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To: Delegations

Subject: Joint Paper "Assistance in International Cooperation in Criminal Matters for Practitioners" by the European Judicial Network and Eurojust

Delegations will find attached document a Joint Paper Assistance in International Cooperation in Criminal Matters for Practitioners European Judicial Network and Eurojust.

Joint Paper

Assistance in International Cooperation in Criminal Matters for Practitioners

European Judicial Network and Eurojust

What can we do for you?



Introduction

This paper informs judicial practitioners in the Member States of the services and assistance in international cooperation in criminal matters that can be provided by the European Judicial Network (EJN) and Eurojust.

The objective of this paper is to assist practitioners in deciding whether cases should be dealt with by the EJN or Eurojust. It also ensures that both the EJN and Eurojust will deal with cases falling within their mandates, by using time and resources efficiently and effectively and preventing duplication of work.

I. What is the European Judicial Network?

The EJN is a network of more than 350 Contact Points in the 28 Member States who assist in the facilitation of international judicial cooperation in criminal matters.

The Contact Points are prosecutors, judges or other officials who deal with matters related to international cooperation on a daily basis. The Contact Points are designated by each Member State from central authorities or judicial or other authorities carrying out international cooperation, both in general and for certain forms of serious crime, such as organised crime, corruption, drug trafficking and terrorism.

The EJN has also established close relationships with other judicial networks and through contact points in various third States. The EJN Contact Points can therefore assist in cases around the world.

The EJN Secretariat, located in The Hague, is the administrative unit of the EJN. To ensure close interaction between Eurojust and the EJN, the Secretariat forms part of Eurojust's staff, but functions as a separate unit. The EJN Secretariat is responsible, *inter alia*, for providing support to the Contact Points in fulfilling their tasks, for setting up, maintaining and improving the EJN website and its operational e-tools, and for the overall administration of the EJN.

You can find more detailed information about the EJN Secretariat at http://www.ejn-crimjust.europa.eu/ejn/EJN_Secretariat.aspx, or by contacting the EJN Secretariat at ejn@eurojust.europa.eu.

The EJN website

The EJN website, www.ejn-crimjust.europa.eu, has been created to support practitioners dealing with international judicial cooperation. Here you can find general information about judicial cooperation in the EU Member States, EU candidate countries and EJN associated countries. You can also make use of the EJN electronic tools for judicial cooperation; see below under 'To facilitate judicial cooperation'. In addition, the EJN website has a section dedicated to cooperation with third States and other judicial networks. The EJN Contact Points have access to numerous contacts outside of the European Union. See <https://www.ejnforum.eu/cp/network-atlas>.

The main sections of the EJN website are translated into the EU's official languages. Should you be unable to find the information you require, you can always ask an EJN Contact Point in your Member State for assistance.

What can the EJM do for you?

If you need assistance from the EJM, you may contact one of the Contact Points in your country or a Contact Point in the country involved in the case. The list of EJM Contact Points on the EJM website is password protected, but is accessible to the EJM Contact Points of your own Member State. Therefore, should you require assistance in making contacts with the EJM in another Member State, the best method of doing so is to address one of the EJM Contact Points in your country.

The EJM should be used in the following situations:

- ***Facilitate judicial cooperation***

If you need information on how to receive assistance from another Member State in a specific case, you can address the Contact Points in your Member State or use the relevant sections of the EJM website:

- ✓ *when drafting a request for judicial cooperation¹ (European Investigation Order (EIO) or mutual legal assistance request (MLA), European Arrest Warrant (EAW), freezing order, etc.):*
 - to identify the competent executing authority abroad so that you can establish contact and send the request directly to this authority. The Judicial Atlas on the EJM website is the tool to be used to identify the competent executing authority and to obtain the address, e-mail address and telephone/fax number;
 - to obtain more detailed information on the legal requirements laid down by the law of the requested Member State or to discuss special formalities for the execution of the request. The Fiches belges tool on the EJM website contains concise legal and practical information on all relevant judicial cooperation instruments. The Compendium tool offers the possibility to electronically create a request; and
 - to obtain legal and practical information on the EU legal instrument you want to use, e.g. to what extent the instrument has been implemented in the Member States (Status of Implementation), declarations, notifications, handbooks, reports, etc. The Judicial Library on the EJM website has a section for each legal instrument with this type of information;
- ✓ *in the execution phase of a request for judicial cooperation, to exchange supplementary information for the proper execution of the request;*
- ✓ *in the event of a delay or lack of execution of a request for judicial cooperation, to check the state of execution in the requested Member State and/or speed up the execution through the intervention of an EJM Contact Point; and*
- ✓ *when you urgently require information regarding a request for judicial cooperation with a very short deadline.*

¹ In this paper, 'Request for judicial cooperation' is used both for traditional requests for MLA and for decisions based on the principle of mutual recognition, such as the EAW and the EIO.

- ***Facilitate the exchange of information between judicial authorities***

As active prosecutors and judges, the EJM Contact Points are often able to share information regarding ongoing investigations or proceedings and their outcomes, detained persons, periods of detention and judicial decisions in specific cases quickly and informally. This type of information exchange can sometimes avoid the necessity of sending a formal request.

If you require such information during your own investigation or proceedings, especially in urgent situations, and your legislation permits such inquiry, get in touch with an EJM Contact Point, indicate why you need this information and provide a short description of your own investigation or proceedings. Inform the EJM Contact Point that you are making contact in his or her capacity as EJM Contact Point.

II. What is Eurojust?

Eurojust is the European Union's Judicial Cooperation Unit established in 2002 to support and strengthen coordination and cooperation between national investigating and prosecuting authorities when they deal with serious cross-border crime, especially if organised, such as fraud, drug trafficking, organised property crime, trafficking in human beings and terrorism.

Eurojust is based in The Hague. It consists mainly of colleague prosecutors seconded from each Member State, organised in 'National Desks' and supported by administrative staff. Eurojust also hosts liaison prosecutors from Norway, the USA, Switzerland and Montenegro.

Eurojust supports investigating and prosecuting authorities in their cases operationally (for example by organising coordination meetings and/or coordination centres), and by sharing expertise and lessons learned from cases it supports (e.g. the *Guidelines for deciding which jurisdiction should prosecute?*

<http://www.eurojust.europa.eu/Practitioners/operational/Pages/Guidelines-on-jurisdiction.aspx>,

and the report on *Prosecuting THB for the purpose of labour exploitation*,

http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/Casework/Report%20on%20prosecuting%20THB%20for%20the%20purpose%20of%20labour%20exploitation%20%28Dec.%202015%29/2015-12_Report-on-prosecuting-THB-labour-exploitation_EN.pdf.

What can Eurojust do for you?

If you require Eurojust's assistance, you should contact your National Desk at Eurojust. Please consult Eurojust's website for further information:

<http://eurojust.europa.eu/Practitioners/Pages/contact-info-for-practitioners.aspx>

Eurojust should be used in the following situations:

- ***Coordinate investigations or prosecutions***

Eurojust can assist by exchanging relevant case information when investigations in two or more Member States need to be coordinated. Eurojust also helps to determine if Member States should continue with separate investigations or if they should concentrate investigations and proceedings in one or more Member States.

In addition, Eurojust assists in discussions and agreements between involved national authorities on how, when or where to perform a joint action or to prosecute.

- ***Organise and support coordination meetings and coordination centres***

Eurojust can arrange coordination meetings in The Hague between competent national authorities from different Member States and third States. Coordination meetings may sometimes include representatives from Europol and OLAF.

Coordination meetings allow practitioners to exchange information on linked investigations and plan joint actions in a more effective and efficient way. If appropriate, Eurojust can provide simultaneous interpretation. Coordination meetings are also very useful to prevent possible conflicts of jurisdiction or execute certain measures in a coordinated fashion.

Eurojust covers the costs of accommodation in The Hague and travel expenses for two participants from each participating State.

Eurojust also organises coordination centres, the objective of which is to support and coordinate joint actions (often agreed during coordination meetings) to be carried out simultaneously in different Member States and third States. Coordination centres ensure a real-time transmission and coordination of information between competent authorities during an action day, for example if simultaneous house searches need to be carried out in different countries. Coordination centres also allow the resolution of possible issues arising during the execution of EAWs and facilitate additional searches and seizures.

- ***Help prevent or resolve conflicts of jurisdiction***

In situations in which more than one Member State has jurisdiction, Eurojust can, to prevent or resolve conflicts of jurisdiction, be consulted for a non-binding opinion on which Member State is in a better position to undertake an investigation or prosecute the case.

- ***Facilitate and support joint investigation teams***

Eurojust can assist in and facilitate the setting up, functioning and evaluation of joint investigation teams (JITs). Eurojust can identify suitable cases for establishing JITs, can provide useful legal and practical information, e.g. on national laws, practical obstacles and best practice, and can provide assistance in the drafting of JIT agreements and operational action plans. If considered helpful, Eurojust National Members can also participate in JITs.

Eurojust can also assist by reimbursing the costs of two common areas of expenditures in JITs: travel and accommodation, and interpretation and translation. In addition, Eurojust lends equipment for use in the context of JITs, such as mobile telephones (including costs), and laptops.

For more information, see <http://www.eurojust.europa.eu/Practitioners/JITs/Eurojust-JITsFunding/Pages/Eurojust-JITs-funding.aspx>.

- ***Coordinate and facilitate requests for judicial cooperation to and from third States***

If you need support to contact a national authority in a third State, you can contact your National Desk at Eurojust to supply you with the details of Eurojust Contact Points in more than forty States worldwide.

Currently, Eurojust also has cooperation agreements in place with Norway, the USA, Iceland, Switzerland, the former Yugoslav Republic of Macedonia, Liechtenstein, Moldova, Montenegro and Ukraine. Such agreements may also include the exchange of operational information, including personal data.

More information is available here: <http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/Pages/agreements-concluded-by-eurojust.aspx>.

- ***Facilitate judicial cooperation***

In complex matters, urgent cases or in situations in which other cooperation channels do not appear appropriate or likely to produce results within the necessary timeframe, colleagues from the National Desks can support you.

For example, they can:

- assist in obtaining information on the status of a request for judicial cooperation, e.g. if direct contact between national authorities or other communication channels have not been successful;
- provide assistance in cases in which requests for judicial cooperation are to be executed urgently. Please note that other channels are open for the exchange of police information and for intelligence purposes;
- support practitioners by examining draft letters of request or draft EIOs, for example by indicating the type of information that should be included so that the request can be executed speedily in the requested jurisdiction ('quality check'); and
- inform the national authorities of relevant pending cases in other Member States, provided that such information has been communicated to Eurojust.

- **Eurojust National Coordination System (ENCS)**

The ENCS ensures coordination at national level of the work carried out by various actors in the field of judicial cooperation in criminal matters, such as: the national correspondents for Eurojust, the national correspondents for Eurojust for terrorism matters, the EJM national correspondents and up to three EJM contact points, and contact points for the JTs and Genocide Networks. The ENCS also facilitates the carrying out of the tasks of Eurojust within the Member State concerned. The ENCS should also assist in determining whether a case should require the assistance of Eurojust or the EJM.

For more information, please see: <http://www.eurojust.europa.eu/Practitioners/objectives-tools/Pages/eurojust-national-coordination-system.aspx>.

III. Conclusion

Direct contacts between the authorities of the Member States in cross-border cooperation are crucial. Should you need assistance, the EJM and Eurojust can provide support. As both bodies are in close contact, your request will be dealt with by the most suitable actor.
