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COVER NOTE

From:	Presidency and EJN Secretariat
To:	EJN Contact Points
Subject:	Guidelines for the role, tasks and for appointing the Contact Points of the European Judicial Network (EJN)

In May 2007 the Guidelines for the selection of Contact Points of the EJN (PLEN2 2007/2) were adopted by the EJN. Bearing in mind the development of the EJN, resulting from inter alia the entry into force of the EJN Decision in 2008, the endorsement of other EJN documents, the completion of several projects in relation to the EJN website and the finalisation of the follow-up to the 6th round of mutual evaluations on EJN and Eurojust, there is a need to revise the Guidelines for the selection of Contact Points of the EJN, while keeping the essence and the founding guidelines of that document.

The EJN Contact Points will find hereafter the revised Guidelines as approved by the National Correspondents at their meeting on 17 October 2018 and a following written procedure. The revised Guidelines includes a section on the role and tasks of the EJN Contact Points which forms the basis for the principles for appointing the Contact Points of the EJN.

Guidelines for the role, tasks and for appointing the Contact Points of the European Judicial Network (EJN):

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I. Role and tasks of the EJN Contact Points

1.1. Background information

- a. In May 2007 the *Guidelines for the selection of Contact Points of the European Judicial Network (PLEN2 2007/2)* were adopted by the European Judicial Network (EJN). These Guidelines were based on the “EJN Vision Paper”¹ adopted at the 25th Plenary meeting of the EJN, held from 29 November to 1 December 2006 in Rovaniemi under the Finnish Presidency.
- a. The **EJN Vision Paper** had been adopted in Brussels, 11 December 2006 during the 25th EJN Plenary meeting. It took into account “*the growing complexity in the field of judicial cooperation*” and as a result recommended that “*the Member States should ensure that relevant experts are chosen to act as national EJN contact points. The EJN 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.*”
- b. The **Guidelines for the selection of Contact Points**, which aimed at serving as a general guidance for the national authorities when nominating new Contact Points, were based on the former legal basis of the EJN, Joint Action 98/428 JHA of 29 June 1998.
- c. In December 2008, a new legal basis entered into force, Council Decision 2008/976/JHA of 16 December 2008 on the EJN (“**the EJN Decision**”), which reinforced the legal status of the EJN. The new legal basis for the EJN, as well as the entering into force of the Lisbon Treaty on 1 December 2009 brought along several changes to the work programme of EJN, reinforcing the status of the EJN, while maintaining the spirit of 1998.
- d. In 2010 a revamp of the **EJN website** was initiated. The main purpose of the project was to make the EJN website the primary portal to practical information and tools on judicial co-operation in criminal matters within the EU.
- e. In line with the *Council Conclusions adopted in October 2010 on the follow-up of the implementation of instruments implementing the principle of mutual recognition of judicial decisions in criminal matters*, the EJN website now contains a comprehensive database of documents for all legal instruments of relevance for judicial cooperation: the text of each legal instrument, the notifications/statements/declarations made by the Member States, the state of play of implementation, national legislation, forms, case law, handbooks, reports, and other practical information. Maintenance of the EJN website and development of new projects in relation to the site is part of EJN annual Work Programme.
- f. In November 2013, during the 41st EJN Plenary meeting of the EJN in Vilnius, Lithuania, the *Explanatory Memorandum on the need for enhancing the collaboration and improving the interconnection between the EJN and similar judicial cooperation networks in criminal matters (“Vilnius memorandum”)* was adopted.

¹ EJN Vision Paper, European Union Council; Brussels, 11 December 2006; 16444/06 EJN 28

- g. Further to this, in November 2014, during the 43rd Plenary meeting of the EJN the ***White Paper for the Implementation of the Explanatory Memorandum*** (“White paper”) was adopted.
- h. Both above-mentioned documents (the “Vilnius Memorandum” and the “White Paper”) set the framework and the objectives for cooperation with regard to other Networks/non-EU countries/EJN partners. They also set out a driving methodology to enhance such collaboration, determining concrete ways of cooperation.
- i. In 2015-2016, following the ***Sixth round of mutual evaluations on EJN and Eurojust² (6RME)***, the EJN Work Programme prioritised the actions intended to respond to the recommendations addressed to the EJN provided by the 6RME. In this context, the EJN Secretariat prepared an ***Action Plan for the implementation of the recommendations*** regarding the EJN which, together with the Work Programme, became the steering document for the main activities of the EJN in 2015 and 2016.
- j. During the 50th EJN Plenary meeting of the EJN on 28-30 June 2018 in Sofia, Bulgaria, and the 20th Anniversary of the foundation of the EJN, a panel discussion on the “EJN in Retrospective” was organised. This anniversary Plenary meeting represented an opportunity to acknowledge the importance of the EJN in the area of judicial cooperation in criminal matters. It was also an opportunity to consider how the EJN can continue to contribute to the development of judicial cooperation in criminal matters, how to improve the functioning of the EJN and its relation with partners and Non-EU countries. In this respect, ***Conclusions on EJN in Retrospective*** were made during the meeting.
- k. Bearing in mind the development of the EJN, resulting from *inter alia* the entry into force of the EJN Decision in 2008, the endorsement of other EJN documents, the completion of several projects in relation to the EJN website and the finalisation of the follow-up to the 6RME, there is a need to **revise the *Guidelines for the selection of Contact Points of the EJN***, while keeping the essence and the founding guidelines of that document.

1.2. Role and tasks of the EJN Contact Points

1.2.1. Key function of the Contact Points

- a. The main role of the EJN Contact Points, defined by the EJN Decision as “active intermediaries”, is to facilitate judicial cooperation in criminal matters between the EU Member States, particularly in actions to combat forms of serious crime. To this end they assist with establishing direct contacts between competent authorities and by providing legal and practical information necessary to prepare an effective request for judicial cooperation or to improve judicial cooperation in general (Art 4 of the “EJN Decision”).
- b. Each Member State appoints one or more Contact Points in accordance with its internal rules and internal division of responsibilities and ensuring effective coverage of the whole of its territory (Art 2 of the “EJN Decision”).

² The practical implementation and operation of the Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime and of the Council Decision 2008/976/JHA on the European Judicial Network in criminal matters; Brussels, 2 December 2014; 14536/2/14 REV 2 GENVAL 64 COPEN 263 EUROJUST 189.

1.2.2. Characteristics of the Contact Points

- c. The EJN Contact Points contribute to the facilitation of judicial cooperation or in order to improve judicial cooperation in general (Art 4 of the “EJN Decision”).
- d. They are based in the central authorities responsible for international judicial cooperation and the judicial or other competent authorities with specific responsibilities within the context of international cooperation. Their functions are related to judicial cooperation in criminal matters (Art 2 of the “EJN Decision”).
- e. In order to enable local judicial authorities and other competent authorities in their own Member State, Contact Points in the other Member States and local judicial and other competent authorities in the other Member States to establish the most appropriate direct contacts, it is important that the Contact Points are truly available to their colleagues (Art 4 of the “EJN Decision”).
- f. Also, due to the nature and the tasks of the EJN, as well as bearing in mind that the EJN Plenary meetings take place in the Member State holding the Presidency of the Council, the Contact Points may travel to meet other Member States Contact Points (Art 4 of “EJN Decision”).

1.2.3. Language skills

- g. Bearing in mind the need to be able to communicate with the Contact Points in the other Member States, the Contact Points have to have an adequate knowledge of a language of the EU other than its own national language (Art 2 of the “EJN Decision”). The EJN Secretariat supports the Contact Points in developing their language skills by offering yearly language training in English each year.

1.2.4. Actions in relation to the EJN website

- h. As stated in Art.7 of the “EJN Decision”, the EJN Secretariat is responsible, *inter alia*, for setting up, maintaining and improving of the EJN information system/website. Yet it is each Member State’s individual responsibility to check the accuracy of the data contained in the system and to inform the Secretariat of the European Judicial Network as soon as data needs to be amended (Art.8 of the “EJN Decision”). The EJN Tool Correspondents are the main ones responsible for the information on the website related to his or her Member State (Art. 4(5) of the “EJN Decision”).
- i. The Council Conclusions from October 2010 on the follow-up of the implementation of instruments implementing the principle of mutual recognition of judicial decisions in criminal matters further emphasize this task by insisting on the need for Member States to systematically notify the implementation of mutual recognition instruments to the EU institutions responsible for each particular legal instrument, especially the EU Commission.
- j. In the 6RME it was repeated that the Member States should ensure that the information related to them in the EJN website is permanently updated by the Tool Correspondents (Point 5 in the appendix to the Action Plan of the 6RME).

1.2.5. Cooperation with Judicial networks and non-EU Countries

- k. The Contact Points recognize the need to enhance the collaboration with other Judicial Networks and non-EU countries, in the common interest of strengthening international

judicial cooperation in criminal matters worldwide. The field of activities include sharing of contact details, participation in training activities, promoting joint operational meetings, using the operational IT tools created by the EJN and other Networks and working together in setting up new tools to facilitate judicial cooperation (Point 31 of the “Vilnius Memorandum”).

- I. In order to enhance the cooperation, the Contact Points should attend operational meetings between them and members of other Judicial Networks and contact persons in non-EU countries. The latter are frequently invited to the EJN Plenary meetings (Point 5 of the “White Paper”).

1.2.6. Judicial training and awareness

- m. At their respective level 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, where appropriate in cooperation with the European Judicial Training Network (Art 4 of the “EJN Decision”).
- n. The Member States should ensure that the initial and continuous training curricula for judges and prosecutors are adequate to the needs of training on judicial cooperation in criminal matters, including related to the EJN and Eurojust (Point 3.1 in the appendix to the Action Plan of the 6RME).
- o. The Member States should regularly organise EJN national meetings, at least once a year, including with financial support from the EJN Secretariat’s budget. In addition to the national meetings, the Member States are recommended to make better use of the opportunities to organise EJN regional meetings. (Point 4 in the appendix to the Action Plan of the 6RME).

1.2.7. Other responsibilities of the Member States

- p. The 6RME came to the conclusion that the Member States should establish objective mechanisms for the appointment of the EJN Contact Points, in accordance with the requirements of this position of the EJN Contact Points, especially the high expertise on international judicial cooperation in criminal matters and the language skills. In addition, more judges were recommended to be appointed as Contact Points (Point 1.1 and 1.5 in the appendix to the Action Plan of the 6RME).
- q. The functioning of the EJN is of outmost importance. Therefore, the Member States should ensure proper financial and human resources to the functioning of the EJN at national level. In addition, the Member States should analyse the possibility of establishing a mechanism to monitor the performance of the EJN Contact Points (Point 1.3 and 1.2 in the appendix to the Action Plan of the 6RME).
- r. In order to ensure the continuity in the work of EJN Contact Points and when new Contact Points are appointed, an appropriate handover procedure should be established in the Member States. (Point 1.6 in the appendix to the Action Plan of the 6RME).
- s. To allow the Contact Points to devote sufficient time to their tasks as EJN Contact Points, the Member States should analyse the possibilities to reduce the normal workload of the EJN Contact Points (Point 7.4 in the appendix to the Action Plan of the 6RME).
- t. When it comes to attending the EJN Plenary meetings, the Member States should implement a rotation principle to ensure the participation of all EJN Contact Points in Plenary meetings (Point 1.7 in the appendix to the Action Plan of 6RME).

1.2.8. Reporting

- u. As provided for in Article 13 of the “EJN Decision”, every second year the EJN is obliged to report to the European Parliament, the Council and the Commission on its activities and management, indicating also any criminal policy problems within the EU and making proposals for the improvement of judicial cooperation in criminal matters.
- v. The 6RME recognized both the obligation of the Network and the individual responsibility of the Contact Points with regard to the reporting. In this context, it was stated that the Member States should ensure that reliable statistical data on the activities performed by their EJN Contact Points are provided to the EJN Secretariat (Point 6 in the appendix to the Action Plan of 6RME).

1.2.9. National and Tool Correspondents

- w. The **national correspondent (NC)** is responsible, in his or her Member State, for issues related to the internal functioning of the Network, including the coordination of requests for information and replies issued by the competent national authorities. The NC is also the main person responsible for contacts with the EJN Secretariat, including the participation in the meetings of the NCs and, where requested, gives an opinion concerning the appointment of new Contact Points (Art 4.4. of the “EJN Decision”).
- x. The **tool correspondent (TC)**, who may also be a Contact Point, ensures that the information related to his Member State on the EJN website is provided and updated (Art 4.5. of the “EJN Decision”).

II. Principles for appointing the EJN Contact Points

2.1. General remarks

- a. These Guidelines are intended to provide guidance for the designation of the EJN Contact Points. They are based on the foundations of the EJN, its legal basis, the EJN Decision, and derived from other documents mentioning the tasks and responsibilities of the EJN Contact Points mentioned in particular in part 1.2. of this document.
- b. In line with the EJN Decision, the internal organisation of the national system of EJN remains within the national competence. The appointment of the Contact Points by the Member States naturally has to take into account the constitutional rules, legal traditions and internal structure of each Member State. Consequently, these Guidelines can only serve as a general guidance for the national authorities when designating new Contact Points. Nonetheless, the Guidelines provide for assistance for the appointing authority in the Member States to be able to evaluate who is in the most suitable position to be nominated as an EJN Contact Point.
- c. Nothing in this document shall be construed as affecting the flexible nature of the EJN, informal contacts between the EJN Contact Points, their daily work or internal relations within the Member States.
- d. The Guidelines include both individual and institutional requirements of the Contact Points. The former takes into account the personal abilities, experiences and dispositions of the person to hold the position of a Contact Point. The latter takes into account the position that the Contact Point should have within the national structure of the law enforcement system.

2.2. Principles in relation to individual requirements

- a. **Practical experience in criminal proceedings:** Contact Points should have a broad practical experience as public prosecutors, judges, officers of other investigating authorities or ministry officials within their respective countries. They should preferably have worked in criminal proceedings to fight serious crimes and they should be especially well-informed about the investigative measures provided for by national law in criminal proceedings in their respective Member States.
- b. **Practical experience in international judicial cooperation:** Contact Points should have practical experience in international cooperation in criminal matters, particularly within the EU, but also with Non-EU countries. They should be familiar, above all, with the legal basis for judicial cooperation within the EU with regard to the EU mutual recognition instruments, but also with the legal basis for international judicial cooperation in the areas of extradition and mutual legal assistance with Non-EU countries.
- c. **Reliability / Flexibility/ Swiftness:** When performing their tasks, the Contact Points must act in a reliable, flexible, quick and sustainable manner. Accordingly, high qualitative requirements should be set as to the particular motivation and ability of the EJN Contact Points to play an active part in ensuring that requests for assistance are met rapidly and in full – either from authorities within their own Member State, authorities in the other Member States or in Non-EU countries. In line with this principle, temporary unavailability of a Contact Point should be made clear.
- d. **Language skills:** The EJN Contact Points must have an adequate knowledge of at least one other EU language, in addition to the language of their respective countries, bearing in mind that the vehicular language of the EJN is English.
- e. **Networking:** Contact Points should acknowledge that the “human factor” is one of the core elements of the EJN and a key factor determining the effectiveness of providing necessary assistance and consequently the success of the EJN. Therefore, Contact Points must be prepared to actively participate in the EJN meetings and other EJN events and to liaise with Contact Points and national authorities. If possible, this principle should also be followed in the relations with EJN contact points in Non-EU countries and with representatives of other partners and members of judicial networks.
- f. **Basic knowledge of IT and use of computer:** In order to be able to work with the EJN operational tools, reporting tool and other options offered on the EJN website for the facilitation of cross-border cooperation, the Contact Points should be familiar with the use of a computer and willing to make practical use of the tools and other information on the EJN website.
- g. **Cooperation with other bodies at the EU level:** The Contact Points should be willing to cooperate with the other bodies at a European level, especially with Eurojust, the Network of National Experts on Joint Investigation Teams, the European Network for investigation and prosecution of genocide, crimes against humanity and war crimes, European Judicial Cybercrime Network, liaison magistrates and with OLAF, and to demonstrate trustworthiness and initiative in this cooperation.
- h. **Cooperation with Non-EU countries/ other judicial networks:** The EJN has recognised the importance of working together with other judicial networks around the world and with Non-

EU countries. Thus, Contact Points should be willing to cooperate with their counterparts in other judicial networks and with the EJN contact points or other representatives of the Non-EU countries and, where possible, to establish and maintain regular contact in order to improve judicial cooperation and mutual trust beyond the EU.

- i. **Willingness to travel:** In order to Contact Points achieve close contact with Contact Points in other Member States, they should be willing to travel to other Member States and if possible, also outside the EU upon request and upon their availability.
- j. **Raising awareness:** Contact Points should be willing to undertake measures, aiming at raising awareness about the EJN and to promote the EJN, in particular in their own Member State but also in other Member States, whenever feasible to do so.
- k. **Acting as a trainer/expert:** It is desirable that the Contact Points possess both professional and personal skills and abilities to be able to act as a trainer or expert in the field of judicial cooperation.
- l. **Contribution to the development of international cooperation:** Contact Points should be open to new developments in the field of judicial cooperation in criminal matters and to discuss practical issues with regard to these. They should be prepared to share their knowledge and practice with other EJN Contact Points, the EJN Secretariat and the EU Institutions, in order to contribute to finding solutions to different issues of the practical application of the legal instruments.
- m. **Reporting of the EJN activities:** It is highly important that the Contact Points acknowledge the need to report on their activities as EJN Contact Points to the EU Institutions via the EJN Secretariat on annual basis and that the reporting is done in an accurate and timely manner.
- n. The particular tasks and responsibilities of the **EJN National Correspondent** and **Tool Correspondent** are foreseen in Article 5 of the EJN Decision and in the Guidelines on the Structure and Functioning of the EJN.
 - i. The National Correspondents have a significantly important role for the national coordination of all EJN activities in his or her Member State. This includes frequent interaction with the EJN Secretariat on a number of topics including the EJN budget and coordination of reporting the activities of the EJN Contact Points. Consequently, the National Correspondent must have an interest in the position and the proper organisational and managerial skills in order to perform these specific duties.
 - ii. The Tools Correspondents should have a particular interest and knowledge of IT and use of the computer. He or she must also have a pro-active approach to the needs of updating of the EJN website when it comes to the EJN tools and the information about his or her Member State.

2.3. Principles in relation to institutional requirements

- a. **Position within national authorities:** Contact Points should be in a position to make contact with all authorities responsible for international cooperation in criminal matters, to do so quickly and without a large outlay, irrespective of whether these authorities are public prosecutor's offices, courts or ministries, and to obtain relevant information from these

bodies. [In so far as national law permits, it would also be desirable for the Contact Points to be located at authorities that are themselves authorised to exert a supporting and formative influence on investigative procedures within their countries.]

- b. **Involvement in the field of judicial cooperation:** It is recommended that the Contact Points are in a position where they are exposed to or where they can easily acquire information on developments of judicial cooperation - in general or within a specific area - in order to maintain the expertise. Contact Points should also have the opportunity to attend necessary trainings.
- c. **Continuity:** In order to ensure the continuity of the work of the EJN, the Contact Points should remain in their capacity for a period that is as long as possible.
- d. **Availability:** The functions of the Contact Points in their ordinary position should not constitute an obstacle for the Contact Points to be able, both time-wise and function-wise, to perform their EJN tasks, including providing prompt assistance upon request. The specific roles and responsibilities of the National Correspondents and Tool Correspondents must also be taken into account.
- e. **Availability of resources:** Contact Points should be provided with the necessary resources to be able to perform their EJN tasks, such as costs for attendance to the EJN meetings, to the extent these are not covered by the EJN Secretariat.
- f. **Participation to the EJN meetings:** It is advisable that the attendance of the Contact Points to the meetings of the EJN rotate between the Contact Points in each Member State.
- g. **Back-up system :** To avoid that the work of the EJN is hampered and to ensure that replies to requests are provided swiftly, a proper back-up of the tasks of the EJN Contact Points should be ensured when a Contact Point is temporarily unavailable to perform his or her tasks.