

50th Plenary Meeting of the European Judicial Network

PANEL DISCUSSION ON: “EJN in Retrospective”

The European Judicial Network is **commemorating the 20th Anniversary of its foundation under the Republic of Bulgaria Presidency on 29 June 2018**. This occasion provides the ideal opportunity to acknowledge the importance of the EJN in the area of judicial cooperation in criminal matters and also to consider how the EJN can continue to develop.

To this end, around 100 EJN Contact Points provided their feedback to a questionnaire which will be of great importance when establishing the way forward for the EJN. Hence, the Contact Points should continue the discussions to ensure that a solid plan for the future is envisaged to continue to develop the EJN as the most important EU structure for facilitating judicial cooperation in criminal matters and to continue to create mutual trust within the EU and beyond!

1. [EJN contribution to the development of judicial cooperation in criminal matters](#)

The EJN has adapted its operational capacity and tasks to the developments within the area of international judicial cooperation. The Contact Points are a reference to their colleagues when new legal instruments or case-law are applicable or on more complex situations in judicial cooperation cases.

Developing the European Judicial Culture

As part of a Network, the EJN Contact Points increase their understanding on other judicial systems and applicable EU legislation through the exchange of practical experiences. Hence, Contact Points find that to meet and discuss operational topics is of an immense value, not only for solving individual cases. EJN Plenary meetings and EJN

National and Regional meetings are also translated into outcomes that have influence for the interpretation and follow up in their Member States and within the European Institutions, as well as in other relevant international organisations. Furthermore, participation in expert group meetings to discuss EU legislative initiatives strengthens the future application of these instruments. This is a key element for developing a European Judicial Culture.

This expertise has already been accredited in 2006 when the EJM Vision Paper was drafted. Indeed 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 vast importance to the legislative bodies within the EU and the EJM should be given more opportunity to share its know-how.

As a consequence the adopted Council Conclusions in 2010¹ identified the EJM and its website as the natural host to provide information to all practitioners view to facilitating and improving the application of the Mutual Recognition Instruments. The EJM Library was developed to include the status of implementation of all relevant legal instruments and additional information that complemented the one contained in other EJM website tools.

At present, the EJM has received further demands to provide support on other EU initiatives. For instance, the Network has contributed at the request of the Council Secretariat, to be involved in providing feedback on the draft freezing and confiscation certificates. Likewise, the European Commission has counted with the expertise of the Network to be part the EIO working group, Sirius Project regarding the request of evidence to the USA and an initiative on transmission of requests.

Key issues found

Although the EJM has been recently further requested in different EU initiatives by the Council Secretariat and the EU Commission, the Contact Points expressed that there is no systematic approach to this consultation and in some occasions these do not occur in a timely manner as some practical problems could have been prevented. This could be related to the lack of awareness of the function of the EJM at the EU level as well as at the National level. It has been concluded by the Contact Points that an increase of awareness about the work and potential of the EJM would lead into further recognition of the Network.

Additionally, the contribution of the EJM is limited by its resources. Member States do not always have the capacity to organize Regional and National meetings or Contact Points the possibility to attend the EJM Plenary meetings due to the restrictions in the number of participants or budgetary related matters. In consequence, Contact Points

¹ see docs. 13403/1/10 REV 1 and 13405/1/10 REV 1

find a necessity to encourage the organisation of more National and Regional meetings where possible. Lack of communication and EJM identity could potentially create a lack of cohesion in the work of the EJM.

Discussion:

- How could the EJM be more present in the legislative work at the EU level to provide their operational perspective as experts in judicial cooperation in criminal matters?
- Should the EJM always be invited to relevant Council and Commission Working Groups to be encouraged to provide feedback?
- Since it is a benefit for all Member States that the EJM functions properly, how could the EJM ensure that meetings for the EJM Contact Points are organised in all Member States?
- How should the EJM promote its work at a national and EU level?

2. Functioning of the EJM

The Contact Points are meant to be active facilitators of judicial cooperation, particularly in the area of serious crime. This key function has been difficult to fulfil and it has been perceived by the Contact Points that there is a lack of recognition from the hierarchy in their Member State regarding their role and obligations as EJM Contact Point. In addition, it is also challenging for the EJM Contact Points to have an understanding from colleagues in their Member State that timely replies to questions that are channeled via the EJM are often crucial for the colleagues in the other Member States.

Contact Point tasks

The extent of the responsibilities as EJM Contact Point has been further confirmed by the replies to the questionnaire. On top of their assigned domestic work, CPs create and maintain mutual trust with national, EU Member States, Candidate Countries and third country judicial authorities. They provide information on legal systems, legislation, procedures, follow cases and exchange tips with their colleagues. All this involves preparation and sharing expertise in the different EU and international legal instruments and investigative measures available. This is the reason why the EJM Decision also includes training their colleagues as one of the main EJM functions and the

EJN has been able to provide feedback to the European Institutions on the application of the different legal instruments and on legislative proposals soon to be adopted.

In their different capacities, Contact Points are also in charge of ensuring the proper functioning of the EJN and ensuring that the Network operates properly for all practitioners. They are also in charge of representing the EJN during the rotating Presidencies; organisation of different meetings – Plenary, Regional and National - with or without EJN funding, establishing further contacts for the EJN with third countries, maintaining the website updated for all practitioners.

Key issues found

The high amount of domestic workload and lack of recognition have been identified as one of the main problems for the functioning of the Network. Although there is an agreement that the Contact Points have been gradually improving in their response time, many Contact Points understand that delays or some lack of responses occur due to these reasons.

Discussion:

- What would be the way forward in order to obtain further recognition from the Member States on the work of the EJN Contact Points?
- Do you believe that national awareness of the EJN could lead to an increase of recognition?
- Did you find best practices to ensure that all requests to the EJN Contact Points are timely dealt with?

3. EJN Contact Points

In their great majority Contact Points have expressed that to enable them to continue sharing expertise to their colleagues at national and international level, additional support to their function would be welcomed. As the EJN Contact Points cover different needs in the Member States, which are subject to their own judicial system and organisation, it would be difficult to find a single response to the issues raised. However, some topics have been reiterated throughout the replies of the questionnaire that show a trend on the needs of the Network.

Key issues found

As mentioned in other points, the lack of awareness of the EJM is seen as an overarching problem to ensure that the Contact Points are supported in their work. In spite of the important work done by the Contact Points in their operational capacity and the regular use of the EJM website by practitioners, the EJM is not widely promoted and this seems to be a cause for lack of support in the activities and recognition of the work of the Contact Points. The reporting tool could be used to create further understanding on the work of the Contact Points and their contribution to the EU and international judicial cooperation area.

National guidelines for designation of CPs and a handover system at national level has also been found helpful to ensure continuity in the work of the EJM and that best practices are not lost with a change of persons.

Contact Points also identified that the trainings organised by the EJM Secretariat for example dealing not only with the improvement of their communication/language skills but also touching upon key topics, like cooperation with the United States, e-evidence or the European Investigation Order in particular, were very useful to increase their knowledge, exchange information on their practical experience with their colleagues.

Another operational need highlighted has been to ensure that the EJM Secure telecommunication system is used and improved. Currently, the EJM Secure telecommunication system has been relegated yet there is an increased need for its use by the Member States.

Discussion:

- Which awareness method would you suggest to ensure that the work of the EJM Contact Points is recognised?
- How could the EJM Secretariat work further in supporting the EJM Contact Points activities?
- In light of the increased demands on security requirements in 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 Telecommunication system could be used. What would you require to use it regularly in the transmission of requests?

4. Relation to Partners and Third Countries

Since crime does not stop at the border of the EU, the EIJN Contact Points have identified that efforts should be made to establish, maintain and improve the relationship with other Networks and Third Countries to allow their investigations to prosper and the efficient functioning of EIJN in general.

Key issues found

There are several areas of crime or evidence in which the EU need the support of their counterparts in different parts of the world. Hence, Contact Points recognised the importance to work together with other regional judicial networks to avoid duplicating resources and facilitate the work of the EIJN. To establish and maintain regular contact also improves the creation of Mutual Trust beyond the EU. However, where this type of cooperation is not effective or closer links are needed, direct relations to Third Countries has been also requested by most of the EIJN Contact Points.

Regarding the relationship between Eurojust and EIJN, Contact Points found that in general there is a positive degree of cooperation. Only in occasional cases, Contact Points expressed that the cooperation with their National Desk is not very successful and should be improved.

Other projects where the EIJN has been identified by the European Commission as a key stakeholder, and recognised by the EIJN Contact Points in the questionnaire replies, has been in the support on the development of partner projects such as the Western Balkan Prosecutor's Network and EuroMed Justice.

Discussion:

- Further Network inter-connection has been identified as a positive step forward. In addition to the already established relations, which regions or countries would you find useful to establish relations with?
- Have you identified best practices with regards to the relations with other Networks/Third countries?
- What is the way forward regarding the cooperation and interaction with Eurojust?