



Council of the  
European Union

Brussels, 2 September 2021  
(OR. en)

11539/21

JAI 950  
COPEN 344  
EJN 63

**NOTE**

---

From: General Secretariat of the Council  
To: Delegations

---

Subject: Report on the activities and management of the European Judicial Network  
(EJN) 2019-2020

---

Delegations will find attached the above mentioned report, which is also available on the [EJN website](#).

# European Judicial Network Report on activities and management

2019-2020



[www.ejn-crimjust.europa.eu](http://www.ejn-crimjust.europa.eu)

# European Judicial Network Report on activities and management

2019-2020

# Contents

<b>FOREWORD BY THE SECRETARY TO THE EUROPEAN JUDICIAL NETWORK</b>	<b>5</b>
<b>1. EJNI CONTRIBUTION TO JUDICIAL COOPERATION IN CRIMINAL MATTERS</b>	<b>7</b>
<b>1.1. Overview</b>	<b>7</b>
<b>1.2. Judicial cooperation in an extraordinary setting: COVID-19 and the measures taken by the EJNI to support the judicial practitioners</b>	<b>10</b>
<b>1.3. European Arrest Warrant</b>	<b>12</b>
1.3.1. Operational aspects	12
1.3.2. Institutional aspects	12
<b>1.4. Obtaining evidence across borders: European Investigation Order and mutual legal assistance</b>	<b>16</b>
1.4.1. European Investigative Order	16
1.4.2. Requests for mutual legal assistance	21
<b>1.5. Mutual recognition instruments</b>	<b>23</b>
1.5.1. Freezing and confiscation	23
1.5.2. Other mutual recognition instruments	24
<b>1.6. Topics in focus</b>	<b>26</b>
1.6.1. E-evidence	26
1.6.2. e-Evidence Digital Exchange System	27
1.6.3. Victims' rights	27
1.6.4. Brexit	28
<b>1.7. Cooperation with EJNI associate and EU candidate countries</b>	<b>29</b>
1.7.1. Operational aspects	29
1.7.2. Cooperation with the Western Balkan countries	29
1.7.3. Cooperation with partner institutions in the Western Balkans	30

<b>1.8. Cooperation with judicial networks and third countries</b>	32
1.8.1. Operational aspects	33
1.8.2. Cooperation with partner institutions and judicial networks	34
<b>1.9. Judicial training</b>	36
<b>2. FUNCTIONING AND MANAGEMENT OF THE EJN</b>	37
<b>2.1. EJN Peer Evaluation</b>	37
<b>2.2. EJN meetings</b>	38
2.2.1. EJN Presidencies 2019-20	39
2.2.2. EJN Regional Meetings in 2019	42
2.2.3. EJN National Meetings in 2019	42
2.2.4. EJN Regional and National Meetings in 2020	42
<b>2.3. EJN website</b>	43
<b>2.4. EJN awareness</b>	46
<b>2.5. EJN Secretariat</b>	46
<b>2.6. EJN Budget</b>	47
<b>3. EJN COOPERATION WITH ACTORS IN THE FIELD OF JUDICIAL COOPERATION</b>	50
<b>3.1. Cooperation with EU institutions</b>	50
3.1.1. European Commission	50
3.1.2. Council of the European Union	51
<b>3.2. Eurojust</b>	52
<b>3.3. Cooperation with EU networks</b>	53
<b>3.4. European Public Prosecutor's Office</b>	53
<b>3.5. Europol</b>	54

## Foreword by the Secretary to the European Judicial Network

Dear reader,

I am pleased to present the 6th Biennial Report on the European Judicial Network (EJN) activities and management, providing insight on the activities of the Network in the period 2019-20.

In the challenging reporting period 2019-20, marked by the global COVID-19 pandemic and changes in judicial cooperation due to Brexit, the EJN continued to actively support the judicial practitioners as a key actor in the area of judicial cooperation in criminal matters. The EJN, through its Contact Points, continued to be a reliable channel for facilitating the judicial cooperation between the national authorities

in the EU Member States by supporting them in establishing direct contacts and resolving legal issues in their investigations of cross-border crimes. Furthermore, the Network was instrumental in providing timely information to the Contact Points and national authorities on changes in the legal framework and procedures. The EJN also further strengthened its contacts with judicial authorities of third countries and other regional judicial networks, with the aim of ensuring better and more efficient communication in the cooperation on cases with these countries.

The EJN supported practitioners in the EU Member States with regard to the application of the various legal instruments for judicial cooperation such as the European Investigation Order (EIO), European Arrest Warrant (EAW) and other EU mutual recognition instruments by providing possibilities for discussing the recent case law of the CJEU as well as for exchange of best practice.

Continuously striving to develop the Network and the cooperation further, the EJN undertook the performance of "EJN Peer Evaluation" exercise with the active participation of the EJN Contact Points. The exercise was an opportunity for the EJN to evaluate internally the functioning of the Network with a special focus on its operational functions and the support to judicial cooperation. On the basis of the Evaluation, the EJN adopted an Action Plan with activities for further improving the functioning of the EJN, the cooperation within the Network and with other partner networks and EU bodies. I am particularly happy to observe that the EJN Contact Points highly value the resources on the EJN website and the EJN meetings as well as that they indicated that the assistance of their EJN colleagues have provided a success rate of more than 84 % of their cases.

Over the past two years, the EJN further improved its website and the website tools with the aim of effectively supporting the judicial authorities in their daily work involving judicial cooperation in criminal matters. With approximately 2.5 million yearly visits to the website, I am pleased to observe that the judicial practitioners find all the relevant information they need to prepare their requests for judicial cooperation.

The Judicial Atlas is regularly updated in order to give the correct information on the executing authorities to the judicial practitioners. The EJN Fiches Belges has been reviewed and a new structure was introduced. The Judicial Library and the Status of Implementation of the legal instruments was improved and revised. The Compendium was reviewed and an instruction video was created for it. In addition, the EJN undertook a project for the complete redesign of the EJN website with the aim of modernising it and making it more user-friendly. It is anticipated that the new website will be launched by the end of 2021.



*OLA LÖFGREN, SECRETARY TO THE EJN*

I am pleased to present the achievements of the EJM as outlined in this Report and I would like to take the opportunity to thank all the EJM Contact Points, EJM National Correspondents and EJM Tools Correspondents for their dedication, expertise and professionalism in undertaking their responsibilities. I would also like to thank the Romanian, Finnish, Croatian and German Presidencies for very good cooperation and for sharing responsibilities, in particular for chairing the meetings as well as for hosting the 2019 EJM plenary meetings.

On behalf of the EJM Secretariat, let me express our continuous commitment to supporting the activities of the EJM.



Ola Löfgren.

# 1. EJM contribution to judicial cooperation in criminal matters

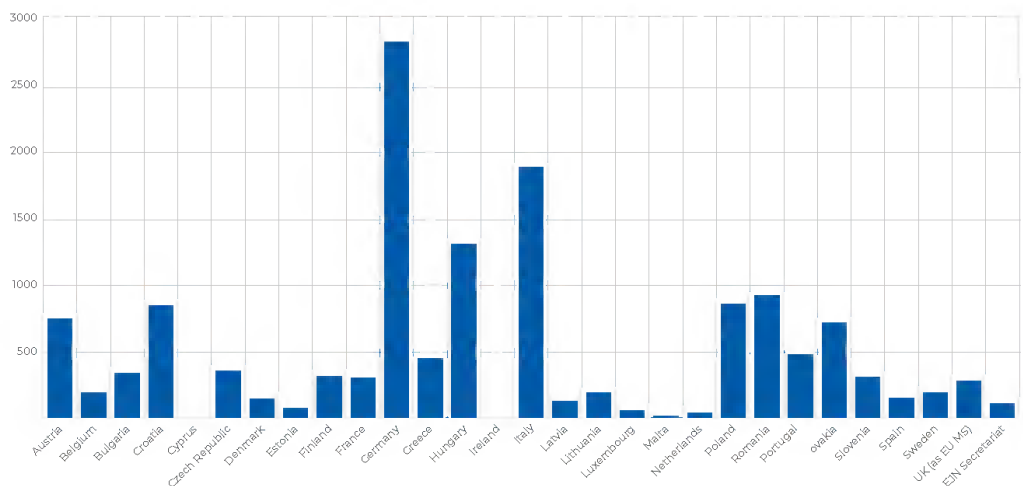
## 1.1. Overview

Facilitating judicial cooperation in criminal matters is the core task of the EJM. In accordance with the legal basis of the EJM, [Council Decision 2008/976/JHA on the European Judicial Network](#)<sup>1</sup> (EJM Decision), the Contact Points' role is to facilitate the execution of requests for judicial cooperation by assistance to establish direct contacts between competent national judicial authorities, support in the drafting stages of the requests for legal assistance, and provide assistance in urgent cases and cases of delayed execution of requests. They also assist with providing information about national law and legal system.

During the 2019-20 reporting period, the EJM continued to actively facilitate the execution of requests for legal assistance and to support the national judicial authorities in the application of the various judicial cooperation instruments such as the European Arrest Warrant (EAW), European Investigation Order (EIO), mutual legal assistance (MLA) requests and freezing orders, as well as less commonly used mutual recognition instruments such as the European Protection Order and Supervision measures. Furthermore, the EJM was a pioneer in providing the national practitioners with the necessary practical information about new legal instruments coming into force such as Regulation 2018/1805 on freezing and confiscation<sup>2</sup>.

In addition to the support provided by the EJM in respect of the EU legal framework on judicial cooperation, the EJM Contact Points continued to provide assistance to the national authorities with information and assistance concerning the application to legal instruments of the Council of Europe and the United Nations, where the cases involved third countries.

Heavily relying on the EJM to facilitate their requests in the period 2019-20, the judicial practitioners used the EJM as a channel for cooperation by the national judicial authorities in more than 14 000 cases. The following graphs provide visual representation of the cases supported by the EJM: per country, per legal framework applied and per type of assistance provided by the EJM Contact Points.

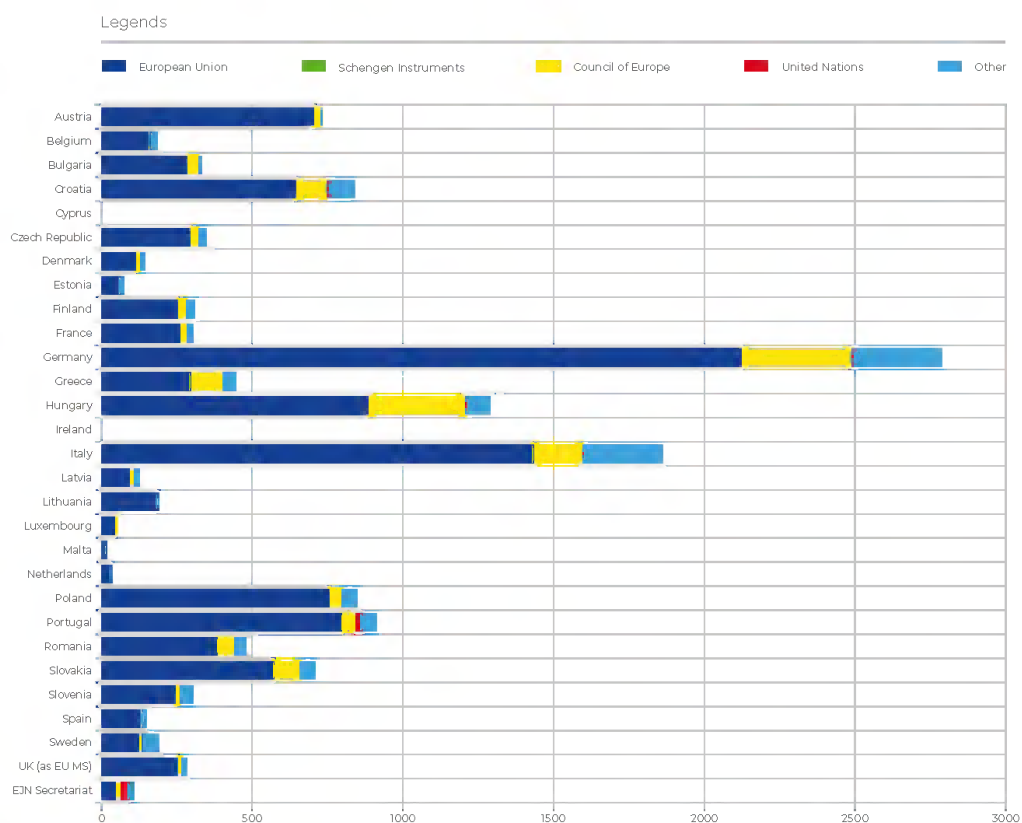


EJM CASES PER COUNTRY, 2019-2020

1. Council Decision 2008/976/JHA of 16 December 2008 on the European Judicial Network (OJ L 348, 24.12.2008, pp. 130-134). Available here: [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L\\_.2008.348.01.0130.01.ENG&toc=OJ%3AL%3A2008%3A348%3ATOC](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2008.348.01.0130.01.ENG&toc=OJ%3AL%3A2008%3A348%3ATOC)

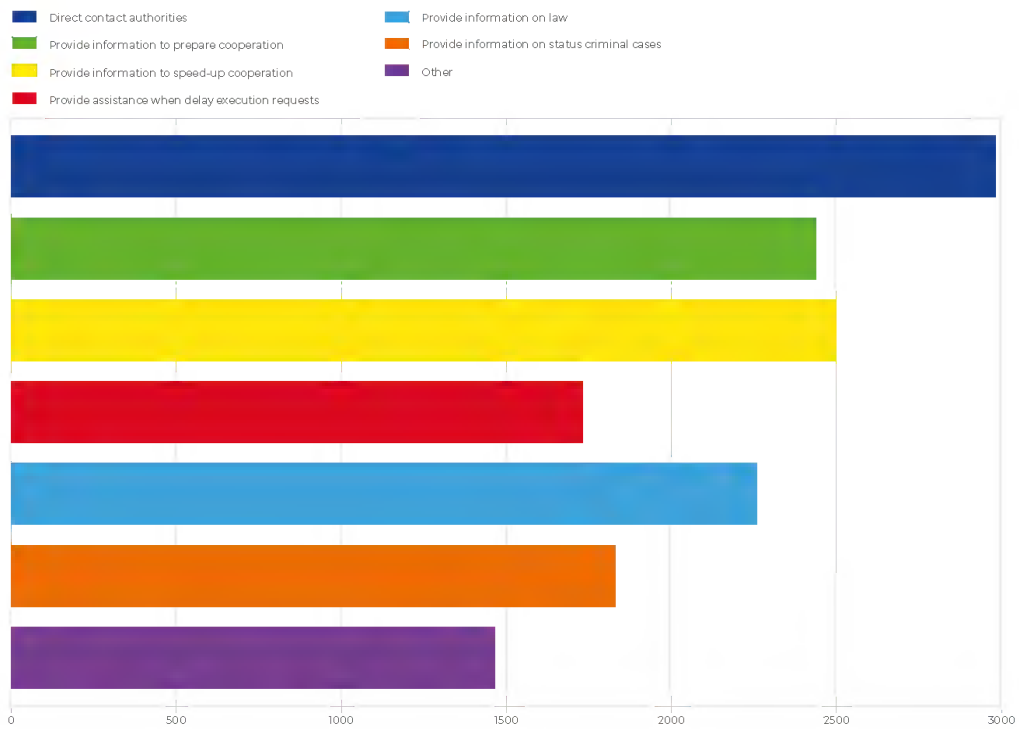
2. Regulation (EU) 2018/1805 of the European Parliament and of the Council of 14 November 2018 on the mutual recognition of freezing orders and confiscation orders (OJ L 303, 28.11.2018, pp. 1-38). Available here: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32018R1805&qid=1609943728152>





EJM CASES PER LEGAL FRAMEWORK, 2019-2020

Legends



TYPE OF ASSISTANCE PROVIDED BY EJN<sup>3</sup>

The following sections of the report illustrate the activities of the EJN Contact Points with respect to the application of the various judicial cooperation instruments.

3. In some cases, more than one type of assistance was provided by the EJN Contact Points.

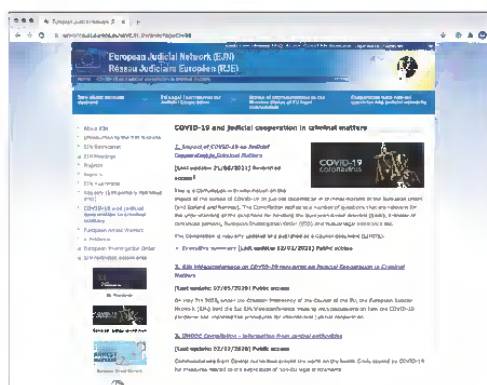
## 1.2. Judicial cooperation in an extraordinary setting: COVID-19 and the measures taken by the EJM to support the judicial practitioners

The beginning of 2020 was marked with the outbreak of COVID-19: the disease that changed the established order around the world. On 11 March 2020, the World Health Organization characterised the situation as a pandemic. In efforts to contain the spread of this infection, many countries imposed strict restrictions regarding free movement inside and outside the European Union that, in turn, affected the judicial cooperation in criminal matters, particularly in cooperation that requires cross-border travelling.

For example, the procedure of the transfer of a person to one state to another, irrespective of its legal basis – be it FD 2002/584/JHA on the **European Arrest Warrant**, FD 2008/909/JHA on the mutual recognition of the judgments imposing **custodial sentences** or even Directive 2014/41/EU regarding the **European Investigation Order** – became compromised due to the grounded flights and partially closed borders even within the Schengen area.

To keep Contact Points and other practitioners aware of the changes that occurred in the Member States after the start of pandemic, the EJM Secretariat immediately created a special section 'COVID-19 and judicial cooperation in criminal matters' on the EJM website, ensuring easy access to information on how to handle judicial cooperation during situation of uncertainty inside and outside the European Union.

In this area, the EJM Secretariat compiled a wide range of information from the various sources, offering national authorities a comprehensive overview of the possibility to use different legal cooperation instruments during the pandemic.



### Impact of COVID-19 on judicial cooperation in criminal matters

In effort to continue cross-border cooperation during the pandemic and to gather the information on the measures applied by the countries, several questionnaires were launched by the Council, as well as by the initiative of the EJM Contact Points.

In the beginning, the main question in focus was the application of paragraphs 3 and 4 of Article 23 of the FD on the EAW, namely, the interpretation of the term 'circumstances beyond the control of any of the Member States' and the application of paragraph 4 in case the practical surrender of a person is unfeasible due to restrictions.

Shortly after, it became clear that the pandemic also affected other areas of judicial cooperation, from freezing and confiscation to joint investigation teams (JITs) that required gathering more information from the Member States. Therefore, the EJM and Eurojust collected information on the necessary topics and submitted the compiled information to the Member States.

In April 2020, the Council gave a mandate to the EJM and Eurojust to prepare a compilation of all

#### Article 23 - Time limits for surrender of the person

[...]

3. If the surrender of the requested person within the period laid down in paragraph 2 is **prevented by circumstances beyond the control of any of the Member States**, the executing and issuing judicial authorities shall immediately contact each other and agree on a new surrender date. In that event, the surrender shall take place within 10 days of the new date thus agreed.
4. The surrender may exceptionally be **temporarily postponed for serious humanitarian reasons, for example if there are substantial grounds for believing that it would manifestly endanger the requested person's life or health**. The execution of the European arrest warrant shall take place as soon as these grounds have ceased to exist. The executing judicial authority shall immediately inform the issuing judicial authority and agree on a new surrender date. In that event, the surrender shall take place within 10 days of the new date thus agreed.

[...]

the responses collected and, if necessary, submit new questions to the Member States and to Iceland and Norway. The compilation has been updated on a regular basis (biweekly since Autumn 2020) and could be found in the 'COVID-19' section of the EJM website. Although the full compilation is password-protected, the executive summary has been made publicly available as a [Council document](#)<sup>4</sup>.

The EJM Contact Points could also access the document made by the JIJs Network Secretariat and based on information received from JIj National experts, on whether concluding a JIj by accepting an electronic version of the agreement duly signed by the other party and exchanging the original versions at a later stage is possible in line with the national legislation of the Member States.

Two other documents that gave practical support to practitioners were:

- **'National Courts and the COVID-19 pandemic'** – a document with restricted access that provided replies on how the courts dealt with the domestic case during the pandemic, and whether the delays of the hearing had caused any constitutional issues;
- **'UNODC Compilation – information from central authorities'** – a compilation that provided information on the communications with central authorities around the world for measures related to the application of non-EU legal instruments during the COVID-19 crisis.

#### ***EJM Videoconference Meeting on the COVID-19 measures for judicial cooperation***

On 7 May 2020, under the Croatian Presidency of the Council of the European Union, the EJM held the 1st EJM videoconference meeting to discuss how the COVID-19 pandemic has impacted the procedures for international judicial cooperation.



The EJM National Correspondents/Contact Points from 23 EU Member States participated in the meeting together with the EJM Secretariat and a representative from Eurojust. They exchanged information on the challenges that the practitioners in their EU Member State are facing with regard to the practical application of the different cooperation procedures. They also shared the provisional measures adopted in their countries during the pandemic that have been adopted to advance with the investigations. During the meeting, the EJM participants identified difficulties, best practice and possible solutions to deal with cross-border cases during COVID-19 as well as how the EJM could support practitioners further during this difficult time.

*EJM VIDEOCONFERENCE MEETING ON COVID-19 MEASURES ON 7 MAY 2020*

The conclusions from the meeting were published as [Council doc. 7923/20](#) on 11 May 2020.

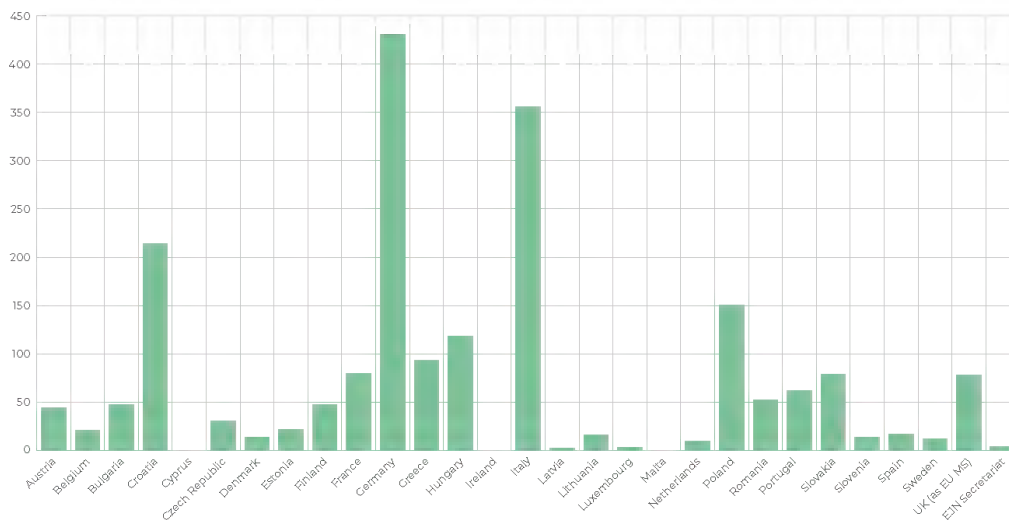
4. Council doc. 7693/20 (regularly updated). Available here: [https://www.ejm-crimjust.europa.eu/ejm/EJM\\_DynamicPage/EN/86](https://www.ejm-crimjust.europa.eu/ejm/EJM_DynamicPage/EN/86)

### 1.3. European Arrest Warrant

Adopted in 2002, the Framework Decision on the European Arrest Warrant (EAW FD<sup>5</sup>) remains one of the most effective and frequently used EU legal instruments in the field of judicial cooperation in criminal matters. In the period 2019-20, the EAW has been discussed in EJN meetings on numerous occasions because of the new jurisprudence of the Court of Justice of the EU (CJEU) in this area having direct impact on the application of the instrument. Additionally, the EJN remains a main channel for the facilitation of the execution of EAWs, so discussions within the EJN are instrumental for better cooperation in EAW cases.

#### 1.3.1. Operational aspects

The EJN Contact Points have an important role in facilitating the execution of EAWs, by fostering cooperation and smoothing communication between the national judicial authorities. The central role of EJN Contact Points in assisting the practical application of the EAW is reflected in the graph below, showing the activities reported by the EJN Contact Points in cases of EAW execution for the period 2019-20, namely more than 1 900 cases. This shows that the national judicial authorities heavily rely on the support of the EJN Contact Points in EAW cases.



EJN SUPPORT TO EAW CASES 2019-20

To demonstrate the operational efficiency of the EJN in EAW cases, the following example could be considered:

#### 1.3.2. Institutional aspects

In addition to the operational work on cases involving execution of EAWs, the EJN and the EJN Contact Points closely monitored the developments in the area of EAW and its practical application. In this respect, the EJN observed and analysed in detail the case law of the CJEU on the topic and held timely discussions on its impact on the EAW proceedings during the EJN meetings. Additionally, due to the extensive experience of the EJN Contact Points, the EJN was invited to contribute to several EAW-related projects and to provide the perspective of the judicial practitioners.

5. Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (OJ L 190, 18.7.2002). Available here: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32002F0584>

#### **EAW cooperation: Germany – Scotland (UK) - Spain**

One Tuesday evening, a German EJM Contact Point was contacted by a Scottish EJM Contact Point on the basis of information that a person who was considered the head of an organised crime group had arrived at Munich airport from Madrid two days before and had hired a car. The Scottish authorities asked to trace and arrest the person, enclosing an EAW.

On the same evening, the German EJM Contact Point instructed the Fugitive Active Search Team (FAST) of Bavarian police to carry out investigations into the whereabouts of the person subject to the EAW.

The following morning, investigations at the car rental company showed that there was a reservation for a car made by the person. However, it became apparent that the reservation was for the upcoming Friday and that the car should be picked up at Frankfurt airport. Further investigations revealed that the person had not travelled from Madrid to Munich as initially anticipated but had instead booked a flight from Malaga to Frankfurt for the coming Friday.

The Scottish authorities were informed about the findings of the German investigation. They contacted the Spanish authorities to have the person arrested at Malaga airport before boarding the flight to Frankfurt.

Additionally, the German EJM Contact Point informed the Frankfurt Prosecutor General's Office about the pending EAW and the facts of the case so they could execute the EAW proceedings in case an arrest of the person would take place at Frankfurt airport.

In the end, the Spanish police arrested the person in Malaga.

#### **Issuing and executing authorities in EAW proceedings pursuant the case-law of the CJEU**

On 27 May 2019 the CJEU delivered judgments in the Joint Cases C-508/18 and C-82/19<sup>6</sup> and Case C-509/18<sup>7</sup>. All three cases elaborated on the question of whether a public prosecutor is a judicial authority within the meaning of Article 6(1) of the EAW FD. In these judgments, the Court ruled that the autonomy of the public prosecutor is a governing factor on whether it should be considered competent to issue EAWs. The Court, however, also considered in follow-up cases that, in addition to the autonomy of the public prosecutor, the possibility to afford at national level an 'effective judicial protection' and, to that end, the possibility to legally challenge the prosecutor's decision to issue an EAW and particularly in relation to the proportionality of such a decision. As early as a few days after the judgments, the EJM started to receive and collect statements from the EU Member States on the autonomy of the Public Prosecutor's Offices within the national judicial systems.

The jurisprudence of the CJEU was subject to discussion in two EJM plenary meetings, respectively under the Romanian and Finnish Presidencies of the Council of the European Union. The timely discussions during the meetings allowed the EJM Contact Points to exchange information with regard to the practical application of these judgments and their immediate effects on judicial cooperation and the structure of the judicial systems in the European Union. In addition, due to the fact that the EJM plenary meeting in Romania took place only four weeks after the judgments of the CJEU, the EJM provided a forum for deliberations for the practitioners to overcome difficulties with pending cases of EAWs that were already issued. The conclusions from both plenary meetings were published as Council documents, respectively Council doc [14400/19](#)<sup>8</sup> and Council doc [14503/19](#)<sup>9</sup>, and presented by the Secretary of the EJM in a COPEN meeting in the Council.

As a follow-up to the case law of the CJEU and in order to further facilitate the work of the practitioners, Eurojust and the EJM worked together on a compilation, providing information on the legal position of the public prosecutor within the national legal systems in their countries as well as the competent authorities to issue EAWs (Council doc [7182/1/20](#)). The compilation was further extended in December 2020 to include information on the EAW executing authorities (Council doc [5607/21](#)), following the judgment of CJEU on case C-510/19<sup>10</sup> that repeated the reasoning from the case law on the 'issuing judicial authorities' vis-à-vis to the requirement on the 'executing judicial authorities'.

6. Joined cases C-508/18 OG and C-82/19 PI. Available here: <http://curia.europa.eu/juris/liste.jsf?num=C-508/18>

7. Case C-509/18 Minister for Justice and Equality v PF. Available here: <http://curia.europa.eu/juris/documents.jsf?num=C-509/18>

8. EJM Conclusions – Current developments on the application of the EAW, 52nd Plenary Meeting of the European Judicial Network (Bucharest, Romania, 26-28 June 2019). Available here: <https://www.ejm-crimjust.europa.eu/ejm/libdocumentproperties/EN/3125>

9. EJM Conclusions – Current developments on the application of the EAW, 53rd Plenary Meeting of the European Judicial Network (Helsinki, Finland, 20-22 November 2019). Available here: <https://www.ejm-crimjust.europa.eu/ejm/libdocumentproperties/EN/3124>

10. Case C-510/19 AZ. Available here: <http://curia.europa.eu/juris/liste.jsf?num=C-510/19>

### **EJN-Eurojust report on extradition of EU citizens to third countries**

In June 2020, the Presidency of the Council of the EU invited the EJN and Eurojust to analyse the practical application of the 'Petruhhin' judgment<sup>11</sup> of the CJEU, aiming to collect information on the practices in the European Union in the extradition of EU citizens to third countries.

As a result, the EJN and Eurojust published a joint report addressing the challenges that the judicial authorities are facing in cases of extradition of EU citizens to third countries and the actual application of the 'consultation procedure' introduced by the CJEU jurisprudence. The joint report is based on the practical experience of Eurojust and the EJN Contact Points in extradition cases, addressing the different steps of the extradition proceedings. The analysis is based on EJN experience collected from EJN Contact Points from 15 Member States and four third countries and 72 Eurojust cases involving extradition requests from 10 EU Member States.

The [full report](#) and the executive summary, which was translated into all EU languages, were published on the EJN website<sup>12</sup>.



### **Agreement of 28 June 2006 between the European Union and the Republic of Iceland and the Kingdom of Norway on the surrender procedure**

In December 2019, the Agreement between the European Union and the Republic of Iceland and the Kingdom of Norway on surrender<sup>13</sup> entered into force, introducing a new legal framework for cooperation in surrender procedures between the European Union and Norway and Iceland. In close cooperation with the EJN Contact Points in Norway and Iceland, the EJN Secretariat developed a [section](#) of the Judicial Library<sup>14</sup> specifically dedicated to this instrument, including the text of the agreement (in all EU languages, Norwegian and Icelandic), the notifications from the Member States and editable arrest warrant forms (in all EU languages, Norwegian and Icelandic).

### **Detention conditions**

In view of the role of the EJN Contact Points to facilitate judicial cooperation and in particular to the support they provide to the national judicial authorities in the execution of EAWs, the EJN is closely monitoring the developments in the case law of the CJEU on detention conditions and their impact on the EAW proceedings. The matter was subject to discussion in two EJN Plenary meetings in 2019.

Pursuant to the judgments of the CJEU in Aranyosi and Căldăraru case<sup>15</sup> and Dorobantu case<sup>16</sup>, the EJN Contact Points confirmed it is common practice for them to request supplementary information from the Member State issuing an EAW on the detention conditions to which the sought person would be exposed after his or her surrender. The information is requested in order to determine whether the detention conditions would breach the human rights protection ensured by Article 3 ECHR and Article 4 of the EU Charter. The practice in the Member States is that they are also observant of the particular requirements on the personal detention conditions.

11. Case C-182/15 Aleksei Petruhhin v Latvijas Republikas Ģenerālprokuratūra. Available here: <http://curia.europa.eu/juris/liste.jsf?num=C-182/15>

12. Available here: [https://www.ejn-crimjust.europa.eu/eir/EJN\\_DynamicPage/EN/85](https://www.ejn-crimjust.europa.eu/eir/EJN_DynamicPage/EN/85)

13. Agreement between the European Union and the Republic of Iceland and the Kingdom of Norway on the surrender procedure between the Member States of the European Union and Iceland and Norway (OJ L 292, 21.10.2006, pp. 2-19). Available here: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A22006A1021%2801%29>

14. Available here: <https://www.ejn-crimjust.europa.eu/ejr/libcategories/EN/197/1/1/1>

15. Joined Cases C-404/15 and C-659/15 Pál Aranyosi and Robert Căldăraru v Generalstaatsanwaltschaft Bremen. Available here: <http://curia.europa.eu/juris/liste.jsf?num=C-404/15>

16. Case C-128/18 Dumitru-Tudor Dorobantu. Available here: <http://curia.europa.eu/juris/liste.jsf?num=C-128/18>

To support the EJN Contact Points and the national judicial authorities in their examination of the detention conditions in the framework of the EAW proceedings, the EJN Secretariat incorporated the FRA's Database on criminal detention in the EU into the [EAW Section](#) on the EJN website<sup>17</sup> as well as in the Judicial Library of the website. In addition, the EJN Secretariat is collecting information from the EU Member States on the competent authorities to issue statements on the conditions in the detention facilities that will also be published on the EJN website.

#### **EAW Council Conclusions: December 2020**

In December 2020, the Council of the European Union published *The European arrest warrant and extradition procedures – current challenges and the way forward*, [Council doc 13684/20](#). The Council confirms that the EAW is a key instrument in the fight against cross-border crime and addressing areas for further improvement of the application of the EAW, such as national transposition, observance of fundamental and procedural rights as well as procedures in extradition of EU citizens to third countries.

The EAW Council Conclusions acknowledge the **essential role of the EJN Contact Points** in facilitating the execution of EAWs and the great support of the EJN to the national judicial authorities in their EAW proceedings during COVID-19. The Council Conclusions foresee an expansion of [the EAW area of the EJN website](#) that will serve as a centralised **EAW Portal at EU level** that would greatly benefit the work of the judicial practitioners across the European Union.

---

<sup>17</sup> Available here: [https://www.ejn-crimjust.europa.eu/ejr/EJN\\_DynamicPage/EN/65](https://www.ejn-crimjust.europa.eu/ejr/EJN_DynamicPage/EN/65)



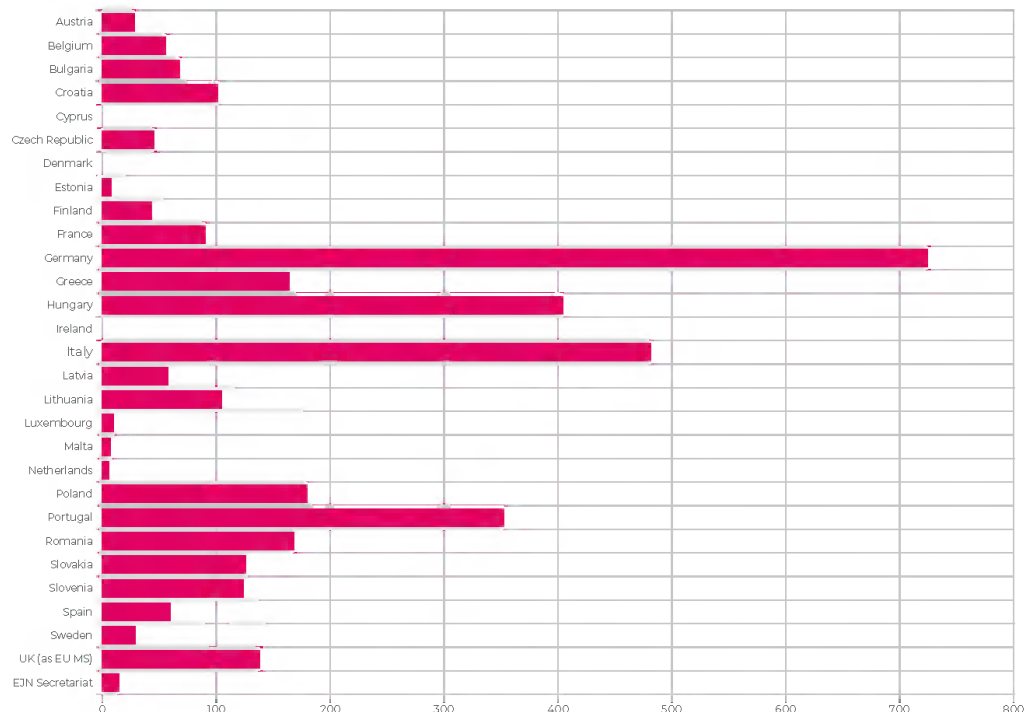
## 1.4. Obtaining evidence across borders: European Investigation Order and mutual legal assistance

### 1.4.1. European Investigative Order

Since the implementation of the EIO Directive<sup>18</sup> in 2017, the EIO has become one of the major instruments for the cooperation in criminal matters between the EU Member States that, to a large extent, replaced the traditional mutual legal assistance (MLA) requests. Although the initial challenges brought by the new tool have been successfully tackled by the practitioners, inter alia, with the support of the EJN, some questions on its application are still outstanding.

#### 1.4.1.1. Operational aspects

In 2019-20, the EJN Contact Points reported more than 3 500 cases in which they assisted with EIO-related requests.



*EJN SUPPORT TO EIO CASES, 2019-2020*

For all EU Member States, apart from Denmark and Ireland, the EIO became a key instrument being used for obtaining evidence in the criminal proceedings; according to Art 34 (1), the EIO Directive replaced the corresponding provisions in a list of EU- and CoE-level conventions:

- European Convention on Mutual Assistance in Criminal Matters of the Council of Europe of 20 April 1959, as well as its two additional protocols and the bilateral agreements concluded pursuant to Article 26 thereof;
- Convention implementing the Schengen Agreement;

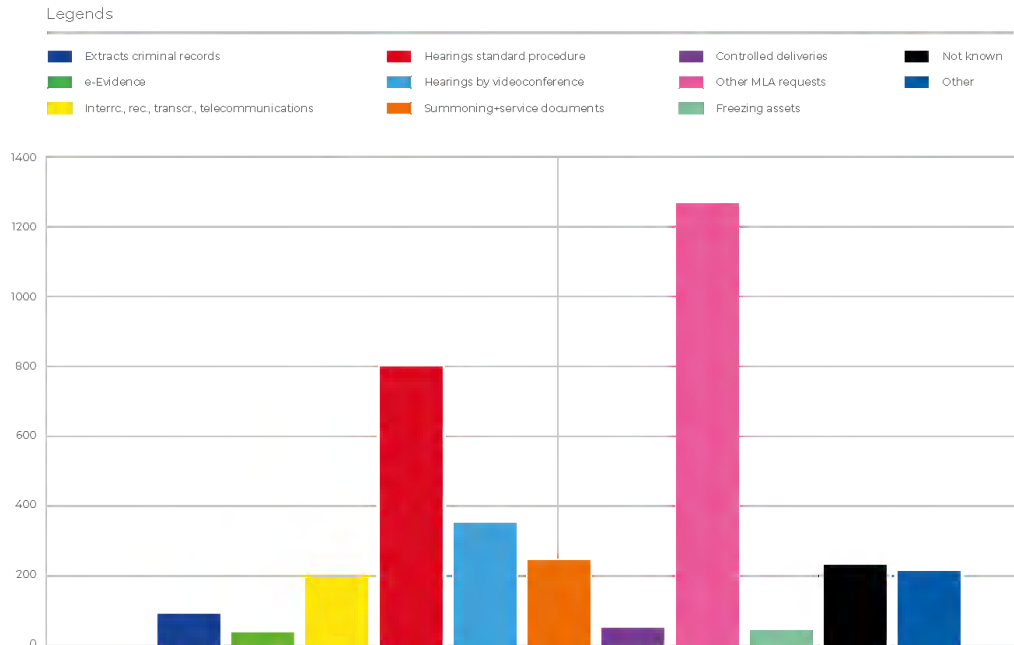
<sup>18</sup> Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters (OJ L 130, 1.5.2014, pp. 1–36). Available here: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0041>

- Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union and its protocol.

The EIO Directive also fully replaced Framework Decision 2008/978/JHA on the European evidence warrant<sup>19</sup>; and partly, for the Member States bound by the EIO Directive - Framework Decision 2003/577/JHA on orders freezing property or evidence<sup>20</sup>.

The following statistics provide an overview on the type of assistance the EIJN Contact Points were involved in, providing information to prepare cooperation and speed up cooperation, as well as providing assistance when delays occur and facilitating direct contacts are the most popular types, forming almost 80 % of all EIO-related requests that were registered by the EIJN Contact Points.

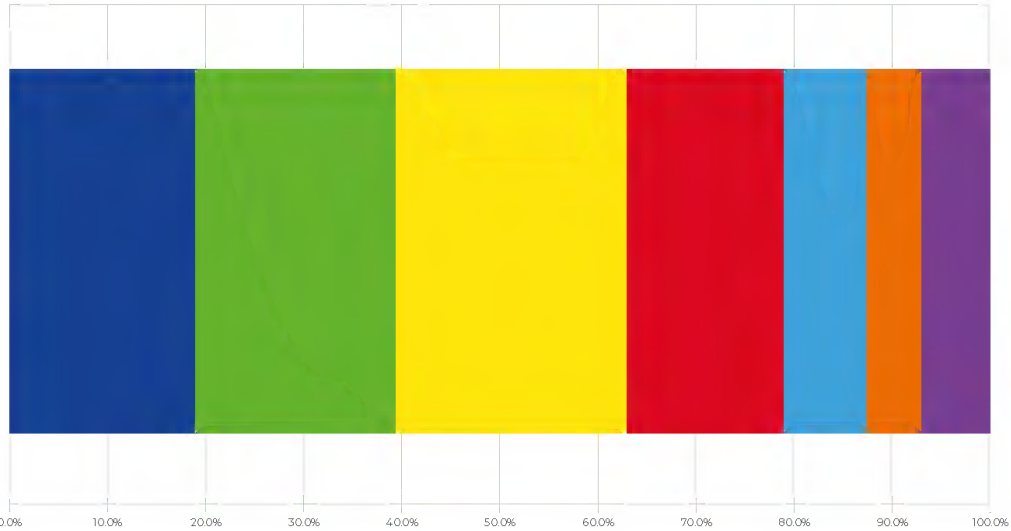
As for the investigative measures the registered EIOs were used for, the most popular were hearing in standard procedure and via videoconference, but summoning and service of documents took third place. Also, there have been nearly 200 EIOs reported for interception, recording and transcription of telecommunications. The practical problems related to interception – mostly to the translation and interpretation – were discussed during the 52nd Plenary Meeting of the EIJN Contact Points in Bucharest.



19. Council Framework Decision 2008/978/JHA of 18 December 2008 on the European evidence warrant for the purpose of obtaining objects, documents and data for use in proceedings in criminal matters (OJ L 350, 30.12.2008, pp. 72–92). Available here: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32008F0978&qid=160994193116>

20. Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence, (OJ L 196, 2.8.2003, pp. 45–55). Available here: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32003F0577&qid=1609941970930>

Legends



TYPE OF ASSISTANCE EIO CASES, 2019-20

The following case study showcases the added value of the EJN and the support of the EJN Contact Points in facilitating the execution of EIOs:

**EIO cooperation: Hungary – Slovakia**

In a criminal case against three defendants on of drug trafficking and money laundering charges in the framework of an organised crime group, one of the defendants was serving a custodial sentence in Slovakia. In the trial phase, an EJN Contact Point from Hungary was contacted by the Hungarian judge with a request for assistance in contacting the EJN Contact Points in Slovakia and to support the Hungarian judge in:

- identifying the actual place of detention in Slovakia;
- clarifying the Slovakian legal and technical background for an EIO request aiming the hearing of the defendant via videoconference;
- giving assistance for preparing the EIO request;
- transmitting the EIO to the executing authority;
- facilitating a timely execution;
- acting as a contact person for the requesting authority during the execution.

The effective cooperation of the Slovak and Hungarian EJN Contact Points contributed to the execution of the EIO and the successful hearing via videoconference, but the defendant was also able to follow the whole trial via the videolink, so the case could be closed.

### 1.4.1.2. Institutional aspects

Being analysed from different angles, the EIO continued to be a topic of discussions during the EJN meetings in 2019 and 2020. However, compared with the previous years, the attention of the practitioners has been drawn to more specific questions of cooperation instead of keeping the focus on the general issues.

#### Gavanozov case

On 24 October 2019, the CJEU rendered the first judgment regarding the EIO (case C-324/17, Gavanozov<sup>21</sup>). The court was asked to interpret Article 14 of the EIO Directive and the legal remedies available against the substantive reasons for the investigative measures indicated in an EIO.

Analysing the matter, the court indicated that the essence of the consideration is whether Article 5(1) of EIO Directive, read in conjunction with Section J of the form referred to in Annex A to that directive, must be interpreted as meaning that the judicial authority of a Member State must, when issuing an EIO, include in that section a description of the legal remedies, if any, which are provided for in its Member State against the issuing of such an order<sup>22</sup>.

#### Article 5, EIO Directive

1. The EIO in the form set out in Annex A shall be completed, signed, and its content certified as accurate and correct by the issuing authority.

#### SECTION J: Legal remedies

1. Please indicate if a legal remedy has already been sought against the issuing of an EIO, and if so please provide further details (description of the legal remedy, including necessary steps to take and deadlines):  
.....  
.....
2. Authority in the issuing State which can supply further information on procedures for seeking legal remedies in the issuing State and on whether legal assistance and interpretation and translation is available:  
Name: .....  
Contact person (if applicable): .....  
Address: .....  
Tel. No: (country code) (area/city code) .....  
Fax No: (country code) (area/city code) .....  
Email:

The court ruled that the issuing authority and the executing authority must inform each other about the legal remedies sought against the issuing, the recognition or the execution of an EIO.

From a practical point of view, that means Section J must be filled only if a legal remedy has been sought against an EIO. The description of the legally possible but not claimed remedies against the issuing of an EIO need not be included in Section J.

21. Case C-324/17 Ivan Gavanozov. Available here: <http://curia.europa.eu/juris/liste.jsf?language=en&iur=C,T,F&num=c-324/17&td=ALL>

22. Ibid

### **EIO in the EJM meetings**

The question raised before the CJEU was included in the scope of discussions during the 52nd Plenary Meeting of the EJM Contact Points under the Romanian Presidency, in which two topics concerning EIOs were touched upon:

- Art 14 of the EIO Directive concerning question of legal remedies in relation to the opinion of the Advocate General in the case at the CJEU C-324/17 (the judgment was rendered on 24 October 2019, after the plenary meeting). Aware of the consequences that might be brought to the international cooperation, the EJM Contact Points agreed that the mutual trust and the diversity of national systems should be respected, and expressed doubts over whether further protection is needed as the investigative measure ordered in an EIO must exist under the law of the executing State.
- The interception and the use of the term 'interception' in the Member States, as well as the consequences of this for the application of Art 31 of the EIO Directive. The practical problems are caused by different translations and understandings of the term of 'interception'. To avoid possible obstacles and even the inadmissibility of gathered evidence, it was advised to contact the EJM Contact Point in advance whenever there is a doubt about the feasibility of performing the interception in another Member State. As for the further development, it was proposed to make a questionnaire about the term 'interception' and update the relevant list of investigative measures in the Atlas/Fiches Belges tools.

The application of the EIO was also discussed during the Belgian National EJM meeting on 26 September 2019. Participants shared their experience on the challenges regarding the use of Annex C to the EIO Directive and agreed that a clarification by the European Commission would be desirable. Furthermore, the lack of use of Annex B must be brought to the attention to all practitioners.

### **Practical support for the application of an EIO**

An important step towards a common approach was the *Joint Note on the practical application of the EIO*<sup>23</sup> that has been made by the Eurojust and EJM and published in June 2019. As it is referred in the introduction, it is a compilation of information, highlighting issues and challenges, possible solutions and best practice, as gathered by Eurojust and EJM from meetings, documents and casework. For the time being, this document provides the most comprehensive information regarding the EIO and addresses issues that may arise in every stage of working with this tool, from completing the form to executing the specific investigative measures.

From the EJM side, the following documents have been used as a source of information:

- 1) *Extracts from Conclusions of plenary meetings of the EJM concerning the practical application of the EIO* (Council doc 15210/17), as discussed at the 48th Plenary Meeting in June 2017 in Malta and at the 49th Plenary Meeting in November 2017 in Tallinn;
- 2) *EJM Conclusions 2018 on the EIO* (Council Doc 14755/18), which combines conclusions of the discussions on the EIO at the 39th EJM Regular Meeting in The Hague in February 2018, the 50th EJM Plenary meeting in Sofia in June and of several Regional EJM meetings during the year.

The [Joint Note](#) can be found on the EJM website in the area designated for the EIO.

Another practical support for the national authorities dealing with EIO is [The Guidelines on how to fill in the European Investigation Order form](#)<sup>24</sup>. It is an understandable and user-friendly manual that contains step-by-step recommendations and advice for the practitioners on which information should be included in each section of the EIO form to issue a correct and precise document.

23. Available here: <https://www.ejm-crimjust.europa.eu/ejm/ib/documentproperties/EN/2131>

24. Available here: <https://www.ejm-crimjust.europa.eu/ejm/ib/documentproperties/EN/3155>



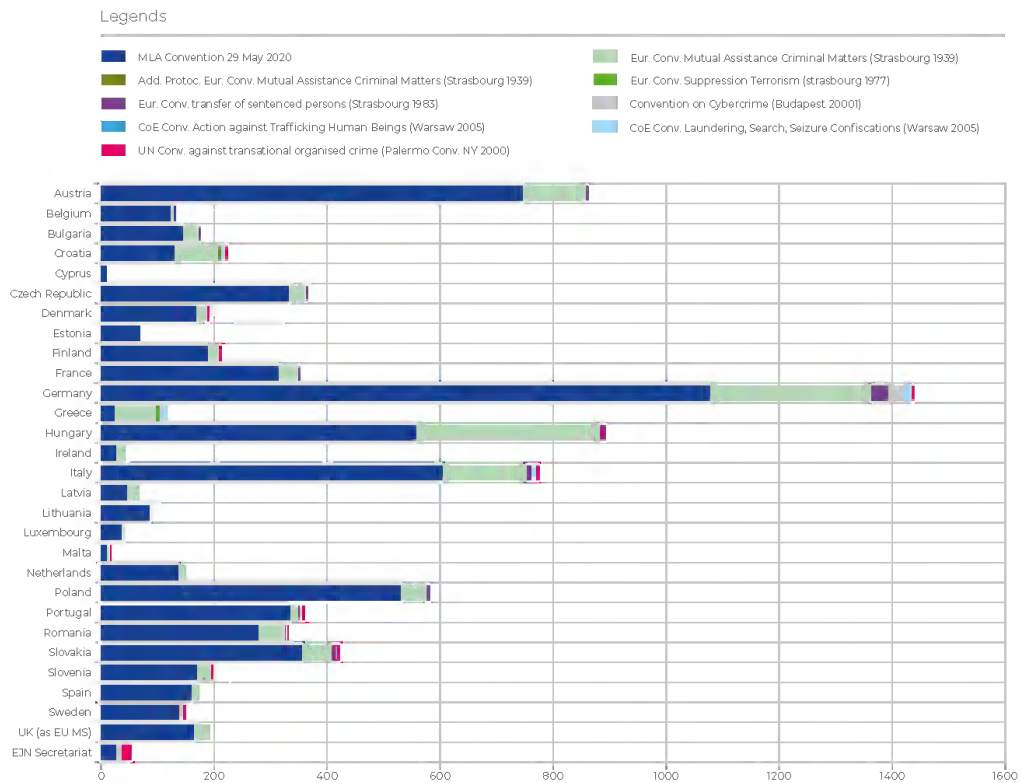
In January 2020, the guidelines were published on the EJN website.

Following the suggestions of the Contact Points during the 48th Plenary Meeting of the EJN and other practical needs, the EJN Secretariat has created a **special area** on the EJN website that provides the practitioners with quick access to the most relevant information regarding the legal information and practical application **of the EIO Directive**. The area not only gives the opportunity to access the EIO forms in words versions or to draft the document online in Compendium, but it also allows to check the competent authorities and languages accepted, or to reach a Contact Point in the case of questions. Besides, all the relevant judicial information, case law, EJN conclusions and other comprehensive details regarding EIO can be found there. The area is updated and elaborated on a regular basis.

#### 1.4.2. Requests for mutual legal assistance

Notwithstanding the substantial role of the EIO Directive in the judicial cooperation in criminal matters, the most registered legal instrument related to mutual legal assistance is 2000 EU MLA Convention<sup>25</sup>, that fully applies in cooperation with Denmark and Ireland, and partly – between all EU Member States for the measures that do not fall within the scope of the EIO Directive.

Over the period 2019-20, more than 5 000 cases were registered in the Reporting Tool in which the EJN Contact Points supported national authorities, dealing with the MLA requests. Apart from the above-mentioned 2000 EU MLA Convention, the European Convention on Mutual Assistance in Criminal Matters<sup>26</sup> of 1959 continues to be widely used by Member States, whereas other conventions that foresee the possibility to obtain evidence have not been actively registered.

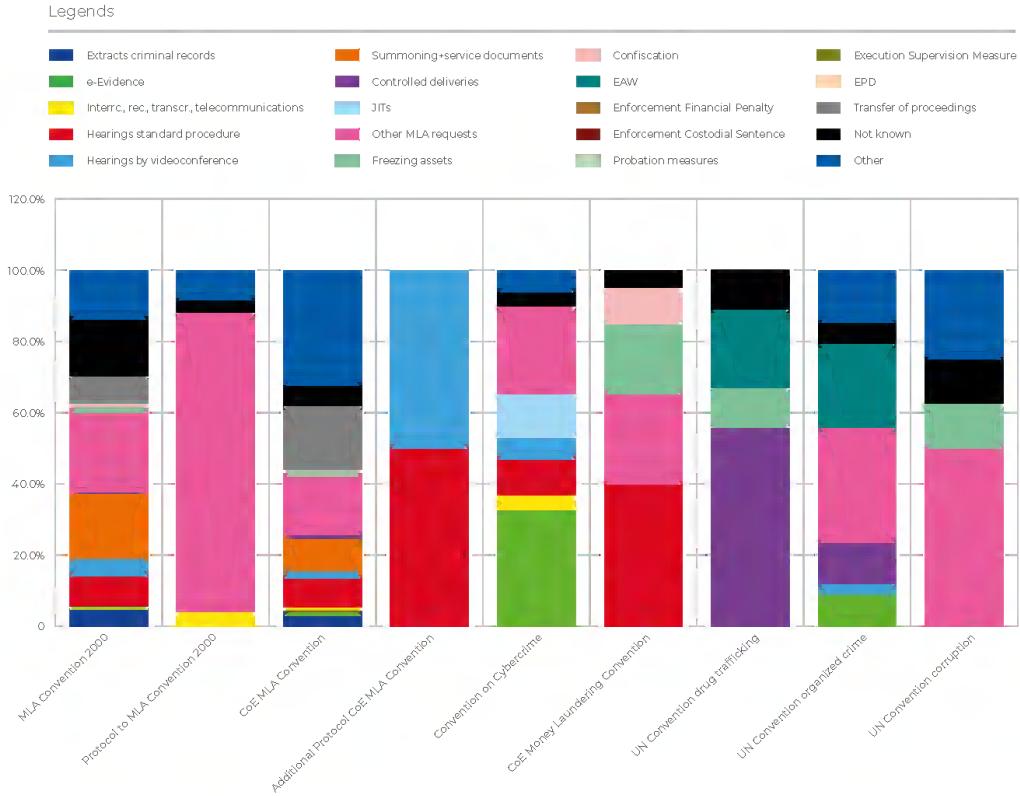


EJN SUPPORT TO MLA CASES, 2019-2020

25. Convention established by the Council in accordance with Article 34 of the Treaty on European Union, on Mutual Assistance in Criminal Matters between the Member States of the European Union (OJ C 197, 12.7.2000, pp. 3–23). Available here: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A442000A0712%2B01%29>

26. European Convention on Mutual Assistance in Criminal Matters (Strasbourg 1939) (ETS No.030). Available here: <https://www.coe.int/en/web/conventions/full-list/conventions/treaty/030>

Since the 2000 EU MLA Convention is used for the service of documents, unsurprisingly this measure is the most common among those been registered. The rate of the other measures can be seen in the following chart:



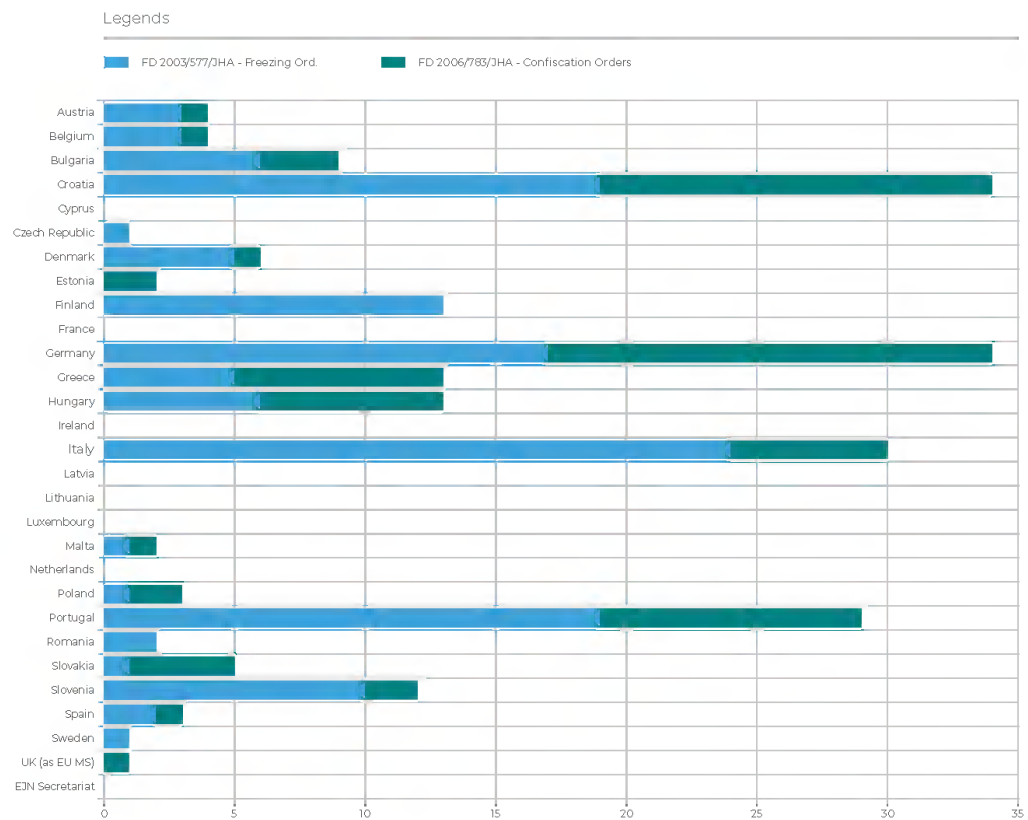
The EJM Contact Points have mostly assisted in the requests related to hearing, both standard procedure and via videoconference. Obtaining electronic evidence and service of documents are also often registered.

## 1.5. Mutual recognition instruments

### 1.5.1. Freezing and confiscation

#### 1.5.1.1. Operational aspects

Over the last two years, the EJM Contact Points reported 208 cases related to Framework Decision 2003/577/JHA on orders freezing property or evidence and Framework Decision 2006/783/JHA on confiscation orders, both instruments being rather equally distributed.



EJM FREEZING AND CONFISCATION CASES, 2019-2020



### 1.5.1.2. Legal Framework and institutional aspects

As of 19 December 2020, for all EU Member States except Denmark and Ireland, these two instruments were replaced by new Regulation 2018/1805 on the mutual recognition of freezing and confiscation orders – the first legal act on judicial cooperation in criminal matters that has been adopted in the form of regulation. Apart from the new procedural rules on how Member States cooperate with the assets-related issues during the criminal proceedings, the document emphasises the important role of the EJM as a collector and distributor of the practical information that Member States provide for in declarations and notifications.

The EJM Secretariat took provisional steps to ensure the smooth transition to the new legal framework, by providing relevant information on the EJM website in a timely manner.

- In the [Judicial Library](#) on the EJM website, practitioners find the information related to the Regulation – the text of the instrument and the Word forms of freezing and confiscation certificates (in all EU official languages), notifications and declarations by the Member States, as well as related acts and other documents.
- To help practitioners get a quick overview of some of the particularities of the national regulation of a Member State they are preparing a request to, the EJM Secretariat has created a [table](#) with the information deriving from the declarations and notifications that Member States make regarding: competent issuing and executing authorities; validating authorities (for freezing orders); central authorities (if applicable); languages the certificates shall be translated into; shall the respective freezing or confiscation order/a certified copy thereof be transmitted together with the certificate.

Considering that the new legal instrument will undoubtedly raise application-related questions and issues among practitioners, the EJM is looking forward to providing the forum for discussions during the next meetings.

### 1.5.2. Other mutual recognition instruments

In the end of 2018, *Council Conclusions on Mutual Recognition in Criminal Matters* (Council doc 15272/1818) had been adopted under the Austrian Presidency. The Council acknowledged that the **EJM plays an active role in addressing obstacles for, and identifying best practice in, mutual recognition**<sup>27</sup>. Therefore, by the end of 2018, the EJM had already started to discuss the **role of the EJM Contact Points with regard to the practical application of different mutual recognition instruments** (focusing on custodial sentences, supervision of probation measures and alternative sanctions, Supervision measures as an alternative to provisional detention, financial penalties, confiscation order and European Protection Order) under the Austrian Presidency in the 51st Plenary Meeting of the EJM Contact Points in Vienna in November 2018 (Council doc 14754/18).

In 2019, the discussions on the challenges and obstacles in the implementation of these instruments, as well as the best practice identified by the EJM Contact Points, were continued under the Romanian Presidency in the 52nd Plenary meeting in June 2019 in Bucharest (Council 14501/19). The meeting was focused on the EAW (FD 2002/584/JHA), custodial sentences (FD 2008/909/JHA), the supervision of probation measures (FD 2008/947/JHA) and supervision measures as an alternative to provisional detention (FD 2009/829/JHA). In both of these plenary meetings, various areas were identified in which the EJM could be of assistance when it comes to the practical application of the existing mutual recognition instruments as well as to the development of new instruments. The importance of the **EJM website**, too, has been emphasised in the above-mentioned conclusions.

Similarly, the Report by the Romanian Presidency on 'the way forward in the field of mutual recognition in criminal matters', presented at the JHA Council on 6 June 2019, revealed a consensus among Member States that the EJM (and Eurojust) has a **crucial role in fostering judicial cooperation in criminal matters**<sup>28</sup>. In this report, which reflects not only the view of the Romanian Presidency but was also endorsed by a large majority of Member States, it is noted that 'the **EJM website** has been emphasised as the **best place for EU practitioners to find relevant information about mutual recognition instruments**'<sup>29</sup>.

27. Council Conclusions on mutual recognition in criminal matters 'Promoting mutual recognition by enhancing mutual trust' (2018/C 443/02), 13 December 2018, Article 27.

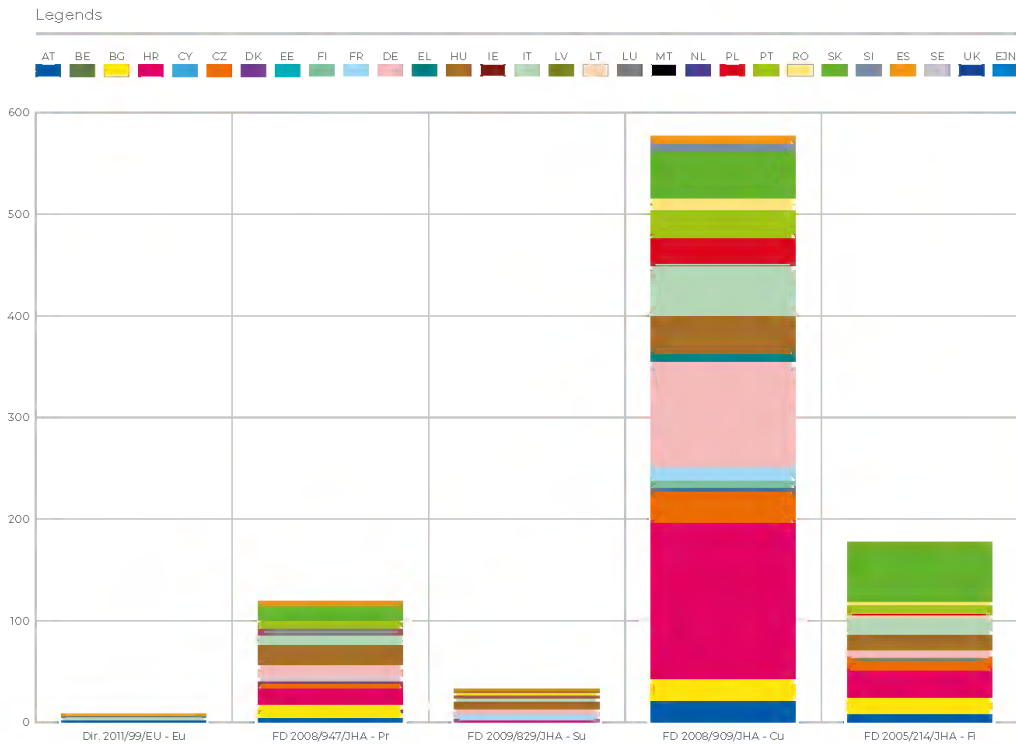
28. The way forward in the field of mutual recognition in criminal matters – Report by Presidency, 9728/19, 27 May 2019.

29. The way forward in the field of mutual recognition in criminal matters – Report by Presidency, 9728/19, 27 May 2019.

Under the Finnish Presidency in December 2019, *Council Conclusions on alternative measures to detention: The use of non-custodial sanctions and measures in the field of criminal justice* were adopted. The aim of the Finnish Presidency was to contribute to ensuring effective judicial cooperation in criminal matters and overcoming obstacles of mutual recognition with the focus on sanctions and measures that are used as alternatives to detention. The key message was that one aspect in solving some of the problems related to prison overcrowding in European Union could be an increased use of alternatives to detention.

The Council Conclusions gave a clear mandate to the EJM to continue working on this issue, which will need to be addressed by the EJM in the coming years, and providing relevant practical information on the application of the instruments to the EJM Contact Points and the practitioners in the Member States.

In operational terms, the graph below shows the EJM cases involving the application of mutual recognition instruments. It is visible that the EJM Contact Points are applying all the mutual recognition instruments. The graph shows that the most commonly used instrument by the EJM Contact Points in this respect is FD 2008/909/JHA on mutual recognition to judgments in criminal matters imposing custodial sentences, while the least known and used one is Directive 2011/99 on the European Protection Order.



EJM CASES WITH MUTUAL RECOGNITION INSTRUMENTS, 2019-2020

## 1.6. Topics in focus

### 1.6.1. E-evidence

Nowadays, electronic evidence is required for the investigation of any type of crime. As a logical consequence, the EJM has been progressively more involved in dealing with requests concerning different type of requests related to electronic evidence and in supporting practitioners with this topic.

Besides, in the 2019-20 period, the EJM took an active position by participating in numerous activities and projects dedicated to legal and practical problems of gathering of electronic evidence, as follows:

#### **The EJM Working Group on e-evidence**

On 17 April 2018, the European Commission presented a proposal for obtaining e-evidence directly from service providers through the use of a Preservation Order and a Production Order<sup>30</sup> (the Regulation). With the aim to contribute to the legislative discussions, the EJM set up a working group. The members of the EJM Working Group focused on the procedural aspects of the proposed legislation as well as on the certificates annexed to the Regulation; and on the role of the EJM in the instrument. To provide the perspective of practitioners to the legislator, the EJM Secretariat together with the Finnish Presidency launched an online questionnaire in view of the 53rd EJM Plenary Meeting, asking EJM Contact Points to share information regarding the challenges and positive examples of gathering electronic evidence from another country or online service provider. In line with the discussions and the replies to the questionnaire, the EJM Working Group on e-evidence drafted a statement in support to the Electronic Evidence Package proposal that was sent to the EU Parliament in April 2020.

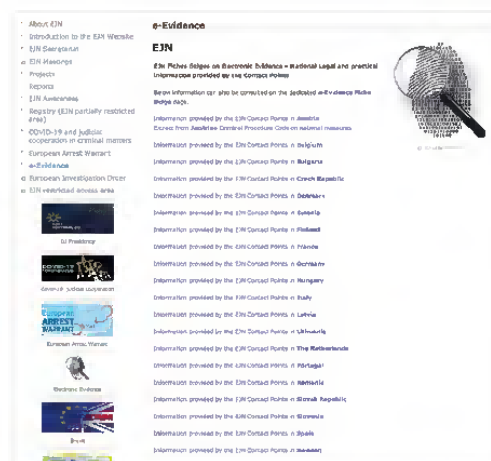
With the efforts to make the voice of practitioners heard and react to any possible changes, the EJM Working Group continues to follow up the discussions related to the Regulation.

#### **E-evidence information on the EJM website: dedicated area and Fiches Belges**

To provide practitioners with information on all legislative and practical aspects for gathering electronic evidence, the EJM set up a dedicated area for e-evidence in the EJM website and provided new Fiches Belges on e-evidence.

In this area, practitioners find relevant guidance, documents, legislation and links to platforms (for example, access to the SIRIUS platform, Cloud Act and list of US providers). This dedicated area is updated on a regular basis.

The Fiches Belges on e-evidence provide concise information on 11 key points related to the rules on electronic evidence in the Member States, including the definition of data categories, voluntary cooperation, legal framework used for cooperation, etc.



30. Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on European Production and Preservation Orders for electronic evidence in criminal matters. Available here: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2018%3A225%3AFIN>

### **EJN best practice for gathering e-evidence**

The gathering of electronic evidence was a main topic of the 53rd EJN Plenary Meeting held under the Finnish Presidency. The discussions centred in gathering best practices for the gathering of e-evidence within and beyond the European Union. Practitioners from the European Union, United States, Russia, etc. provided information on their experience and made recommendations on the most effective ways to obtain e-evidence in line with their legal system.

### **SIRIUS project**

At the initiative of the European Commission, the EJN was invited to participate in the SIRIUS project, managed by Europol, together with Eurojust. This project aims to provide opportunities for the exchange of best practice and training on cooperation with US-based service providers and to provide opportunities for the exchange of best practice and further training for EU practitioners on applicable rules in the US relating to MLA procedure. Read more about SIRIUS project in 3.6.

### **1.6.2. e-Evidence Digital Exchange System**

Considering the need to elaborate a swift yet secure exchange of EIO and MLA requests between the authorities, in June 2016 the Commission was requested by the Council to develop a secure online portal for sending electronic requests.

Within this project, the Commission created the e-Evidence Exchange System (eDES Portal) that would allow authorised users – law enforcement and judicial authorities – to electronically send the EIO and MLA requests to competent authorities in other Member States in a secure manner. Furthermore, the eDES Portal would provide the electronic forms of the requests with the guidance on how to fill them; it would also allow direct communication between issuing and executing authorities and to track the execution of the request.

The EJN Atlas will support the eDES platform to enable users to identify the competent authorities and provide their contact information. Since the work on the eDES Portal is still under development, the EJN Secretariat continues to follow the project to identify the possible ways to link other tools – for example, Fiches Belges and Judicial Library – for the greater benefit of the practitioners.

### **1.6.3. Victims' rights**

In 2019, on the initiative of the Finnish Presidency of the Council of the EU, the EJN was mentioned in the *Council Conclusions on Victims' Rights (Council doc 14056/2019)*. The Council emphasised that the “cooperation between the European Network on Victims' Rights and other relevant EU networks such as the European Judicial Network” could be considered. Already in 2018, under the Bulgarian Presidency of the Council of the EU, the EJN had been mentioned in *Council conclusions on Victims of Terrorism (Council doc 9118/2018)*. In these conclusions, the Council encouraged ‘cooperation and synergies with existing EU structures such as the European Network on Victims' Rights, the European Judicial Network (EJN), Eurojust and EU police and crisis management networks’.

Under the German Presidency of the Council of the EU, the Victims Rights and Victims in Terrorism continued to be discussed. In September 2020, the EJN Secretariat was invited to take part in the Council meetings on establishing the **Victims' Rights platform**. This platform is expected to ensure a more horizontal approach to victims' rights and strengthen the cooperation and coordination at EU level. The platform is one of the actions under the **Victims' Rights Strategy 2020-2025**, which is the first EU strategy on victims' rights. During the High-Level Conference on the EU Strategy on Victims' Rights (2020-2025), the platform was formally launched and, at the invitation of the Commission coordinator for Victims' Rights, the EJN Secretariat was among the entities nominated as a member of the platform.

In the light of the above, the EJNI will be re-establishing its cooperation with the **European Network on Victims' Rights (ENVR)**. ENVR was established by Council Conclusions adopted at the JHA Council on 9 June 2016. The ENVR does not have an operational role in criminal investigations, its aim is to facilitate cooperation between the competent authorities responsible for victims' rights of the Member States, e.g. in cross-border cases and with respect to the compensation of victims. EJNI launched the cooperation with ENVR in 2016.

#### 1.6.4. Brexit

The 2019-20 reporting period brought an additional change in judicial cooperation caused by Brexit. The EJNI started closely monitoring the process in 2017 when the United Kingdom notified the European Council of its intention to leave the European Union, until the conclusion of the Brexit Agreement in December 2020<sup>31</sup>.

Throughout the transition period, the topic of Brexit and its potential impact on the judicial cooperation with the UK, was discussed in several EJNI meetings. During the meetings, the EJNI Contact Points discussed various aspects on the cooperation, including the legal instruments that would be applicable after UK leaves the European Union, the contingency plans taken by the UK government and the position of UK within the EJNI. The EJNI conclusions from these meetings underlined the EJNI's intention to keep the close cooperation with the UK by nominating the UK as an EJNI associated country and to have EJNI Contact Points in the UK.

To address the needs of practitioners following Brexit, the EJNI Secretariat has created a dedicated Brexit area on the EJNI website, as well as a section in the Judicial Library where practitioners can find all legal and practical information related to the judicial cooperation between the European Union and the UK as of 1 January 2021, such as the text of the TCA (in all EU languages). Additionally, for practical convenience, the provisions on judicial cooperation have been extracted from the full text and are available in a separate file as well as the TCA forms for surrender in all EU languages, TCA forms for freezing and for confiscation in all EU languages and other documents that are beneficial for the work of the judicial practitioners. The EJNI Secretariat will keep developing this part of the EJNI website and will add more relevant information as soon as it becomes available.

31. Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland (OJ L 444, 31.12.2020, pp. 14–1462). Available here: [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L\\_.2020.444.01.0014.01.ENG](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2020.444.01.0014.01.ENG)

## 1.7. Cooperation with EJN associate and EU candidate countries

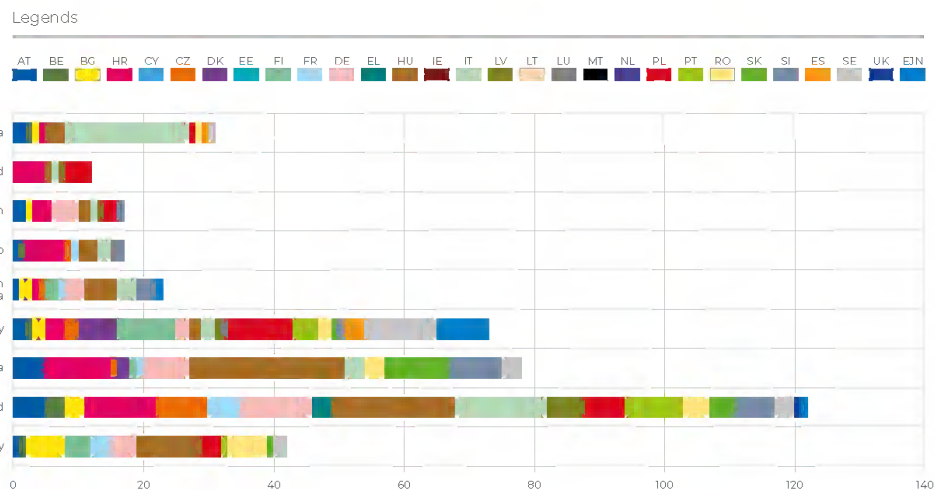
Over the years, the EJN has created and maintained close working relationships with the EJN associated (Iceland, Liechtenstein, Norway and Switzerland) and EU candidate (Albania, North Macedonia, Montenegro, Serbia and Turkey) countries. Due to the territorial and historical proximity of these countries, there has always been very intense cross-border activities between them and the EU Member States. Such cross-border activities also include criminal activity. The high importance of judicial cooperation with these countries resulted in designation of EJN Contact Points in all of them. The need for cooperation and better understanding of their national legal systems and national laws

also resulted in the integration of the national legal information into the tools provided on the EJN website. For example, the contact details of the Norwegian competent authorities now can be found in the Atlas.

Candidate Countries	Associated Countries
 Albania	 Iceland
 North Macedonia	 Liechtenstein
 Montenegro	 Norway
 Serbia	 Switzerland
 Turkey	

### 1.7.1. Operational aspects

In operational terms, in the 2019-20 period, more than 420 cases were reported by the EJN Contact Points in which associated or candidate countries were involved.



EJN ASSOCIATED AND EU CANDIDATE CASES, 2019-2020

To illustrate the good cooperation with the EJN associated countries and the operational efficiency within the EJN, the following case could be considered:

#### Cooperation Greece – Switzerland

The EJN Contact Points in Greece and Switzerland cooperated closely in a high-profile and complex corruption investigation in Greece. They supported the national authorities of Greece and Switzerland in determining and freezing assets and large sums of money in Switzerland by facilitating the execution of several mutual legal assistance requests from different Greek judges and prosecutors.

With the support from the Swiss EJN Contact Points, the assets remained frozen while awaiting the final judgment of the Greek court on confiscation.

## 1.7.2. Cooperation with the Western Balkan countries

In view of strengthening the cooperation between the EU Member States and the EJM Contact Points in the Western Balkans, two meetings between the EJM Contact Points in the European Union and in the Western Balkans were organised in the 2019-20 period. The meetings proved to be of great importance for the EU Member States and the Western Balkans countries as they gave an opportunity to discuss and resolve outstanding legal issues in judicial cooperation. It also provided a possibility to meet and exchange information with EJM regional partners such as the SEEPAG and IPA Project and to look for opportunities to cooperate with them. The EJM decided to organise this meeting annually.



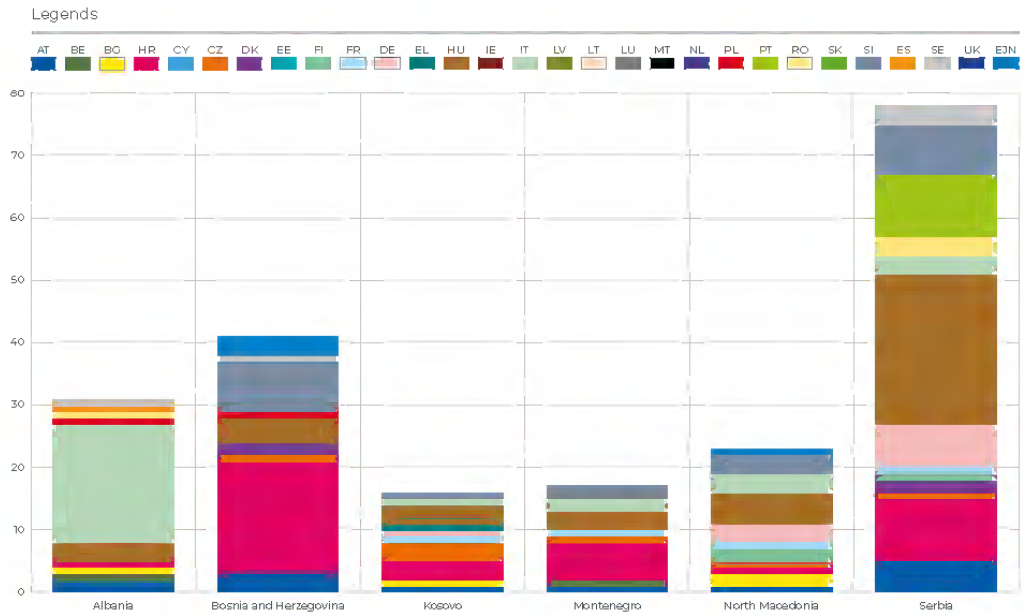
*EJM WESTERN BALKANS MEETING, 2019*

The first meeting took place in December 2019 in The Hague. The discussions focused on challenges and solutions with regard to judicial cooperation between the European Union and Western Balkan countries, in the area of MLA, extradition and transfer of proceedings. Interoperability between judicial and police authorities in different cooperation procedures was also touched upon. At the end of the meeting, the participants concluded that, among others:

- it should be further analysed how to improve the functioning of the EJM CPs in the countries, in particular in the Western Balkans region;
- the EJM awareness raising should also be continued in the Western Balkans region;
- exchange of information between the EJM CPs in the European Union and in the Western Balkans should be improved (to the extent possible for the EJM).

As a continuation of the discussions of the 1st meeting, in December 2020 the 2nd annual meeting between the EJM Contact Points in the European Union and the Western Balkan region took place online, being held under the German Presidency. The discussions were dedicated to extradition, including challenges of extradition of nationals as well as practical issues in relation to double citizenship. The participants also discussed judicial cooperation between the European Union and Western Balkans in light of the COVID-19 measures across Europe. Experiences were shared on how COVID-19 measures have affected communication with other countries and between the European Union and the Western Balkan region. The internal functioning of the EJM was also discussed. The representatives from the 'Countering Serious Crime in the Western Balkans' (IPA2019) emphasised the possibility of cooperation on the EJM regional meetings in the coming years.

The following graph shows the intense cooperation on cases between the EJM Contact Points in the EU Member States with the EJM Contact Points in the Western Balkans. In the 2019-20 period, 240 cases were reported by the EJM Contact Points.



EJN CASES WITH WESTERN BALKANS, 2019-20<sup>32</sup>

### 1.7.3. Cooperation with partner institutions in the Western Balkans

#### IPA Project



In the context of developing successful judicial cooperation in the Western Balkan region, the EJN has been involved in the IPA Project. The project was launched with the aim of strengthening the operational capabilities of Western Balkan law enforcement and security authorities to fight serious and organised crime and terrorism, to support the relevant authorities to effectively participate in and contribute to EU and intra-regional cooperation structures and assessments and to strengthen the capabilities of Western Balkan law enforcement and security authorities to exchange information<sup>33</sup>. The IPA Project is a key partner for the EJN in the Western Balkans and the two structures maintain close relationship.

Among the common initiatives during 2019-20, the Secretary to the EJN attended the Steering Committee meeting in Rome in the end of February 2019. In addition, the IPA2019 project fully funded the EJN Regional meeting in Sarajevo in June 2019 and provided financial support to the EJN Contact Points in the Western Balkans for them to attend the EJN plenary meetings.

#### SEEPAG



The other EJN partner in the Western Balkans regions is SEEPAG – the South Eastern European Prosecutors Advisory Group. SEEPAG is a judicial mechanism for international cooperation. The objective of SEEPAG is to assist the fight against serious and organised crime in the South-Eastern Europe region through the judicial system, and to assist the SEE Law Enforcement Center (SELEC) by facilitating the rapid exchange of information and evidence in cross-border investigations. SEEPAG is always represented in the EJN plenary meetings and shares the updates on its activities. In addition, the EJN is invited to SEEPAG meetings.

<sup>32</sup> Kosovo – This designation is without prejudice to the positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence

<sup>33</sup> Read more about IPA Project here: <https://cscwb.info/about-the-project/>



## 1.8. Cooperation with judicial networks and third countries

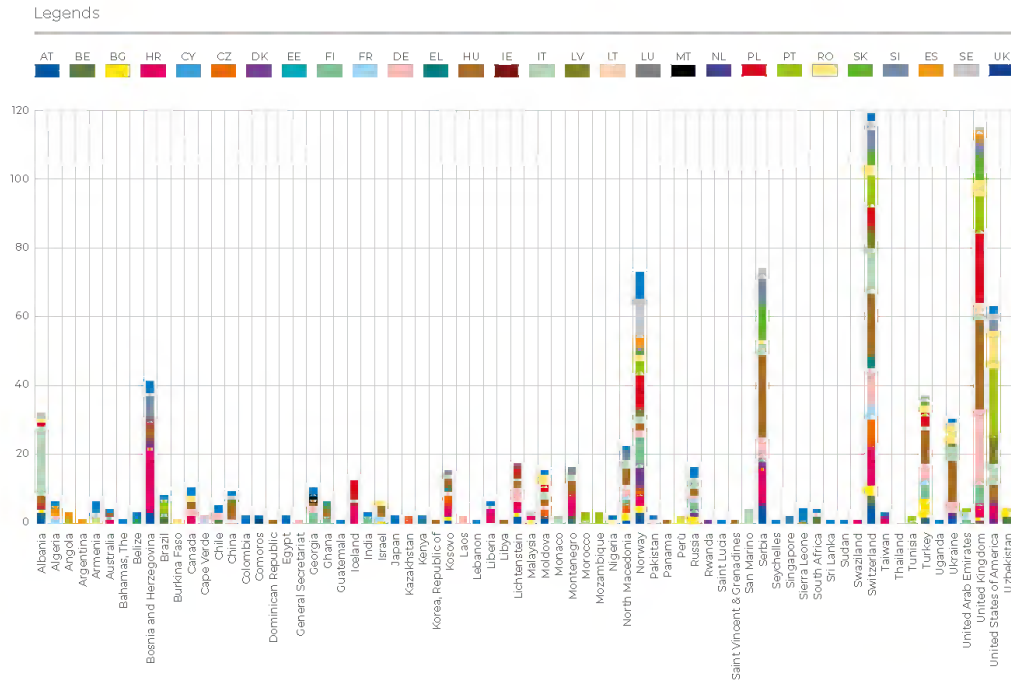
The EJM continues to strengthen judicial cooperation with the countries around the globe, by maintaining existing partnerships and building new professional ties with the representatives of different continents and judicial systems. These efforts have been instrumental for improving the operational cooperation on cases and for creating mutual trust between the judicial authorities. The EJM maintains close relationships with regional judicial networks and their Contact Points. This creates the possibility of creating direct contact with an even wider scope of countries.

It is important to emphasise that the close cooperation with several countries led to the appointment of EJM Contact Points in the national authorities of these countries. This has proved to be very beneficial for the cooperation on cases and for building mutual trust between the national judicial authorities in the EU Member States and the respective third countries.



### 1.8.1. Operational aspects

The intensified operational cooperation between the EJM and third countries is also reflected in the statistical overview showed below. The following chart shows the cases of the EJM Contact Points with the third countries – more than 850 cases with third countries were facilitated by the EJM during the reporting period.



EJM CASES WITH NON-EU COUNTRIES, 2019-2020

The following case study aims to illustrate the operational efficiency of EJM in third countries:

#### Cooperation Poland – Taiwan:

The good cooperation established by the EJM with Taiwan resulted in a successful cooperation between the Polish and Taiwanese authorities, in a large-scale investigation against an organised crime group involved in fraud with the use of a call centre. The perpetrators pretended to be from the local police and the damage caused to the victims amounted to about EUR 1.8 million.

A Polish EJM Contact Point was working on this case and, together with the Taiwanese authorities, legal questions and procedures were clarified, resulting in the extradition of more than 40 Taiwanese citizens from Poland to Taiwan.

## 1.8.2. Cooperation with partner institutions and judicial networks

Apart from the appointed EJN CPs in third countries, the EJN maintains relations with countries in different regions of the world by means of partnerships with international institutions and regional judicial networks

### **CT MENA project**

The experts among the EJN Contact Points were also invited to contribute in trainings provided by CT MENA project (Developing intelligence, law enforcement and criminal justice to Counter Terrorism in the Middle East and North Africa) financed by the European Union under the Instrument contributing to Stability and Peace (IcSP).

**CT MENA project** provides technical assistance to countries in the Middle East and North Africa region to build criminal justice systems based on the rule of law and to cooperate at regional and international levels to provide security for their citizens by ensuring respect for international law and human rights.

Although the outbreak of COVID-19 in 2020 restrained the possibility to travel and get practitioners together, the EJN Secretariat switched to the virtual environment and, on 11 June 2020, the Secretary to the EJN and the Secretariat Coordinator held an online meeting with the EJN Contact Points in Taiwan to plan the first EJN regional meeting in Asia in 2021.

### **United Nations Office on Drugs and Crime (UNODC)/UNITED NATIONS (UN)**

In 2019-20, the EJN maintained its close relationship with the UNODC and in particular with the regional judicial networks of the UNODC: West African Network of Central Authorities and Prosecutors in Africa (WACAP), Great Lakes Network (Central Africa) and the Network for Central Asia and Southern Caucasus (CASC) and the SouthEast Asia Justice Network (SEAJust). The EJN is regularly invited to the meetings of the regional judicial networks while their representatives also regularly attend EJN plenary meetings. This practice has proved highly important for maintaining good operational contacts and for exchanging best practice on the functioning of the networks.

### **SEAJust**

An example for the good cooperation between the EJN and UNODC is the involvement of EJN in the SEAJust. The EJN Contact Point from Germany represented the EJN in the first meeting of the UNODC on the formation of the ASEAN Network that took place in Bangkok on 15-17 October 2019. To establish a new judicial cooperation network in South-East Asia for the 10 ASEAN countries and Timor-Leste, the UNODC invited the EJN to share its experience as a 'model network'. The meeting provided the opportunity for ASEAN countries and Timor-Leste to deepen their knowledge on the benefits and functions of judicial cooperation networks.

**SEAJust** – the South East Asia Justice Network established in 2020. Current members – as at January 2021 – are Brunei Darussalam, Cambodia, Lao PDR, Myanmar, Singapore, Thailand, Timor-Leste and Viet Nam.

In 2020, the first meeting between the EJN and the SEAJust Network was held in a video conference. The aim of the meeting was to share legal and practical information on how to obtain international judicial cooperation with the different countries.

The meeting took place between the SEAJust Contact Points from Myanmar, Singapore, Thailand, Timor-Leste and representatives from Indonesia, Malaysia, the Philippines as well as with EJN Contact Points from Austria, Croatia, Germany, France, Italy, Czech Republic, Slovenia, Sweden and representatives from Switzerland and the UK.

Following the discussions, it was concluded that the EJN Secretariat and the secretariat function of SEAJust at UNODCs should assist the EJN and SEAjust with establishing contacts and ensuring the exchange of best practice regarding investigative measures, such as interviews by videoconference.

### **EuroMed Justice**

EuroMed Justice (EMJ) is a capacity-building programme designed to develop a sustainable cross-regional mechanism of judicial cooperation in criminal matters between EU Member States, the South Partner Countries (SPCs) and EU JHA Agencies<sup>34</sup>.

Over the past two years with the awareness of the project, there has been an increase in the requesting of contacts between EJM Contact Points and the EuroMed CrimEx group, via the EJM Secretariat and the EuroMed Project team. To ensure effective and continuous cooperation, the EJM Secretariat attended the EuroMed activities in 2019.

- On 20 June 2019, the EJM Secretariat attended the final conference of EuroMed Justice IV in Madrid.
- The EJM continues to explore further the possibilities of having relevant information on the SPCs in the website (CrimEx docs, EuroMed fiches and e-evidence manual).
- It is expected that the EJM will continue to be a key partner in the development of the EuroMed CrimEx Group.
- Until the end of 2019, the EJM Secretariat provided support and expertise to Eurojust for drafting contribution agreement documents from Eurojust to the European Commission.

In September 2020, the EJM Secretariat discussed with the EuroMed Justice Project Team in Eurojust the possible fields of cooperation. Cooperation on Fiche Belges, support in setting up a network in the region and involvement of experts of judicial cooperation among the EJM CPs were among the fields mentioned.

### **IberRed**

The Ibero-American Network of International Legal Cooperation (IberRed), created in 2004, is a cooperation tool in civil and criminal matters, made available for all legal agents from the 22 Ibero-American countries and the Supreme Court of Puerto Rico<sup>35</sup>. IberRed is a Network comprised of Contact Points of judges and prosecutors, along with representatives of Central Authorities i.e. liaison officers.

The EJM Contact Point from Spain represented the EJM at the IberRed VIII Plenary meeting and XV Anniversary celebration on 28-30 October 2019 in Madrid. The EJM continues to implement the Memorandum of Understanding signed in 2010 with the aim of improving cooperation between the EU and the Ibero-American Region.

### **Council of Europe**

The EJM is regularly represented in the PC-OC meetings of the Council of Europe. This practice continued in the 2019-20 reporting period.

The EJM is following up with an initiative from PC-OC on a project on the interconnection of networks. The aim is to identify the existing judicial networks in the area of judicial cooperation in criminal matters and encourage their interconnection to facilitate the work of practitioners in fighting cross-border organised crime. To this end, the PC-OC Secretariat prepared an inventory with all the operational judicial networks that are working in internal cooperation to identify the relevant actors and establish a mechanism to facilitate the global investigation of cross-border crime.

---

34. More about EuroMed Justice project here: <https://www.euromed-justice.eu/en/content/project-information>

35. Regulation setting up the Ibero-American Network for Judicial Cooperation on Civil and Criminal Matters (IberRed) announced by the Ibero-American Conference of the Ministers of Justice, the Ibero-American Summit and the Ibero-American Association of Public Prosecutors, in Cartagena de Indias (Colombia) on 27-29 October 2004.

## 1.9. Judicial training

On various occasions, the EJM Contact Points have underlined the importance of judicial training and acquiring further knowledge and skills that would contribute to better cooperation in cross-border cases. The need for further training activities for the EJM Contact Points also became apparent in the process of the EJM Peer Evaluations, in which the Contact Points emphasised the central role of the EJM in organising such activities. The EJM Contact Points confirmed the importance for close cooperation between the EJM and the European Judicial Training Network (EJTN) as well as establishing new partnerships with entities such as the Academy of European Law, European Institute of Public Administration and European University Institute.

At the end of 2020, the importance of the training for judicial practitioners was underlined by the European Commission's new [EU Strategy on Judicial Training](#), setting ambitious objectives for the training of judicial practitioners.

In 2019 and 2020, the EJM Secretariat continued to organise the yearly EJM English Language training for EJM Contact Points. The format of the training is customised for the needs of the EJM Contact Points and includes training in legal English vocabulary to support their work on EJM cases as well as training on substantive topics to enhance their knowledge.

The training in 2019 focused on the latest developments in the application of the EAW and the case law of the CJEU on the topic, as well as Brexit and extradition and surrender procedures with Iceland and Norway in view of the entry into force of the EU-Iceland-Norway Surrender Agreement.



*9TH EJM LANGUAGE TRAINING, 2019*

In 2020, the training focused on the developments in setting up the European Public Prosecutor's Office and its mandate, the prosecution of environmental crimes and the functions of the European Network of Prosecutors for the Environment and electronic evidence.

The cooperation with the **EJTN** continued as in the earlier years – in the trainings on international judicial cooperation in criminal matters: Practical Case-Based Simulation the EJM Contact Points are acting as participating experts, and in the EIO seminars organised by the EJTN the EJM Contact Points act as trainers.

In 2019, three so-called CJI seminars in international judicial cooperation in criminal matters took place. In addition to that, within the EJTN series of seminars on EU cross-border evidence in practice, two EJM Contact Points performed as experts on the EIO at the seminar on the EIO.

In 2020, all these events were cancelled due to the pandemic. In order to replace the case-based simulation courses, in November 2020 the EJTN organised a webinar on judicial cooperation in criminal matters on 18 November, open to all Member States; the EJM Secretariat was invited to nominate an expert to present on behalf of the EJM. The EJM Contact Point and National Correspondent of Portugal carried out this role.

The cooperation with EJTN as well as the implementation of the MoU continued as normal. In January 2019 and January 2020, the EJM Secretariat attended the annual Contact Point meeting LOT 4 in the framework of the MoU. In these meetings, the EJTN partners, including the EJM, assess, inter alia, together with the EJTN Secretariat the training needs of the practitioners based on the information they have gathered through their networks/associations.

## 2. Functioning and management of the EJN

### 2.1. EJN Peer Evaluation

Following the sixth round of mutual evaluations on EJN and Eurojust (6RME), the EJN Work Programme prioritised the actions to be taken by the EJN in response to the recommendations addressed to the EJN provided by the 6RME. In this context, the EJN Secretariat prepared an Action Plan<sup>36</sup> for the implementation of the recommendations regarding the EJN. One of the proposed measures for further improving the functioning of the EJN and the EJN Contact Points, was the performance of an 'EJN Peer Evaluation' exercise with the active participation of the EJN Contact Points.

After discussions during the 11th EJN National Correspondents Meeting in October 2019 and the 53rd EJN Plenary Meeting in Helsinki in November 2019, the EJN decided to perform the peer evaluation exercise in 2020 by forming a Working Group comprised of EJN Contact Points and the EJN Secretariat, to execute the evaluation. The evaluation was based on contributions and input from the EJN Contact Points in the EU Member States, EU candidate countries and EJN associated countries. It was conducted in two stages, namely by means of EJN Peer Evaluation Questionnaire and subsequent phone interviews with EJN Contact Points.

The objective of the assessment was to evaluate the functioning of the Network with a special focus on its operational functions and support to judicial cooperation. It serves as an assessment of the working methods within the Network and a basis for recommendations for the further improvement of the functioning of the EJN, the cooperation within the Network and with other partner networks and EU bodies.

From the contributions received by the EJN Contact Points in the context of the Evaluation, it was underlined that **the EJN Contact Points and the judicial practitioners find it indispensable to use the EJN and the resources on the EJN website** when dealing with their investigations with cross-border elements. The evaluation has demonstrated that the EJN continues to be a reliable channel for facilitating the execution of judicial cooperation requests and support the exchange of case-related information. **The EJN Contact Points reported more than 90 000 cases in recent years and with this experience in mind, they indicated that the assistance of their EJN colleagues have provided a success rate of 84.2 % for their cases.**

In addition, the Contact Points underlined the importance of the meetings for the proper functioning of the EJN. The EJN Contact Points confirmed that the networking element of the meetings – the exchange of information and the face-to-face discussion of cases – is one of the reasons for the successful cooperation within the Network. **In fact, 87.3 % of the EJN Contact Points find the EJN meetings as a valuable experience.** The Contact Points elaborated that the EJN meetings provided an opportunity for the Contact Points to meet their colleagues from the other Member States face to face. For them, this greatly improves daily cooperation in individual cases.

Certain aspects were underlined by the EJN Contact Points, in which the Network could focus further to improve internal cooperation. Some of the identified areas include developing the cooperation with third countries and judicial networks, taking steps towards meeting the training needs of the EJN Contact Points, improving the Contact Points lists on the EJN website, developing a catalogue of best practice on handling EJN cases, and raising awareness of the EJN and the EJN website.

The Evaluation was concluded by a **Final Report on the EJN Peer Evaluations**<sup>37</sup> including an **Action Plan** with concrete steps to be taken by the EJN in response to the findings of the Evaluation. The Report and the Action Plan were presented to the EU institutions in 2021.

36. Action Plan for the implementation of the recommendations regarding the European Judicial Network (EJN) from the country reports and the Final report of the sixth round of mutual evaluations.

37. Available here: <https://www.ejn-crimjust.europa.eu/ejr/libdocumentproperties/EJN3412>

## 2.2. EJN meetings

As underlined on numerous occasions by the EJN Contact Points, the EJN meetings create possibilities for the Contact Points to meet each other, build mutual trust and lasting professional ties, discuss legal and practical issues and share experiences. Contact Points often successfully resolve pending cases when they meet in person during the meetings.

The organisation of the meetings is based on the principles agreed by the EJN for the organisation and financing of the meetings<sup>38</sup> (the Guidelines). On the basis of a Eurojust College Decision, the EJN revised its meeting guidelines to reflect the new requirements introduced by Eurojust, namely the possibility for a diminished financial contribution to the EJN plenary meetings as well as diminished human resources and support from Eurojust on the meeting organisation, shifting the responsibility for organising the plenary meetings from the EJN Secretariat to the Presidency. The EJN Secretariat continues to support the EJN Presidencies in the drafting of agenda and supporting documents and discussion papers as it provides the support for the Presidencies to obtain financial contribution.

In 2019-20, 15 EJN meetings at different levels were organised, including two plenary meetings in 2019 under the Romanian and Finnish Presidencies, respectively. Unfortunately, due to the outbreak of COVID-19, the majority of the meetings – especially regional and national EJN meetings – planned in 2020 were cancelled, including the 54th EJN Plenary Meeting, which was to be held on 17-19 June 2020 in Šibenik under the Croatian Presidency, and the 55th EJN Plenary Meeting under the German Presidency. However, despite the travel restrictions, it was possible to hold important National Correspondents and Tool Correspondents meetings online, as well as to gather the EJN Contact Points for virtual discussion on how the COVID-19 pandemic impacted the procedures for international judicial cooperation.

### Article 5 EJN Decision - 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.

38. Available here: [https://www.ejn-crimjust.europa.eu/ejn/EJN\\_RegistryDoc/EN306I/78/0](https://www.ejn-crimjust.europa.eu/ejn/EJN_RegistryDoc/EN306I/78/0)

EJN NATIONAL AND REGIONAL MEETINGS IN 2020		
Applicant	Meeting Topic - Summarized	Date of the meeting
GERMANY	Misinformation and misunderstanding in the context of folling the EAW sheet.	cancelled
AUSTRIA	Practical application of the Framework Decisions 2008/909/JHA and 2008/947/JHA and the Role of EJN.	cancelled
POLAND	Coopertation between the European Public Prosecutors Office and non-partecipating EU Members States. Role of the EJN.	cancelled
PORTUGAL	Practical problems raised by the application of the European Union legal system: interpretation of the EIO Directive; compensation of causes for refusal previewed by the European Arrest Warrant Framework Decision by transmission of criminal proceedings and enforcement of foreign judgements.	cancelled
FRANCE	Strengthen of Europe judiciary cooperation thanks to understanding of the role of its specific actors and the significant news in the matter through concrete cases and practical experiences.	cancelled

### 2.2.1. EJN Presidencies 2019-20



Romanian Presidency (1 January – 30 June 2019)  
52nd EJN Plenary Meeting in Bucharest, Romania (26-28 June 2019)

**romania2019.eu**

The 52nd EJN Plenary Meeting under Romanian Presidency took place in Bucharest in the end of June 2019. The agenda of the two-day event reflected the priorities of the Presidency in the justice area – the work on the Directive on laying down harmonised rules on the appointment of legal representatives for gathering evidence in criminal proceedings, the application of the instruments of mutual recognition, the establishment of the European Public Prosecutor's Office (EPPO) and the strengthening of the cooperation between the EJN, other EU networks and Eurojust. The workshops were focused on three topics: European Arrest Warrants (EAWs), European Investigation Orders (EIOs) and future relations between the EJN and the EPPO. Workshops are the best opportunity for practitioners to exchange knowledge and opinions and on the most urgent legal issues.



52ND EJN PLENARY MEETING, ROMANIA 2019



### **Other EJN meetings under the Romanian Presidency**

On 20 February 2019, the 40th Regular Meeting of the EJN took place in The Hague, gathering about 65 participants who were given the opportunity to address various topics of an operational and institutional nature (for example, the future cooperation with the UK in light of Brexit) and to discuss the EJN Working Programme for 2019 and other issues related to the functioning of the EJN.

On 20 March 2019, the Tool Correspondents of the EJN met in The Hague for the 18th Tool Correspondents meeting. One of the main topics was EIOs, particularly the need to update all the relevant sections of the website according to this new instrument. Moreover, the Tool Correspondents with the assistance of the EJN Secretariat actively updated the website, concentrating on the Atlas and Fiches Belges sections; they were also presented with the new Monitoring Tool – that will give a better overview of all the content managed through the website back-office and will help identifying sections that need to be reviewed and updated.



### **Finnish Presidency (1 July – 31 December 2019)**

#### **53rd EJN Plenary Meeting in Helsinki, Finland (20-22 November 2019)**

About 140 participants – local authorities from Finland, EJN Contact Points from EU Member States, candidate, Associated and third countries, EJN partners, and representatives from Eurojust, the European Commission and the General Secretariat of the Council of the EU – gathered in Helsinki in the end of November 2019 for the 53rd EJN Plenary Meeting that was organised under the Finnish Presidency. Notably, this meeting was the first official visit for Ms. Laura Codruța Kövesi, as European Chief Prosecutor of the EPPO.

During the meeting, the EJN Contact Points were informed on a variety of topics such as the state of play of the e-evidence initiative for a Regulation on Preservation and Production Orders (which was one of the priorities of the Finnish Presidency), Brexit and the Finnish legal and institutional framework for international judicial cooperation in criminal matters.



53RD EJN PLENARY MEETING, FINLAND 2019

### **Other EJN meetings under the Finnish Presidency**

The 11th National Correspondents Meeting took place in The Hague on 16 October 2019. The Secretary to the EJN highlighted the topics of the EJN priority list of the second semester 2019 and specific activities of the EJN Work Programme 2020 were mentioned, such as the continuous work of the EJN working group on e-evidence and the peer evaluation of the EJN. The plans for the website were presented: the National Correspondents were informed about the primary reasons why changes to the website are needed; security standards, outdated technical solutions, the needs of practitioners and the website survey, which took place in 2019. Furthermore, a representative from the European Commission presented the new Digital Exchange System that will be introduced in the Member States in the near future, allowing the issuing authority to send an EIO in a secure manner. The EJN Atlas will be connected and used to search for the competent authority to receive the EIO.



Croatian Presidency (1 January 2020 – 30 June 2020)  
EJN Meetings under Croatian Presidency

On 12 February 2020, the 41st Regular Meeting of the EJN took place in The Hague. The meeting was opened, introducing the priorities of the Croatian Presidency for the EJN – interoperability between judicial and police authorities, parallel investigations and the principle of ne bis in idem. The priorities also included cooperation between the EJN and the EPPO, and the connection with EU candidate, EJM associated and third countries. The agenda of the meeting was divided into three points: judicial cooperation, EJN business and projects.

The outbreak of COVID-19 in March 2020 heavily affected the EJN meetings that were supposed to be held under Croatian Presidency. However, modern technologies were put in use to diminish the impact of the restrictions, and to allow the EJN Contact Point to gather at least virtually.

On 7 May 2020 the EJN held the 1st EJN Videoconference Meeting with discussions on how the COVID-19 pandemic had impacted the procedures for international judicial cooperation. Participants exchanged information on the challenges that the practitioners were facing in their countries regarding the practical application of the different cooperation procedures. They also shared the provisional measures adopted in their countries that had been adopted to advance with the investigations.

#### **19th Tool Correspondents videoconference**

The 19th Tool Correspondent meeting, which initially was to be organised under the Croatian Presidency, took place on 1 July 2020 in The Hague and was exceptional because of two factors. Firstly, it was held in a videoconference format due to COVID-19 travel restrictions, and it was chaired jointly by the Tool Correspondents from Germany and Croatia. The meeting was divided into three parts: ongoing website projects, feedback from the Tool Correspondents about their work on updating the website required for their country and redesign of the EJN website.



German Presidency (1 July 2020 – 31 December 2020)  
EJN Meetings under German Presidency

#### **12th National Correspondents Meeting**

On 30 September 2020, the 12th National Correspondents Meeting of the EJN took place under the German Presidency of the Council of the European Union. The meeting again was held via videoconference, gathering 25 participants from EU Member States and six representatives of the EJN Secretariat.

In the first part of the meeting, the participants were invited to share their experience in dealing with judicial cooperation after the restrictive measures, applied world- and EU-wide in spring due to the COVID-19 crisis.

Moreover, considering the transition period with the United Kingdom was coming to the end, the National Correspondents presented how their countries were preparing to cooperate with the British authorities after January 2021, stating that the use of Council of Europe instruments would be resumed.

### 2.2.2. EJN Regional Meetings in 2019

EJN Regional meetings		
Date and Place	Countries involved	Topics discussed
6-7 May 2019 Berlin, Germany	Germany, Austria, Liechtenstein, Luxembourg, Poland, Switzerland	Practical relevance of assurances, conditions and guarantees within extradition and surrender proceedings 20th Annual Meeting of the German EJN Contact Points
23-24 September 2019 Madrid, Spain	Spain, Italy, Netherlands	Transfer of custodial sentences and supervision measures
15 October 2019 The Hague, Netherlands	Bulgaria, Norway, Belgium, Lithuania, Latvia, Poland, Romania and Slovenia	The Norwegian BarnaHus model of interviewing children as victims in serious criminal cases

### 2.2.3. EJN National Meetings in 2019

EJN National meetings		
Date and Place	Country	Topics discussed
21 June 2019 Paris, France	France	The role of the various actors in the judicial cooperation process, the implementation of EU cooperation instruments – focusing on the CJEU judgments on the concept of an ‘issuing judicial authority’ and the ninth round of mutual evaluations devoted to mutual recognition of judgments and judicial decisions.
26 September 2019 Mechelen, Belgium	Belgium	The state play of several European instruments, as well experience and best practices regarding international cooperation
7-8 October 2019 Warsaw, Poland	Poland	Implementation in practice of various instruments of mutual recognition by prosecutors and courts and current problems in cooperation in criminal matters at national level and in relations with EU partners

### 2.2.4. EJN Regional and National Meetings in 2020

All planned EJN Regional and National meetings in 2020 had to be cancelled due to the COVID-19 crisis.

### 2.3. EJN website

The EJN website is an established and comprehensive online repository for practitioners that deal with international judicial cooperation in criminal matters.

The website contains concise legal and practical information concerning the judicial and procedural systems in the EU Member States, texts of the relevant legal instruments, notifications from the countries and related case law, as well as electronic tools that allow authorities to identify the competent authority in another Member State and to compose the request.

The restricted areas of the website provides full details of the Contact Points in each Member State and allows access to documents that, due to various reasons, could not be made public.

With an average of 2.5 million views per year, the EJN website remains the crucial source of necessary information for the practitioners, so one of the key tasks of the EJN Secretariat is to ensure the quality of the platform's content. In 2019 and 2020, the EJN Secretariate continued to work on the improvement and updating of the website, fulfilling the competence provided for in the Council Decision on the EJN and EJN Work Programme for 2019 and 2020.

The introduction video for the EJN website was created in 2018. Today, along with English, it is also available in Finnish, French, Latvian and Slovenian.

The EJN website views in 2019-20		
atlas	1,657,131	34.6%
home	1,302,170	27.2%
library	696,213	14.5%
tools	220,584	4.6%
compendium	198,227	4.1%
fiches belges	100,488	2.1%
ejnforum	62,298	1.3%
news / events	49,858	1%
contact points	46,203	1%
registry	37,881	0.8%
other	415,244	8.7%
<b>Total</b>	<b>4,786,297</b>	<b>100%</b>

#### Redesign of the website

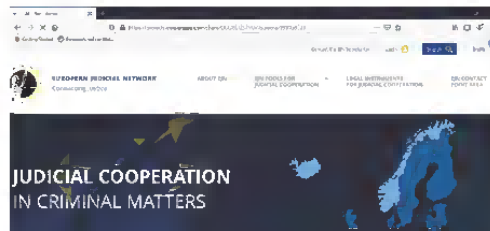
In September 2019, aiming to improve and modernise the website, the EJN Secretariat started analysing the possibilities. Apart from the need to increase the technical and security standards of the website, the Secretariat considered the demands of the practitioners to improve the user experience. To obtain the feedback from practitioners, a questionnaire was launched addressed to the EJN Contact Points and other judicial practitioners. The survey focused on the website design, user-friendliness, content, the update of information, problems and improvements of the specific tools.

More than 75 respondents replied to the questionnaire. The results and other aspects related to the need of the redesign were presented at the 11th NCM on 16 October 2019; the results of the survey were also shared during the 53rd Plenary Meeting in Helsinki.

Taking into account the feedback received from the practitioners, the EJN Secretariat started to work on the new redesigned website, which is expected to be ready at the end of 2021, offering the users a more modern, comprehensive and user-friendly way to retrieve the necessary information. Unlike the previous version, the new website can be easily viewed on mobile devices.



CURRENT EJN WEBSITE HOMEPAGE



NEW EJN WEBSITE HOMEPAGE

### ***EJN e-tools for judicial cooperation***

E-tools, created to meet practitioners' needs in the field of judicial cooperation, remain the most visited section of the EJN website.

#### **· Judicial Atlas**

The Judicial Atlas is a tool to find the competent executing authority to address a request for judicial cooperation in criminal matters, depending on the type of cooperation or measure required. It is regularly updated in cooperation with the EJN Tool Correspondent of each Member State.

In 2019, the video on the Atlas was launched on the EJN website to explain how to use all the possibilities the tool offers.

#### **· Compendium**

The Compendium is a tool for drafting requests for judicial cooperation such as EIOs, EAWs, freezing orders, confiscation order, custodial sentences, protection orders, ECRIS, financial penalties, probation, supervision measures or mutual legal assistance. It assists practitioners to fill in the request form, ensuring you enter all the required information; to import the address etc. of the executing competent authority; to add the logo and official address from requesting authority. The forms are available in all EU languages.

Following the feedback received through the website survey, an automatic save function was added in the Compendium in 2019, which improved its user-friendliness. To improve awareness of the Compendium and to provide step-by-step guidance on how to use it, a video on the Compendium was added to the website in 2020.

#### **· Fiches Belges**

The Fiches Belges is a tool that provides practical information on specific sets of measures that are covered by judicial cooperation in criminal matters. By using the Fiches Belges, it is possible to check whether a certain measure is applicable in a certain country, to find out the language into which the request should be translated, to identify the scope of information to be included in the request and to compare the measures between two countries.

The work of the EJN Working Group on revision of the list of measures in Atlas/Fiches Belges, which was formed in 2019, finished its work in autumn 2020. The revised list of measures has a more concise, intuitive and user-friendly structure in line with the latest developments in the field of judicial cooperation. To ensure the Member States provide the same content, the Fiches Belges now include instructions on which information should be included. The revised list of measures will affect the Judicial Atlas as well. It is planned that the tool will be fully updated and launched in 2021.

Other novelties regarding the Fiches Belges include separate fiches for e-evidence and a video with guidance. Both were introduced in 2020.

#### **· Judicial Library**

The Judicial Library is designed to provide legal practitioners with all available documents and relevant information related to the EU legal instruments in the area of judicial cooperation in criminal matters, including legal texts and notifications by the Member States, status of implementation of the instruments; national legislation; case-law of the CJEU, reports and handbooks and other additional information.

In the period 2019-20, the EJN Secretariat undertook a reorganisation of the Judicial Library with the aim to improve the structure and categorisation of the existing documents in order to improve the user experience. In addition, the EJN Secretariat continued to follow up with the new instruments of judicial cooperation and to add relevant information for the practitioners. Some of the newly introduced sections in the Judicial Library were on the Surrender Agreement between the European Union, Iceland and Norway, Regulation 2018/1805 on freezing and confiscation and the cooperation with the UK after Brexit. For these new instruments, the EJN Secretariat made also available the editable forms for the respective requests for cooperation in all EU languages that could be directly used by the judicial practitioners in the EU Member States.

- **Section on information about national systems**

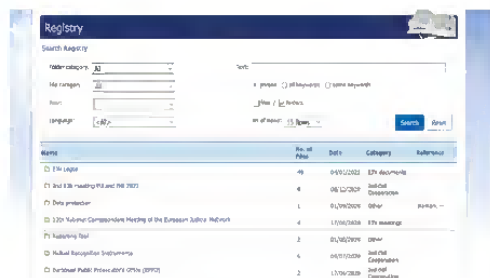
The updated information following a uniform structure is available in the EJM website for all Member States and for all five candidate countries – Albania, North Macedonia, Montenegro, Serbia and Turkey, as well as for the EJM associated countries – Iceland, Liechtenstein, Norway and Switzerland.

- **Section on cooperation with third countries and judicial networks**

This section of the EJM website gives information about the relations that the EJM has established with countries outside the European Union, either directly through designated Contact Points or via other judicial networks around the world. These relations enable the EJM Contact Points to assist national authorities with judicial cooperation in relation to the majority of the countries in the world. The EJM Secretariat continues to keep the information available in this section up to date.

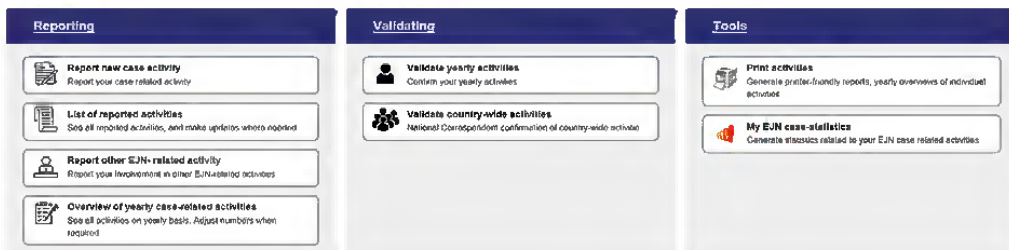
- **Registry**

In 2019, significant changes were made in relation to the Registry: a comprehensive, search-enabled storage of important and useful documents regarding EJM activities such as meetings and trainings. Initially developed outside the website, it was redeveloped and migrated to the ordinary EJM website server. For the EJM Secretariat, this means the Registry is now easier to maintain, and users of the website are presented with a more coherent look of the Registry, the Judicial Library and other sections of the website.



- **EJM reporting tool**

The tool for registering the individual activities of the EJM Contact Points was launched in January 2017. During 2019 and 2020, it has been further amended by the EJM Secretariat to facilitate the use for the EJM Contact Points. The home page of the tool was updated and additional reporting functionalities were added. As a result from the EJM Peer Evaluations, the reporting tool will be redeveloped in 2021-22.



- **Monitoring tool for the EJM website**

Since the start of the project in 2017, the EJM Secretariat with the assistance of the website contractor has developed and upgraded the monitoring tool – the tool that assists the EJM Tool Correspondents with their task of keeping the website up to date and allows the EJM Secretariat to gain an overview of the content of the EJM website. Moreover, the tool ensures the information on the EJM website is consistent between all the tools (Atlas, Fiches Belges, Judicial Library, etc.). Launched in February 2019, it is a valuable assistant to both the EJM Secretariat and the Tool Correspondents.

#### · **EJN Secure Connection**

Over the course 2019 and 2020, the EJN Secretariat continued to work on the improvement and revitalisation of the EJN Secure Connection (EJNSC) – a tool that allows sending emails between the EJN Contact Points in a secure way. To make it more user-friendly, a new feature is being developed, sending a notification to the ordinary email when a new message arrives in the inbox of the EJNSC (implementation delayed).

#### · **New authorisation policy**

In the end of February 2020, the authorisation approach for the website was changed to meet the needs of online security. Each Contact Point received their own personal credentials to access the restricted area of the website, instead of using a previous shared account. This enables the Secretariat to better manage access to restricted content, granting access to new Contact Points and revoking access to Contact Points who leave the network.

## **2.4. EJN awareness**

For the EJN to work systematically on improving its awareness, it adopted the 'EJN Policy on Raising Awareness of its Role and Activities' at the EJN Regular Meeting in February 2017. The policy includes measures to be taken to enhance the outreach of the EJN, such as instruction videos on the use of the EJN website tools (Atlas, Fiches Belges, Compendium, instructions on how to create a visible bookmark to the EJN website and an updated welcome package for new EJN Contact Points). The EJN Secretariat launched the project revising the EJN brochure, as the current brochure dates back to 2010. Two types of brochure will be designed, with general information and EJN website-specific content. The brochures will be translated in all official EU languages and relevant non-EU languages (e.g. of candidate countries).

As a follow-up to the conclusions of the EJN Peer Evaluations, the EJN Awareness Policy will be expanded to include activities related to the establishment of closer cooperation with the practitioners in the Member States.

## **2.5. EJN Secretariat**

The EJN Secretariat is responsible for the administration of the EJN<sup>39</sup>. The Secretariat forms part of the Eurojust staff, but functions as a separate unit<sup>40</sup>.

As the administrative body of the EJN, in practical terms the EJN Secretariat's tasks include:

- ensuring the proper administration of the EJN, with a view to enabling the EJN Contact Points to fulfil their tasks;
- setting up, maintaining and improving the EJN website;
- drafting documents on the activities of the EJN;
- keeping a record of projects and decisions taken within the EJN;
- providing support to the Member State holding the Presidency of the Council, particularly regarding the organisation of the EJN meetings;

39. Article 2 (8) of the EJN Decision.

40. Article 25a (b) of Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime, as amended by Council Decision 2003/659/JHA of 18 June 2003 and by Council Decision 2009/426/JHA of 16 December 2008 on the strengthening of Eurojust (OJ L 63, 6.3.2002, pp. 1-13) Available here: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32002D0187>

- sharing information on the challenges, achievements, difficulties and any other issues of general interest for the EJN with the EJN Contact Points on a permanent consultation basis;
- preparing Action Plans for new and ongoing EJN projects after consultation with the EJN National Correspondents;
- establishing and maintaining relations with other bodies and structures in the field of judicial cooperation in criminal matters, within and outside the European Union;
- promoting the EJN, including by presentation of the EJN in meetings, conferences or other events organised both within the European Union or outside by partners in third countries or international organisations.



*EJN SECRETARIAT TEAM*

During 2019-20, the Secretariat was composed of six staff members: Secretary to the EJN, EJN Secretariat Coordinator, two Legal Specialists, one Seconded National expert and one Legal Assistant. Until September 2020, the EJN Secretariat had a Webmaster, who was transferred to another unit at Eurojust to set up a website team for all websites supported by Eurojust.

## 2.6. EJN Budget

The EJN decides on its activities in the annual Work Programme of the EJN. The activities in the Work Programme are based on the EJN Decision and the experience obtained by the Network on what is needed for the EJN to be able to fulfil its tasks as facilitator of judicial cooperation in criminal matters.

Provisions in the Eurojust Regulation<sup>41</sup> and in the EJN Decision require that resources to the EJN Secretariat is provided via Eurojust and its budget, in order for the EJN to be able to carry out its tasks. In 2019, the total EJN Budget was EUR 455 000. In 2020, as a consequence of a decision by the Eurojust College regarding decreasing the financial contribution from the EJN Budget to the EJN plenary meetings in the Member States, the budget was reduced to EUR 432 000.

<sup>41</sup> Art 48 Eurojust Regulation.



Annex EJM Secretariat work programme for 2019 - Budget forecast	
Objective & Associated activities	Budget
<b>Objective 1: EJM meetings</b>	
1.1 Organisation of the 52 <sup>nd</sup> and 53 <sup>rd</sup> Plenary meetings	100,000
1.2 Organisation of the 40 <sup>th</sup> Regular meetings	31,000
1.3 Organisation of the 11 <sup>th</sup> National Correspondents meeting	17,000
1.4 Organisation of the 18 <sup>th</sup> Tool Correspondents meeting	17,000
1.5 Organisation of Presidency board meetings and EN Working Group meetings	12,000
<b>Objective 3: Functioning of the EJM contact points</b>	
3.2 Providing support for the organisation of EJM meetings in the Member States	30,000
3.3 Language training for the EJM Contact Points	35,000
3.4 Report on the EJM activities	8,000
<b>Objective 4: Administration and enhancement of the EJM website</b>	
4.1 Maintenance and enhancements and updates of the EJM website	164,000
4.4 Provide direct and regular support to the EJM Tools Correspondents	6,000
<b>Objective 5: Increasing awareness of the EJM</b>	
5.1 Activities to increase awareness of the EJM	5,000
<b>Objective 6: Cooperation with other actors in the field of juridical cooperation</b>	
	25,000
<b>Ensuring the proper administration of the EJM</b>	
Various administrative costs	5,000
<b>Grand total</b>	<b>455,000</b>

EJM BUDGET 2019

Annex EJM Secretariat work programme for 2020 - Budget forecast	
Objective & Associated activities	Budget
<b>Objective 1: EJM meetings</b>	
1.1 Organisation of the 54 <sup>th</sup> and 55 <sup>th</sup> Plenary meetings	70,000*
1.2 Organisation of the 41 <sup>st</sup> Regular meetings	29,000
1.3 Organisation of the 12 <sup>th</sup> National Correspondents meeting	17,000
1.4 Organisation of the 19 <sup>th</sup> Tool Correspondents meeting	17,000
1.5 Organisation of Presidency board meetings and EN Working Group meetings	12,000
<b>Objective 3: Functioning of the EJM contact points</b>	
3.2 Providing support for the organisation of EJM meetings in the Member States	40,000
3.3 Language training for the EJM Contact Points	35,000
3.4 Report on the EJM activities	4,000
<b>Objective 4: Administration and enhancement of the EJM website</b>	
4.1 Maintenance and enhancements and updates of the EJM website	157,000
4.5 Provide direct and regular support to the EJM Tools Correspondents	6,000
<b>Objective 5: Increasing awareness of the EJM</b>	
5.1 Activities to increase awareness of the EJM	5,000
<b>Objective 6: Cooperation with other actors in the field of juridical cooperation</b>	
<b>Missions</b>	25,000
<b>Organising meetings with other juridical networks and structures in order to promote the cooperation</b>	10,000
Ensuring the proper administration of the EJM	
<b>Various administrative costs</b>	5,000
<b>Grand total</b>	<b>455,000</b>

\*In line with the adopted ceiling by Eurojust's College

EJM BUDGET 2020

## 3. EJN cooperation with actors in the field of judicial cooperation

### 3.1. Cooperation with EU institutions

The EJN has established cooperation with the Council and the European Commission (the Commission), as well as the other EU bodies that have been created over the years. During the 2019-20 reporting period, the EJN was actively involved in various initiatives of the EU Commission and the Council of the European Union covering different aspects of cooperation in criminal matters and mutual recognition instruments.

The EJN has Contact Points in the European Commission, the European Parliament and the Council Secretariat.

#### 3.1.1. European Commission

The EJN and the Commission had an intense cooperation in the past two years that could be tentatively divided into two levels:

- a **technical** level that includes the involvement of the EJN in the developing of various online portals for judicial cooperation launched by the Commission;
- collaboration on a **legal** level that inter alia derives from the role of EJN as a hub for disseminating the information regarding EU legal instruments.

The ongoing project on developing of **Secure Online Portal for sending electronic requests regarding e-evidence/Digital Exchange System (eDES Portal)**, launched in 2016, continues to be in the focus of the EJN Secretariat's attention (refer to section 1.6.2.). In March 2020, the EJN Secretariat shared the database of the competent authorities, thus making a significant progress in linking the Atlas of the EJN website to the eDES Portal.

Moreover, the EJN has a collaboration with the projects that are related to eDES Portal, namely:

- EVIDENCE2e-CODEX Project<sup>42</sup> that aims at facilitating the exchanging of electronic evidence;
- EXEC<sup>43</sup> that was launched with the purpose of providing an up-and-running network between the competent legal authorities of the participating Member States that can be used to exchange European Investigation Orders (EIOs) and related e-evidence fully electronically. This will allow EIOs to be exchanged faster, with higher quality and with lower costs. The structured data of an EIO can be used by the receiving authorities to automatically process the data by their national IT systems;
- TREIO project<sup>44</sup> that is focused on providing training for the practitioners across the European Union on the EIO implementation, also focusing on the tutorial on using the eDES Portal. Being a considerable group of experts in the judicial cooperation, the EJN Contact Points could significantly contribute to the project as trainers, or by identifying the urgent and potential issues that need to be covered by training.

---

42. Read more about the EVIDENCE2e-CODEX project here: <https://evidence2e-codex.eu/a/evidence2e-codex-focus>

43. Read more about the EXEC project here: <https://www.e-codex.eu/EXEC>

44. Read more about the TREIO project here: <https://evidence2e-codex.eu/a/evidence2e-codex-end>

Apart from that, the EJM Secretariat is involved in the project on developing the e-Justice Portal<sup>45</sup>, working on the linking between the e-Justice Portal and the EJM website. The project is ongoing.

In the near future, the EJM Secretariat will also take part in the Digital Criminal Justice project<sup>46</sup>, and has already submitted its comments and proposals to the Commission.

**Short overview of the online Commission projects in which the EJM is involved in 2019-20**

<p><b>Secure Online Portal for sending electronic requests regarding e-evidence/Digital Exchange System (eDES Portal)</b></p> <p>CONCEPT: to draft and send the EIO/MLA requests online; to ensure communication between authorities during the whole cycle of issuing and executing the requests.</p> <p>Related project where EJM is involved:</p> <p>TREIO – to train practitioners on EIO and eDES portal</p>	<p><b>Digital Criminal Justice</b></p> <p>CONCEPT: exchange of information and evidence during cross-border investigation</p>
	<p><b>e-Justice Portal</b></p> <p>CONCEPT: to gather all legal information and useful links from all EU Member States in one place</p>

From the **legal** perspective, the EJM cooperates with the Commission in various ways, namely:

- by following up with the Commission regarding topics to be discussed at the EJM meetings;
- by engaging with the ad hoc projects and working groups (for example, in 2020 the EJM had a close cooperation with the Commission in the European Arrest Warrant (EAW) coordination group that aims to be a forum for practice and knowledge sharing when new issues – such as the COVID-19 pandemic – come up).

### 3.1.2. Council of the European Union

The cooperation with the Council of the European Union has been strengthened over the past two years, particularly with regard to the more systematic way of working with and presenting the conclusions from the EJM meetings and Working Groups in the Council. The EJM is often invited to take part in the COPEN meetings, providing the current information regarding judicial issues from the EJM perspective.

In addition, due to the vast operational experience of the EJM, the Council has invited the EJM to participate in projects related to judicial cooperation and practical application of legal instruments or case law of the CJEU in the Member States (e.g. extradition of EU citizens to third countries and Issuing and executing authorities in EAW proceedings).

With regards to the 9th round of mutual evaluations on EAW FD, custodial sentences, probation measures and supervision measures, the General Secretariat of the Council of the European Union invited the EJM and Eurojust to exchange views on the scope of the evaluations. The EJM Secretariat asked the EJM National Correspondents for their contribution on what would be the most relevant areas/questions to include in the evaluation questionnaire and subsequently for the experts teams visiting the Member States to elaborate on during the meetings/interviews. The EJM Secretariat submitted the EJM input to the General Secretariat of the Council.

The EJM Secretariat took part in two COPEN meetings where the completed evaluation reports of some of the Member States were discussed and presented.

45. Read more about the e-Justice Portal here: <https://e-justice.europa.eu>

46. Read more about the Digital Criminal Justice project here: <https://www.eurojust.europa.eu/judicial-cooperation/judicial-cooperation-instruments/digital-criminal-justice>

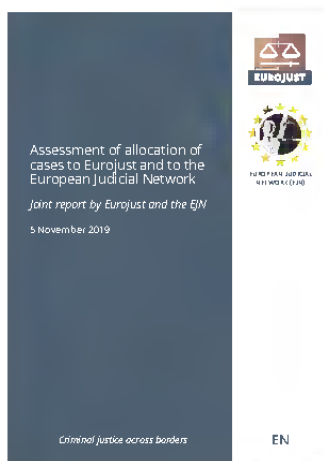
## 3.2. Eurojust

The privileged relations between the EJM and Eurojust, which are based on consultation and complementarity, have always been a main principle of the cooperation between the two organisations since the creation of Eurojust in 2002. This is enshrined in the Article 10 of the EJM Decision, as well in the Eurojust Regulation<sup>47</sup> that came into force in 2019.

In 2019-20, the EJM and Eurojust have combined efforts to gather practitioners and collect their experience, knowledge and best practice in the application of different legal instruments. Since 2017, when the EIO became the main tool for obtaining evidence inside EU Member States, there have been many meetings dedicated to the novelties and issues that arise when it comes to the practical use of the new instrument. As a result, in June 2019 [a Joint Note on the practical application of the EIO](#)<sup>48</sup> created by Eurojust and the EJM was published. It is available on both the EJM and Eurojust websites.

Another legal instrument that was in the common focus of both EJM and Eurojust in 2019 and 2020 was the EAW. After the CJEU judgment of 27 May 2019, which touched upon the concept of the 'issuing judicial authority', and subsequent judgments in 2019, the EJM and Eurojust prepared a questionnaire regarding the issue in question. [The compilation of the replies](#) is available on the EJM website.

In 2020, the [Joint report of Eurojust and the European Judicial Network on the extradition of EU citizens to third countries](#) was published. Read more about the activities of the EJM related to the EAW in 1.3.



To better support the work of the national judicial authorities, the EJM and Eurojust were jointly involved in a project on assessment of allocation of cases to Eurojust and to EJM. The aim of the project was to clarify the distinction between two organisations and to provide guidance for the national authorities that would help them determine when a case should be directed to the EJM or to Eurojust. The project was finalised in November 2019 when the Joint report made by Eurojust and the EJM [Assessment of allocation of cases to Eurojust and to the European Judicial Network](#)<sup>49</sup> was published. This report was mentioned as a part of the existing operational cooperation between the EJM and Eurojust in the Council Conclusions on *Synergies between Eurojust and the networks established by the Council in the area of judicial cooperation in criminal matters*<sup>50</sup>.

Moreover, Eurojust and the EJM have contributed to the discussions on the topics of the 9th round of mutual evaluations on mutual recognition legal instruments in the field of deprivation or restriction of liberty that started in the end of 2019.

Along with Eurojust, the EJM is also involved in various other projects. Examples include the EuroMed project for the cooperation with counties in the Mediterranean region, and the SIRIUS project, which is dedicated to obtaining electronic evidence.

47. Regulation (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation (Eurojust) (OJ L 295, 21.11.2018, pp. 138–183). Available here: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32018R1727>

48. Available here: <https://www.ejm-crimjust.europa.eu/ejm/!libdocumentproperties/EN/2131>

49. Available here: <https://www.ejm-crimjust.europa.eu/ejm/upload/News/2019-11-Joint-Eurojust-EJM-report.pdf>

50. Council Conclusions — 'Synergies between Eurojust and the networks established by the Council in the area of judicial cooperation in criminal matters' (OJ C 207, 18.6.2019, pp. 1-7). Available here: <https://eur-lex.europa.eu/legal-content/GA/TXT/?uri=CELEX%3A52019XC0618%2801%29>

### 3.3. Cooperation with EU networks

Eurojust hosts two network secretariats that form part of the Eurojust staff<sup>51</sup> – the Network of National Experts on Joint Investigation Teams (JITs Network) and the European Network of Contact Points in respect of responsible for the crime of genocide, crimes against humanity and war crimes (the Genocide Network). In addition, Eurojust is giving administrative support to the European Judicial Cybercrime Network (EJCN).



The EJNI has successfully collaborated with these networks since their establishment. In 2019, a serious step was taken to take the cooperation to the next level. The Romanian Presidency, which started on 1 January 2019, declared as one of its priorities the improvement of the synergies between the EJNI, the Genocide Network, the JITs Experts Network, the EJCN, and between these networks and Eurojust. To achieve this aim, all the organisations combined forces to produce a Joint Note regarding their view on the coordination and cooperation between them and the possible need for improvements.

Based on the above, on 6 June 2019, the JHA Council adopted the Council Conclusions on *Synergies between Eurojust and the networks established by the Council in the area of judicial cooperation in criminal matters together with the Report by the Presidency on the way forward in the field of mutual recognition of judicial decisions in criminal matters*<sup>52</sup>. The Conclusions analyse the existing cooperation between the networks on two levels: the facilitation of contacts and strategic cooperation, and operational cooperation.

The role of sharing contact details of the members or contact persons between the networks was emphasised as crucial for operational support to practitioners. Currently, the contact details of the JITs experts, members of the EJCN and Contact Points of the Genocide Network have been uploaded to the EJNI website and are updated on a regular basis. JITs experts and the EJCN members, on their side, have been provided with credentials to have access to the contact details of the EJNI Contact Points on the EJNI website. The list of the EJNI Contact Points was also shared with the Genocide Network. It was also stressed that members of the networks and Eurojust attend the relevant meetings with a view to sharing information and expertise in areas of common interest.

#### The EJNI Secretariat was represented at:

5-6 June 2019	JIT Plenary Meeting
10 November 2020*	
23 May 2019	Genocide Network Meeting
5-6 November 2020*	
4-5 April 2019	EJCN Plenary Meeting
10-11 December 2020*	

\* meetings held online

### 3.4. European Public Prosecutor's Office

After the appointment of Ms. Laura Kövesi as the first European Chief Prosecutor on 14 October 2019, the Council appointed 22 European Prosecutors, one for each of the participating EU Member States, on 27 July 2020. The European Public Prosecution Office (EPPO) is an independent and decentralised prosecution office of the European Union that is responsible for investigating, prosecuting and bringing to judgment crimes against the EU budget, such as fraud, corruption or serious cross-border VAT fraud<sup>53</sup>.

51. See Article 48 (2) of the Eurojust Regulation.

52. Available here: <https://data.consilium.europa.eu/doc/document/ST-14540-2018-INIT/en/pdf>

53. Read more about the EPPO here: <https://www.epo.europa.eu/>

The investigation and prosecution at national level is to be carried out by the European Delegated Prosecutors – the representatives of the judiciary with the relevant competence – in their EU countries. Being a so-far unique institution in the field of cross-border criminal justice, in performing its duties the EPPO will have to deal with the judicial cooperation with the non-participating countries (as at December 2020: Hungary, Poland, Sweden, Denmark and Ireland) as well as with third countries.

Despite its important role in facilitating the judicial cooperation, the EJM is not mentioned in the Regulation 2017/1939 on the EPPO<sup>54</sup>. Nevertheless, in the first half of 2019, the possible ways of cooperation between the EJM and the EPPO were discussed during the EJM meetings – 40th Regular (20 February 2019) and 52nd Plenary – held under the Romanian Presidency, and it was highlighted that the issue with the cooperation would have to be tackled in practice.

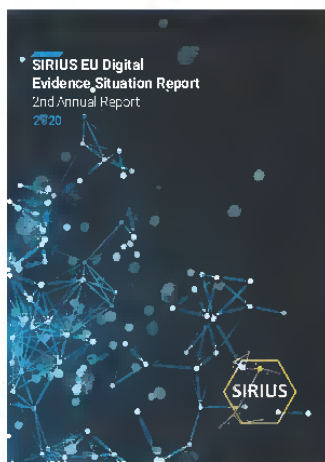
The first European Chief Prosecutor of the EPPO, Ms. Laura Kövesi, who was elected during the Finnish Presidency, attended the 53rd Plenary Meeting of the EJM in Helsinki.

Discussions on the EPPO also continued at the 41st Regular Meeting on 12 February 2020, where the EJM Contact Points shared their views on possible avenues for cooperation between the EJM and the EPPO. Moreover, they provided information on how their respective States are preparing for the entering into function of the EPPO. The history, structure, functions and competence of the EPPO was also a topic of the EJM 10th Legal English Language Training for the EJM Contact Points in autumn 2020.

### The EJM will be a key player in the day-to-day business of the EPPO

Laura Codruța Kövesi,  
first European Chief Prosecutor

## 3.5. Europol



Over the period of 2019-20, the EJM continued to cooperate with Europol under the umbrella of the SIRIUS Project. This project aims to improve cross-border access to electronic evidence by providing opportunities for the exchange of best practice and training on cooperation with US-based service providers and to provide opportunities for the exchange of best practice and further training for EU practitioners on applicable rules in the US on mutual legal assistance procedures.

The EJM participates in the SIRIUS project by providing feedback relating to electronic evidence from the perspective of the judicial practitioners. As a result, together with Europol and Eurojust, the EJM has contributed to the second annual edition of the SIRIUS EU Digital Evidence Situation Report.

The report outlines the status of EU authorities in retrieving electronic data held by foreign-based online service providers in 2019. The [Report](#)<sup>55</sup> has been uploaded to the EJM website. The EJM Secretariat analysed the information provided in the newly created

EJM Fiches Belges for e-Evidence to improve the understanding on the current national legal provisions to obtain digital evidence in different Member States.

54. Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office (the EPPO) (OJ L 283, 31.10.2017, pp. 1-71). Available here: <https://eur-lex.europa.eu/eli/reg/2017/1939/oj>

55. Available here: [https://www.ejm-crimjust.europa.eu/ejmunload/News/SIRIUS\\_DESE\\_2020.pdf](https://www.ejm-crimjust.europa.eu/ejmunload/News/SIRIUS_DESE_2020.pdf)



© European Union, 2021

Print: ISBN 978-92-9490-509-0, doi:10.2812/2868983, QP-02-21-632-EN-C • PDF: 978-92-9490-508-3, doi:10.2812/624886, QP-02-21-632-EN-N