pro-actively assist the national judicial authorities, using their know-how and expertise in delivering training sessions either at the National Institute of Magistracy or at a decentralised level. Some of them are also involved as experts in EU and international projects related to judicial cooperation in criminal matters. The Romanian EJM contact points work closely with the members of the Romanian Judicial Network for cooperation in criminal matters.

Detailed guidance on the tasks of the EJM contact points (including those of the National Correspondent) and the functioning of the EJM at national level is to be found in Articles 2-5 of Order no. 608/C/2010 of the Minister for Justice.

3.6. Conclusions

3.6.1. Formal (legislative) implementation process

- Romania has transposed the 2002 and 2009 Eurojust Decisions in national law, in compliance with the requirements of the Decisions.
- Article 13 of the Eurojust Decision has been implemented into Romanian law in Article 13 of the Emergency Government Ordinance of 5 November 2007, which states that “the information mentioned in Article 13 shall be transmitted to Eurojust whenever it is available [...]”. The obligation is not limited to specific authorities.
- Romania has established an explicit legal obligation for all national authorities to cooperate with Eurojust and to give reasons for each refusal to fulfil a request from Eurojust. This is to be considered a good practice.
- Romania has set out clear criteria and prerequisites for the selection of members for the National Desk in national law. This is to be considered a good practice.

3.6.2. *The National Desk at Eurojust*

- The Romanian Desk currently consists of the National Member, the Deputy National Member and one Administrative Assistant employed directly by Eurojust. All Members of the Romanian Desk have their place of employment in The Hague. There is no Assistant to the National Member, although this is a requirement under Article 11 of GEO no.123/2007 in line with the Eurojust Decision.
- The main powers foreseen in the Decision have been granted to the Romanian National Member.
- The National Member has access to the Criminal Records Database and other databases under the same conditions as the other judicial authorities. Currently the access given to her from The Hague is indirect.
- While the National Member must be a prosecutor, the Deputy can also be a judge. Both must have at least twelve years' working experience before being appointed. The current National Member and Deputy are both prosecutors from the specialised prosecution service for organised crime.
- The members of the National Desk work for the time of their mandate under the supervision of the Ministry of Justice. They provide a report on their activities to the Ministry of Justice every three months. In addition, an annual report is presented to the MoJ by the National Desk and transmitted to the Romanian Parliament, the Superior Council of the Magistracy and the General Prosecutor's Office.
- All practitioners met described their experiences with the Romanian Desk as fruitful. The former National Member and the current National Member have promoted the use of Eurojust e.g. by hosting groups of Romanian prosecutors and judges for visits at Eurojust and EJN.

3.6.3. *Implementation of the ENCS*

- The ENCS has been formally set up. It is comprised of 12 National Correspondents and 5 Contact Points. Since its recent establishment it has not received any requests.
- The ENCS as such has no specific role in the transmission of information under Article 13 of the Eurojust Decision. However the Head of *COOP Office* at DIICOT, who is in charge of the overall operation of the ENCS, is also responsible for the exchange of information with Eurojust under Article 13 of the Eurojust Decision in a centralised, structured and secured manner.
- The Romanian ENCS is conceived as a loose network of privileged contact points for the National Desk at Eurojust; each of the members of the ENCS exercises the specific competences given by his/her own statute and position at the national level and carries out daily operational activities that are partly related to Eurojust. There are informal consultations and coordination between members of the ENCS on a daily basis via e-mail and/or telephone. None of the members of the ENCS is connected to the CMS.
- Up to now only one meeting proposal has been submitted; the meeting took place on 13 September 2013. The location of the meeting and the logistics involved were raised as a possible issue.
- There is certainly room for development in the practical operation of the ENCS.

3.6.4. *EJN*

- The legislative implementation process of the EJN Decision is complete.
- Cooperation in practice between the contact points, with added backup from the Romanian Judicial Network, will promptly solve any requests. Experience has shown that the EJN can also assist and coordinate the execution of MLA requests (which was necessary again due to the complicated issues surrounding competence).
- The role of the Romanian Judicial Network as a means of disseminating knowledge and assisting colleagues on questions regarding international cooperation in criminal matters is also worth mentioning.

4. EXCHANGE OF INFORMATION

4.1. Exchange of information from judicial and law enforcement authorities to Eurojust

4.1.1. Databases relevant to the information exchange with Eurojust

The national databases relevant to the exchange of information with Eurojust are those managed by the National Trade Register Office, the Department for National Persons Record within the Ministry of Internal Affairs, the National Agency for Fiscal Administration, the National Office for Immigration, and the National Real Estate Register.

4.1.2. Obligation to exchange information under Article 13(5) to (7)

According to national law information must be sent to Eurojust in a structured manner. In general, all national authorities are allowed by law to exchange information with Eurojust – but only after the National Desk at Eurojust has been informed.

Article 19 of GEO no. 123/2007 provides for two exceptions, however. These are in the case of JITs (Article 13(5) of the Eurojust Decision) and in cases which may have repercussions at EU level (Article 13(6) c); here the information has to be provided by the General Prosecution Office.

In DIICOT's case prosecutors prefer in practice to send the information via the Office for representation and international judicial assistance (in 2012, a database was set up for this purpose). The practitioners in the regional offices of the specialised prosecution service for organised crime were not all aware of the obligations under Article 13 of the Eurojust Decision at the time of the visit. The Romanian authorities explained that, in practice, these prosecutors will usually inform the *COOP Office* of DIICOT about any case with international implications and ask for advice on how to proceed. The *COOP Office* would thus have an overview of all such cases, at least from within the specialised prosecution service for organised crime and corruption.

The Head of this *COOP Office* ensures that the Eurojust Case Management System receives information in an efficient and reliable manner.

Up to now, 32 notifications have been submitted to Eurojust (29 in relation to organised crime and terrorism and three in relation to corruption offences).

The Romanian authorities have chosen to use the template Eurojust provided.

4.1.3. Application of obligation to exchange information under Article 2 of Council Decision 2005/671/JHA

The relevant information is exchanged in a structured and centralised manner between the national correspondent for Eurojust for terrorism matters and the National Member to Eurojust. The ENCS is not involved.

4.1.4. Channels for information transfer to Eurojust under Article 13 of the Eurojust Decision

The information submitted by the DIICOT *COOP Office* to Eurojust is transferred via a secure connection.

A Memorandum of Understanding for the establishment of the connection between Romania and Eurojust was signed in 2012. The purpose of this Memorandum of Understanding was to regulate the establishment, implementation and operation of a secure network between Eurojust and Romania, enabling the transmission of information between Romania and Eurojust as laid down in the Eurojust Decision and particularly Articles 12, 13 and 13a. The Eurojust – Romania Secure Network is composed of encryption devices (VPN gateways), placed at the respective administrations of both Romania and Eurojust, and the communication line between them. The Romanian technical contact point for the Memorandum of Understanding is the Prosecution Office of the High Court of Cassation and Justice - IT Department.

As already mentioned, the information is transmitted in a structured way and the templates developed by Eurojust are used.

Though regulated by national law, no situation under Article 13(8) has arisen in practice.

4.2. Feedback from Eurojust

4.2.1. Qualitative perception of the information flows between Eurojust and Romania

The Romanian authorities said that there had been no information or feedback in this field; however, high value information came from the documents produced at Eurojust such as guidelines, reports or notes aiming to provide an overview on different issues related to judicial cooperation in criminal matters (such as overviews of European case law, constitutional issues and recurrent practical problems related to the application of the European Arrest Warrant).

4.2.2. Practical or legal difficulties encountered when exchanging information with Eurojust

No practical or legal difficulties were encountered when exchanging information with Eurojust.

4.2.3. The E-POC project

Romania was originally one of the partners in the first E-POC project in 2002 (together with Italy, France and Slovenia). However, it is not participating in the project at present.

4.3. Conclusions

- Within the specialised prosecution service for organised crime, the unit for international cooperation (COOP Office at DIICOT) fulfils the task of sending the notifications to Eurojust using the template provided by Eurojust.
- The Romanian authorities have established a secure connection with Eurojust for the purpose of the implementation of Article 13. Notifications are transmitted via this secure connection. This is to be considered a good practice.
- The National Desk at Eurojust has received 32 notifications so far. Of these notifications, 29 came from the specialised prosecution service for organised crime (DIICOT) and three came from the specialised prosecution service for corruption (DNA).
- So far, no hits have been detected under Article 13a of the Eurojust Decision. Shortly before the evaluation visit, the Romanian National Member received from the Case Analysis Unit at Eurojust a template for feedback, even if negative. The possibility of giving immediate feedback to every notification using this template is currently under consideration.

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5. OPERATIONAL ASPECTS

5.1. Statistics

The National Desk at Eurojust keeps statistics only on the cases registered in the Case Management System. For 2011, the number of cases registered by Romania is 71, while the number of cases registered to Romania is 105. For 2012, the number of cases registered by Romania is 58, while the number of cases registered to Romania is 97.

5.2. Practical experience in relation to Eurojust

In general, from the national perspective, Eurojust was involved in cases (bilateral and multilateral) for which Eurojust has general competence and in urgent cases as well. Eurojust was also involved in cases where EJP assistance could not be obtained (very rarely).

During the on-site visit many examples were provided of cases in which Eurojust had been helpful to the Romanian authorities. Between the practitioners in general there is good knowledge of how Eurojust may be of assistance, although the relevant expertise actually lies with the prosecutors operating within DIICOT and DNA, since they are the ones requesting the assistance in most of the cases. The informal manner in which assistance is sought, especially through the National Member, seems to work well for Romania.

5.3. Allocation of cases to Eurojust, the EJP or others

The Ministry of Justice and the *COOP Office* at DIICOT are often contacted first in cases with international implications and can offer advice on the right channel for any requests.

Specific training has been delivered at the National Institute of Magistracy in order to clarify the complementarities and differences between Eurojust and the EJP and explain where one is better placed than the other to assist the foreign authorities. The Romanian authorities said training efforts will continue in this respect, including guidelines to be drafted.

1. *General competence of Eurojust*

The decision is taken on a case by case basis taking account of some established legal criteria.

Whenever a request for judicial cooperation concerning serious criminal offences, which is within the general jurisdiction of Eurojust and has been issued by a Romanian judicial authority or sent to a Romanian judicial authority by an authority of another EU Member State or of a third State, is transmitted to the Eurojust National Member or received by him/her from another Member State's National Member or from a third State's liaison magistrate to Eurojust, the National Member of Eurojust assesses whether the request should be dealt with by the EJN. If the outcome of that assessment is affirmative, he or she forwards the request to the national correspondent for the EJN, with a proposal that the request be processed, and informs the issuing authority about this (Article 13(2) paragraphs (2) – (3) of GEO no. 123/2007).

The legal criteria to be taken into account by the National Member when making his/her assessment are:

- a) The request for judicial cooperation was issued in a criminal case which, in addition to the State that is investigating it, concerns three or more States or is complex and requires coordination;
- b) The request for judicial cooperation was sent to the Eurojust Coordination System;
- c) The deadline set by the issuing authority for the execution of the request for judicial cooperation is shorter than ten working days;
- d) Given its purpose, the execution of the request for judicial cooperation requires Eurojust coordination;
- e) The request for judicial cooperation issued by a Romanian judicial authority is connected to a request for judicial cooperation issued by another Member State of the European Union or by a third State, for which Eurojust assistance has been previously requested.

2. *Complementary competence of Eurojust*

If a request for judicial cooperation does not concern criminal offences that come under the general competence of Eurojust or concerns the identification of the authority that has competence to execute it, the National Member to Eurojust forwards the request to the national correspondent or to one of the national contact points for the EJM and informs the requesting authority about this (Article 13(2) paragraph (5) of GEO no.123/2007).

If a request for judicial cooperation belongs to the category of those which, according to the legal instruments of the European Union, including those giving effect to the principle of mutual recognition, may be transmitted through the Secure Network of the EJM, and the assistance of the National Member has been requested solely for the transmission of the request, he/she forwards the request to the national correspondent for the EJM and informs the requesting authority about this (Article 13(2) paragraph (4) of GEO no.123/2007).

In 2012, seven cases were referred to the National Correspondent to the EJM.

3. *Conflict of 'jurisdiction' between the National Member and EJM contact points*

Involvement of the ENCS is envisaged here if necessary. When the Eurojust National Member and the national contact point for the EJM both find that they have competence to take over the request for judicial cooperation or both decline competence, the National Member or the national contact point may ask for assistance from the ENCS in making a decision (Article 13(2) paragraph (7) of GEO no.123/2007).

5.4. Experience of cases in relation to the competences attributed to Eurojust

Some examples of effective international mutual legal assistance for which Eurojust support was crucial were presented during the on-site visit. Three cases in particular were mentioned, namely:

- *Operation Universe*: 2008-2009
- *Operation Kings Valley*: 2009-2010
- *Operation Storm/Pandora*: 2012-2013

In all the above cases assistance from Eurojust was both operational in nature (exchange of information, EJA Atlas and also assistance and coordination was provided vis-à-vis third countries – in particular, the contact points were instrumental in reaching third countries such as the USA or even Columbia) and also non-operational (coordination of investigations and take-downs). Moreover, coordination meetings were held either prior to or after take-down. Eurojust support even in this sense was indispensable.

Cooperation with Eurojust acting as a College is subject to Articles 17 – 20 of Government Emergency Ordinance no. 123 dated 5 November 2007 on measures to strengthening the judicial cooperation with Member States of the European Union.

The practical experience in this field could be described only from the perspective of the coordination meeting held on 15 June 2009. The object of the meeting was to discuss the legal difficulties a Romanian Court was confronted with in the execution of a final sentence against a Czech national and to issue an opinion in the view of resolving the deadlock, based on Article 7(1)(d) of the Eurojust Decision. Taking into account all the particularities of the case, it has been concluded that an answer to the issues raised would be the transfer of criminal proceedings. The Romanian court accepted the solution identified during the coordination meeting.

5.5. Practical experience related to coordination meetings

5.5.1. *Qualitative perception*

Romania is often asked to participate in coordination meetings, but is very seldom the requesting party for coordination meetings.

Nevertheless, coordination meetings are regarded as powerful tools. When coordination meetings are held, the outcome is generally perceived as very useful by the Romanian authorities.

A particular example of a case in which coordination meetings were deemed to be useful was given by the DIICOT Pitești Territorial Office, in the *Costanza Case*. The first coordination meeting was held in The Hague on 24 January 2011. The second meeting was held in Bucharest on 11 October 2011. Finally, the third coordination meeting organised by Eurojust took place in Bucharest on 7 March 2013. It was concluded that the joint investigations carried out under the coordination of Eurojust represented a real success, especially in the *Costanza Case* wherein an organised criminal group from the Serino Clan, a branch of the Camorra mafia group acting in Italy and Romania, was dismantled.

5.5.2. *Role of the ENCS*

So far, the Romanian ENCS has not been represented during any of the coordination meetings organised under the auspices of Eurojust.

5.6. Use of the On-Call Coordination (OCC)

The National Desk has taken organisational measures to meet the requirements of the OCC since 4 June 2011 and both prosecutors and judges have been informed about the setting-up of the OCC (information in this respect is available on the intranet of the Ministry of Justice and of the National Department for Anticorruption).

Nevertheless, no requests have been processed through the OCC, although all the national authorities are strongly encouraged to use it. Practitioners have long been used to contacting the members of the desk on their mobile phones if action must be taken outside office hours.

5.7. Experience of cases relating to the cooperation between the ENCS and the Europol national unit

There has been no concrete experience of this to date.

5.8. Conclusions

- The feedback received from practitioners as to the operational support offered by Eurojust is very positive. In particular, Eurojust's ability to facilitate communication with foreign authorities and speed up the execution of urgent requests is regarded as offering added value.
- According to Romanian law all judicial authorities can contact Eurojust directly. In practice, contact is often sought via the units for international cooperation within the specialised prosecution offices or the Ministry of Justice.
- Eurojust is particularly well known in the specialised prosecution services for organised crime (DIICOT) and corruption (DNA). This is a result of the particular competence of these services which largely corresponds to that of Eurojust. Practitioners in regional offices of the specialised and non-specialised prosecution services as well as judges have markedly less contact with Eurojust.
- The OCC has not been used yet by the Romanian authorities. In practice, the members of the National Desk are contacted on their mobile phones outside office hours. The OCC is nevertheless not considered useless, as it offers an additional possibility of contact.

- The statistics indicate a relatively low number of cases opened by the Romanian desk over the years – in contrast with the number of cases in which Romania is the requested authority (2012: 58 cases requesting, 97 cases requested).
- While coordination meetings and JITs in connection with the respective possibilities of funding are seen as powerful tools, the potential offered by Eurojust could still be further exploited by the Romanian authorities in both these domains. In particular, although the experience in coordination meetings has been successful overall, as described by the Romanian prosecutors in the cases given as examples, the number of cases remains rather low. According to Romanian practitioners, meeting at the seat of Eurojust in The Hague is not always feasible or practical and may not make sense logistically, especially when more than one meeting is required.
- In the allocation of cases, the National Member to Eurojust may hold periodical consultation or coordination meetings with the national contact points and the technical correspondent for the EJM. Moreover, the national law provides that the ENCS may be involved when the allocation of cases between Eurojust and the EJM or others is to be decided (Article 13(2) paragraph (7) of GEO no. 123/2007).

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6. COOPERATION

6.1. Cooperation with EU agencies and others

The Romanian Desk at Eurojust has had fruitful experiences of cases involving Europol and OLAF. There is a constant mutual exchange of information and views between the National Desk at Eurojust and Europol Liaison Office on the meetings organised, in cases where the National Member or Europol is invited.

6.2. Cooperation with third states

6.2.1. Policy with respect to the involvement of Eurojust

From the perspective of external relations, the involvement of Eurojust is generally viewed positively due to the concrete advantages conferred (e.g. Eurojust has established relations with several third countries and with different networks outside the EU).

6.2.2. Added value of Eurojust involvement

Romanian national authorities have requested and received information concerning the legal system in the relevant third country and the authorities competent to deal with specific requests for judicial cooperation. Many cases referred to the National Desk have been successfully resolved through the involvement of Eurojust contact points in third countries and Liaison Magistrates based at Eurojust. These included exchanges of information, submission and execution of MLA requests as well as coordination meetings.

Several cases were reported in which the support offered by Eurojust in facilitating cooperation with third countries was considered useful (e.g. Latin America). The National Member informed the competent authorities about the possibilities to make use of the Eurojust Contact Points in third states.

The Romanian authorities consider the posting of a Eurojust Liaison Magistrate to be useful. In addition, the Romanian authorities report that they have had positive experiences with Romanian liaison magistrates in the past. They value the personal contacts made with the local authorities.

6.3. Practical experience of the EJM

6.3.1. Cooperation between the National Member and the EJM

There is close cooperation and consultation between the National Member and national EJM contact points (including the national correspondent for the EJM). In 2012, eight cases were referred by the National Member to the national EJM contact points while 12 cases were referred by the national EJM contact points (including the national correspondent) to the National Member. Moreover, in specific cases the national EJM contact points advised judges or prosecutors to consult or address requests to the National Member at Eurojust.

6.3.2. Resources allocated domestically to the EJM

The regular resources allocated for the position held proved to be sufficient for the EJM contact points to fulfil their tasks. There are no specific resource issues, except the time the EJM contact points may have available.

6.3.3. Operational performance of EJM contact points

The activities of the EJM national contact points consist in: providing information on foreign/national law; providing assistance during the preparation of an MLA request, the execution of an MLA request and in cases of delay of the execution of an MLA request; helping to prepare the issuance of an EAW, freezing order, financial penalty certificate, or confiscation order; and assistance in obtaining criminal judgments. Some of the EJM contact points provide training for the Romanian judges and prosecutors (raising awareness of the European Judicial Network).

The Romanian EJM contact points are allowed to contact all relevant authorities and exchange information within their country to be able to perform their tasks.

The Activity Reports for 2011-2012 show that the average number of cases handled in 2011 was 489, while in 2012 it was 538 (incoming and outgoing requests).

In addition, in 2012, two EJM meetings were organised with EJM funding. The EJM national meeting was organised on 10-12 October 2012, while a regional one took place on 24-26 October 2012.

6.3.4. Perception of the EJM website and its tools

In Romania the current tools are considered very useful, especially the MLA Atlas (widely used by Romanian practitioners), EAW Atlas and the new Library tool. Nevertheless, the Romanian authorities suggested that there was still room for improvement and further enhancement of the EJM website in order to fully meet the Council's Conclusions of December 2010 and to respond to new challenges in terms of legislative developments.

The national correspondent and the technical correspondent are in charge of maintaining and updating the information on the EJM website, with support from other Romanian EJM contact points and the EJM's webmaster and secretariat.

However, it is regrettable that the Romanian Atlas is not fully available. The Romanian authorities have been trying to find a solution for the past few years. It has not been possible to input all the information collected into the Atlas template due to technical restrictions. The Romanian authorities would very much like to solve this issue together with the EJM Secretariat. This appears to be all the more important since, due to the specific competences of the various specialised investigation bodies and of the different levels of courts in Romania, it is not always easy to determine the competent national authority.

6.4. Conclusions

- The EJM is appreciated and considered useful in Romania. It is used in simple cases, e.g. for reminders regarding the execution of MLA requests.
- There are 9 EJM contact points representing different authorities responsible for international judicial cooperation in criminal matters. Some EJM contact points are also part of the ENCS.
- The EJM is “supplemented” by the Romanian Judicial Network consisting of experienced practitioners who *inter alia* advise on cases with international implications and offer an additional way for Romanian practitioners to establish contact with the EJM.
- The Romanian system is organised in a way that facilitates close cooperation between Eurojust and the EJM. Cases may be referred from the National Desk at Eurojust to the EJM and vice versa.
- The EJM tools are considered helpful. The Atlas in particular is extensively used. It is regarded as crucial that the Atlas and the Fiches Belges are always updated.
- Because of technical reasons regarding the format of the Atlas template, the Romanian Atlas is still not fully available. It is strongly advisable that the Romanian authorities, in collaboration with the EJM Secretariat, find solutions to solve this problem.

7. SPECIAL INVESTIGATIVE TECHNIQUES - PRACTICAL EXPERIENCES

7.1. Controlled deliveries (Article 9d (a))

In Romania, controlled deliveries are authorised and coordinated by a prosecutor. As previously mentioned, the National Member has also been granted this power but only in urgent cases and with the notification of the General Prosecutor of the High Court of Cassation and Justice or a prosecutor nominated by him.

The National Member has no practical experience in relation to controlled deliveries.

7.2. Joint investigation teams (Article 9f)

It is the prosecutor that decides to set up a JIT. If the need arises in a particular case, discussions are held between the National Member and the competent prosecutor and a JIT may be set up with the support of Eurojust.

Up to now, six agreements on JITs have been concluded by DIICOT services and coordinated/implemented with the involvement of Eurojust. For two of them, EU funding has been allocated. Another JIT is currently in the process of being set up.

Since the Romanian authorities have not yet applied for funding themselves, they could not give an opinion on the application process. However, they mentioned that the general support of Eurojust and information on the availability of funds even before the filing of a formal application were of great use.

In accordance with Romanian law, the National Member can participate in JITs. In practice she does not generally participate but nonetheless helps in the setting up, drafting of JIT agreements and provision of expertise. However, the information available through participation of the National Member in JITs would increase the expertise of Eurojust and in turn improve the support it can offer to practitioners in overcoming obstacles already experienced by others. That would serve the purpose of developing Eurojust as a centre of expertise in JITs.

The participation of the Europol representatives in JITs was considered opportune and helpful, the support and technical assistance they provided being of added value. It was underlined that important support was provided by Europol through analytical reports and deployment of *the mobile office*.

In all the cases in which they have been involved, the intervention of both the Eurojust National Member and the Europol representatives was appreciated by the practitioners in charge. The National Member at Eurojust provided on-going support, including by organising regular meetings of the team members and also by giving consistent advice. Romania praised the crucial support provided by Europol through both analysis reports in investigations and by providing the mobile office on the occasion of operational activities (searches, interviews).

During the on-site visit the evaluation team received only reports of successful JITs.

Success stories were given as examples, such as *Operation Europa*, which concerned the suspected trafficking of Roma children to several other Member States for exploitation. On 1 September 2008 the agreement to set up a JIT between Romania and the United Kingdom was signed with support from the Romanian and British Eurojust National Members. The agreement was extended to 31 December 2010. The operation involved the Metropolitan Police, the Crown Prosecution Service, Eurojust and Europol.

Logistics were provided by Eurojust – a negotiation room, judicial counselling and translation/interpretation. In fact several meetings were organised with the support of Eurojust (in The Hague, Bucharest and London). Moreover Europol provided analytical support – including the mobile analysis and support team. The Romanian investigators interviewed several minors exploited by the network as well as their parents in the UK. The case featured in the Eurojust Annual Report – EUROPA JIT and was deemed to be one of the most important cases of cooperation to combat trafficking in human beings.

During the on-site visit DIICOT representatives said they needed to set up more JITs in future and to use the support of Eurojust and Europol in all cases, to use the funds available and to inform more law enforcement agencies about the benefits of JITs. The evaluation team can only recommend that Romania progress along these lines.

7.3. Other special investigative techniques

In general, in cases referred to Eurojust, cooperation between Romanian and foreign authorities involving wiretapping and interception of electronic communications, cross-border surveillance or undercover officers worked well, although in some cases differences between legal regimes raised some difficulties.

7.4. Conclusions

- Feedback from practitioners as to experiences with JITs is very positive. JITs in which Romania was involved seem to have been well organised and led to efficient results.
- At the time of the on-site visit the Romanian authorities had participated in six JITs in total. This is a reasonable number of JITs to start with, however, in relation to the extent of international criminality in various areas, more JITs could possibly be set up in the future, notably on the initiative of the Romanian authorities. Further efforts in the exploration of the possibilities for funding might help.

8. TRAINING AND AWARENESS RAISING

8.1. Promoting the use of Eurojust and the EJM

8.1.1. Training

Training is organised by the National Institute of Magistracy (coordinated by the Superior Council of Magistracy) with the involvement of EJM contact points and the Eurojust National Member. The Ministry of Justice organises training sessions mostly in the framework of the EU project. Decentralised training is also offered with the involvement of the Romanian Judicial Network, where topics that relate to Eurojust and the EJM are promoted. Training sessions organised by the Ministry of Internal Affairs on international police cooperation have included information on Eurojust and the EJM.

The EJM brochures have been disseminated to the judges and prosecutors, as have the reports the EJM and Eurojust deliver on their activities.

8.1.2. Other measures

There is information on both Eurojust and the EJM, with links to both websites, on the intranet and website of the Ministry of Justice. Consequently the EJM is mentioned in every guideline the Ministry of Justice has drawn up on different topics of judicial cooperation as well as Eurojust. Also, in their daily work, prosecutors and judges are encouraged and recommended to use the EJM's operational tools (especially the Atlas).

8.2. Specific training for National Members and EJM contact points

Both the National Member and the Deputy have long experience as prosecutors dealing with the investigation of organised crime and corruption and are very experienced in judicial cooperation too. The same goes for the EJM contact points. All of them have participated in several training sessions organised at national and international level on specific topics including judicial cooperation.

8.3. Conclusions

- The legal framework applicable to cooperation with Eurojust is available to practitioners. In particular, the Ministry of Justice regularly informs judges of legislative changes via circulars issued in print and electronic form. Furthermore, information about Eurojust and the EJM can be found on the Ministry's intranet which is open to all judges. For technical reasons prosecutors do not have general access to the MoJ's intranet, but may be granted access on request.
- The National Institute of Magistracy trains all future Romanian magistrates. Since 2010, the curriculum has included information on Eurojust and the EJM. During this course, practical exercises are conducted using the EJM website. It has been reported that after being in the field, practitioners tend to contact their former teachers should they have further questions regarding international cooperation in criminal matters.
- On-going training after completion of the magistracy education is also provided by the National Institute of Magistracy for practitioners interested in this field. Even though participation in such training is not compulsory, there are generally more applicants than there are places available. Since the demand is so high, the Institute would like to increase capacity on courses covering the EJM and Eurojust.
- The evaluation team is of the opinion that Eurojust could usefully support the efforts of Romania and other Member States in the awareness-raising of practitioners, by providing a clear list of operational and strategic services it can offer to them.

9. GENERAL OBSERVATIONS

9.1. Overall assessment

Romania participates in both Eurojust and the European Judicial Network, and considers that each of them has its own role in assisting the national authorities in combating crime. For the sake of efficiency and complementarity it is considered that when it comes to cooperation and collaboration between Eurojust and the EJM, both should provide details of their work and make sure that no confusion exists at the national level on the relationship between the two.

9.2. Further suggestions from Romania

The Romanian authorities expressed the opinion that Eurojust should improve its mechanism for providing national authorities with information and feedback on the results of information processing.

Romania also suggested that participation of the Eurojust National Members in the EJM meetings (plenary, national and regional) and vice versa should be encouraged.

In their view the EJM's potential to increase the dialogue between judges and prosecutors, to build mutual trust, to improve knowledge of other legal systems and to help share practical experiences has to be further explored and taken advantage of; in terms of resources, the EJM Secretariat would benefit from the allocation of all appropriate human and financial resources.

9.3. Perception of the evaluation process with regard to the subject under review

The Romanian authorities stated that a final report on the outcome of the 6th round of mutual evaluations would be more than welcome. In addition, they would consider a follow-up report to be useful.

10. RECOMMENDATIONS

As regards the practical implementation and operation of the Decisions on Eurojust and the European Judicial Network in criminal matters, the expert team involved in the evaluation of Romania has been able to satisfactorily review the system in Romania. Overall, the working principles and legal framework of the system are very robust and functional and the various actors know their roles and responsibilities.

The evaluation team consider it appropriate to make a number of suggestions for the attention of the Romanian authorities. Furthermore, based on the particular needs of the Romanian system and also its various good practices, related recommendations to the EU and its institutions and agencies (particularly Eurojust and the EJM) are also being put forward.

10.1. Recommendations to Romania

Romania should:

1. Continue to raise awareness among specialised practitioners about the services that Eurojust can offer; in particular, promote the possibilities for Eurojust to organise coordination meetings in The Hague as well as at the location of the requesting or requested national authority (cf. 5.2, 5.5.1, 5.8);
2. Promote further the use of JTs and the possibilities to receive funding from Eurojust; appreciate the possibilities for the members of the National Desk to take part in JTs and in that way increase the expertise of Eurojust in JTs (cf. 7.2 and 7.4);
3. Continue raising awareness at local level about obligations under Article 13 of the Eurojust Decision and ensure that data flows effectively to the Romanian desk at Eurojust from wherever this may be collected (cf. 4.1.2, 4.3);

4. Continue efforts to increase the possibilities of ongoing training on matters related to Eurojust and the EJM for all practitioners concerned (prosecutors, judges and police) in all regions of Romania (cf. 8.1);
5. Regularly assess the allocation of resources to the National Desk in relation to its workload and, if necessary, consider making use of the possibilities to appoint assistants or seconded national experts to the National Desk (cf. 3.4.1, 3.6.2);
6. Closely monitor the functioning of the ENCS with a view to ensuring the effective fulfilment of its tasks, notably in terms of internal coordination and development of Eurojust activities – as it would appear to the evaluation team that, in the medium run, the practical role and responsibilities of the ENCS may have to be clarified. Moreover, regular meetings of the ENCS should be organised in the future so as to discuss topics of interest and disseminate information (cf. 3.3.2, 3.3.3 and 3.6.3);
7. Promote and facilitate the access of all interested parties (including prosecutors) to the rich information on Eurojust, the EJM and international cooperation contained on the website of the Ministry of Justice (cf. 5.6, 8.1.2, 8.3);
8. Ensure, in cooperation with the EJM Secretariat, the full functionality of the Romanian Atlas on the EJM website (cf. 6.3.4);

10.2. Recommendations to the European Union, its institutions and agencies, and to other Member States

The European Union and its institutions should:

9. Secure and increase the provision of EU funding to JIJs through Eurojust; continued contribution to funding of JIJs is essential in order to promote the use of this tool by judicial authorities (cf.7.2);

Other Member States should:

10. Consider making use of JITs in cases where appropriate and appreciate the possibilities for the members of the National Desk to take part in JITs and in that way increase the expertise of Eurojust in JITs (cf. 7.2);
11. Ensure the most efficient implementation possible of Article 13 of the Eurojust Decision in practice, through awareness raising and the setting-up of appropriate tools; each Member State should consider setting up a secure connection with Eurojust (cf. 4.1.2, 4.1.4, 4.3);
12. Increase as much as possible and for all practitioners the ongoing training available on matters related to Eurojust and the EJM (cf. 8.1.1 and 8.3);

10.3. Recommendations to Eurojust/the EJM

Eurojust should:

13. Provide practitioners with a clear list of operational and strategic services it can offer to them (cf. 8.3);
14. Provide feedback as to the existence or otherwise of a “hit” as early as possible following a notification under Article 13 (cf. 4.2.1, 4.3);
15. Provide support to the exchange of experience and best practices of the ENCS of all Member States, e.g. by regularly updating the Fiches Suédoises and organising meetings of the persons responsible for the functioning of the ENCS (cf. 3.3.3);
16. Consider possible avenues for posting liaison magistrates to third states (cf. 6.2.2);

Eurojust, through the Secretariat of the European Judicial Network in criminal matters, should:

17. Ensure, in cooperation with the Romanian authorities, the full functionality of the Romanian Atlas on the EJN website (cf. 6.3.4, 6.4);
18. Monitor the regular updating of the EJN website and in particular of the Atlas and the Fiches Belges (cf. 6.3.4).

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ANNEX A: PROGRAMME FOR THE ON-SITE VISIT AND PERSONS INTERVIEWED/MET

6th Round of Mutual Evaluations - Romania 22 - 25 October 2013

Tuesday 22 October 2013

Venue: Ministry of Justice, Bucharest

- 9.00 Welcome by the Minister for Justice
- 9.15 Working meeting with representatives of the National Central Authority
- 10.15 Working meeting with representatives of contact points to the EJM and various other EU networks
- 11.15 Working meeting with representatives of the National Institute for Magistracy and the Eurojust National Member for Romania

Venue: Center for International Police Cooperation, Bucharest

- 14.00 Working Meeting with the representatives of the Europol and SIRENE National Offices

Wednesday 23 October 2013

Venue: Prosecution Office of the High Court of Cassation and Justice, Bucharest

- 9.00 Welcome by the General Prosecutor
- 9.10 General overview of the organisation, structure, competences and functioning of the prosecution offices
- 09.30 Working Meeting with the representatives of Directorate for Investigation of Organized Crime and Terrorism (Central and Bucharest Territorial Service)
- 11.30 Working Meeting with the representatives of National Anticorruption Department
- 12.15 Working Meeting with the representatives of Prosecution Office of the Court of Appeal of Bucharest and of the Local Prosecution Offices

Venue: Ministry of Internal Affairs, Bucharest

14.30 Welcome

14.40 Working Meeting with the police officers from the General Directorate for the Investigation of Crimes and General Directorate for the Investigation of Organised Crime

Thursday 24 October 2013

Venue: Territorial Service of the Directorate for Organized Crime and Terrorism, Pitești

09.30 Working Meeting with the prosecutors from Pitești Territorial Service

Friday 25 October 2013

Venue: Court of Appeal, Bucharest

08.30 Welcome by the President of the Court of Appeal of Bucharest

08.45 Working Meeting with the judges from the Court of Appeal of Bucharest and from the Local and District Courts

Venue: Ministry of Justice, Bucharest

10.15 Debriefing meeting

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ANNEX B: PERSONS INTERVIEWED/MET

Meetings 22 October 2013

Venue: Ministry of Justice, Bucharest

Person interviewed/met	Organisation represented
Simona-Maya TEODOROIU	Secretary of State
Daniela BURUIANA	National Member at Eurojust
Viviana ONACA	Director, Directorate for International Law and Judicial Cooperation
Mariana RADU	Head of Division for International Judicial Cooperation in Criminal Matters (National correspondent for EJN)
Emanuela MIRITA	Counsellor for European Affairs
Daniela Eugenia BADICA	Chief Prosecutor (EJN contact point)
Ingrid-Renata PETCU	Prosecutor (EJN contact point)
Laura Felicia CEH	Chief prosecutor (EJN contact point)
Stefania STAN	Prosecutor
Mirela CIUREZU	Judge, Court of Appeal of Craiova (EJN contact point)
Cristina ROTARU RADU	Judge, High Court of Cassation and Justice (EJN contact point)
Florin-Razvan RADU	Director, Superior Council of Magistracy (EJN contact point)
Tudorel STEFAN	Prosecutor, National Institute for Magistracy

Venue: Center for International Police Cooperation, Bucharest

Person interviewed/met	Organisation represented
Dragos AGAPIE	Director of the Center of International Police Cooperation
Corina CHITESCU	Acting Head of SIRENE Office
Mihai NASTASE	Chief Commissioner, Head of Europol National Unit
Lacramioara PETRESCU	Chief Commissioner, Interpol National Office
Dorel DOROBANTU	Police Officer, Europol National Unit
Adina FLORESCU	Police Inspector, SIRENE Office

Meetings 23 October 2013

Venue: Prosecution Office of the High Court of Cassation and Justice, Bucharest

Person interviewed/met	Organisation represented
Tiberiu NITU	General Prosecutor of the High Court of Cassation and Justice
Daniela-Eugenia BADICA	Chief Prosecutor, Division for International Cooperation
Stefania STAN	Prosecutor, Division for International Cooperation
Mariana CIMPEAN	Prosecutor, Division for International Cooperation
Aura SCHIOPU	Prosecutor, Division for International Cooperation

Carmen-Adriana POPA	Prosecutor, Prosecution Office of the Court of Appeal of Bucharest
Laurenția-Camelia LICĂ	Prosecutor, Prosecution Office of the Court of Appeal of Bucharest
Vicentiu-Razvan GHERGHE	Prosecutor, Prosecution Office of the Court of Appeal of Bucharest
Elena-Victoria CAZAN	Deputy Chief Prosecutor of the Prosecution Office of the 4 th Local Court of Bucharest
Ștefăniță-Cosmin STROIE	Prosecutor, Prosecution Office of the 5 th Local Court of Bucharest,
Daniela BURUIANĂ	National Member at Eurojust
Constantin BOLBOȘANU	Deputy Chief Police Commissioner, Deputy Director, Directorate for the Investigation of Organised Crime of the Ministry for Internal Affairs
Alina-Mihaela BICA	Prosecutor, Director of the Directorate for the Investigation of Organised Crime and Terrorism
Olga VRINCEANU	Chief prosecutor (THB Division), Directorate for the Investigation of Organised Crime and Terrorism
Steluța STANOIU	Prosecutor (Division for Organized Crime), Directorate for the Investigation of Organized Crime and Terrorism
Ioana ALBANI	Chief Prosecutor (Cyber Crime Division), Directorate for the Investigation of Organised Crime and Terrorism
Elena-Aristița DINU	Prosecutor (Cyber Crime Division), Directorate for the Investigation of Organised Crime and Terrorism
Laura-Felicia CEH	Chief Prosecutor, Directorate for the Investigation of Organised Crime and Terrorism
Maria-Camellia STOINA	Prosecutor, Directorate for the Investigation of Organised Crime and

	Terrorism
Vali-Sonia BOTEZATU	Prosecutor, Directorate for the Investigation of Organised Crime and Terrorism
Mihaela PORIME	Prosecutor, Directorate for the Investigation of Organised Crime and Terrorism
Claudiu-Constantin DUMITESCU	Chief prosecutor, Section for combating the offences related to corruption offences, National Anticorruption Directorate
Ingrid-Renata PETCU	Prosecutor, Division for International Cooperation, National Anticorruption Directorate
Florin CIOBOTARU	Police officer, Division for International Cooperation, National Anticorruption Directorate
Marian BOCA	Chief Police Commissioner Division for Operative Cooperation, Directorate for the Investigation of Organised Crime, Ministry for Internal Affairs
Marius ROMAN	Chief Police Commissioner Acting Head of Division for Combating THB, Directorate for the Investigation of Organised Crime, Ministry for Internal Affairs
Razvan LETCANU	Police Commissioner, Division for Combating THB, Directorate for the Investigation of Organised Crime, Ministry for Internal Affairs
Silviu PITRAN	Police officer, Division for Combating THB, Directorate for the Investigation of Organised Crime, Ministry for Internal Affairs

Meetings 24 October 2013

Venue: Territorial Service of the Directorate for Organized Crime and Terrorism, Pitești

Person interviewed/met	Organisation represented
Elena-Giorgiana HOSU	Prosecutor, Deputy Director of the Directorate for the Investigation of Organised Crime and Terrorism
Nicolae BLAGA	Counselor of the Director of the Directorate for the Investigation of Organised Crime and Terrorism
Valentin PREOTEASA	Chief Prosecutor, Pitesti Territorial Service
Carmen-Elena VALIMAREANU	Chief Prosecutor, Valcea Territorial Office
Florina-Silvia POPA	Chief Prosecutor, Directorate for the Investigation of Organised Crime and Terrorism
Emanuel VOICU	Chief Police Commissioner Division for Antidrug, Pitesti Office for the Investigation of Organised Crime
Lucian MONGESCU	Chief Police Commissioner, Valcea Division for the Investigation of Organised Crime
Mihai DRAGAN	Police Officer, Pitesti Office for the Investigation of Organised Crime
Mihai MIRON	Police Officer, Pitesti Office for the Investigation of Organised Crime

Meetings 25 October 2013

Venue: Court of Appeal of Bucharest

Person interviewed/met	Organisation represented
Isabelle TOCAN	Judge, Court Of Appeal of Bucharest
Alina MOȘNEAGU	Judge, Court Of Appeal of Bucharest
Elena COSTACHE	Judge, Court Of Appeal of Bucharest
Claudia CIPARIU	Judge, District Court of Bucharest
Gabriela TANASE	Judge, District Court of Bucharest
Mihai BALANESCU	Judge, District Court of Bucharest
Oița GHITĂ	Judge, District Court of Călărași
Tudor OLTEANU	Judge, District Court of Giurgiu
Catalin JIGĂU	Judge, District Court of Ialomița
Luminița DRĂGHICI	Judge, District Court of Ilfov

ANNEX C: LIST OF ABBREVIATIONS/GLOSSARY OF TERMS

LIST OF ACRONYMS, ABBREVIATIONS AND TERMS	ROMANIAN OR ACRONYM IN ORIGINAL LANGUAGE	ENGLISH
CMS	-	Case Management System (Eurojust)
COPEN	-	Working Party on Cooperation in Criminal Matters
CoE	-	Council of Europe
DIICOT	Direcția de Investigare a Infracțiunilor de Criminalitate Organizată și Terorism	Directorate for Investigating Organised Crime and Terrorism
DNA	Direcția Națională Anticorupție	National Anti-corruption Directorate
EAW	-	European Arrest Warrant
EJN	-	European Judicial Network
ENCS	-	Eurojust National Coordination System
EPOC	-	European Pool against Organised Crime
GENVAL	-	Working Party on General Matters including Evaluations
GEO	-	Government Emergency Ordinance
JIT	-	Joint Investigation Team
LoR	-	Letter of Request
MLA	-	Mutual Legal Assistance
MoJ		Ministry of Justice
OCC	-	On Call Coordination system
OLAF	<i>Office européen de Lutte Anti-Fraude</i>	European Anti-Fraud Office
RJN		Romanian Judicial Network

LIST OF ACRONYMS, ABBREVIATIONS AND TERMS	ROMANIAN OR ACRONYM IN ORIGINAL LANGUAGE	ENGLISH
SIS	<i>Système d'Information Schengen</i>	Schengen Information System
SIRENE	-	Supplementary Information Request at the National Entry
TE-SAT	-	Europol's EU Terrorism situation and Trend Report

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