



**COUNCIL OF  
THE EUROPEAN UNION**

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**EJN 28**

**NOTE**

from :	Presidency
to :	The European Judicial Network
Subject :	EJN Vision Paper

The contact points of the EJN will find enclosed the EJN Vision Paper adopted during the 25<sup>th</sup> EJN Plenary meeting.

## **EJN Vision Paper**

### **I. Background**

The EJN was created by Joint Action 98/428/JHA of 29 June 1998 to facilitate judicial cooperation in criminal matters between Member States. It aims at giving support to practitioners by means of comprehensive information systems, facilitation of contacts and direct assistance in the preparation and execution of requests for assistance. The EJN has proved to be an invaluable means to overcome many of the problems that hamper judicial co-operation within the EU. It represents an important step to creating trust between practitioners within the European Union, which is an essential element for the implementation of the principle of mutual recognition.

In view of The Hague Program and the future Treaty establishing a Constitution for Europe the Luxembourg Presidency commenced a debate on the future structure and development of the EJN. Starting from the Evaluation Report of the EJN 2002-2004 (doc. 6724/1/05 EJN REV 1) the Luxembourg Presidency submitted a comprehensive paper on the future statute and structure of the EJN (doc. 8400/05 EJN 24) for comments by Member States (doc. 8926/05 EJN 33 + ADD 1 + ADD 2). At the 21<sup>st</sup> meeting of the EJN that took place in Luxembourg from 8 to 10 June 2005 the Plenary Meeting reaffirmed the need to use the established informal structures (informal working group, informal Troika, “coordinating” contact points) of the network.

As the entry into force of the Treaty establishing a Constitution for Europe was put in question, discussions on the future of the EJN were suspended. With regard to doc. 8400/05 EJN 24 and the European Commission’s announcement to launch a “communication” on the future of Eurojust and the EJN by the end of 2006, discussions were resumed under the Austrian Presidency at the meeting in Graz from 11 to 13 June 2006.

### **II. EJN Vision**

#### **1. Autonomous profile**

In order to meet the challenges facing the EJN in the future, the status and profile of the EJN should be looked at in a broader context.

### Contact points

As a basic principle, the EJM itself and the national contact points should be provided with the necessary resources to achieve their objectives. Taking into account the growing complexity in the field of judicial cooperation the Member States should ensure that relevant experts are chosen to act as national EJM contact points. The EJM should elaborate common guidelines for the nomination of Contact Points. For example the contact points ought to have an adequate knowledge of at least two official EU languages (including their own). In accordance with the internal rules of the Member States the contact points should be in a position to seek to prioritize necessary actions in relation to criminal proceedings in order to facilitate and speed up judicial cooperation in criminal matters. The contact points should be committed to providing assistance in all cases referred to them and to dedicate to requisite level of attention to these cases from their initiation to their completion.

The Plenary meetings of the EJM are a very important element of its work and the present structures whereby 3 such meetings take place each year appears to be the most efficient and effective way to achieve this purpose. Nevertheless, to further improve the high level of cooperation within the EJM regular meetings at national level of Member State contact points should be encouraged in order to strengthen uniform practice. Regional meetings should also be promoted to help focus on problems which have a particular regional character.

To improve communication between the national contact points and the Secretariat it is suggested that one of the contact points in each Member State should be appointed as a coordinating contact point for all the contact points in that member state. This arrangement should be achieved while respecting the internal rules and division of responsibilities of the Member States.

In order to allow a regular evaluation of the work of the EJM the national coordinators should be required to submit to the secretariat once a year a report summarizing the main activities of the national contact points in the previous year (preferably including basic statistics). A standardized scheme for this evaluation should be elaborated by the Informal Working Group of the EJM. On the basis of the national reports the secretariat should present a comprehensive evaluation report on the activities of the contact points in all Member States at the regular plenary meeting of the EJM in Brussels.

### Budget

Currently the budget of the EJM also forms part of the budget of Eurojust so that the draft budget is in accordance with the valid legal framework adopted by the College of Eurojust. Given the special role and structure of the network the consultation of the EJM through the secretariat should be included in a mandatory way in the internal procedures and regulations of EUROJUST concerning the budget of the EJM.

### Institutional autonomy

In accordance with Article 26 paragraph 2 (b) of the Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust, the EJM secretariat forms part of the Eurojust secretariat. This small and very cost-efficient secretariat of the EJM should be supported by seconded national experts from the Member States. The secretariat should endorse a promoting responsibility on behalf of the initiatives of the EJM, especially towards the Commission, the Council Secretariat, the Member States and the administrative director of EUROJUST.

In this context it is advisable that the network be assessed in a broader context. Since the idea of the network proved to be very successful several networks have been created at EU-level in the field of co-operation in criminal matters. Although these networks fulfil different tasks, they have common necessities with regard to their infrastructure and financial requirements, such as translation services or information technology. Therefore the options could be to create an overarching structure or to develop smart linking-interface between the EJM and other relevant networks in this field, such as the European Judicial Training Network, the JIT's network and the genocide network. By setting up such structures or interfaces, any overlap and duplication of work could be eliminated and all networks in the judicial field could benefit from the synergies without affecting the autonomy of the networks in decision-making. Adequate financial resources for the administration of each of the networks could help the EJM to fulfil its objectives in line with actual needs concerning judicial cooperation. Such structures or interfaces would also allow a permanent exchange of information on the work of the networks concerned and make this information available to the contact points of the EJM.

The EJM should be more involved in the preparation of legislative instruments especially insofar as they provide for new functions of the EJM. The experience gained within the EJM in the application of various EU instruments is of immense importance to the legislative bodies within the EU and the EJM should be given more opportunity to share its expertise. A number of EU legislative acts acknowledge this specific role of the EJM (see Article 5 paragraph 2 of the Joint Action of 29 June 1998). As EU legislation in the field of judicial cooperation in criminal matters frequently refers to the EJM, its contact points or information tools, the network should be consulted in advance in order to ensure a proper application of new legislative instruments.

## 2. The EJM as a key actor in the field of judicial co-operation within the EU

The horizontal, diverse and informal structure of the EJM permits it to work where the case takes place and in proximity of the relevant local authorities, respecting the needs and legal diversity of each country. The flexibility of the network as one of its main strengths should be further developed. The added value of the EJM in the field of judicial cooperation in view of its general competence encompassing all types of transnational crime is not in question.

### Cooperation at national level

In order to provide effective assistance in criminal matters the contact points of the EJM serve as a first point of contact within their respective Member State. The regular involvement of the EJM would enable it to gather comprehensive information on best practices, to improve on these and make them available to practitioners. On the basis of the information provided by the secretariat the national contact points of the EJM also act as a helpdesk and a link to other networks and institutions set up by the EU in the field of judicial cooperation.

### Cooperation at EU level

Article 26 of the Council Decision of 28 February 2002 setting up Eurojust specifies consultation and complementarity as the governing principles of the relation between Eurojust and the EJM. This has raised the question of how to coordinate the respective work of both Eurojust and EJM in the most effective way and give substance to the above-mentioned principles. The Hague Programme provides a basis for an integrated interpretation of these principles when it states that Eurojust should focus on coordination of multilateral, serious and complex cases.

A corollary of such a proposition is that in cases that do not obviously meet all these criteria it is the EJM that should be addressed first. Eurojust and the EJM have to work “as a team” in an efficient and effective way, with a view to providing prompt results. To ensure that this goal is achieved, communication between the EJM national contact points and the respective Eurojust National Member has to be transparent, on-going and flexible. Taking this into account, the overriding concern should be which organization (the EJM or Eurojust) can give best added value in a particular case.

The principle of complementarity should be understood in the sense that if Eurojust is to create any supporting structure at a national level, (e.g. for certain categories of offences different from those appointed by Member States in the light of Article 12 of the Council Decision of 28 February 2002 a system of national Eurojust offices throughout the EU) it is recommended that use be made of the existing structures of the EJM in order to avoid unnecessary duplication.

### 3. An information & communication platform that matches practitioners’ needs

The tools made available by the EJM on its website are of immense value. They aim to reflect the point of view of, and meet the needs of, practitioners (i.e. they contain practical, concise, useable, and regularly updated information). This is the main characteristic of the EJM information system, representing clear added value in comparison with other already existing websites. The information tools provide useful and up-to-date information not only to contact points of the EJM and practitioners, but also to other key players in the field of judicial cooperation in criminal matters. Article 6 (e) of the Council Decision of 28 February 2002 directly refers to the added value of the EJM documentary database.

EU legislation in the field of judicial cooperation in criminal matters frequently refers to the EJM and its information tools. In line with the development of new legislative instruments at EU level the information tools of the EJM have to be extended in order to provide adequate and updated legal information on those instruments and their relation to other relevant international instruments in the respective field. The tools can also provide information on the implementation of new EU legislative instruments at national level and practical information to ensure their proper and efficient application. Furthermore, in order to meet the needs of practitioners it is necessary to make appropriate information tools available in all official languages of the EU as soon as possible.

The quantity of new EU instruments in the field of judicial cooperation in criminal matters leads to a heavy increase of workload for the EJM in order to elaborate adequate information tools.

Providing a quality service that matches the needs of practitioners will continue to be the golden rule in the future development of the EJM web based information system. A crucial aspect of these future developments is to ensure long-term strategic planning and regular monitoring of the work already done, as well as the implementation of the recommended outcomes.

#### 4. A relevant actor for the external dimension of Justice and Home Affairs

The flexibility and informal working methods of the EJM make it an appropriate vehicle for improved judicial cooperation also with third countries. EJM experiences in this field could be used to inform Eurojust negotiations with such countries and organizations. In the light of its success the EJM is also able to provide expertise to similar (network) structures that are being set up in other parts of the world. The establishment of informal links with third countries and structures outside the EU, including the possibility to organize meetings, is of benefit to national judicial authorities

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