



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 7 December 2007**

**16242/07**

**EJN      41  
COPEN   175**

**NOTE**

---

From :            Presidency  
to                Contact points of the European Judicial Network  
Subject :        Evaluation Report of the European Judicial Network 2005-2007

---

Delegations will find attached the Evaluation Report of the European Judicial Network 2005-2007.

## TABLE OF CONTENTS

Introduction.....	3
Part I – Activities of contact points of the EJM structures .....	6
A. Meetings .....	6
A.1. EJM Plenary Meetings of the Contact Points .....	7
A.2. Meetings of National Correspondents.....	8
A.3. Meetings of the Informal Working Group .....	9
A.4. Other meetings .....	10
A. 5. Secretariat.....	11
B. Cooperation within and outside the EU.....	12
B. 1. Cooperation with Eurojust.....	12
B. 2. Raising awareness among practitioner: Cooperation with Judicial Networks and other stakeholders beyond the EU .....	13
C. Operational Activity of the Contact Points.....	14
C.1. Questionnaire results .....	14
C. 2. Raising awareness among practitioners .....	22
D. EJM information platform – EJM information tools .....	22
E. The future of the EJM .....	26
Part II - Global assessment and future perspectives .....	39
A. Follow up to Recommendations in the EJM Report 2002-2004.....	39
B. Global assessment and future perspectives .....	41
C. Priorities for the next biennium.....	42
Part III– Conclusions and Recommendations.....	42
Annex:	
Presidency proposal on a reinforced evaluation mechanism within the EJM .....	45

## INTRODUCTION

### 1. General remarks

Under Article 12 of Joint Action 98/428 JHA of 29 June 1998 on the creation of a European Judicial Network, the Council shall, every three years on the Presidency's initiative, carry out an assessment for the operation of the European Judicial Network on the basis of a report drawn up by the Network.

The first report, adopted under Belgian Presidency, covered the period of 1998-2001, corresponding to the initial phase of activity of the EJM. It focused mostly on the task description of the Contact Points and on how the EJM operates, as well as on the various information tools created in the light of the Joint Action of 1998. It also addressed a set of Recommendations thereupon.

The second report, adopted under Dutch Presidency, covered the period of 2002-2004 and was particularly focused on the way in which the EJM has further developed and improved its operations, with particular attention as to how the changes and developments registered since 2002 as regards the creation and maintenance of an Area of Freedom, Security and Justice in the European Union had affected or could affect in the future the functioning of the EJM.

This report covers the period of 2005-2007. It focuses, in particular, on the operational aspects of the EJM, namely the activities carried out by both the Contact Points and within the internal structures of the EJM, as well as on the EJM vision for the future.

It is divided in three parts: Part I briefly describes the EJM activity within the current legal and institutional framework; Part II takes stock of the results achieved and sets out perspectives for the future; Part III contains Conclusions and Recommendations.

The report was drawn up by the Portuguese Presidency in cooperation with the new EJM Secretary. It is also based upon contributions by all EU Member States, as well as by candidate/accessing countries and by Croatia, Iceland and Norway. The Presidency would like to seize this opportunity to thank the Contact Points for their cooperation in replying to the questionnaire, as well as the staff of the EJM Secretariat for their assistance in gathering the necessary documentation.

The report is followed by an Annex containing a Presidency proposal for a reinforced mechanism of evaluation within the EJM that might be the starting point for future discussion. Drawing on suggestions made during the debate on the future of the EJM, it is based upon the assumption that the EJM should implement a more in-depth assessment of its activity in order to improve its accountability to the EU and its Member States.

## 2. Legal background

During the period covered by the present report, the basic legal framework remained unchanged, as the Treaty establishing a Constitution for Europe did not come into force.

However, two major steps as regards the future of the European Area of Freedom, Security and Justice should be mentioned, given their direct impact on the EJM action and perspectives for its future.

A first progress was the implementation of the Hague Programme, where the Council was invited to consider the "further development of Eurojust on the basis of a proposal from the Commission"<sup>1</sup>. Considering the way how the issue of a new Treaty has evolved, this proposal, submitted in 2007, concentrated on the future role of Eurojust and the EJM.

Another step consists of the recent adoption of the **Reform Treaty** during the Lisbon informal European Council of 18-19 October 2007, under Portuguese Presidency, whose draft text was presented to the Intergovernmental Conference opened on 23<sup>rd</sup> July. This achievement followed the Berlin Declaration of 25<sup>th</sup> March 2007 on the 50<sup>th</sup> anniversary of the signature of the Treaty of Rome – setting up a time limit for the preparation of a "renewed common basis for the European Union" – and the mandate conferred by the European Council of 21-22 June 2007 held under German Presidency.

---

<sup>1</sup> Last paragraph of point 3.3.3 on Eurojust. The Hague Programme (OJ C 53, 3 March 2005).

On 19 October 2007, Heads of State and Government agreed on the text of the Reform Treaty, paving the way for a new legal framework where the European Area of Freedom, Security and Justice may be developed under the normal legislative process of the treaties. Among its provisions, article 69-H, paragraph 1 c) continues to provide for a close cooperation between Eurojust and the European Judicial Network.

Furthermore, new legal instruments adopted by the European Union continued to assign a role to EJN:

- FRAMEWORK DECISION 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties (OJ L76, 22/03/2005): Article 4<sup>1</sup>
- COUNCIL FRAMEWORK DECISION 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders (OJ L 328, 24/11/2006): Article 4<sup>2</sup>

The EU plan on best practices, standards and procedures for combating and preventing trafficking in human beings (2005/C 311/01), OJ C 311, 9/12/2005, also refers specifically to the EJN.<sup>3</sup>

### 3. Enlargement

On the other hand, the enlargement of the EU has continued with the accession of Bulgaria and Romania as from the 1<sup>st</sup> of January 2007. This was naturally reflected in the EJN activities and operations. The EJN Secretariat is working on the extension of the EJN instruments to those countries.

---

<sup>1</sup> Article 4. Transmission of decisions and recourse to the central Authority (...) "5. If the competent authority in the executing State is not known to the competent authority in the issuing State, the latter shall make all necessary inquiries, including via the Contact Points of the European Judicial Network in order to obtain the information from the executing State."

<sup>2</sup> Article 4. Transmission of confiscation orders (...) "4. If the authority competent to execute the confiscation order is not known to the competent authority of the issuing State, the latter shall make all necessary inquiries, including via the contact points of the European judicial network, in order to obtain information from the executing State."

<sup>3</sup> In Section 5, named - Investigating and Prosecuting, point 4 - to enable more effective cooperation in investigations and prosecutions against trafficking, in particular 4.a) and 4.c) calling for maximum use of EJN by the Member States and for the involvement of the EJN, in partnership with Eurojust and ERA, in case file management.

#### 4. Involvement of non EU countries in the EJM activity

Whereas the Joint Action does not allow third countries to be part of the network, an informal involvement of **Norway** in the activity of the EJM was decided in the 23<sup>rd</sup> plenary meeting under Austrian Presidency, on 27 February 2006, as a practical co-operation related issue aimed at making the information on Norway available on the EJM website without implying the need for any amendments to the joint action.

#### 5. Developments of the EJM institutionalization process

Finally, as regards the internal operation of the EJM, this stage corresponds to the **consolidation of the institutionalization process** of the EJM following the appointment of the Secretary (second half of 2003) and the setting up of the Informal Working Group (June 2002) so that the EJM might better correspond to the new challenges arising from the creation of Eurojust and the development of a strategic partnership between the two structures.

In this context, in the 21<sup>st</sup> EJM meeting under Luxembourg Presidency of 8-10 June 2005, the General Assembly reached a consensus on the need to make a reinforced use of the informal structures created in the 12<sup>th</sup> plenary meeting held in Murcia in 2002 under Spanish Presidency, in order to speed up the decision-making by the General Assembly and to allow it to concentrate on judicial cooperation matters in full compliance with article 5 of the 1998 Joint Action.

Besides the Informal Working Group, this involved as well the informal expanded Troika integrating the two future Presidencies to assist the current Presidency.

### **ACTIVITIES OF CONTACT POINTS AND OF THE EJM STRUCTURES**

#### ***A. Meetings***

The EJM plenary meetings of the Contact Points took place in accordance with Article 3 (b) of the Joint Action of 29 June 1998. Moreover, the EJM held regular meetings of the national correspondents and of the Informal Working Group, as well as other meetings on an *ad hoc* basis.

The plenary meetings are financed as described below under A.1. The remaining meetings are financed by the EJM Secretariat annual budget within the Eurojust budget.

It should be noted that, as part of its organizational process, in 2005 the EJM adopted Guidelines for the organization of the EJM meetings under the rotating EU Presidency as well as Guidelines for the EJM meetings to be held in Brussels.

The outcome of the meetings and the Guidelines are available on the EJM website: [www.ejm-crimjust.europa.eu](http://www.ejm-crimjust.europa.eu)

### ***A. 1. EJM Plenary Meetings of the Contact Points***

Since 1998, the Contact Points have met three times a year: one meeting takes place in Brussels and complies with the general financial rules applying to Council's working groups. The other two meetings are organized by each Presidency and take place in the respective Member State; they are partially financed by the EJM Secretariat budget within the Eurojust budget, according to the document "Guidelines on the organization of the EJM meetings under the rotation Presidency", as referred above.

Overview of the Plenary Meetings:

*20<sup>th</sup> Meeting* under Luxembourg Presidency, Brussels, 21<sup>st</sup> March 2005.

Delegates from Romania, Bulgaria and Turkey attended as well.

*21<sup>st</sup> Meeting* under Luxembourg Presidency, Luxembourg, 8-10 June 2005.

Delegates from Romania, Bulgaria, Turkey, Lichtenstein, Norway and Switzerland attended as well.

*22<sup>nd</sup> Meeting* under British Presidency, Edinburgh, 5-7 December 2005.

Delegates from Romania, Croatia, Turkey, Russia, Norway, Lichtenstein, Iceland, Norway, Switzerland, Australia and the United States of America, and from SEEPAG attended as well.

*23<sup>rd</sup> Meeting* under Austrian Presidency, Brussels, 27 February 2006.

Delegates from Romania, FYROM and Norway attended as well.

*24<sup>th</sup> Meeting* under Austrian Presidency, Graz, 11-13 June 2006.

Delegates from Romania, Bulgaria, Croatia, Lichtenstein, Norway, Switzerland, and from IberRed attended as well.

*25<sup>th</sup> Meeting* under Finish Presidency, Rovaniemi, 29 November - 1 December 2006. Delegates from Bulgaria, Romania, Croatia, FYROM, Iceland, Lichtenstein, Norway, Switzerland, Russia, and from IberRed attended as well.

*26<sup>th</sup> Meeting* under German Presidency, Brussels, 26 February 2007.

In this meeting, the Presidency welcomed the Contact Points of two new Member States, Bulgaria and Romania. Delegates from Norway and Switzerland attended as well.

*27<sup>th</sup> Meeting* under German Presidency, Trier, 4-6 June 2007.

Delegates from Iceland, Lichtenstein, Norway and Switzerland attended as well.

*28<sup>th</sup> Meeting* under Portuguese Presidency, Óbidos, 12-13 December 2007.

Delegates from Brazil, Cape Verde, Croatia, FYROM, Iceland, Lichtenstein, Norway and Switzerland were expected to attend as well.

### ***A. 2. Meetings of National Correspondents***

The meetings of national correspondents started during the previous Portuguese Presidency of 2000 bringing together, on a yearly basis, one contact point of each Member State (the national correspondent). The group addresses issues basically connected to the shaping of the EJM information system, through the development, improvement and updating of the EJM tools and related training issues. It has also developed networking with organizations and countries outside the EU, allowing an interface with different continents and judicial systems and, to that extent, playing the role of a "Think-Tank" within the EJM.



The meetings took place in Portugal since their setting up, until 2005. Following the transfer of the European Judicial Atlas website from the Portuguese Ministry of Justice to the EJM Secretariat's website, the meetings take place in The Hague.

In spite of that, during the 5<sup>th</sup> meeting of the national correspondents (2005), the Representative of the Council Secretariat suggested that in 2008 a commemoration meeting of the 10<sup>th</sup> anniversary of the EJM might take place in Portugal and this proposal met with general agreement.

Overview of the annual national correspondents meetings:

4<sup>th</sup> annual meeting, Lisbon, 18-19 October 2004

5<sup>th</sup> annual meeting, Cascais, 22-23 September 2005

6<sup>th</sup> meeting, The Hague, 26 June 2007<sup>1</sup>

### ***A. 3. Meetings of the Informal Working Group***

The Informal Working Group meets to supervise the execution of the annual budget and of the work programme for the year in question and to identify the priorities for the two following years, as well as to address administrative and substantive matters relating to the EJM information system, other matters of interest to the EJM and matters relating to Eurojust.

---

<sup>1</sup> As mentioned in the Secretariat activity report of 2006 (doc. 16445/06 of 11 December, EJM 29, pg.2), the two meetings of the national correspondents initially planned for 2006 in light of the need for further co-ordination of the implementation of the framework contract for the further development of the EJM information tools were postponed due to the belated signature of the contract. *See below point D.*

On the basis of the outcome of those meetings, and adoption by the Intergovernmental Working Group, the Secretariat submits the annual budget and work programme proposals as well as the priorities for the next two years to the EJM Presidency meeting taking place in the second half of the year, for its approval.<sup>1</sup>

Overview of the Informal Working Group meetings:

4<sup>th</sup> meeting, The Hague, 13 September 2005

5<sup>th</sup> meeting, The Hague, 28 March 2006

6<sup>th</sup> meeting, The Hague, 19 September 2006

7<sup>th</sup> meeting, The Hague, 12 November 2007

#### ***A.4. Other meetings***

***Meetings of the Informal expanded Troika:*** The Hague, 12 September 2005, 27 March 2006, 18 September 2006 and 12 November 2007.

#### ***Ad hoc Working Group on the EJM Vision Paper***

This group was created as a follow up to the 5<sup>th</sup> meeting of the Informal Working Group (2006) to assist the Presidency in preparing a document to be provided to the European Commission as the EJM's contribution (*see below point E., 24<sup>th</sup> EJM meeting*).

Outline of the ad hoc group's meetings: 25 April and 18 May 2006.

---

<sup>1</sup> At the Edinburgh meeting the General Assembly approved the following documents: Secretariat Activity Report January-November 2005 EJM59, EJM Secretariat Work Programme 2006 – EJM 60, EJM Secretariat 2007 Work Programme and Budget Forecast" EJM 61. At the Rovaniemi meeting the General Assembly approved the following documents: EJM Secretariat activity report January-November 2006 EJM 29, EJM Secretariat work programme for 2007 EJM 30, EJM Secretariat 2008 work programme and budget forecast EJM 31.

### ***E-Working Group***

This group was created as a follow up to the 5<sup>th</sup> meeting of the Informal Working Group (2006) to assist SIEMENS Business Services in executing the framework contract for further development of the EJN information tools from the perspective of key users (*see below point D.*). The group works as an "e-working" group and only meets if necessary.

Outline of the ad hoc group's meetings: 27 June 2006 and 26 January 2007.

### ***E-Working Group on the MLA 2000 Convention***

This group was created as a follow up to the 6<sup>th</sup> annual meeting of the National Correspondents (2006) to establish an action plan for the adaptation of the EJN information tools to the EU Convention on Mutual Assistance in Criminal Matters of 29 May 2000. It is expected to meet before the end of 2007.

### ***A.5. Secretariat***

In accordance with Article 26.b) of the Decision on the creation of Eurojust, the EJN Secretariat is part of the Eurojust Secretariat but functions as a separate unit and carries out its tasks with functional autonomy.

The Secretariat assists the Presidency, enables the EJM Contact Points to fulfil their tasks and deals with the administrative and budgetary matters incumbent upon the EJM, ensuring its smooth administration. It produces annual activity reports that give account of the level of execution of the annual budget, reports on the execution of the annual work programme and prepares proposals on the priorities for the next two years.<sup>1</sup> The EJM Secretariat ensures also the development of new tools at the disposition of practitioners in the field of judicial cooperation.

The Secretariat represents the EJM in several Eurojust meetings (e.g. EJM/Liaison Magistrates team and the Eurojust College Planning Event 2005) as well as in conferences and seminars organised by other actors of judicial cooperation outside and inside the EU (*see below point B.*).

During the period covered by this report, it should be noted that the former EJM Secretary left office in June 2007 and that a new Secretary of the EJM took up office on 1<sup>st</sup> of October 2007. The EJM Webmaster left office in July 2007 as well and the new one is planned to take up duty in February 2008. The remaining staff of the EJM Secretariat along with the help of the IM unit Eurojust ensured that the work of the EJM was not disrupted during both recruitment procedures.

## ***B. Cooperation within and outside the EU***

### ***B.1. Cooperation with Eurojust***

EJM remains a privileged partner of Eurojust, as foreseen by Article 26.2 of the Decision on Eurojust.

---

<sup>1</sup> Budgetary matters. The tasks assigned to the EJM in budgetary matters draw on several sources:

- Article 26(2) (b) of the Decision of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime: "*...It (the Secretariat of the European Judicial Network) shall be able to draw on the resources of Eurojust which are necessary for the performance of the European Judicial Network's tasks...*".
- Article 19(2) of the Rules of Procedure of Eurojust: "*...The European Judicial Network shall express to the College its views on its administrative and budgetary needs*".
- The document of guidelines on practical relations between the EJM and Eurojust approved in the 13th EJM meeting under Danish Presidency states in point 6: "*It is envisaged that the consultations in the budgetary matters referred to in Art. 19 (2) of the Eurojust Rules of Procedure should take place before the 15th of January of the year preceding the financial year. Consultations in all other administrative matters should take place whenever the need arises*".

Accordingly, the EJNI is represented in Eurojust meetings through the Presidency or the Secretariat, depending on the cases and as agreed between them.

However, the experience gained from the practical implementation of the Eurojust decision in this respect showed that the complementary dimension of their respective roles needed to be further clarified. This concern constitutes, in fact, a substantial point of the ongoing debate on the future of Eurojust and the European Judicial Network.

Both structures gave their contributions to the Commission Communication on the future of Eurojust and the EJNI and engaged in the debate on this issue (*see below point E.*), including through participation in seminars and meetings organized by each other.

This is in line with the Council Conclusions on the fifth Eurojust Annual Report (calendar year 2006) calling for a clarification of work division between them and for the possibility of joint initiatives in order to raise awareness among practitioners of their respective tasks (point 10).<sup>1</sup>

### ***B.2. Raising awareness among practitioners: Co-operation with Judicial Networks and other stakeholders beyond the European Union***

Increased informal co-operation is currently implemented between the EJNI and similar networks, international organizations involved in judicial cooperation and third countries.

This was done notably through the participation of delegates from those entities in the meetings of the EJNI Plenary (*see above point A.1*) or of the EJNI National Correspondents<sup>2</sup>, as well as through the participation of EJNI Contact Points and of the Secretariat in international meetings, conferences and seminars in countries outside the EU. The Secretariat was also invited to participate in the meetings of IberRed and of the SEEPAG - Southeast European Prosecutors Advisory Group.

---

<sup>1</sup> Council conclusions, document 9920/07 COPEN 73.

<sup>2</sup> Such was the case with experts from the UN office on drugs and crime, in Vienna, and from GNCOC – "National Group against criminal organizations", a prosecutors' network against organized crime, of Brazil, that attended the 5<sup>th</sup> meeting of the national correspondents (2005).

Finally, following a partnership declaration signed by the Secretariat, several places were offered to the EJM Contact Points to participate in the "Eighth Permanent Seminar on the Comparative Study of Judicial Systems through Legal Language", Murcia, 30 September to 8 October 2006, organized by the General Council of the Judiciary of Spain within the "Permanent Forum for European Judicial Studies". The EJM Secretariat is also a partner of ECLAN (European Criminal Law Academic Network) for the elaboration of a pattern for judicial training on cooperation in criminal matters in the EU.

### ***C. Operational Activity of the Contact Points***

#### ***C.1. Questionnaire Results***

## **I FIGURES**

The work of the European Judicial Network gains all its colours, strength and meaning when it comes to real life.

In fact, everyday life in Court, procedures, enquiries, information exchange, trials and detentions are often greatly facilitated by the intervention of the EJM Contact Points.

The active intermediation mentioned in article 4.1. of the Joint Action of 28 June 1998 is alive and well, as shown by the answers provided by CPs to the questionnaire disseminated by the Presidency.

Frequently, however, due to the pressure of their professional lives, many CPs didn't start yet to systematically register the cases they are called to help solving; nevertheless, their work is undeniably shown in the successes they obtain. And with the follow up of the German initiative concerning a standardized scheme on how to register interventions of the EJM, an extraordinary helping tool will arise in order to assist the CPs in demonstrating the work they perform, besides their own as national judicial authorities.

Therefore, it is possible to conclude that the EJN, during the years 2005, 2006 and 2007, helped courts solve real cases whose numbers are as follows:

COUNTRIES	2005	2006	2007
AUSTRIA	260	304	258
BELGIUM	*	*	*
CZECH REPUBLIC	*	*	*
DENMARK	*	*	*
FINLAND	*	1	3
FRANCE	+/-150	+/-150	+/-150
GERMANY	437	378	465
HUNGARY	*	37	76
ITALY	*	*	*
IRELAND	*	1	2
LATVIA	*	*	*
LITHUANIA	75	75	75
LUXEMBOURG	28	44	53
THE NETHERLANDS	45	30	95
PORTUGAL	214	185	188
ROMANIA	30	40	50
SPAIN	104	126	154
SWEDEN	*	*	*
UNITED KINGDOM	*	*	*
TOTAL	1343	1371	1569

As regards other non-EU countries working together with the EJN, numbers were also provided:

COUNTRIES	2005	2006	2007
CROATIA	*	*	9
ICELAND	*	*	*
NORWAY	32	42	42

Some countries have already organised their registration systems in such a way that their CPs are able to inform on incoming and outgoing requests as well as to organise their figures by countries.

For instance:

Demands addressed or presented by **Spain** in 2006.

---

\* *Meaning that there are no statistics available.*

	AT	BE	BU	CY	CZ	FI	FR	DE	EL	IE	IT	LV	LT	NL	NO	PO	PT	RO	SK	SI	SE	CH	UK
06	1	9	1	1	3	8	10	24	1	2	2	8	9	8	5	8	23	1	1	1	2	4	11

**Hungary**, too, is able to provide information on the EJM work related to countries.

	AT	BE	CZ	ES	FI	FR	DE	EE	IE	IT	LV	NL	PL	PT	RO	SK	SI	SE	UK
06	0	1	0	2	1	0	12	1	0	4	0	1	2	2	3	3	0	1	4
07	3	5	5	4	1	2	16	0	3	4	2	3	4	0	3	13	1	4	3

Finally, **Portugal** can also articulate figures and countries such as, for instance, for 2005:

	AT	BE	CZ	ES	FI	FR	DE	EE	IE	IT	LV	NL	PL	RO	SK	SI	SE	UK
05	3	10	0	39	3	54	34	0	1	2	0	15	1	0	0	0	1	+58

## II

### SPECIFIC CASES

The importance of the EJM work may be better assessed when shown in the framework of the specific case for which the intervention was requested.

Among the available cases, seven situations were selected according to the following criteria: a) they correspond to a very common intervention of the EJM; b) their complexity or importance justifies their specific reference; c) they reveal an emerging new field of intervention for the CPs.; d) they underline the importance of good team work between the EJM and Eurojust for a successful outcome.

1) **Provider of information in legislative aspects** (Belgium, Czech Republic, Denmark, Latvia, and Lithuania): the European Judicial Network is frequently called to provide information on legislation, either in the perspective of a specific case or as a means to get wide information on comparative Law, previous to a national implementation of EU legislation. The EJM acts not only as a provider of specific information related to a particular situation, but also as a permanent forum for information on legal systems.



2) **Intervention as a facilitator of video conferences:** a new field of cooperation, and therefore a new ground for the work of the EJM arises from article 10 of the 2000 Convention. In fact, some countries (Finland, Portugal and Austria) have explained that all contacts before a video conference are very often endorsed, on behalf of the local authorities, by the EJM contact points. Exploratory contacts (for instance, in order to make sure that local, logistic requirements are met, i.e. equipment in order to carry out a video conference), followed by guidance on how to draft and transmit the request, as well as final contacts between both requesting and executing authorities, are frequently endorsed by the contact points.

3) **Urgent information on the previous criminal situation** of a person under investigation or before trial (cases mentioned by Germany and Portugal). In specific cases, very urgent information on the criminal situation of a defendant, to be provided in a maximum delay of 24 hours, was successfully obtained, thanks to the intervention of the EJM contact points and allowed the Court to reject the arguments presented by the defence.

4) **Urgent assistance to be provided in EAW execution cases.** The short delays established by the framework decisions and reflected in the internal legislation of the EU Member States created new fields of intervention for the EJM contact points (underlined by countries such France or Italy). Frequently, the arrest of a person for purposes of his/her surrender to a JA of another country requires the urgent intervention of the CPs in order to make sure that the IJA has been informed and is aware of the short delays to submit the original form and its translation.

a) A specific case between **Germany and Italy**.

The Military Prosecutor in La Spezia / Italy carried out an extensive investigation on alleged German war crimes in Italy in 1944. Because of the age of possible defendants and witnesses, it was necessary to establish through EJM contact points in Germany their current whereabouts as fast as possible, as well as to locate the individual German judicial authorities which had to handle the formal requests for legal assistance, plus locations of archives containing documents that were relevant for the investigation. After formal approval of the issuing requests, various German CPs successfully facilitated and coordinated the interviews in Germany and the travelling of Italian judicial authorities to different parts of that country. Several persons were convicted in Italy so far. The investigation, with assistance of the EJM, is continuing.

b) A specific case between **Spain** and **France**.

After the contamination caused by the sinking of the *Prestige* near the Spanish and French coasts, the Spanish contact point worked together with Eurojust and the Liaison Magistrate trying to solve difficulties arising from conflicting jurisdiction between Spain and France.

After the Eurojust decision recommending Spanish and French authorities to admit that Spain was in better position to handle the case and after the Spanish Prosecutor General issued a Decision accepting this competence for the proceedings pending in France, there were important details that needed to be arranged between both countries.

A Spanish contact point was responsible together with the French Liaison magistrate to organise a meeting in La Coruña in January 2006 between the French and Spanish judicial competent authorities. After this, following a request of the French authorities, the Spanish contact point wrote a long report about the situation of the French victims according to Spanish legislation. This report was useful for French authorities, allowing them to inform French victims on the rights they had in the Spanish proceedings.

c) A specific case between **Austria** and **Spain**.

In 2005, the Salzburg District Court was asked to hear a witness who was the victim of a rape committed in Spain on the pilgrim's way to Santiago de Compostela. With the help of the competent EJM Contact Point, it was possible to carry out the necessary videoconference although the letter of request had arrived very shortly before the date of the procedural hearing in Spain.

d) A specific case between **Portugal** and **Germany**.

In 2005, a Portuguese Court arrested a foreign citizen and charged him with drug trafficking because he grew cannabis and "exported" it to Germany. At the same time, a German Court arrested his son, charging him as well as his father, who was then arrested in Portugal for the same facts, as the son was responsible for the importation of those products in Germany. German authorities decided to send an EAW to Portugal so that, after obtaining the surrender of the person under detention in Portugal, he might be tried together with his son and both might be sentenced for the entire criminal activity. Several contacts between CPs and final articulation with EUROJUST allowed the surrender, subject to the recognition by the Portuguese side that Germany was in a better position to judge the entire criminal activity. The surrender was followed by transmission of the procedure. Both father and son were judged and convicted.

e) A specific case between **Netherlands** and **Germany**.

A Polish national was arrested in Germany for a committed drugs offence. The suspect contended that he was being prosecuted in The Netherlands for the same offence. A quick response was needed to determine the appropriate steps to be taken. That same day the EJM contact point in Berlin was informed that the subject was unknown to the Dutch authorities.

f) A specific case between **Sweden** and **France**.

In one case of controlled delivery involving an undercover agent who went from Chile in South America via France, to Sweden, a contact point in France could, on short notice, give assistance in finding the relevant authorities in France and the controlled delivery was luckily carried through.

g) A specific case between **Poland** and the **UK**.

The RCPO sought the assistance of the Polish EJM contact points to facilitate a video link being set up to enable Polish witnesses to give evidence from their local Court rather than attend Court in England. The request was facilitated with great speed and the trial took place already, in the beginning of December.

### III

## INITIATIVES TO INFORM ON THE EJM AND ITS WORK

All CPs reacted to the invitation addressed to them to provide information on initiatives adopted to disseminate information on the existence of the EJM, its competences and tools developed, reporting several initiatives that internally have been carried out to reach this goal. We selected some of these experiences that can be used as good practices to be followed.

⇒ **Austria**: the Austrian contact points meet once a year at a regional EJM meeting where some Judges and Prosecutors can also take part, giving them the possibility to get the necessary information and to spread the idea of the network among the practitioners.

⇒ **Belgium**: training of Magistrates, exchanging experiences between experts, working parties involving policy makers and practitioners.

⇒ **Czech Republic**: official letters, lectures, training of Judges and Prosecutors and development of an internal network of specialists in judicial cooperation in criminal matters.

⇒ **Denmark**: guidelines to the Police and the Prosecution Service, information on the EJM and its tools as a chapter of the curricula for training of Prosecutors.

⇒ **Finland**: training and education given to judicial and police authorities as well as handbooks distributed to the same authorities mention the EJM and its tools.

⇒ **France**: notes on the EJM and its tools disseminated from the top of the hierarchy of the Prosecution Service.

⇒ **Germany**: distribution of EJM flyers, organisation of conferences.

⇒ **Hungary**: EJM contact point as a participant in training of Magistrates; several thematic meetings organised to provide information on new instruments for cooperation; a *vademecum* has been published to provide information on the working mechanisms and functions of EUROJUST and the EJM.

- ⇒ **Italy**: permanent collaboration with the School for Magistrates in order to train local Magistrates on how to obtain the assistance of the EJM.
- ⇒ **Ireland**: due to the fact that the number organisations and personnel in Ireland dealing with international judicial cooperation is relatively small, in a centralised system all staff concerned is perfectly informed about the EJM and its work.
- ⇒ **Latvia**: training lessons for Judges and court clerks allow the CPs to provide all information needed on the EJM, its structure, aims and needs.
- ⇒ **Lithuania**: special seminars were organised in order to familiarize the Prosecutor and assistants with the activities of the EJM and instruct them on how to use the EJM website and tools.
- ⇒ **Luxembourg**: regular meetings and permanent training for incoming lawyers, who will become Magistrates.
- ⇒ **Netherlands**: the Dutch EJM coordinating contact point held, during 2005/2007, presentations to raise awareness of EJM and its instruments as well as on judicial cooperation mechanisms developed within the EU to different national and foreign entities such as the National Prosecutor's Office in Rotterdam, Foreign Liaison Officers or Members of the National Platform on International Mutual Legal Assistance.
- ⇒ **Portugal**: since 2005, international cooperation became part of the curricula at the Training School for Judges and Prosecutors. One of the CPs is in charge of these classes, during which special training on the EJM and its tools is provided. Also in 2005, a new form of ongoing training was organised at local level and addressed to Judges and Prosecutors working in a special region (judicial circuits of Portimão and Loulé).
- ⇒ **Romania**: organisation of general and thematic training sessions and workshops; to promote the knowledge of European institutional mechanisms created in the field of judicial cooperation in criminal matters and best practices among the Romanian practitioners. A direct link between the site of the Romanian Ministry of Justice and both the sites of the EJM and EUROJUST has been created.

⇒ **Spain**: training on the EJM and its tools given at the schools for Judges and Prosecutors, as well as thematic seminars organised at regional level were used to provide information on the EJM and its tools. Besides, there are computer links from the websites of the High Council of Judiciary and the Public Prosecutor's Office to the EJM website.

⇒ **Sweden**: detailed information in the INTRANET of the Swedish Prosecution Service, link to the EJM's website, mention of the EJM as one alternative tool in every possible relevant situation.

⇒ **United Kingdom**: compulsory training on MLA, partially relating to the EJM and its instruments, as well as MLA Clinics where Case Lawyers can discuss experiences and formulate case planning strategies are practical experiences arranged by the British authorities.

### ***C.2. Raising awareness among practitioners:***

Further to data provided above (Questionnaire Results), the EJM carried out training actions, encounters with national authorities directly involved in international judicial co-operation and dissemination of information. Some Contact Points have also organized meetings at regional level (such is the case, for instance, in Germany or Austria).

Furthermore, a website presentation containing basic information on the EJM was approved in 2005 and made available in all languages on the EJM website. A leaflet was also produced for dissemination among practitioners, including in the accession and candidate countries.

### ***D. EJM information platform - EJM information tools***

The maintenance and improvement of the EJM website and information tools remained priorities of the European Judicial Network.

Following the setting up of the Secretariat, **the transfer of the website of the European Judicial Atlas** from the Portuguese Ministry of Justice to the EJM Secretariat was completed on 1<sup>st</sup> of July 2005 and, since then, the new EJM website has become available to the public.

The EJN Secretariat, together with the Eurojust IT Unit, became fully responsible for updating and managing the EJN website. It further assumed responsibility for setting up, maintaining and improving the EJN tools in articulation with the EJN National Correspondents and the Informal Working Group within their respective competences.

New features of the EJN website were developed, allowing the creation of a report of the **list of Contact Points** directly from the website and a new structure for the Fiches Belges was adopted.

The **updating of the Fiches Belges** that was under way brought into light some concerns on the suitability of the scheme used so far to provide and update data contained in the information system in order to make the EJN information tools as simple as possible.

Thus, in its 4<sup>th</sup> meeting of September 2005, the Informal Working Group discussed the criterion for the **identification of priorities for the establishment of new information tools** of the EJN and **ways to ensure the updating and accuracy of data**. As agreed, the Secretariat disseminated a questionnaire on the subject, of which the outcome was considered during the 23<sup>rd</sup> EJN meeting. Shortly, the overriding concern expressed in this respect was to ensure quality information while keeping the EJN information system as simple to use and maintain as possible. It was also concluded that the definition of priorities should be linked to the assignment of a role to the EJN in a legislative act of the EU.

Moreover, there was the need to adopt a comprehensive approach as regards setting up new information tools within the EJN website, rather than to continue following a "project-by-project" approach.

After a call for tender and the corresponding selection procedure, a **framework contract for development of the EJN projects** was signed with an external company 11 September 2006 for the period 2006-2008, with possible extension of one additional year. As of October 2006, the contractor was in charge of the technical and functional maintenance of the website.

The **priorities accomplished in 2006** covered the incorporation of the second version of the Fiches Belges in the website and the development of an Atlas-like tool for the European Arrest Warrant.

The **priorities for 2007**, developed in the scope of the above-mentioned framework contract, referred to the implementation of the Compendium; the Atlas Editor for the configuration of Atlas-like tools; the extension of EJM information tools to Romania, Bulgaria and Norway; the adaptation of the EJM information tools to the MLA 2000 Convention; and the development of the on-line EAW form.

The current **state of play** of those priorities is the following:

- Implementation of the Compendium: the project should be completed before the end of 2007 and submitted to the EJM plenary meeting.
  
- Atlas Editor: the project is about to be finalised by the contractor. The Atlas Editor will allow the national correspondents to configure by themselves the search flow for the competent authorities according to the specific field in question (e.g. Mutual Legal Assistance request, European Arrest Warrant, Freezing Order). It will allow, as well, the configuration of future Atlas tools and the integration of new countries.
  
- On-line European Arrest Warrant form: this project aims at developing a workflow to facilitate the filling of the EAW form. Meanwhile, the functionality of the EAW forms was improved; these forms are on-line.
  
- Adaptation of the information tools to the MLA 2000 Convention: following further ratifications of the MLA 2000 Convention, existing EJM information tools needed to be updated. This implies changes in the MLA Atlas and in the "Fiches Belges".
  
- SOLON – it was decided to transfer the Solon to the IATE database, following official contacts.

**Certain other improvements were made in relation to the EJM website**, more specifically in the document database and with the creation of a new page containing the forms adopted within several EU instruments of judicial cooperation in criminal matters, ready for download. Moreover, information on Norway and on Contact Points for Iceland and Switzerland was inserted in the website.



### **Secure Communication Infrastructure (SCI)**

A feasibility study carried out within Eurojust in 2005 concluded that instead of developing a secure telecommunications network for the EJM, a single Secure Communication Infrastructure of the EJM and Eurojust should be considered, since many security requirements for both of them were the same.

However, upon a proposal of the Secretariat to the 5<sup>th</sup> meeting of the Informal Working Group (March 2006), this project was dropped due to a reduction on the EJM annual budget as a result of the decision of the budgetary authority to reduce the Eurojust budget request for 2006 and since certain aspects, like the purpose of such a system for the EJM and how Eurojust would charge the costs associated to its functioning, were still not clear.

In the 6<sup>th</sup> meeting of the Informal Working Group (September 2006), it was decided to replace this project for a feasibility study on the transmission of online forms by secure e-mail to be carried out under the framework contract signed with Siemens Business Services.

Further details regarding these issues may be found in the outcome of the Informal Working Group meetings as well as in the Secretariat reports, available on the EJM website.

## *E. The future of the EJM*

Historical background:

The internal reflection on the future of the EJM was launched during the **Luxembourg Presidency**, on the basis of the Evaluation Report of the European Judicial Network 2002-2004 produced by the Dutch Presidency. Its revised version (doc. 6724/1/05 REV 1 EJM 10) was adopted by the Contact Points at the 20<sup>th</sup> meeting of the EJM held in Brussels on 21 March 2005. At a later point in time, it was articulated with a broader debate on the future of Eurojust and the EJM on the basis of a Commission Communication<sup>1</sup>. In the Conclusions adopted during the meeting of 12-13 June 2007, the Council invited the Commission to present such a Communication, "which should take into account the practical application of the Eurojust Decision in the light of five years of experience."<sup>2</sup>

### **20<sup>th</sup> EJM meeting, Brussels, 21 March 2005**

During the meeting, the participants addressed, among others, the issues of the "legal entity" and the "internal organisation of the EJM" within the broader context of "an internal reflection on the position of the EJM in a renewed context, defined by the latest developments within the EU in the field of fighting international organized crime, "The Hague Programme" and the "Treaty establishing a Constitution for Europe".

A general agreement was also achieved on the recommendation calling for the **identification of one single contact point** for each country, responsible for contributions to the EJM Secretariat, without prejudging the international organization and the decision-making process of each country in this respect.

---

<sup>1</sup> The background of this Communication may be found in the Hague Programme where the Council is invited to consider the «further development of Eurojust», on the basis of a Commission proposal.- see point 3.3. Eurojust, under section 3 – strengthening Justice. Furthermore, under the Action Plan for the implementation of the Hague Programme, it was foreseen that the Commission should present a proposal for a 'European law' on Eurojust, on the the basis of the Treaty establishing a Constitution for Europe. In view of the fact that such Treaty did not enter into force, the Commission announced that it would produce a Communication on the future of Eurojust and the EJM.

<sup>2</sup> Doc. 9920/07 of 24 May, EUROJUST 24 EJM 10.

A deeper reflection on these issues was initiated on the basis of a document presented by the Presidency (doc. 8400/05 RJE 24, of 25 April 2005) as a follow up to the above-mentioned Evaluation Report of the European Judicial Network 2002-2004.

While taking into account that such issues required a decision at political level, the EJM engaged in an in-depth analysis of its tasks and functioning, its decision-making process and the effectiveness of its collaboration with EU and non EU partners.

The general sense of the Presidency proposals was that EJM should keep its current structure and working methods as a working group of the Council.<sup>1</sup>

Thus, the legal basis for the EJM was perceived as sufficiently broad to encompass new tasks assigned to it in new Framework Decisions, and it was considered that the EJM tools should be extended to such new instruments where necessary (*see above, point D*).

Furthermore, the Secretariat should continue performing its tasks in agreement with the Presidencies.

As far as the decision-making of the EJM was concerned, some alternative scenarios were drawn, namely setting up of some kind of Bureau of the EJM, or an overarching structure of networks including the Civil Network, the EJM and the network of Supreme Courts with a view to making use of possible synergies and avoiding duplications.<sup>2</sup>

In conclusion, without prejudging further developments, any substantial changes in the working methods, in the Secretariat or in the informal structures set out to streamline the decision-making process would require changes in the legal basis for the EJM.

---

<sup>1</sup> At least until the new Treaty entered into force.

<sup>2</sup> As an outcome of the 6<sup>th</sup> meeting of the Informal Working Group (September 2006) the scenario of an overarching structure was limited to the networks operating in criminal matters.

Nonetheless, even against that background of an increased number of tasks committed to it, as well as of an increased number of Contact Points – following enlargement – the EJM informal structures, namely the Informal expanded Troika and the Informal Working Group to assist the Presidency, seemed sufficient to achieve the EJM goals, while compatible with the features of informality, decentralization and horizontality that give the EJM its flexibility. That constitutes a "trademark of the EJM and its Contact Points and one of the major reasons for its undoubted success" (quotation from doc. 8400/05 of 25 April, EJM 24).

The EJM discussions on the future of the EJM were suspended when the entry into force of the Treaty establishing a Constitution for Europe was put in question. They were resumed under Austrian Presidency and further pursued on the basis of doc. 8400/05 as a preparation for the forthcoming Communication of the European Commission.

#### **24<sup>th</sup> EJM meeting, Graz 11-13 June 2006**

In order to enable an in-depth and structured discussion, the Austrian Presidency prepared a draft of the so called "EJM Vision Paper". The paper takes into account the suggestions provided by the Secretariat and the *ad hoc* working group created for that purpose and is structured around the following axis<sup>1</sup>:

- The autonomous profile of the EJM;
- The EJM as a key actor in the field of judicial cooperation within the EU;
- The EJM information tools;
- The EJM as a relevant actor for the external dimension of Justice and Home Affairs.

During the meeting, the President of the College of Eurojust and the Council Secretariat made their presentations on the issue.

---

<sup>1</sup> The draft Vision Paper was later revised in light of the input given by the Informal Working Group in its 6<sup>th</sup> meeting (September 2006).

Mr. Kennedy stressed that the actions of Eurojust and the EJM "must be guided by the striving for excellence, a top quality service and the development of trust and mutual confidence", while both structures need to "receive much better support from national authorities". A closer partnership between the two bodies must be pursued and one of the possible ways to achieve this goal is their full integration.

Mr. Hans Nilsson underlined the role of the EJM as a tool for mutual trust within the context of the general development of a European Judicial Area, as well as for strengthening the links with Eurojust. He highlighted the strengths and weaknesses of the EJM and possible ways to deal with each of them. Thus, building strengths would include keeping the EJM informal and flexible, continuing to build up information tools, organizing training at national level and searching for Community funding, as well as allowing for EJM regional meetings and strengthening the Secretariat. Repairing weaknesses would include overcoming uneven implementation among and within Member States; ensuring quality nomination of Contact Points through the elaboration of common standards, as well as ensuring adequate resources and language training to them; and reflecting on an evaluation mechanism thereof in order to assess the effectiveness of the EJM performance.

**"A Seminar with a 2020 Vision: the future of Eurojust and the European Judicial Network" – Vienna, 25-26 September 2006**

The Seminar was a joint organization of the Austrian and Finish (former and current) Presidencies, the European Commission, the General Secretariat of the Council and ECLAN and brought together specialists in judicial cooperation to discuss these issues.

At the opening of the Seminar, it was recalled that in the Graz meeting it had been decided to increase cooperation between the EJM and Eurojust. It was also anticipated that the Seminar could contribute to the forthcoming Communication of the Commission as regarded the ways and means to improve cooperation between the two structures.

The role of Eurojust and the EJM in fostering mutual trust and confidence was strongly underlined.

The 2020 vision for Eurojust and the EJM was discussed both in the Plenary and in the two working groups dedicated, accordingly, to the interplay between the two structures; and to the gathering, management and exchange of information.

The Plenary took stock of the existing legal instruments, agencies and structures of police and judicial cooperation within the EU, demonstrating a paradigm shift from bilateral cooperation to EU-wide cooperation within an Area of Freedom, Security and Justice. The strengths and weaknesses of Eurojust and the EJM were summarized and several suggestions presented to further develop those structures and their role, including at the level of policy decision. As regards the development of cooperation between Eurojust and the EJM, several suggestions were put forward such as, for instance, the possibilities of complete and planned community financing for joint projects and of establishing a European Documentation and Clearinghouse for judicial cooperation.

In the first workshop, the educational function of the EJM was highlighted. At times, it was recognized, "it plays the role of a filter or an early warning system, coordinates Contact Points with the work of Eurojust national members as well as other Contact Points, and provides feedback on the needs of practitioners" (quotation from doc. 14123/06, 19 October, EJM 24).

The need to maintain the present degree of flexibility, in particular in the work of the EJM, was emphasized so that the best point of contact should depend on the specific cases. However, duplication of work between Eurojust and the EJM should be avoided, also in light of the emergence of new networks and other stakeholders. To this effect, it was suggested that "easier" cases – a concept that does not necessarily correspond to bilateral cases – should primarily go to the EJM. In this context, attention should be drawn to references made to some cases where the EJM was unable to assist practitioners who then turned to Eurojust and to the somewhat high number of bilateral cases handled by the latter.

An expression of the debate captures the idea that should guide the partnership between Eurojust and the EJM: to be a "winning team".

In the second workshop, participants were reminded of the solid framework for information exchange with Eurojust and the EJM and the various agreements with third parties. Information gathering and exchange should be seen as the most essential function of Eurojust, upon which depends its ultimate success or failure. As a possible way to achieve that objective, it was suggested that EJM Contact Points could seek proactively information on organized crime for Eurojust within the context of the closer cooperation between them. Another issue was the confidentiality and security in the processing and protection of data.

In the general debate, speakers referred to the importance of good team-work between Eurojust and the EJM in order to provide effective assistance to practitioners and gain their trust and confidence. The EJM added value further lies in the tools it places at their disposal. Moreover, training remains a key element of the creation of a real European judicial culture based on mutual trust and confidence.

The General Rapporteur provided an outline of the main issues and suggested that, as some of them had not been sufficiently examined at the Seminar, this should be regarded as a starting point for subsequent discussions on the matter.<sup>1</sup>

### **25<sup>th</sup> EJM meeting, Rovaniemi, 29/11-1/12 2006**

The Presidency presented a new draft of the EJM Vision Paper that took into account the previous draft prepared under Austrian Presidency, as well as the inputs received from Member States and the outcome of the 6<sup>th</sup> Informal Working Group meeting of September 2006.

The draft Vision Paper was driven by the principles of autonomy (autonomous profile) and of the structural horizontality, informality and flexibility of the EJM operating as a key actor in the field of international cooperation.

---

<sup>1</sup> The outline was drawn up on the basis of different premises: (1) no changes to the *acquis*; (2) new legislative instruments but no changes in the legal basis of Eurojust and the European Judicial Network; (3) changes of legal basis; (4) European Public Prosecutor is established (concerns mainly Eurojust).

The Commission supported some of the Paper's proposals, such as the elaboration of standards for the nomination of Contact Points and the appointment of co-ordinators to channel the communication with national Contact Points.

The EJM Vision Paper was adopted.

### **EJM Vision Paper (doc. 1644/06 of 11 December, EJM 28)**

The Vision Paper focused on the four axes of the operation of the EJM, as previously identified. The items contained in the Paper may be summarised as follows:

In general, the EJM status and profile should be considered in a **broader context**, taking into account other existing networks and structures.

### **EJM autonomous profile**

As regards the autonomous profile, the sub-issues concern the Contact Points, the budget and the institutional autonomy.

### **Contact Points:**

A) Empowerment of EJM and national Contact Points with adequate and necessary resources:

- MS should ensure that relevant experts are appointed as Contact Points.
- EJM should elaborate common guidelines for the nomination of Contact Points: e.g., linguistic competences; under national rules, power to prioritize actions in order to facilitate and speed up judicial cooperation in criminal matters; commitment to provide assistance in all cases referred to them and to ensure a proper follow up thereof.

B) Improvement of the high level of cooperation within the EJM:

- Regular meetings at national level of Contact Points in order to strengthen uniform practice.
- Regional meetings to help focus on problems of a particular character.



C) Improvement of communication between national Contact Points and the Secretariat:

- Appointment of one of the Contact Points as a coordinating contact point while respecting the internal rules and division of responsibilities of Member States.

D) Regular evaluation of the EJN:

- National coordinators requested to submit to the Secretariat an annual report, preferably including basic statistics.
- Elaboration of a standardized scheme of the report by the IWG.
- Elaboration by the Secretariat of a comprehensive evaluation report to be presented at the regular plenary meeting of the EJN in Brussels.

**Budget:**

The EJN budget should remain as a part of the budget for Eurojust and the consultation of the EJN thereof through the Secretariat should be foreseen in a mandatory way.

**Institutional autonomy:**

- The EJN Secretariat should be supported by seconded national experts from Member States.
- The Secretariat should endorse a promoting responsibility on behalf of the initiatives of the EJN especially towards the Commission, the Council Secretariat, the Member States and the administrative director of Eurojust.
- Consideration should be given to an overarching structure of relevant networks in this field or to the development of smart linking-interfaces between the EJN and those networks in order to address common needs while safeguarding the autonomy of their internal organizations.
- Thus, a permanent exchange of information should be carried on and information should be made available to Contact Points of the EJN.
- Involvement of the EJN in the preparation of legislative instruments and the share of expertise gained in the application thereof. Consultation of the EJN before adopting a new legislative instrument.

## **EJN as a key actor in the field of judicial cooperation within the EU**

In general, the added value of the EJN is unquestionable in view of its **general competence** encompassing all types of crime.

As regards cooperation at **national level**:

- EJN Contact Points should be the first contact point in the respective Member State, given their proximity with the relevant local authorities.
- Contact Points should gather comprehensive information on best practices, improve them and share them with practitioners.
- Contact Points should act as a help-desk and a link to other EU networks and relevant institutions operating in this field.

As regards cooperation at **EU level**:

- The guiding principles are consultation and complementarity, as specified in article 26 of the Council Decision on Eurojust and developed by the Hague Programme when addressing the Eurojust main competences.
- Good, effective communication is necessary between EJN Contact Points and the Eurojust National Member as a basis for team work driven by the concern of which of the two can give best added value in the case.
- The complementarity principle should imply that if Eurojust is to create any supporting structure at national level it should make use of the EJN.

## **EJN as an information & communication platform**

The immense value of the EJN information tools available on its website is generally recognized, as they reflect the point of view of practitioners and meet their needs.

In particular:

- EJN should be extended and updated and should provide information on the implementation of EU legislative instruments.
- Appropriate EJM tools should be available in all EU official languages as soon as possible.
- Long-term strategic planning and regular monitoring and implementation follow up need to be further developed.

### **EJM as a relevant actor for the external dimension of Justice and Home Affairs**

In general, the EJM can foster improved judicial cooperation with third countries and organizations to the benefit of national judicial authorities.

In particular:

- EJM can establish informal links, including the organization of meetings.
- EJM could use its experience to make inputs to Eurojust negotiations with such countries and organizations.
- EJM could provide expertise to similar networks being set up outside the EU.

### **26<sup>th</sup> EJM meeting, Brussels, February 2007**

The Commission provided information on the schedule and state of play of its Communication on the future of Eurojust and the EJM. The document would explore four main ideas in the sense that: EJM and Eurojust work as a team; EJM elaborates common guidelines for the nomination of its Contact Points and promotes regional meetings; Eurojust focuses on the co-ordination of complex and multilateral cases; a common Secretariat be set up as a supportive platform for all relevant networks in the area of cooperation in criminal matters such as, for instance, the Genocide Network, the JIT's network and the EJTJN.

It was felt that the parallel existence of different networks operating in the area of criminal law enforcement "might create difficulties on the part of practitioners in finding the appropriate counterpart" (quotation from the outcome of proceedings, doc. 10031/07, 29 May EJM 13). Several interventions focused on the coexistence of networks and the need to clarify who does what to avoid duplication; on the need to make information on these other networks available to the EJM Contact Points; on the difficulties in setting up an overarching structure to handle these networks and on the possibility of organising a common Secretariat.

Two specific proposals were put forward as an **outcome of the EJM Vision Paper**.

A first proposal was related to drafting **common guidelines** for the nomination of Contact Points. Another proposal referred to the conception of a **scheme for the yearly report** summarising the activities of national Contact Points.

To that effect, the Presidency suggested to set up an *ad-hoc* working group on a voluntary basis, to assist in the preparation of a first draft to be submitted to the next Plenary meeting and, if needed, to the Informal Working Group with a view to its formal approval during Portuguese Presidency. The proposal met with general support.

### **27<sup>th</sup> EJM meeting, Trier, 4-6 June 2007**

Following the above-mentioned EJM decision to implement two recommendations of the Vision Paper, the Presidency presented the draft non binding guidelines for the nomination of Contact Points and the scheme for an annual report and asked for comments of the Contact Points in view of their finalisation.

### **Eurojust Seminar – "Navigating the way forward", Lisbon, 29-30 October 2007**

The announced Commission Communication was presented to the Eurojust Seminar<sup>1</sup>. It contains two suggestions regarding the future of Eurojust and the EJM.

---

<sup>1</sup> Document COM(2007) 644 final Brussels, of 23.10.2007, entitled : « Communication from the Commission to the Council and the European Parliament on the role of Eurojust and the European Judicial Network in the fight against organised crime and terrorism in the European Union ».

In order to improve the cooperation between them, the Commission provided for a structure based on a national Contact Point under the Joint Action on the EJM acting simultaneously as a national co-ordinator of the other national Contact Points of the EJM, on one side, and on the other side as a national correspondent of the Eurojust National Member, as provided for by Article 12 of the Eurojust Decision, thus integrating that National Member's team.

The role of this EJM National Contact Point/Eurojust National Correspondent would be to represent the national Contact Points in all the dealings with the Eurojust Secretariat and to be Eurojust's primary contact in the home country, without prejudging direct contacts with national authorities. His/her tasks would be systematically forwarding to the Eurojust national member any cases of interest or immediately forwarding all cases falling under the Eurojust competence.

The Commission further suggested that the Eurojust Secretariat ought to host the Secretariats of different networks operating in criminal matters at EU level: the European Judicial Network and the networks in the law enforcement sphere such as the network of terrorism Contact Points, the CARIN network and the genocide network.

In the above-mentioned Communication, a reference was made to the changing needs of practitioners arising from substantial changes in the cooperation framework. This was due to the set of innovative MLA measures introduced by the MLA 2000 Convention and 2001 Protocol as well as by the instruments on mutual recognition.<sup>1</sup>

The way how Eurojust and the EJM interact should be assessed against this background. As a working guideline, possible solutions should not be based on the total integration of one of the structures in the other.

---

<sup>1</sup> The MLA Convention was published in the OJ C 197, 12 July 2000; the Additional Protocol in the OJ C 326, of 21 November 2001. In general terms, the mutual recognition instruments imply mutual trust in other Member States criminal justice systems and foresee shortened procedural delays and fewer grounds for refusal of cooperation.

During the debate, some participants highlighted the ability of the European Judicial Network to deal with an all encompassing category of crimes which makes it a valuable partner to complement the work of Eurojust and to gather relevant information. In this context, they favoured the continuation of a strategic partnership between Eurojust and EJM based on complementarity and pro-active exchange of relevant information while ensuring the protection of fundamental individual rights, safeguards and guarantees.

Other participants stressed certain weaknesses of the EJM - namely as regards the uneven qualification of the Contact Points of the EJM and the lack of a national coordinator for each Member State in the European Judicial Network - as well as of Eurojust - namely due to the lack of information transmitted by national authorities and to the lack of supporting contacts at national level.

To sum up the debate, there was a general approach on the need to rationalize and clarify certain aspects of the functioning of the EJM, foster the establishment of Eurojust links at national level and create a "national platform" to deal with matters pertaining to each of the systems and to articulate their functioning.

Such structure should fulfil a role of coordination of the national participation in both structures (except for the operational files), thus assisting in the choice of the best placed structure, and should ensure the transmission of information to Eurojust and a follow up of requests from Eurojust and the National Members.

In the light of the outcome of the debate, the Commission may eventually present a legislative initiative.

## Part II – Global Assessment and Future Perspectives

### A. Follow up of the Recommendations of the Evaluation Report 2002-2004:

RECOMMENDATIONS	STATE OF PLAY	REMARKS
1) Legal entity: Joint Action 1998 must be reconsidered	Integrated in the framework of the debate on the future of Eurojust and the EJM	<ul style="list-style-type: none"> <li>• Elaboration of document 8400/05 RJE 24 as a follow up to the 2002-2004 evaluation report</li> <li>• Elaboration of the EJM Vision Paper</li> </ul>
2) Identification of one single Contact Point for each country responsible for qualitative and quantitative contributions to the EJM Secretariat for that specific country	Ongoing	Some Member States have already appointed a coordinator/interlocuteur
3) - Use of EU programmes organizing linguistic training combined with training courses abroad, if possible  - Inventory of the needs for training and the proper performance of the Contact Points' duties and monitoring of those needs	Ongoing	- Participation of some Contact Points in the "Eighth Permanent Seminar on the Comparative Study of Judicial Systems through Legal Language", Murcia, 30/9-8/10 2006  - In the draft 2008 work programme a Language training to the EJM Contact Points is foreseen  - Recommendations of the Vision Paper

		Elaboration of draft Guidelines for the selection of Contact Points of the European Judicial Network
4) Exchange of practical experience. Inclusion of a preparatory meeting as a fixed point on the agenda of each plenary meeting	Not implemented	In the 7 <sup>th</sup> meeting of the Informal Working Group (12 November 2007) the possibility was opened for the IWG to discuss practical cases
5) Continue the information campaign with national judicial authorities, with the help of appropriate documentation. Improve the website and increase the publicity by word-of-mouth	Implemented	Training activities, encounters with national authorities involved in judicial cooperation. Website presentation with basic information on the EJN. Elaboration of the EJN leaflet for dissemination among practitioners, candidate/acceding countries included.
6) Collaboration with Eurojust and Europol	Implemented as regards Eurojust	Integrated in the EJN Vision Paper and in the ongoing debate on the future of Eurojust and the EJN. EJN Secretariat takes part in specific meetings within Eurojust, e.g. the EJN/Liaison Magistrates team.
7) Considering to set up a telecommunications system for the EJN	Partially implemented	- Feasibility study of 2005 suggested a single Secure Communication



- Feasibility study		Infrastructure of the EJM and Eurojust - Project dropped by EJM (in the 2006 work programme due to budget reduction and need for some further clarifications), intended to be replaced by feasibility study on secure e-mail for the sending of online forms
---------------------	--	---

## B. Global assessment and Future Perspectives

The European Judicial Network continued to implement the mission assigned to it by the 1998 Joint Action through four axis of activity: facilitation of judicial cooperation through the assistance of the Contact Points to the national authorities; improvement and further development of the EJM information system; promotion of the EJM among practitioners; fostering a more effective collaboration between the EJM and other partners in the field of judicial co-operation.

In general terms, in the years 2005 to 2007, those objectives were fulfilled and the corresponding priorities were translated into positive action.

It is clear, however, that there is room for improvement, in particular as regards a more effective assistance to national authorities, as well as a more effective awareness of the possibilities offered by the EJM information tools and by the EU legal framework of judicial cooperation in criminal matters.

In order to achieve that purpose, it might be useful to conceive a reinforced evaluation mechanism within the EJM, allowing to identify best practices developed by Contact Points, to promote the correction of detected weaknesses and to improve the overall performance of the EJM, while increasing its accountability for the work carried out.

When addressing its future development, the European Judicial Network should strive to keep the flexibility that constitutes its trademark and a key element of its added value within the partnership with Eurojust.

### **C. Priorities for the next biennium**

For the years 2008-2009, besides the standing priorities of ensuring the proper functioning of the EJM website, increasing awareness of the EJM among practitioners and fostering a more effective collaboration with other partners, the EJM plans to develop an Atlas tool regarding orders for freezing property or evidence; to develop the on-line freezing order form; to develop and implement a second system to send on-line forms by secure e-mail in 2008. In 2009, it plans the development of online tools regarding videoconferencing requests and complementary information requests in relation to the EAW.

Furthermore, in 2008, in addition to the organization of the usual meetings, the EJM plans to organize an extraordinary meeting to celebrate its 10<sup>th</sup> anniversary.

## **Part III - Conclusions and Recommendations**

### **Conclusions**

A. After the discussions on its future role, the EJM is faced with the beginning of a new cycle with an expected new legal framework introduced by the Reform Treaty, as well as with a possible reshaping of the framework for cooperation with Eurojust.

B. In this context, the key elements aiming at preserving the identity of the European Judicial Network are: the autonomous profile of the EJM; a key actor in the field of international cooperation within the EU; an information and communication platform; a relevant actor outside the EU.

C. The relationship between Eurojust and EJM should rely upon the concept of a strategic partnership translated into team building, complementary work and pro-active exchange of relevant information in a way compatible with the protection of fundamental individual rights, safeguards and guarantees.

D. This partnership does not prevent solutions of limited functional integration in certain areas, while preserving the autonomous profile of the EJM as far as its specific decision-making structures and competences are concerned.

E. In this context, the EJM information system together with the individual EJM instruments remains a valuable element of its specific contribution to the European Area of Freedom, Security and Justice and should be further improved and expanded in line with the relevant legislative developments within the EU.

F. Furthermore, any legal solution reshaping the role of the EJM should take into account that the EJM must keep its horizontal, decentralized and informal structure that allows it to pursue its activity through informal networking with other relevant actors in judicial cooperation in criminal matters, both within and outside the European Union.

G. Drawing on the experience gained, the European Judicial Network should continue to be driven by the following structural objectives:

- To remain a **forum for exchange of ideas, experience and best practices**. In this context, the European Judicial Network could be a **promoter of a European judicial culture based on values of mutual understanding and mutual trust**;
- To remain a mechanism for **resolving blockages in judicial co-operation**. In this context, **training activities** should be pursued as regards the possibilities of international cooperation developed within the EU including the information tools developed by the EJM;
- To fulfil a **think tank** role allowing an interface between continents and different judicial systems through the **sharing of expertise**.

## **Recommendations**

A. In the light of the debate on the future role of Eurojust and the European Judicial Network, the European Judicial Network should bring into effect the measures contained in the Vision Paper aiming at a greater effectiveness of the functioning of EJM and at helping the Contact Points in the fulfilment of their tasks.

B. Drafting **common guidelines** for the nomination of Contact Points and elaboration of a **scheme for the yearly report** summarising the activities of national Contact Points should be treated as first priorities.

C. As a follow up to this report, consideration should be given to the establishment of a reinforced mechanism of (peer) evaluation within the European Judicial Network in order to improve its performance and enhance its role within the EU judicial cooperation.

D. Contact Points should make every possible effort to keep a systematic registration of the requests for intervention in their capacity as Members of the EJM and of the actions carried out to disseminate information about the EJM, as well as to keep the information regarding their respective countries contained in the EJM tools updated.

E. Contact Points should continue to pursue their initiatives aiming at raising awareness about the EJM and its instruments, following good practice developed by their colleagues.

F. The EJM should foster cooperation with similar networks operating in the EU and pursuing similar goals in the field of judicial cooperation in criminal matters.

G. The EJM should further increase cooperation with similar networks and structures set up outside the EU at international and national levels and pursuing similar goals in the field of judicial cooperation in criminal matters, on the basis of an Action Plan prepared by the EJM Secretariat.

Presidency proposal on a  
**Reinforced evaluation mechanism within the EJM**

**Justification:**

The triennial activity reports of the European Judicial Network, foreseen in Article 12 of the Joint Action 98/428 JHA of 29 June 1998 provide an overall assessment of the operation of the Contact Points and the EJM working structures and contain conclusions and recommendations for further improvements.

However, within the context of the debate on the future of Eurojust and the EJM that is ongoing at EU level, it was suggested that the EJM should implement a more in-depth assessment of its activity through a new mechanism of evaluation.

In the Presidency's view this suggestion deserves further consideration by the European Judicial Network.

In this context, the changes to be introduced should aim at completing the EJM evaluation tri-annual report with certain data from the operational activity of the Contact Points, in order to provide a clearer overview of the contribution of the EJM to the judicial cooperation pursued at the level of the European Union.

To that effect, the EJM could envisage a **reinforced mechanism of gathering of information** on the operational activity of the Contact Points to be established on a more systematic and standardized way. Its main feature would be the focus on the "user's perspective".

That mechanism might further contribute to enable the Presidency in charge of the tri-annual evaluation report to produce a better evaluation of the overall performance of the EJM, as well as to better identify best practices and areas in need of improvement.

It should be considered whether such a mechanism could be a part of the model scheme for the yearly report to be produced by the national Contact Points.

## **Objectives:**

Enabling the Contact Points to better evaluate on a basis of equality and mutual confidence the way they have performed their duties under the relevant EU legislation.

Fostering the practical implementation of the measures contained in the EJM Vision Paper, as well as in other relevant frameworks of reference.

Contributing to the implementation at national level of the instruments of judicial cooperation adopted within the European Union and elsewhere, including through the use of the EJM information tools.

In pursuance of the preceding, increasing the **visibility** and **accountability** of the European Judicial Network for the work developed.

## **Elements of an evaluating mechanism within the EJM:**

The Presidency suggests that such a mechanism for the gathering of information on the outgoing requests (peer evaluation) includes the following items:

### Information on outgoing requests

- Grounds for the intervention of the Contact Point (type of request)
- Contact with the receiving Contact Point
  - a) phone
  - b) mail
  - c) other
- Date of contact
- State of origin of the receiving Contact Point
- Delay of the reply
  - a) within 48H00
  - b) within one week
  - c) within a month
  - d) other

- Outcome:
  - a) case was solved;
  - b) direct contact with the executing authority was facilitated;
  - c) Eurojust contacted;
  - d) other
- Suggestions for improvement (if applicable).

The introduction of this supplementary information-gathering mechanism should directly impact on the model of the tri-annual evaluation report. The Presidency puts forward for further consideration the possibility of restructuring the report along the following lines:

Part I – Reporting on the overall performance of the EJM: meetings; activities of the Secretariat; EJM information platform and information tools; cooperation with partners and other key-players in the international judicial cooperation in criminal matters; overall assessment and recommendations. Submitted by the Presidency to the EJM in accordance with the actual procedure.

Part II – Mutual evaluation of the activities of the Contact Points: summary of results and recommendations. To be adopted by the Informal Working Group upon a proposal of the Presidency and further submitted to the EJM.