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To: Delegations

Subject: Report on the Operation and Management of the European Judicial
Network
- Reporting period 2011 and 2012

Delegations will find attached the Report on the Operation and Management of the European
Judicial Network.

FINAL

The Report on the Operation and Management of the
European Judicial Network in accordance with Article
13 of Council Decision 976/JHA of 16 December 2008
on the European Judicial Network



Report on the Operation and Management of the European Judicial Network

2011 and 2012

EJN Secretariat
2014

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Acronyms and abbreviations

CNCP	Commonwealth Network of Contact Persons
CNPG	National Council of the Prosecutors-General (<i>Conselho Nacional dos Procuradores-Gerais</i>)
CO	Confiscation order
CSC	Custodial sentences certificate
EAW	European Arrest Warrant
EIO	European Investigation Order
EJN	European Judicial Network
EJTN	European Judicial Training Network
ENCS	Eurojust National Coordination System
ENFAST	European Network on Fugitive Active Search Teams
EPPO	European Public Prosecutor's Office
ERA	European Academy of Law
EU	European Union
FD	Framework Decision
FO	Freezing order
FPC	Financial penalties certificate
IberRed	Ibero-American Network of International Legal Cooperation
ICC	International Criminal Court
ICTY	International Criminal Tribunal for the former Yugoslavia
IOC	Judicial Regional Platform of the Indian Ocean Commission
JHA	Justice and Home Affairs
JIT	Joint Investigation Teams
JTF	Joint Task Force
MLA	Mutual Legal Assistance
NC	National Correspondent
OLAF	European Anti-Fraud Office
PC-OC	Council of Europe Committee of Experts on the Operation of European Conventions on Co-operation in Criminal Matters

RJCPLP	Network of Judicial international cooperation of the Portuguese speaking countries
RMCJI	Judicial Network in Morocco (<i>le Réseau Marocain de Coopération Judiciaire Internationale</i>)
SEEPAG	Southeast European Prosecutors Advisory Group
TC	Tool Correspondent
TEU	Treaty on the European Union
TFEU	Treaty on the Functioning of the European Union
UNODC	United Nations Offices on Drugs and Crime

Part I

Overview of the main achievements of the EJM

We have come a long way

By the end of 2012, the European Judicial Network (EJN) will have existed for 15 years. In 2013, the EJN will celebrate its anniversary.

Approaching its anniversary, 14 years after the creation of the EJN at European Union (EU) level, as an informal and operational structure composed of contact points appointed by the Member States amongst the practitioners with relevant experience on judicial cooperation in criminal matters, the EJN has become a respected worldwide voice in the field of judicial cooperation, and a model for similar networks and structures established within the EU and in neighbouring regions of Europe and other parts of the world.

The EJN's mission is to facilitate judicial cooperation in criminal matters within the European Union through a decentralised and horizontal network of contact points who are experts in judicial cooperation in criminal matters, appointed by each Member State among judges, prosecutors and representatives of the national authorities. The level of assistance of EJN contact points has increased every year; the past two years once again reflect an increase in the number of requests sent and received between the EU contact points, which are the result of raised awareness and wider recognition of the EJN's added value among judicial practitioners.

The EJN was created by Joint Action 98/428/JHA of 29 June 1998¹, taking into account the conclusions of the seminars on the EJN and organised crime, held in Brussels from 8 to 10 May 1996 and on 19 and 20 June 1997, which were arranged by the Belgian Ministry of Justice within the framework of a programme partly financed by the European Union, and also making use of the proceedings of the European Parliament and the European Commission.

The efficiency of the EJN was once more confirmed when its legal basis was reinforced with the adoption and entry into force of Council Decision 2008/976/JHA of 16 December 2008 on the European Judicial Network² (EJN Decision). The EJN Decision, as well as Council Decision 2009/426/JHA of 16 December 2008 on the strengthening of Eurojust and amending Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime³ (Eurojust Decision), pointed out a need for the coexistence of the EJN and Eurojust and of privileged relations between them.

This legal background of the EJN, in practice, translates into operational and effective judicial cooperation in criminal matters between the Member States through its EJN contact points over a period of almost 15 years. Judicial cooperation in criminal matters is based on the principle of mutual recognition of judgements and judicial decisions by the Member States. The concept of mutual recognition was introduced by the Maastricht Treaty under Title V (provisions on a common foreign and security policy)⁴ and in October 1999, the concept was asserted as a cornerstone of judicial cooperation at the Tampere European Council⁵. In contrast to the classical form of judicial cooperation, mutual legal assistance (MLA), in which a judicial authority sends a letter of request (letter rogatory) to a foreign judicial authority to perform an action on its territory, mutual recognition is an entirely different philosophy and a different way of thinking about judicial cooperation; each national judicial authority should recognize requests made by the judicial authority of another Member State with a minimum of formality.

¹ OJ L 191, 07/07/1998 pp. 0004 – 0007.

² OJ L 348, 24.12.2008, pp. 130–134.

³ OJ L 138, 4.6.2009, pp. 14–32.

⁴ OJ C 191 of 29.7.1992.

⁵ European Council Presidency conclusions, 16/10/1999 - Nr: 200/1/99.

Previously, even before mutual recognition became a reality, a significant landmark in judicial cooperation had been introduced – the principle of direct contact. It first came into force in 1990 in the Schengen Implementation Convention⁶. The 2000 MLA Convention⁷ reaffirmed the approach and was revolutionary also in another aspect – the applicable law of a request was shifted to a law of the requesting state (*forum regit actum*).

The EJM is the first practical structured mechanism of judicial cooperation that has become truly operational and contributes to the practical implementation of EU legislation regarding judicial cooperation in criminal matters. It is a pioneer in linking judicial authorities to facilitate judicial cooperation. The work of the EJM contact points as active intermediaries is of crucial importance in the practical implementation of the mutual recognition tools, based on the principle of direct contact between the judicial authorities, and also in the principle of MLA within the EU. The EJM has therefore actively contributed to the development of a genuine area of freedom, security and justice across the EU.

The work of the EJM is supported by its highly valuable electronic tools, available on the EJM website at <http://www.ejm-crimjust.europa.eu>. Thus, apart from facilitation of judicial cooperation through providing a platform for direct contact, the EJM has the tools that contribute to the practical application of EU legislation. EJM tools, such as the European Judicial Atlas on mutual legal assistance (Atlas), the Compendium for mutual legal assistance, the *Fiches Belges*, as well as the European Arrest Warrant (EAW) Atlas and EAW Compendium, are used by practitioners on a daily basis not only within the EU but also in neighbouring areas of the EU as well as in several third States.

By the end of 2012, the EJM website has provided access to a new tool – the Library. The EJM Secretariat, as the managerial body of the EJM, plays a visionary role, identifying new areas where the EJM may be involved as well as developing its website. The EJM took the initiative to restructure and redesign the website. Along with this task, the idea of a comprehensive Library for the practitioners was conceived. The Council Conclusions on the follow-up of the implementation of instruments implementing the principle of mutual recognition of judicial decisions in criminal matters, adopted by the Council in Luxembourg in October 2010⁸, gave further effect to this initiative. This document became a mandate to the EJM Secretariat to provide, exclusively on the EJM website, a comprehensive database for all mutual recognition tools (in addition to the tools for MLA), with all necessary practical information. The EJM Secretariat requested Eurojust to provide the necessary support for this task. Other than the text of each legal instrument, the EJM Library includes a wide variety of relevant documents: notifications, statements, and declarations made by the Member States about each legal instrument, state of play of implementation, national legislation, forms, case law, handbooks, reports, and any other practical information. The years 2011 and 2012 brought a thorough redesign of the website, together with the implementation of the Council Conclusions.

The Library, for legal and practical tools of judicial cooperation, is now operational and is continuously updated due to legal changes at national and EU level, but work on the EJM website is not completed. The “redesign” includes the design and also an entire revamp of the

⁶ Convention of 19 June 1990 implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders, OJ L 239, 22.09.2000, pp. 19-62.

⁷ Council Act of 29 May 2000 establishing in accordance with Article 34 of the Treaty on European Union the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union, OJ C 197, 12.07.2000, p. 1.

⁸ Council conclusions on the follow-up of the implementation of instruments implementing the principle of mutual recognition of judicial decisions in criminal matters, 3034th Justice and Home Affairs Council meeting; Luxembourg, 7 and 8 October 2010; 13405/1/10 REV 1 COPEN 184 EJM 35 EUROJUST 86.

Atlas. Over the past two years of reporting, an external contractor, together with the EJM webmaster, has been working on the technical development of a new judicial Atlas. The new Atlas is foreseen to include a “branch” of each mutual recognition instrument, making the Atlas a comprehensive tool for judicial cooperation. Although the new Atlas is not yet ready, by the end of 2012, major steps were taken in its technical and judicial development.

Apart from increased efficiency of the EJM within the EU and further development of the EJM website, 2011 and 2012 saw an enhancement of external relations of the EJM. Increased collaboration with other parts of the world is only natural, especially in light of globalisation and development of the digital world. Changing times demand stronger action of the established judicial networks in criminal matters. Globalisation also entails globalisation of crime; however, the legal borders imposed on judicial authorities by the legal instruments on international cooperation in criminal matters have remained mostly the same at the global level. To tackle the urgent and practical need for operational cooperation, several judicial networks and similar structures have been created on the EJM matrix as its practical structured mechanism of judicial cooperation, providing a decentralised, flexible and horizontal structure; this informal working method has proved to be efficient. The key to good cooperation between the EJM and other judicial networks lies in their inherent ties, based on their identity, objectives, structure and mode of function, that have existed since the networks were created.

The EJM has developed a working methodology based on mutual trust, effective collaboration and eliminating unnecessary bureaucracy through informal and transparent working methods, supplemented by efficient IT tools and the advantages of such a structure of judicial cooperation to fight transnational crime. This approach has been considered as the main argument for establishing similar judicial networks. The United Nations Offices on Drugs and Crime (UNODC) has also taken actions to support creation of networks, as endorsed by the Twelfth UN Congress on Crime Prevention and Criminal Justice, San Salvador, Brazil, on 12 – 19 April 2010.

Consequently, collaboration between the judicial networks that was initially triggered by operational needs – cooperation started by EJM contact points that were looking to solve cases that concern parts of the world other than the EU – was taken to the next level, the level of the secretariats and other managerial bodies of the networks. The EJM Secretariat, as a body representing the EJM in close consultation and coordination with the contact points of the Member State holding the Presidency of Justice and Home Affairs (JHA) of the EU Council, has recently shifted the priority of its external actions towards activities designed to support the creation and functioning of judicial cooperation networks in criminal matters in different regions across the world, and towards facilitating connection of the networks, as well as cooperation with third States in a regional context. This shift has the purpose of voicing the operational work and trust that has been established by EJM contact points over the years. The near future will most likely bring some significant changes.

Part II

Assessment of EJN activities from 2011 to 2012

Chapter 1: Overview

The EJM is a network composed of contact points forming a community of judges, prosecutors, and representatives of the Ministries of Justice, strongly committed to using their experience to benefit European judicial cooperation in criminal matters. Apart from their daily responsibilities as judges, prosecutors or officials of the Ministries of Justice, the EJM contact points perform valuable work in facilitating judicial cooperation in criminal matters in a decentralised and flexible fashion. The contact points provide legal and practical information to competent local authorities, including via the EJM website, provide support for requests for judicial cooperation, and cooperate with other judicial networks, their colleagues in third States, and with other judicial partners. In addition, the National Correspondent in each Member State is responsible for the internal functioning of the EJM and the Tool Correspondent is in charge of providing and updating information about his or her Member State in the e-tools.

To help their colleagues, EJM contact points identify and establish direct contacts with the competent local authority in another Member State to which his or her colleague may be sending a request for judicial cooperation, i.e. EAWs and MLAs; they act as mediators to resolve difficulties and delays that arise in the implementation of requests for judicial cooperation; and they provide advice on the correct approach to cooperation in complex criminal cases between competent authorities in the Member States. By doing so, the EJM contact points promote judicial cooperation between local authorities and provide judicial authorities with legal and practical information on judicial cooperation.

For these reasons, the EJM contact points are also valued as judicial trainers all across the EU and are regularly asked for advice as experts in the field of international cooperation in criminal matters. The EJM contact points have an important role in the dissemination of information to the local authorities and in the training of judges and prosecutors. The EJM itself also promotes the organisation of training sessions and active participation by legal practitioners.

The EJM contact points are determined to achieving common goals in the fight against crime. In such a proactive role, they at the same time create awareness of the EJM as a mechanism to facilitate judicial cooperation. The EJM contact points are responsible in large part for the creation of the judicial culture in Europe and beyond.

Throughout 2011 and 2012, the EJM has continued its growth in efficiency rather than in numbers. As in the previous reporting period, almost 400 contact points are in place across the EU and in the Candidate and Associated States. The reports from the EJM contact points reconfirm their active role as intermediaries and as facilitators of judicial cooperation. The number of requests sent between the contact points has increased compared to the previous reporting period by approximately 1 300 requests, from fewer than 14 000 requests to a little over 15 000 requests. These numbers are most likely not only due to increased efficiency but also due to raised awareness and wider recognition of the added value of the EJM among judicial practitioners. Their contribution to the development of the judicial area is greater than ever.

Under the Hungarian, Polish, Danish and Cyprus EU Presidencies, the Work Programme has been fully implemented. Keywords of this period are the continuation of the EJM “regional meetings” and launch of the EJM “national meetings”, in addition to the meetings provided for in the EJM legal basis – EJM Plenary meetings, National Correspondents meetings, and Tool Correspondents meetings. In addition, translation of the website and technical development

of the judicial Atlas and enhanced cooperation with partners continued. To maintain the quality of EJM meetings during times of fiscal constraint, the EJM Secretariat, in line with the budgetary principle of sound financial management, and in accordance with the principles of economy, efficiency and effectiveness, initiated an increase in financial contribution to the organisation of EJM Plenary meetings. Commencing in 2011, 80% of the eligible direct costs, in comparison with the previous rate of 50%, are now covered by the EJM Secretariat's budget.

Cooperation with EU institutions, the European Commission and the Council of the European Union has continued; as such cooperation is only natural due to the close links and common goal of creating a European judicial culture. Among the EJM's partners is Eurojust. Cooperation with Eurojust is provided for in the Eurojust Decision. The strengthening of privileged relations between the EJM and Eurojust, including the participation of the EJM contact points in the Eurojust National Coordination System (ENCS), is also an important task for the EJM.

The importance of the EJM cannot be underestimated. The overall figures illustrate that the EJM has been an essential tool for judges, prosecutors and judicial authorities in helping to solve criminal cases over the past two years. The practical value of the EJM is its efficiency and its informality; a case is often solved by a single contact between EJM contact points without the need to involve the national authorities. The added value of the EJM thus cannot therefore be denied and makes the EJM a leading actor in the field of international judicial cooperation in criminal matters.

Chapter 2: Assessment of the activities of the EJM contact points in the Member States

1. Gathering data and methodology

The National Correspondents of the Member States provide the EJM Secretariat with annual detailed reports on the activities of the contact points. This step is taken to provide a better understanding of the functions of the EJM and its strengths and weaknesses. During the German EU Presidency in 2007, a methodology was agreed upon, introducing the idea of collecting summary reports from the EJM National Correspondents and contact points on their activities in the Member States. The reports are collected by and submitted to the EJM Secretariat each year, by 5 February following the calendar year under review. The input of the National Correspondents to the reports on the operation of the EJM is submitted in accordance with Article 13 of the EJM Decision.

This Report on the Operation and Management of the EJM is submitted to the European Parliament, the Council and the Commission, which focuses on the activities and management of the EJM.

The graphs presented in the Report on the Operation and Management of the EJM illustrate the activities of the contact points within the EU with regard to the type of intervention, scope of activity and other relevant information on the instruments. In addition to the activities in the Member States, EJM contact points actively collaborate with EU Candidate and Associate States as well as with other parts of the world. Based on further development of EJM activities

outside the borders of the EU, the EU third States/Associate States' relationship with the EJM contact points in the area of judicial cooperation in criminal matters is also reflected in this document.

Firstly, as defined in the EJM Decision, the EJM contact points are "active intermediaries", chosen by the Member States from among judges, prosecutors and officials of the Ministries of Justice with relevant experience in the field of international judicial cooperation. As described in the previous chapter, in addition to their activities within the courts, prosecution offices or national authorities, they fulfil their role as contact points. This role consists of providing the judicial authorities in their own or other Member States with information regarding specific judicial cooperation procedures, e.g. practical information on authorities that have the competence to deal with specific requests, as well as accurate legal information. Another task undertaken by contact points is spreading their knowledge regarding new legal instruments on judicial cooperation among the competent judicial authorities in their Member State and to facilitate the training of judges and prosecutors. Therefore, quantifying the work performed by the appointed contact points is not easy, as a distinction cannot be made between their work carried out within the EJM and their work as prosecutors, judges or officials of Ministries of Justice who are highly experienced in international judicial cooperation. An effort to do for the sake of reporting, such distinction may often result in different systems of calculating the data between Member States.

Secondly, very often the nature of the assistance means measurement of the assistance provided is difficult to achieve, as some activities can only be measured according to the methodology in use within each Member State. Correspondence resulting in assistance between the contact points is realised via telephone conversations and e-mails, which are particularly difficult to track. Thus, because of the wide variety of requests and the fact that they have or might have been measured differently, the figures provided by different Member States are approximations. This situation is also most probably one of the reasons why the number of contact points per Member State and the number of requests per Member State may only be loosely correlated, i.e. a relatively large number of contact points in a Member State does not necessarily imply a large number of requests in the graphs and vice-versa. On the other hand, in some Member States, a relatively small overall number of contact points may seem to have made a relatively large number of requests. Consequently, very often the numbers provided are based on the EJM contact points' estimates rather than on objective criteria.

Finally, in addition to different ways of collecting the data, the summary performed by the contact points (mainly coordinated by the National Correspondents) appears in different ways. Some Member States submitted a report that covered a full period of two years, between 2011 and 2012, without making a distinction between the reporting years. In some cases, due to the lack of concrete available data, the EJM Secretariat extracted the information from the information sent via e-mail. Other exceptions in measuring the data are described under each graph.

2. Activity reports

During the preparation of the first report on the operation and management of the EJM, the EJM Secretariat introduced some points that were not envisaged in the model of the summaries of the activities. As a result, in the 33rd Regular meeting of the EJM contact points in February 2012, the model of the summary adopted under the German Presidency was revised.

New forms were put into use to facilitate the work of the National Correspondents and also to extend the scope of the EJM into several more instruments. From then on, the activity reports include all mutual recognition instruments in comparison to the previous forms, in which only the data regarding two instruments, European Arrest Warrants and Freezing Orders, were requested. With the revision of the form in 2012, the limited list of the type of authority requested was also expanded.

The EJM Secretariat has made a summary of the activities carried out by the contact points of each Member State for the period 2011-2012 on the basis of the activity reports submitted by the National Correspondents.

The reports on the activities of the contact points cover three areas: type of intervention, scope of activity and supplementary information on the type of requesting authority.

The first part of the report, i.e. type of intervention, focused on data regarding MLA requests and mutual recognition instruments. The "classic" MLA covers the cooperation based on convention, protocols and agreements, in which a (requested) judicial authority, either a court or a Prosecution Office from a Member State, provides assistance to a (requesting) judicial authority from another Member State. Thus, the terms "national" and "foreign" authority in the meaning of the activity reports are distinguished, referring to "requesting" and "requested" judicial authority, respectively. With regard to mutual recognition instruments, which are much more about proactive cooperation between two Member States, the terms "national" and "foreign" authority refer to the "issuing" and "executing" judicial authority, as provided in the legislation.

As mentioned, the activity reports submitted by the National Correspondents include different types of interventions, related both to MLA and mutual recognition instruments. The National Correspondents were asked to fill out the forms provided by the EJM Secretariat with the data gathered from the contact points' activities within a specific Member State. In accordance with the new forms agreed on during the 33rd Regular meeting of the EJM in February 2012, Member States are asked about their activities regarding the majority of the mutual recognition instruments, in contrast to previous report, in which fewer details were provided on the type of intervention. The data refers to the number of requests provided by "national" or "foreign authorities" for the period 2011-2012.

Statistics are given on the following types of interventions:

- Providing information on foreign or national law
- Providing assistance during the preparation of an MLA request
- Providing assistance during the execution of an MLA request
- Providing assistance in cases of delay in the execution of an MLA request
- Providing assistance during the preparation of an EAW
- Providing assistance during the execution of an EAW
- Providing assistance during the preparation of a freezing order
- Providing assistance during the execution of a freezing order
- Providing assistance during the preparation of the issuing of a financial penalties certificate
- Providing assistance during the execution of a financial penalties certificate
- Providing assistance during the preparation of the issuing of a confiscation order
- Providing assistance during the execution of a confiscation order
- Providing assistance during the preparation of the issuing of a custodial sentences certificate (FD 909/JHA)

- Providing assistance during the execution of a custodial sentences certificate (FD 909/JHA)
- Providing assistance in other judicial cooperation procedures

In addition to those types of interventions, Member States have the option to specify the assistance given in other judicial cooperation procedures and provide any other activities in which they have been involved (e.g. national meetings, regional meetings, etc.).

The second part of the report describes the scope of activity, which has been divided into two parts:

- Serious form of criminality – as provided in Article 2 of the Joint Action: organised crime, corruption, drug trafficking, terrorism, etc.
- Other types of crime

In the third part of the report, i.e. type of requesting authority, additional details were asked regarding the judicial authority requesting assistance in a specific area. Types of authorities were listed as follows:

- Eurojust National Members/National Desk/ENCS
- Other national authorities
- Foreign authorities
- Other EJM contact points
- Other EU agencies or international bodies

The replies from the Member States were integrated into a summary of the EJM contact points' activities in the form of graphs. This approach allows for a fair comparison of the activities of different contact points for the period 2011-2012, provides an overview of the functioning of the EJM by type of intervention, and allows one to draw overall conclusions on the activities and performance of the EJM.

The summaries reflected in the graphs show the activities within each Member State. In most cases, the statistics related to requests for assistance in the years 2011 and 2012 were differentiated.

3. EJM in the EU in figures in 2011 and 2012

3.1. Summary of the activities

The figures reflecting the contact points' activities over the period 2011-2012 regarding interventions and requests were as follows:

❖ Providing information on foreign or national law:

At least **2 470 requests**, including 1 673 requests from national authorities and 797 requests from foreign authorities;

❖ Providing assistance during the preparation or execution, and in cases of delay, of an MLA:

At least **7 765 requests**, including 4 817 requests from national authorities and 2 948 requests from foreign authorities;

❖ Providing assistance during the preparation and execution of an EAW:

At least **3 330 requests**, including 2 086 requests from national authorities and 1 244 requests from foreign authorities;

❖ Providing assistance during the preparation and execution of a freezing order:

At least **173 requests**, including 105 requests from national authorities and 68 requests from foreign authorities;

❖ Providing assistance during the preparation and execution of a financial penalties certificate:

At least **288 requests**, including 236 requests from national authorities and 52 requests from foreign authorities;

❖ Providing assistance during the preparation and execution of a confiscation order:

At least **43 requests**, including 16 requests from national authorities and 27 requests from foreign authorities;

❖ Providing assistance during the preparation and execution of a custodial sentences certificate:

At least **52 requests**, including 26 requests equally from national and foreign authorities; and

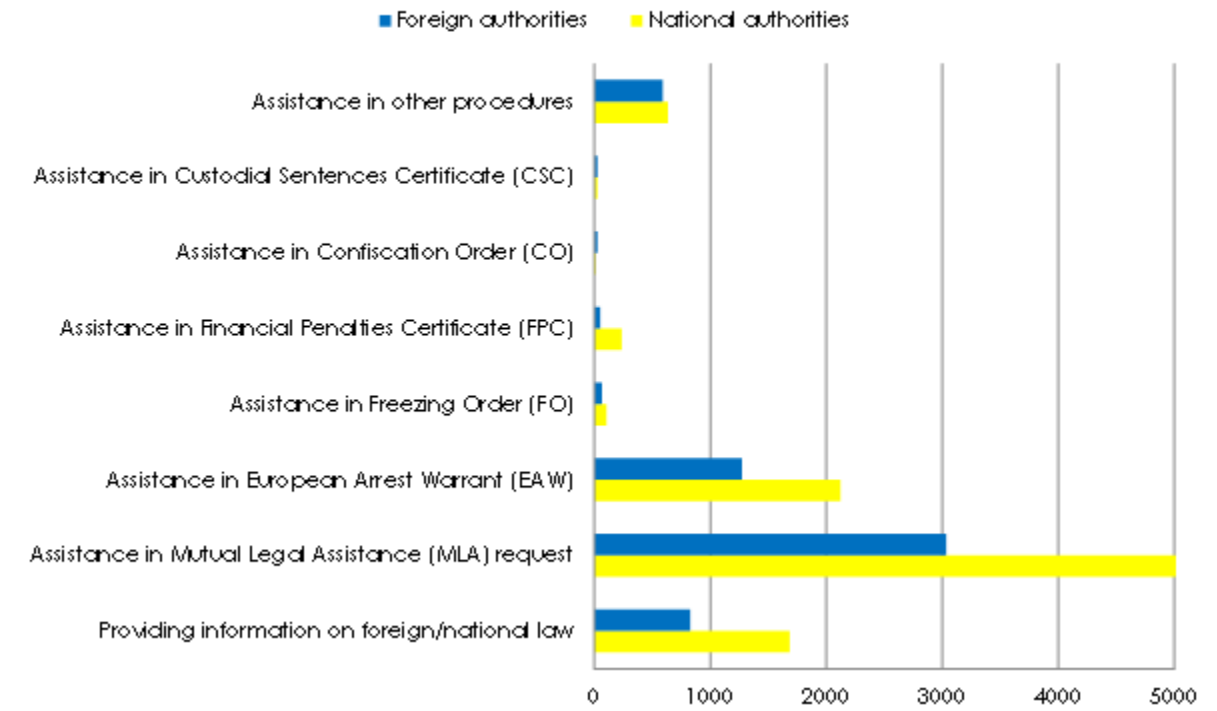
❖ Providing assistance in other judicial cooperation procedures:

At least **1 075 requests**, including 524 requests from national authorities and 551 requests from foreign authorities.

The outcome of adding up all requests made by the EJM over the past two years was the submission and receipt of at least **15 196 requests**. This number proves the increasing efficiency of the EJM, taking into account the fact that the total amount of requests for the period 2009-2010 was 13 879. The EJM has shown itself to be a fast growing network within the area of judicial cooperation in criminal matters, with an increasing influence and involvement as a key cooperation actor for practitioners in the Member States. The EJM Secretariat provides proper and highly efficient administration and management of the EJM, with a budget of EUR 522 000 in 2011 and EUR 534 000 in 2012, both for the activities of the EJM as well as the management of the website.

A remark should be made prior to introducing the graphs and the statistics attached: some Member States have not indicated in their activity reports any requests for assistance in a specific area. Therefore, those have been marked with 0. For statistics from the UK, data has been provided from Scottish judicial authorities and only concern Scotland. Some Member States, such as Ireland and Cyprus, did not complete the form.

Activities of the EJM 2011-2012



Graph 1: Activities of the EJM in the period 2011-2012 by type of intervention.

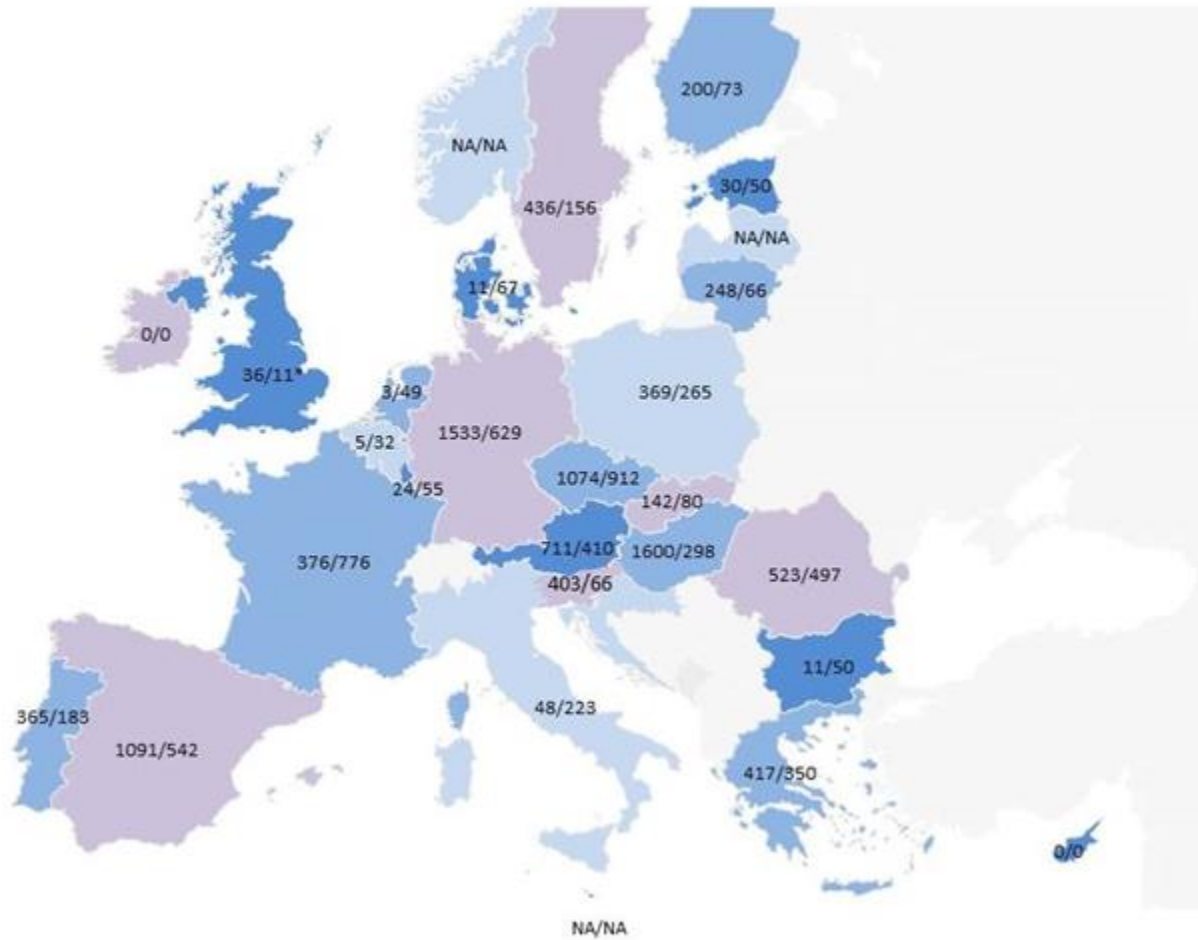


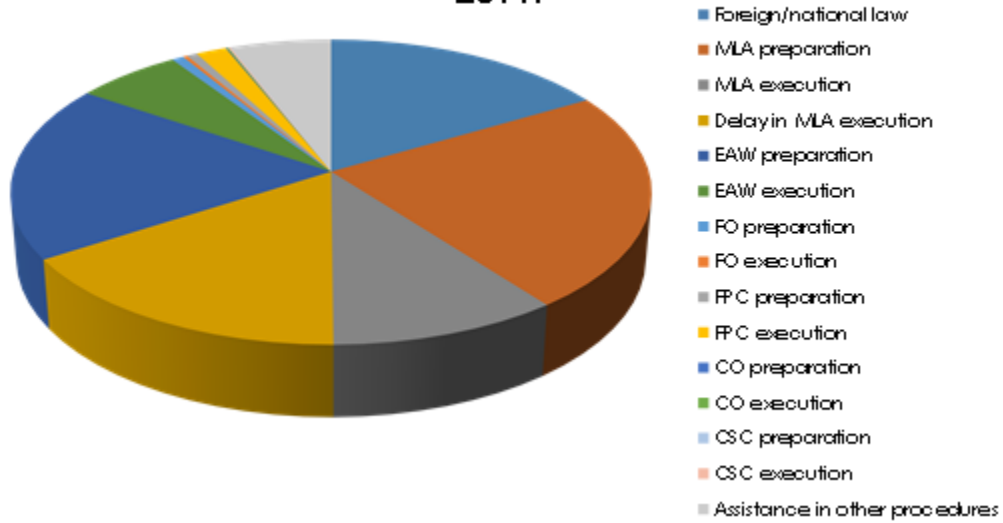
Illustration 1: Activities of the EJM in the period of 2011-2012 by Member State.

Legend: National authorities/ Foreign authorities; NA – No computational data; 0 – No data provided by MS
 *Data concerns Scotland only

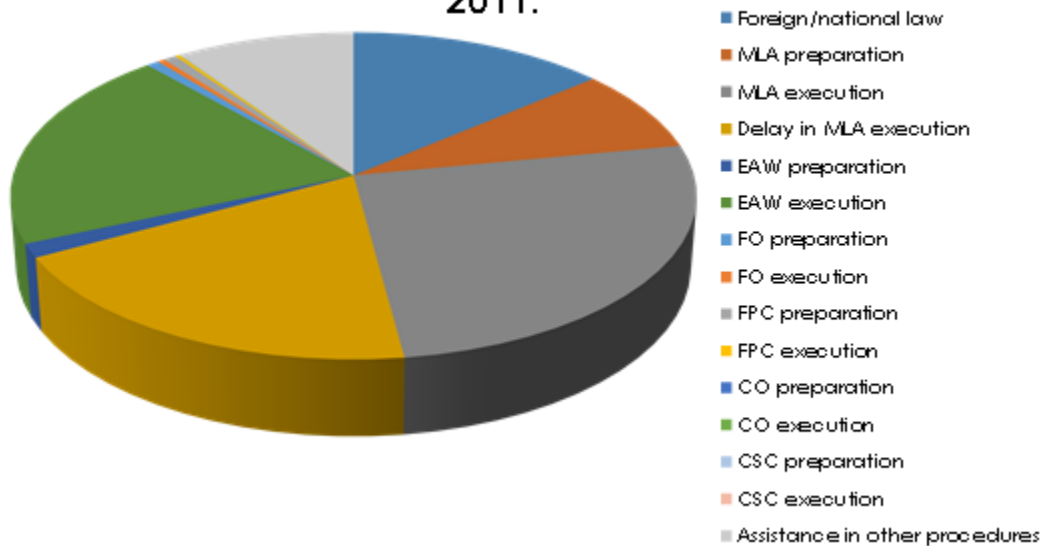
3.2. Type of intervention

The graphs that are provided in this report reflect the number of requests made by national and foreign authorities in all Member States. Within the revised forms regarding the contact points' activities, several mutual recognition instruments have been added to reflect more accurately the functions and work of the contact points.

Requests for Information by national authorities in 2011:

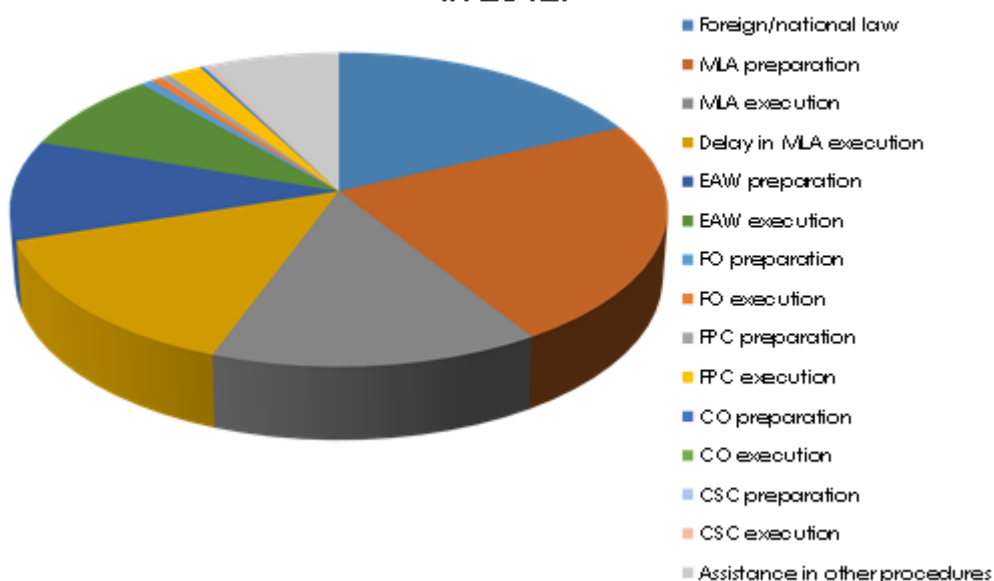


Requests for information by foreign authorities in 2011:

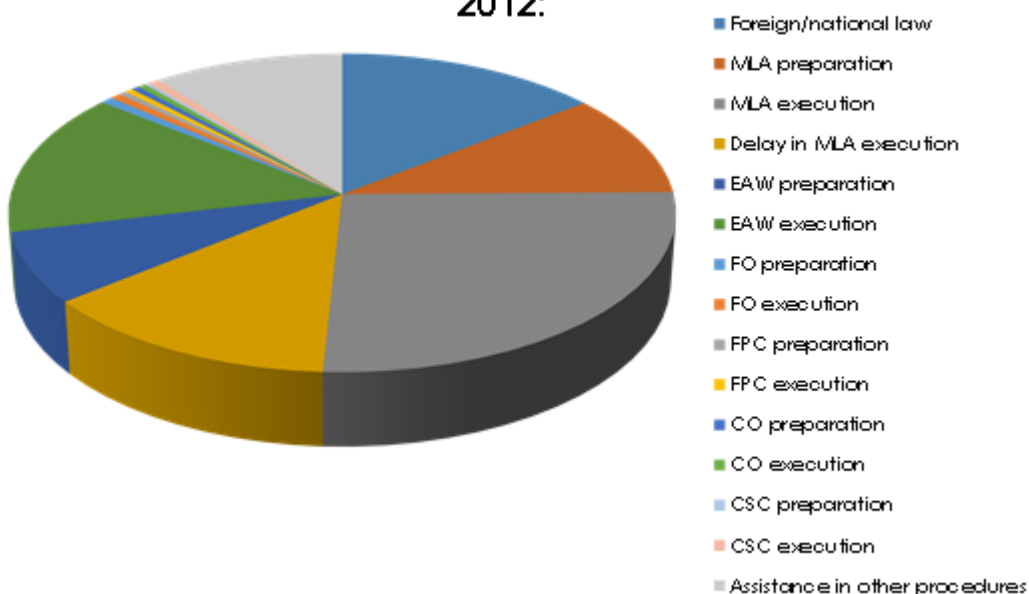


Graphs 2 and 3: Requests for information by national and foreign authorities in 2011. Those include assistance in: foreign/national law, MLA preparation and execution, delay on MLA execution, EAW preparation and execution, freezing order (FO) preparation and execution, financial penalties certificate (FPC) preparation and execution, confiscation order (CO) preparation and execution, custodial sentences certificate (CSC) preparation, execution and assistance in other judicial procedures.

Requests for information by national authorities in 2012:



Requests for information by foreign authorities in 2012:

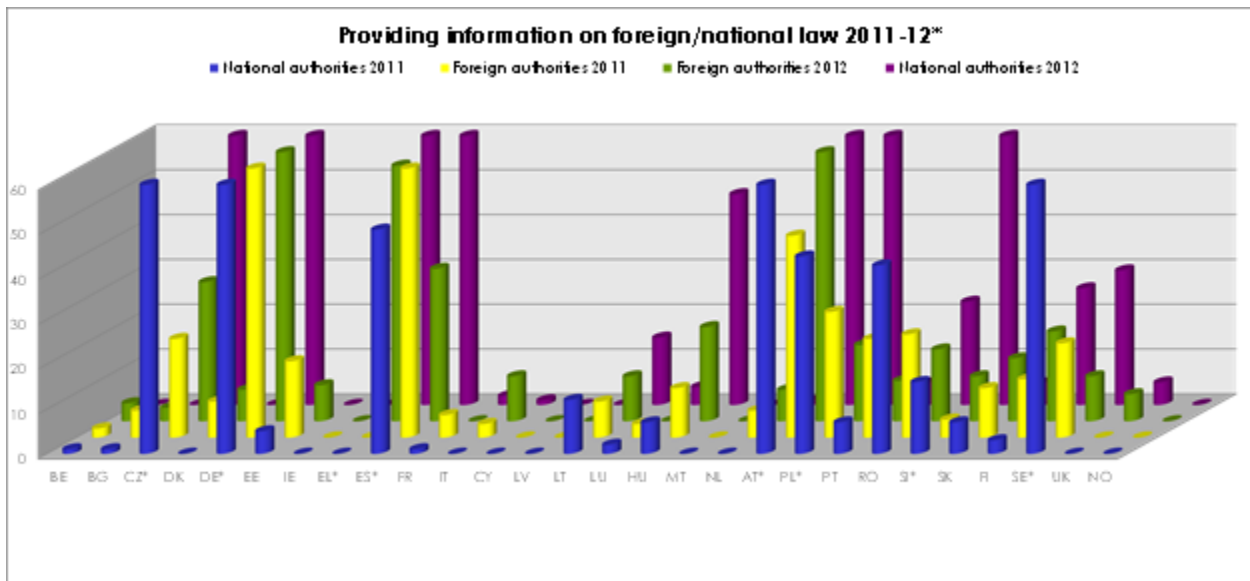


Graphs 4 and 5: Requests for information by national and foreign authorities in 2012.

3.2.1. PROVIDING INFORMATION ON FOREIGN OR NATIONAL LAW

The provision of information on foreign law covers a wide variety of requests for judicial cooperation in criminal matters, requested via different means, e.g. by telephone, e-mail,

regular mail or in person. Tracking such requests is difficult, due not only to the nature of the request but also due to the impossibility to distinguish between the activities of the contact points and their routine casework. The figures for the requests for information on foreign or national law in 2011 and 2012 were as follows:



Graph 6: Requests for information by national and foreign authorities in 2011 and 2012.

* The table includes a maximum of 60 requests. In 2011, Austria had 109 requests from national authorities. In 2012, it had 81 and 71 requests from national and foreign authorities, respectively. In 2011, the Czech Republic had 288 requests, and, in 2012, 169 requests from national authorities. In 2011, Germany had 136 requests from national and 72 requests from foreign authorities. The following year, 137 requests from national and 69 requests from foreign authorities. In 2012, Greece had 82 requests from national authorities. In 2011, Spain had 64 requests from foreign authorities and 63 requests from national authorities. In 2012, Poland had 89 requests from national authorities. Sweden and Slovenia had 65 and 104 requests from national authorities in 2011 and 2012, respectively.

3.2.2. ASSISTANCE DURING THE PREPARATION, EXECUTION AND DELAYS IN THE EXECUTION OF AN MLA REQUEST

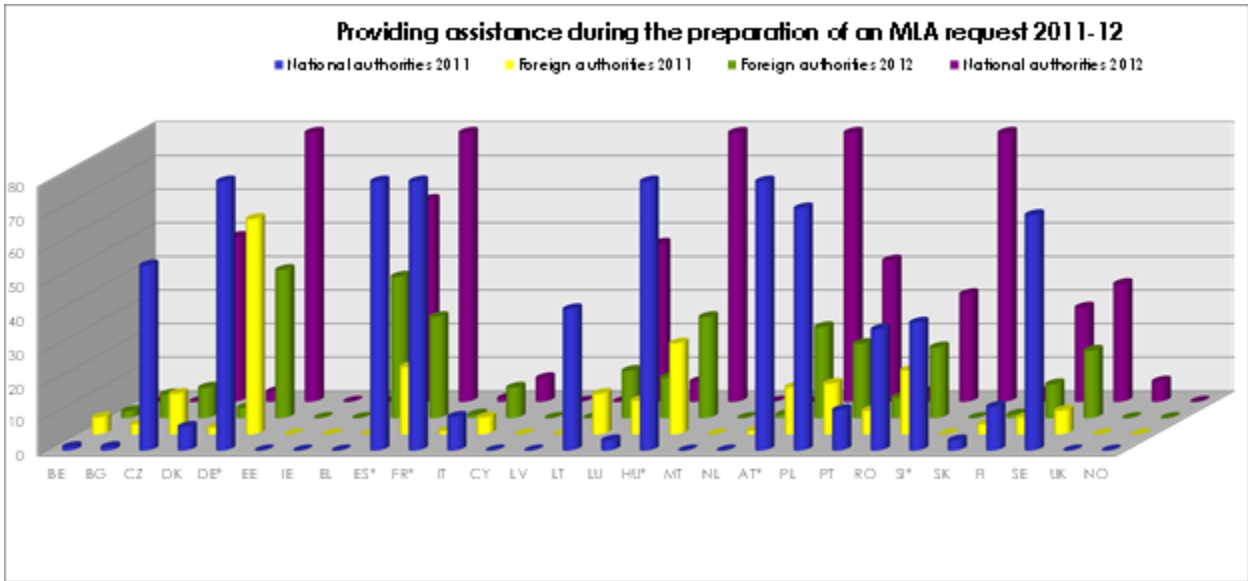
MLA requests are based on the following EU legal acts: Convention of 29 May 2000 on mutual assistance in criminal matters between the Member States of the European Union, which has been implemented by all Member States⁹; Protocol of 16 October 2001 to the Convention of 29 May 2000 on mutual assistance in criminal matters between the Member States of the European Union¹⁰; and Convention of 19 June 1990 implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders and related legal documents¹¹.

As was provided in the previous report on the operation and the management of the EJN (2009/2010), the data for the period 2011-2012 indicate no change: MLA-related requests account for the greatest proportion of all requests submitted.

⁹ OJ C 197, 12.07.2000.

¹⁰ OJ L 326, 21.11.2001.

¹¹ OJ L 239, 22.09.2000, pp. 19-62.

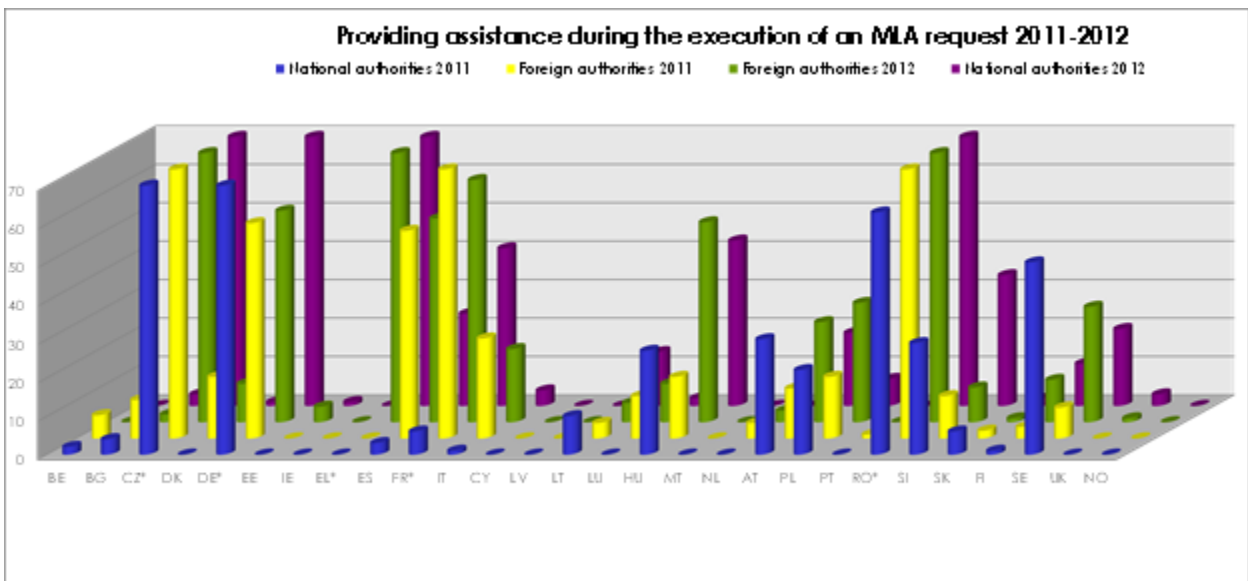


Graph 7: Requests for assistance during the preparation of an MLA request in 2011 and 2012.

* The table contains 80 requests max. Austria had 98 requests from national authorities in 2011 and 2012. Germany had 115 and 118 requests from national authorities, respectively, in 2011 and 2012. Spain had 221 and 265 requests from national authorities, respectively, in 2011 and 2012. In 2011, France had 161 requests from national authorities. Hungary had 159 and 228 requests in 2011 and 2012, respectively. In addition, Slovenia had 117 requests from national authorities in 2012 in comparison to 38 in 2011.

The graphs have been drafted regarding assistance during the preparation, execution and delay of MLA requests. The figures for the requests for assistance in preparation of MLA requests in 2011 and 2012 are shown above.

The figures for the requests for assistance in the execution of MLA in 2011 and 2012 were as follows:

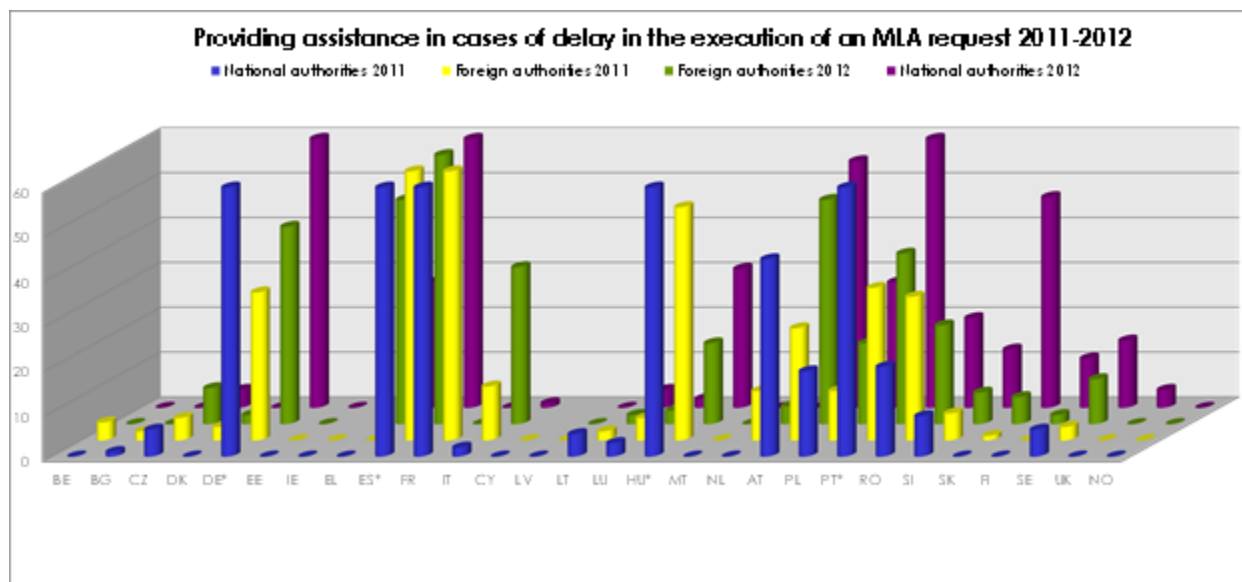


Graph 8: Requests for assistance during the execution of an MLA request in 2011 and 2012.

* The table contains 70 requests max. In 2011 and 2012, the Czech Republic had 148 and 149 requests from national and foreign authorities, respectively. In 2012, the Czech Republic had 213 and 229 requests from

national and foreign authorities, respectively. Germany had 93 and 104 requests from national authorities in 2011 and 2012. Greece had 102 requests from national authorities and 95 from foreign authorities in 2012. France had the largest number of requests for assistance during the execution of an MLA request in 2011 from foreign authorities – 254. Romania had 81 requests from foreign authorities both in 2011 and 2012, and 73 from national authorities in 2012.

The figures on the requests for assistance in cases of delays of the execution of an MLA request in 2011 and 2012 were as follows:



Graph 9: Requests for assistance in cases of delay of the execution of an MLA request in 2011 and 2012.

* The table contains 60 requests max. Germany had 219 requests from national authorities in 2011 and 213 in 2012. In addition, Spain had 123 and 140 requests from national authorities in 2011 and 2012, respectively; it also had 65 and 63 requests from foreign authorities in 2011 and 2012. France had 137 requests from national and 216 requests from foreign authorities in 2011. No data has been provided for 2012. Hungary had 141 requests from national authorities in 2011. In 2011, Portugal had 88 requests from national authorities and 99 in 2012.

3.2.3. ASSISTANCE DURING THE PREPARATION AND EXECUTION OF AN EAW

The EAW is the first mutual recognition instrument within the area of freedom, security and justice. It is based on Council Framework Decision 2002/584/JHA of 13 June 2002 on the European Arrest Warrant and the surrender procedures between Member States¹². By the end of 2012 the Framework Decision had been fully implemented by all 27 Member States.

Graphs have been created to illustrate the assistance given during:

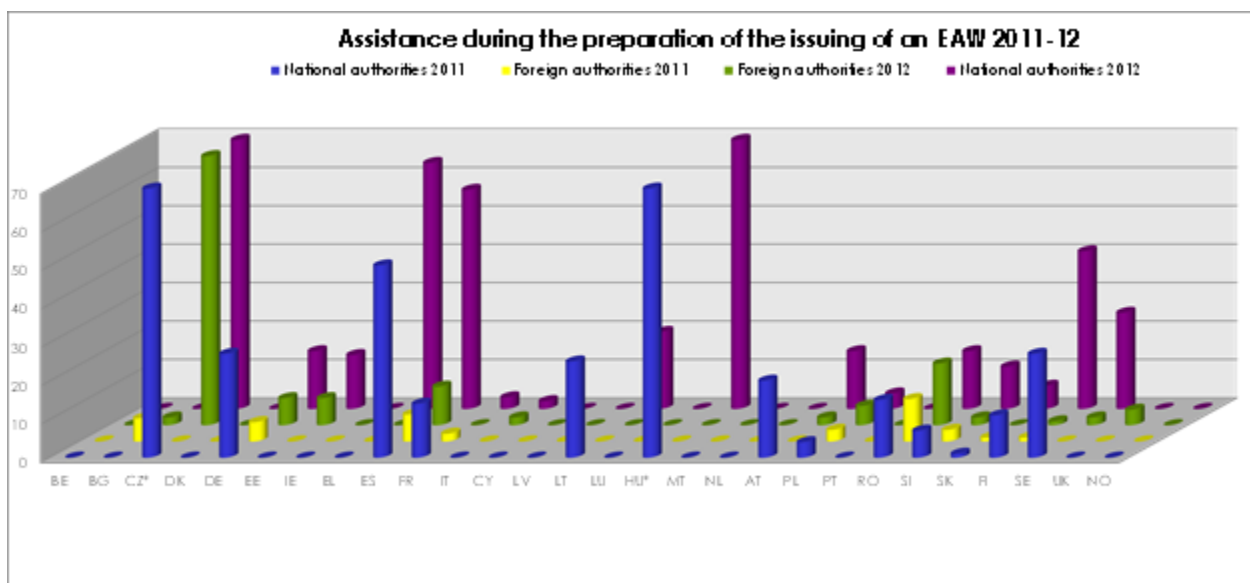
- Preparation
- Execution of the EAW requests

As graph 10 below indicates, regarding the assistance during the preparation of an EAW, the request is made in most cases by the national authorities, with several exceptions. By virtue of Council Framework Decision 2002/584/JHA, a national authority refers to "the judicial authority of the issuing Member State which is competent to issue a European Arrest Warrant by virtue of

¹² OJ L 190, 18.7.2002, pp.1.

the law of that State"¹³. Within the meaning of the same instrument, a foreign authority is defined as "the executing judicial authority" or "judicial authority of the executing Member State, which is competent to execute the European arrest warrant by virtue of the law of that State"¹⁴.

Graph 10 below suggests some dramatic differences between the number of requests submitted by some Member States in comparison to others. In some cases, there were no requests for assistance at all. In addition, we can observe that numbers vary for 2011 and 2012. In some Member States, there is a drastic increase in the number of requests from foreign authorities, while in others, the situation is exactly opposite. As reflected in the graph below, some requests are made by national authorities only (in both years), but no such requests are made by foreign authorities. The figures on the requests for assistance in the preparation of the issuing of an EAW in 2011 and 2012 are as follows:



Graph 10: Assistance during the preparation of the issuing of an EAW in 2011 and 2012.

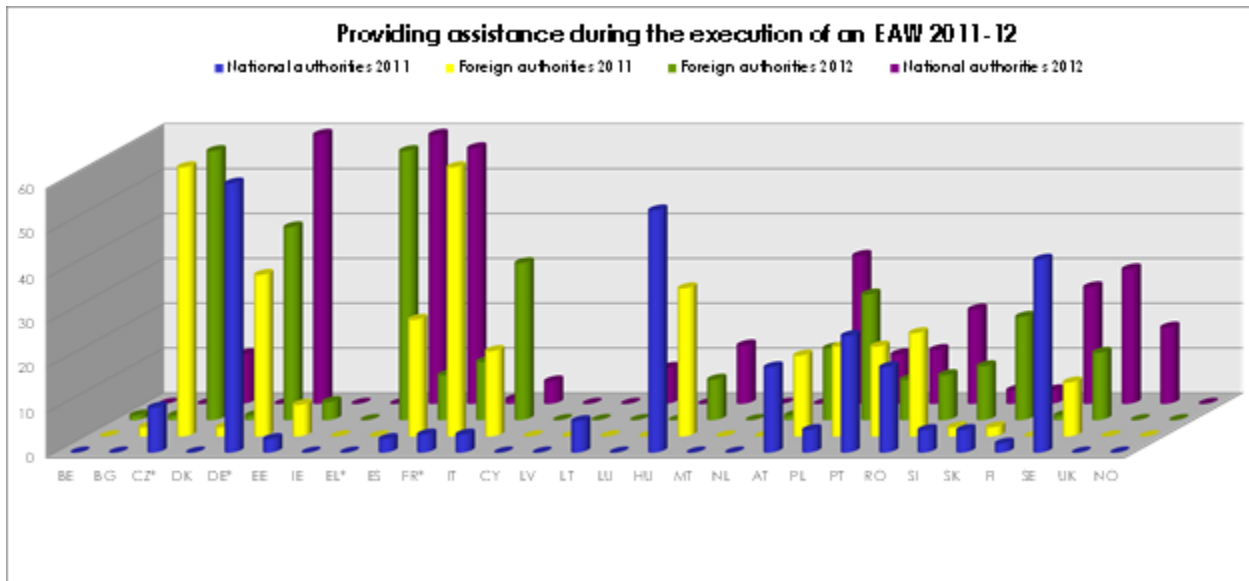
* The table contains 70 requests max. In 2012, the Czech Republic had 72 and 157 requests from national and foreign authorities, respectively. In Hungary, 640 and 146 requests for assistance were submitted by national authorities in 2011 and 2012, but none were submitted by foreign authorities in either year.

With regard to the provision of assistance during the execution of an EAW in 2011 and 2012, in some Member States, the majority of requests are submitted by foreign authorities. However, in more than half of the Member States, the statistics demonstrate the relatively small number of requests in comparison to other Member States. One can conclude that this small number is not a result of the small size of the Member State itself, but rather that the requests in Hungary, for instance, are close to the numbers in Germany. Some Member States did not indicate in their activity reports any requests for assistance in the execution of an EAW.

The figures on the requests for assistance in the execution of an EAW in 2011 and 2012 were as follows:

¹³ Article 6(1) of Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States.

¹⁴ Article 6(2) of Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States.



Graph 11: Assistance during the execution of a European Arrest Warrant in 2011 and 2012.

* The table contains 60 requests max. In 2011 and 2012, the Czech Republic had 132 and 124 requests from foreign authorities, respectively. This data differs significantly from the number of requests from national authorities (10 and 11). Germany had 92 requests from national authorities in 2011 and 87 in 2012. Despite its larger size, it had nearly 75% fewer requests from foreign authorities in 2012. No data has been provided by Greece for 2011. Nevertheless, the statistics from 2012 demonstrate that 73 and 86 requests have been submitted from national and foreign authorities, respectively. The data from France show a drastic decline: from 221 requests for assistance during the execution of an EAW from foreign authorities in 2011, decreased to 13 in 2012.

3.2.4. ASSISTANCE DURING THE PREPARATION AND EXECUTION OF A FREEZING ORDER

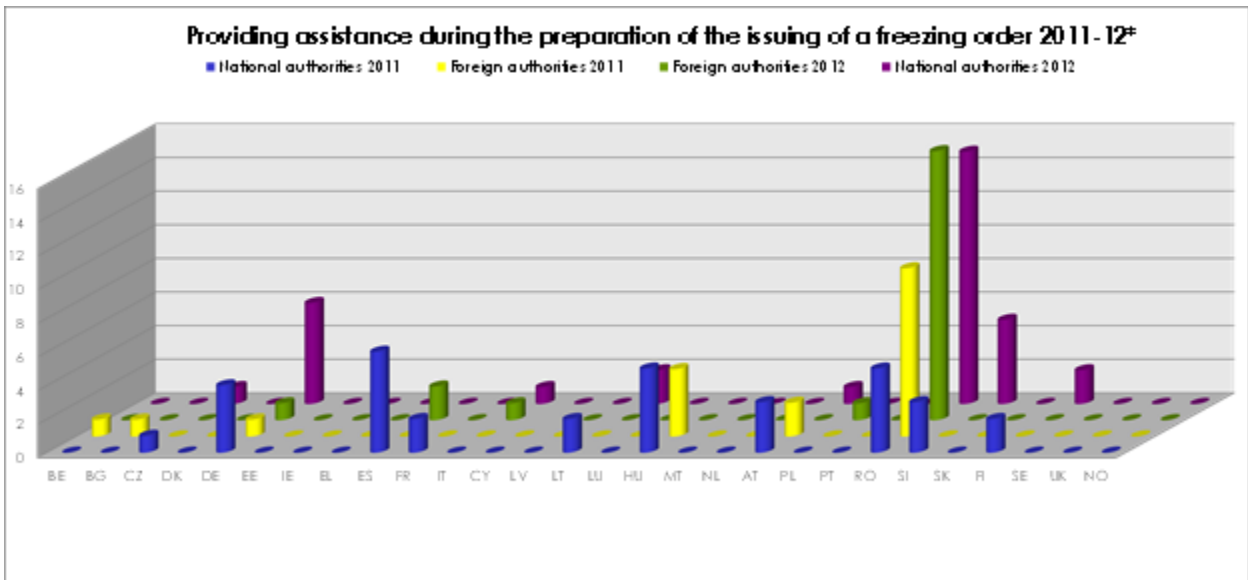
The legal basis for the regulation of freezing orders, i.e. their preparation and execution, is governed by Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the EU of orders freezing property or evidence¹⁵. At the time of publication of this report, Greece and Luxembourg have not implemented the Framework Decision. In Italy and the UK, the implementation is still in process. In most Member States, the number of requests is very small; in some cases, no requests have been made at all.

Graphs have been created to illustrate assistance during:

- Preparation
- Execution of freezing orders

The figures on the requests for assistance in the preparation of freezing orders in 2011 and 2012 are as follows:

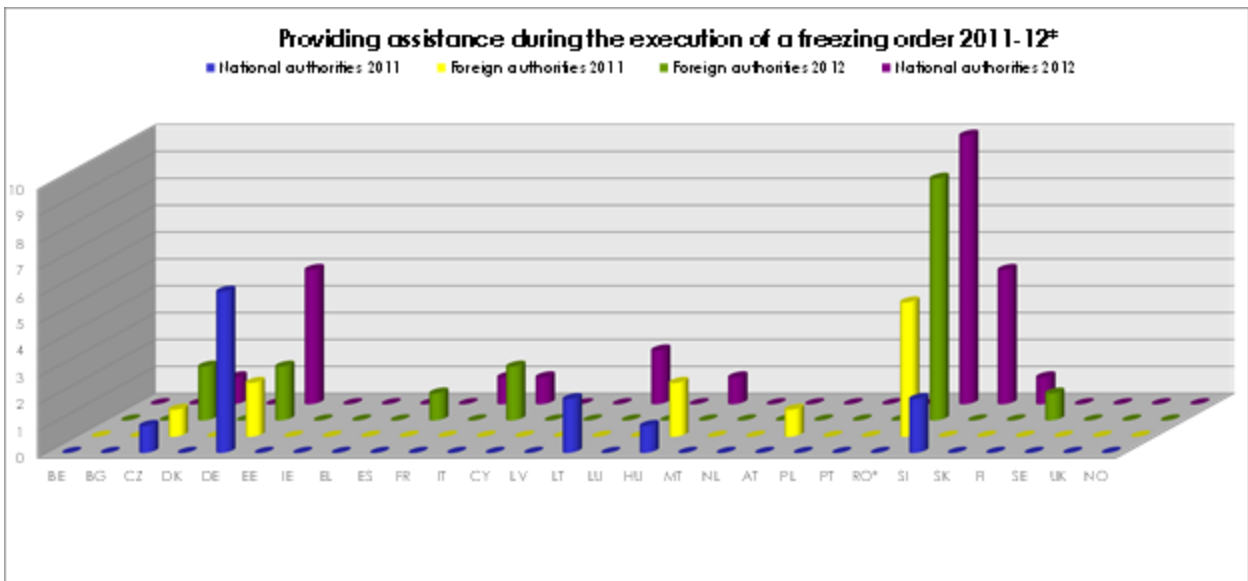
¹⁵ O J L 196, 02.08.2003, pp. 45.



Graph 12: Assistance during the preparation of freezing orders in 2011 and 2012.

* The table contains 16 requests max. Some Member States have submitted no requests either by national or by foreign authorities. The only exception is Romania, which in 2011 had five requests from national authorities, decreasing to three requests in 2012.

The figures on the requests for assistance in the execution of freezing orders in 2011 and 2012 are provided in the graph below:



Graph 13: Assistance during the execution of freezing orders in 2011 and 2012.

* The table contains 10 requests max. Once again, Romania is in the lead with 10 requests from national authorities in 2012, in contrast to Graph 7, in which the total amount of requests, regardless of the issuing authority, is higher. In addition, many Member States did not provide statistics in their activity reports regarding the number of requests for assistance during the execution of freezing orders in 2011 and 2012.

3.2.5. ASSISTANCE DURING THE PREPARATION OF THE ISSUING AND EXECUTION OF A FINANCIAL PENALTIES CERTIFICATE

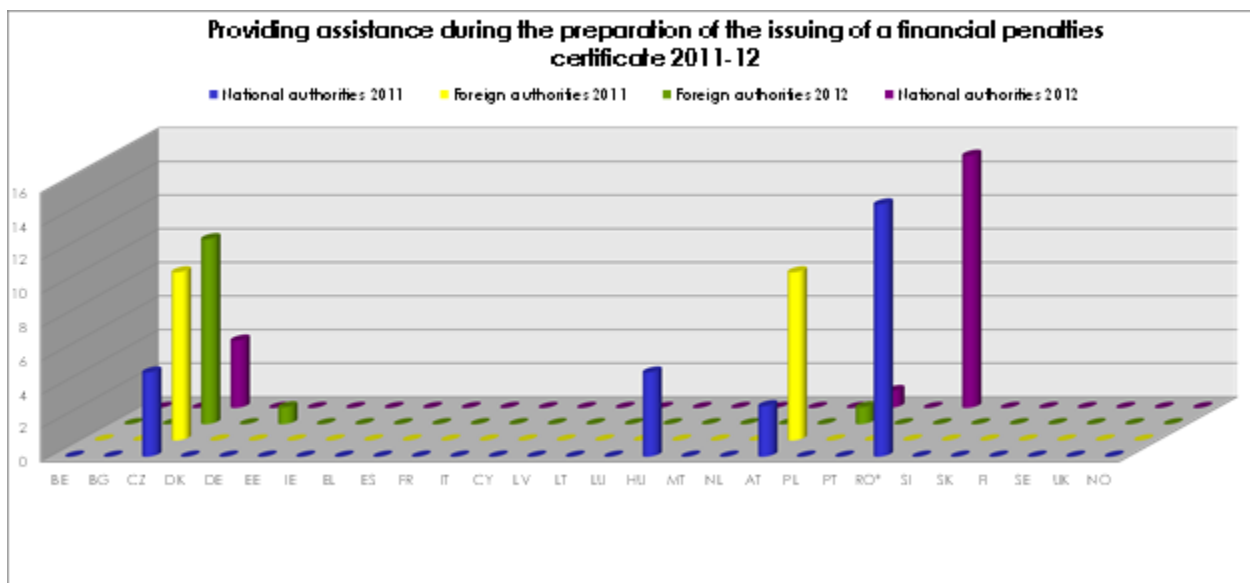
Regulation of the financial penalties certificate is provided for in Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties. At the time of publication of this report, 24 Member States have implemented the Framework Decision. It has yet to be implemented in Greece and Ireland, and is in the process of implementation in Italy.

Apart from the EAW, the financial penalties certificate falls within the category of a mutual recognition instrument, adopted as a measure realizing and strengthening the area of freedom, security and justice. During the 33rd Regular meeting of the EJN contact points, the model of the summary, adopted under the German EU Presidency, has been revised. The new, approved model also includes the requests for preparation and execution of a financial penalties certificate.

Graphs have been created to illustrate assistance during:

- Preparation
- Execution of a financial penalties certificate

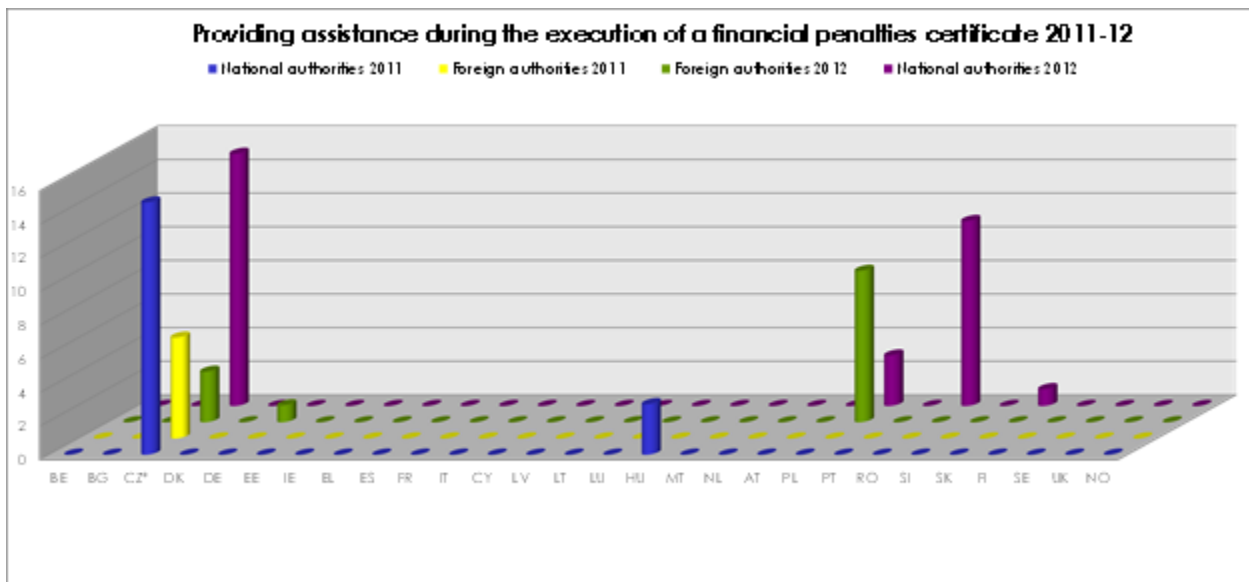
The figures on the requests on assistance during the preparation of the issuing of a financial penalties certificate in 2011 and 2012 are the following:



Graph 14: Assistance during the preparation of the issuing of a financial penalties certificate in 2011 and 2012.

* The table contains 16 requests max. In 2011 and 2012, Romania had 16 and 23 requests from national authorities, respectively. Many Member States have not included in their activity reports the number of requests for assistance during the preparation of a financial penalties certificate, resulting in a limited amount of data reflected in the graph above.

The figures illustrating the number of requests for assistance in the execution of a financial penalties certificate in 2011 and 2012 are as follows:



Graph 15: Assistance during the execution of a financial penalties certificate in 2011 and 2012.

* The table contains 16 requests max. The Czech Republic had 82 requests from national authorities in 2011 and 79 in 2012, again illustrating that the size of the Member State is not a guarantee for the amount of requests to be submitted. France, which is larger than the Czech Republic, had no requests (regardless of the judicial authority) for assistance during the execution of a financial penalties certificate.

Overall, the data implies poor implementation of the instrument, assuming that Member States did not fail to include data regarding the financial penalties certificate in their activity reports. Generally, the introduction of the new model for the summaries has been issued for the purpose of distinction of the various mutual recognition instruments. While a large number of requests are reflected in the graph by some Member States, others have not submitted any data regarding this measure.

3.2.6. ASSISTANCE DURING THE PREPARATION OF THE ISSUING AND THE EXECUTION OF A CONFISCATION ORDER

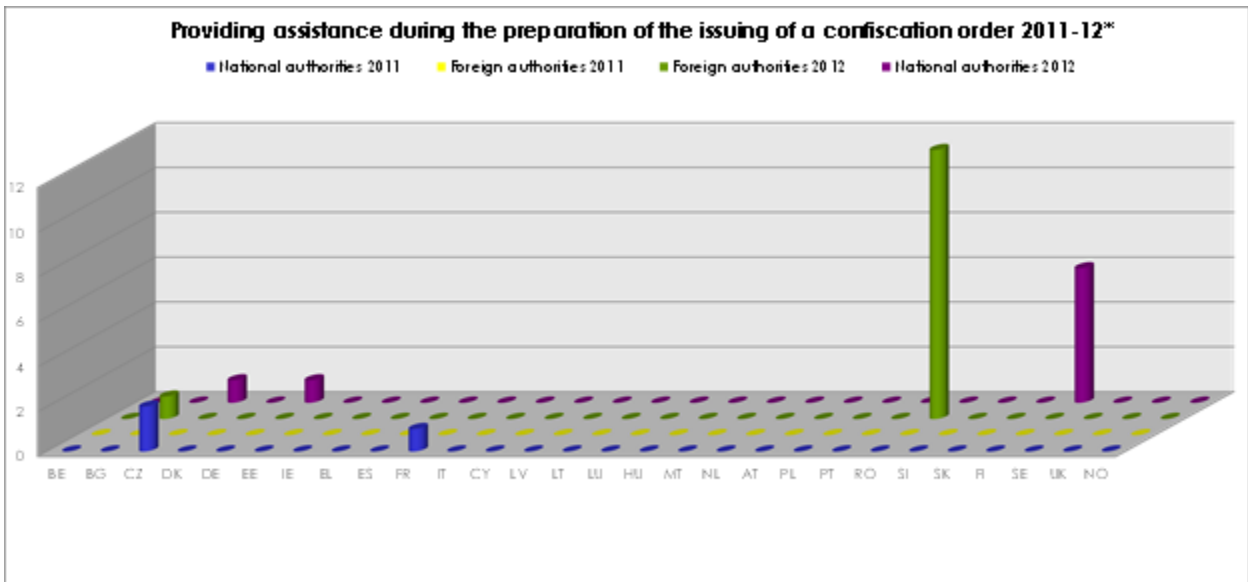
The regulation of the preparation and execution of confiscation orders is enshrined in Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders.

By the end of 2012, eight out of the 27 Member States have not yet implemented the Framework Decision. Those are: the UK, the Slovak Republic, Luxembourg, Italy, Ireland, Greece and Lithuania. The process of implementation is still ongoing in Estonia. Cyprus has implemented the Framework Decision into its national legislation by an amendment of the Prevention and Suppression of Money Laundering and Terrorist Financing Law of 2007.

Graphs have been created to illustrate assistance during:

- Preparation
- Execution of a confiscation order

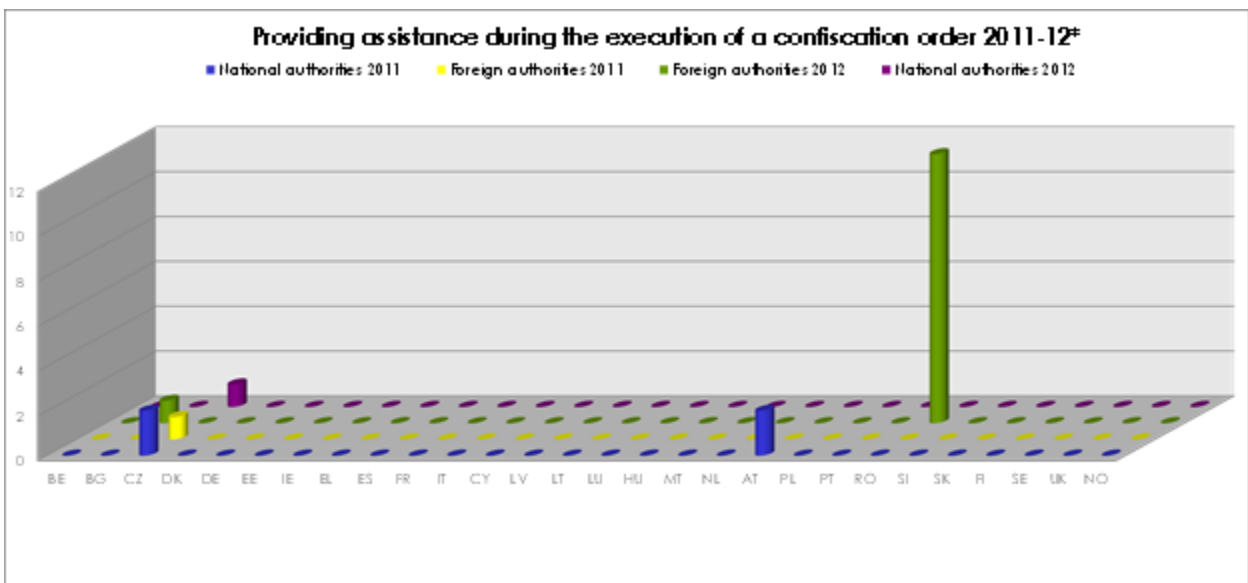
The figures on the requests for assistance during the preparation of the issuance of a confiscation order in 2011 and 2012 were as follows:



Graph 16: Assistance during the preparation of the issuing of a confiscation order in 2011 and 2012.

* The table contains 12 requests max. Once again, many Member States have failed to provide data on this matter within their activity reports. In 2012, Romania had 12 requests from foreign authorities and Bulgaria had one. Other Member States did not have or did not report any requests from foreign authorities in 2012.

The figures for the requests for assistance during the execution of a confiscation order in 2011 and 2012 are as follows:



Graph 17: Assistance during the execution of a confiscation order in 2011 and 2012.

* The table contains 12 requests max. Romania had the same number of requests for assistance in the execution of a confiscation order in 2012 from foreign authorities as in the statistics for the preparation of such an order.

3.2.7. ASSISTANCE DURING THE PREPARATION OF THE ISSUANCE AND EXECUTION OF A CUSTODIAL SENTENCES CERTIFICATE

The legal basis for the regulation of custodial sentences certificates derives from Council Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of

mutual recognition to judgements in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union.

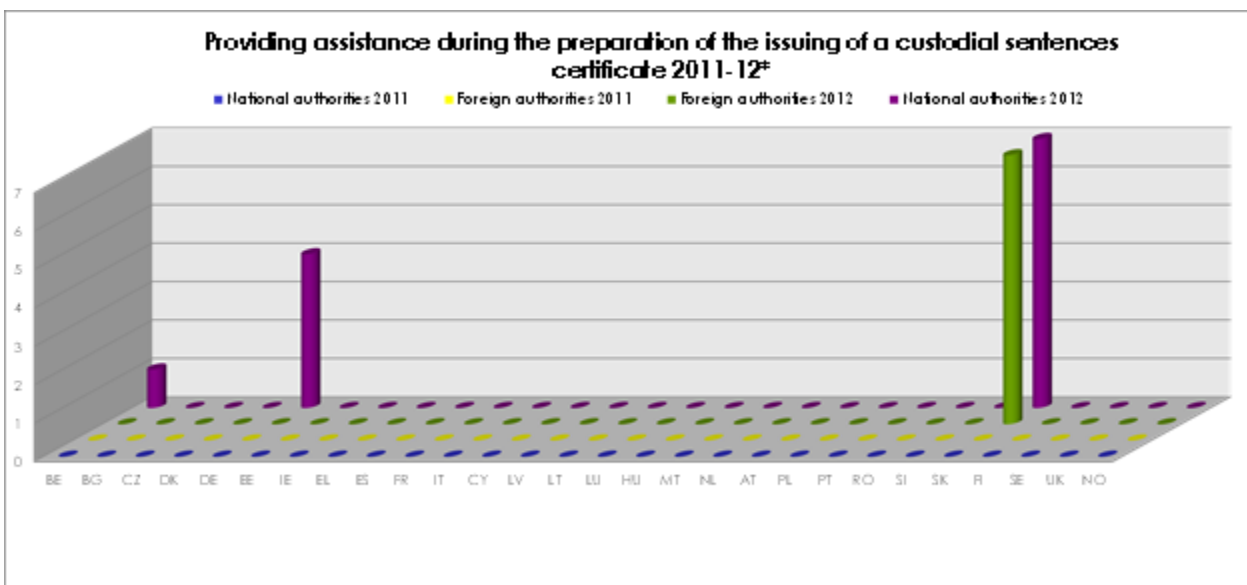
By the end of 2012, 14 Member States have implemented the Framework Decision. The process of implementation is still ongoing in several countries.

Graphs have been created to illustrate assistance during:

- Preparation
- Execution of a custodial sentences certificate

The mere fact that not all Member States have implemented the Council Framework Decision on custodial sentences implies that the number of requests would be small.

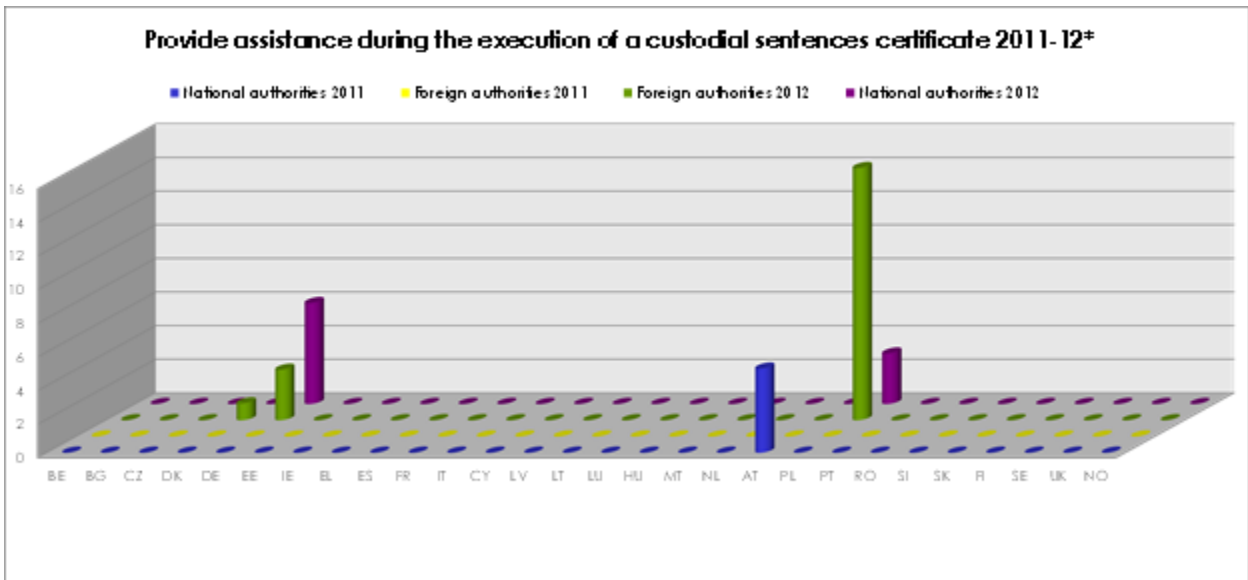
The figures reflecting the requests for assistance in the preparation of the issuing of a custodial sentences certificate are as follows:



Graph 18: Assistance during the preparation of the issuance of a custodial sentences certificate in 2011 and 2012.

* The table contains seven requests max. The only exception to the very small number of requests is the Slovak Republic, which in 2012 had seven requests from national authorities and seven requests from foreign authorities. The custodial sentences certificate is still not widely considered as a practical mutual recognition instrument by practitioners in the Member States. The increase in the number of Member States implementing the measure should increase the number of requests.

The graph illustrating the requests for assistance during the execution of custodial sentences certificates in 2011 and 2012 is as follows:

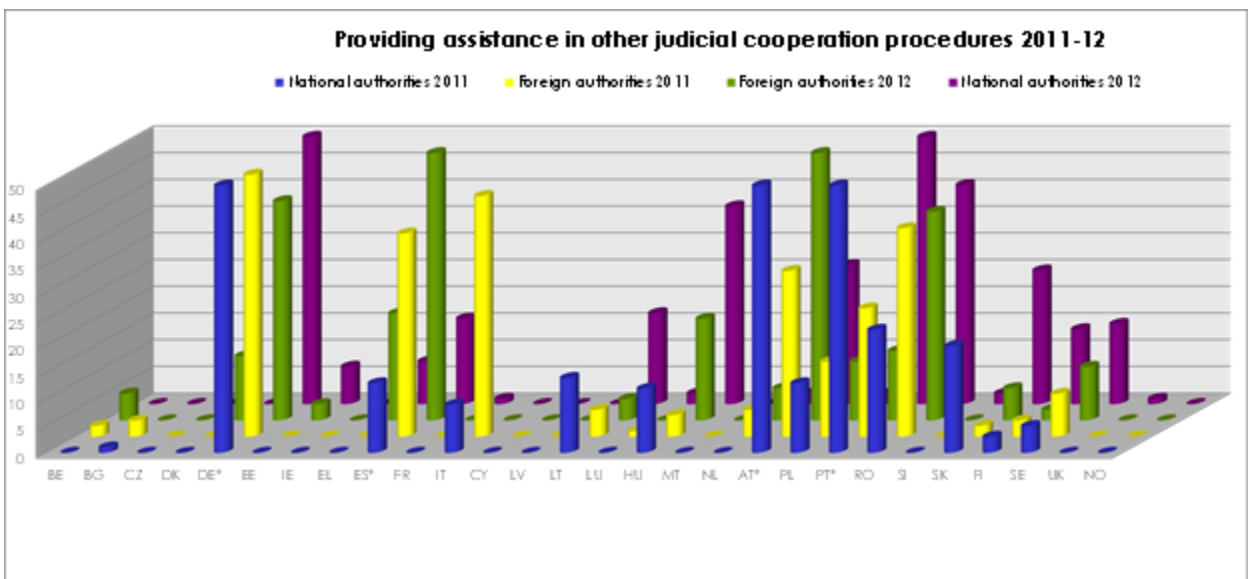


Graph 19: Assistance during the execution of a custodial sentences certificate in 2011 and 2012.

* The table contains 16 requests max. No Member State had 16 requests. Poland had 15 requests from foreign authorities in 2012. Germany had six requests from national authorities for assistance during the execution of custodial sentences certificates in 2012.

3.2.8. ASSISTANCE WITH OTHER PROCEDURES

Assistance with other procedures includes all other requests for assistance provided by national or foreign authorities. The requests do not concern the provision of information on foreign law, assistance in the preparation and execution of MLA, EAW, freezing orders, financial penalties certificates, confiscation orders or custodial sentences certificates. Such assistance in other procedures may be related to requesting and obtaining documents or expert witnesses, distributing information, preparing videoconferences, establishing contacts between competent authorities in specific areas, etc. The data may vary considerably from one Member State to another.



Graph 20: Assistance in other procedures in 2011 and 2012.

** The table contains 50 requests max. Austria had 50 requests from national authorities in 2011 regarding assistance in other procedures and 59 in 2012 from foreign judicial authorities. Germany had 68 and 77 requests from national authorities in 2011 and 2012, respectively. Spain is the Member State that had the most requests from foreign authorities in 2012 – 65. In 2011, Portugal had 51 requests from national authorities and 62 in 2012.*

Within their activity reports, Member States have been asked to fill in the various types of assistance provided in “other procedures”. The EJM Secretariat expresses its gratitude to the efforts made by the contact points in providing such detailed information regarding the activities within the Member States, as this information is not mandatory.

Such assistance in “other procedures” in the 27 Member States follows.

Belgium

In 2011, Belgium was involved in the provision of information on detention of a person in the country: in total, two requests regarding this matter were received. During the following year, only one request was received concerning the same matter.

In 2012, local authorities requested assistance (once) with the translation of a response of the Belgian postal authorities following the sending of a letter to a defendant. One request was submitted in relation to the provision of information on the Belgian cooperation cases with Brazil (a questionnaire from the EJM Secretariat).

Bulgaria

In 2011, Bulgaria provided assistance regarding two MLA requests to hear a witness via videoconference. In addition, it had to provide two JIT agreements, as well as assistance with an MLA request for a telephone interception of a Dutch citizen. No statistics for assistance in other judicial procedures have been provided for 2012.

Czech Republic

In 2011, the Czech Republic was requested to transfer proceedings: 51 requests from national and 20 from foreign authorities. In addition, the Czech Republic was involved in transfers of sentenced persons (13 requests from national and two from foreign authorities). Three requests were submitted from national authorities regarding transfers of supervision. In addition, four requests were sent from Czech authorities for temporary transfer of sentenced persons. In the sensitive matter of extradition, five requests were submitted from national authorities and one request was submitted by foreign authorities. Czech authorities also assisted in providing information on implementation of national law. Finally, in 2011, the Czech Republic was involved in nine requests from national authorities for general information, such as location of a prisoner abroad and length of deprivation of liberty abroad.

In 2012, the Czech Republic dealt with 59 requests for transfer of proceedings at the pre-trial phase from national authorities and 37 requests from foreign authorities. In addition, 19 requests from national authorities concerning transfer of sentenced persons were submitted, and four from foreign authorities were received. Czech judicial authorities submitted two requests for transfers of supervision in 2012, and four concerning extradition. One request for extradition was received.

Denmark

In 2011, Denmark was involved in providing replies to questionnaires. No specific information concerning assistance in other judicial procedures have been provided for 2012.

Germany

In 2011, Germany can be identified as one of the most active countries in terms of judicial cooperation and the variety of requests for assistance. Firstly, requests were made for a certificate according to the Framework Decision on Financial Penalties in the form of Word documents in the official languages of the requested Member States. In addition, requests to obtaining documents and information regarding domestic and foreign procedures were submitted. German authorities also assisted in providing information to EJM contact points on offences committed in Germany and distribution of names of expert witnesses.

Information was provided to Tool Correspondents of other Member States on mistakes in their Atlases. The Danish and German authorities were requested to respond to questionnaires. German authorities were also involved in providing information on the location of suspects and witnesses. Information was also transmitted regarding the times of detention of suspects and their behaviour in custody.

Some activities quite different from the ones other Member States reported were performed by the German authorities. They were involved in the proofreading of translations of forms. In addition, they provided MLA in cases of piracy in the Arabic Sea. In relation to Eurojust's functions, German authorities informed the EU agency about cross-border serious crime investigations. They assisted in the preparation of a joint investigation team and the preparation of requests on disclosure and release of account files. Information was exchanged between local and foreign authorities on cases with mutual interest for both parties – details were provided on the addresses of witnesses in another country. Regarding less complex requests, German authorities were involved in the transmission of information on the state of play of specific cases and the cancellation of a SIS search warrant of a car.

Regarding the role of the EJM in the activities of the German authorities in 2011, direct contacts were established between national and foreign judicial institutions and EJM channels were approached to organise meetings.

The EJM and IberRED assisted in the transmission of information and assistance regarding an organisation dealing with controlled deliveries of drugs.

In 2012, German authorities dealt with obtaining documents, receiving and sharing information regarding domestic and foreign procedures, information on whether an EAW should be sent, distribution of data, coordination of criminal proceedings and provision of names of expert witnesses. In addition, they also cooperated with the EJM contact points when providing details on offences committed in their territory, as well as establishing direct contacts.

Estonia

In 2012, Estonian authorities dealt with the transfer of sentenced persons under the Council of Europe (CoE) 1983 Convention. No specific information for the previous year regarding assistance in other judicial procedures have been provided.

Ireland

No data was provided.

Greece

No specific information reflecting assistance in other judicial procedures has been provided for 2011.

In 2012, Greece assisted other national authorities with accessing and utilising the EJN website. Coordination meetings in Greece between foreign and national judicial and police authorities have taken place. Assistance has also been provided in court hearings when urgent information was needed on the spot.

Spain

No specific information was provided for 2011.

In 2012, Spanish authorities were involved in providing assistance concerning the temporary transfer of persons in custody, bearing in mind that Article 6.8(a) of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union and Article 11 of 1959 Convention state that such requests shall be made through the central authorities of the Member States. In addition, requests for reports on prisoners were submitted, as well as requests for the identification of the appropriate authority for project cooperation.

France

In 2011, the Court of Appeal in Riom requested additional information on criminal matters from SIRENE France. The same request was made three times from Spain regarding the EAW. Details concerning the same mutual recognition instrument have been requested through Italian magistrates. Of importance according to the EJN is that on 24 March 2011, a meeting of all the French contact points was held. On this same date, in the Grenoble region, a regional meeting was held between the contact points in the Bureau for International Assistance in Criminal Matters (*"Bureau de l'entraide penale internationale"*).

Also in 2011, the General Advocate to the Court of Appeal of Bourges, Jean-François Bohnert, participated, as a national expert, in the Tripartite Mission with France, the Netherlands and Germany regarding the evaluation of the EAW from the perspective of the principle of proportionality.

Representatives of the Court of Appeal of Colmar have taken part in training sessions of the French Officer of Judicial Police (*"Officier Police Judiciaire"*) and German police officers in the Euroinstitut in Kehl, Germany. In addition, annual trainings of the Officers of Judicial Police regarding EAW procedures and extradition have taken place. Internally, information meetings of magistrates have been organised regarding the French legislative reforms of 14 April 2011.

In 2012, the judicial authorities in the Reims region were involved in the transmission of a demand of communication concerning a detainee requested by the Embassy of the Netherlands. With respect to third States, a request for extradition was submitted to Georgia and Ukraine. In Grenoble, a meeting was held, attended by the French magistrates employed at Eurojust and the magistrates in the Court of Appeal of Grenoble on 7 April 2012 (a presentation about Eurojust was given).

Italy

In 2011 and 2012, two requests were received from the EJN regarding the existence of regional networks.

Cyprus

No data was provided for 2011 or 2012.

Latvia

Latvian authorities have clarified in their reply that according to Article 846 of the Criminal Procedure Law of the Republic of Latvia, two authorities are competent for the examination of a request from a foreign State:

(1) In pre-trial proceedings, the Prosecutor General's Office shall examine and decide upon a request from a foreign State, and up to the commencement of criminal proceedings, the State Police shall also examine and decide upon such request.

(2) After transfer of a case to a court, the Ministry of Justice shall examine and decide upon a request from a foreign State.

No statistics is available.

Lithuania

In 2011, Lithuanian authorities dealt with issues related to the organisation of a videoconference and transfer of exhibits (evidence). Moreover, they have assisted in passing information about the crimes to the competent institutions of third States.

In 2012, according to the information provided by the General Prosecutor's Office, the contact point from Klaipeda Regional Prosecutor's Office participated in a hearing before a court in London and served as a witness in a case. The legal assistance was provided on the request of the UK.

Luxembourg

In 2011, Luxembourg authorities assisted in the temporary transfer of a detained person.

In 2012, they dealt with the organisation of videoconferences.

Hungary

In 2011, Hungarian authorities were involved in the recognition of foreign judgements in view of entries in the National Criminal Registry.

During the following year, one of the missions was the promotion of the establishment of direct contacts between competent judicial authorities. Hungarian authorities also assisted in the organisation of videoconferences.

Malta

In carrying out their functions as prosecutors within the Attorney General's Office, police and the judiciary are constantly being informed of the EJM and Eurojust potential to assist investigations and prosecutions. During in house training in matters of legal cooperation, participants are informed of how the EJM may be of assistance.

No statistics are available.

Netherlands

In 2011, Dutch authorities assisted in the return of evidence after final verdicts (two requests on this matter). They also supplied information about the execution of an imposed sentence and the transmission of translated formats for Framework Decisions. In addition, penal records were provided by local authorities. Dutch authorities have replied to questions about the EJM's budget for meetings on the topic of EU regional cooperation.

In 2012, Dutch authorities supplied foreign authorities with contact details in urgent matters. Assistance was provided in the transfer of a sentenced person. The national authorities have also assisted in a transfer of criminal proceedings request for observation at Eindhoven Airport.

Austria

In 2012, Austrian authorities were involved in transfer of procedures, more precisely assistance concerning requests for transmitting copies of judgements, criminal records, and requests for notification whether a specific person is in detention. In addition, they also received enquiries about pending proceedings, status or result of proceedings.

Poland

Poland's activities in 2011 are characterised by close cooperation with German authorities. Poland has assisted in providing an explanation to the Consulate General of Germany in Gdańsk, acting on behalf of the German police, concerning the service of documents. In addition, domestic authorities organised a hearing of a Polish witness via videoconference. National authorities supplied information on requests coming from Belgian, German and Polish authorities regarding ongoing proceedings in criminal matters. Details have also been provided to the German authorities concerning the address of a witness. With the assistance of the EJN, Polish authorities have provided a German contact point with the copies of a judgement regarding an accused Polish citizen. Close cooperation with third States has also been conducted, i.e. assistance with the execution of an MLA request from Switzerland.

In 2012, with the assistance of the EJN, information from contact point for the Szczecin Court of Appeals has been provided.

Enquiries received by the contact point from foreign contact points have pertained to: the scope of investigations performed against persons indicated their by respective full names as well as to legal validity of relevant sentences issued with relation to defined convicts (German contact points, with relation to vehicle theft dealt with by the Gorzów Wlkp. district) and issues associated with European Arrest Warrants being currently handled by courts. Apart from questions regarding foreign law and legal assistance, one enquiry was provided by a contact point pertaining to an occurrence abroad and about the stage of proceedings performed by the German Prosecution Office.

In addition, Polish authorities have verified whether court proceedings concerning an individual in Polish courts have been finalised. Supplementary information was also exchanged regarding the national law system and practice between Polish and Scottish contact points.

Portugal

The data was provided; no specific information was provided regarding assistance in other judicial procedures in 2011 and 2012.

Romania

In 2011, Romania provided assistance to other Member States in the identification of the appropriate form of judicial cooperation in criminal matters to be applied. In addition, national authorities have offered information about jurisprudence and the practice at national level or/and in relation with other Member States on a specific form of judicial cooperation in criminal matters. Romania has also provided assistance concerning the transfer of criminal proceedings, rule of speciality in relation to the extradition procedure, and EAW cases.

In 2012, assistance was provided in transfer of criminal proceedings, extradition and EAW cases.

Slovenia

The data was provided. No specific information was provided regarding assistance in other judicial procedures in 2011 and 2012.

Slovak Republic

In 2011, Slovak authorities were involved in the preparation of a request for information concerning a competent judicial authority. In addition, their activities involved transfer of criminal proceedings, transfer of sentenced persons, videoconferences, requests concerning actual residences abroad of certain individuals, and provision of information concerning FD 2005/214/JHA and 2008/909/JHA.

Finland

In 2011, Finland was involved in the gathering of information concerning the status of cases pending in Finland in which the subject is a person suspected of committing a crime in another Member State. In addition, a prosecutor in Helsinki requested a court decision in a criminal case from the authorities in Salzburg, Austria. Information regarding national legislation has also been transmitted to a foreign authority.

No specific information regarding assistance in other judicial procedures was provided for 2012.

Sweden

In 2011, representatives of Swedish judicial authorities were asked to appear in court to hear evidence as mediators/legal "interpreters". In addition, national authorities have been requested to provide information about organisation and administration of foreign legal systems. Through the EJM, local authorities were assisted in finding contact points for strategic contacts within the EU.

In 2012, authorities provided information on foreign legal systems when it comes to organisation and administration. They have assisted when assessing whether or not a MLA request is necessary or other measures, such as police-to-police would be sufficient. Authorities have assisted their colleagues in establishing contact with other colleagues in EU countries and organising a visit. Support has also been provided when establishing a communication between Swedish practitioners and a prosecutor in another EU country. Moreover, Swedish authorities have distributed statistics with regard to MLA and status of implementation of legal instruments concerning judicial cooperation. Lastly, assistance was ensured in matters of training.

UK

No data was provided for 2011 or 2012.

The EJM Secretariat has received data only from Scotland for activities performed in 2012. Scottish authorities have provided advice regarding a number of similar MLA requests that were received from throughout Poland.

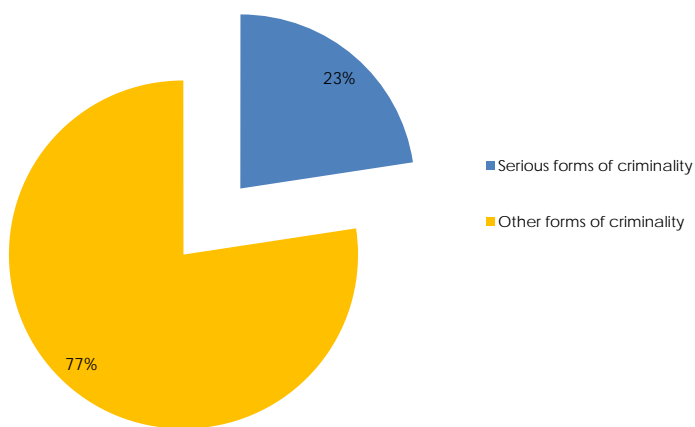
3.3. Scope of activity

Within this section of the report, attention will be paid to the activity for which a request for assistance was made. As already mentioned, the EJM Secretariat has agreed upon a new methodology, which divides the scope of activities into two parts:

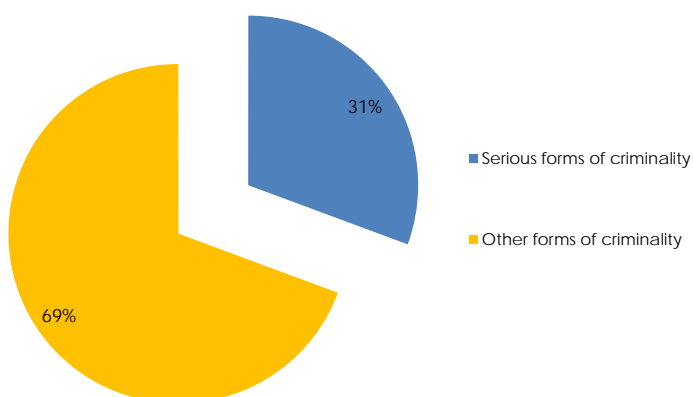
- Serious forms of criminality (as identified in Article 2 of the Joint Action: organised crime, corruption, drug trafficking, terrorism, etc.)
- Other forms of criminality

The graph representing the data gathered from the Member States' activity reports concerning the activity for which the request for assistance has been made follows.

Scope of activity: Type of crime (2011)



Scope of activity: Type of crime (2012)

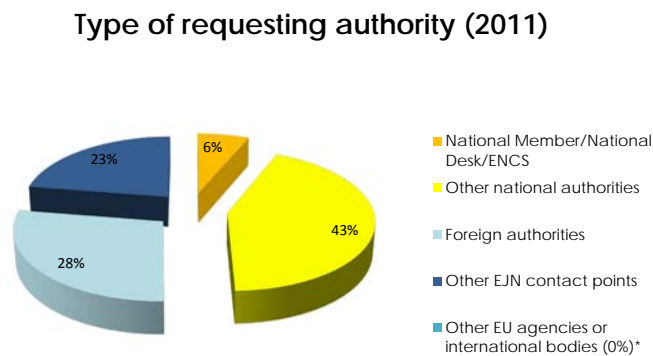


3.4. Supplementary information on the type of requesting authority

This section contains additional information regarding the type of authority requesting assistance. By virtue of the revised forms, as agreed upon during the 33rd Regular meeting of the EJM in February 2012, the following types of authorities are listed in the activity reports:

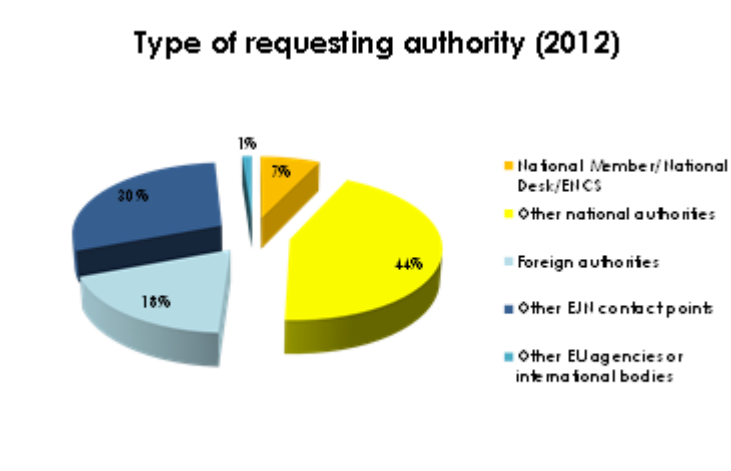
- Eurojust National Member/National Desk/ENCs
- Other national authorities
- Foreign authorities
- Other EJM contact points
- Other EU agencies or international bodies

agencies or international bodies



Graph 21: Type of requesting authority in 2011.

*Note: The percentage regarding other EU agencies or international bodies is 0%. Therefore, the graph does not reflect those authorities.



Graph 22: Type of requesting authority in 2012.

4. EJM in EU Candidate States and Associated States

4.1. EJM judicial cooperation with EU Candidate States

The European Union and third States are granted the option of concluding cooperation agreements in different areas under the primary sources of EU law. Article 217 of the Treaty on the Functioning of the European Union (TFEU)¹⁶ foresees the establishment of association agreements between the EU and one or more third States or international organisations. This action is undertaken by the EU with a view to the creation of stronger cultural, political and trade links with third States, with which the conclusion of the agreement has as its goal the achievements provided for in the Treaties. For instance, a Stabilisation and Association Agreement was concluded between the EU and Croatia, which entered into force on 1 February 2005.

At the end of 2012, the following third States are referred to as EU Candidate States: Iceland, Croatia, Montenegro, the former Yugoslav Republic of Macedonia and Turkey.

Candidate States are obliged to adopt the EU *acquis* prior to joining the EU. The *acquis* is the entire body of European Union legislation, binding on all Member States. In that regard, EU Candidate States are obliged to make EU law part of their own national legislation. Within the enlargement process, accession negotiations take place. The adoption and implementation of the *acquis* are the basis of those negotiations.

Recently, positive developments have been observed in judicial cooperation in several Western Balkan countries. A bilateral agreement between Serbia and Albania (potential Candidate States) has been concluded on mutual legal assistance and mutual enforcement of sentences in penal matters. In addition, Croatia and Serbia have signed an agreement enabling the extradition of own nationals for criminal proceedings or enforcement of prison sentences in cases of organised crime and corruption.

Although still of Candidate State status, Croatia has already taken the initiative to begin cooperation in judicial matters, thus looking forward to the realisation of the area of freedom, security and justice. The Commission has expressed its view by encouraging other third States in the region to follow Croatia's example.

The adoption of Council Decision 2002/630/JHA establishing a framework programme on police and judicial cooperation in criminal matters (AGIS)¹⁷ is also of note regarding cooperation with third States. According to Article 2¹⁸, the programme encourages Member States to step up cooperation with applicant countries. This is a further step forward initiated by the EU with a view to enhancing judicial cooperation with Candidate States and achieving the general objective of providing EU citizens with a high level of protection in the area of freedom, security and justice.

The framework programme co-finances projects within the meaning of the Council Decision. By virtue of Article 3, applicant countries have the opportunity to get involved in the projects in order to familiarise themselves with the EU *acquis* in the area of judicial cooperation. Through this method, candidates can prepare for the potential accession.

The activities of the EJM in judicial cooperation involve the Candidate States. Turkey and Iceland have appointed EJM contact points to facilitate cooperation concerning requests for

¹⁶ OJ C 115/47, 9.05.2008.

¹⁷ OJ L 203, 01/08/2002, pp. 0005 – 0008.

¹⁸ Council Decision 2002/630/JHA establishing a framework programme on police and judicial cooperation in criminal matters, Article 2(1)(c).

assistance in various areas. Turkey has also submitted activity reports for 2011 and 2012. Regarding the contact points' activities in Turkey, 35 requests for assistance during the execution of an MLA request have been received from foreign authorities.

The EJM recognizes the active involvement of Candidate States in facilitating judicial cooperation and demonstrating interest in its activities through attendance at EJM meetings.

4.2. EJM judicial cooperation with EU Associated States

The EU Associated States are also covered by Article 217 TFEU, i.e. the EU Association Agreement. As mentioned, this agreement represents a treaty between the EU and a third State, and is the basis for cooperation. Norway, Switzerland, Iceland and Liechtenstein have Associated State status.

The legal instruments adopted in the area of judicial cooperation, which concern both the EU and the countries listed above, are the European Convention on Mutual Assistance in Criminal Matters¹⁹ (Council of Europe, 1959), Convention on the Implementation of the Schengen Agreement of 14 June 1985, Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union²⁰ and the United Nations Convention against Transnational Organized Crime²¹.

All Associated States listed above are part of the Schengen Area, in which all internal borders are abolished. In judicial cooperation, the Agreement between the European Union and the Republic of Iceland and the Kingdom of Norway on the application of certain provisions of the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between the Member States of the European Union and the 2001 Protocol are relevant.

In addition, the EU has concluded other agreements with Iceland and Norway concerning criminal matters. A relevant instrument is the 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. Its objective is to improve judicial cooperation in criminal matters between the Member States of the EU and Iceland and Norway with regard to the surrender procedure for the purpose of prosecution or execution of sentence. The EJM Norwegian contact point is an active participant at EJM meetings, including the Tool Correspondents meeting, precisely due to the participation of Norway in the above-mentioned agreement, and consequently its placement on the EJM website.

Another important piece of EU legislation is Council Decision 2009/127/EC of 18 December 2008 concerning the signature, on behalf of the European Community, of the Cooperation Agreement between the European Community and its Member States and the Swiss Confederation to combat fraud and any other illegal activity to the detriment of their financial interests. This agreement's purpose is to extend EU administrative and mutual legal assistance in criminal matters to Switzerland. The Final Act of the Cooperation Agreement contains a joint declaration on money laundering and on cooperation by the Swiss Confederation with Eurojust and the EJM.

¹⁹ European Convention on Mutual Assistance in Criminal Matters 1959

²⁰ Council Act (2000/C 197/01) of 29 May 2000 establishing in accordance with Article 34 of the Treaty on European Union the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union [2000] OJ C197/1

²¹ United Nations Convention against Transnational Organized Crime 15 November 2000

MLA between Switzerland and the EU is realized mainly through the European Convention on Mutual Assistance in Criminal Matters.

Judicial cooperation between the EU and Liechtenstein is covered by the Agreement on Cooperation between Eurojust and the Principality of Liechtenstein. Liechtenstein is party to the European Convention on Mutual Legal Assistance in Criminal Matters and has also concluded agreements with Germany, Austria and Switzerland regarding international mutual legal assistance in criminal matters.

As mentioned above, EU Candidate State Turkey has submitted activity reports for 2011 and 2012, as has EU Associate States Switzerland and Liechtenstein. Although these third States are not obliged to submit activity reports, the EJM Secretariat recognizes and appreciates the efforts of the contact points to do so. Swiss contact points, for instance, have attended all Plenary meetings of the EJM. They have assisted in providing information regarding foreign/national law during the preparation and execution of MLA requests and in cases of delay of the execution of such requests.

Although a small country, Liechtenstein actively participates in judicial cooperation between Member States. National authorities have provided information on foreign/national law, and have assisted in the preparation and execution of MLA requests, in the issuing of freezing orders, and in other judicial cooperation procedures. Liechtenstein's contact points have also participated in regional meetings and/or Plenary meetings of the EJM contact points in Germany, Denmark, Austria and Hungary.

Chapter 3: Implementation of the EJM Work Programmes 2011 and 2012 under the Hungarian, Polish, Danish and Cyprus Presidencies

1. Objective 1: Organisation of the EJM meetings

One of the management functions of the EJM Secretariat is to ensure financial as well as organisational support. This function is primarily fulfilled by organising meetings. EJM's meetings are essential to its existence and development, being the *fora* in which strategic and administrative decisions are taken. The contact points meet to discuss practical issues specific to their activities and tasks. The activities described below are for the years 2011 and 2012.

The following subparagraphs provide more detailed information on the execution of the objectives of the 2011 and 2012 Work Programmes.

1.1. Providing support for the organisation of Presidency meetings (Activity 1.1)

According to Article 5 of the EJM Decision, the contact points of the EJM hold three Plenary meetings per year. The first of the three meetings is the Regular meeting of the EJM contact points, which is held at Eurojust once per year. An overview of this activity for the years 2011 and 2012 can be found under point 1.2 of this chapter. The other two Plenary meetings are organised by each Presidency - with support from the EJM Secretariat - and take place in the Member State holding the Presidency; the meetings are partially financed from the EJM Secretariat budget. These meetings are described below.

The 36th Plenary meeting of the EJM

The 36th Plenary meeting of the EJM took place in June 2011 in Budapest, Hungary²². During this meeting, participants and the Presidency stressed the importance of the EJM and the EJM website as cornerstones for a better understanding of other legal systems.

The EJM Secretariat presented the execution of its Work Programme for the first semester 2011; and the award decisions for the organisation of National and Regional meetings for 2011 were announced.

The meeting started with the discussion on practical challenges regarding recognition of the judgements' in different countries. The main topic of the meeting was *ne bis in idem*, which is based on the principle that nobody should be judged twice for the same crime.

²² EJM/2011/3.



In the first day's workshop, relevant decisions of the European Court of Justice on the principle of *ne bis in idem* were analysed. Participants concluded that *ne bis in idem* cases should be taken individually, as no single solution can be found for the application of this principle.

The principle of *ne bis in idem* is an autonomous area of case law. Thus, many questions need to be resolved, e.g. to determine if, for certain cases, only one way of rational interpretation is possible. The need for consultations between judicial authorities to prevent conflicts of jurisdiction was identified.

The second question that was discussed in the workshops was about the mutual recognition of foreign judgements. The Presidency presented a discussion paper and the participants debated several issues on the recognition of foreign judgements. The main element in recognition is mutual trust.

In the context of the exchange of information extracted from criminal records, participants discussed an issue concerning a possible change of nationality by the convicted person, which could lead to the loss of the criminal records. The proposals to solve this problem were to act through a central index with convictions of all EU nationals or an exchange of information by the Member States on request.

The last part of the workshop was dedicated to the use of different means of identification by the Member States. Recommendations were made to explore possibilities to use fingerprints for checking of identity and to link databases where necessary.

Participants briefly gave an overview of the cooperation of the Trio Presidencies, and agreed that the trio working method has been positive, as it allows for the development of a long-range work vision and decisions to be taken as a college.

The 37th Plenary meeting of the EJM

The 37th Plenary meeting of the EJM took place in Gdansk, Poland, on 17-18 November, 2011²³.

After the presentations of the EJM Work Programme by the EJM Secretariat, the Polish Presidency opened the meeting by emphasizing the importance of the fight against organised crime. One of the questions for discussion during the meeting was the European Protection Order (EPO), supported by the Polish Presidency as an important initiative to protect victims. In addition to this main topic, the activity of the EJM was described as crucial to the reinforcement of mutual trust due to the use of informal contacts.

During the 37th Plenary meeting, an amendment was approved concerning Plenary meeting financing. The EJM Secretariat observed that the budget was not always fully executed for the Plenary meetings mainly due to the high co-finance requirement from the Member States. To ensure that the Member State holding the Presidency would make the maximum use of the financial resources available, and in line with the principle of sound management (namely, principles of economy, efficiency and effectiveness), the contribution of the Member State hosting the meeting was decreased to 20% of the total eligible costs of the meeting. The overall budget for the plenary meetings, EUR 50 000, is unchanged.

A description of the Polish legal system was presented to enhance common understanding of the national system, emphasizing that international cooperation is not effective without this knowledge. In addition, the outcome of the joint Eurojust-EJM Task Force meeting from 10 and 11 November 2011 was presented. A draft paper dealing with the distribution of cases between the EJM and Eurojust elaborated by some Member States was presented by the EJM Task Force. It was stated that the Eurojust National Coordination System (ENCS) should be flexible and operational and should carry the idea of direct contact between the EJM Contact points in order to avoid the duplication of the work.

A presentation by the Presidency on the European Protection Order (EPO) draft directive followed. The main goal of the future directive is that crime victims who were granted protection in one Member State would be able to get similar protection if they moved to another Member State.

During the first workshop, specific forms of MLA, such as videoconference, telephone conference and interception of telecommunications, were considered. A tool such as the videoconference is widely used in some Member States and is not used at all in others. This tool is mostly used during the pre-trial stage and is of great value when a witness is not able to attend the hearing, or when the Prosecution Office does not allow the witness to travel, or when a witness is a child that had been sexually exploited, or when the security of a witness or suspect is at issue. Preparation of the videoconference takes time, but the time spent is offset by the low cost..

During the second workshop, procedural guarantees to parties to criminal proceedings were deliberated. The right of the suspect to free legal assistance was discussed. Participants remarked that different countries have different regulations on this right and in which cases it can be granted free of charge. However, involvement of legal counsel is mandatory when the suspect is the subject of an EAW. One of the most unsatisfactory situations is the delay in execution of rogatory letters. Several reasons were highlighted for such delays.

A Legislative Officer from the Directorate-General for Justice, European Commission, gave an overview about related ongoing activities by DG Justice. These topics included stronger

²³ EJM/2011/5.

procedural rights and more efficient help to victims of crime; further work on the Framework Decision on the execution in the EU of orders freezing property or evidence; and the Framework Decision on the application of the principle of mutual recognition to confiscation orders.



The 38th Plenary meeting of the EJM

The 38th Plenary meeting of the EJM took place in Copenhagen, Denmark, on 19-20 June 2012²⁴.

Ms Fatima Martins, Secretary to the EJM, opened the meeting with a reference to her five-year anniversary and a short overview of her work during her time at the Secretariat. The presentation was followed by a summary of the Work Programme of the EJM for the year 2012 by the EJM Secretariat.

A presentation on the sixth round of mutual evaluations: practical implementation and operation of the Decisions on Eurojust and the EJM in criminal matters, was made by the Council. During the evaluation, one of the goals was to get more practical experience on the coordination and cooperation of Eurojust and EJM contact points. The necessity for contact points to fill out the questionnaire to truly reflect the strength of the EJM was highlighted. Participants regretted that the EJM Secretariat itself did not respond to the questionnaire.

Participants shared their experience and conducted a general discussion on the setting up of JIJs. They agreed that cooperation within a JIJ helps ensure team spirit and provide the necessary contributions. In some cases, the setting up of the JIJ was refused, often because of the lack of police capacity, or because of legislation or translation issues or simply because the judge did not have sufficient knowledge about JIJs.

The first workshop was dedicated to JIJs and the use of evidence gathered and exchanged. The workshop participants agreed that the level of experience in setting up JIJs within the EU

²⁴ EJM/2012/3.

was already considerable. The gathering, use and admissibility of evidence may vary significantly. Evidence cannot be used if not foreseen in the other country. Thus, a practical solution was needed. Setting up a JIT opens the possibility to speak to an authority from another country, to know about other legal systems, and to make a personal approach.

The topic of the second workshop was JITs and the disclosure of information. The main question was the kind of information that should go in the case file. The definition of the term "evidence" differs from country to country. Therefore, the basic problem with JITs is that the rules vary concerning disclosure, and should be decided on a case-by-case basis. First, the problems must be assessed and then a clear regulation must be included into agreement, mainly what kind of information can be disclosed during the running of the JIT.

The third workshop concerned the exercise of powers within a JIT. Most participants agreed that the seconded member was not permitted to take investigative measures by himself/herself and that the presence of the member from the state of operation was necessary to avoid inadmissibility of evidence. Participants discussed whether a common legal framework on the exercise of powers was necessary. The participants agreed that no common framework was needed since JITs worked very well in practice. The necessity for the drawing up of guidelines beyond the existing manual, also for model agreements, was mentioned.

During the meeting, the feedback from the Joint Eurojust-EJN Task Force was presented. This meeting had been held during the 38th Plenary meeting. The Joint Task Force (JTF) focused on the consultation and complementarity between Eurojust and the EJN. The JTF was created to tackle problems encountered in the implementation of decisions, namely Articles 13 and 13a of the Eurojust Decision, and the setting up of the ENCS.

Another topic presented to the participants was the outcome of the study on *EU model rules on criminal investigation and prosecution for the procedure of the proposed European Public Prosecutor's Office* (EPPO). Involvement of the EJN was considered to be of high priority due to the important consequences the EPPO will have in criminal matters.

Finally, the European network of contact points in respect of persons responsible for genocide, crimes against humanity and war crimes (Genocide Network) and the Network of National Experts on Joint Investigation Teams (JITs Network) presented their latest work and development.



The 39th Plenary meeting of the EJC

The 39th Plenary meeting of the EJC was held in Nicosia, Cyprus, on 28-30 November 2012²⁵.

The Cyprus Presidency introduced the topic of the meeting: the European Arrest Warrant (hereinafter EAW) and the principle of proportionality, and referred to Council Framework Decision 2002/584/JHA of 13 June 2002 on the European Arrest Warrant and the surrender procedures between Member States.

The important role of the EJC in solving real cross-border cases was pointed out during the welcome speech. The EJC and its meetings assist Member States to better understand different legal systems and how to properly use different international legal cooperation instruments. The role of the EJC in the implementation of the Convention of 29 May 2000 on Mutual assistance in Criminal Matters between the Member States of the European Union was noted.

EJC Plenary meetings were once again acknowledged to be important *fora* for the contact points to discuss issues and problems so as to better understand other legal systems. These meetings facilitate interaction between contact points, which is one of the principles on which the EJC was founded. Strengthening links and building mutual trust are vital pre-conditions for effective cooperation between Member States.

The EJC Secretariat made a presentation on implementation of its Work Programme, and stated that the number of Regional meetings was increased. In 2012, Regional meetings organised by German, Estonian, Austrian and Romanian applicants had already taken place,

²⁵ EJC/2012/3.

and another meeting was planned by the UK. The EJM Secretariat pointed out that budget cuts in the coming years may result in budget cuts for the EJM meetings, including Regional and National meetings, as well as a possible lowering of the ceiling on travel costs and other expenses.

The EAW evaluation report of 2011 was presented by the European Commission. Reference was made to the European handbook on how to issue a European Arrest Warrant and the proportionality test. The position of the Commission's representative was to learn more about Member States' practices concerning the issuance and execution of EAWs, on what amendments should be made to the handbook and the situation regarding EAWs related to minor crimes.



The project entitled *The principle of proportionality and the EAW, including the evaluation of mutual trust between the EU member states in judicial cooperation in criminal matters* was discussed and the EAW questionnaire was presented. The project contains an evaluation of the principle of proportionality and the EAW. The questionnaire had revealed that in the majority of Member States the contact points always apply the proportionality test when issuing an EAW. Some Member States use other (proportionality) factors in their decision whether or not to issue an EAW, such as the use of alternative measures, previous convictions, costs of the procedure, and age of the suspect. Among the obstacles in the execution of the EAW, requests for additional information not provided for by the Framework Decision on the EAW were mentioned. Some Member States have very short deadlines for receiving an EAW and its translation (e.g. 48 hours); some Member States make vague requests for additional information; and some Member States refuse the execution of the EAW on the grounds that it is not foreseen in the Framework Decision. Participants were advised to apply (a) greater openness in considering the use of alternative measures instead of applying the EAW procedure, (b) additional safeguards for pre-trial detention conditions, and (c) an extension of time for the submission of the full application following a provisional arrest. Participants expressed agreement on the importance of building trust and raising awareness through trainings. The huge potential of the EJM, and the important role it could play in improving the EAW system, was highlighted.

The second agenda topic was *The recent development in relation to the rights of victims in criminal proceedings*. A Council representative gave a detailed presentation on this subject, with an explanation of the legal background and the enforcement of the so-called "victims' rights package". The package, which was submitted to the European Parliament and the Council in May 2011, includes the Commission's proposal on establishing minimum standards on the rights, support and protection of victims of crime, the Commission's communication on strengthening victims' rights in the EU, and a proposal for a regulation on mutual recognition of protection measures in civil matters.



1.2. Providing support for the organisation of Presidency meetings (Activity 1.2)

According to Article 5 of the EJM Decision, the EJM contact points meet in plenary session three times per year. The first of the three is the Regular meeting of EJM contact points, which is held at Eurojust in The Hague based on Article 5(3) of the EJM Decision; travel expenses are financed by the EJM Secretariat. For this meeting, the EJM Secretariat finances and manages interpretation as well as translation of documents in both official languages, English and French.

The 32nd EJM Regular meeting

The 32nd EJM Regular meeting under the Hungarian EU Presidency took place on 15 February 2011 in The Hague²⁶. The meeting, in line with the one of the goals of the EJM Regular meetings, was to prepare the 2011 EJM agenda under the Hungarian EU Presidency and the Polish EU Presidency.

After the welcoming speech, participants discussed the draft directive on the European Investigation Order (EIO) and the state of play of the negotiations in the Council's Working Party on judicial cooperation in criminal matters. Participants discussed the effectiveness of this tool for the Member States and the necessity to ensure the rights of citizens with its implementation. The principle of proportionality and issues related to data protection were also discussed.

²⁶ EJM/2011/1.

Participants agreed that the EIO seems to be more complicated for certain cases than classical MLA instruments. Classic MLA should be used if obtaining all the investigative measures at once is possible. Participants then concentrated their attention on the grounds for non-recognition and non-execution that are listed in the draft directive, and observed that grounds for refusal have become more specific.

A live version of the Revamp project of the EJM website was shown. The Library on judicial cooperation in criminal matters, a new EJM e-tool, was introduced, as was its structure. The EU legal instruments will be available in 23 languages: full text of each legal instrument; table with status of implementation and ratification; forms as transposed in the Member States' national legislation; practical information; national legislation; evaluation reports and other documents; and relevant case law.

The draft report on the operation and management of the EJM was presented. The importance of the contact points' contributions to the compilation of statistics and other information was highlighted, reflecting the true work and spirit of the EJM.

The EJM Secretariat stressed the possible changes and amendments to the EJM meetings guidelines to simplify the organisation of the meetings in compliance with all deadlines observed by contact points and to avoid unexecuted budget as has occurred experienced in the past. All contact points were invited to discuss the amendments and the method to adopt the guidelines was proposed either by written procedure or during the forthcoming Plenary meeting.

The presentation of the programme for the Plenary meeting under the Hungarian EU Presidency followed the discussion.

At the conclusion of the meeting, participants received information on a recently created network, the European Network on Fugitive Active Search Teams – ENFAST.

The 33rd EJM Regular meeting

The 33rd EJM Regular meeting took place on 23 February 2012 in The Hague²⁷. The meeting, in line with the goals of EJM Regular meetings, was to prepare the EJM agenda for 2012 under the Danish EU Presidency and the Cyprus EU Presidency.

After the opening of the meeting, the EJM Secretariat made a presentation of the EJM budget for 2013, the EJM Work Programme for 2012, the status of the EJM website developments and other questions related to the EJM Secretariat's daily activities.

A presentation of the sixth round of mutual evaluations on the implementation and operation of the decisions on Eurojust and the EJM followed. Evaluators are scheduled to visit all the relevant authorities to analyse information mostly concerning the actual work of Eurojust and the EJM. Contact points were requested to proactively contact the authorities to make themselves available for the evaluations. The decision was taken to upload the questionnaire to the EJM website.

During the meeting, participants were able to learn more about the Network of Joint Investigation Teams (JIT) experts and the JITs Network Secretariat. The importance of coordination and information exchange among all the networks was highlighted.

²⁷ EJM/2012/1.

The next agenda item was the financial contribution from the EJM budget to the EJM Regional and National meetings. Participants agreed that priority should be given to the countries that have not received funding in the past to organise a meeting.

Participants discussed the upcoming report on the operation and management of the EJM. Previous experience revealed that some contact points did not complete the information. Some changes to the existing form were proposed with an explanation of reasons why they were necessary.

A summary of the discussion during the EJM Task Force meeting was given. The implementation process of the EJM and the Eurojust Decisions and the elaboration of national guidelines on the use of the EJM and Eurojust were dealt with. Participants agreed to discuss guidelines on the EJM meetings during the next Plenary meeting to be held in Copenhagen.

1.3. Organisation of the National Correspondents meetings (Activity 1.3)

According to Article 6(1) of the EJM Decision, the EJM National Correspondents meet on an *ad hoc* basis at least once per year. The meeting is financed by the EJM Secretariat through its annual budget.

The 3rd National Correspondents meeting

The 3rd National Correspondents meeting took place on 11 October 2011 in The Hague, under the Polish EU Presidency²⁸.

The EJM Unit Plan was presented by the EJM Secretariat, and staffing issues at the EJM Secretariat were also discussed. The EJM National Correspondents strongly supported the work of the EJM Secretariat. As the sixth round of mutual evaluations was ongoing and, moreover, was devoted to the practical implementation and operation of the Decisions on Eurojust and the EJM, participants suggested that National Correspondents and contact points bring up relevant points regarding the relationship between Eurojust and the EJM.

An update on the execution of the EJM Work Programme for 2011 was presented, as well as the projects that were being executed. The National Correspondents agreed on an increase in the EJM contribution in the organisation on the EJM Plenary meetings, from 50% to 80% of the overall budget; the overall budget remained however unchanged (i.e. EUR 50 000).

Participants were informed that translation of the EJM website was an ongoing process that needed an infrastructure to host all Member State languages so that every new official language would be available on the homepage. The contact points' tool, which consists of a listing of the contact points of each Member State, would be improved by a new version indicating their status, such as National Correspondent, Tool Correspondent or part of the Eurojust National Coordination System (ENCS). In addition, the back office of the Atlas would become a priority, since the practitioners would eventually be able to work towards one Atlas and multiple ways of accessing the information would facilitate its use. The EJM website would also contain a 'News' section, which would be constantly updated to inform all local authorities about what is going on in Europe. For that purpose, the EJM Secretariat

²⁸ EJM/2011/5.

encouraged the National Correspondents and the contact points to provide the EJM Secretariat with news that could be interesting for the entire EJM.

The EJM presented an overview of the National and Regional meetings that had been held in 2011. The two Regional meetings that took place were very useful in solving regional issues concerning participating Member States and third States. A suggestion was made to simplify the administrative procedure of the call for grants to organise Regional meetings. Member States need to apply for grants in February to organise National and Regional meetings for the following year.

The 4th National Correspondents meeting

The 4th National Correspondents meeting took place on 9 October 2012 in The Hague under the Cyprus EU Presidency²⁹.

The Secretary to the EJM stressed that the ongoing projects would prioritise the operational work of the contact points as well as strengthen cooperation with Eurojust. Indeed, on this last point, the continuation of the Task Force was suggested as one of the options to strengthen the relationship between the two organisations, which would not only be a point of information but also a work programme, so as to explain to the Trio Presidency and the EJM about the goal, the methodology and the planning of the meetings. In addition, the Secretary suggested that mutual introductions at all conferences of both organisations would improve cooperation between Eurojust and the EJM, and would enable the practitioners to be informed about the respective functions of the EJM and Eurojust and underline the added value of each organisation.

The creation of the EJM website's Library, as well as the Atlas, had become a priority since the Council Conclusions. The ongoing updating of the website involved training, especially for the Tool Correspondents. Hence, on the initiative of the EJM Secretariat, the EJM webmaster was to visit all Member States to train the Tool Correspondents on the website updates. Such visits have proved to be very efficient, considering an improvement in terms of updating of the website by the Tools Correspondents. In addition, participants were informed that discussions were ongoing about the recent request from the e-Justice Portal to integrate the EJM website into their platform.

During that meeting, a Spanish prosecutor provided a questionnaire from IberRed for each Member State, the responses to which would lead to a project on improving cooperation. The EJM Secretariat encouraged the contact points to participate in this initiative. The question of how to exchange contacts between IberRed and other networks was then raised.

1.4. Organisation of the Tool Correspondents meetings (Activity 1.4)

In accordance with the provisions of Article 6(2) of the EJM Decision, the EJM Tool Correspondents meet on an *ad hoc* basis at least once per year. The Tool Correspondents meeting is held to discuss website-related issues and the related tasks of the EJM Secretariat and the Tool Correspondents.

At the initiative of the EJM Secretariat, the Tool Correspondents meetings now last one and one-half days instead of the previous one day. The second day is dedicated entirely to

²⁹ EJM/2012/5.

practical issues; with the assistance of the EJM webmaster and sometimes also a contractor, the EJM Tool Correspondents are able to participate in a half-day workshop, fully dedicated to the updating of the website and are provided with all the technical assistance they need to keep their pages up to date.

The 10th Tool Correspondents meeting

The 10th Tool Correspondents meeting took place on 17-18 March 2011 in The Hague, under the Hungarian EU Presidency³⁰. Representatives from Bilbomática, a company contracted for the development and maintenance of the EJM website, attended.

The main subjects discussed during the meeting were related to the new EJM website and a practical and technical overview of its development.

The design of the new EJM website was presented. Its new functionalities were introduced, as were upcoming projects. After the adoption of the Council Conclusions, the EJM Secretariat was obligated to have on its website data relevant to mutual recognition tools. In addition, the EJM Secretariat had launched a revamp of the entire website.

Among the described functionalities were: multiple entry points to the tools, a library on judicial cooperation in criminal matters, division between administrative and institutional business and core business, and a distinction between tools for mutual legal assistance and tools for mutual recognition instruments. The Library on judicial cooperation would be a completely new tool. In the future the website will have only one Atlas, including "branches". The exception is the European Arrest Warrant Atlas. It is and shall remain separate.

All pages and tools will follow a new layout. Moreover, to allow for the training of the Tool Correspondents, working meetings will be held in The Hague and in the Member States. In addition, the Tools Correspondent Application would enable Tool Correspondents to consult the website and offer a channel to exchange ideas and raise concerns.

An announcement was made that the new back office would be ready by the end of 2011. Old information will be automatically transferred to the new back office. For that purpose, participants were reminded that the Member States have the duty to update out-of-date information, because the updating of the website could not be solved solely by the EJM Secretariat and because the Tool Correspondents were not responsible for building the tools, but updating the Atlas. Once again the EJM Secretariat stressed that Article 8 of the EJM Decision states that Member States should provide it with accurate and updated information.

Cooperation between the EJM and e-Justice was also discussed. Participants pointed out that this cooperation was important to avoid duplication and provided added value through useful practitioner information.

Even though the new back office would be made "user-friendly", all Tool Correspondents agreed that training was necessary.

The use of videoconferences for training of Tool Correspondents was mentioned and accepted for occasional use.

Several Tool Correspondents suggested the idea of a so-called "welcome package", together with a sort of "wizard" for the new back office. The EJM Secretariat supported these ideas for the future, once the revamp is completed.

³⁰ EJM/2011/2.

The EJM Secretariat mentioned that in some Member States the newly appointed Tool Correspondents did not have a handover of this file and were not really aware of their function as Tool Correspondents. In addition, some Member States have no official Tool Correspondent but instead divide the workload among the contact points. The profile of a Tool Correspondent was defined not only as a technician but as a person who should also be able to provide a certain judicial input to the work.

Participants pointed out that the database was mostly written in French and English. The only additional task the EJM Secretariat asked from the Tool Correspondents was proofreading and occasional small translations of the website, but agreed that these tasks could be shared with the National Correspondent or with other contact points.

The 11th Tool Correspondents meeting

The 11th Tool Correspondents meeting took place on 22-23 March 2012 in The Hague, under the Danish EU Presidency³¹. Bilbomática, the company contracted for the development and maintenance of the EJM website, also attended the meeting.

Firstly, the latest developments and changes to the EJM website and back office were presented to the Tool Correspondents. They were provided with detailed information regarding the different projects. Since the contact points had previously been asked to proofread the translations in their own languages, the EJM website would then be available in these languages. When particular content was not available in the chosen language, it would be shown in English, the default language.

Secondly, unique aspects regarding front and back office were explained to the Tool Correspondents. Translation was the next step.

Thirdly, the News and Events section of the website was being designed to have a more user-friendly and intuitive presentation, forming a central part of the website. The section would be divided into categories to ensure greater visibility. As for the contact points section, it included the development of new features and the reestablishment of former functionalities, such as printing the list of the contact points in relation to their particular function.

Fourthly, the Library had become a very important part of the website, including useful content and information available to all practitioners.

Finally, the Atlas tool will undergo changes due to a thorough restructuring. This tool is the most complex and difficult to manage in the back office. Other sections, such as the Compendium and the Photo Gallery, will also be revamped. Participants concluded that making the Atlas functional, accessible and broader in the scope should be the EJM Secretariat's priority. Participants were reminded that the translation of the Atlas tool would require a significant commitment from the Tool Correspondents.

The second part of the meeting concerned the Tool Correspondents' contribution to the website's activities and projects. The Tool Correspondents were invited to update the information on the EJM website regarding the judicial and procedural systems in their Member States. The Tool Correspondents were also requested to check the information presented in the status of implementation section, to provide the EJM Secretariat with the missing

³¹ EJM/2012/2.

information, and to inform the EJM Secretariat of any update or relevant information on the status of implementation.

The Atlas and the interlinking of the Map and some other tools were considered priorities for 2012 and 2013. The Secretary to the EJM continued by providing justification for the creation and importance of the Atlas and the complexity of building this tool and its branches, since it requires time from all the staff that contributed to each part as well as the contractor. Therefore, the Atlases will be released in separate lots to facilitate the work of the practitioners.

The third part of the meeting focused on the EJM Secretariat's support to the role and functions of the Tool Correspondents. An overview of the project to train the Tool Correspondents was provided by the EJM webmaster. During the meeting, the webmaster's support was recognized during his visits to the Member States.

In addition, the role of Tool Correspondent arose, specifically regarding the National Correspondents' awareness of the EJM website in the Member States. This function entails an update of the EJM website by the National Correspondents. They will provide the information about the EJM website to their national authorities.

Finally, the question of cooperation between the EJM and e-Justice was discussed. Updated information on meetings between e-Justice and the EJM Secretariat that were held to find the best way of cooperating and complementing the relevant information in criminal matters in the e-Justice portal and the EJM website was provided to the Tool Correspondents. The EJM will integrate privileged links with the e-Justice portal to avoid overlapping information.

1.5. Providing support for the organisation of Regional meetings (Activity 1.5)

The possibility to hold EJM Regional meetings is foreseen in the EJM Vision Paper adopted during the 25th Plenary meeting of the EJM contact points in Rovaniemi, Finland, on 1 December 2006. The Vision Paper states that "*regional meetings should also be promoted to help focus on problems which have a particular regional character*". The basic idea for introducing these meetings was that the EJM's efficiency may improve by organising Regional meetings of the EJM contact points in various Member States. The financial and organisational aspects of the meetings are regulated in the Guidelines on EJM meetings³².

The first organisation guidelines for these meetings were adopted at the 32nd Plenary meeting on 25-26 June 2009. Some points were adjusted after their implementation. Therefore, to harmonise these guidelines with the EJM's needs and Eurojust's internal procedure, that document was later updated.

The term "regional" should not be construed in the narrow geographical sense. The EJM regional meetings may be organised by the Member States, regardless of their physical proximity. The Member States involved in the meetings need not necessarily be neighbouring Member States. Third States might also take part.

According to the Guidelines, the functioning of the EJM may be improved through the organisation of Regional meetings of the EJM contact points in various Member States. The EJM Secretariat provides support for the organisation of Regional meetings. Since 2011, according to the Guidelines, the Regional meetings of the EJM contact points shall be organised on the basis of an application for financial support submitted to the EJM Secretariat by the EJM

³² EJM/2010/1/REV.

contact point of the Member States organising the Regional meeting; the EJM budget will cover up to a maximum of 95% of organisational costs, with a ceiling of EUR 5 000 per meeting.

EJM Regional meeting in 2011 in Helsinki, Finland

The EJM Regional meeting, organised by the Finnish contact points, took place on 12-13 May 2011 in Helsinki. The goal of the meeting was to discuss the relevant agreements as well as the competent authorities and ways of requesting MLA.

The following national contact points were represented at the meeting: Finland, Norway and Sweden. According to the report on the regional meeting, submitted to the EJM Secretariat by the contractor, three main topics were discussed: (a) the agreements to be applied in various cases, (b) competent authorities under the different agreements, and (c) the appropriate routes for requesting MLA.

On the first day of the meeting, presentations were given on the Finnish, Swedish and Norwegian legal assistance systems. In addition, three case studies dealing with violent crime, drugs and financial crime were discussed.

On the second day, participants discussed topics including the types of assistance that may be provided by Sweden without a request for MLA; an analysis of a case in which Norway had been requested to interview a witness; secret telephone interceptions; a Norwegian case of organised shoplifting, in which the goal was to carry out a controlled delivery with Estonia; the act on extradition between Finland and other Nordic countries; and experiences with JITs.

According to the organisers, the Regional meeting of the EJM contact points was very useful. Participants concluded that best practice should be adopted with regard to the following points:

- The systems in the Nordic countries are different both in terms of structure and the role of the police and prosecutors in pre-trial investigations.
- Requests for MLA must state the relevant agreement as well as the competence of the requesting party and the grounds, especially for coercive measures.
- Requests must be executed swiftly, even if the traditional agreements do not provide for any target times.
- The authorities should learn how to use such EU instruments as the freezing order and apply them more often.
- The entry into force of the Nordic Arrest Warrant (NAW) in all Nordic countries will facilitate practical implementation.

In addition, participants concluded that more meetings should be organised in the future. The next topic to be discussed could be the application of the Nordic extradition agreement.

EJM Regional meeting in 2011 in Salzburg, Austria

The Regional meeting of the EJM, organised by the Austrian contact points, took place on 5-7 October 2011 in Salzburg. The general topic of the meeting was *Cross-border Cooperation and the Role of the EJM*.

Presentations were given on an overview of recent legislation in criminal matters in Austria; on implementation of the Framework Decision on Financial Penalties in Germany by 28 October 2010; on new legislation in the Czech Republic in criminal matters as an act of criminal liability

of legal persons; on competence to execute MLA requests concerning financial penalties; an update on negotiations for a cooperation-agreement with Eurojust (the agreement was signed but concerns remain with regard to the data protection regime); and what is the main objective of criminal policy in Germany.

In the afternoon of the second day of the meeting, the participants had the opportunity to visit the Prosecution Office in Traunstein, Germany.

On the third day of the meeting, the Federal Ministry of Justice of Vienna reported on the state of play of discussions on the EIO, its main features and the scope of application, followed by a discussion with the participants. In addition, the Austrian National Member to Eurojust, together with the Assistant to the Austrian Desk, provided information about Eurojust.

The meeting was of great value to the Austrian contact points, since it offered a possibility to strengthen direct contacts with other contact points. A final announcement was that the Austrian Regional meeting would be held in Graz in 2012, and will include a trans-border excursion to Slovenia.

EJN Regional meeting in 2012 in Berlin, Germany

The 13th Annual Conference of the German contact points of the EJN took place on 7-8 May 2012 in Berlin.

On the first day of the meeting, a presentation was given on innovations in the French Code of Criminal Procedure, an overview of police information exchange was provided, and cooperation with the German police authorities was explained.

On the second day of the meeting, German EJN contact points presented their activities, problems, caseload, ideas, and experience in 2011. Their work was presented, including work on the EJN website, especially the modified design, and the new EJN brochure. An overall evaluation of the annual report of the EJN revealed that Germany, with a total of 800 processing operations, remains in the top group in terms of EJN operations.

An overview was given on the revision of RIVASt that was required for implementation of framework decisions on mutual recognition of *Geldstrafen/Geldbußen*, the recognition of confiscation orders and enforcement of freezing orders.

The Secretary to the EJN underlined the importance of the EJN Regional meeting. She emphasized the need for cooperation with other judicial cooperation networks and, in this regard, the organisation of meetings with the contact points both within and beyond the European networks. The EJN is important due to the practical help and support it offers at both national and international level.

In addition, Austrian contact points presented their EJN experiences and activities for 2011.

On the third day of the meeting, developments at Eurojust for 2011 and the reform of the OLAF Regulation were discussed.

Participating Member States introduced an international cooperation system and how EJN is working in their countries.

EJN Regional meeting in 2012 in Seggau, Austria

The Regional meeting of the EJN, organised by the Austrian contact points, took place on 10-12 October 2012 in Seggau (Province of Styria).

The meeting's title was *Crossing Borders*, focusing on aspects of cross-border cooperation and the role of the EJN. Contact points from Italy, Germany, Slovenia, Luxembourg, Liechtenstein and Switzerland were invited.

An overview was given of the importance of networks for the proper development of good trans-border cooperation in both civil and criminal matters. A presentation entitled *The Internet - a Global Network and the Framework of Criminal Law* provided an analysis of cybercrime. A presentation was also given on new legal developments within the Austrian Federal Law on Cooperation in Criminal Matters with the Member States of the EU because on 1 January 2012, Austria implemented the Framework Decision on Custodial Sentences and the Framework Decision on Proceedings in Absentia.

On the second day of the meeting, COBRA, a specialised Anti-Terror Unit of the Austrian Police, provided an overview of its history and functions. The unit provides special assistance in case of urgent and difficult threats and dangerous situations.

During the second half of the day, the participants had the opportunity to visit the Prosecution Office of Maribor, Slovenia, to strengthen personal contacts and to get to know the judicial system and practice of a neighbouring country. The President of the Regional Court of Maribor welcomed the participants and a trainee judge explained the competences and degrees of courts under Slovenian criminal procedural rules.

Finally, Austrian extradition and surrender procedures were explained according to the Framework Decision on the EAW. In addition, steps were discussed regarding Eurojust, with a view to the implementation of the Eurojust Decision and the priorities of the 6th round of mutual evaluations dealing with the same subject.

Participants reached a conclusion regarding the need for an enhancement of international practical cooperation among the contact points of the participating countries. Regional meeting participants underlined that for the proper functioning of the EJN, personal contacts between as many contact points as possible is crucial. For this reason, the number and character of the Plenary meetings should be fully maintained and all efforts should be made to ensure that these meetings offer an excellent form of building mutual trust and confidence among the Member States' judicial authorities.

EJN Regional meeting in 2012 Bucharest, Romania

The Regional meeting of the EJN, organised by the Romanian contact points, took place on 24-26 October 2012 in Bucharest, Romania.

The general topic of the meeting was *Seizing of and handing over the property: which tool is better to cooperate in transnational cases?*

The meeting aimed at discussing and exchanging views on challenges and best practices on seizing of and handing over the property based on different schemes: EAW (art.29), freezing order and/or MLA request. Consequently, the discussions encompassed information on national legislations regarding identification and tracing of property.

In addition, the meeting helped to increase knowledge of the legal instruments on judicial cooperation and networking between EJN contact points and national authorities. The

discussions concentrated on practical cases and how they were tackled. Discussions on legal framework and national policies also followed. The implementation of legal acts and its effects was highlighted as well as the importance of international cooperation.

EJN Regional meeting in 2012 in Tallinn, Estonia

The Regional meeting of the EJN, organised by the Estonian contact points, took place on 8 June 2012 in Tallinn, Estonia.

Colleagues from Latvia and Lithuania were invited to the meeting. The general topic of the meeting was practical problems in the submission and execution of letters rogatory and urgent letters rogatory. It was concluded by the participants that in order to improve the practical application of legal acts, in case of extension of surrender, if urgent reply is requested, to note this in the accompanying letter. Secondly, to tackle the language obstacles and to speed up the process, in submitting EAWs, including for the extension of surrender, it would be highly advisable to prepare the translations too into the respective languages.

1.6. Organisation of Trio meetings (Activity 1.6)

According to the Revised Guidelines on the Structure of the EJN³³, the EJN Secretariat shall organise meetings of the EJN Trio Presidencies prior to each EJN meeting to prepare the meeting, ensure continuity in EJN activities and meet with Eurojust representatives.

This is an ongoing activity, running throughout the year. Despite the location of the meeting, whether in The Hague, Brussels or in a Member State holding the Presidency, the EJN Secretariat has organised a Trio meeting on the occasion of each EJN meeting.

An enlarged Trio meeting took place on the occasion of the 39th Plenary meeting under the Cyprus Presidency. In accordance with *the* Revised Guidelines, the Trio Presidencies must work closely with the EJN Secretariat on the implementation of the Work Programme during the 18 months. The enlarged Trio meeting – composed of the current and incoming Trio Presidencies is thus held in every 18 months.

2. Objective 2 – To ensure the proper functioning of the EJN website

2.1. Maintenance of EJN website (Activity 2.1)

According to articles 7-9 of the EJN Decision the maintenance of the website represents a core task for the EJN Secretariat. The EJN Secretariat with the support of the Eurojust IM Unit is responsible for the maintenance and administration of the EJN website. The contractor is in charge of technical and functional maintenance of the website. Over the past two years of reporting, the contractor for the EJN website is Bilbomática.

The activity has been running smoothly, without any significant problems.

³³ EJN/2009/1 REV. *Revised Guidelines on the Structure of the European Judicial Network (EJN) on basis of the inclusion of the Trio role within the EJN and according to the revisions of the implementing rules of Eurojust and its new budgetary cycle (Revised Guidelines).*

3. Objective 3 – Improvement and further development of the EJM information platform

3.1. General enhancement of the EJM website (Activity 3.1) and activities to be decided in the EJM Tool Correspondents meeting (Activity 3.2)

Major changes were made in the EJM website in 2011 and 2012.

Redesigning and revamping the EJM website began in 2010. The EJM Secretariat, as managerial body, took the initiative to restructure and redesign its website and create a comprehensive Library for practitioners. The entry into force of the Council Conclusions on the follow-up of the implementation of instruments implementing the principle of mutual recognition of judicial decisions in criminal matters, adopted by the Council in Luxembourg in October 2010³⁴, further emphasized the importance of the work on this EJM Secretariat project: to have a completely revamped website, containing a comprehensive library on judicial cooperation in criminal matters, as well as e-tools that are adequate for all types of judicial cooperation, including the new mutual recognition instruments.

This Council document became a mandate to the EJM Secretariat to have uploaded exclusively on the EJM website a comprehensive database for all mutual recognition tools (in addition to the tools for MLA) with all necessary practical information, and requested Eurojust to provide the necessary support for this task. Rather than simply the text of each legal instrument, the Library includes a wide variety of relevant documents: the notifications/statements/declarations made by the Member States about each legal instrument, the state of play of implementation, national legislation, forms, case law, handbooks, reports, and other practical information. A thorough redesign of the EJM website is thus scheduled to take place during 2011 and 2012.

The “redesign” also includes a complete revamping of Atlas. The EJM website has always included valuable information; however, the outdated look and structure of the website was not user-friendly. In response to the ideas from the users and experts, the EJM Secretariat dedicated itself to enhancing the site where possible, always keeping the end-user in mind. Therefore, several projects were undertaken to enhance the website and create a user-friendly environment for practitioners.

Over the past two years of reporting, an external contractor and the EJM webmaster have been working on the technical development of a new judicial Atlas. The new Atlas is foreseen to include a “branch” of each mutual recognition instrument, making the Atlas thus a comprehensive tool for judicial cooperation. Although the new Atlas is yet to come, by the end of 2012 major steps have been taken in its technical and judicial development. Several fundamental changes that are discussed below in detail have been made to the EJM website. Development of the Atlas and the website must continue.

The EJM Secretariat and the Tool Correspondents continuously propose new activities. Each March, the Tool Correspondents gather in The Hague to discuss website-related issues. The priority very clearly over the past two years has been further development and finalisation of the Atlas. Revamping of the Compendium and possible amendments to the *Fiches Belges* has been postponed until other priorities are dealt with. The completed Atlas will include a map

³⁴ Council conclusions on the follow-up of the implementation of instruments implementing the principle of mutual recognition of judicial decisions in criminal matters, 3034th Justice and Home Affairs Council meeting, Luxembourg, 7 and 8 October 2010; 13405/1/10 REV 1 COPEN 184 EJM 35 EUROJUST 86.

function when identifying a competent judicial authority for a specific request. Completion of the Atlas and the map function were given priority and will be completed within the following reporting period.

In addition to the development of the Atlas, two further priorities have been agreed between the Tool Correspondents and the EJM Secretariat – the translation of the website and training of the Tool Correspondents by the EJM Secretariat. Both activities are in progress. The Tool Correspondents have been asked to proofread the translations.

The website will continue being enhanced, in accordance with legislative evolution and decisions agreed upon at the Tool Correspondents meetings, as well as EJM internally generated demands and the Council Conclusions.

Atlas Revamp

The revamped EJM website went online at the end of 2011. It was first introduced to the contact points at the 33rd Regular meeting of the EJM in The Hague. The new EJM website now has a user-friendly structure and enhanced content. The website also includes a section related to the EJM and its activities, while the most important pages of the website contain the practical tools for the application of the legal instruments on judicial cooperation in criminal matters. The judicial Atlas, however, is yet to be completed. A finalised, comprehensive Atlas will be made of different “branches” of the Atlas, each comprising a mutual recognition instrument and its competent authority.

Library

The Library, a completely new tool, as mandated by the Council Conclusions on the follow-up of the mutual recognition instruments, has been introduced. The Library contains all the information that practitioners need: full text of the legal instruments (both “classic” mutual legal assistance and all mutual recognition legal instruments), tables on the status of implementation, notifications submitted by the Member States to the General Secretariat of the Council, statements, national legislation transposing the mutual recognition instruments, forms, reports, practical information, handbooks, etc. The EU legal instruments will be available in all the official EU languages: full text of each legal instrument; table with status of implementations and ratifications; forms as transposed in the Member States’ national legislation; practical information; national legislation; evaluation reports and other documents; and relevant case law.

News & Events section

This section has a user-friendly and intuitive presentation. The section is constantly updated to inform all local authorities about what is going on in Europe.

Welcome package

The idea of a so-called “welcome package” for the Tool Correspondents was introduced and discussed further during the reporting years. The welcome package, together with a wizard for the new back office, would help guide the new Tool Correspondents through the EJM website and clarify their tasks. The implementation will occur in the future.

Tasks of the Tool Correspondents

The division of tasks between the EJM and the Tool Correspondents was discussed in several meetings. The updating of the website cannot be solved solely by the EJM Secretariat; the Tool Correspondents had the responsibility for updating the Atlas. The Tool Correspondents are also requested to check the information presented under status of implementation, provide the EJM Secretariat with the missing information, and inform the EJM Secretariat of any update or relevant information on the status of implementation. The Member States should only mark as implemented the legal instruments that had been previously notified to the Council.

Translation of the website

This task was launched in 2011 and has been ongoing since then. The EJM Secretariat has translated the static parts of the website. The translations will be proofread by the Tool Correspondents. This information will be available in all official EU languages.

Contact points

A new version of the contact points tool, which lists the contact points in each Member State, now indicates their status as National Correspondent (NC), Tool Correspondent (TC) or member of the Eurojust National Coordination System (ENCS).

eJustice

Finally, another important development of the past two years is EJM cooperation with eJustice. The EJM Secretariat has kept the contact points updated on cooperation with eJustice.

The EJM Secretariat has been following the eJustice dossier from the beginning. The Secretariat attended meetings of the eJustice/e-law group in 2010. However, discussions between the EJM Secretariat and eJustice started in 2011, upon request of the General Secretariat of the Council, the European Commission and the Member State holding the EU Presidency. Within the framework of the collaboration between the EJM and eJustice stated in several documents (eJustice action plan and road map), the main idea was to explore possible cooperation, in practical terms, on how the judicial authorities in the criminal area and the EJM could benefit from the eJustice portal and vice-versa.

After consultations and awareness of the project through informal meetings, the EJM Secretariat stated in a report the main areas of cooperation between both parties, which consisted in complementarity between both IT structures, with the main principle of safeguarding autonomy of the EJM website. This issue was present in all discussions between the EJM Secretariat and eJustice representatives. EJM website is a unique tool that belongs to, is, and will be, managed by the EJM.

Another point the EJM Secretariat stressed was the issue of duplication of efforts and overlapping in some areas, namely creation of tools and forms to the practitioners. This issue is a mandate for the EJM.

During 2011, discussions dealt with more practical issues, such as achieving greater visibility. The EJM website now has a section dedicated to partners, including eJustice. The eJustice portal contains several sections referring to the EJM and its tools. The last discussions between both parties took place in November 2012. Representatives from the Council and the Commission proposed the idea of preparing a first draft on strengthening cooperation between the EJM and eJustice. This paper would be presented first to the eJustice/e-law

group at the end of the year and later to the EJM contact points during the Regular meeting in February 2013. During the National Correspondents meeting in October 2012, decided decision was made to add the eJustice topic to the agenda of the Regular meeting and discuss it at length, with discussions on details of the cooperation to continue in the beginning of 2013 at the 35th Regular meeting.

Website Page-views

Since June 2011, the EJM Secretariat has gathered statistics on the usage of the EJM website, more specifically on the Atlas, *Fiches Belges* and Library sections. By processing the server log files the following indicators were retrieved for these sections:

- Page-views (pv)
- Visits: set of requested pages by a single user (ip-address) during a limited time-span (a day)
- Unique visitors: number of unique users (ip-addresses) per month
- Pages/visit: number of Atlas/ *FichesBelges*/ Library pages seen per visit
- Visits/visitor: number of time a visitor visits the Atlas/ *FichesBelges*/ Library per month

In the tables below yearly totals have been added though it has to be kept in mind that there are no log files for the first 5 months of 2011 and as a result, there is no information on page views from January to May 2011.

Page views reflect some peaks, which is the result of a lot of traffic from single "users" who arrive to the EJM website through search engines. The peaks disappear when the number of visits and visitors is being looked at. For the same reason no monthly totals for unique visitors has been calculated; this information is not relevant. On yearly basis, in 2011 EJM website was visited by 10,324 different IP-addresses (users). In 2012 EJM website was visited by 20,147 different IP-addresses (users).

Statistics show that the pv/visit is highest for MLA Atlas, which is easily explained as one has to go through a few pages to arrive at the competent authority. For the EAW Atlas the number is lower, reflecting the often times less complex structure of this Atlas. In the Library people also tend to see several pages as this is typically a tool one browses through.

	MLA Atlas					EAW Atlas				
	pageviews	visits	unique	pv/visit	visit/visitor	pageviews	visits	unique	pv/visit	visit/visitor
2011-06	30,568	1,969	723	15.5	2.7	6,608	910	340	7.3	2.7
2011-07	29,153	1,893	680	15.4	2.8	5,487	816	331	6.7	2.5
2011-08	30,228	1,885	661	16.0	2.9	4,304	661	262	6.5	2.5
2011-09	32,747	2,092	803	15.7	2.6	4,514	670	282	6.7	2.4
2011-10	44,097	2,349	995	18.8	2.4	8,307	757	347	11.0	2.2
2011-11	36,658	2,505	1,026	14.6	2.4	5,978	826	357	7.2	2.3
2011-12	31,016	2,104	831	14.7	2.5	4,368	646	266	6.8	2.4
Total:	234,464	14,797		15.8		39,566	5,286		7.5	
2012-01	39,214	2,382	940	16.5	2.5	5,360	744	301	7.2	2.5
2012-02	39,059	2,399	958	16.3	2.5	5,702	803	344	7.1	2.3
2012-03	37,801	2,076	819	18.2	2.5	4,824	680	301	7.1	2.3
2012-04	37,191	1,908	696	19.5	2.7	5,497	856	340	6.4	2.5
2012-05	71,953	2,135	797	33.7	2.7	41,763	921	384	45.3	2.4
2012-06	36,823	2,038	767	18.1	2.7	5,987	812	342	7.4	2.4
2012-07	33,705	1,964	702	17.2	2.8	5,236	763	324	6.9	2.4
2012-08	32,195	1,816	557	17.7	3.3	4,826	733	296	6.2	2.5
2012-09	37,026	2,046	743	18.1	2.8	5,534	799	335	6.9	2.4
2012-10	42,198	2,322	938	18.2	2.5	6,319	869	415	7.3	2.1
2012-11	46,119	2,437	917	18.9	2.7	8,194	961	436	8.5	2.2
2012-12	30,975	1,764	693	17.6	2.5	4,895	711	315	6.9	2.3
Total:	484,259	25,287		19.2		103,837	9,652		10.8	

	Library					Fiches Belges				
	pageviews	visits	unique	pv/visit	visit/visitor	pageviews	visits	unique	pv/visit	visit/visitor
2011-06	4,974	611	415	8.1	1.5	2,083	503	303	4.1	1.7
2011-07	3,354	512	330	6.6	1.6	1,635	432	245	3.8	1.8
2011-08	3,018	536	342	5.6	1.6	1,290	389	219	3.3	1.8
2011-09	3,926	527	302	7.4	1.7	2,169	386	235	5.6	1.6
2011-10	22,162	619	373	35.8	1.7	6,692	505	314	13.3	1.6
2011-11	5,045	732	409	6.9	1.8	2,255	529	313	4.3	1.7
2011-12	3,439	558	333	6.2	1.7	1,304	381	243	3.4	1.6
Total:	45,951	4,095		11.2		17,464	3,125		5.6	
2012-01	5,542	702	381	7.9	1.8	1,423	434	256	3.3	1.7
2012-02	5,442	863	560	6.3	1.5	2,316	517	322	4.5	1.6
2012-03	5,096	648	390	7.9	1.7	1,633	405	245	4.0	1.7
2012-04	6,746	654	357	10.3	1.8	2,112	465	269	4.5	1.7
2012-05	18,040	813	434	22.2	1.9	2,867	545	320	5.2	1.7
2012-06	16,783	647	380	25.9	1.7	2,765	503	306	5.5	1.6
2012-07	12,877	651	360	19.8	1.8	2,220	481	280	4.6	1.7
2012-08	22,951	530	301	43.3	1.8	1,555	383	225	4.1	1.7
2012-09	6,773	663	379	10.2	1.7	2,171	462	297	4.7	1.6
2012-10	13,744	863	497	15.9	1.7	3,670	645	386	5.7	1.7
2012-11	18,012	960	579	18.8	1.7	2,697	574	354	4.7	1.6
2012-12	19,286	630	348	30.6	1.8	2,189	404	242	5.4	1.7
Total:	151,292	8,624	4,966	17.5		27,618	5,824		4.7	

Illustration 2: Statistics 2011-2012 related to the EJM website.

4. Objective 4: Functioning of the EJM contact points

4.1. Supporting language training for the EJM contact points (Activity 4.1)

According to Article 2(5) of the EJM Decision, each Member State shall ensure that the contact points have adequate knowledge of EU languages other than their national language. The EJM Secretariat has adopted measures to support the efforts of the Member States in meeting the requirements of this article.

Tailor-made language trainings exclusively for the EJM contact points took place in 2011 and 2012. The trainings were designed to familiarise the EJM contact points with technical expressions in the English language in the area of judicial cooperation and the different judicial systems of the European Union. The objectives of these courses were: to facilitate the process of European integration via contributing to the creation of a European judicial area; to improve the knowledge of legal language (spoken and written), with a particular focus on the terminology specific to international judicial cooperation; to improve the knowledge of the main judicial systems of the EU; to facilitate the comparative study of the main traditional EU institutions; and to potentiate the acquisition of new written and oral communication skills. The language skills taught in the courses are fully operational. Some EJM contact points also served as trainers, further indicating the practicality of these trainings.

The EJM Secretariat established very good cooperation with the European Academy of Law (ERA) for these trainings. Organisational issues were dealt with by the EJM Secretariat, with ERA as a valuable partner, providing the training materials and liaising with the trainers. ERA has the capacity and strategic position to act as an intermediary between the legal and technical experts (trainers) and legal practitioners, enabling it to provide a structured exchange of knowledge among all actors in the field of international criminal law, including judicial cooperation in criminal matters. The EJM contact points were taught English operational language in the specific field of international criminal law.

5. Objective 5: To increase awareness of the EJM among practitioners in Member States and Candidate and Associated States

Under this objective, the representatives of the EJM Secretariat meet with practitioners of the Member States in working sessions and awareness seminars. Thus: i) the EJM webmaster and/or other EJM Secretariat representatives will travel to the Member States to help the Tool Correspondents to better use the technical applications for the update of the EJM tools; ii) the EJM Secretariat staff will meet with local authorities and/or deliver lectures on EJM matters in the Member States.

5.1. Activities in different Member States to increase awareness of the EJM among practitioners (Activity 5.1)

On the initiative of the EJM Secretariat, and to help the Tool Correspondents update the EJM website, this activity has been implemented widely over the two years of reporting. The EJM Secretariat webmaster travelled to Member States to help the EJM Tool Correspondents and to offer personalised support based on each Tool Correspondent's needs. These visits are highly appreciated by the contact points. During 2011 and 2012, the EJM webmaster visited several Member States.

5.2. Providing support for the organisation of meetings of the EJM contact points (Activity 5.2)

This activity refers to providing support to the Member States in organising the EJM National meetings – meetings of EJM contact points and local authorities involved in judicial cooperation in criminal matters in the Member States or at Eurojust (. The section on National meetings of the EJM contact points is found in the conclusions of the 35th EJM Plenary of 28-30 November 2010.

The Member States are encouraged to provide support to their EJM contact points by hosting, at least once per year, working meetings amongst themselves and also between them and the national judicial networks in criminal matters, where applicable. If a Member State requires financial support for the organisation of a meeting, it is invited to apply for an annual grant awarded by the EJM Secretariat.

In 2011, grants were awarded for a National meeting held in Spain, and for two National meetings held in the Netherlands. In 2012, grants were awarded for National meetings held in Belgium, Finland, Romania and the UK.

6. Objective 6: To foster more effective collaboration with other partners

This objective concerns holding informal meetings of the EJM with other



judicial networks and similar structures to promote international judicial cooperation. In addition, meetings with the EJM's non-network partners in the field of judicial cooperation may also be organised. This objective also concerns representation costs for the EJM in conferences, meetings and seminars held by other judicial cooperation parties.

6.1. Missions (Activities 5.3 and 6.1)

Separate from the missions to EJM plenary meetings and to meetings in the Member State holding the EU Presidency to prepare the plenary meetings, the majority of events attended by the EJM Secretariat involve meetings with the partners referred to in Chapter 5 of Part II of this report. Therefore, cooperation with different partners and related events have been referred to in detail in Chapter 5.

6.2. Organisation of meetings with judicial cooperation actors (Activities 5.4 and 6.2)

To respond to the new challenges posed by transnational crime, and in line with the documents referred to above, the EJM Secretariat has launched a series of meetings – the Hague Meetings – for judicial networks around the world. The initial objective was to provide other networks with an opportunity to get acquainted, taking into account that EJM contact points from several Member States are actively involved in all judicial networks. The purpose of these meetings has evolved over time to create a platform for the judicial networks, enabling the contact points/members of the networks to exchange best practice and create cooperation synergies. The possibility to meet and therefore strengthen mutual trust between contact points/members of the networks was the reason behind the success of the operational networks; the same principle has now been applied to cooperation between the networks.

The 3rd Hague meeting

Bearing in mind the above, the EJM Secretariat offered the possibility to meet, forming a platform for the interconnection of the networks (the term "interconnection" implies that communication between the networks should be operational). The 1st Hague meeting took place in March 2010, the 2nd Hague meeting took place in September 2010 and the 3rd Hague meeting took place in November 2011. Network representatives welcomed this initiative to achieve cooperation among the networks through the medium of meetings.

The main idea that was discussed during the two-day meeting was to launch the project directed to create interconnection between networks and to support the basis for practical cooperation.

Representatives from different networks were represented, such as the Judicial Regional Platform of the Indian Ocean Commission (*la Commission de l'Océan Indien*, COI), the Judicial Regional Platform of Sahel Countries (Sahel) (created jointly by UNODC and COI), the Southeast European Prosecutors Advisory Group (SEEPAG), the National Council of Prosecutors-General (*Conselho Nacional dos Procuradores-Gerais*, CNPG), the National Group in the Fight Against Criminal Organizations (*Grupo Nacional de Combate às Organizações*

Criminosas) in Brazil and *Réseau Marocain de Coopération Judiciaire Internationale* (RMCJI) in Morocco.

Representatives from the above-mentioned networks explained their networks' legal backgrounds and shared their experience in judicial cooperation.

During the meeting's first day, participants visited the International Criminal Tribunal for the former Yugoslavia (ICTY) at the invitation of its Prosecutor, Mr Serge Brammertz. After an overview of the work of the ICTY, the state of play and overview of the seven ongoing trials at the court, Mr Brammertz emphasized



the role of networking and interconnection, which lead to real operational results. During the ensuing discussion, the Secretary to the EJM gave a presentation on the previous two Hague meetings that had taken place in.

During the meeting, participants paid attention to the EJM experience in creating a functional network based on mutual trust and how this experience can help to gain a global perspective.

Participants pointed out that the difficulty of implementing the United Nations Convention against transnational organized crime ("Palermo Convention") is caused by the different realities of the countries. The reason behind the success of these operational networks is related to mutual trust through real and effective mutual cooperation, and about support to create similar networks in other regions of the world.

The main purpose of the meeting was not to create something new, but to achieve interconnection between different networks and a multilateral approach. The EJM Secretariat offers the possibility for interconnection of networks in the form of the Hague meetings.

First operational meeting between the EJM, IOC and SAHEL networks

In January 2012, cooperation was established between the EJM Secretariat and the representatives of the UNODC at a first operational meeting, jointly organised by the EJM Secretariat and the UNODC in The Hague.

For the first time, an operational meeting between contact points of the three judicial networks based on two continents took place to foster trust, spread the EJM philosophy and learn from each other. Apart from EJM contact points, members of IOC and SAHEL were represented, as well as representatives from the EJM Secretariat and the UNODC. Presentations were given on the three regional judicial networks and on tools developed independently by the EJM and the UNODC. The EJM contact points attending the meeting were invited based on the operational needs of the focal points of the SAHEL and IOC networks.

In addition, the challenges to criminal judicial cooperation in practice between the participating countries were discussed and the links between the contact points of the three judicial cooperation networks, as well as informal direct contacts, were established. The new

networks acknowledged the importance of human relations as the key factor in mutual trust. As a direct and immediate consequence of this operational meeting, several criminal cases and problems with rogatory letters between the countries involved were solved in a few days.

On the first day of the meeting, the participants visited the International Criminal Court (ICC) for an explanation of its work and the importance of judicial cooperation in criminal matters in the work of the ICC.

On the second day of the meeting, presentations were given on various topics: an overview of regional judicial platforms in the Sahel countries and the Indian Ocean Commission and the work of the EJM; sharing of tools developed by the UNODC and the EJM; and information on the implementation of a network of prosecutors/investigating magistrates in West Africa to deal with drug trafficking and other forms of organised crime. In addition, several cases were discussed.

In addition, discussions on the practical challenges encountered in criminal judicial cooperation between the participating countries and the links between the three judicial cooperation networks took place. The new networks being formed today have also embraced the importance of human relations as the key factor in achieving mutual trust. Ms Fatima Martins, Secretary to the EJM, highlighted the importance of this meeting on a global level in her conclusions.

Chapter 4: Self-assessment by the EJM's management

1. Overview

In accordance with Article 2(8) of the EJM Decision, the EJM has a Secretariat that is *"responsible for the administration of the Network."* According to Article 25a and paragraphs 19 and 20 of the Preamble to the Eurojust Decision, the EJM Secretariat is a separate and autonomous unit within the Eurojust administration, which *"may draw on the administrative resources of Eurojust which are necessary for the performance of the European Judicial Networks tasks, including for covering the costs of the plenary meetings of the Network."* In addition, Article 11 of the EJM Decision provides that *"In order for the European Judicial Network to be able to carry out its tasks, the budget of Eurojust shall contain a part related to the activities of the Secretariat of the European Judicial Network."*

Consequently, in accordance with the legal framework governing the EJM and its Secretariat and the non-binding *Guidelines on the EJM Structure*³⁵, the EJM Secretariat is accountable to two stakeholders: the Administrative Director of Eurojust, and the EJM contact points. In 2008, the JHA Council, with the revision of the legal basis for the EJM and Eurojust, reaffirmed the willingness of the Member States for Eurojust and the EJM to work together towards the same goal, despite having different means and different functional organisations. In the past two years, as in previous years, the EJM Secretariat was responsible for implementing the EJM Work Programme, i.e. performing its tasks as an independent network, bearing in mind that both the EJM and the Eurojust Decisions express the need for a privileged relationship between the EJM and Eurojust.

The EJM Secretariat provided the EJM with proper administration and management while keeping down expenses. In 2011, the EJM Secretariat was composed of six staff members (one AD position, one TA position (with grade AST 3), and three CA positions (with one grade FG IV and two grade FG III) and a Seconded National Expert (SNE). Seventh position, another AST

³⁵ EJM/2009/1.

position, was not fulfilled. During 2012, new recruitment procedures led to amendment of several posts and hence publishing vacancies for several positions at the secretariat. By the end of the 2012 reporting period, the recruitments were completed (except and the EJM Secretariat was composed of five staff members (four AD positions: AD9, AD6 and two AD5, and one TA position, with grade AST 3). The SNE position that remained vacant since July 2011 has not been filled, primarily due to a lengthy recruitment procedure. Another AST position filled by temporarily allocating a CA position (FGII).

With a budget of EUR 522 000 in 2011 and EUR 534 000 in 2012, and despite its limited resources, the EJM Secretariat executed all the activities and implemented the objectives foreseen in the EJM Work Programmes 2011 and 2012. In this respect the EJM Secretariat assesses its activities positively and views its tasks as completed.

The EJM Work Programme, including budget information, is prepared for a two-year period and submitted to the EJM National Correspondents for their information and agreement. The EJM Secretariat attends a College plenary meeting in October every year, as do all other units of the administration, to present and discuss its budget, in accordance to the procedure applicable to the units in Eurojust both in 2011 and 2012. Since 2010, at the request of the EJM Secretariat, the EJM Secretariat is invited to participate in the October College plenary meeting, together with the EJM Trio Presidency, to present the EJM Secretariat as an independent structure and to better provide the EJM perspective in budgetary discussions. This practical amendment is in line with the management policy of the EJM, as the EJM Secretariat is a body fulfilling a dual role in representing the EJM in close consultation and coordination with the contact points of the Member State holding the EU Presidency.

2. EJM Secretariat

In accordance to the provisions of Article 2(8) of the EJM Decision, the EJM Secretariat is responsible for the administration of the EJM. According to Article 25a(b) of the Eurojust Decision, the EJM Secretariat forms part of the Eurojust staff, but functions as a separate unit. It has an autonomous status, as stated in paragraph 20 of the Eurojust Decision. As the administrating body of the EJM, it provides the EJM with the necessary professional experience, history and continuity. The tasks, in practical terms, include, *inter alia*:

- ensuring the proper administration of the EJM, with a view to enabling the EJM contact points to fulfil their tasks and maintaining the EJM identity;
- setting up, maintaining and improving the EJM information system/website;
- drafting documents related to the activities of the EJM (including reports referred to in Article 13 of the EJM Decision);
- keeping a general up-to-date record of projects and decisions taken within the EJM;
- providing support to the Member State holding the EU Presidency in relation to the organisation of meetings;
- sharing information on the challenges, achievements, difficulties and any other issues of general interest for the EJM with the EJM contact points on a permanent consultation basis (e. g. through a newsletter);
- preparing draft action plans for new and ongoing EJM projects in consultation with the National Correspondents;
- establishing and maintaining relations with other bodies and structures in the field of judicial cooperation in criminal matters within and outside the EU; and
- promoting the EJM, including presentation of the EJM in meetings, conferences or other events organised both within and outside the EU by partners in third States and international organisations.

In the reporting period, the composition of the EJM Secretariat was as follows:

- Secretary to the EJM and Head of EJM Secretariat, ***Ms Fátima Adélia PIRES MARTINS***,
- Seconded National Expert, ***Mr Florin-Ražvan RADU*** (until July 2011),
- Secretariat Coordinator, ***Ms Maria João ALMEIDA GOMES***,
- Legal Assistant, ***Ms Ianina LIPARA*** (as of 1.12.2012 position of EJM Legal Specialist),
- Legal Assistant, ***Ms Ele-Marit EOMOIS*** (as of 1.12.2012 position of EJM Legal Specialist),
- Webmaster, ***Mr Remco NIGGEBRUGGE***,
- Administrative Assistant, ***Ms Sylvia APOSTOLOVA*** (as of 1 September 2012 allocated as a flexi-assistant to the EJM Secretariat from Eurojust Human Resources).

During the reporting period, the EJM Secretariat managed and represented the EJM in close consultation and coordination with the Member State holding the EU Presidency in accordance with the EJM Decision.

The EJM Secretariat is the only permanent body of the EJM that contributes to its existence, and contributes to the permanently established cooperation and continuity of its actions.

The EJM Secretariat has adopted a proactive approach to fulfilling its tasks. It contributes to identifying the needs of the EJM to further facilitate its daily work, e.g. through the improvement of the EJM website; through highlighting legal and practical developments in the field of judicial cooperation in criminal matters when new topics for the EJM meetings are discussed; and through defining new areas of cooperation with partners. The EJM Secretariat also acts as its think tank.

The EJM Secretariat uses its strategic position to transmit updated information to the National Correspondents concerning developments in the field of international judicial cooperation within the EU. As the representative body of the EJM, the EJM Secretariat enables the EJM to create awareness of the EJM and of judicial cooperation in Member States and establishes and strengthens relationships with other judicial cooperation partners.

As a whole, this proactive approach has resulted in full execution of the EJM Work Programme, raised awareness of the EJM within the EU and expanded the global reach of the EJM.



Fátima Adélia MARTINS
Secretary of the EJM



Maria João ALMEIDA GOMES
Secretariat Coordinator



Florin-Ražvan RADU
Seconded National Expert



Ianina LIPARA
Legal Specialist



Ele-Marit EMOIS
Legal Specialist



Remco NIGGEBRUGGE
Webmaster



Sylvia APOSTOLOVA
Executive Assistant

Chapter 5: External actions

The external actions of the EJM have been divided into three points in this chapter.

The first point refers to EJM cooperation with EU institutions and other EU actors. The second point describes the activities involving third States. The third point provides an overview of the interconnection of the networks, i.e. EJM cooperation with other judicial networks and similar structures.

1. EJM cooperation with EU institutions and other EU actors

1.1. European Commission

The entry into force of the Lisbon Treaty on 1 December 2009³⁶ shifted the perspective and shows the entire field of judicial cooperation in a whole new light. As the Lisbon Treaty did away with the pillar system, police and judicial cooperation in criminal matters are now placed in Title V of the Treaty on the Functioning of the European Union (TFEU) under the heading "Area of Freedom, Security and Justice", therefore increasing the powers of the EU and the Commission in contrast to the pre-Lisbon "intergovernmental" approach. By the end of 2014, the European Court of Justice will also have full jurisdiction in this field.

The EJM itself is mentioned in Article 85(1)b with reference to the possible new Regulation on Eurojust. It states that the tasks of the latter include "*strengthening of judicial cooperation, including by resolution of conflicts of jurisdiction and by close cooperation with the European Judicial Network*".

In light of this new legal framework, the EJM has established good cooperation with the Commission, which continues to be a close partner to the EJM and its Secretariat. For the Commission, the EJM is a valuable mechanism to get information from the "field" on the practical application of the EU legal instruments and consequently to further define the development of EU policy in judicial cooperation in criminal matters. The Commission is therefore represented regularly at EJM Plenary meetings. The Commission has also appointed its EJM contact point. Apart from mere attendance at the meeting, representatives of the Commission often also make presentations on topics relevant to judicial cooperation in criminal matters.

³⁶ Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community; OJ C 306, 17.12.2007

The Commission invited the EJM Secretariat to attend several meetings of expert working groups, e.g. on victims and on practical implementation of different mutual recognition instruments.

1.2. Council of the European Union

The Council has also appointed an EJM contact point. The representative from the Council regularly attends the EJM Plenary meetings. The EJM serves as a valuable conduit for further discussion of the development of EU legal instruments as proposed by the Commission. As with the Commission, representatives from the Council Secretariat often make presentations on topics related to judicial cooperation in criminal matters at EJM meetings.

Cooperation between the EJM Secretariat and the Council Secretariat is also crucial due to the Council Conclusions on the follow-up of mutual recognition instruments adopted in 2010. From that point forward, the EJM Secretariat received, through formal channels, from the Council Secretariat notifications, statements and declarations made by the Member States to be uploaded to the Library section of the EJM website, as provided for in the Council Conclusions.

1.3. Council of Europe

Since 2009, when the EJM Secretariat initiated close cooperation with the Council of Europe, namely with the Criminal Law Division, the EJM Secretariat has occasionally been involved in the Council of Europe Committee of Experts on the Operation of European Conventions on Co-operation in Criminal Matters (PC-OC). PC-OC and the EJM have a common goal, i.e. the fostering of judicial cooperation in criminal matters, which explains why most EU Member States have appointed EJM contact points as representatives in the PC-OC.

The EJM Secretariat is regularly invited to PC-OC meetings. The Council of Europe has attended EJM Plenary meetings on several occasions upon invitation.

1.4. eJustice

The EJM Secretariat has followed the eJustice dossier from its beginning, and began attending meetings of the eJustice/e-law group in 2010. Direct discussions between the EJM Secretariat and eJustice commenced in 2011, upon request of the General Secretariat of the Council, the European Commission and the Member State holding the EU Presidency. EJM's cooperation with the eJustice portal, via the Chair of the Council Working Party on eJustice, has continued. Over the two years of reporting, meetings were held between the representatives of the EJM Secretariat and the Working Party on eJustice. At the end of 2012, during the 5th National Correspondents meeting, the EJM Secretariat gave a very thorough presentation on possible cooperation, which was extensively discussed by the National Correspondents. The exact methodology for the future and the extent of cooperation are yet to be determined.

The JHA Council decided that work should be carried out to develop, at European level, the use of information and communication technologies in the field of justice, particularly by creating a European internet portal. The objective was to rationalise and simplify judicial procedures via the use of such new technologies. An electronic system in this area was seen to also reduce procedural deadlines and operating costs, thus benefiting the citizens, businesses, legal practitioners and the administration of justice. Hence, the European institutions have

given a clear mandate for the eJustice portal as a system for the EU justice area, gathering relevant information.

The eJustice Portal was conceived as a future electronic one-stop shop in the area of justice. The portal is becoming an important tool for practitioners, and new projects are constantly under development with the Member States to make it an efficient and interactive instrument for practitioners and citizens in the 21st century. Further cooperation with eJustice and the visibility of the EJM in the eJustice Portal will allow the portal to cover judicial cooperation in criminal matters; it will contain information for national judicial authorities and operational IT tools developed by practitioners. The portal will also bring the EJM website to the attention of a greater number of practitioners in the local authorities, helping them to contribute to national and international judicial cooperation. In addition, the eJustice Portal will allow the EJM website to be accessible in all the official EU languages to all practitioners.

Common interests served will be:

- Visibility of the EJM website to a greater number of practitioners;
- Greater awareness of the EJM website will allow the EJM to make a larger contribution to national and international judicial cooperation;
- Use of joint promotions to strengthen the EU justice culture in the Member States;
- Support for the practical implementation of the EU legal instruments in the Member States;
- Support for training for practitioners in how to use the available tools for the facilitation of international judicial cooperation;
- Making the EJM website accessible to all practitioners in all official EU languages; and
- Creation of a user-friendly IT environment for the practitioners so that they can benefit from daily use of the available practical and facilitation tools.

After consultation and heightened awareness of the portal through informal meetings, the EJM Secretariat stated in a paper the main areas of cooperation between both parties, which consisted in complementarity between both IT structures while safeguarding the EJM website's autonomy. In fact, the EJM website autonomy issue was present in all discussions between the EJM Secretariat and the eJustice representatives. The EJM website is a unique tool that is and will be managed by and belonging to the EJM.

Another point stressed by the EJM Secretariat was avoiding duplication of efforts and overlapping in some areas, namely creation of tools and forms to the practitioners. These tasks are part of the mandate of the EJM.

1.5. Training of the judiciary

With the entry into force of the Lisbon Treaty, the scope of EU competence in the field of judicial training was widened. Articles 81(2) and 82(1) TFEU provide that the EU is competent to "*support the training of the judiciary and of judicial staff*" in judicial cooperation in civil and in criminal matters.

A landmark communication from the Commission of September 2011, *Building trust in EU-wide justice. A new dimension to European judicial training*, set the goal of ensuring that half of all legal practitioners in the EU (around 700 000) be trained in EU law or the national law of another Member State by 2020.

One of the most important tasks of the EJM contact points is to disseminate their knowledge and expertise in judicial cooperation in criminal matters. The Secretary to the EJM considers

one of her mandate's priorities to be the active involvement of the EJM in the training of national judicial authorities, especially with regard to EU mutual recognition instruments.

In light of this legal framework, informal partnerships with the European Judicial Training Network (EJTN), the European Academy of Law (ERA) and other important actors delivering high-quality training in judicial cooperation in criminal matters are ongoing.

The EJM Secretariat has developed a close relationship with ERA. Every summer, the EJM Secretariat has been invited to present the EJM in its Summer School of Criminal Justice. The Secretary to the EJM has also been invited to the high-level Annual Conference of Criminal Justice. Cooperation is based on a roadmap for a close partnership between the EJM and ERA in the interest of the practitioners in judicial cooperation in criminal matters from the Member States, Candidate States and third States.

Cooperation with ERA has also led to the organisation of language training for the EJM contact points. ERA has the capacity and strategic position to act as an intermediary between the legal and technical experts (trainers) and legal practitioners, which enables it to provide a structured exchange of knowledge between all actors in the field of international criminal law, including judicial cooperation in criminal matters. ERA provides tailor-made language training, bearing in mind the operational needs of the EJM contact points, covering both legal and operational language skills. Thus, the broad reach of ERA enables it to find trainers and teachers who are capable of teaching the EJM contact points not only a foreign language (English) but also substantial operational knowledge in the specific field of international criminal law.

In February 2009, the Secretary to the EJM met with the Secretary General of the EJTN to identify areas of common interest and agree on the involvement of the EJM contact points in EJTN training seminars, both as trainees and as speakers. This practice is now commonly being implemented.

The EJM Secretariat was also invited to present the EJM at the Prosecution College in Scotland and at the School of Magistrates (ENM) in France.

Such presentations do not necessarily always involve missions. Several delegations have visited the EJM Secretariat and Eurojust. In the course of 2011 and 2012, the Asser Institute made a study visit to Eurojust, and the EJM Secretariat made a presentation.

1.6. EUROJUST

To foster greater cooperation with Eurojust, work was done on the draft joint paper on judicial cooperation. This topic is in the hands of the EJM Task Force (*ad hoc* group composed of limited number of EJM contact points and created for this specific task), and is also discussed with Eurojust in the Eurojust-EJM Joint Task Force. The paper, once adopted, is hoped to strengthen the relationship between the two organisations. To improve cooperation between Eurojust and EJM, the EJM Presidencies have started to invite Eurojust regularly to its Plenary meetings.

In addition to attendance at meetings with other units of the Eurojust administration for budgetary, legal or human resources matters, the EJM Secretariat also contributed to the activities of Eurojust's EJM and Liaison Magistrates Team.

The Secretary to the EJM is regularly invited to Eurojust's strategic seminars. Eurojust is also invited to EJM Plenary meetings.

1.7. Network of National Experts on Joint Investigation Teams

The EJM Secretariat is regularly invited to the annual meetings of the Network of National Experts on Joint Investigation Teams. The Secretariat of the Network is also invited to EJM Plenary meetings.

1.8. European Network of contact points in respect of persons responsible for genocide, crimes against humanity and war crimes

The EJM Secretariat is regularly invited to the annual meetings of the European Network of contact points in respect of persons responsible for genocide, crimes against humanity and war crimes. The Secretariat of the Network is also invited to EJM Plenary meetings.

2. EJM and third States

In addition to interconnection of the networks, the EJM has taken steps to promote closer cooperation with third States. This action is necessary in light of globalization as well as open borders. EU neighbourhood policy is inspired by shared values and common interests. This approach can be broadened, because the EU and third States are making similar attempts to find appropriate solutions in mutual legal assistance, such as practical forms and tools. Progress should be monitored to pinpoint weaknesses and further challenges. Solutions for efficient mutual legal assistance with third States should include practical forms and tools, an increase in informal and practical cooperation, sharing of information and operational training.

2.1. Delegation from Georgia

In 2011, the visit of a delegation from Georgia to Eurojust and to the EJM Secretariat took place. The EJM Secretariat introduced the participants to the work of the EJM.

2.2. Visit to the judicial authorities of Cap Verde

In 2011, the UNODC invited the Secretary to the EJM to visit Cap Verde to meet judicial authorities at a working meeting of practitioners at operational level, and to deliver a presentation on the EJM. This visit was part of the UNODC regional training programme.

2.3. Study tour from Guinea Bissau

In 2011, in the framework of the UNODC project on establishing a Central Authority for MLA in Guinea Bissau, a study tour to Eurojust and the EJM Secretariat was held. The EJM Secretariat introduced the participants to the work of the EJM.

2.4. Study tour from Japan

In 2011, a study visit of a public prosecutor from Japan to Eurojust and to the EJM Secretariat took place. The EJM Secretariat was invited to introduce the work of the EJM.

2.5. UNODC (other than networks)

Owing to the close cooperation with the UNODC that has developed over many years, the UNODC regularly invites the Secretary to the EJM to events organised by different branches of the UNODC. United Nations conventions and their related protocols provide the legal foundation for all operational work of the UNODC; these are the crime-related treaties, drug-related treaties and terrorism-related treaties. The expertise of the EJM is highly valued by the UNODC in matters concerning the United Nations Convention against Transnational Organized Crime and the Protocols Thereto, as well as the United Nations Convention against Corruption. Despite its observer status, the EJM Secretariat receives invitations to UNODC meetings and conferences as an expert. These events also enable the EJM to raise awareness of the role of the EJM.

In 2012, in addition to a visit made to Cap Verde in 2011, the EJM Secretariat attended the sixth session of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime in Vienna as an observer. The EJM Secretariat played an important role at the meeting. Owing to the initiative of the EJM Secretariat, in the reports and recommendations of the Vienna meeting, the role of the judicial networks was included, in accordance to the recommendations of the Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Systems and Their Development in a Changing World.

2.6. Justice Sector Peer-Assisted Learning (JustPAL) network

In 2012, the EJM Secretariat attended the JUSTPAL Community of Practice for Public Prosecutors conference in Croatia, on the invitation of The Hague Institute of Global Justice. At the conference, prosecutors from across the globe discussed issues related to the position of a public prosecutor, the fight against corruption, financial crimes and other criminal acts. EJM's experience in these areas was shared at the conference.

3. Interconnection of judicial operational networks

Over the past two years, the EJM continued to play a leading role in networking judicial authorities fighting cross-border crime. Because of its privileged position as a pioneering judicial network with contact points involved in other networks (such as IberRed and SEEPAG), the EJM has promoted closer cooperation between the existing judicial operational networks and the setting up of similar networks in those regions currently lacking judicial networks.

On the occasion of the 10th anniversary of the EJM, in Madeira, Portugal, on 13 October 2008, and as a result of the increasing importance of networking between the structures involved in judicial cooperation, the existing networks gathered together for the first time. Apart from the EJM, the following networks were represented in Madeira: the Ibero-American Network of International Legal Cooperation (IberRed), the Network of Judicial international cooperation of the Portuguese speaking countries (RJCPLP), the Commonwealth Network of Contact Persons (CNCP) and the South East European Prosecutors Advisory Group (SEEPAG). Practitioners agreed that those operating in the field of judicial cooperation should be made aware of the existence of the EJM, which was described as a joint solution to practical problems in judicial cooperation matters. Knowing to whom to turn for assistance from other

Member States in this field is essential. Based on this common recognition, a political document, the "Madeira Declaration", endorsed by the Ministers of Justice of France, Belgium, Austria and Portugal, was adopted, stating *that*:

continuing the work done by EJM in partnership with other Networks, not just at the European level (...) but also within an international framework involving the other existing judicial Networks, will promote European and international judicial culture founded on the shared values affirmed by the Treaty on the European Union.

On the basis of the Madeira Declaration, the first political document encouraging the interconnection of the judicial networks, the Secretary to the EJM participated in United Nations initiatives and was an active contributor. At the Twelfth United Nations Congress on Crime Prevention and Criminal Justice in San Salvador, Brazil, from 12 – 19 April 2010, the objective of supporting development of judicial networks of international cooperation in criminal matters was for the first time discussed at high level, based on negotiations between the EJM Secretariat, the Ministry of Justice of the Federative Republic of Brazil and the UNODC. The *Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Systems and Their Development in a Changing World*³⁷ paid particular attention to international cooperation in fighting crime and expressly included in its text the importance of judicial cooperation networks. In addition, participants at an ancillary meeting of the congress dedicated to international legal cooperation networks adopted five recommendations to facilitate the development of synergies between the networks.

One month later, the general conclusions of the UN Congress were incorporated in Resolution 19/7 – "Strengthening of regional networks for international co-operation in criminal matters" (see Part I). The nineteenth session of the United Nations Commission on Crime Prevention and Criminal Justice, held in Vienna on 17 – 21 May 2010 adopted a *Resolution on Strengthening of regional networks for international cooperation in criminal matters*³⁸, urging the Member States "participating in networks for legal cooperation to strengthen international cooperation in criminal matters and the coordination amongst such networks" and it "encourages Member States to facilitate the establishment of similar regional networks".

In 2011 and 2012, the EJM continued dedicating efforts to interconnect the networks. The EJM Secretariat's vision regarding closer relations between the existing judicial operational networks and support for the creation of similar networks is that only if we unite can we effectively deal with transnational crime. In practical terms, the EJM Secretariat supported the interconnection of existing judicial networks by organising in the 3rd Hague meeting and an operational meeting between the EJM contact points and focal points of the SAHEL and COI networks.

³⁷Twelfth United Nations Congress on Crime Prevention and Criminal Justice (Salvador, Brazil, 12-19 April 2010). Adopted at the Crime Congress by Member States as *Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Justice Systems and Their Development in a Changing World*, and endorsed by the General Assembly in its resolution 65/230.

³⁸Nineteenth session of Commission on Crime Prevention and Criminal Justice (Vienna, Austria, 17-21 May 2010). Agenda item 4(d), Integration and coordination of efforts by the United Nations Office on Drugs and Crime and by Member States in the field of crime prevention and criminal justice: other crime prevention and criminal justice matters; E/CN.15/2010/L.17/Rev.1.

3.1. Cooperation with other judicial networks

The 3rd Hague meeting

The EJM Secretariat offered the possibility to meet to discuss interconnection of the networks. The 1st Hague meeting took place in March 2010, the 2nd Hague meeting took place in September 2010 and the 3rd Hague meeting took place in November 2011. The representatives of the networks welcomed the initiative to enhance cooperation among the networks by way of these meetings.

The main idea that was discussed during the two-day 3rd Hague meeting was the launch of a project directed at fostering interconnection between networks and supporting practical cooperation.

Different networks were represented, such as the Judicial Regional Platform of the Indian Ocean Commission (IOC; *la Commission de l'Océan Indien, COI*), the Judicial Regional Platform of Sahel (SAHEL), which had been created jointly by the UNODC and COI, the Southeast European Prosecutors Advisory Group (SEEPAG), the National Council of the Prosecutors-General (*Conselho Nacional dos Procuradores-Gerais, CNPG*), and the National Group in the Fight Against Criminal Organizations (*Grupo Nacional de Combate às Organizações Criminosas*) in Brazil and *Réseau Marocain de Coopération Judiciaire Internationale* (RMCJI) in Morocco.

First operational meeting with the networks, January 2012

In January 2012, cooperation established between the EJM Secretariat and the representatives of the UNODC led to the first jointly organised operational meeting between the three networks – EJM, SAHEL and IOC. For the first time, an operational meeting between contact points of three judicial networks based on two continents took place.

Apart from contact points from the EJM, members of IOC and SAHEL were represented, as were representatives from the EJM Secretariat and the UNODC. Presentations were made on all three regional judicial networks and on tools developed by the EJM and the UNODC to introduce the possibilities offered to practitioners across the world. The EJM contact points attending the meeting were invited based on the operational needs of the focal points of SAHEL and IOC.

Furthermore, the challenges to practical criminal judicial cooperation between the participating countries were discussed and links between the contact points of the three judicial cooperation networks were established, as were informal direct contacts. Participants acknowledged that the new networks being created recognised the importance of human relations as the key factor in mutual trust. As a direct and immediate consequence of this meeting, several criminal cases and problems with rogatory letters between the countries involved were solved in a period of days.

3.2. SEEPAG

The South East European (SEE) Prosecutors Advisory Group (SEEPAG), the second oldest judicial network, constituted in 2003 by declaration during its first meeting, is composed of prosecutors from countries in the SEE region. The objective of SEEPAG is to reinforce the fight against serious organised crime in the SEE region, and also to assist the SEE Law Enforcement Center (SELEC) by facilitating the rapid exchange of information and evidence in trans-border investigations.

SEEPAG organises its meetings twice per year, during which the members receive specialised trainings, are provided with information regarding other legal systems, and share problems and best practice. Since 2003, SEEPAG has held more than 20 regional meetings and workshops.

The Secretariats of SEEPAG and the EJM regularly invite each other to their plenary meetings.

In 2011, the EJM Secretariat was represented in one of the two SEEPAG meetings; in 2012, the EJM Secretariat was unfortunately not able to attend the SEEPAG meetings.

3.3. 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. IberRed is a network composed of contact points who are judges and prosecutors, along with representatives of central authorities, such as liaison officers, as well as any other appropriate judicial or administrative authority responsible for judicial cooperation in criminal and civil matters whose membership in IberRed is considered desirable by its members.

In June 2010, the EJM and IberRed concluded a Memorandum of Understanding (MoU), which, at the time, appeared as a natural step forward to strengthen the already existing good level of operational cooperation between contact points of the two networks, especially those with close links resulting from common cases.

The MoU formalised the networks' pre-existing cooperation. Signing the MoU provided a basis for strengthening cooperation in several ways: sharing contact points, holding joint training sessions, and forming ad hoc working groups. The EJM regularly invites IberRed to its Plenary meetings. The MoU is being implemented; an exchange of contact details is the next step.

3.4. National Council of the Prosecutors-General of Brazil

In 2011 and 2012, the EJM further developed cooperation with a group of Brazilian judicial authorities, the National Council of the Prosecutors-General (*Conselho Nacional dos Procuradores-Gerais*, CNPG). The CNPG is the council representing public prosecutors from the states of Brazil. The states of Brazil are autonomous but all are subject to the same criminal and civil codes. The members of the CNPG are: all 27 states (27 *Procurador-Geral de Justiça*), the Prosecutor-General (*Procurador-Geral da República*), the Ministry of Labour (*Ministério Público do Trabalho*), and the Ministry of Defence (*Ministério Público Militar*).

The request for cooperation came from the Brazilian Attorney General's Office (treatment of refugees and/or those seeking asylum in the Member States). Operational cooperation was established between the CNPG by an MoU signed by the Secretariats in 2012. To efficiently cooperate with the EJM, the CNPG designated its President as the main contact point, with responsibility for direct communication with the EJM Secretariat. The formal meetings of the CNPG contain an agenda item related to cooperation with the EJM. EJM contact points have made operational use of this cooperation on several occasions.

The CNPG was invited to the 3rd Hague meeting in 2011.

3.5. Judicial Network in Morocco

The EJM Secretariat commenced cooperation with the Judicial Network in Morocco (*le Réseau Marocain de Coopération Judiciaire Internationale* (RMCJI, created in 2009)). This network was established as a group of experts responsible for the facilitation, improvement and promotion of international judicial cooperation requested or granted by the Kingdom of Morocco, in strict compliance with its legal framework and conventions. The main responsibilities of the RMCJI contact points are to facilitate, improve and promote international legal cooperation requested or granted by the Kingdom of Morocco.

A representative from the RMCJI was invited to the 3rd Hague meeting in 2011.

3.6. UNODC: COI and SAHEL Networks

COI was created jointly by the UNODC's Terrorism Prevention Branch and Organised Crime and Illicit Trafficking Branch with the support of France; SAHEL was created jointly by the UNODC's Terrorism Prevention Branch and Organised Crime and Illicit Trafficking Branch and COI. The EJM Secretariat has lent its expertise to these networks; however, no meetings have been attended by the EJM Secretariat due to budget constraints. However, in 2012, both networks were present in The Hague for a joint meeting with the EJM contact points.

A representative from the UNODC attended the 3rd Hague meeting in 2011.

3.7. Western Balkan Prosecutors Network

On the invitation of the Commission, the EJM Secretariat established cooperation with the 2010 EU-funded Pre-Accession Assistance (IPA) project, *Fight against organised crime and corruption: Strengthening the Prosecutors' Network*. The purpose of the pre-accession instrument of the EU is to assist beneficiary countries, when facing the challenges of European integration, to implement the reforms needed for the Stabilisation and Association Process, and to lay down the foundations for fulfilling the requirements for achieving EU membership (the Copenhagen criteria). The project targets Public/State Prosecution Offices of the beneficiaries and National Contact Points of the Prosecutors' Network of the Western Balkans, as well as Kosovo (designation without prejudice to positions on status, and in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence).

The EJM Secretariat is a member of the Steering Committee of this project and has thus attended several of its meetings over the past two years.

3.8. EuroMed Justice III project

The EJM Secretariat has established cooperation with the EuroMed Justice III project funded by the EU, following the EuroMed Justice I and II projects. One of the goals of the projects was to reinforce justice in the participating countries via the development of a Euro-Mediterranean area of cooperation in the field of justice by supporting the development of the partners' capacity and backing the modernisation of justice, including an improved access to justice.

The project's activities consist of carrying out working groups and training sessions and organising study visits covering the three components of the project: Access to Justice and Legal Aid, Resolution of Cross-Border Family Conflicts, and Criminal and Prison Law. Research reports, handbooks and training modules will also be produced during the project lifecycle.

The EJM Secretariat has been asked to attend the meetings of EuroMed Justice projects to offer its expertise.

Part III

Criminal policy issues and proposals to improve judicial cooperation in criminal matters

Chapter 1: Criminal policy problems within the EU as reflected in EJM's activities

Further elaborating on the operational conclusions of the EJM meetings, the EJM contact points made several important observations and drew conclusions on operational activities. This chapter highlights the main topics. Chapter 2 further emphasizes concrete proposals made by the EJM.

In 2011, as a follow-up to the Belgian EU Presidency conclusions of 2010, the EJM Secretariat mapped all regional networks, based on the responses it received, thus creating an additional electronic tool. Regional cooperation between judicial authorities, modelled on police cooperation, was also encouraged in the conclusions of the previous report of the management and the operation of the EJM 2009/2010.

During the 37th Plenary meeting of the EJM in Gdansk, 17 and 18 November 2011, the EJM proposed practical ways to secure procedural rights of parties to criminal proceedings in cases involving international cooperation. Additionally, emphasis was placed on specific forms of MLA, such as videoconferences and teleconferences.

The 38th Plenary meeting of the EJM, which took place in Copenhagen, Denmark, on 19 and 20 June 2012, was dedicated to the topic of joint investigation teams – the use of evidence gathered and exchanged; the disclosure of information, and the exercise of powers. The EJM contact points acknowledged the increasing importance of setting up and effectively running JITs as a decisive prerequisite for the Member States to effectively fight cross-border and organised crime in the EU. Contact points shared many positive experiences with JITs. As the JIT Funding Project supported under the European Commission financial programme was to expire in 2013, the Plenary meeting requested the Danish EU Presidency to draw attention to the importance of ensuring the continuation of JITs funding and to consider ensuring that Member States will maintain the possibility to seek funding for JITs either through Eurojust or directly from the Commission.

Based on the conclusions of the 38th EJM Plenary meeting, the Danish EU Presidency, with the support of the EJM contact points, submitted a request to the Vice President of the European Commission, Ms Viviane Reding, for further funding of JITs under the programme *Prevention of and fight against Crime 2007-2013*. In the following year, 2013, the request of the Danish EU Presidency, with the support of the EJM contact points, had succeeded.

Chapter 2: Proposals for improving judicial cooperation in criminal matters

2.1. European Arrest Warrant

The Commission has clearly expressed that the practical application of the European Arrest Warrant (EAW) must operate within the existing legal framework, so possible solutions to obstacles must be of a practical nature. No amendment of the legislation will occur in near future. The EJM contact points discussed possible solutions, with an emphasis of the principle of proportionality among Member States, at the 39th Plenary meeting in Nicosia, Cyprus, in November 2012. In panel discussions, participants acknowledged that the proportionality test must be performed at the issuing stage of an EAW. Refusal of execution is not possible for reasons other than those provided in the Framework Decision on the European arrest warrant, thus fully respecting the principle of mutual trust.

Both the questionnaire responded to by the contact points, as well as the discussions held during the plenary meeting, revealed that Member States had reached a common understanding of their obligation to execute an EAW without performing an additional proportionality check. This practice was, however, not always followed. As a result, participants acknowledged that the focus must be on the issuing stage and on how to harmonise the practice of issuing an EAW to make sure that the executing Member State would not be tempted to perform (another) proportionality check. The suggestions of the contact points were as follows:

- i. Consider using alternative measures instead of applying the EAW procedure.
- ii. Issue an EAW only when the motivation for issuing an EAW is strong enough that the executing Member State would have neither doubts nor uncertainty about it. Thus, the issuing country must have performed the proportionality check before issuing the EAW.
- iii. Fill out the optional box "F" on the EAW form for any additional explanations. This box is not often filled out, but could be used to explain issues related to proportionality, e.g. why the EAW has been issued for a "minor offence" (if that is the case) and for any other issues that could raise concerns in the executing Member State regarding whether the proportionality test had been performed before the EAW has been issued.
- iv. Introduce national (internal) guidelines on issuing an EAW on the basis on the Handbook on the EAW, which could provide instructions for the judiciary.
- v. In case of doubt or uncertainty, despite steps undertaken by the issuing Member State, the executing Member State could consult with the authorities of the issuing Member State rather than initiate a proportionality test itself.
- vi. Raise the awareness of the judiciary and train practitioners on the proportionality issue and on the EAW.
- vii. Hold meetings between Member States due to the situation that even neighbouring Member States may differ considerably in legal systems and practices.
- viii. Apply for grants from the Commission for such meetings.

Participants also stated that the EJM has huge potential and could play an important role in several related actions:

- In case of doubt, uncertainty or lack of clarity, both the issuing and the executing Member State could make use of the EJM for consultations and contacts; no additional formal mechanisms are necessary.
- In particular, an EJM contact point in the issuing Member State could contact an EJM contact point in the executing Member State in advance to explain the details of the case, e.g. for a “minor offence” or other issues that may result in raising doubts in the executing Member State about the proportionality of the issued EAW.
- Intensified consultations among contact points within the network, e.g. through regional meetings of EJM contact points dedicated to this topic.
- Consultations among EJM contact points, e.g. through creating an informal working group on the EAW within the EJM.
- Trainings and awareness-raising among practitioners about the EJM and about the possible role of the EJM in resolving EAW obstacles.

The EJM invited all international judicial cooperation practitioners to implement the suggestions made by the EJM contact points at the meeting. The EJM contact points concluded that application of these recommendations would contribute to a more harmonised approach in application of EU legislation.

2.2. Interconnection of the judicial networks

Organised crime networks and transnational crime may be more efficiently tackled by a flexible network of judges, prosecutors and other practitioners from local judicial authorities and central authorities, specialised in judicial cooperation in criminal matters, working together in a decentralised and informal manner, to facilitate the practical implementation of the binding legal framework. A network structure complements traditional and formal judicial cooperation, enabling faster procedures.

The EJM has acknowledged the need to create an optimal framework for collaboration between the networks and for providing support to the creation of similar operational mechanisms in the future. Judicial cooperation in criminal matters is not limited to the borders of the EU or Europe. Actions on EU level could support the creation and operation of networks of judicial cooperation in criminal matters in different regions of the world; facilitate interconnection of the networks within the EU, as well as cooperation with third States in a regional context. This support is particularly important for operational cooperation between the practitioners throughout the world. Cooperation already established by the EJM contact points with their colleagues in other parts of the world, reflects the operational work and trust that has been established by EJM contact points over the years.

The EJM considers that the strengthening of judicial networks is one of the solutions to improving judicial cooperation in criminal matters:

- Any steps needed should be taken to strengthen the EJM’s capacity to tackle crime, including support to global networks as well as informal cooperation with third States.
- Providing the EJM and other operational networks for cooperation in criminal matters with all the necessary resources will represent a low-cost way of facilitating judicial cooperation in criminal matters, while maintaining direct contact between the judicial authorities.

2.3. Training of judicial authorities

The training of judicial authorities in judicial cooperation in criminal matters is essential in the European judicial criminal area. To facilitate communication, judges, prosecutors and other practitioners shall be also trained in legal terminology in different languages. An important communication was published by the Commission in September 2011: *Building trust in EU-wide justice. A new dimension to European judicial training*. This communication set, as one of its goals, ensuring that half of all legal practitioners in the EU (around 700 000) are trained in EU law or the national law of another Member State by 2020.

One of the most important tasks of the EJM contact points is to disseminate their knowledge and expertise in judicial cooperation in criminal matters. The EJM reaches the widest platform of criminal law practitioners within the EU (judges, prosecutors and Ministries of Justice), and is completely decentralised. EJM contact points are closely associated with practitioners in their Member States as the contact points themselves are also practitioners; EJM meetings provide *fora* for discussions (including training).

The EJM therefore suggests:

- Continuation of close ties between the key players in the field of judicial cooperation with a view to promoting and actively participating in training activities at national level, including through the creation of best practice guidelines,
- Involvement of the EJM contact points as trainers in such trainings, due to their level of experience, and
- Promotion and development of exchange programmes for the judicial authorities of the Member States, supported by the EJM, or study visits organised by the EJM to exchange experience, should become permanent practices.

2.4. Raising awareness of existing mechanisms

Combatting crime involves strengthening dialogue and action between the criminal justice authorities of the Member States. Specific bodies to facilitate mutual assistance in the EU have been established, amongst which are the EJM (especially its highly valuable website) and Eurojust. Considering that a European dimension is often present in criminal matters, judicial cooperation is necessary.

To take the full advantage of existing structures and to contribute to the success of judicial cooperation, raising awareness among the practitioners is vital. EJM contact points have agreed upon the need to raise awareness. Despite harmonised procedures and mutual recognition, awareness is lacking and, as a result, the EU does not yet derive the full benefit of all its existing resources and structures.

Raising awareness should be a joint effort of all stakeholders, as is the current situation; judicial practitioners are continuously informed and trained. The value of training and awareness-raising cannot be underestimated, but cooperation should go from the bottom up as well as the top down. An ongoing dialogue between practitioners in the local authorities and the central authorities of the Member States must occur. The relationship between local and central authorities, and between central authorities and the European Union, must be close and efficient to guarantee the best results in judicial cooperation in criminal matters.

ANNEXES

ANNEX 1 Council Decision 2008/976/JHA of 16 December 2008 on the European Judicial Network

Council Decision 2008/976/JHA of 16 December 2008 on the European Judicial Network

THE COUNCIL OF THE EUROPEAN UNION,

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

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

Having regard to the opinion of the European Parliament [1],

Whereas:

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

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

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

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

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

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

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

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

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

HAS DECIDED AS FOLLOWS:

Article 1

Creation

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

Article 2

Composition

1. The European Judicial Network shall be made up, taking into account the constitutional rules, legal traditions and internal structure of each Member State, of the central authorities responsible for international judicial cooperation and the judicial or other competent authorities with specific responsibilities within the context of international cooperation.
2. One or more contact points of each Member State shall be established in accordance with its internal rules and internal division of responsibilities, care being taken to ensure effective coverage of the whole of its territory.
3. Each Member State shall appoint, among the contact points, a national correspondent for the European Judicial Network.
4. Each Member State shall appoint a tool correspondent for the European Judicial Network.
5. Each Member State shall ensure that its contact points have functions in relation to judicial cooperation in criminal matters and adequate knowledge of a language of the European Union other than its own national language, bearing in mind the need to be able to communicate with the contact points in the other Member States.
6. Where the liaison magistrates referred to in Council Joint Action 96/277/JHA of 22 April 1996 concerning a framework for the exchange of liaison magistrates to improve judicial cooperation between the Member States of the European Union [5] have been appointed in a Member State and have duties analogous to those assigned by Article 4 of this Decision to the contact points, they shall be linked to the European Judicial Network and to the secure telecommunications connection pursuant to Article 9 of this Decision by the Member State appointing the liaison magistrate in each case, in accordance with the procedures to be laid down by that Member State.
7. The Commission shall designate a contact point for those areas falling within its sphere of competence.
8. The European Judicial Network shall have a Secretariat which shall be responsible for the administration of the Network.

Article 3

Manner of operation of the Network

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

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

Article 4

Functions of contact points

1. The contact points shall be active intermediaries with the task of facilitating judicial cooperation between Member States, particularly in actions to combat forms of serious crime. They shall be available to enable local judicial authorities and other competent authorities in their own Member State, contact

points in the other Member States and local judicial and other competent authorities in the other Member States to establish the most appropriate direct contacts.

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

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

3. At their respective level the contact points shall be involved in and promote the organisation of training sessions on judicial cooperation for the benefit of the competent authorities of their Member State, where appropriate in cooperation with the European Judicial Training Network.

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

(a) be responsible, in his Member State, for issues related to the internal functioning of the Network, including the coordination of requests for information and replies issued by the competent national authorities;

(b) be the main person responsible for the contacts with the Secretariat of the European Judicial Network including the participation in the meetings referred to in Article 6;

(c) where requested, give an opinion concerning the appointment of new contact points.

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

Article 5

Purposes and venues of the plenary meetings of contact points

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

(a) to allow the contact points to get to know each other and exchange experience, particularly concerning the operation of the Network;

(b) to provide a forum for discussion of practical and legal problems encountered by the Member States in the context of judicial cooperation, in particular with regard to the implementation of measures adopted by the European Union.

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

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

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

Article 6

Meetings of the correspondents

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

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

Article 7

Content of the information disseminated within the European Judicial Network

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

(a) full details of the contact points in each Member State with, where necessary, an explanation of their responsibilities at national level;

(b) an information technology tool allowing the requesting or issuing authority of a Member State to identify the competent authority in another Member State to receive and execute its request for, and decisions on, judicial cooperation, including regarding instruments giving effect to the principle of mutual recognition;

(c) concise legal and practical information concerning the judicial and procedural systems in the Member States;

(d) the texts of the relevant legal instruments and, for conventions currently in force, the texts of declarations and reservations.

Article 8

Updating of information

1. The information distributed within the European Judicial Network shall be constantly updated.

2. It shall be each Member State's individual responsibility to check the accuracy of the data contained in the system and to inform the Secretariat of the European Judicial Network as soon as data on one of the four points referred to in Article 7 need to be amended.

Article 9

Telecommunication tools

1. The Secretariat of the European Judicial Network shall ensure that the information provided under Article 7 is made available on a website which is constantly updated.

2. The secure telecommunications connection shall be set up for the operational work of the contact points of the European Judicial Network. The setting up of the secure telecommunications connection shall be at the charge of the general budget of the European Union.

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

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

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

Article 10

Relationship between the European Judicial Network and Eurojust

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

(a) the European Judicial Network shall make available to Eurojust the centralised information indicated in Article 7 and the secure telecommunications connection set up under Article 9;

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

(c) the national members of Eurojust may attend meetings of the European Judicial Network at the invitation of the latter.

Article 11

Budget

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

Article 12

Territorial application

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

Article 13

Assessment of the operation of the European Judicial Network

1. Every second year from 24 December 2008, the European Judicial Network shall report to the European Parliament, the Council and the Commission on its activities and management.

2. The European Judicial Network may, in the report referred to in paragraph 1, also indicate any criminal policy problems within the European Union highlighted as a result of the European Judicial Network's activities and it may also make proposals for the improvement of judicial cooperation in criminal matters.

3. The European Judicial Network may also submit any report or any other information on its operation which may be requested by the Council.

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

Article 14

Repeal of Joint Action 98/428/JHA

Joint Action 98/428/JHA is hereby repealed.

Article 15

Taking of effect

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

Done at Brussels, 16 December 2008.

For the Council

The President

R. Bachelot-Narquin

[1] Opinion delivered on 2 September 2008 (not yet published in the Official Journal).

[2] OJ L 191, 7.7.1998, p. 4.

[3] OJ C 197, 12.7.2000, p. 3.

[4] OJ L 63, 6.3.2002, p. 1.

[5] OJ L 105, 27.4.1996, p. 1.

ANNEX 2 Extract from Council Decision 2009/426/JHA of 16 of December 2008 on the strengthening of Eurojust and amending Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime

Preamble

(19) Eurojust is to maintain privileged relations with the European Judicial Network based on consultation and complementarity. This Decision should help clarify the respective roles of Eurojust and the European Judicial Network and their mutual relations, while maintaining the specificity of the European Judicial Network.

(20) **Nothing in this Decision should be construed to affect the autonomy of the secretariats of the networks** mentioned in this Decision when they discharge their function as Eurojust staff in accordance with the Staff Regulations of Officials of the European Communities laid down by Regulation (EEC, Euratom, ECSC) No 259/68 of the Council (3).

[...]

"Article 25a

[...]

(b) **the Secretariat of the European Judicial Network** shall form part of the staff of Eurojust. It shall function as a separate unit. It may draw on the administrative resources of Eurojust which are necessary for the performance of the European Judicial Network's tasks, including for covering the costs of the plenary meetings of the Network. Where plenary meetings are held at the premises of the Council in Brussels, the costs may only cover travel expenses and costs for interpretation. Where plenary meetings are held in the Member State holding the Presidency of the Council, the costs may only cover part of the overall costs of the meeting;

ANNEX 3 Guidelines on the Structure and functioning of the European Judicial Network

Guidelines on the Structure and functioning of the European Judicial Network

This document is intended to provide guidance on the structure and operation of the European Judicial Network (hereinafter "the EJNI"), in the light of the Council Decision 2008/976/JHA of 16 December 2008 on the European Judicial Network (hereinafter "the EJNI Decision") and taking into account the Council Decision 2002/187/JHA setting up Eurojust with a view to reinforcing the fight against serious crime, as amended by the Decision 2009/426/JHA of 16 December 2008 (hereinafter "the Eurojust Decision").

Nothing in this document shall be construed as affecting the flexible nature of the EJNI, informal contacts between the EJNI contact points, their daily work or internal relations within the Member States.

I. The Presidency of the European Judicial Network

The Presidency of the European Judicial Network (EJNI) is assumed by the Member State holding the rotating Presidency of the Justice and Home Affairs (JHA) configuration of the Council. This Member State will work in close cooperation and coordination with the Member States which form part of the Trio Presidencies of the JHA configuration of the Council in accordance with the Decision of 1 December 2009 on the exercise of the Presidency of the Council (2009/881/EU), published in the Official Journal of the European Union (OJEU 2.12.2009 L 315/50).

The Presidency Member State, assisted by the two incoming presidencies, hereinafter referred to as the "EJNI Trio Presidencies", should work in close cooperation with the EJNI Secretariat in the interest of the Network and of the continuity of its activities.

Ensuring the **continuity** of the EJNI activities is one of the core tasks of the EJNI Secretariat, as responsible for the Network's administration in accordance with the EJNI Decision. The Trio Presidencies mechanism would represent an added value in ensuring the coherence of the EJNI activities according to its annual Work Programmes with the Work Programmes of the rotating Presidencies of the J.H.A. Council configuration.

The EJNI Trio Presidencies should function and cooperate with the EJNI Secretariat on the basis of common principles and best practices, such as those identified so far by the first formal EJNI Trio composed of Spain, Belgium and Hungary, in their meeting of 4 February 2010:

- (1) In the case of the European Judicial Network, the Trio Presidencies have to work closely with the EJNI Secretariat for the implementation of the Work Programme during the respective 18 months.
- (2) The Trio Presidencies and the Secretariat of the EJNI should meet regularly and at least in the preparation of each of the EJNI meetings and to decide on the agenda of the EJNI meetings and on future activities and projects within the 18 months time frame. These meetings "EJNI Trio meetings" will be organised either in the premises of Eurojust, in The Hague or in the Member State holding the rotating presidency of the Justice and Home Affairs configuration of the Council.
- (3) The EJNI Secretariat should prepare the Work Programme in close cooperation with the EJNI Presidency, assisted by the two other Member States composing the EJNI Trio Presidencies.
- (4) Further proposals of a member of the Trio or from the EJNI Secretariat on future projects and activities of the European Judicial Network should be subject of discussion in the EJNI Trio Presidencies meetings.
- (5) In the beginning of the last semester of an 18 months cycle, on the occasion of the EJNI National Correspondents meeting, the acting Trio Presidencies would have to handover the EJNI "dossier" to the incoming Trio. To that end, a joint meeting of the current and incoming Trio has to be organised on that occasion. The incoming Trio Presidencies will present their objectives and activities for EJNI in the plenary meeting before the takeover of the Trio.

- (6) The EJM Secretariat is entrusted by the Trio Presidencies in the administrative matters of the EJM, particularly the information system and the telecommunication tools, and the management of the relevant projects for the effective implementation of the EJM Decision and of the EJM Work Programmes.
- (7) Taking into account that there is a chronological difference between the Council' s configurations Trio presidencies cycle (18 months) and the civilian calendar, the EJM Secretariat will continue to manage its annual / biannual planning inside Eurojust in conformity with the objectives of the Trio Presidencies.
- (8) In order to contribute to the strengthening of the privileged relations between the EJM and Eurojust, the EJM Trio Presidencies and the EJM Secretariat will gather informally with the Eurojust Presidency Team, the National Members of the Trio Presidencies of the JHA Council and the Administrative Director of Eurojust to discuss common interests or matters related to both structures. With the view of enhancing the relations and the coordination between both structures the Trio alongside with the Secretariat may participate in Eurojust internal meetings at the invitation of its College or Administration.

Henceforward, it will be taken into account the working methodology resulting from the best practices between the Trio Presidencies of the EJM and the EJM Secretariat.

II. The Administration of the Network (Articles 2(8), 7, 9(1), 11, 13 of the EJM Decision)

The EJM Secretariat shall be responsible for the administration of the EJM (Article 2(8) of the EJM Decision). It is therefore essential that the EJM Secretariat may provide effective support to the work of the EJM contact points in general and also assistance to the Member State holding the Presidency of the Council.

As the administrating unit which should be able to provide the necessary professional experience, history and continuity, its tasks should in practical terms *inter alia* include:

- ensuring the proper administration of the EJM (including the financial and budget management in close cooperation with the Budget unit of Eurojust), with a view to enabling the EJM contact points to fulfill their tasks and keeping the EJM identity;
- setting up, maintenance and improvement of the EJM information system/website;
- drafting documents related to the activities of the EJM (including reports referred to in the Article 13 of the EJM Decision);
- keeping a general up-to-date record of projects and decisions taken within the EJM;
- providing support to the Member State holding the Presidency of the Council in relation to the organization of the meetings;
- sharing of information on the challenges, achievements, difficulties and any other issues of general interest for the EJM with the EJM contact points on a permanent consultation basis (e. g. through a newsletter);
- preparation of draft Action plans for the new and ongoing projects of the EJM after consultations with the national correspondents;
- establishment and maintenance of relations with other bodies and structures in the field of judicial cooperation in criminal matters within and outside the EU; and
- promotion of the EJM, including presentation of the EJM in meetings, conferences or other events organized both within the EU or outside by partners in the third countries or international organizations.

In accordance with the best practice within the EJM, the EJM Secretariat may establish, on an *ad hoc* basis, a sub-group for a specific purpose and within a specified time frame, when it considers it

important for the accomplishment of the specific outcomes, in particular regarding the EJM information tools and the drafting of the EJM biannual reports in accordance with article 13 of the EJM Decision.

The role of the EJM Secretariat is of the utmost importance for the effective functioning of the EJM as such. The EJM Secretariat shall have its own identity to be able not only to represent the EJM in close consultation and coordination with the Member State which holds the Presidency of the Council and to fulfill its tasks according to the EJM Decision, but also to be a visionary team, to identify new areas where the EJM may be involved or focused on, taking advantage of its strategic position and transmitting to the national correspondents updated information concerning what is going on in the field of the international judicial cooperation. For those reasons, the EJM Secretariat has to be equipped by all the means necessary in order to fulfill its important tasks, including human, financial and other material resources.

The EJM Secretariat is located on the premises of Eurojust and the staff of the EJM Secretariat is part of the staff of Eurojust. The EJM Secretariat may draw on the administrative resources of Eurojust which are necessary for the performance of its tasks. It should be able to fully use and benefit from all the means which are at the disposal of Eurojust, such as the legal, IT and financial support. This should allow for the effective functioning of the EJM Secretariat, while at the same time keeping its low cost profile, which has been continuously considered as a very good example of cost-efficient administration. This should not preclude a possible need to increase the human or financial resources of the EJM Secretariat subject to concrete and reasonably presented facts.

III. The EJM Meetings

1. The Plenary meetings

The plenary meetings of the EJM contact points shall take place at least three times a year, being organized by the Member State holding the Presidency of the Council in close cooperation with the Secretariat of the EJM (Article 5(1)(3) of the EJM Decision). The first plenary meeting held in Brussels or in The Hague will usually take place during February, the other two meetings will usually take place towards the end of the Presidency period in the Member State which holds the Presidency of the Council.

1.1. The Plenary meetings of the EJM contact points in the Member State holding the Presidency of the Council (Article 5(1)(3) of the EJM Decision)

At least three contact points per Member State shall be invited to the plenary meeting organized in the Member State holding the Presidency of the Council. The meeting should consist of two parts:

- One part should be devoted to the matters related to the functioning of the EJM, which have been discussed and prepared in advance by the national correspondents meeting (NCM), and submitted to the plenary meeting for discussion and adoption of final decisions. The role of the NCM in identifying matters for discussion at the plenary meeting is described below in the part related to the NCM.
- The other part should be left to the organising Member State who will decide on the theme of the conference (in general related to the practical and legal problems encountered by the Member States in the context of the judicial cooperation in criminal matters within the EU (Article 5(1)(b) of the EJM Decision).

The EJM contact points should exchange information and share best practice during the plenary meeting. Workshops may be used as a forum to enable a proper operational discussion on concrete subject matters (e. g. specific case examples or the theme of the conference).

1.2. The regular meetings of the EJM contact points in Brussels / The Hague (Article 5(3) of the EJM Decision)

The regular meeting of the EJM contact points may be held on the premises of the Council in Brussels or on the premises of Eurojust in The Hague once a year (Article 5(3) of the EJM Decision). Two EJM contact points per Member State shall be invited to this meeting.

It is a specific, more limited, form of the plenary meeting which otherwise takes place at the end of the Presidency period and is organized in the Member State holding the Presidency of the Council, on the other hand providing greater number of participants than the NCM.

The regular meeting shall have different objectives and role in comparison to the plenary meetings organized in the Member State holding the Presidency of the Council and the NCM. It should be devoted to practical and organizational matters of the EJM or new initiatives on the judicial cooperation in the EU. Its particular content shall be determined by the Member State holding the Presidency of the Council in close cooperation with the EJM Secretariat, the Council Secretariat and the European Commission. It should be restricted to the EJM contact points only, unless the Member State holding the Presidency of the Council decides otherwise. If the meeting is held in Brussels, the travel expenses cannot, as from 2010, be paid out of the Council's budget.

2. Meetings of national correspondents (NCM) (Articles 2(3), 4(4), 6(1), 10 of the EJM Decision)

The NCM should act as a steering committee of the EJM. The objective of the NCM should be to ensure detailed examination of the relevant activities of the EJM, discussion thereof and preparation of possible solutions, which are subsequently submitted to the plenary meetings of the EJM contact points for discussion and adoption of final decisions. Tasks of the NCM, performed by the national correspondents in close cooperation with the EJM Secretariat, should *inter alia* include:

- preparation and execution of the budget of the EJM and other budgetary issues;
- internal policy of the EJM, including administrative matters, documents or rules to be applied within the EJM and relevant statistics on the workflow in each Member State;
- external policy of the EJM, including public relations and the list of activities arranged or likely to take place in the field of the external relations of the EJM towards partners in the third countries over a given period;
- preparation of strategic decisions concerning further developments of the IT tools within the EJM website (the tool correspondents are responsible for the technical preparation), including the allocation of the financial resources;
- providing feedback from the EJM contact points and up-to-date information on the main issues of concern from the national practitioners;
- providing feedback on the implementation of the Council Decision on the EJM in the Member States; and
- preparation, elaboration and implementation of possible Action plans on the new and ongoing projects of the EJM.

Should the NCM consider it appropriate, it may on the request of the EJM Secretariat or any Member State on an *ad hoc* basis, establish a sub-group for a specific purpose and within a specified time frame.

According to the EJM Decision, the NCM shall take place on an *ad hoc* basis, at least once a year (Article 6(1) of the EJM Decision). Taking into account the challenges of the EJM and the foreseen role of the NCM, the NCM should be held regularly twice a year (usually in October and March/April) in order to examine the relevant activities of the EJM and prepare the plenary meetings organized in the Member State which holds the Presidency of the Council at the end of the Presidency period.

The NCM should take place on the premises of Eurojust in The Hague and should be prepared and chaired by the national correspondent of the Member State which holds the Presidency of the Council, with the support and close cooperation of the EJM Secretariat (Article 6(1) of the EJM Decision).

Each Member State shall be represented in the NCM by its national correspondent (Article 6(1) of the EJM Decision). The contact point of the European Commission shall also be invited to the NCM (Article 2(7) of the EJM Decision). Travel and accommodation expenses of the national correspondents (one representative per Member State) are reimbursed from the EJM budget. Whether a participation of a second EJM contact point for each Member State (without the possibility of reimbursement of the costs) is also allowed, should be determined on a case-by-case basis by the Member State which holds the

Presidency of the Council. It should be borne in mind that one of the main advantages of the NCM is its format as a small and effective group.

3. Meetings of tool correspondents (Articles 2(4), 4(5), 6(2), 7, 8 of the EJM Decision)

The meetings of tool correspondents shall take place at least once a year (Article 6(2) of the EJM Decision). The tool correspondents meetings should take place on the premises of Eurojust in The Hague and should be prepared and chaired by the tool correspondent of the Member State which holds the Presidency of the Council, with the support and close cooperation of the EJM Secretariat (in particular the EJM webmaster). Tasks of the tool correspondents should *inter alia* include:

- ensuring that the information referred to in Article 7 of the EJM Decision is provided and updated in accordance with Article 8 of the EJM Decision (Article 4(5) of the EJM Decision);
- discussion on the new EJM information tools and further development of the existing EJM information tools;
- discussion on the technical details concerning the EJM website;
- assessment of the state of play of questionnaires distributed within the EJM;
- training issues relating to the handling of the EJM information tools.

IV. Budgetary matters and time frame for the preparation, adoption and execution of the EJM budget

According to the EJM Decision, in order for the European Judicial Network to be able to carry out its tasks, the budget of Eurojust shall contain a specific part related to the activities of the Secretariat of the EJM (Article 11 of the EJM Decision).

In accordance with the Eurojust Decision, the EJM shall be informed on the parts related to the activity of its Secretariat "in due time before the forwarding of the estimate to the Commission" (Article 35 paragraph 1 b).

In order to ensure an effective consultation of the Network and an active involvement of the EJM at an early stage in the process of preparation of the part of the Eurojust budget related to the activity of its Secretariat, the following steps should be taken on an annual basis:

By October:

- the EJM Secretariat presents the initial draft budget of the EJM for two years in advance in the NCM;
- the EJM Secretariat informs about the execution of the budget in the course of the budgetary period for which the budget has been adopted in the NCM;
- after the October NCM, the EJM Secretariat submits to Eurojust College their proposal pre-agreed in the NCM for the forthcoming year;
- the EJM (EJM Presidency and Secretariat) attends Eurojust College plenary to discuss their budget proposal for the forthcoming year.

Subsequently, **the EJM plenary meeting at the end of the calendar year** agrees on:

- the draft of the EJM budget for two years in advance;
- the draft of the EJM budget for the next year in accordance with Eurojust College's approval, and;
- the execution of the budget in the course of the budgetary period for which the budget has been adopted.

An official notification from the College of Eurojust is given to the EJM Secretariat about their adopted budget.

In March:

The European Commission gives feedback to the Eurojust's draft budget for the forthcoming year and consequently to EJM budget (lines).

There may be a short turnout time between receiving feedback from the European Commission and the deadline for submitting the adjusted budget. This may mean that the EJM may be required to execute cuts at short notice. Should these cuts occur, the EJM Secretariat, in cooperation with the Budget and finance unit of Eurojust will redraft an adjusted budget with indications of key items for the execution of EJM activities where cuts are not desirable.

Once the EJM budget is finally approved by the European Commission through Eurojust's budget, the EJM Secretariat will inform the national correspondents accordingly.

At **the March/April NCM** and **the EJM plenary meeting in the middle of the calendar year** the EJM Secretariat informs about the interim execution of the budget in the course of the budgetary period for which the budget has been adopted.

Should the EJM Secretariat consider it necessary to reallocate expenditures between the budget lines within the already approved budget during the course of the budgetary period for which the budget has been adopted, it may do so solely up to a maximum of 1% of the total EJM budget and on condition that the transfer does not lead to the full cancellation of a project for which the financial resources have been allocated. For reallocation of higher sums or reallocation resulting from the full cancellation of a project, approval of the NCM has to be secured before any reallocation is made. Decision on such reallocation shall be adopted by a simple majority of the national correspondents, who may communicate their decision by email.

Where approval has been sought by email, the national correspondents shall have a reaction period, according to the EJM budget cycle constraints, in which they assess on such reallocation. After this time-limit, reallocation shall be deemed to have been approved if majority of the national correspondents has agreed or remained silent.

ANNEX 4 EJN Work Programmes – Budget 2011 and 2012

EJN SECRETARIAT WORK PROGRAMME FOR 2011 – BUDGET UPDATE	
ACTIONS & ASSOCIATED ACTIVITIES	BUDGET
Objective 1: Organisation of EJN meetings	
1.1. Providing support for the organisation of Presidency meetings (2)	100,000
1.2. Organisation of the 32 nd Regular meeting of the EJN CP's	30,000
- Providing translation and interpretation in English and French to the Regular meeting	3,000
1.3. Organisation of the 3 rd National Correspondents Meetings	20,000
1.4. Organisation of the 10 th Tools Correspondents meetings	20,000
1.5. Providing support for the organisation of regional meetings	15,000
1.7. Organisation of Trio Meetings/ Task Force	4,000
Objective 2: To ensure the proper functioning of the EJN website	
2.1. Maintenance of the website	68,000
Objective 3: Improvement of the EJN information platform	
3.1. General enhancement of the EJN website	90,000
3.2. Activities to be decided in the EJN Tools Correspondent meeting	55,000
Objective 4: Functioning of the EJN contact points	
4.1. Supporting language training of the EJN Contact Points	30,000
Objective 5: To increase awareness of the EJN among practitioners	
5.1. Activities in different MS to increase awareness of the EJN among practitioners	15,000
5.2. Providing support for the organisation of meetings of the EJN Contact Points	15,000
Objective 6: To foster a more effective collaboration with other partners	
5.3 & 6.1 Missions	30,000
5.4 & 6.2 Organisation of meetings with actors of judicial cooperation	20,000
Objective 7: To ensure the proper functioning of the EJN Secretariat	
7.1 General	7,000
GRAND TOTAL	522,000

EJN SECRETARIAT WORK PROGRAMME FOR 2012 – BUDGET FORECAST	
ACTIONS & ASSOCIATED ACTIVITIES	BUDGET
Objective 1: Organisation of EJN meetings	
1.1. Providing support for the organisation of Presidency meetings (2)	100,000
1.2. Organisation of the 33 rd Regular meeting of the EJN CP's	30,000
- Providing translation and interpretation in English and French to the Regular meeting	3,000
1.3. Organisation of the 4 th National Correspondents Meetings	22,000
1.4. Organisation of the 11 th Tools Correspondents meetings	22,000
1.5. Providing support for the organisation of regional meetings	20,000
1.6. Organisation of Trio Meetings	4,000
Objective 2: To ensure the proper functioning of the EJN website	
2.1. Maintenance of the website	39,000
Objective 3: Improvement of the EJN information platform	
3.1. General enhancement of the EJN website	104,000
3.2. Activities to be decided in the EJN Tools Correspondent meeting	60,000
Objective 4: Functioning of the EJN Contact Points	
4.1 Supporting language training of the EJN Contact Points	30,000
Objective 5: To increase awareness of the EJN among practitioners	
5.1 Activities in different MS to increase awareness of the EJN among practitioners	20,000
5.2 Providing support for the organisation of meeting of the EJN Contact Points	18,000
Objective 6: To foster a more effective collaboration with other partners	
5.3 & 6.1 Missions	35,000
5.4 & 6.2 Organisation of meetings with actors of judicial cooperation	20,000
Objective 7: To ensure the proper functioning of the EJN Secretariat	
7.1 General	7,000
GRAND TOTAL	534,000