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| From: | European Judicial Network |
| To: | Delegations |
| Subject: | Presentation by the European Judicial Network (EJN) - 20th Anniversary Conclusions on the EJN (Sofia, June 2018) |

Delegations will find attached conclusions on the "EJN in retrospective and the way forward", as resulting from the 50th Plenary meeting of the EJN (Sofia, June 2018).

Conclusions on the “EJN in retrospective and the way forward” 50th Plenary Meeting of the European Judicial Network

Contents

| | |
|--|---|
| <u>Introduction</u> | 2 |
| 1. <u>Evolution of the role and tasks of the EJN Contact Points</u> | 3 |
| 2. <u>Maintaining the working method of the EJN</u> | 4 |
| 3. <u>EJN involvement in the legislative process of the EU legal instruments</u> | 4 |
| 4. <u>Recognition and awareness of the EJN</u> | 5 |
| 5. <u>Ensuring appropriate resources</u> | 6 |
| 6. <u>Development of the EJN website and its tools</u> | 6 |
| 7. <u>Cooperation with Third Countries, Other Judicial Networks and International Organisations</u> | 7 |
| 8. <u>Relationship with Eurojust and other EU Networks</u> | 7 |

Introduction

The **European Judicial Network** (EJN), founded in 1998¹, has functioned since its beginning as an essential instrument for the facilitation of international judicial cooperation currently **dealing with more than 10.000 cases per year**². It can be concluded that the combination of the Contact Point's expertise, the human factor and the flexible nature of the Network have ensured its success. The EJN has been instrumental for the creation of a European Judicial Culture and has played a decisive role in building mutual trust based on the principle of Mutual Recognition among the EU Member States.

The EJN is composed of approximately 400 Contact Points designated by each Member State among central authorities in charge of international judicial cooperation and judicial or other competent authorities with specific responsibilities in the field of international cooperation.

Taking the opportunity of the commemoration of the **20th Anniversary of the EJN**, the Presidency held by the Republic of Bulgaria and the EJN Secretariat asked the EJN Contact Points to reflect on the way forward for the EJN to continue to develop in its role of facilitating judicial cooperation within the EU and beyond.

In order to prepare for a fruitful discussion, the EJN Contact Points received a questionnaire on the functioning of the EJN and the relations to the EU Institutions. More than 100 EJN Contact Points provided their feedback which served as a basis for further discussions at the 50th EJN Plenary meeting in Sofia 28 - 30 June 2018.

Together with the EJN Contact Points and representatives of the European Commission and the General Secretariat of the Council, the EJN analysed the means to continue adapting to the current and future needs of the EU practitioners as a key structure for facilitating judicial cooperation in criminal matters and continuing to create mutual trust within the EU and beyond.

¹ 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, replaced by Council Decision 2008/976/JHA of 16 December 2008 on the European Judicial Network (EJN Decision)

² The intermediary role of the EJN Contact Points is foreseen in various EU Framework Decisions and Directives

Key points for the way forward

1. Evolution of the role and tasks of the EJM Contact Points

The main task of the EJM Contact Points is to be active facilitators of judicial cooperation, particularly in the area of serious crime. On top of their assigned domestic work, the EJM Contact Points build mutual trust with colleagues from their own country, from EU Member States, candidate countries and third countries. EJM Contact Points provide information on legal systems, legislation, procedures, follow cases and exchange tips with their colleagues.

Apart from this main function of the EJM Contact Points as facilitators of judicial cooperation, several other tasks and responsibilities have evolved over the years.

The need for involving the EJM in the legislative process has been underlined during the last years. As a consequence, the EJM Contact Points has been and will be more and more requested to provide their contribution (see below under Point 3).

The EJM Decision stipulates that the Contact Points shall be involved in and promote the organisation of training sessions on judicial cooperation for the benefit of the competent authorities of their Member State. In practice this means that EJM Contact Points are participating as lecturers or as organisers of training sessions, either at national level or at the EU level. These activities are expected to increase even further.

In their different capacities, Contact Points are in charge of ensuring the proper functioning of the EJM and that the Network operates properly for all practitioners. Not the least the coordinating role of the EJM National Correspondents requires extra works. The same goes for the Tool Correspondents who have the responsibility for maintaining the EJM website updated for all practitioners.

Yet another task for the Contact Points is to report properly of all their activities as Contact Points, either it concerns cases they are involved in or other activities. Only with a reliable system for reporting can the full picture of what it means to be an EJM Contact Point be fully visible. The online tool for reporting, provided by the EJM Secretariat through the EJM website, is a great improvement in this respect.

The Contact Points are also in charge of representing the EJM during the rotating Presidencies. This implies a responsibility for the organisation of several EJM meetings, with the support of the EJM Secretariat; Plenary meetings, National and Tool Correspondents meetings and National and Regional EJM meetings.

As a conclusion, **Member States should ensure that, regardless of their respective role, from the moment Contact Points are appointed, they receive the appropriate resources to allow them to fulfil their function as Contact Point.** In this respect the importance of continuous language training and training of new developments concerning judicial cooperation should also be mentioned.

2. Maintaining the working method of the EJM

The Contact Points agreed that the successful work of the EJM is based on the combination of the expertise of the Contact Points, the importance of the human factor and not the least the flexibility with which the Network carries out its tasks. These factors together with the support of the EJM Secretariat are essential to ensure that the practitioners receive the assistance they are in need of, regardless of the nature and extent of the assistance. The EJM model has been reproduced around the world in the setting up of similar judicial networks, as it has proved to be an effective and efficient way to ensure the support. The Plenary concluded that the **EJM should continue to work in this flexible manner to ensure that practitioners receive the needed support.**

3. EJM involvement in the legislative process of the EU legal instruments

It was confirmed by the replies to the questionnaire and the discussions at the Plenary meeting that the EJM has succeeded in adapting its operational capacity and tasks to the developments in the area of international judicial cooperation. The Contact Points have proven to be a reference to their colleagues regarding all sorts of questions on judicial cooperation, including in the application of new legal instruments and recent case-law.

Consequently, the EJM has become a centre of expertise and can provide important input from the practitioners' point of view to the EU Institutions, with a view of improving international judicial cooperation³. This role of the EJM was also mentioned already in 2006 in the EJM Vision Paper⁴. In this paper it was stated that 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.

Although the EJM has recently been requested regarding different EU initiatives by the General Secretariat of the Council and the European Commission, the Contact Points expressed the need for a more systematic approach to this consultation in order to prevent problems in the practical application of the instruments.

The Plenary concluded that **the EJM should be involved systematically in the EU legislative process from the early stages until the evaluation of the instruments.** The recent e-evidence legislative package was mentioned as an example where the input from the EJM already in stages of the impact assessment and drafting of the proposals would have been beneficial.

³ See Art. 5(2) of the EJM Decision

⁴ COUNCIL DOCUMENT 16444/06 of 11 December 2006 on the EJM Vision Paper adopted during the 25th Plenary Meeting of the European Judicial Network

In addition, the EU Institutions and the EJM together with the Secretariat, should institutionalise a regular dialogue to exchange information on the work of the EJM, as well as to establish a permanent communication about the latest developments in the area of judicial cooperation.

4. Recognition and awareness of the EJM

The main function of the EJM Contact Points to be active facilitators of judicial cooperation is sometimes difficult to fulfil. There seems to be a lack of recognition from the hierarchy in the Member State regarding the role and obligations as EJM Contact Point. In addition, EJM Contact Points find it challenging to get understanding from colleagues in their Member State that timely replies to questions that are channelled via the EJM are often crucial for the colleagues in the other Member States. The lack of awareness about the function of the EJM Contact Points and the workload it implies creates difficulties to secure the needed time to perform the EJM duties.

Therefore, it was concluded that an **increased awareness about the work of the EJM would also increase the support from the Member States.**

To allow the EJM Contact Points to **dedicate time to assist their colleagues**, several measures were discussed:

- The EU Institutions should provide support and raise awareness about the work of the EJM;
- The EJM Secretariat and Contact Points should provide national authorities with reports, EJM conclusions and other relevant documents that would raise the understanding about the role of the Contact Points;
- Contact Points should invite persons in key positions in their Member States to participate in National and Regional EJM meetings;
- The EJM reporting tool, used to gather the activities of the Contact Points, is an essential tool as a means of recognition of the EJM activities. Hence it should be ensured that the Contact Points systematically register the cases and distribute them internally to raise awareness about the EJM activities in the Member States and the type of work that EJM Contact Points carry out; and
- As a good practice, Contact Points should inform their colleagues when information has been gathered through the intervention of the EJM.

5. Ensuring appropriate resources

To ensure that the EJM can continue to prosper and provide assistance to practitioners in the Member States, the **EJM should receive the corresponding resources for the activities needed for the appropriate function of the Network.**

Not only should the Contact Points be provided, at the national level, with the necessary resources and time allocation for their EJM duties in order to be able to support practitioners in cross border investigations. Also the Network as such and its Secretariat should be properly supported to ensure the fulfilment of the EJM Annual Work Programme.

It was underlined that the EJM Plenary meetings and the National and Regional EJM meetings are essential for discussions of operational issues as well as to meet with EJM colleagues and other representatives from the national authorities. At these meetings the Contact Points discuss obstacles and find best practices for the application of the legal instruments and identify issues to be raised to the EU Institutions and national authorities. Additionally, meeting each other and building personal relationships is the key element to ensure the development of mutual trust between the EU Member States and other key partners.

Furthermore, activities such as the EJM Language training and the work of the EJM Ad Hoc Working Groups have been praised as a means to ensure the EJM contribution to the development of international judicial cooperation.

6. Development of the EJM website and its tools

The **EJM website is a huge source of information** on international cooperation in criminal matters and provides several practical e-tools. The website has progressively become an **indispensable, practical and useful instrument for the day-to-day operation of all practitioners** as it has been permanently adapted to the EU legislative changes and the needs of the practitioners. In average the **EJM website has over 4 million page views per year**.

The Council Conclusions in 2010⁵ identified the EJM and its website as the natural host for providing easy accessible information in the criminal law area to competent authorities and other practitioners. This information is practical, useful and essential for the day to day operation of the national judicial authorities. The EJM Judicial Library was developed to include the status of implementation of all relevant legal instruments and additional information.

The website is periodically revised to ensure that all legal developments are integrated and that all information can be found in a user friendly manner. Thus, appropriate **resources should be ensured to continuously developing and adapting the EJM website**.

Additionally, in light of the increased demands on security requirements of electronic means of communication, it is essential to ensure that the requests/orders are sent through a secure system. At the moment, several projects on this topic, including by the European Commission, are being discussed. However, there is still a gap in this area. Therefore the **EJM Secure Telecommunications connection should be reviewed** to ensure that it is operative and user friendly for the transmission of requests in a secure manner.

⁵ COUNCIL DOCUMENTS 13403/1/10 REV 1 and 13405/1/10 REV 1

The **Contact Points should continue to provide information** about the latest developments in their Member States and the EJM Secretariat should continue to ensure that the **website is updated and the source of information for practitioners in the area of judicial cooperation in criminal matters.**

7. Cooperation with Third Countries, Other Judicial Networks and International Organisations

Since the very beginning of its existence, the EJM has acknowledged **the need for expanding its activities outside of the EU**. The EJM Contact Points has confirmed the importance of connecting to other regional judicial networks around the world. This method has proven to be very effective in order to reach out to colleagues on a global scale. In addition, in those cases where even closer links are needed, direct relations with representative in third countries has been established. The EJM will continue to work in this area so that the EJM can be of assistance in all situations that demand international cooperation. **In essence, the establishment of these contacts contributes to the creation of mutual trust beyond the EU.**

The EJM Contact Points also suggested that the **EJM legal basis should be complemented** with this established practice, thus including relationships with non-EU Networks and third countries.

8. Relationship with Eurojust and other EU Networks

The EJM considers that there is a positive degree of complementarity and cooperation between the Network and Eurojust.

As far as other EU Networks are concerned, the EJM should continue working in finding areas of cooperation and promote the dissemination about the work of the EJM to ensure that duplication of work is avoided.

The EJM also underlined that before creating new Networks, the **EU should carefully assess whether the EJM could cover the specific need in question**. In fact, the EJM Contact Points possess knowledge and experience in all areas of international cooperation in criminal matters and it should be borne in mind that the existence of several networks and overlap of tasks consumes resources and confuses practitioners.