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Delegations will find in the Annex a document describing the structure of EJN and its respective formations according to the new EJN decision.

**Structure of EJM and its respective formations according to the new EJM decision (plenary meetings, regular meeting in Brussels, national correspondents meeting, tool correspondents meeting, the role and tasks of the EJM Secretariat, budgetary issues)**

This paper shall serve as an initial discussion paper in order to open the proper and deep debate on the future structure of the European Judicial Network in Criminal Matters (EJM) in the light of the recently adopted Council Decision 2008/976/JHA of 16 December 2008 on the European Judicial Network and other strategic documents such as the EJM Vision Paper adopted during the 25<sup>th</sup> Plenary meeting of the EJM contact points in Rovaniemi on 1 December 2006. Major challenges foreseen for the EJM by the Draft Council Decision on the strengthening of Eurojust and amending Decision 2002/187/JHA setting up Eurojust with a view to reinforcing the fight against serious crime shall be also duly taken into account.

It could be further elaborated whether the basic principles mentioned in this discussion paper should not be developed into the more formal document (e.g. internal rules of procedure of the EJM).

**The respective legal and other political decisive instruments<sup>1</sup>**

- **Council Decision 2008/976/JHA of 16 December 2008 on the European Judicial Network,**
- **Draft Council Decision on the strengthening of Eurojust and amending Decision 2002/187/JHA setting up Eurojust with a view to reinforcing the fight against serious crime<sup>2</sup>**
- **EJM Vision Paper adopted during the 25<sup>th</sup> EJM Plenary meeting<sup>3</sup>**

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<sup>1</sup> Intermediary role of the EJM contact points is foreseen also in the various EU Framework Decisions.

<sup>2</sup> See doc. 14927/08 COPEN 200 EUROJUST 88 EJM 66.

<sup>3</sup> See doc. 16444/06 EJM 28.

- **Report of the seminar: “A Seminar with 2020 Vision: The Future of Eurojust and the European Judicial Network”, Vienna 25-26 September 2006<sup>1</sup>.**

### **Manner of operation of the EJM and functions of contact points**

According to Article 3<sup>2</sup> the EJM shall operate in order to

- facilitate the establishment of appropriate contacts between the contact points,
- organize periodic meetings of the Member States representatives and
- constantly provide a certain amount of up-to-date background information.

In this context it shall be also recalled that the chapter II par. 2 of the EJM Vision paper is referring to horizontal, diverse and informal structure of the EJM, which permits 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 EJM as one of its main strengths should be further developed.

The role of the contact points according to Article 4 shall consist in being active intermediaries with the task of facilitating judicial cooperation. That is to be available to local judicial authorities and other competent authorities in their Member States and contact points and the local judicial authorities in the other Member States in order to establish the most appropriate direct contacts.

According to Article 2 par. 3 and Article 4 par. 4 each Member State shall appoint the **national correspondent** being responsible for internal coordination of contact points within his/her Member State and being the main person responsible for the contacts with the Secretariat of the EJM.

The new Eurojust Decision sets up **Eurojust national coordination system**<sup>3</sup> whose proper functioning will become one of the challenging tasks for the future EJM. This system shall ensure

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<sup>1</sup> See doc. 14123/06 EUROJUST 48 EJM 24 COPEN 108.

<sup>2</sup> All specific Articles referred to in this document relate to the Council Decision on the European Judicial Network (unless specified otherwise).

<sup>3</sup> See Article 12 of the new Eurojust Decision.

coordination of the work carried out by the national correspondents for Eurojust, the national correspondent for Eurojust for terrorism matters, national members or contact points of the Network for Joint Investigation Teams and other networks specified by the new Eurojust Decision and the national correspondent for the EJM and up to three other contact points of the EJM. The national correspondents for Eurojust shall be responsible for the functioning of the Eurojust national coordination system. One of its tasks shall be assisting in determining whether a case should be dealt with the assistance of Eurojust or of the EJM.

According to Article 2 par. 4 and Article 4 par. 5 each Member State shall appoint the **tool correspondent** being responsible for providing the information related to his/her Member State referred to in Article 7 and its update in accordance with Article 8.

### **The Plenary meetings of the EJM contact points (Article 5(1) EJM Decision)**

According to Article 5 the plenary meeting of the EJM contact points shall take place at least three times a year (first usually during February<sup>1</sup>, the other two generally at the end of the Presidency period) being organized by the Member State holding the Presidency of the Council in close cooperation with the Secretariat of the EJM.

Composition of the meeting: at least 3 contact points per Member State shall be invited to meetings held in the Member States and 2 contact points per Member State shall be invited to meetings organized on the premises of the Council or Eurojust.<sup>2</sup>

The general schedule for the EJM meetings shall consist of two parts. First part shall be devoted to the actual matters related to the functioning of the EJM which shall be previously profoundly discussed and prepared by the national correspondents meeting (NCM) and then submitted to the

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<sup>1</sup> The February meeting shall take place on the premises of the Council in Brussels or on the premises of Eurojust in The Hague.

<sup>2</sup> Plus one or two delegates per candidate country, delegates invited from Norway, Iceland, Liechtenstein, Switzerland and other participants invited by the Presidency. See The EJM plenary meetings under the rotating EU Presidency – Guidelines and The EJM meetings in Brussels - Guideline.

plenary meeting for discussion and adoption of final decisions. The list of the most important issues to be discussed by the NCM and to be submitted to the plenary meeting are described below (in the part related to the NCM).

Second part of the plenary meeting shall be left up to the organizing Member State to choose a topic of the conference which is considered important for discussion (in general related to the practical and legal problems encountered by the Member States in the context of judicial cooperation in the criminal matters within the EU, see Article 5 par. 1 (b)).

Contact points shall exchange information and share best practices during the plenary meetings. Workshops may be a useful forum enabling a proper operational discussion on concrete subject matters (e. g. concrete cases or topics of the conference).

#### **National correspondents meeting (NCM) as a steering committee of the EJM (Article 6(1) EJM Decision)**

In line with the recently adopted documents concerning the EJM, the NCM shall act as a steering body (committee) of the EJM. The objective of the NCM shall be detailed examination of the relevant activities of the EJM, profound discussion thereof and preparation of possible solutions which are subsequently submitted to the plenary meeting of the EJM contact points for discussion and adoption of final decisions. Tasks of the NCM shall *inter alia* include

- preparation and execution of the **budget** of the EJM and other budgetary issues,
- **internal policy** of the EJM, including administrative matters, documents or rules to be applied within the EJM and relevant statistics on the workflow in each Member State,
- **external policy** of the EJM, including public relations and the list of activities foreseen to take place in respective period of time in the field of the external relations of the EJM (towards partners in the third countries),

- preparation of strategic decisions concerning further developments of the **IT tools** within the EJM website (technical preparation shall belong to the tasks of the Tools correspondents group), including the allocation of the financial resources,
- providing **feedback from** the EJM contact points and up-to-date information on the main issues of concern from the **national practitioners**,
- **implementation** of the Council Decision on the European Judicial Network
- possible Action plans on the **new and ongoing projects** of the EJM.

The format of the meeting has developed in practice and time and is currently known as the Informal Working Group. In the new EJM Decision the IWG is formalized as the national correspondents meeting (NCM). According to Article 6 par. 1 the meeting of national correspondents shall take place on an *ad hoc* basis, at least once a year.

Whether two NCMs per year shall be held should be decided with regard to the experience with the new body. However, taking into account the future challenges of the EJM and the foreseen role of the NCM, it is suggested to establish regular meetings of the NCM at least twice a year in order to prepare and examine the relevant activities of EJM. The NCM meetings should take place on the premises of Eurojust in The Hague (as it is the case of the current IWG) and shall be prepared and chaired by the national correspondent of the Member State which holds the Presidency of the Council with the support and close cooperation of the EJM Secretariat.

According to Article 6 par. 1 each Member State shall be represented in the meetings of the NCM by its national correspondent (according to the EJM Vision Paper known as 'coordinating contact point') being responsible for the internal coordination of the contact points in its respective Member State. The contact point of the European Commission (Article 2(7)) shall also be invited to the NCM. Travel (and accommodation if possible) expenses of coordinating contact points (one

representative per Member State) shall be reimbursable from the EJM budget. Whether a participation of a second contact point for each Member State (without the possibility of reimbursement of the costs) shall also be allowed could be left on a case-by-case basis up to the decision of the Presidency of the Council. One of the main advantages of the NCM consists in its format as a small and effective group.

### **Regular meeting of contact points in Brussels/ Hague (Article 5(3) EJM Decision)**

According to Article 5 par. 3 the meeting of contact points may be held on the premises of the Council in Brussels or on the premises of Eurojust in The Hague once a year. It is a specific form of the plenary meeting, which otherwise takes place at the end of each semester and is being organized in the Member State which holds the Presidency of the Council.

For Brussels/ Hague meeting two contact points per Member State shall be invited. Therefore it is a form of the plenary meeting which is more limited in comparison to the ordinary plenary meeting, on the other hand providing greater number of participants than the NCM.

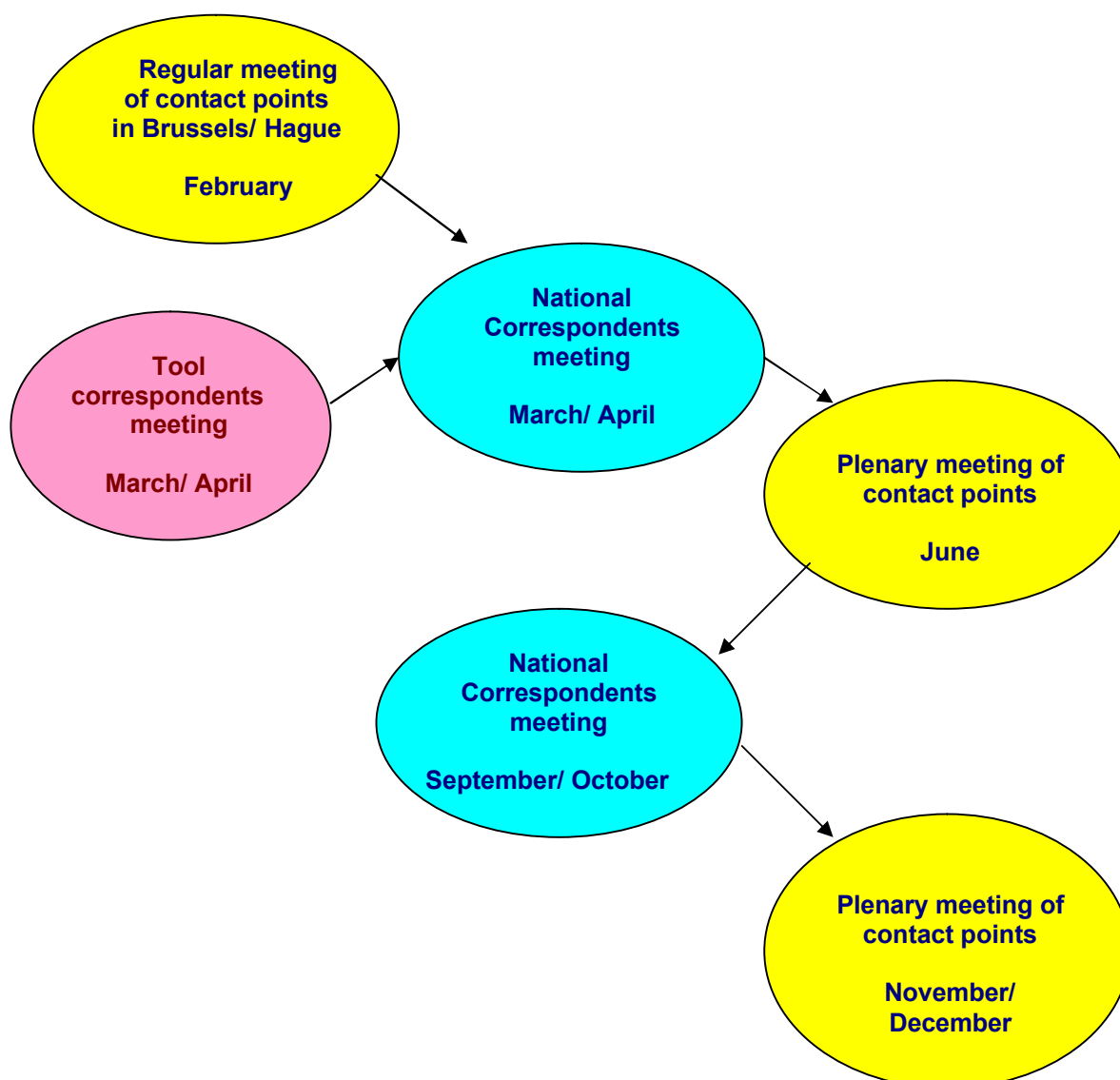
These conditions shall be considered when the Member State holding the Presidency of the Council together with the EJM Secretariat prepares this meeting. Regular meetings should have different objectives and role in comparison to the plenary meetings organized by the Member States holding the Presidency of the Council and NCMs. Rather specifically targeted issues may be discussed, however, goals and precise content of the regular meeting shall be further examined and developed with regard to the experience with the new body and other EJM formations.

### **Meetings of tool correspondents (Articles 4(5), 6(2), 7 EJM Decision)**

According to Article 6 par. 2 the meetings of tool correspondents shall take place at least once a year, two times a year if necessary. The tool correspondents meetings should take place on the premises of Eurojust in The Hague and shall be prepared and chaired by the tool correspondent of the Member State which holds the Presidency of the Council with the support and close cooperation of the EJM Secretariat (in particular the EJM webmaster).

According to Article 4 par. 5 the tool correspondents shall ensure that the information referred to in Article 7 is provided and updated in accordance with Article 8. In practical terms the tasks of the tool correspondents meeting is to discuss and decide on the practicalities and technical details concerning the EJM website, state of play of numerous questionnaires distributed within the EJM, etc. Central to their performance is updating of the information contained in the EJM information system and training issues relating to the handling of the information tools.

**Preferred time frame of the different meetings within the EJM during the year period**



## **EJN Secretariat, its role and tasks**

It has to be clearly stated that the role of the EJN Secretariat is of the utmost importance for the effective functioning of the EJN as such. For those reasons the EJN Secretariat has to be equipped by all the means necessary in order to fulfill its important tasks, including personal, financial and other material resources.

According to Article 2 par. 8 the EJN Secretariat shall be responsible for the administration of the EJN. Therefore it is very essential that the EJN Secretariat can provide effective support to the work of the contact points in general and also assistance to the Member State holding the Presidency of the Council which is responsible for the organization of different meetings within the EJN. Furthermore the EJN Secretariat shall be responsible for management of the IT tools within the EJN website as referred to in Article 7. In other words the EJN Secretariat shall play the role of the administrating unit being able to provide the necessary professional experience, history and continuity. Its tasks shall in practical terms in particular include

- ensuring the proper administration of the EJN, including the financial aspects (in close cooperation with the financial unit of Eurojust),
- setting up, maintenance and improvement of the EJN information system/website,
- providing support to the Member State holding the Presidency of the Council regarding the organization of the plenary meetings,
- keeping a general up-to-date record of projects and decisions taken within the EJN,
- drafting documents related to the activities of the EJN (including reports referred to in Article 13 of the EJN Decision),
- preparation of draft Action plans for the new and ongoing projects of the EJN,

- establishing and maintenance of relations with other bodies and structures in the field of judicial cooperation in criminal matters within and outside the EU.

Therefore it has to be duly considered what shall be the adequate personal and financial resources of the EJM Secretariat in order to enable the Secretariat to fulfil all its tasks. This consideration shall properly assess the current range of tasks of the Secretariat, its present professional experiences and also the new challenges in the context of the new EJM decision so that the Secretariat meets with adequate resources enabling it to fulfil its tasks in an efficient and effective manner.

The EJM Secretariat is located on the premises of Eurojust and the staff of the EJM Secretariat is part of the staff of Eurojust in accordance with Article 25a par. 1 (b) of the new Eurojust Decision.

The EJM Secretariat may draw on the administrative resources of Eurojust which are necessary for the performance of its tasks. It shall be able to fully use and benefit from all the means which are at the disposal of Eurojust, such as the legal, IT and financial support. This shall allow the effective functioning of the EJM Secretariat, while at the same time keeping its status at the low cost profile which has been continuously considered as the very good example of cost-efficient administration.

This being said shall not preclude a possible need to increase the personal or financial resources of the EJM Secretariat subject to concrete and reasonably presented facts. In this regard the relevant section<sup>1</sup> of the EJM Vision Paper encouraging the Member States to support the EJM Secretariat by appointing the seconded national experts shall be recalled.

Apart from the key tasks of the EJM Secretariat which is to support the work of the contact points, the particular Member State holding the Presidency of the Council and also the management of IT tools within the EJM website, the other important tasks of the EJM Secretariat shall be further examined.

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<sup>1</sup> See Chapter II, Institutional autonomy, page 4.

Among them should belong the overall presentation of the EJM in different meetings or other forums, including the regional meetings of the EJM contact points, conferences or other events being organized both within the EU or outside by partners in the third countries or international organizations. This marketing strategy shall be considered an important part of the presentation of the EJM, however, the concrete extent of such effort including the time and financial aspects of those promotional activities shall be subject to proper discussion within the respective bodies of the EJM. The NCM could be considered an appropriate group for examination of this issue. In order to present the informal structure of the EJM the contact points shall be duly and regularly involved in the presentation of the EJM in different forums and furthermore assist in raising awareness of the EJM whenever possible and appropriate.

### **Budgetary matters and time frame for preparation/ adoption/ execution of the budget of the EJM**

It should be considered whether a set of rules for the preparation, adoption and execution of the EJM budget shall be created within the EJM.

According to Article 11 the Eurojust budget shall contain a specific part related to the activities of the EJM. Eurojust budgetary issues are regulated in Articles 34 - 37 of the new Eurojust Decision. In order for Eurojust to be able to include a part on the EJM in its budget, the EJM shall prepare a draft budget to be submitted to Eurojust. The initial draft budget of the EJM shall be prepared by the EJM Secretariat two years in advance.

**At the NCM October/November meeting:**

- the EJM Secretariat presents the initial draft budget of the EJM for two years in advance;
- the EJM Secretariat in co-operation with the administrative director of Eurojust indicates possible cuts in the EJM budget for the next year and accordingly presents a redraft of the EJM budget for the next year with indications of key items where cuts are not desirable and marginal items where the EJM Secretariat could execute cuts if they are necessary;
- the EJM Secretariat informs about execution of the budget in the course of the budgetary period for which the budget has been adopted.

Subsequently, **the EJM plenary meeting at the end of the year** approves:

- the initial draft of the EJM budget for two years in advance;
- the final draft of the EJM budget for the next year;
- execution of the budget in the course of the budgetary period for which the budget has been adopted.

Due to the fact that the European parliament approves the Eurojust budget every year in the middle of December, the EJM plenary meeting at the end of the year may approve the EJM budget for the next year only in the form of a draft showing key items where cuts are not desirable and marginal items where the EJM Secretariat could execute cuts if they are necessary. Once the budget is finally approved, the EJM Secretariat informs members of the NCM thereof.

Should the EJM Secretariat consider necessary to redistribute expenditures within the already approved budget in the course of the budgetary period for which the budget has been adopted, it may do so solely up to maximum of 2000 €. For reallocation of higher sums, approval of the NCM has to be secured before any reallocation is made. Consultations with the national correspondents may be made also via email communication.

Within the discussion on budgetary issues the NCM together with the EJM Secretariat and the administrative director of Eurojust shall discuss also possible updating of “the EJM plenary meetings under rotating EU Presidency - Guidelines” (e.g. the rules for reimbursement on speakers’ costs) and possible rules for the EJM financial support provided to EJM regional meetings.

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In the context of the discussion within the EJM meeting in Brussels on 23 February 2009 the Presidency would like to seek the views of delegations of Member States in particular to the following principal questions:

- **Does the EJM need any written internal rules? Would it be desirable to explicitly stipulate under which rules and by which EJM bodies shall decisions of strategic nature (e.g. on the EJM budget, on a financial support for regional meetings, etc.) be adopted?**
- **Do you share the view that the Informal Working Group (IWG) meetings have been under the new EJM Decision largely transformed into the national correspondents meetings (NCM) and that they should be called accordingly NCM? (There is no legal basis for the IWG in the new EJM Decision).**

**What should be the frequency of the NCM per year?**

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