

EJN/2014/11

43rd Plenary meeting of the European Judicial Network (EJN)

19-21 November 2014

COVER NOTE

From: EJN Secretariat

To: EJN contact points

Subject: A White Paper on the implementation of the *“Explanatory Memorandum on the need for enhancing the collaboration and improving the interconnection between the European Judicial Network (EJN) and similar judicial cooperation Networks and structures in criminal matters; and the regional cooperation with 3rd countries”* and cooperation with other EJN partners

The contact points will find below a White Paper on the implementation of the *“Explanatory Memorandum on the need for enhancing the collaboration and improving the interconnection between the European Judicial Network (EJN) and similar judicial cooperation Networks and structures in criminal matters; and the regional cooperation with 3rd countries”* and cooperation with other EJN partners.

The paper was endorsed by the EJN national correspondents at the 6th National Correspondents meeting on October 8, 2014.

The objective of the White Paper is to provide guidance when establishing, enhancing and maintaining cooperation between the EJN and its partners.

WHITE PAPER

on the implementation of the “Explanatory Memorandum on the need for enhancing the collaboration and improving the interconnection between the European Judicial Network (EJN) and similar judicial cooperation Networks and structures in criminal matters; and the regional cooperation with 3rd countries” and cooperation with other EJN partners

1. Background

- a. As an outcome of the 41st plenary meeting of the EJN contact points in Vilnius (19-21 November 2013), an “*Explanatory Memorandum on the need for enhancing the collaboration and improving the interconnection between the European Judicial Network (EJN) and similar judicial cooperation Networks and structures in criminal matters; and the regional cooperation with 3rd countries*”¹ (**hereinafter “the Vilnius memorandum”**) was approved by the EJN contact points. The document provides for cooperation with judicial Networks and similar structures (p. 31 ff) as well as cooperation with 3rd countries (pp. 36 and 37).
- b. During the 42nd plenary meeting of the EJN contact points in Athens (23-25 June 2014), the EJN Secretariat proposed implementing the Vilnius memorandum with regard to cooperation with judicial Networks and similar structures, 3rd countries and, additionally, with other EJN partners, in close consultation and coordination with the Member State holding the Presidency of the EU Justice and Home Affairs Council (**hereinafter “EJN Presidency”**) and the Trio Presidencies.
- c. On the occasion of the 6th NCM, the EJN Secretariat presented a paper outlining the approach to be taken when establishing, maintaining and enhancing cooperation with regard to (i) judicial Networks and similar structures, (ii) 3rd countries EJN and as well as (iii) other partners.

2. Different existing approaches to all EJN partners

2.1. Memorandum of Understanding between the EJN and Network(s) or similar structures

A Memorandum of Understanding (**hereinafter “MoU”**) is a form of operational and non-operational cooperation that allows for practical cooperation between the EJN and other established and functioning Network(s) or similar structures (**hereinafter “Network”**) by tackling concrete needs, and creates better mutual awareness.

- a) Willingness for more formal cooperation from the Network(s), which is/are parties to the MoU, is necessary, in order to conclude an MoU.

¹ EJN/2013/7.

- b) An MoU enables the signatories to set clear priorities and goals with regard to the cooperation.
- c) An MoU provides the necessary tools for better communication and direct contact between EJM contact points and contact persons of other Network(s).
- d) Willingness by the EJM and other Network(s) to contribute actively to the implementation of a MoU is necessary.

2.2. Strengthened cooperation between the EJM and a Network

Strengthened cooperation between the EJM and an established and functioning Network is both operational and non-operational, and is run without any formal cooperation agreement.

- a) Cooperation is practiced both through operational contacts via the EJM Secretariat and, *inter alia*, by inviting representatives of other Networks regularly to the plenary meetings of the EJM.
- b) Without a cooperation agreement in place, no binding commitments exist for the EJM and another Network.
- c) Without a cooperation agreement in place, no specific goals, such as exchange of lists of contact points or participation in common training activities/operational meetings or better communication and direct contact between the contact points, can be achieved.

2.3. Contact points nominated by 3rd countries

Another form of cooperation is via contact points nominated by 3rd countries. Contact points facilitate the EJM contact points in their operational work with a 3rd country.

- a) Efficient in those countries where no Networks are in place but which nevertheless, due to the operational needs of the EJM, demand closer judicial cooperation in criminal matters.
- b) Possible also in cases in which a Network is established but it is not (yet) functioning.
- c) Possible also in cases in which a Network is in place and cooperation with the EJM has been established. However, due to the operational needs of the EJM, enhanced cooperation is needed with this particular 3rd country belonging to a Network.
- d) Opens the possibility for closer cooperation with those regions that have nominated contact points.
- e) On the other hand, a centralised contact point within a 3rd country may not respond to the operational needs of the EJM as opposed to decentralised contact persons across the country/region.
- f) The contact details of the nominated contact points of 3rd countries are distributed to the EJM contact points.
- g) The list of EJM contact points remains confidential unless agreed by the EJM on a case-by-case basis.

2.4. Cooperation through the EJM Secretariat

Cooperation through the EJM Secretariat is so far the most common form of cooperation, facilitating the operational work of the EJM contact points with any 3rd country. It is done through the EJM Secretariat that has established contacts either with Network counterpart or with a 3rd country.

- a) The first step of cooperation with a “new” Network/3rd country is mainly at the request of EJM contact points on case-by-case basis.
- b) Allows the EJM contact points to be in contact with any 3rd country, even when no contact point has been nominated by the 3rd country, and in those regions in which no judicial Networks in criminal matters have been created.
- c) Helpful in cases in which no response from a Network/3rd country has been received or a 3rd country has shown a lack of willingness to nominate a contact point.
- d) However, mutual trust may most efficiently be created only through personal contact.

3. Principles of implementation

Without prejudice to its flexible structure, the EJM recognizes the need to create an optimal framework for collaboration between the Networks/3rd countries.

Without prejudice to the considerations and approaches set forth in this document, cooperation with Networks, 3rd countries and other partners is established and maintained on a case-by-case basis depending on the needs of the EJM.

The EJM Secretariat, in close cooperation with the EJM Presidency, may take any action within its mission and tasks, with the main objective of promoting networking in the field of judicial cooperation in criminal matters by (i) cooperating with existing and future Networks; (ii) establishing and deepening close regional cooperation with 3rd countries; and (iii) maintaining and creating partnerships and other forms of cooperation with other entities.

3.1. Networks

Cooperation with other Networks will be based on inherent ties between the EJM and other Networks, taking into consideration their identity, objectives, structure and mode of operation, which have been in existence since the creation of those Networks. In addition, in terms of cooperation at the level of the EJM Secretariat and its Network counterparts, collaboration between the Networks is triggered and led by operational need.

Cooperation with judicial Networks is based on the following common values and principles shared by the Networks: a practical structured mechanism of judicial cooperation, a flexible and horizontal structure, an “informal” working method, and the establishment of “informal” cooperation between the EJM and a judicial Network.

Where relevant, goals set and other points agreed in MoUs will be based on the values referred to above.

Support will be given to the creation of similar operational mechanisms by advising on the creation of new Networks through any necessary activity.

A future goal, expanding on the initiative launched by the EJM, is achieving a common basis for closer cooperation for several Networks that allows for exchange and multiplied synergies on a joint

platform, acknowledging the need for a multilateral approach, i.e. for interconnection of the Networks.

The collaboration between the EJM and other Networks is open to all existing Networks and any future Networks that share its main values and principles, and, in particular, are operational.

3.2. 3rd countries

When collaborating with 3rd countries, an approach similar to that of the Networks and comparable structures referred to above is applied, to the extent possible, to find appropriate solutions for effective mutual legal assistance to satisfy the operational needs of the EJM.

The EJM is open to cooperation with all 3rd countries, provided that the cooperation is in line with the principles set out in this document, any other relevant document approved by the EJM, and with its tasks and competences.

3.3. Other partners

When collaborating with other partners, an approach taken is that such collaboration will most efficiently target the needs of the EJM in accordance with the internal organisation and competence of the partner.

4. Cooperation established

4.1. List of Networks and similar structures

	Name of the structure	Abbreviation	Member countries
a)	The Ibero-American Network of International Legal Cooperation	IberRed	Spain, Portugal, Andorra, and Argentina, Bolivia, Brazil, Chile, Columbia, Costa Rica, Cuba, the Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Puerto Rico, Uruguay, and Venezuela
b)	The Network of judicial international cooperation of the Portuguese speaking countries (Rede Judiciária da CPLP)	CPLP	Angola, Brazil, Cape Verde, Guinea-Bissau, Mozambique, Portugal, Sao Tome and Principe, and Timor-Lest
c)	The Commonwealth Network of Contact Persons	CNCP	Antigua and Barbuda, Australia, the Bahamas, Bangladesh, Barbados, Belize, Botswana, Brunei Darussalam, Cameroon, Canada, Cyprus, Dominica, Fiji, Gambia, Ghana, Grenada, Guyana, India, Jamaica, Kenya, Kiribati, Lesotho, Malawi, Malaysia, the Maldives, Malta, Mauritius, Mozambique, Namibia, Nauru, New Zealand, Nigeria, Pakistan, Papua New Guinea, Samoa, the Seychelles, Sierra Leone, Singapore, the Solomon Islands, South Africa, Sri Lanka, St Kitts and Nevis, St Lucia, St Vincent and the Grenadines,

			Swaziland, Tonga, Trinidad and Tobago, Tuvalu, Uganda, the United Kingdom, the United Republic of Tanzania, Vanuatu, and Zambia
d)	The South Eastern European Prosecutors Advisory Group	SEEPAG	Republic of Albania, Bosnia and Herzegovina, the Republic of Bulgaria, the Republic of Croatia, the former Yugoslav Republic of Macedonia, the Hellenic Republic, Hungary, the Republic of Moldova, Montenegro, Romania, the Republic of Serbia, and the Republic of Turkey
e)	Judicial Regional Platform of the Indian Ocean Commission	IOC	Comoros, France (Réunion), Madagascar, Mauritius and the Seychelles
f)	Judicial Regional Platform of Sahel countries	SAHEL	Burkina Faso, Mali, Mauritania and Niger
g)	EuroMed Justice III project	EuroMed	People's Democratic Republic of Algeria, the Arab Republic of Egypt, Israel, the Hashemite Kingdom of Jordan, Lebanon, the Kingdom of Morocco, the Palestinian Authority, the Syrian Arab Republic (<i>formally part of the project even if there is a partial and temporary suspension of the EuroMed Justice III project in terms of Syrian participation</i>), the Republic of Tunisia, and Libya
h)	EU funded Pre-Accession Assistance (IPA) 2010 project "Fight against organised crime and corruption: Strengthening the Prosecutors' Network" in the Western Balkans	WBPN	Albania, Bosnia and Herzegovina, Kosovo (<i>this designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence</i>), the former Yugoslav Republic of Macedonia, Montenegro, and Serbia
i)	Judicial Cooperation Network of Morocco (<i>Réseau Marocain de Coopération Judiciaire Internationale</i>)	RMCI	Kingdom of Morocco
j)	National Council of the Prosecutors-General (<i>Conselho Nacional dos Procuradores-Gerais</i>)	CNPG	All 27 states of Federative Republic of Brazil (27 <i>Procurador-Geral de Justiça</i>), the Prosecutor-General (<i>Procurador-Geral da República</i>), the Ministry of Labour (<i>Ministério Público do Trabalho</i>), and the Ministry of Defence (<i>Ministério Público Militar</i>)

4.2. List of Memoranda of Understanding (MoU)

	Partner	Place & time	Status
a)	IberRed: MoU between the EJN and IberRed	June 2010 Madrid, Spain	Exchange of lists confirmed at the meeting between the Secretary to the EJN and Secretary General of IberRed in May 2014
b)	ERA: European Academy of Law	November 2010 Trier, Germany	Roadmap with ERA for enhanced cooperation
c)	CNPG: MoU for Mutual Legal Assistance with the National Council of Attorneys General	August 2012 Salvador de Bahia, Brazil	CNPG nominated an informal contact point for EJN
d)	EJTN: MoU between EJTN and its partners	June 2014 Brussels, Belgium	Signed and to be implemented
e)	CNCP: MoU between EJN and Commonwealth Network of Contact Persons	<i>In progress</i>	Willingness for more formal cooperation was expressed by CNCP after the 42 nd plenary meeting of the EJN contact points; MoU currently being drafted by the CNCP

4.3. List of 3rd countries cooperating/requesting cooperation with EJN

	Country
a)	Bosnia and Herzegovina
b)	Burkina Faso
c)	Canada
d)	Commonwealth of Australia
e)	Federal Republic of Nigeria
f)	Federative Republic of Brazil
g)	Georgia
h)	Hashemite Kingdom of Jordan
i)	Japan
j)	Kingdom of Morocco
k)	Macao Special Administrative Region of the People's Republic of China
l)	Republic of Azerbaijan
m)	Republic of Chile
n)	Republic of Guinea-Bissau
o)	Republic of Korea
p)	Republic of Serbia
q)	Russian Federation
r)	State of Israel
s)	United Mexican States
t)	United States of America

4.4. List of 3rd countries requested by EJM contact points

Country	
a)	Argentine Republic
b)	Bolivarian Republic of Venezuela
c)	Commonwealth of The Bahamas
d)	Federative Republic of Brazil
e)	Hong Kong Special Administrative Region of the People's Republic of China
f)	Republic of Chile
g)	Republic of Ecuador
h)	Republic of Kosovo
i)	Republic of Montenegro
j)	Republic of Peru
k)	Republic of Seychelles
l)	Republic of Singapore
m)	Republic of South Africa
n)	Russian Federation
o)	United Arab Emirates

4.5. List of other EJM partners

4.5.1. EU structures

Partner	
a)	European Commission
b)	Council of the European Union
c)	Council of Europe
d)	eJustice
e)	Eurojust
f)	Network of National Experts on Joint Investigation Teams
g)	European Network of contact points in respect of persons responsible for genocide, crimes against humanity and war crimes
h)	European Academy of Law (ERA)
i)	CARIN (Europol)
j)	EUROPRIIS
k)	European Organisation for Probation (CEP)
l)	Fundamental Rights Agency (FRA)
m)	Victim support groups in EU

4.5.2. Other Partners

Partner	
n)	European Judicial Training Network (EJTN)
o)	United Nations Office on Drugs and Crime (UNODC)
p)	United Nations (UN)
q)	Justice Sector Peer-Assisted Learning (JustPAL) Network
r)	European Union Co-ordinating Office for Palestinian Police Support (EUPOL COPPS)
s)	International Criminal Tribunal for the former Yugoslavia (ICTY)
t)	International Criminal Court (ICC)

5. Objectives of cooperation with regard to other Networks/3rd countries/EJN partners

5.1. Sharing lists of contacts

- a) The manner of sharing lists of contacts to provide the EJN with access to contact details of contact persons of other Networks, and, on a reciprocal basis, access to the list of EJN contact points, will be decided by the EJN contact points in line with the provisions set forth in this document.
- b) In this respect, the EJN Secretariat, in close cooperation with the EJN Presidency, is engaged in discussions with other Networks/3rd countries.
- c) The state of play of the discussions is presented at an EJN meeting.
- d) The decision whether to share contacts with another Network/3rd country is taken by consulting the EJN Secretariat, the EJN Presidency and EJN contact points.
- e) A step-by-step approach is taken when deciding upon sharing the lists of contact points.

5.2. Exchanging information and promoting operational meetings

- a) EJN/Networks/3rd countries/partners promote initiatives, which enable the exchange of:
 - legal and practical information concerning the judicial and procedural system, and a description of the functions of the judicial authorities and other authorities with competence in international judicial cooperation;
 - operational and non-operational strategic information, such as tendencies and new criminal phenomena related to organised transnational crime and the strategies, *modus operandi* and techniques of criminal organisations; and
 - strategies and best practice for enhancement of international judicial cooperation in criminal matters.
- b) Depending on the topic of the EJN plenary meeting, the EJN Presidency may also invite to the plenary meeting operational members/contact persons of other Networks and partners along with those representatives of other Networks/3rd countries/partners who are listed in the *“Revised guidelines on the European Judicial Network meetings”*².
- c) In line with the principles set out in this document, the EJN Secretariat organises *ad hoc* and/or regular operational meetings between EJN contact points and representatives and operational members or contact persons of other Networks/3rd countries/partners. Both the number of participants among the EJN contact points and which Member States are represented are decided based on the needs of the EJN and of the other Network/3rd country/partner.
- d) Inviting representatives of other Networks/3rd countries regularly to the plenary meetings of the EJN is continued, as it is considered a best practice.
- e) The EJN Secretariat may finance participation of the representatives of the EJN or EJN contact points in meetings organised by another Network/3rd country/partner under Objective 6.2 of the annual Work Programme of the EJN³.

² EJN/2014/4.

³ EJN/2014/....

5.3. Participating in operational training activities

- a) The EJM/Networks/3rd countries/partners create mutual awareness to facilitate communication among all contact points.
- b) The EJM Secretariat discusses with other Networks/3rd countries/partners the possibility to hold joint operational training activities for local judicial authorities and proposes these to the EJM with the goal of providing training activities to the EJM contact points.
- c) The EJM supports other Networks/3rd countries/partners in operational training activities with the goal of disseminating information and contributing expertise in international judicial cooperation in criminal matters.

5.4. Cooperating in the field of information technology tools

Appropriate measures are taken by the EJM Secretariat through sharing experience, best practice and expertise with other Networks/3rd countries/partners with regard to using operational IT tools created by the EJM and to setting up new tools to facilitate judicial cooperation.

5.5. Maintaining permanent contact

- a) The EJM maintains permanent contact and cooperation between representatives of other Networks/3rd countries/partners with the mind-set of and on the basis of the principle of reciprocity.
- b) The EJM Secretariat takes appropriate measures to ensure closer cooperation with counterparts of other Networks or representatives of 3rd countries/partners, in accordance with their internal organisation and competence, to provide assistance to the EJM.

6. Concluding remark

The EJM Secretariat updates, on a regular basis, information provided for in Point 4 of this White Paper by submitting to the EJM a list of contact persons of other Networks, a list of contact points in 3rd countries, a list of requests from EJM contact points and a list of requests from 3rd countries to cooperate with the EJM.