

50th Plenary Meeting of the European Judicial Network

Summary of the replies to the Questionnaire: EJM in Retrospective – Preparing the Way Forward

This questionnaire was launched in preparation of the 20th Anniversary of the EJM under the Republic of Bulgaria Presidency. The EJM Contact Points were invited to share their experience and reflect upon their role as Contact Point and the needs to facilitate international judicial cooperation by supporting the Member States with their expertise and maintain strong and flexible channels of communication within the Network and other practitioners within and beyond the EU. In other words, as it has been done for almost 20 years, continue building mutual trust.

The questionnaire focused on 3 main areas:

- the functioning of the EJM,
- the designation and introduction of EJM Contact Points
- the EJM in relation to the EU.

This report is a summary based on around 100 replies from 29 countries (25 Member States, 4 candidate or associated countries): Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Lithuania, Luxembourg, Malta, , Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, the United Kingdom, Albania (AL), Bosnia & Herzegovina (BA), Montenegro (ME) and Norway (NO).

1. Considering the latest developments in the area of international judicial cooperation, in particular the introduction of the Mutual Recognition instruments, do you consider that the EJM has adapted its structure and operational capacity to new needs emerged from the application of these instruments?

In general, the responses show satisfaction with the operational capacity of the EJM and the way it adapted to the developments in the area of international judicial cooperation, while keeping its simple structure and flexibility. The proactive approach the EJM has taken regarding the EIO is mentioned as a very good example.

There seems to be a common agreement that one key factor is the improvement over the last years of the EJM website and its tools. Most of the CPs agree that the structure of the website and the information provided meets the needs of practitioners for smooth judicial cooperation between the MS and beyond.

One CP from BE appreciated the manner in which the EJM adapted its structure to the implementation of the EAW, which was the first instrument revolutionising the cooperation between the MS. In addition, the majority of the CPs agree that the EJM's involvement in providing information regarding the EIO, through trainings and meetings and the specific information about the EIO and the status of implementation on the EJM website, has been extremely useful. On that note, CPs from IT, LU and SI mentioned the importance of the EJM meetings as a forum for discussions on new instruments and in strengthening the judicial cooperation between the CPs and in the creation of an efficient work environment within the Network.

Among the suggestions related to the operational capacity of the EJM, one CP from DE suggested that the EJM secure telecommunication system should be improved, while a CP from HU believes that it is necessary to have more CPs, in order to deal with the new mutual recognition instruments. One CP from PT underlines the responsibility of each individual CP to be updated on new instruments to be able to support local competent authorities.

2. What has been one of the most challenging experience/case you have had as EJM Contact Point? What was the outcome? - Please provide a brief description.

It was illustrated in the answers to this question that the role as EJM CP is demanding. The CPs deal with numerous diverse tasks, such as following up with a great number of cases of international cooperation, providing information about the national legal systems and measures of investigation - both to colleagues in their own country as well as to colleagues abroad, within and outside of the EU.

Furthermore, in their different capacities, the CPs represent the Network during the Presidency period, contribute to the EJM website, organise EJM Regional and National meetings and training on international judicial cooperation for national practitioners.

In several cases, the matter of urgency is mentioned as a particular challenge, where the immediate actions of the CPs have been crucial, e.g. to avoid that evidence is destroyed and lost. In this regard it was also mentioned that sometimes EJM CPs should become even better to respond in time. In addition, when there is a need for coordination, this is done in cooperation with the National Desks at Eurojust.

One particular challenging factor mentioned is the reluctance from local authorities to deal with international cooperation and here it was underlined that the EJM CPs have a decisive role in assisting, both on legal and practical matters.

One example that displays the complexity of the involvement of the EJM is a case where a CP from Germany organised the travel of a prosecutor and police officers from Germany to Albania with the aim of dismantling a drugs facility. The assistance from the EJM included the transport of the seized drugs through Slovenia to Germany. With the use of the EJM Contact Points everything worked perfectly.

Another example comes from a CP from PL, where the cooperation with IberRed led to the successful extradition of a person from the Dominican Republic to PL.

Yet another example mentioned from a CP from the CZ is the coordination of the execution of an EAW and an EIO in order to secure evidence.

EJM CPs also assist in bringing clarity about the legal requirements of the involved countries for the cooperation e.g. regarding controlled deliveries (SE).

Other challenges brought up are related to the freezing and confiscation of proceeds of crime and the inability to communicate securely.

3. Have you found delays in obtaining information from other EJM Contact Points in the Member States or in Third Countries? If so, could you specify the frequency and the provided explanation for the delay?

In relation to delays, there is an agreement between most of the CPs, that replies from their EJM CP colleagues are in general obtained in a timely manner, even in those cases where a more elaborated reply is needed. The CPs also indicated that there has been an improvement in the last period of time. However, there are still some situations where CPs have not responded. As the EJM activities are not recognised by most MS, some CPs believe that the delays in responses occur due to the prioritisation of the domestic work over the EJM tasks. It was clarified that in such situations, the cases are solved by contacting other CPs from that same MS.

Several replies indicate that the explanation for delays is that the CP is relying upon an answer from colleagues in his or her country in order to be able to reply (DE, PT, SI).

It was also mentioned that too many CPs in a country seem to be a cause of delay (PL).

A success factor mentioned is to use the personal contacts made at the EJM meetings, be it the meetings in The Hague or Plenary meetings and National and Regional meetings in the Member States (AT and EL).

A good practice is to always reply immediately that you have received the request and that you are taking care of it (FI).

4. In your opinion, which are the areas where the EJM should work further to fulfil its mandate?

It is stressed throughout the questionnaire that the four main fields on which the EJM should focus on are:

- cooperation with third countries/other judicial networks,
- the role and function of the EJM CPs as experts in the area of judicial cooperation in criminal matters (AT, IT, SK),
- raising awareness of the EJM
- training on different topics.

CPs find that judicial cooperation with third countries and other judicial networks is essential. For example, a CP from SE specified that cases related to EAW transfer through third countries should be easier to handle, while a CP from SK stated that the cooperation with third countries is specifically needed in cases regarding certain types of criminality.

The EJM should also contribute even more to the development of new instruments on judicial cooperation, by providing its practical experience to the law making institutions of the Union. One example that was mentioned was the EJM feedback on the certificates annexed to the new regulation on mutual recognition of freezing and confiscation (AT, FI).

Another area in which the EJM should work further that was discussed by a number of CPs from AT, FI, EL, HU and MT, is the awareness of the EJM, as a lot of practitioners in the MS are not aware of the EJM and the EJM website and its tools. At the same time, CPs from DE, ES, HU and LU, consider that the EJM website needs to be continuously improved, developed and kept up-to-date, as it is indispensable.

The importance of the language training was also mentioned, and it was suggested that more attention should be given to the language skills of CPs. It seems that the format of the language training is found particularly beneficial, as CPs improve their linguistics skills, they have the opportunity to network and connect with other CPs, leading to better cooperation, and they deepen their knowledge on a specific topic of judicial cooperation.

Also related to trainings, some CPs from AT and IT suggested that a training on the proper use and functioning of the mutual recognition instruments, as well as e-evidence, as suggested by FI and CZ, would be very useful for the better understanding of these topics and for an even better cooperation between the CPs.

Some CPs are advocating for a cautious approach in order to ensure quality of the EJM (LU, NL)

- 5. Contact Points take their tasks on top of their function as public prosecutors, judges or ministry officials. How do you cope with this additional duty on top of the function already assigned in your Member State, for instance:**
- a. Would you need more support from your Member State? - e.g. recognition of the time you spend in fulfilling your task as EJM Contact Point (time allocation), support persons/delegates, national network or other supporting structures in your Member State?*

The answer from most of the CPs is that they often do not have sufficient time to do both their domestic work and the EJM tasks. They consider that recognition from their MS of the EJM tasks would lead to a better time allocation for both activities. CPs from AT, CZ and FI suggested that the time spent working as a CP should be acknowledged formally as working time. One way to keep track of the time spent for EJM activities, as suggested by a CP in FI, could be through the new reporting tool, where the CP could indicate the time allocated for EJM tasks.

As suggested by a CP from DE, more support from the MS can also lead to an increase of EJM awareness at a national level and lead to CPs being more open for taking EJM cases.

There are also cases where the CPs seem to receive the support needed for their activities as EJM CPs, such as it is the case of a CP from BG.

b. Would you need more support from the EU? - e.g. European Commission, Council, European Parliament, EJM Secretariat?

Many of the CPs are not aware of to what extent the EU is involved in the EJM. One CP from FI considers that there is a need for more recognition from the Council and Commission when it comes to the expertise of the EJM CPs, especially in drafting new legislation related to judicial cooperation in criminal matters. One CP from EL suggests that more information should be provided regarding instruments for judicial cooperation that is being discussed or proposed by the Commission.

Several CPs have expressed appreciation regarding the level of support from the EJM Secretariat.

6. What is your experience of organising and participating in National- and Regional EJM meetings and does your Member State have the capacity to organise these meetings?

A majority of the CPs have very positive experiences of National and Regional EJM meetings and in most cases the MS have the capacity to organise them. Many CPs emphasised the importance of the meetings. Especially the regional meetings are case oriented and provide both an opportunity to find practical solutions to issues identified in their practical application of the various instruments, as well as to establish personal contacts with CPs and other practitioners. However, the lack of financial resources has been identified as a main challenge in the organisation of these meetings by some of the countries and therefore, as reiterated by CPs from AT and PL, the financial support from the EJM for organising these meetings should increase.

As for the National meetings, not all of the MS have the possibility to organise at least one National meeting per year, due to lack of financial resources. However, there are examples, such as FI, where the National meetings take place twice a year, as a way of preparation before the Plenary Meeting of EJM. At the same time, one CP from BE specified that while the national meetings are the extremely important, the national network does not have the budget for the organisation of such meeting.

CPs from EL and MT stated that these countries have not taken part or organised any Regional or National meetings. CPs from EU candidate countries such as AL and BA have attended Regional meetings, but are not yet able to organise them due to the lack of budget and equipment.

7. Does the content and tools of the EJM website correspond to the needs of the EJM Contact Points and other practitioners?

All of the CPs believe that overall, the EJM website meets the needs of the EJM CPs and other practitioners, finding it extremely valuable. Two of the most appreciated tools are the Judicial Library and the Atlas, and some CPs confirm that they use these tools in their daily activities.

CPs from AT, FI, LU, PT, and UK state that there is a need for the MS to keep the information up-to-date, especially when it comes to the Fiches Belges.

8. Have you identified any training - at National or EU level - that you assess would be of added value for your function as EJM Contact Point. e.g in obtaining e-evidence?

One of the most requested topics when it comes to training was the topic of e-evidence and cyber-crime, suggested by CPs from AT, BG, FI, IT, MT, NL, NO, PL, and RO.

The importance of the Language Training was also echoed by a large number of CPs from AT, CZ, FI, DE, PL, SK, and SE. The language skills prove to be very important for the CPs, and the combination of the linguistic knowledge while focusing on a current topic on judicial cooperation in criminal matters seems to be exceptionally appreciated by the CPs. In addition, the Language Training provides the CPs an opportunity to create relations between themselves, which is vital for the smooth functioning of the EJM.

As the EJM has already organised trainings on the application of the EIO, CPs from AT, FI, RO, and UK specify the need to continue organising trainings on this instrument, with a focus on practical cases.

Overall, a lot of CPs specified that trainings where EJM CPs are involved are of importance. Particularly, trainings on the legal international cooperation instruments have been identified as crucial for the function of the EJM CPs.

9. Regarding the cooperation with Eurojust, do you have contacts with the national desk at Eurojust and the Eurojust National Coordination System (ENCS) of your country? Do you hand over or receive cases/requests to/from Eurojust?

The answers to this question vary. Several CPs are in contact with the national desk at Eurojust and the cooperation is efficient between the two actors. They agree that there has been a constant mutual support between the two entities, including exchange of cases. On the other hand, there are CPs that state that they do not have regular contact with the Eurojust national desk – or not at all – and that cooperation was rarely needed.

As for the ENCS, CPs from DE, LU, RO, PL and PT mentioned that their participation in the ENCS leads to a better cooperation. One CP from PT specified that the annual meetings of the ENCS are very fruitful in identifying the common points of interest, where EJM CPs and Eurojust representatives are involved.

For some countries, for example in FI and EL, the ENCS is not active or not implemented at all.

10. Which operational partner networks or non-EU countries do you consider most important to maintain/establish cooperation with?

A lot of the CPs confirm that the cooperation with IberRed countries is very important. At the same time, a high number of CPs mention USA, Canada, Russia, Western Balkans and Switzerland as countries where the cooperation with the EJM has to continue developing. Other suggestions for a better developed cooperation are: Turkey, Ukraine, Japan, SEEPAG, CPLP (Portuguese), EUROMED, CNCP (Commonwealth), PC-OC and RMCJI (Morocco).

Cooperation with third countries such as Vietnam, China and United Arab Emirates has also been requested by the CPs.

11. The designation of EJM Contact Points:

- a. *Does the designating national authority in your Member State take into account the EJN Decision and Guidelines for the selection of EJN Contact Points?*

Most of the CPs answered positively to this question or in some cases that they were not aware of the procedure. In DE, the CPs are designated by the head of the office where the CP is located.

- b. *Does your Member State have **internal guidelines** on this issue?*

The answers to this question vary, as CPs from a number of MS seem not to have the knowledge on the existence of such guidelines.

However, some CPs from AT, CZ, FI, IT, LT, BA, RO, SK, and ES specify that there are some internal guidelines as set by the MS. One CP from BE specified that while there are no exact guidelines, the experience in international cooperation, language skills and specialisation are always taken into account.

- c. *Would you suggest to adding, deleting or amending any of the requirements?*

Most of the CPs answered negatively to this question. One suggestion comes from a CP from SE, who believes that the language requirement should be further emphasised and taken seriously when appointing a CP. This is further agreed on by a CP from FI, and by a CP from IT, who suggests the knowledge of more than one official EU working language. Another CP from RO suggested that there should be a recommendation that sets a clear procedure for selection and appointments regulated in national legislation.

- d. *Is there a **sufficient number and adequate distribution** of EJN Contact Points in your Member State?*

Generally, the CPs answered positively when it comes to the number and distribution of the EJN CPs in their MS. Some MS, such as FI for example, have recently appointed more CPs in order to deal with the EJN demands.

One CP from FR specified that in the case of FR, there are too many EJN CPs. One CP from EL mentioned that the number of CPs should increase, as there is a need for having one CP in each Public Prosecutor's Office. Also in LT the number of CPs should increase according to one CP.

12. The introduction of new Contact Points:

- a. *When new Contact Points, National Correspondents or Tool Correspondents are nominated, is there a **handover procedure/introduction** in place regarding their role and what is expected of them?*

Most of the CPs answered there is no formal handover procedure, but that the former CP or another CP introduces them to the EJM tasks and activities, e.g. by providing them with the EJM guidelines. Some of the MS, such as it is the case of FI, have developed a practice where an introductory session is held for the newly appointed CPs.

13. Do you consider that the EJM or the EJM Secretariat should be further involved in the preparation and evaluation of the EU legal instruments, e.g. to ensure cohesion between the legal texts and the practice? In that case how?

Most of the CPs answered positively to this question. One CP from FI specifies that the involvement of the EJM would be an added value in the preparation of the EU legal instruments related to the judicial cooperation in criminal matters. One example of such input is the recently organised working group on freezing and confiscation certificates. The same CP suggests that the involvement of the EJM should be earlier in the process.

One CP from RO suggests that the EJM should be an observer in all relevant COPEN meetings, as well as GENVAL and CATS meetings.

One CP from BG recommends continuing the publishing of some of the significant decisions of the national courts, of the CJEU and of the ECtHR on the EJM website, in order to further ensure the cohesion between legal texts and the practice.

Other CPs believe that the involvement of the EJM as it is now in the preparation and evaluation of EU legal instruments is sufficient at the moment.

14. The EJM has an obligation to provide a Report to the European Institutions every second year on its activities and management.

a. Have you developed any best practices when registering and submitting your activities as EJM Contact Point?

The majority of the CPs answered negatively. However, there are some of the CPs from AT, CZ, DE, EL, FI, IT, PL, PT, RO, SE and UK that find the reporting on a case-by-case basis via the new reporting tool very helpful and less time-consuming than reporting on an annual basis.

There are still some CPs from DE, NL, and PL that find the reporting at the end of the year easier, due to the daily domestic workload.

- b. Has the information gathered within the EJM on its activities and management been useful, e.g. by providing an **overview of your work** as EJM Contact Point in relation to authorities in your Member State?*

The answers to this question vary. Almost half of the CPs answered positively, while the others seem not to be aware of the usefulness of such information and how it is used at a national level. Some CPs from FI and HU specify that the new reporting tool proves to be very useful also for the overview of one's own activities not only for the EJM, but also for the national statistics on the activities performed. In addition, it was suggested that the reporting tool can be used as a means of recognition of EJM activities by the MS, through the indication of the time spent working on EJM tasks.