

## III

*(Acts adopted under the EU Treaty)*

## ACTS ADOPTED UNDER TITLE VI OF THE EU TREATY

## COUNCIL DECISION 2008/976/JHA

of 16 December 2008

## on the European Judicial Network

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 31 and 34(2)(c) thereof,

Having regard to the initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden,

Having regard to the opinion of the European Parliament <sup>(1)</sup>,

Whereas:

(1) By Joint Action 98/428/JHA <sup>(2)</sup>, the Council set up the European Judicial Network which has demonstrated its usefulness in the facilitation of judicial cooperation in criminal matters.

(2) In accordance with Article 6 of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union <sup>(3)</sup>, mutual legal assistance takes place through direct contacts between competent judicial authorities. This decentralisation of mutual legal assistance is now widely implemented.

(3) The principle of mutual recognition of judicial decisions in criminal matters is being implemented gradually. It not only confirms the principle of direct contacts between competent judicial authorities, it also accelerates the procedures and makes them entirely judicial.

(4) The impact of these changes on judicial cooperation was further increased by the enlargement of the European Union in 2004 and 2007. Because of this evolution, the European Judicial Network is even more necessary than at the time of its creation and should therefore be strengthened.

(5) By Decision 2002/187/JHA <sup>(4)</sup>, the Council set up Eurojust to improve coordination and cooperation between competent authorities of the Member States. Decision 2002/187/JHA provides that Eurojust is to maintain privileged relations with the European Judicial Network based on consultation and complementarity.

(6) Five years of coexistence of Eurojust and the European Judicial Network have demonstrated both the need to maintain the two structures and the need to clarify their relationship.

(7) Nothing in this Decision should be construed to affect the independence that contact points may have under national law.

(8) It is necessary to strengthen judicial cooperation between the Member States and to allow contact points of the European Judicial Network and Eurojust for this purpose to communicate, whenever needed, directly and more efficiently through a secure telecommunications connection.

(9) Joint Action 98/428/JHA should therefore be repealed and replaced by this Decision,

<sup>(1)</sup> Opinion delivered on 2 September 2008 (not yet published in the Official Journal).

<sup>(2)</sup> OJ L 191, 7.7.1998, p. 4.

<sup>(3)</sup> OJ C 197, 12.7.2000, p. 3.

<sup>(4)</sup> OJ L 63, 6.3.2002, p. 1.

HAS DECIDED AS FOLLOWS:

#### *Article 1*

##### **Creation**

The network of judicial contact points set up between the Member States under Joint Action 98/428/JHA, hereinafter referred to as the 'European Judicial Network', shall continue to operate in accordance with the provisions of this Decision.

#### *Article 2*

##### **Composition**

1. The European Judicial Network shall be made up, taking into account the constitutional rules, legal traditions and internal structure of each Member State, of the central authorities responsible for international judicial cooperation and the judicial or other competent authorities with specific responsibilities within the context of international cooperation.

2. One or more contact points of each Member State shall be established in accordance with its internal rules and internal division of responsibilities, care being taken to ensure effective coverage of the whole of its territory.

3. Each Member State shall appoint, among the contact points, a national correspondent for the European Judicial Network.

4. Each Member State shall appoint a tool correspondent for the European Judicial Network.

5. Each Member State shall ensure that its contact points have functions in relation to judicial cooperation in criminal matters and adequate knowledge of a language of the European Union other than its own national language, bearing in mind the need to be able to communicate with the contact points in the other Member States.

6. Where the liaison magistrates referred to in Council Joint Action 96/277/JHA of 22 April 1996 concerning a framework for the exchange of liaison magistrates to improve judicial cooperation between the Member States of the European Union <sup>(1)</sup> have been appointed in a Member State and have duties analogous to those assigned by Article 4 of this Decision to the contact points, they shall be linked to the European Judicial Network and to the secure telecommunications connection pursuant to Article 9 of this Decision by the Member State appointing the liaison magistrate in each case, in accordance with the procedures to be laid down by that Member State.

7. The Commission shall designate a contact point for those areas falling within its sphere of competence.

8. The European Judicial Network shall have a Secretariat which shall be responsible for the administration of the Network.

#### *Article 3*

##### **Manner of operation of the Network**

The European Judicial Network shall operate in particular in the following three ways:

- (a) it shall facilitate the establishment of appropriate contacts between the contact points in the various Member States in order to carry out the functions laid down in Article 4;
- (b) it shall organise periodic meetings of the Member States representatives in accordance with the procedures laid down in Articles 5 and 6;
- (c) it shall constantly provide a certain amount of up-to-date background information, in particular by means of an appropriate telecommunications network, under the procedures laid down in Articles 7, 8 and 9.

#### *Article 4*

##### **Functions of contact points**

1. The contact points shall be active intermediaries with the task of facilitating judicial cooperation between Member States, particularly in actions to combat forms of serious crime. They shall be available 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.

They may if necessary travel to meet other Member States contact points, on the basis of an agreement between the administrations concerned.

2. The contact points shall provide the local judicial authorities in their own Member State, the contact points in the other Member States and the local judicial authorities in the other Member States with the legal and practical information necessary to enable them to prepare an effective request for judicial cooperation or to improve judicial cooperation in general.

3. 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.

<sup>(1)</sup> OJ L 105, 27.4.1996, p. 1.

4. The national correspondent, in addition to his tasks as a contact point referred to in paragraphs 1 to 3, shall in particular:

- (a) be responsible, in his 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;
- (b) be the main person responsible for the contacts with the Secretariat of the European Judicial Network including the participation in the meetings referred to in Article 6;
- (c) where requested, give an opinion concerning the appointment of new contact points.

5. The European Judicial Network tool correspondent, who may also be a contact point referred to in paragraphs 1 to 4, shall ensure that the information related to his Member State and referred to in Article 7 is provided and updated in accordance with Article 8.

#### Article 5

##### **Purposes and venues of the plenary meetings of contact points**

1. The purposes of the plenary meetings of the European Judicial Network, to which at least three contact points per Member State shall be invited, shall be as follows:

- (a) to allow the contact points to get to know each other and exchange experience, particularly concerning the operation of the Network;
- (b) to provide a forum for discussion of practical and legal problems encountered by the Member States in the context of judicial cooperation, in particular with regard to the implementation of measures adopted by the European Union.

2. The relevant experience acquired within the European Judicial Network shall be passed on to the Council and the Commission to serve as a basis for discussion of possible legislative changes and practical improvements in the area of international judicial cooperation.

3. Meetings referred to in paragraph 1 shall be organised regularly and at least three times a year. Once a year, the meeting may be held on the premises of the Council in Brussels or on the premises of Eurojust in The Hague. Two contact points per Member States shall be invited to meetings organised on the premises of the Council and at Eurojust.

Other meetings may be held in the Member States, to enable the contact points of all the Member States to meet authorities of the host Member State other than its contact points and visit specific bodies in that Member State with responsibilities in the context of international judicial cooperation or of combating certain forms of serious crime. The contact points participate in these meetings at their own expense.

#### Article 6

##### **Meetings of the correspondents**

1. The European Judicial Network national correspondents shall meet on an *ad hoc* basis, at least once a year and as its members deem appropriate, at the invitation of the national correspondent of the Member State which holds the Presidency of the Council, which shall also take account of the Member States wishes for the correspondents to meet. During these meetings, administrative matters related to the Network shall in particular be discussed.

2. The European Judicial Network tool correspondents shall meet on an *ad hoc* basis, at least once a year and as its members deem appropriate, at the invitation of the tool correspondent of the Member State which holds the Presidency of the Council. The meetings shall deal with the issues referred to in Article 4(5).

#### Article 7

##### **Content of the information disseminated within the European Judicial Network**

The Secretariat of the European Judicial Network shall make the following information available to contact points and competent judicial authorities:

- (a) full details of the contact points in each Member State with, where necessary, an explanation of their responsibilities at national level;
- (b) an information technology tool allowing the requesting or issuing authority of a Member State to identify the competent authority in another Member State to receive and execute its request for, and decisions on, judicial co-operation, including regarding instruments giving effect to the principle of mutual recognition;
- (c) concise legal and practical information concerning the judicial and procedural systems in the Member States;
- (d) the texts of the relevant legal instruments and, for conventions currently in force, the texts of declarations and reservations.

*Article 8***Updating of information**

1. The information distributed within the European Judicial Network shall be constantly updated.
2. It shall be 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 on one of the four points referred to in Article 7 need to be amended.

*Article 9***Telecommunication tools**

1. The Secretariat of the European Judicial Network shall ensure that the information provided under Article 7 is made available on a website which is constantly updated.
2. The secure telecommunications connection shall be set up for the operational work of the contact points of the European Judicial Network. The setting up of the secure telecommunications connection shall be at the charge of the general budget of the European Union.

The setting up of the secure telecommunications connection shall make possible the flow of data and of requests for judicial cooperation between Member States.

3. The secure telecommunications connection referred to in paragraph 2 may also be used for their operational work by the national correspondents for Eurojust, national correspondents for Eurojust for terrorist matters, the national members of Eurojust and liaison magistrates appointed by Eurojust. It may be linked to the Case Management System of Eurojust referred to in Article 16 of Decision 2002/187/JHA.

4. Nothing in this Article shall be construed to affect direct contacts between competent judicial authorities as provided for in instruments on judicial cooperation, such as Article 6 of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union.

*Article 10***Relationship between the European Judicial Network and Eurojust**

The European Judicial Network and Eurojust shall maintain privileged relations with each other, based on consultation and complementarity, especially between the contact points of a Member State, the Eurojust national member of the same Member State and the national correspondents for the European Judicial Network and Eurojust. In order to ensure efficient cooperation, the following measures shall be taken:

- (a) the European Judicial Network shall make available to Eurojust the centralised information indicated in Article 7

and the secure telecommunications connection set up under Article 9;

- (b) the contact points of the European Judicial Network shall, on a case-by-case basis, inform their own national member of all cases which they deem Eurojust to be in a better position to deal with;
- (c) the national members of Eurojust may attend meetings of the European Judicial Network at the invitation of the latter.

*Article 11***Budget**

In order for the European Judicial Network to be able to carry out its tasks, the budget of Eurojust shall contain a part related to the activities of the Secretariat of the European Judicial Network.

*Article 12***Territorial application**

The United Kingdom shall notify in writing the President of the Council when it wishes to apply this Decision to the Channel Islands and the Isle of Man. A decision on that request shall be taken by the Council.

*Article 13***Assessment of the operation of the European Judicial Network**

1. Every second year from 24 December 2008, the European Judicial Network shall report to the European Parliament, the Council and the Commission on its activities and management.
2. The European Judicial Network may, in the report referred to in paragraph 1, also indicate any criminal policy problems within the European Union highlighted as a result of the European Judicial Network's activities and it may also make proposals for the improvement of judicial cooperation in criminal matters.
3. The European Judicial Network may also submit any report or any other information on its operation which may be requested by the Council.

4. The Council shall, every four years from 24 December 2008, carry out an assessment of the operation of the European Judicial Network on the basis of a report drawn up by the Commission in cooperation with the European Judicial Network.

*Article 14***Repeal of Joint Action 98/428/JHA**

Joint Action 98/428/JHA is hereby repealed.

*Article 15***Taking of effect**

This Decision shall take effect on the day of its publication in the *Official Journal of the European Union*.

Done at Brussels, 16 December 2008.

*For the Council*

*The President*

R. BACHELOT-NARQUIN

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