

# REPORT ON THE OPERATION AND MANAGEMENT OF THE EUROPEAN JUDICIAL NETWORK

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



Reporting  
period:  
2011/ 2012

# Report on the Operation and Management of the European Judicial Network

2011 – 2012

EJN Secretariat

2013

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## List of abbreviations

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## Preface

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# Part I

## Overview of the main achievements of the EJNI

## We have come a long way

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

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

EJN's mission is to facilitate judicial co-operation in criminal matters within the European Union, through a decentralized and horizontal Network of contact points, experts in judicial co-operation in criminal matters appointed by each Member State among judges and prosecutors and representatives of the central authorities. The 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 is a result of raised awareness and wider recognition of its added value among the judicial practitioners.

EJN was created by the Joint Action 98/428/JHA of 29 June 1998<sup>1</sup>, taking into account the conclusions of the seminars on the EJN and organized 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 making also 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 Network<sup>2</sup> ("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 crime<sup>3</sup> ("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 EU Member States through its EJN contact points over the last almost 15 years. Judicial cooperation in criminal matters is based on the principle of mutual recognition of judgments and judicial decisions by EU Member States. It was introduced by the Maastricht Treaty under Title V (provisions on a common foreign and security policy)<sup>4</sup> and in October 1999, it was asserted as a cornerstone of judicial cooperation at the Tampere European Council<sup>5</sup>. As oppose to the

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<sup>1</sup> OJ L 191, 07/07/1998 p. 0004 – 0007.

<sup>2</sup> OJ L 348, 24.12.2008, p. 130–134.

<sup>3</sup> OJ L 138, 4.6.2009, p. 14–32.

<sup>4</sup> OJ C 191 of 29.7.1992.

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



classical form of judicial cooperation, the mutual legal assistance (MLA), where a judicial authority sends a letter of request ("letter rogatory") to a foreign judicial authority to perform an action in its territory, mutual recognition is a whole different philosophy and a different way of thinking of judicial cooperation. It means that each national judicial authority should recognize requests made by the judicial authority of another EU Member State with a minimum of formalities.

Previously, even before mutual recognition became a reality, a significant landmark in judicial cooperation had been introduced – principle of direct contact. It came into force for the very first time in 1990 in Schengen Implementation Convention<sup>6</sup>. The 2000 EU MLA Convention<sup>7</sup> 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 EJN is the first practical structured mechanism of judicial co-operation that contributes to the practical implementation of the EU legislation regarding judicial cooperation in criminal matters that has become truly operational. It is a pioneer in interlinking judicial authorities to facilitate judicial co-operation. The work of the EJN 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 mutual legal assistance within the EU. EJN has therefore active contribution to the development of a genuine area of freedom, security and justice all across the EU.

The work of the Network is supported by its highly valuable electronic tools, available on the EJN website at <http://www.ejn-crimjust.europa.eu>. Thus, apart from facilitation the judicial cooperation through providing a platform for direct contact, the EJN has the tools that contribute to the practical application of the EU legislation. The EJN tools such as 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 the practitioners on daily basis not only within the EU but also in EU neighbouring areas of the EU as well as in several third countries.

By the end of 2012, EJN website provides access to a new tool – Library. The EJN Secretariat, as managerial body the EJN and therefore with a visionary role, identifying new areas where the EJN may be involved in as well as developing its website, took an initiative to restructure and to redesign the website. Along with this task, an idea of a comprehensive Library for the practitioners was born. 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 2010<sup>8</sup>,

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<sup>6</sup> 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, p. 19-62.

<sup>7</sup> 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.

<sup>8</sup> 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 EJN 35 EUROJUST 86.

gave further effect to this initiative. This 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. Other than the text of each legal instrument, EJM Library includes wide variety of relevant documents: notifications/ statements/ 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. 2011 and 2012 is therefore characterized by a throughout redesign of the website together with the implementation of the Council Conclusions.

Library for legal and practical tools of judicial cooperation is now in place and continuously being updated due to legal changes at national and EU level but the work on the EJM website is not completed. The “redesign” does not only imply to the design as such but to the entire revamp of 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 thus a comprehensive tool for judicial cooperation. Although new Atlas is yet to come, by the end of 2012 major steps have been taken in technical and judicial development of it.

Apart from increased efficiency of the EJM in EU and further development of the EJM website, 2011 and 2012 saw an enhancement of external relations of the EJM. Deepening collaboration with other parts of the world is only natural; in particular in the light of globalization and development of the digital world, changing times demand stronger action of the established judicial Networks in criminal matters. Globalization brings along also globalization of crime; however, the “legal borders” imposed to judicial authorities by the legal instruments on international cooperation in criminal matters, have remained mostly the same at the global level. To tackle this 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, a decentralized, flexible and horizontal structure; and informal method of working has proved to be efficient. The key of good cooperation between EJM and other judicial Networks lies in inherent ties between EJM and other Networks, based on their identity, objectives, structure and mode of function that have existed since those Networks were created.

EJM has developed a working methodology based on mutual trust, effective collaboration and on eliminating unnecessary bureaucracy through informal and transparent methods of working, 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 Office against Drugs and Crime (UNODC) has also taken actions to support creation of the Networks; this was endorsed by the Twelfth UN Congress on Crime Prevention and Criminal Justice, San Salvador, Brazil, on the 12th – 19th of April 2010.

Consequently, collaboration between the judicial Networks that was initially triggered by operational need – 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 EJM in close consultation and coordination with the contact points of the Member State holding the Presidency of the Justice and Home Affairs (JHA) of the EU Council, has recently shifted the priority of its external actions towards activities aimed at supporting creation of judicial cooperation Networks in criminal matters in different regions across the world and their functioning, and towards facilitating interconnection of the Networks, as well as cooperation with 3<sup>rd</sup> countries in regional context; voicing the operational work and trust that had been established by EJM Contact points over the years. Near future will most likely bring some significant changes in this respect.

# Part II

## Assessment on the EJM activities from 2011 to 2012

## Chapter 1: Overview

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The EJM is a Network composed of contact points, a community of judges, prosecutors, representatives of the Ministries of Justice, strongly committed to put their experience in the benefit of the European judicial cooperation in criminal matters. Apart from their daily job as judges, prosecutors or officials of the ministries of justice, the EJM contact points perform a valuable work in facilitating judicial co-operation in criminal matters, in a decentralized and flexible way. The contact points provide legal and practical information to competent local authorities including through the EJM website, provide support with requests for judicial cooperation; and cooperate with other judicial Networks, their colleagues in third countries and with other judicial partners. In addition, the National Correspondent in each Member State is responsible for the internal functioning of the Network and the Tool Correspondent is in charge of providing and updating the information about their MS in the e-tools.

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

This is why the EJM contact points are also valued as judicial trainers all across the EU and are regularly asked for advice, being one of the best as experts in the field of international co-operation 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. EJM itself, too, promotes the organization of training sessions and active participation by legal practitioners in these.

It is therefore easy to see, why and how it is the EJM people who make a difference in judicial cooperation through their additional task as an EJM contact point in addition to their daily job. They are determined to achieve a common goal of EU in 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. This is how the EJM contact points are responsible by large part for the creation of the judicial culture of Europe and further.

Throughout 2011 and 2012, the EJM has continued its growth in efficiency rather than in numbers. Similarly to the previous reporting period, there are almost 400 contact points in total all across the EU, the associated and candidate states. The summaries of the EJM contact points reconfirm the active role of the EJM contact points in their roles of 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

around 1300 requests, from less than 14 000 requests to a little over 15 000 requests. These are big numbers caused most likely not only by the increased efficiency but also by 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 higher than ever, which also seems to talk about the high value regarding the help provided by the contact points to their colleagues in other Member States and abroad.

Under the Hungarian, Polish, Danish and Cypriot 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, Tool Correspondents Meetings. Also, translation of the website and technical development of the judicial Atlas and enhanced cooperation with partners were among the continuous activities. To maintain the quality of the EJM meetings during the times of tight budget and to the most optimized budget execution, the EJM Secretariat, in line with the budgetary principle of sound financial management, namely in accordance with the principles of economy, efficiency and effectiveness, initiated an increase in financial contribution as regards the organization of the EJM plenary meetings. In 2011 it was approved that 80% of the eligible direct costs as oppose to previous 50% is now covered by the EJM Secretariat’s budget.

Cooperation with EU institutions, European Commission and the Council of Europe has continued, as such cooperation is only natural due to the close links and common aim in creating the judicial culture. Among EJM partners is also Eurojust, the cooperation with the latter is provided for in “Eurojust Decision”. The strengthening of the 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.

For all these reasons the importance of the Network cannot be underestimated. The overall figures illustrate that the Network has been an irreplaceable tool for judges, prosecutors and officials of judicial authorities to help to solve numerous cases over the past two years. The practical value of the Network 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 central authorities of neither Member State. The added value of the EJM thus cannot therefore be denied and makes EJM a leading actor in the field of international judicial co-operation in criminal matters.

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

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### 1. Gathering the data and methodology

The National Correspondents of each Member State provide the EJM Secretariat with annual detailed reports on the activities of the contact points. This step is taken with the purpose of having a better understanding of the functions of the Network and its strengths and weaknesses. During the German 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<sup>th</sup> February following the calendar year that is being reviewed. The input of the National Correspondents to the reports on the operation of the European Judicial Network is submitted in accordance with Article 13 of the EJM Decision.

The final output will be submitting the report to the European Parliament, the Council and the Commission, which stresses on the activities and the management of the EJM, as stipulated in the abovementioned provision.

The graphs, which are presented in the report illustrate the activities of the EU contact points within the EU, with regard to the type of intervention, scope of activity and other relevant information of the respective instruments. In addition to the activities in the EU Member States, EJM contact points actively collaborate with EU associate states and candidate states as well as with other parts of the world. Many contact points have reflected this in their replies and have done so in other occasions such as at EJM meetings. Based on further development of the EJM activities outside of the borders of the EU, the EU-third countries/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 among the judges, prosecutors and officials of the Ministries of Justice, with relevant experience in the field of international judicial co-operation. As described in previous chapter, alongside their activities within the courts, Prosecutor’s Offices or central authorities, they are exercising their role of contact points. This role consists of providing the judicial authorities in other Member States or their own with information regarding the specific judicial co-operation procedures, e.g. practical information on authorities, which have the competence to deal with specific requests, as well as accurate legal information. Another task undertaken by contact points is to spread their knowledge regarding new legal instruments on judicial co-operation among the competent judicial authorities in their Member State and to facilitate the training of judges and prosecutors on these matters. Therefore, it is not always easy to quantify precisely the work done by the appointed contact points, since there should be a distinction between their work carried

out within the EJM and the one as prosecutors, judges or officials of a Ministry of Justice who is highly experienced in international judicial cooperation. This may result in different systems of calculating the data between Member States.

Secondly, very often the nature of the assistance means that it is difficult to measure the assistance provided, 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 realized via phone conversations and e-mails, which are particularly difficult to keep track of. 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 relatively rough. This 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 loosely be correlated – i.e. a relatively high number of contact points in a Member State does not necessarily imply a high number of requests in the graphs and vice versa. On the other hand, in some Member States a relatively low overall number of contact points may seem to have made a relatively high 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 over 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 came across with some points, which were not envisaged in the model of the summaries of the activities. As a result, in the 33<sup>rd</sup> 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, which facilitate the work of the National Correspondents and also extend the scope of the EJM into several more instruments. From then on, the activity reports include all mutual recognition instruments, as oppose to the previous forms where only the data regarding two instruments, European Arrest Warrants and Freezing Orders, was asked. 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, agreements, where a (requested) judicial authority, either a court or a Prosecutor’s 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 pro-active cooperation between two Member States, the terms “national” and “foreign” authority refer to the “issuing” and “executing” judicial authority, as provided for in the legal acts.

As mentioned, the activity reports submitted by the National Correspondents include different types of interventions, related both to MLA and mutual recognition instruments. They were asked to fill out the forms provided by the 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 33<sup>rd</sup> Regular Meeting of the EJM in February 2012, Member States are asked for their activity regarding the majority of the mutual recognition instruments, as oppose to previous report where the precision on the type of intervention was less detailed. The data is referring to the number of requests provided by “national” or “foreign authorities” for the period 2011-2012.

The statistics are distributed to the following types of interventions within the forms:

- Providing information on foreign or national law
- Provide 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
- Provide assistance during the execution of a freezing order
- Provide assistance during the preparation of the issuing of a financial penalties certificate
- Provide assistance during the execution of a financial penalties certificate
- Provide assistance during the preparation of the issuing of a confiscation order
- Provide assistance during the execution of a confiscation order
- Provide assistance during the preparation of the issuing of a custodial sentences certificate (FD 909/JHA)
- Provide assistance during the execution of a custodial sentences certificate (FD 909/JHA)
- Provide assistance in other judicial cooperation procedures

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

In the second part of the report, *i.e.* the scope of activity is touched upon. The scope of activity has been divided into two parts:

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

In the third part of the report, *i.e.* type of requesting authority, additional details were asked regarding the judicial authority, which requests the 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 and enables an overview of the functioning of the EJM by type of intervention and to draw overall conclusions on the activities and performance of the Network.

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

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

#### 3.1. Summary of the activities

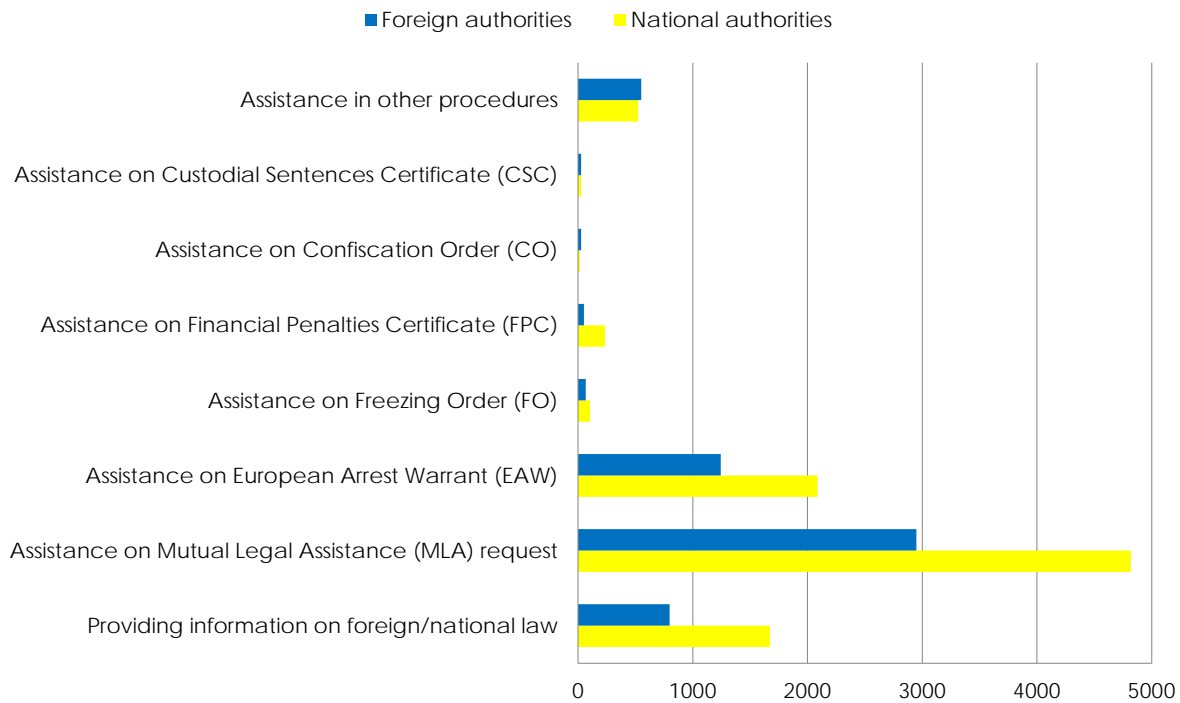
The figures reflecting the contact points' activities over the period 2011-2012 regarding interventions and requests were as follows:

- ❖ Providing information on foreign or national law: at least **2 470 requests**, including 1673 requests from national authorities and 797 requests from foreign authorities;
- ❖ Providing assistance during the preparation, execution and in cases of delay of an MLA: at least **7 765 requests**, including 4817 requests from national authorities and 2948 requests from foreign authorities;
- ❖ Providing assistance during the preparation and execution of an EAW: at least **3 330 requests**, including 2086 requests from national authorities and 1244 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 the execution of a custodial sentences certificate: at least **52 requests**, including 26 requests equally from national and foreign authorities;
- ❖ Provide 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 reception of at least **15 196 requests**. This number proves an increasing efficiency of the Network, taking into account the fact that the total amount of requests for the period 2009-2010 was 13 879. When it comes to the efficiency, the EJM proves to be a fast growing Network within the area of judicial cooperation in criminal matters, which has an increasing influence and involvement as a key cooperation actor for practitioners in the EU Member States. The EJM Secretariat provides proper and highly efficient administration and management of the Network with a budget of EUR 522 000 in 2011 and 534 000 in 2012, distributed for the activities of the Network, as well as the management of the website.

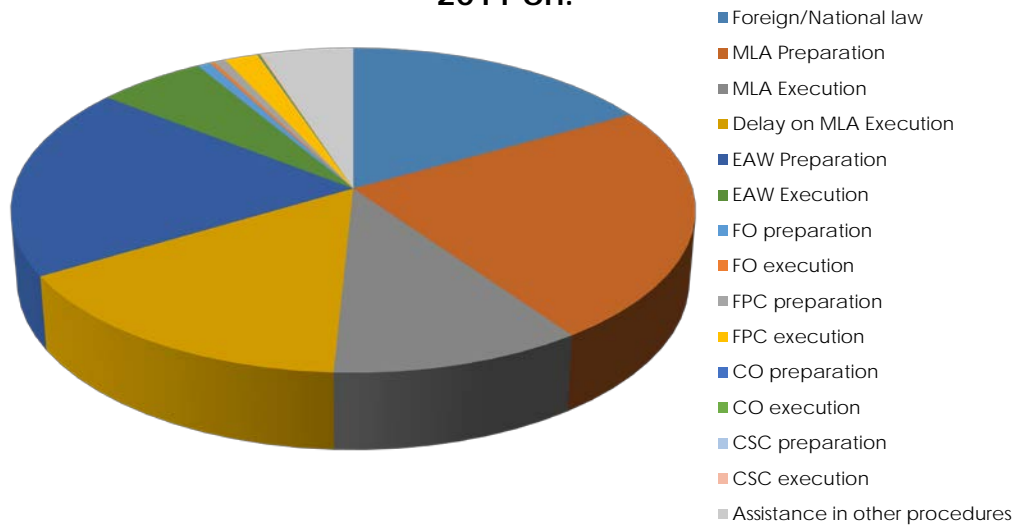
## Activities of the EJM 2011-2012



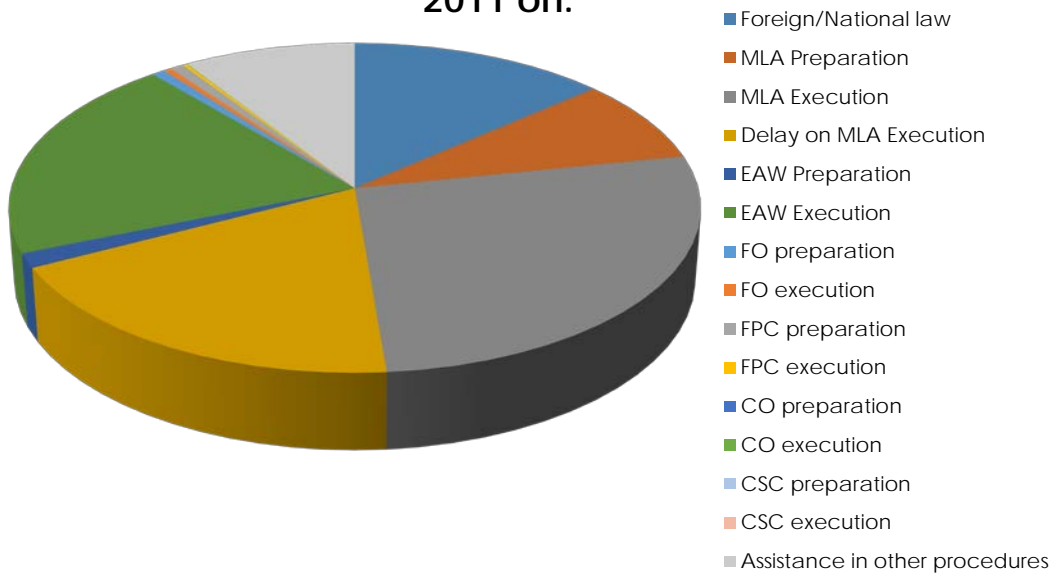
Graph 1.: Activities of the EJM in the period 2011-2012.

The graphs that are provided for 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 in order to reflect more accurately the functions and the work of the contact points.

### Requests of Information by National Authorities in 2011 on:

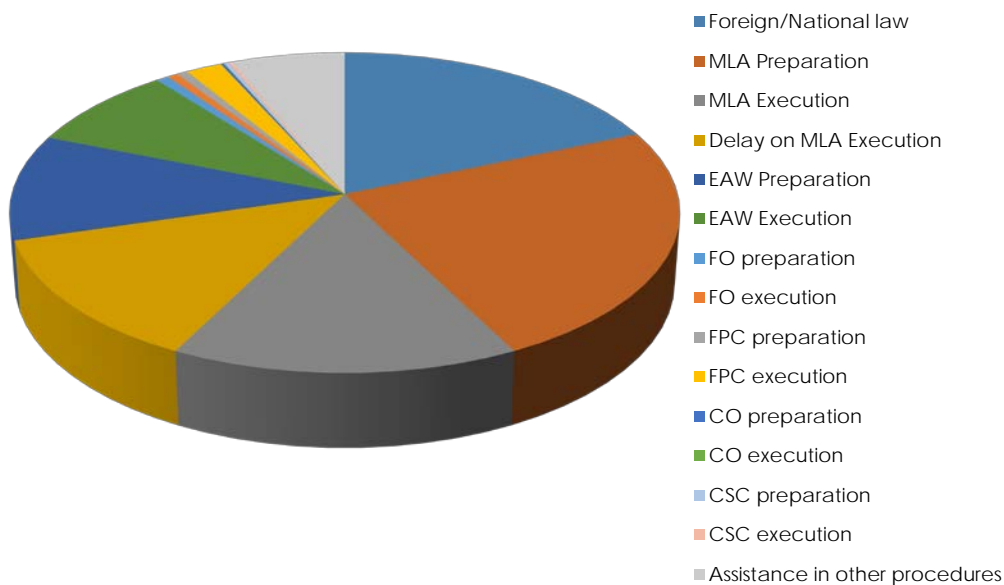


### Requests of information by Foreign Authorities in 2011 on:

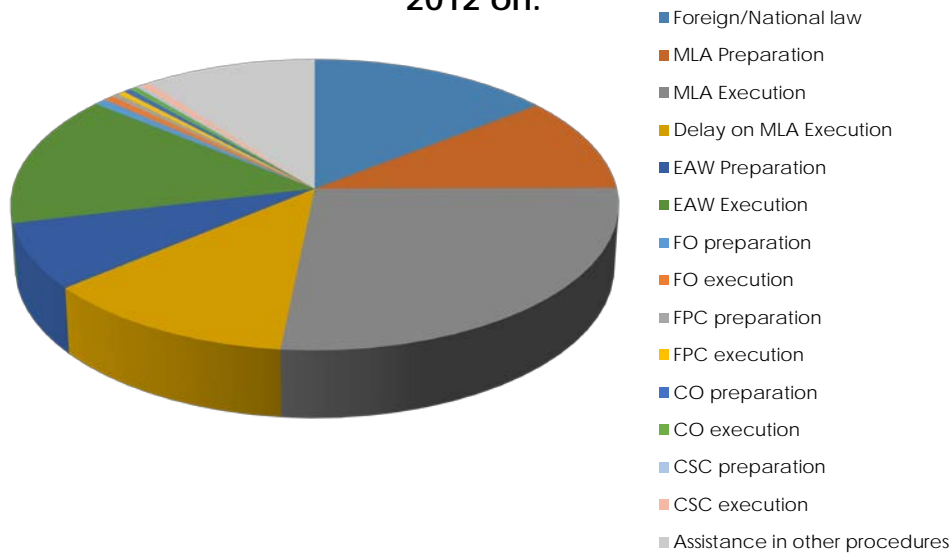


Graphs 2 and 3.: Requests for information by national and foreign authorities in 2011. Those include assistance on: foreign/national law, MLA preparation and execution, delay on MLA execution, EAW preparation and execution, freezing order (FO) preparation and execution, financial penalties certificate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

### Requests of information by National Authorities in 2012 on:



### Requests of information by Foreign Authorities in 2012 on:



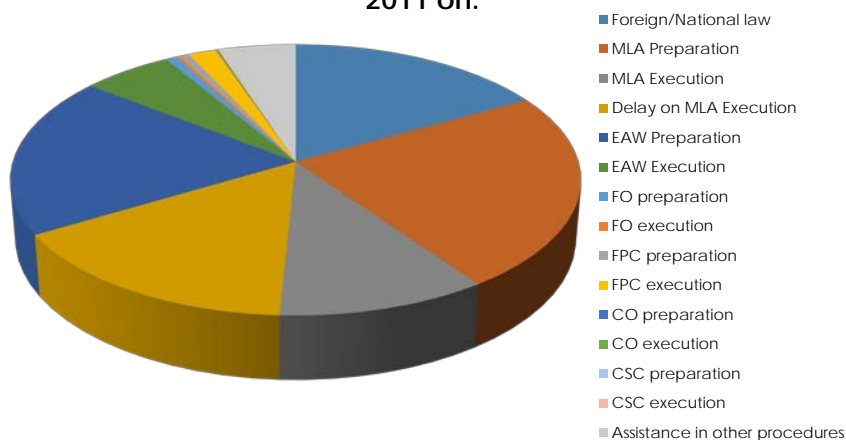
Graphs 4 and 5.: Requests for information by national and foreign authorities in 2012.

On the basis of the statistics provided by the contact points in their activity reports, detailed graphs have been produced, which present the types of interventions and the corresponding number of requests for assistance. 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, there appear those that have been marked with 0. When it comes to the statistics from United Kingdom, data has been provided from only by Scottish judicial authorities and concern Scotland. Some countries, such as Ireland and Cyprus did not complete the form.

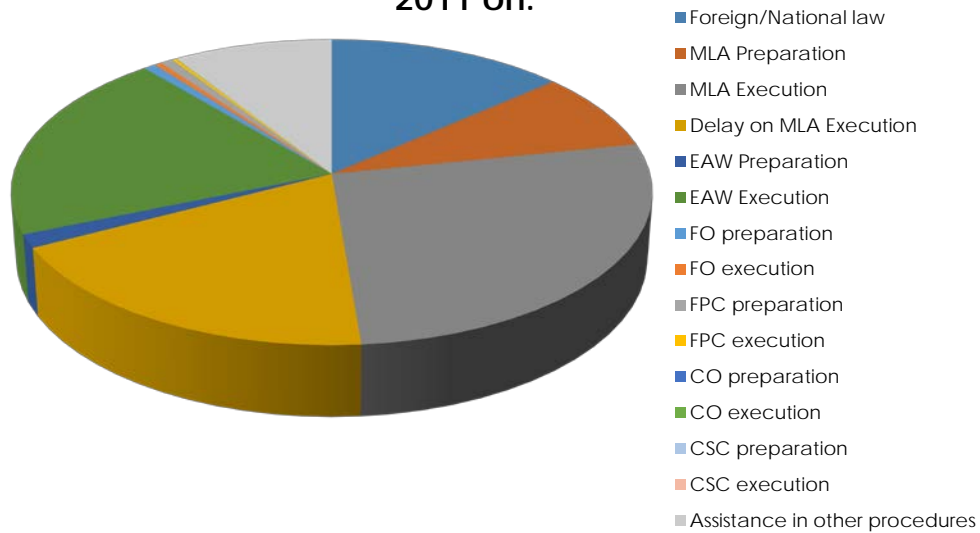
### 3.2. Type of intervention

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 in order to reflect more accurately the functions and the work of the contact points.

### Requests of Information by National Authorities in 2011 on:

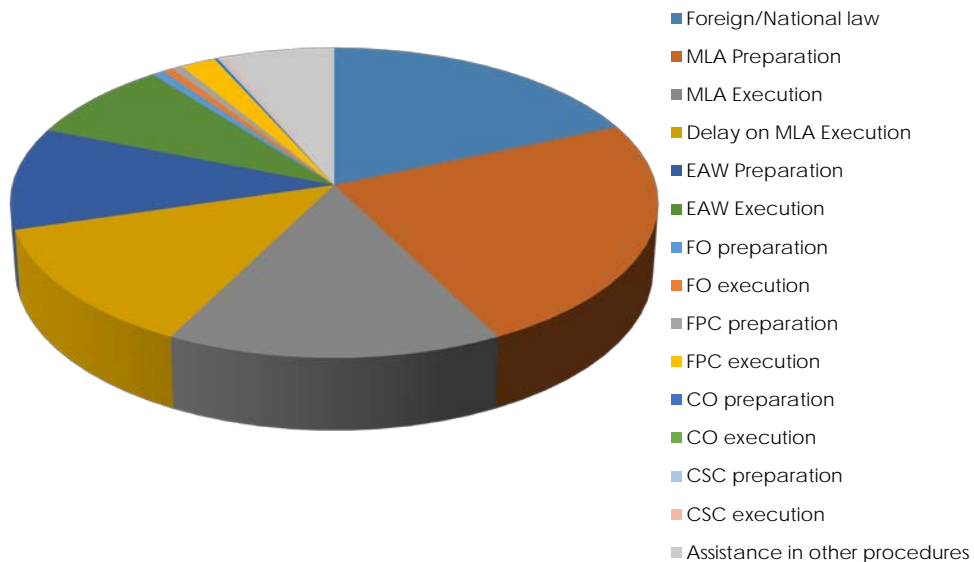


### Requests of information by Foreign Authorities in 2011 on:

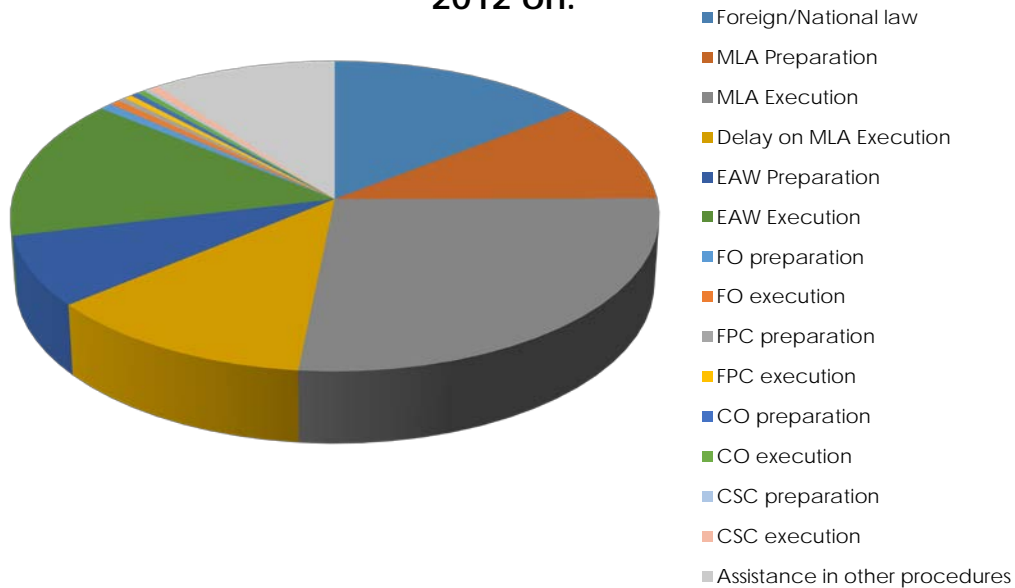


Graphs 2 and 3.: Requests for information by national and foreign authorities in 2011. Those include assistance on: foreign/national law, MLA preparation and execution, delay on MLA execution, EAW preparation and execution, freezing order (FO) preparation and execution, financial penalties certificate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

### Requests of information by National Authorities in 2012 on:



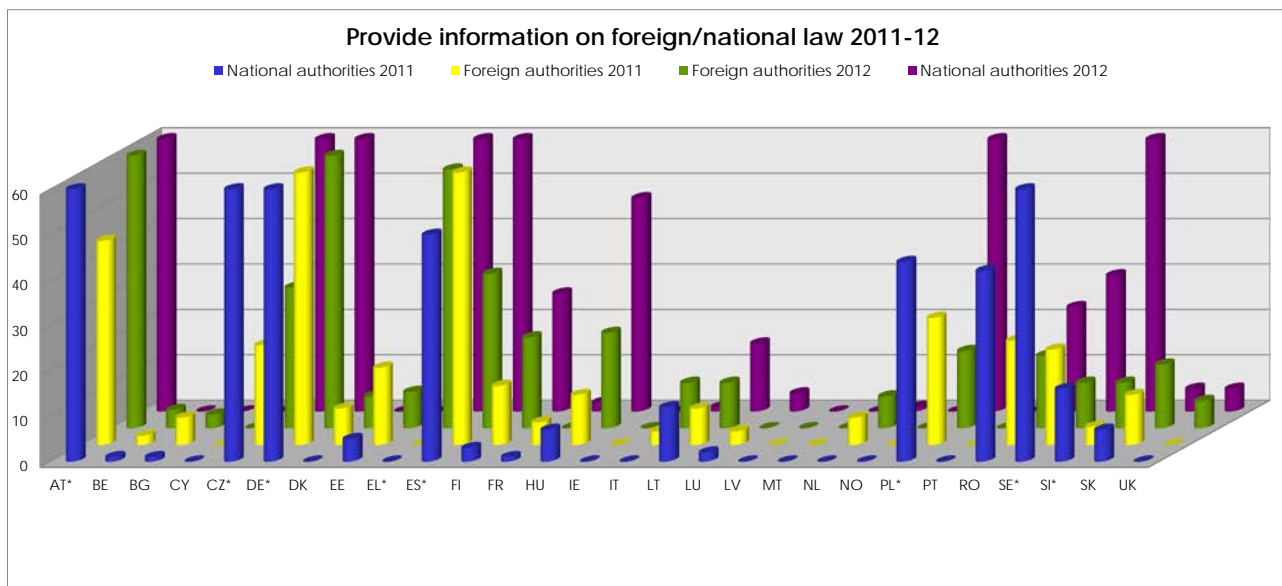
### Requests of information by Foreign Authorities in 2012 on:



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 to judicial cooperation in criminal matters, requested via different means, e.g. by phone, email, regular mail or in person. It is difficult to track such requests, not only due to the nature of the request but also to the impossibility to distinguish between the activities of the contact points and their routine case-work. The figures on 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 60 requests max. In 2011, Austria actually 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, both from national authorities. In 2011, Germany had 136 requests from national and 72 requests from foreign authorities. The following year – 137 from national and 69 from foreign authorities. In 2012, Greece actually had 82 requests from national authorities. In 2011, Spain had 64 requests from foreign authorities, while in 2011 the country had 63 requests from national authorities. In 2012, Poland had 89 requests from national authorities. Sweden and Slovenia had respectively 65 and 104 requests from national authorities in 2011 and 2012.

### 3.2.2. ASSISTANCE DURING THE PREPARATION, EXECUTION AND DELAYS OF 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 States<sup>9</sup>; 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 Union<sup>10</sup>; 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 documents<sup>11</sup>.

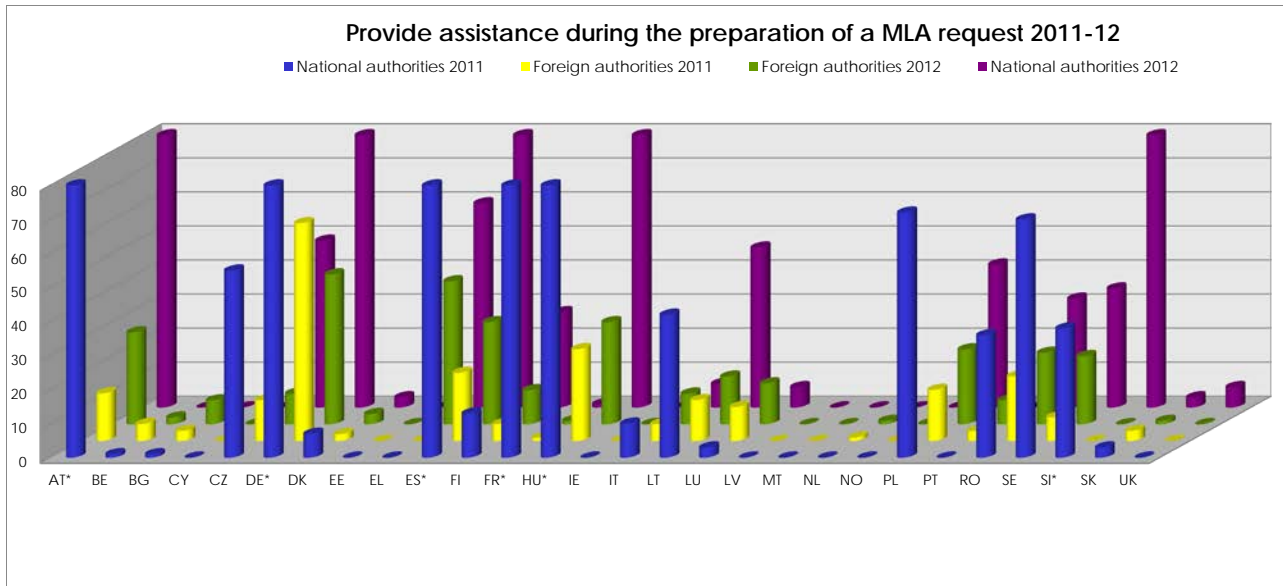
As it was provided in the previous report on the operation and the management of the EJN(2009/2010), the data for the period 2011-2012 indicate no change in the lead: MLA-related requests account for the largest part of all requests submitted.

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<sup>9</sup> OJ C 197, 12.07.2000, p. 1.

<sup>10</sup> OJ L 326, 21.11.2001, p. 1. 13

<sup>11</sup> OJ L 239, 22.09.2000, p. 19-62.

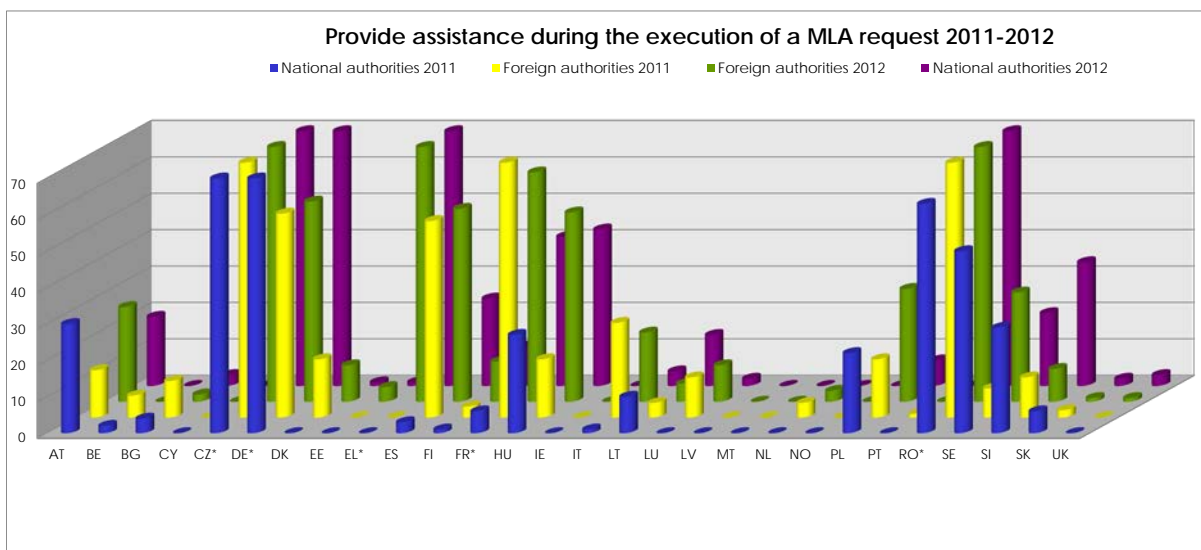


Graph 7.: Requests for assistance during the preparation of a MLA request in 2011 and 2012.

\* The table contains 80 requests max. In 2011 and then without a change in 2012, Austria had exactly 98 requests from national authorities. In 2011 and 2012, Germany had 115 and 118 requests from national authorities respectively. In those same years, Spain had respectively 221 and 265 requests from national authorities. For 2011, France actually had 161 requests from national authorities. Hungary, on the other hand, had 159 and 228 requests in 2011 and 2012. In addition, Slovenia had 117 requests from national authorities and 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 on the requests for assistance in preparation of MLA in 2011 and 2012 are shown above.

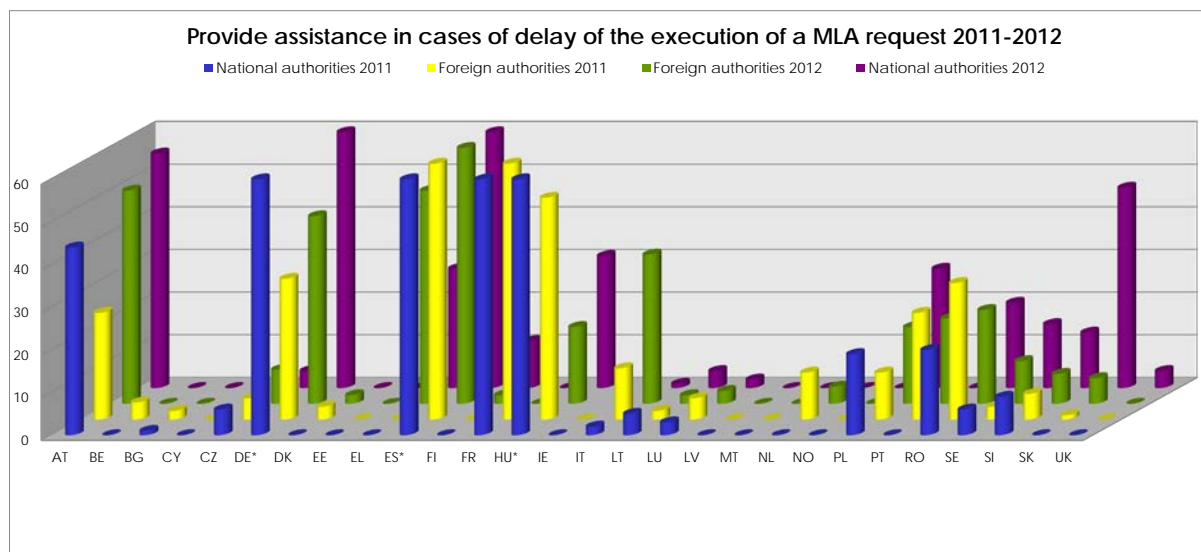
The figures on the requests for assistance in the execution of MLA in 2011 and 2012 were as follows:



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

\* The table contains 70 requests max. In 2011 and 2012, the Czech Republic actually had 148 and 149 requests from national and foreign authorities respectively. In 2012, the country had 213 and 229 requests from national and foreign authorities. Germany, on the other hand had 93 and 104 requests from national authorities in 2011 and 2012. Close to those numbers, in 2012, Greece had 102 requests from national authorities and 95 from foreign ones. France actually had the biggest number of requests for assistance during the execution of MLA in 2011 from foreign authorities – 254. On the other corner, 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 MLA in 2011 and 2012 were as follows:



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

\* The table contains 60 requests max. In fact, Germany had 219 requests from national authorities in 2011 and 213 in 2012. Furthermore, Spain had 123 and 140 requests from national authorities in 2011 and 2012 respectively; also it had 65 and 63 requests from foreign authorities in the previously mentioned years. Moreover, France actually had 137 requests from national and 216 requests from foreign authorities in 2011. No data has been provided for 2012. In the case of Hungary, 141 requests have been submitted from national authorities in 2011.

### 3.2.3. ASSISTANCE DURING THE PREPARATION AND EXECUTION OF AN EAW

The European Arrest Warrant (EAW) is the first mutual recognition instrument within the area of freedom, security and justice. It is based on the Council Framework Decision 2002/584/JHA of 13 June 2002 on the European Arrest Warrant and the surrender procedures between Member States<sup>12</sup>. Up to this date, it has been fully implemented by all 27 Member States.

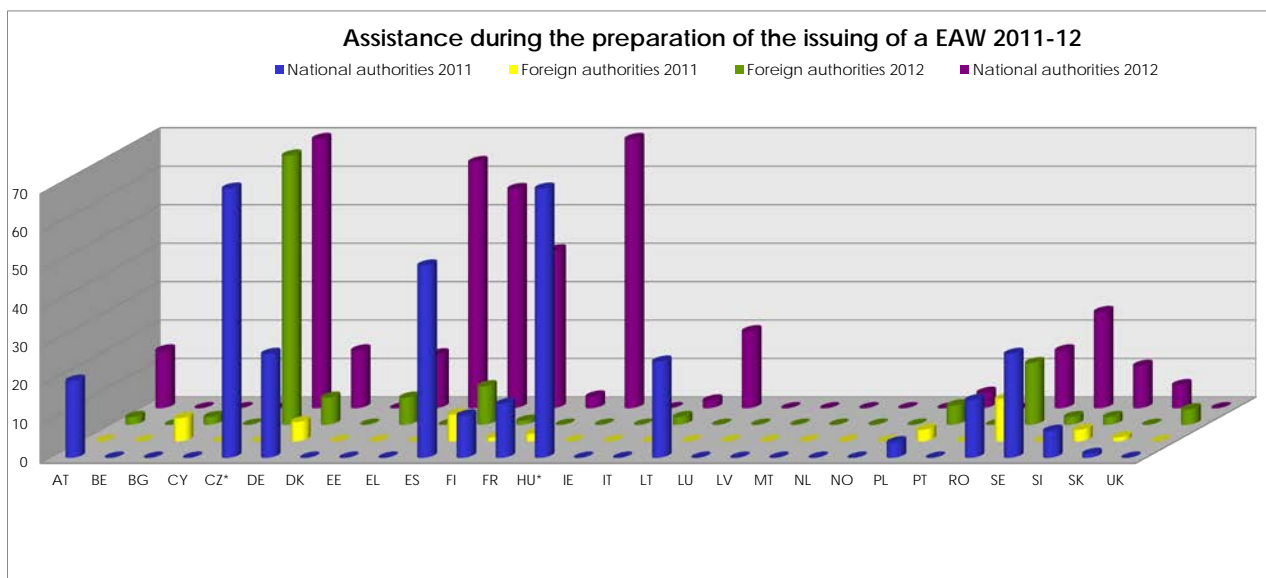
<sup>12</sup> OJ L 190, 18.7.2002, p.1.

Graphs are constructed with a view to the assistance during:

- Preparation,
- Execution of the EAW requests

As the graphic 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 the law of that State”<sup>13</sup>. 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”<sup>14</sup>.

The table 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, it is the exact opposite. As reflected in the graph below, there are some cases in which there are requests from national authorities only (in both years), but no such requests from 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:



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

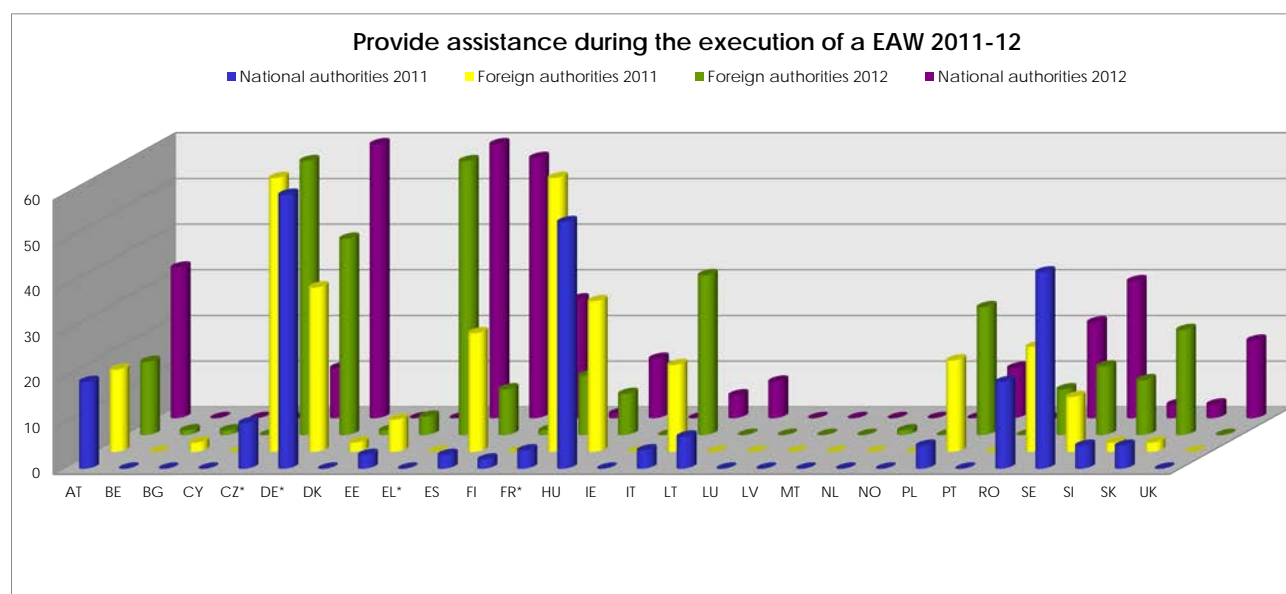
<sup>14</sup> Article 6(2) of the Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States

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

\* The table contains 70 requests max. In fact, in 2012, the Czech Republic had 72 and 157 requests from national and foreign authorities, respectively. Furthermore, Hungary impresses with statistics a couple of times higher in comparison to the other Member States. 640 and 146 requests for assistance were submitted by national authorities in 2011 and 2012. What is more interesting, is that none were submitted by foreign authorities in both years.

With regard to the provision of assistance during the execution of a EAW in 2011 and 2012, it can be observed that in some Member States the majority of the requests are submitted by foreign authorities. However, in more than half of the Member States, the statistics entail the relatively low number of requests in comparison to other countries. It can be concluded that this low number is not a result of the small size of the country itself. That owes to the fact 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 a EAW.

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



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

\* The table contains 60 requests max. In fact, in 2011 and 2012, the Czech Republic had 132 and 124 requests from foreign authorities. This data differs significantly from the number of requests from national authorities (10 and 11). Furthermore, Germany had 92 requests from national authorities in 2011 and 87 in 2012. Despite its relatively bigger territory than the Czech Republic, it still has almost three times less requests from foreign authorities in 2012. We should note that 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 a EAW from foreign authorities in 2011, those have decreased to 13 in 2012.

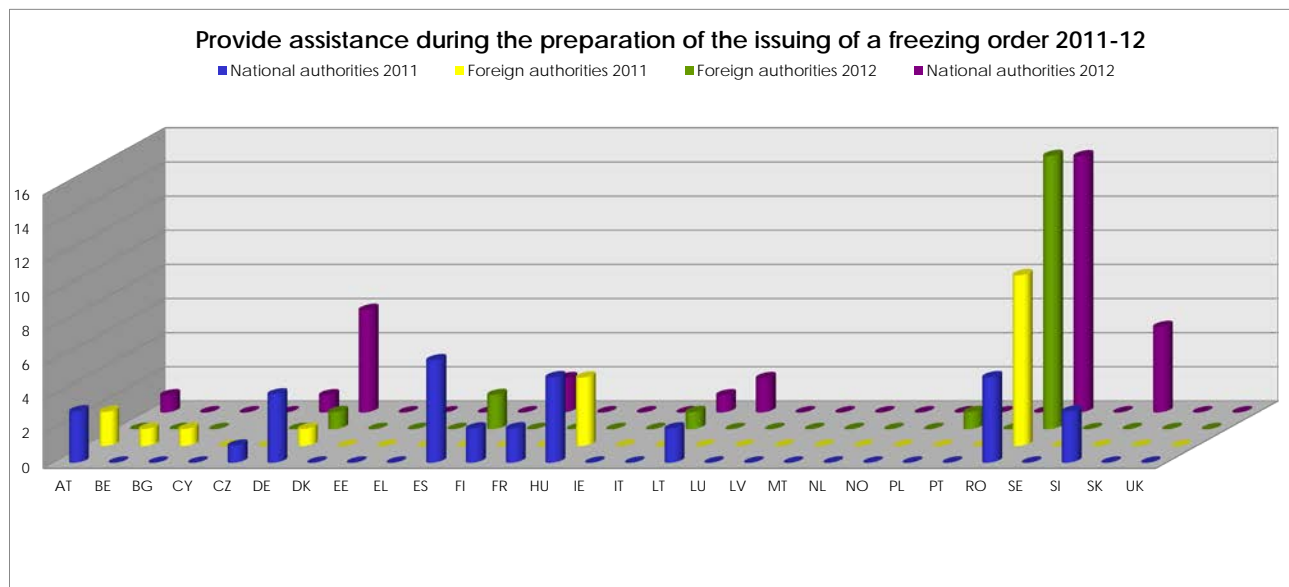
### 3.2.4. ASSISTANCE DURING THE PREPARATION AND EXECUTION OF A FREEZING ORDER

The legal base for the regulation of freezing orders, *i.e.* their preparation and execution, is governed by the Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the EU of orders freezing property or evidence<sup>15</sup>. Up to this date, Greece and Luxembourg have not implemented the Decision. In Italy and the United Kingdom, the implementation is still in process. In most Member States, the number of requests is very low, in some cases there are even no requests made throughout the year.

Graphs have been drawn up regarding 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:

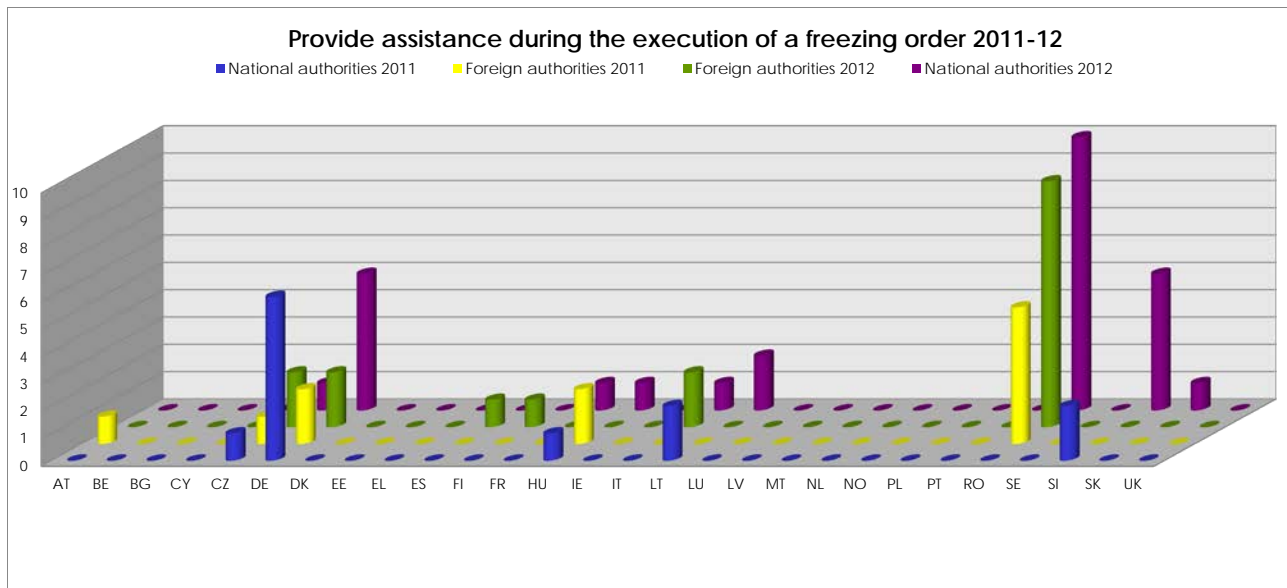


Graph 12: Assistance during the preparation of freezing orders in 2011 and 2012.

\* The table contains 16 requests max. We can observe that some Member States have no requests submitted neither by national or by foreign authorities. The only country that differs is Romania, which in 2011 had 5 requests from national authorities only, decreasing three times in 2012.

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

<sup>15</sup> O J L 196, 02.08.2003, p. 45 – 5



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. There is a clear distinction from Graph 7, where the total amount of requests, regardless of the issuing authority, is higher. In addition, there are more Member States which did not provide in their activity reports statistics 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 the Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties. Up to this moment, 24 Member States have implemented the Decision. It is yet to be implemented in Greece and Ireland, and it is in the process of implementation in Italy.

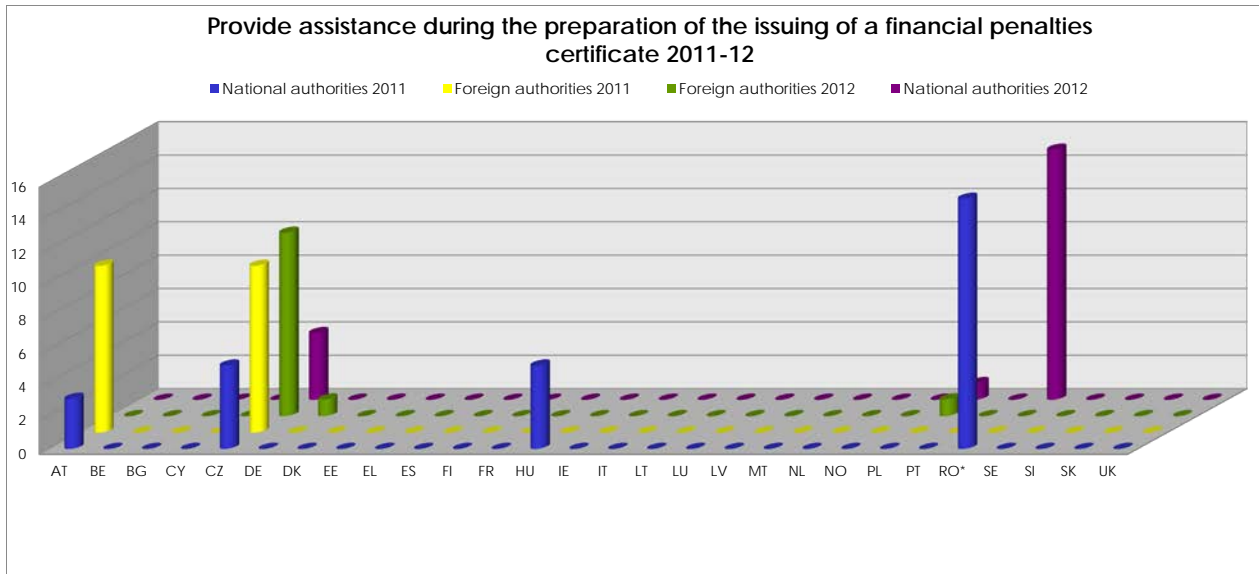
Apart from the European Arrest Warrant, the financial penalties certificate falls within the category of mutual recognition instruments, adopted as measures realizing and strengthening the area of freedom, security and justice. During the 33<sup>rd</sup> Regular meeting of the EJM contact points, the model of the summary adopted under the Germany Presidency, has been revised. The new approved model also includes the requests for preparation and execution of financial penalties certificate.

Graphs have been built on the basis of 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:

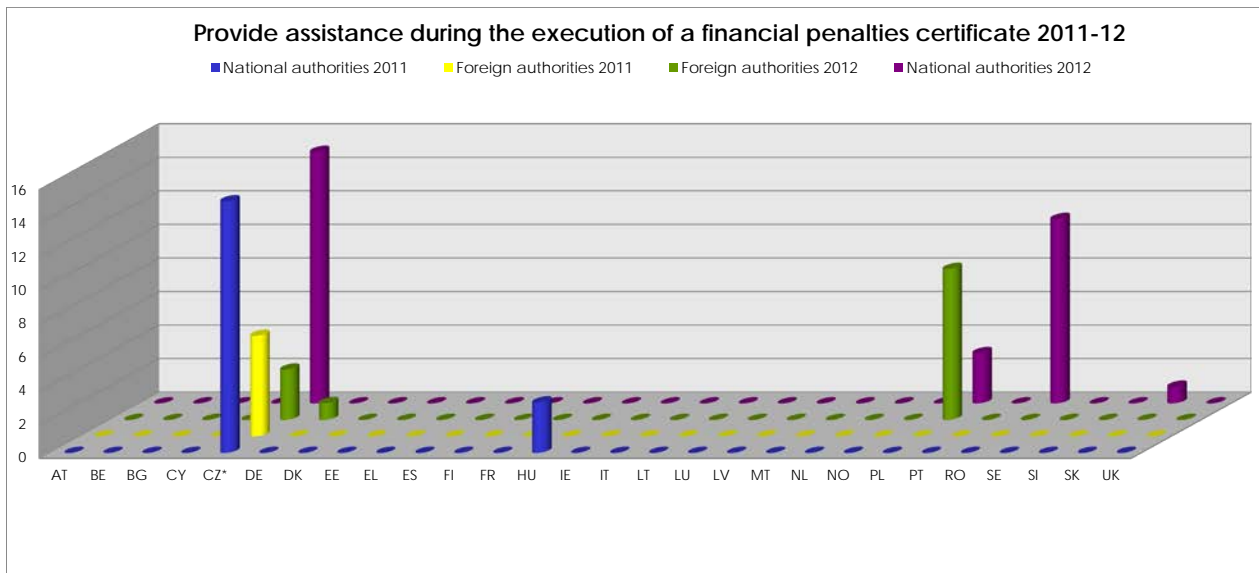




Graph 14.: Assistance during the preparation of the issuing of a financial penalties certificate in 2011 and 2012.

\* The table contains 16 requests max. In fact, 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. This has resulted in a low 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 actually had 82 requests from national authorities in 2011 and 79 in 2012. This proves again that the territory of the specific Member State is not a guarantee for the amount of requests to be submitted. As we can conclude from the table, France which is several



*times bigger than CZ, has 0 requests (regardless of the judicial authority) for assistance during the execution of a financial penalties certificate submitted.*

Overall, the data implies poor implementation of the instrument provided 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 with the purpose of facilitation and distinction of the various mutual recognition instruments. While there are significantly high number of requests 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

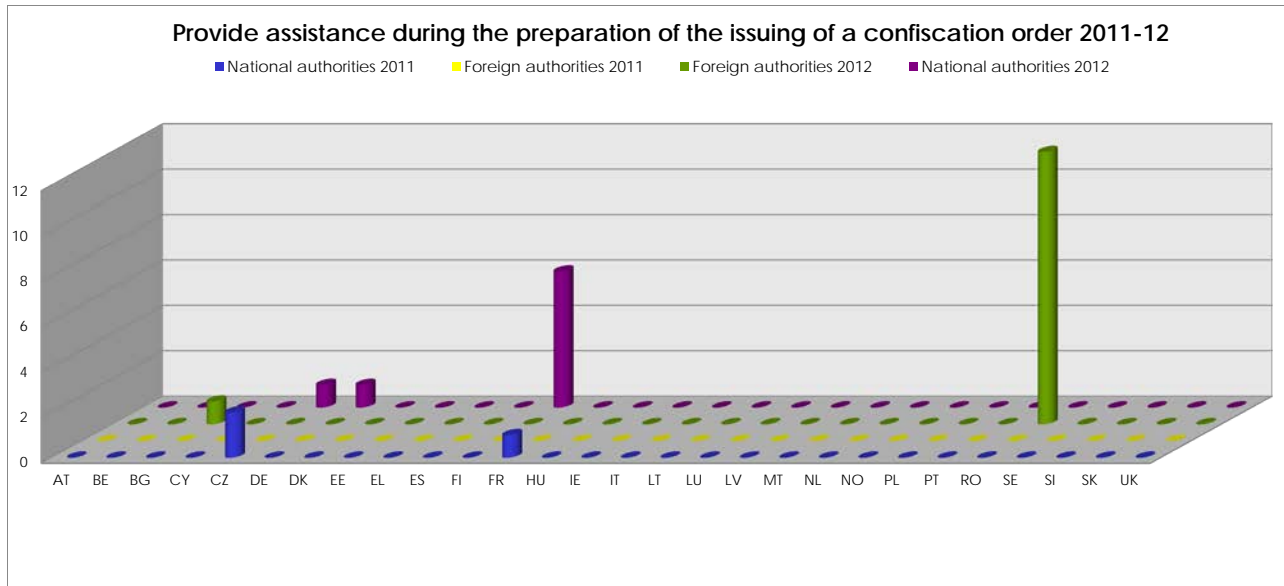
The regulation of the preparation and the execution of confiscation orders is enshrined in the Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders.

Up to this date, 7 out of the 27 Member States have not yet implemented the Decision. Those are: United Kingdom, Slovakia, Luxembourg, Italy, Ireland, Greece. The process of implementation is still ongoing in Estonia. It is important to recognize the efforts of Cyprus and Lithuania. The Mediterranean country has implemented the Council Decision into its national legislation by an amending law of the Prevention and Suppression of Money Laundering and Terrorist Financing Law of 2007. The Baltic country has implemented the Decision into its Code of Criminal Procedure of the Republic of Lithuania and rules on the transmission of confiscation decisions.

Graphs have been drawn up regarding assistance during:

- Preparation,
- Execution of a confiscation order

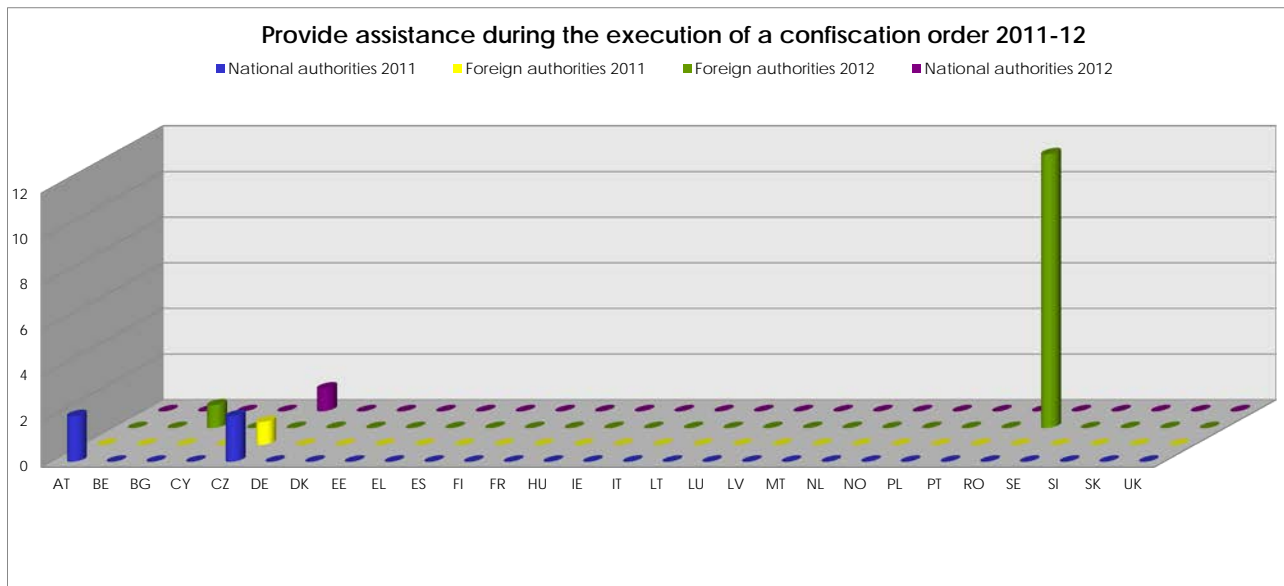
The figures on the requests for assistance during the preparation of the issuing of a confiscation order in 2011 and 2012 were as follows:



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. As observed, Romania had 12 requests from foreign authorities and Bulgaria had 1 in 2012. Other Member States did not have or did not report any requests from foreign authorities in 2012.

The figures of 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 retains the same numbers 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 ISSUING 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 judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union.

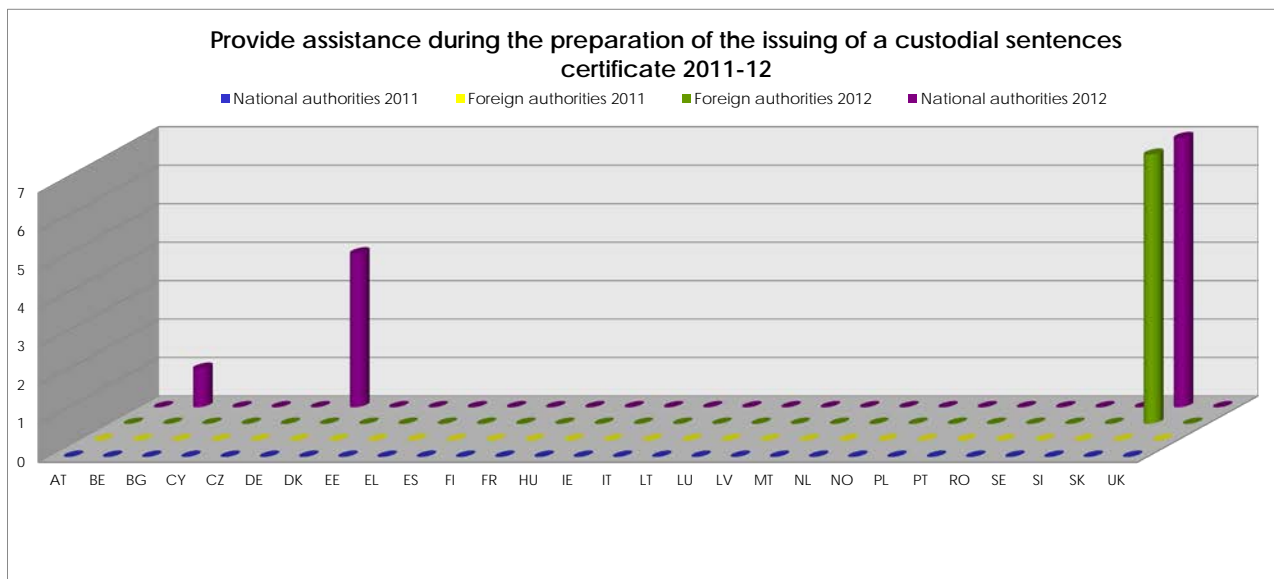
Until now, 17 Member States have implemented the Decision. The process of implementation is still ongoing in Bulgaria.

Graphs have been divided regarding 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 supposes that the number of requests would be low.

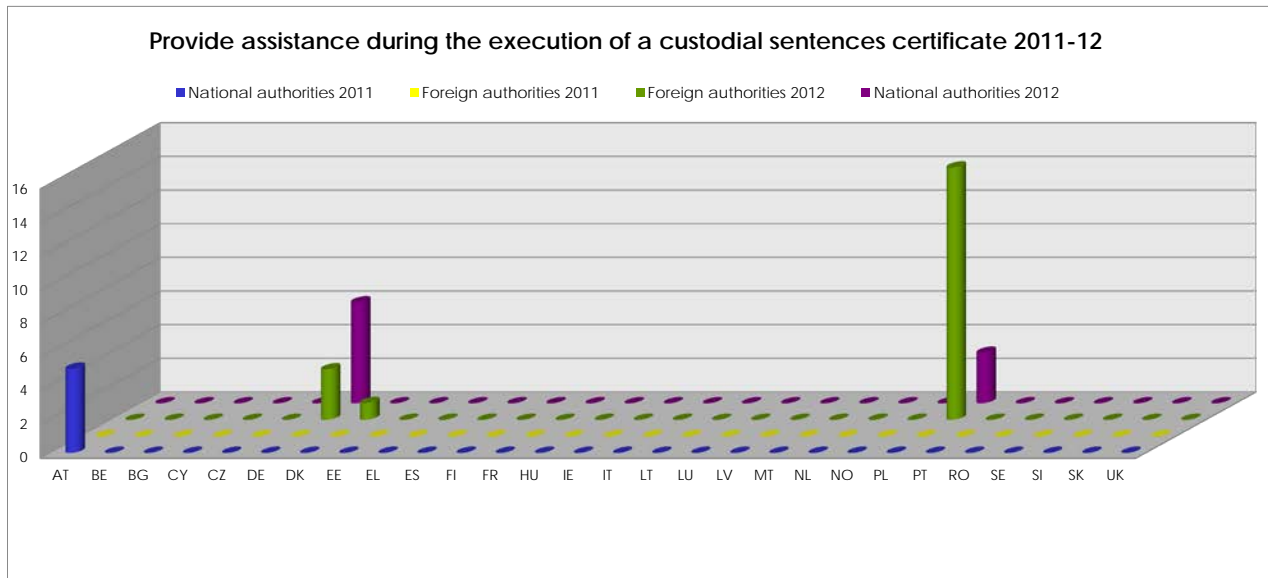
The figures reflecting the requests for assistance in the preparation of the issuing of a custodial sentences certificate is as follows:



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

\* The table contains 7 requests max. The only exception to the very low number of requests makes Slovakia, which in 2012 had 14 requests from national and foreign authorities in total, 7 from each. It could be noted that the custodial sentences certificate is still not widely considered as a practical mutual recognition instrument by the practitioners in the Member States. It is supposed that by the growth of the countries implementing the measure, the number of requests will grow proportionally.

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

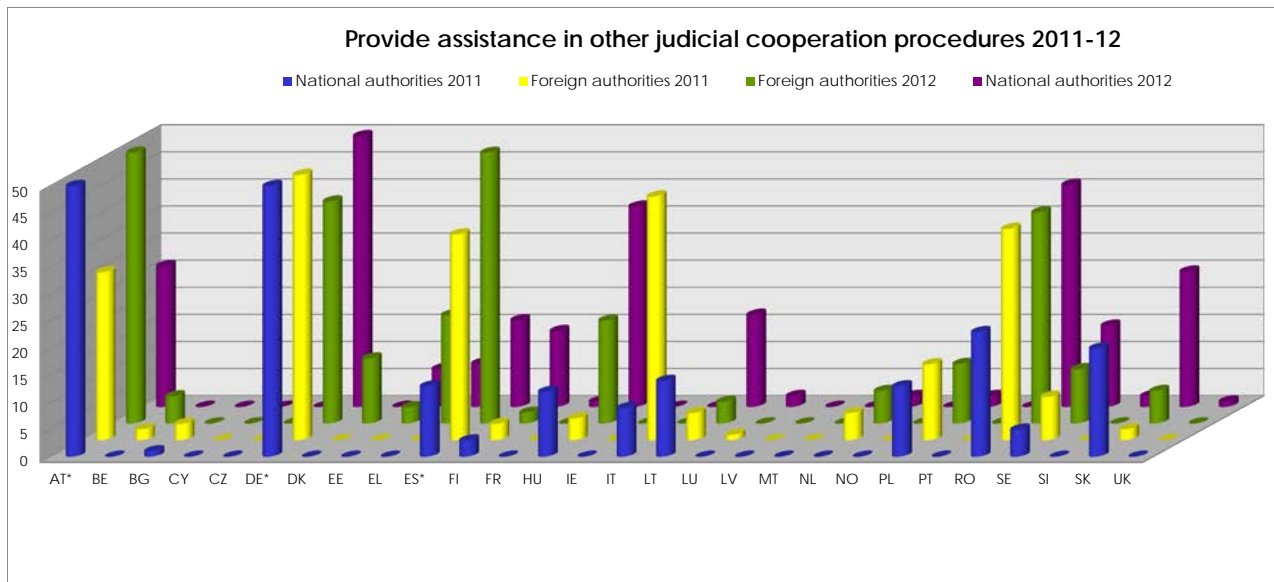


Graph 19.: Assistance during the execution of a custodial sentences certificate in 2011 and 2012.

\* The table contains 16 requests max. In fact, no Member State actually had 16 requests. Poland had 15 requests from foreign authorities in 2012. Regarding requests from national authorities for assistance during the execution of custodial sentences certificates, Germany had 6 in 2012.

### 3.2.8. ASSISTANCE IN OTHER PROCEDURES

Assistance in other procedures includes all other requests for assistance provided by national or foreign authorities. Those differentiate from the requests concerning the provision of information on foreign law, assistance in the preparation and execution of MLA, EAW, freezing orders, financial penalties certificates, confiscation orders and custodial sentences certificates. Such assistance in other procedures may be related to requesting and obtaining documents, expert witnesses, distribution of information, preparing video conferences, 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. In fact, Austria had 50 requests from national authorities in 2011 regarding assistance in other procedures and 59 in 2012 from foreign judicial authorities. Germany actually had 68 and 77 requests from national authorities in 2011 and 2012 respectively. Spain is the Member State which had the most requests from foreign authorities in 2012 – 65.

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 when providing such detailed information regarding the activities within the Member States as this information is not mandatory to be filled in.

Such assistance in “other procedures” in the 27 Member States was as follows:

### Austria

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

### Belgium

In 2011, Belgium was involved in the provision of information on detention of a person in the country: in total 2 requests regarding this matter. During the following year, only request was received concerning the same matter.

In 2012, local authorities requested assistance (once) with the translation of a response of

the Belgian post 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 had to provide assistance regarding 2 MLA requests to hear a witness via a video conference. In addition, it had to provide 2 agreements for JITs, as well as provide assistance of a MLA request to tap the phone of a Dutch citizen. No statistics for assistance in other judicial procedures have been provided for 2012.

### *Cyprus*

No statistics provided for 2011 or 2012.

### *Czech republic*

In 2011, the Czech Republic was requested to transfer proceedings: 51 requests from national, and 20 from foreign authorities. Furthermore, the country was involved in transfers of sentenced persons (13 requests from national and 2 from foreign authorities). Three requests were submitted from national authorities regarding transfers of supervision. Moreover, 4 requests were sent from Czech authorities for temporary transfer of sentenced persons. Concerning the sensitive matter of extradition, 5 and 1 requests were submitted by national and foreign authorities, respectively. Czech authorities also assisted in the process of provision of information on implementation of national law. Finally, in 2011, the Czech Republic was involved in 9 requests from national authorities for general information, such as location of a prisoner abroad, length of a deprivation of liberty abroad.

In 2012, the country dealt with 59 requests for transfer of proceedings at pre-trial from national authorities and 37 from foreign ones. Moreover, 19 requests from national authorities concerning transfer of sentenced persons were submitted, and 4 from foreign ones were received. Czech judicial authorities submitted in total 2 requests for transfers of supervision in 2012, and 4 concerning extradition. One request on extradition was received.

### *Denmark*

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

### *Estonia*

In 2012, Estonian authorities dealt with the transfer of sentenced persons under CoE 1983 Convention. No further statistics for the previous year regarding assistance in other judicial procedures have been provided.

### Finland

In 2011, Finland was involved in the gathering of information concerning the status of cases pending in Finland when the subject is a person suspected of crime in another Member State. Furthermore, a Prosecutor in the capital Helsinki has requested a Court decision in a criminal case from the authorities in Salzburg, Austria. Also, information regarding national legislation has been transmitted to a foreign authority.

No statistics regarding assistance in other judicial procedures have been provided for 2012.

### France

In 2011, the Court of Appeal in Riom has requested additional information in criminal matters from SIRENE France. The same request has been made three times from Spain regarding the EAW. Details concerning the same mutual recognition instrument have been requested through Italian Magistrates. What is important from the EJM point of view is that on 24<sup>th</sup> March 2011, a meeting with all the French contact points has been conducted. On this same date, in the Grenoble region, a regional meeting has been organized between the contact points in the Bureau for International assistance in criminal matters ("*Bureau de l'entraide penale internationale*").

During the same year, the General Advocate to the Court of Appeal of Bourges, Jean-Francois Bonhert, has 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.

In terms of judicial cooperation in France, 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 of German police officers in the Euroinstitut in Kehl, Germany. What's more, annual trainings of the Officers of Judicial Police regarding EAW procedures and extradition have taken place. Internally, information meetings of magistrates have been organized regarding the French law reforms of 14<sup>th</sup> 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. Furthermore, with respect to third countries, a request for extradition has been submitted to Georgia and Ukraine. In Grenoble, a meeting has been conducted between the French magistrates employed in Eurojust and the magistrates in the Court of Appeal of Grenoble on the 7<sup>th</sup> April 2012 (a presentation about Eurojust has been delivered).

### Germany

In 2011, Germany is recognized as one of the most active countries in terms of judicial cooperation and the variety of requests for assistance. Firstly, requests have been made for a certificate according to the Framework Decision on Financial Penalties in the forms of Word documents in the official languages of the requested Member States. Furthermore,

requests were submitted for obtaining documents and information regarding domestic and foreign procedures. Furthermore, German authorities were involved in the assistance for provision of information to EJM contact points on offences committed in their country and distribution of names of expert witnesses.

Moreover, information was provided to Tool Correspondents of other Member States on mistakes in their Atlases. As the Danish authorities did, German ones were also requested to answer questionnaires. They were also involved in the provision of information on the whereabouts of suspects, 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 mutual legal assistance 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 address 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 in order to organize meetings. What's more, EJM and IberRED assisted in the transmission of information and assistance regarding an organisation dealing with controlled deliveries of drugs.

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

### *Greece*

In 2012, Greece has assisted other national authorities with accessing and utilizing the EJM Website. Furthermore, coordination meetings taking place in Greece between foreign and national judicial and police authorities have been organized. Assistance has also been provided in court hearings when urgent information is needed on the spot.

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



### *Hungary*

In 2011, Hungarian authorities were involved in the recognition of foreign judgments in view of the registration 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. In addition, Hungarian authorities assisted in the organization of video conferences.

### *Ireland*

No data was provided regarding assistance in other judicial procedures for 2011 and 2012.

### *Italy*

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

### *Latvia*

Latvian authorities have precised in the reply that according to Article 846 of the Criminal Procedure Law of the Republic of Latvia there are two competent authorities in the examination of a request of a foreign state:

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

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

### *Lithuania*

In 2011, Lithuanian authorities have dealt with the issues on the organisation of a video conference and transfer of exhibits (evidence). Moreover, they have assisted in the passing of information about the crimes to the competent institutions of foreign countries.

According to the information provided by the General Prosecutor's Office, in 2012, the Contact point from Klaipeda Regional Prosecutor's Office, participated in a court hearing before London's Court and witnessed in a case, wherein the legal assistance was rendered on the request of the UK.

### *Luxembourg*

In 2011, Luxembourg authorities have assisted in a temporary transfer of a detained person. The following year, they have been dealing with the organization of video conferences.

### *Malta*

No concrete statistics have been provided by Maltese authorities for 2011 and 2012.

### *Netherlands*

In 2011, Dutch authorities have assisted in the return of evidence after final verdict (two requests on this matter). Moreover, they have supplied information about the execution of an imposed sentence and the transmission of translated formats for Framework decisions. In addition, penal records have been provided by local authorities. In relation to the EJM, they have replied questions about the EJM's budget for meetings about EU regional co-operation.

In 2012, Dutch authorities have supplied foreign authorities with contact details in urgent matters. Moreover, assistance has been provided in the procedure of the transfer of a sentenced person. The local institutions have also assisted in the procedure of the transfer of criminal proceedings request for observation at Eindhoven Airport.

### *Poland*

Poland's activities in 2011 are characterized by close cooperation with German institutions. The country has assisted in the provision of explanation to the Consulate General of Germany in Gdańsk acting on behalf of German police concerning service of documents. Moreover, domestic authorities have organized a hearing of a Polish witness via a videoconference. National authorities have supplied information on requests coming from Belgian, German and Polish authorities regarding ongoing proceedings in criminal matters. Furthermore, details have been provided concerning an address of a witness to the German authorities. With the assistance of the EJM, Polish authorities have provided a German contact point with the copies of a judgment regarding an accused Polish citizen. Close cooperation with non-EU countries has also been conducted, meaning assistance on the execution of a MLA request coming from Switzerland.

In 2012, with the assistance of the EJM, information from contact point for the Szczecin area of appeal has been provided.

Enquiries received by the contact point from foreign contact points have pertained to: the scope of investigations performed against persons indicated 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 matters dealt with by the Gorzów Wlkp. district) or issues associated with European Arrest Warrants being currently handled by courts. Apart from questions regarding foreign law and legal assistance request, one enquiry has been provided by a contact point pertaining to an occurrence that had happened abroad and about the stage of proceedings performed by German prosecutor's office.

Moreover, Polish authorities have dealt with checking whether court proceedings concerning an individual in Polish courts has been finalised. Also, supplementary information has been exchanged regarding the national law system and practice between Polish and Scottish contact points.

### *Portugal*

No data has been provided regarding assistance in other judicial procedures in 2011 and 2012.

### *Romania*

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

In 2012, assistance has been provided in relation to transfer of criminal proceedings, extradition and EAW cases.

### *Slovak Republic*

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

### *Slovenia*

No data has been provided as regards assistance in other judicial procedures in 2011 and 2012.

### *Spain*

In 2012, Spanish authorities have been involved in the provision of 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 Member States. In addition, requests for reports on

prisoners have been submitted, as well as requests for the identification of the appropriate authority for project cooperation.

No statistics have been provided for 2011.

### *Sweden*

In 2011, representatives of Swedish judicial authorities were asked to appear in court as mediators/legal “interpreter” in cases of hearing of evidence. Moreover, authorities have been requested to provide information on foreign legal systems when it comes to organisation and administration. Through the EJM, local authorities were assisted in finding contact points for strategic contacts within the EU.

During the following year, authorities have 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 to establish contact with other colleagues in EU countries and to organize a visitation. 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.

### *United Kingdom*

It must be noted that statistics from the United Kingdom have not been specifically provided. 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 which have been received from all over Poland.

## 3.3. Scope of activity

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

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

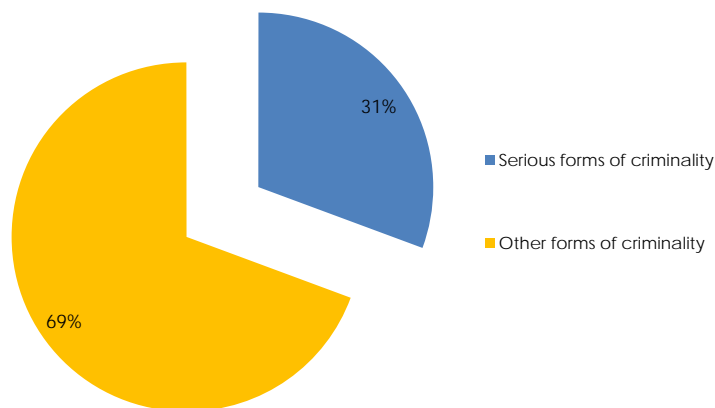
The pie chart representing the data gathered from the Member States’ activity reports concerning what activity the request for assistance has been made, look as follows:

### 3.4. Supplementary information on the type of requesting authority

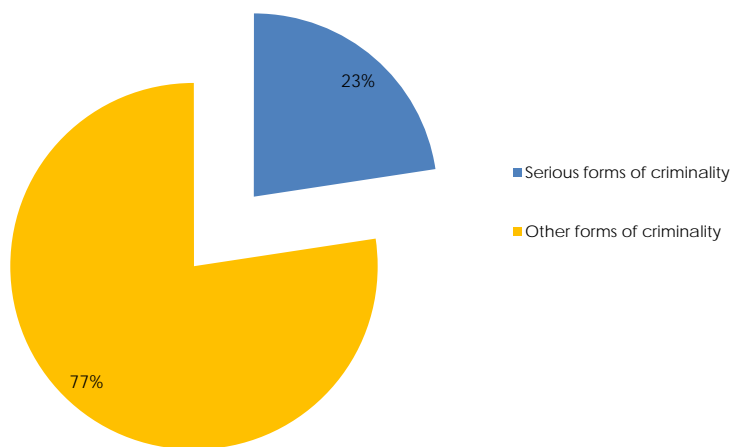
This section concerns additional information regarding the type of the authority requesting assistance. By virtue of the revised forms, as agreed on during the 33rd Regular Meeting of the EJM in February in 2012, the following types of authorities are enlisted in the activity reports:

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

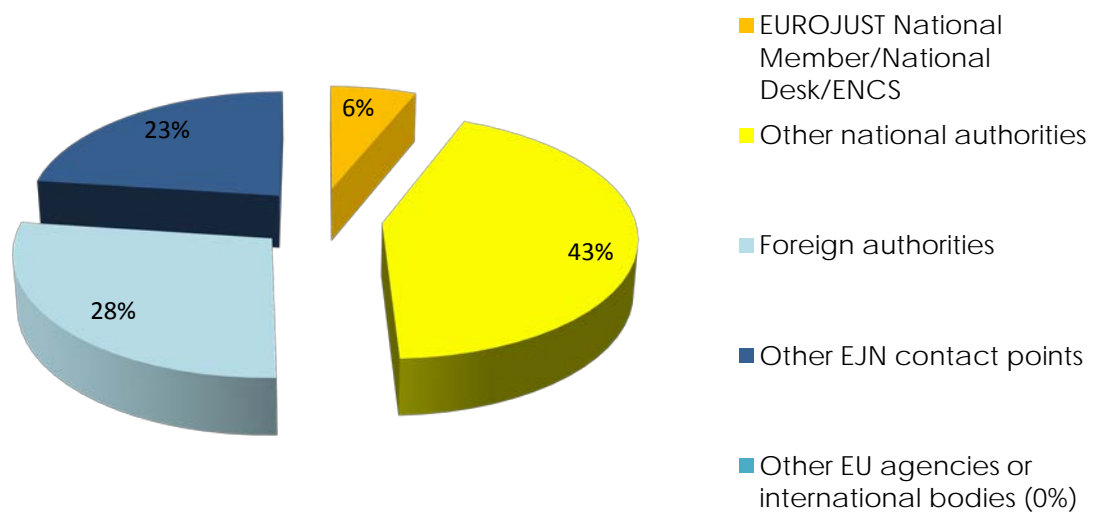
#### Scope of activity: Type of crime (2012)



### Scope of activity: Type of crime (2011)



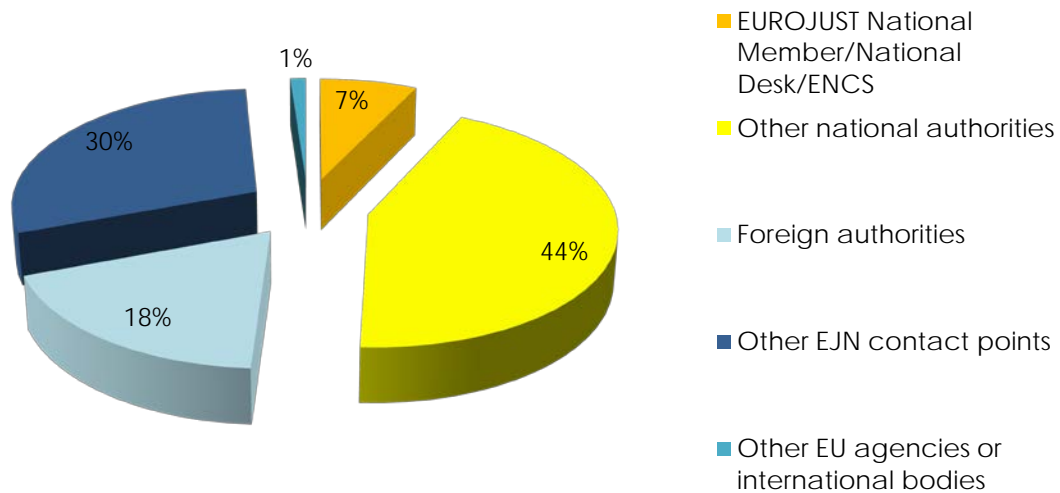
### Type of requesting authority (2011)



Graph 21.: Type of requesting authority in 2011.

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

## Type of requesting authority (2012)



Graph 22.: Type of requesting authority in 2012.

### 4. EJM in EU Associated States and Candidate States

#### 4.1. EJM judicial cooperation with EU Candidate States

The European Union and non-EU countries, *i.e.* third countries are granted with the option of concluding agreements for cooperation in different areas under the primary sources of EU law. Article 217 of the Treaty on the Functioning of the European Union (TFEU)<sup>16</sup> foresees the establishment of association agreements between the Union and one or more third countries or international organisations. This action is undertaken by the EU with a view to the creation of stronger cultural, political, trade links with countries outside the EU, where the conclusion of the agreement has as its object the achievement of the objects 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<sup>st</sup> February 2005.

As of end of 2012, by “candidate states” the following countries are meant: Iceland, Croatia, Montenegro, The Former Yugoslav Republic of Macedonia and Turkey.

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

<sup>16</sup> OJ C 115/47, 9.05.2008.

of this setting, the adoption and the implementation of the *acquis* are the basis of those negotiations.

Recently, positive developments have been achieved in judicial cooperation in several Western Balkan countries, which classify as candidate countries. Regarding police cooperation, a bilateral agreement between Serbia and Albania (potential candidates) has been concluded on mutual legal assistance and mutual enforcement of sentences in penal matters. Furthermore, Croatia and Serbia have signed an agreement enabling the extradition of nationals to each other's countries for criminal proceedings or enforcement of prison sentences in cases of organized crime and corruption.

Although still in candidate states status, Croatia has already taken the initiative to begin cooperation in judicial matters, thus looking forward to the realization of the area of freedom, security and justice. The Commission has already expressed its view on this regard, by encouraging other countries in the region to follow their example.

Regarding cooperation with third countries, worth mentioning is the adoption of the Council Decision 2002/630/JHA establishing a framework programme on police and judicial cooperation in criminal matters (AGIS)<sup>17</sup>.

According to Article 2<sup>18</sup>, the programme aims at encouraging Member States to step up cooperation with applicant countries. Thus, this is a further step forward initiated by the Union with a view to enhancing judicial cooperation with candidate countries and achieving the general objective of providing the 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 familiarize themselves with the EU *acquis* in the area of judicial cooperation. Through this method, candidates can prepare for the potential accession.

Regarding the role of the EJM in judicial cooperation, it is of great importance to recognize the involvement of the candidate states in the activities of the EJM. Turkey and Iceland have appointed their contact points which facilitate the cooperation concerning requests for assistance in various areas. Turkey has even submitted activity reports for 2011 and 2012. Regarding the contact points' activities in Turkey, we should note that 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 the process of facilitation of judicial cooperation and the demonstration of interest in our activities through attendance at the EJM meetings.

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<sup>17</sup> Official Journal L 203 , 01/08/2002 P. 0005 - 0008

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



## 4.2. EJN judicial cooperation with EU Associated States

The EU associated countries are also covered by Article 217 TFEU, *i.e.* EU Association Agreement. As mentioned, this agreement represents a treaty between the EU and a third country, which is the basis for cooperation. Under associated countries, we can consider Norway, Switzerland, Iceland and Liechtenstein.

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 Matters<sup>19</sup> (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 Union<sup>20</sup> and the United Nations Convention against Transnational Organized Crime<sup>21</sup>.

All associated countries listed above are part of the Schengen Area, and area where all internal borders are abolished. Regarding specifically judicial cooperation, it is worth mentioning that there is an 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.

Furthermore, the EU has concluded other agreements with Iceland and Norway concerning criminal matters. A relevant to those matters 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 Union and Iceland and Norway with regard to the surrender procedure for the purpose of prosecution or execution of sentence. EJN Norwegian contact point therefore attends actively at the EJN meetings, including the Tools Correspondence meeting precisely due to the position of Norway through the above mentioned agreement and consequently its placement on EJN website.

Regarding the EU external relations with Switzerland, we should mention 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, of the one part, and the Swiss Confederation, of the other part, to combat fraud and any other illegal activity to the detriment of their financial interests. This agreement's purpose is to extend administrative and mutual legal assistance in criminal matters between the Union and 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 European Judicial Network.

As regards mutual legal assistance between Switzerland and the EU, this is realized mainly through the European Convention on Mutual Assistance in Criminal Matters.

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

As mentioned above, Turkey has submitted activity reports for 2011 and 2012. This is also the case with Switzerland and Liechtenstein. Although those countries are not obliged to do so, The EJM Secretariat recognizes and appreciates the efforts of the contact points from those countries. Swiss contact points, for instance, have attended all Plenary meetings of the EJM. They have participated in the assistance on provision of information regarding foreign/national law, assistance during the preparation and execution of MLA requests and assistance in cases of delay of the execution of such request.

As a small country, Liechtenstein actively participates in the realization of judicial cooperation between Member States. The authorities of the Principality have assisted in the provision of information of foreign/national law, in the preparation and execution of MLA requests, in the issuing of freezing orders and other judicial cooperation procedures. It is important to add the participation of the country's contact points in regional and plenary meetings in Germany, Denmark, Austria and Hungary.

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

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### 1. Objective 1: Organization of the EJM meetings

One of the most important roles of the EJM Secretariat in its management tasks is to ensure continuity to the EJM providing financial as well as organizational support. Ensuring the continuity of the work of the Network is above all fulfilled by the objective of organizing meetings. The EJM meetings are very important for the existence and development of the Network, being the fora where the strategic and administrative decisions are taken and the contact points meet each other to discuss practical issues specific to their activities and tasks. This objective will be achieved by activities described below 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 Programme.

## 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 meet in plenary three times per year. First of the three is the regular meeting of the EJM contact points, which is held on the premises of Eurojust in the Hague once a year. Overview of this activity for the years 2011 and 2012 is 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 respective Member State; they are partially financed by the EJM Secretariat budget. These are described below.

### The 36<sup>th</sup> plenary meeting of the EJM

The 36<sup>th</sup> plenary meeting of the EJM took place in June 2011 in Budapest, in Hungary<sup>22</sup>. During this meeting participants and the Presidency stressed the importance of the Network and the EJM website as a cornerstone for better understanding of other legal systems.

As always, the EJM Secretariat presented execution of the Work Programme for the first Semester 2011 and it was announced the award decisions in the organization of National and Regional meetings for the year 2011.

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

During the first day, in the workshop, relevant decisions of the European Court of Justice on the principle of *ne bis in idem* were analyzed and participants came to the conclusion that *ne bis in idem* cases should be taken individually as there is no single solution for the application of this principle.

It was admitted that the principle of *ne bis in idem* is an autonomous area of the case-law and is continuously in development. Thus, there are many questions to be resolved for instance to determine if there should be for certain cases only one way of rational interpretation. The need for consultations between judicial authorities to prevent conflict of jurisdiction was identified.

Second question that was discussed during the workshops was about the mutual recognition of foreign judgments. By the Presidency it was presented a discussion paper and the participants debated several issues on the recognition of foreign judgements. The main element in the recognition is the mutual trust in the other system.

In the context of the topic related to the exchange of the information extracted from criminal records, participants discussed an issue concerning the possible change of the nationality by the convicted person which may 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 Member States should exchange information on request.

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<sup>22</sup> EJM/2011/3

The last part of the workshop was dedicated to the use of different means of identification by Member States. It was respectively recommended to explore possibilities to use fingerprints for checking of identity and to link databases where it is necessary.

During the meeting participants briefly overviewed the co-operation of Trio Presidencies. It was agreed that the TRIO working method has been positive since it allows developing a work vision for a longer period of the time and the decisions are taken as a college.

### The 37<sup>th</sup> plenary meeting of the EJM

The 37<sup>th</sup> Plenary meeting of the EJM took place in Gdansk, Poland on the 17-18 November, 2011<sup>23</sup>.

After the presentations of the EJM work programme by the EJM Secretariat, the Polish Presidency opened the meeting with emphasizing on the importance of the fight against the organised crime. One of the question to discuss during the meeting was the European Protection Order (EPO), supported by Polish Presidency and an important initiative to protect victims. Alongside to the main topic the EJM's activity was defined as a crucial force in the reinforcement of the mutual trust due to the informal contacts which are fundamental during exercising different tasks.

During the 37<sup>th</sup> plenary meeting, an amendment was approved when it comes to financing of the plenary meetings. EJM Secretariat had observed that the budget tended not to be executed for the plenary meetings due to the high co-finance requirement from the Member States. To ensure that 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 has remained the same through years, 50 000 EUR.

A description of the Polish legal system was presented with the main aim to enhance common understanding of the national system, emphasizing that the international cooperation is not effective without this knowledge. Also, the outcome of the joint EJM-Eurojust Task Force Meeting from the 10th and 11th November 2011 was presented. A draft paper on how to deal with the distribution of cases between 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.

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

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<sup>23</sup> EJM/2011/5

During first workshop specific forms of mutual legal assistance such as videoconference, telephone conference and interception of telecommunications were considered. It was stipulated that such tool as the videoconference is widely used in some Member states and on the other hand is not used at all in others. This tool is mostly used during the pre-trial stage and is irreplaceable when witness is not able to attend the hearing, or when the Prosecutor's Office is not allowing the witness to travel, or when witness was a child that had been sexually exploited, or when the security of witness or the accused is an issue. The preparation for the videoconference takes a time, however costs are low what compensates the time spent.

During second workshop procedural guarantees to party of criminal proceedings in the course were put into deliberation. Firstly the right of the suspect to the free of charge legal assistance was discussed. It was remarked that different countries have different regulations on this right and in which cases it can be granted for free. However, it is mandatory to involve a lawyer and thus to provide legal advice when the suspect is the subject of a European Arrest Warrant. One of the most unsatisfied stay of play is the long execution of the rogatory letters. There were several reasons highlighted for such delays, lack of experience being one of them.

The Legislative Officer, from Directorate-General for Justice, European Commission, gave an overview about related ongoing activities by DG Justice. These involved topics such as stronger procedural rights and more efficient help to victims of crime; to further work on 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 for confiscation orders.

### The 38<sup>th</sup> plenary meeting of the EJM

The 38<sup>th</sup> Plenary meeting of the EJM took place in Copenhagen, Denmark, on 19-20 June 2012<sup>24</sup>.

Secretary to the EJM Ms Fatima Martins started the meeting with a short overview of her work during her 5 years at the Secretariat due to the anniversary. The presentation was followed by the summary of the work programme (WP) of the EJM for the year 2012 by the EJM Secretariat.

Sixth round of Mutual Evaluations Practical implementation and operation of the Decisions on Eurojust and the EJM criminal matter was presented by the Council. During the evaluation one of the aims was to get more practical experience on the coordination and cooperation of Eurojust and EJM contact points. It was highlighted the necessity to fill out the questionnaire by contact points in order to truly reflect the strength of the network. Participants regretted that EJM Secretariat was not included to answer the indicated questionnaire and that from that point of view some practical information was not exposed in questionnaire's answers.

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<sup>24</sup> EJM/2012/3

Participants shared experience and discussed general background concerning the setting up Joint Investigations Teams (JIT). It was agreed that cooperation within JIT helps to ensure the team spirit and to make necessary contributions. In some cases the setting of the JIT was refused and in general it was because of the lack of the police capacity, or because of certain issues in the legislation or translation or simply the judge did not have sufficient knowledge about what JITs actually were.

The first workshop was dedicated to the JITs and the use of evidence gathered and exchanged. The outcome of the meeting's workshop revealed that there was already significant experience in setting up JITs within EU. The workshop showed that the gathering, the use and the admissibility of evidences may vary significantly in different legal systems. Evidences cannot be used if it was not foreseen in the other country. Thus, a practical solution was necessary. In this regard it should be kept in mind that the setting up a JIT opens the possibility to speak to an authority of another country, to know about other legal system, and to have a personal approach.

During the second workshop it was discussed the topic about the JITs and the disclosure of information. The main question was what kind of information should go to the case file and that the definition of the evidences differs from the country to the country. Therefore the basic problem with JITs was that the rules were also different in different countries when it comes to what should be disclosed. The overall idea is that this must be something that should be decided in case by case basis. Firstly the assessment of problems must be exercised and then a clear regulation must be included into agreement, mainly what kind of information can be disclosed during the JIT's work.

Third workshop was dedicated to the exercise of powers within a JIT. Most participants had said that the seconded member was not allowed to take investigation measures by himself/herself and that the member from the state of operation had to be present. If not, this might lead to inadmissibility of evidence. It was discussed whether there was a necessity for a common legal framework on the exercise of powers. The participants of the workshop had agreed that there was no need for that since the JITs worked in practice very well. It was, however, mentioned that there might be necessary to draw guidelines going beyond the existing manual, also for a model agreements.

During the meeting the feedback from the Joint Eurojust and EJM Task Force was presented, a meeting that had been held on the occasion of the 38<sup>th</sup> plenary meeting. Joint Task Force (JTF) focused on the consultation and the complementarity between Eurojust and EJM. JTF was created to tackle problems of the implementation of decisions, namely of 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). It was established of high priority for EJM to be involved in this topic due to important consequences it will have in all criminal matters area.

Finally, European Network of contact points in Respect of Persons Responsible for Genocide, crimes against Humanity and War crimes (Genocide Network) and Network of National Experts on Joint Investigation Teams (JITs Network) presented their latest work and development.

### The 39<sup>th</sup> plenary meeting of the EJM

The 39<sup>th</sup> plenary meeting of the EJM was held in Nicosia, Cyprus, on the 28-30 November 2012<sup>25</sup>.

Cypriot Presidency announced the topic of the meeting: the European Arrest Warrant (hereinafter EAW) and principle of proportionality, and referred to the Council Framework Decision 2002/584/JHA of 13 June 2002 on the European Arrest Warrant and the surrender procedures between Member States. During the welcome speech it was pointed out the important role of the EJM in solving real cases of cross-border nature. EJM and its meetings assist Member States to understand better different legal systems and how to use properly different legal instruments in the international cooperation. It was noted that the EJM helped to implement the Convention of 29 May 2000 on Mutual assistance in Criminal Matters between the Member States of the European Union and during this meeting one of the successful legal instrument will be discussed – EAW.

It was admitted once again that EJM plenary meetings are important forums where the contact points are fully represented and discuss issues and problems to better understand each other legal systems. These meetings allow the interaction between the contact points, which is one of the principle ideas of the EJM. To strengthen the links and to build mutual trust is of high importance for the effective cooperation between Member States.

Implementation of the EJM work programme was presented by the EJM Secretariat. It was stated that the number of the regional meetings was increased. In 2012 regional meetings organized by German, Estonian, Austrian and Romanian applicants had already took place, one more was planned to be organized by UK. It was pointed out by the EJM Secretariat that the budget cut for the next years may result in the budget cut of the EJM meetings, including regional and national ones and on the ceiling on travel costs and other expenses.

The Report on the EAW evaluation of 2011 was presented by the European Commission. It was reminded about the European handbook on how to issue a European Arrest Warrant and about proportionality test. The position of the Commission's representative was to get more knowledge about Member States practice concerning the issuance and the execution of the EAW, on what amendments are necessary to be made to the handbook and how is situation regarding EAW related to the minor crimes.

The project on '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 were presented. This project contained the evaluation of the principle of proportionality and the EAW. The survey had revealed that in the majority of Member States the CP's always apply proportionality test when an EAW is issuing. Some Member States are using other (proportionality) factors in their decision to issue or not to issue an EAW, such as the use of alternative measures, previous convictions, costs of the procedure, age of the person. Among problems and obstacles in the execution of the EAW were mentioned requests of the additional information not provided for by the Framework Decision on EAW. Some Member States have very short deadlines for the

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<sup>25</sup> EJM/2012/3



reception of EAW and its translation (e.g. 48 hours), some Member States request too vague additional information, and some Member States were refusing the execution of the EAW on such ground that is not foreseen in the Framework Decision. It was advised to apply more openness in the consideration of the use of alternative measures instead of applying the EAW procedure, additional safeguards for pre-trial detention conditions, and an extension of time for the submission of the full application following a provisional arrest. Participants expressed the importance of the building up trust and raising awareness through trainings. Also, it was stated that the EJM had a huge potential and could play an important role in order to improve EAW system.

Second imported topic that was put into meeting's agenda was: "the recent development in relation to the rights of victims in criminal proceedings". A detailed presentation on this subject, with explanation of the legal background was made by the Council. Of high priority in this matter is the enforcement of the so-called "victims' rights package" in order to have horizontal instrument. The package, which was submitted to the European Parliament and the Council in May 2011 includes Commission's proposal on establishing minimum standards on the rights, support and protection of victims of crime, and Commission's communication on strengthening victims' rights in the EU, and 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 contact points of the EJM meet in plenary three times per year. First of the three is the regular meeting of the EJM contact points, which is held on the premises of Eurojust in The Hague once a year. The regular meeting of the EJM contact points is held on the premises of Eurojust in The Hague once a year based on Article 5(3) of the EJM Decision; travel expenses are financed by the EJM Secretariat. As regards the Regular meeting, the EJM Secretariat finances and manages interpretation as well as translation of documents in both official languages, English and French.

### The 32<sup>nd</sup> EJM regular meeting

The 32<sup>nd</sup> EJM Regular Meeting under the Hungarian Presidency of the European Union took place on the 15 February 2011 in The Hague<sup>26</sup>. The meeting, in line with the aim of EJM regular meetings, was to prepare the EJM agenda during the year 2011, under the Hungarian Presidency and the Polish Presidency of the EU.

After the welcoming speech participants launched the discussions on the draft directive on the European Investigation Order (EIO) and the state of play of the negotiations in the Council's Working Party on the judicial cooperation in criminal matters. It was put in the deliberation how effective would be this tool for the Member States and the necessity to ensure the rights of citizens with its implementation. Matters about the principle of proportionality and issues related to data protection did not fall out the discussion.

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<sup>26</sup> EJM/2011/1



In some point participants agreed that the EIO seems to be more complicated for certain cases than the classical MLA instruments. It should still be possible to use the classic MLA if it is simpler to obtain all the investigative measures at once. Further participants concentrated their attention on the grounds for non-recognition and non-execution which are listed in the draft directive. It was observed that grounds for refusal are more specific than before.

As to the EJM Website's related issues the Revamp project was shown in a live version. The Library on judicial cooperation in criminal matters, which would be a new EJM e-tool was introduced by together with its structure. The EU legal instruments would be there in 23 languages: full text of each legal instrument; table with status of implementations and ratifications; forms as transposed in the Member States' national legislations; practical information; national legislations; evaluation reports and other documents; relevant case law.

During this meeting the draft report on the operation and management of the EJM was presented. It was stressed the importance of the contact points' contributions for the statistics and other information. This is vital to reflect in the future the true work and spirit of the Network.

EJM Secretariat stressed the possible changes and amendments to the EJM Meetings' guidelines in order to simplify the organization of the meetings in due time with all deadlines followed by contact points and in order to avoid the unexecuted budget as it was experienced in the past. All contact points were invited to discuss on the mentioned amendments and the method to adopt the guidelines was proposed either by written procedure either during forthcoming plenary meeting.

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

In the end Participants had a possibility to get information of the recently created network European Network on Fugitive Active Search Teams – ENFAST.

### The 33<sup>rd</sup> EJM regular meeting

The 33<sup>rd</sup> EJM Regular meeting took place on the 23 February 2012 in The Hague<sup>27</sup>. The meeting, in line with the aim of EJM regular meetings, was to prepare the EJM agenda during the year 2012, under the Danish Presidency and the Cypriot Presidency of the EU.

After the opening notes of the meeting, the EJM Secretariat made presentation of the EJM budget for 2013, EJM work program for 2012, status of the EJM Website developments and other questions related to EJM Secretariat's daily activities.

The presentation of the sixth round of mutual evaluations on the implementation and operation of the decisions on Eurojust and the EJM was followed. It was notified that evaluators are foreseen to visit all the relevant authorities to analyse the information mostly on the actual work of Eurojust and EJM. Contact points were requested to proactively

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<sup>27</sup> EJM/2012/1

contact the authorities to make themselves available for the evaluations. The decision to upload the Questionnaire on the EJM Website was taken.

During the meeting participants had a possibility to learn more about the Network of Joint Investigation Team (JIT) experts and the JIT secretariat. The importance of the work coordination and the information exchange between all the Networks was highlighted.

Next question of the agenda was the financial contribution from the EJM budget to the EJM Regional and National Meetings. Participants agreed that the priority to organize the meeting should be given to the countries that have not received funding in the past.

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

The summary of the discussion during EJM Task Force meeting was on the agenda of the meeting. The implementation process of the EJM and the Eurojust Decisions and the elaboration of national guidelines on the use of EJM and Eurojust were of main attention. Participants agreed to discuss guidelines on the EJM meetings during next plenary meeting in the 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 a year. The meeting is financed by the EJM Secretariat through its annual budget.

#### The 3<sup>rd</sup> National Correspondents Meeting

The 3<sup>rd</sup> National Correspondents Meeting (NCM) took place the 11 October 2011 in The Hague, under the Polish Presidency of the EU<sup>28</sup>.

The EJM Unit Plan was presented by the EJM Secretariat. In the light of this, the staffing issues of the EJM Secretariat were also discussed. 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 EJM, it was suggested that National Correspondents and contact points bring up relevant points regarding the relationship between Eurojust and the EJM.

Execution of the EJM Work Programme for 2011 was presented during the meeting. An update in the execution of the EJM Work Programme was provided as well as the projects that were under execution. In this meeting the National Correspondents also agreed on the increase of EJM contribution as regards the organization on the EJM plenary meetings, from 50% to 80% of the overall budget, which remained unchanged i.e. 50 000 EUR.

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<sup>28</sup> EJM/2011/5

As for the Website projects, the participants were informed that the translation of the Website was an ongoing process which needed an infrastructure to host all Member States languages, then every new language would be available on the home page. The contact points tool, which consists in listing the contact points of each Member State, would be improved by a new version where would be indicated their particular status such as National Correspondent, Tool Correspondent or part of the Eurojust National Coordination System (ENCS). Furthermore, the back office of the Atlas would become a priority since eventually the practitioners would be able to work towards one Atlas and multiple ways of accessing the information to facilitate its use. Also, the website would have 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 encouraged the National Correspondents and the contact points to provide the EJM Secretariat with news that could be interesting for the whole Network.

The EJM presented an overview of the National and Regional Meetings which had been hold in 2011. The two Regional Meetings that took place that year were proved to be very useful on solving regional issues along with the other participating Member States and third countries. Then, it was suggested to simplify the administrative procedure of the call for grants in order to organize Regional Meetings, knowing that Member States so far would have to apply for grants in February so as to organize National and Regional Meetings for the coming year.

#### The 4<sup>th</sup> National Correspondence Meeting

The 4<sup>th</sup> National Correspondents Meeting (NCM) took place the 9 October 2012 in The Hague, under the Cyprus Presidency of the EU<sup>29</sup>.

Secretary to the EJM, stressed f that the ongoing projects would prioritize the operational work of the contact points as well as strengthen the cooperation with Eurojust. Indeed, on this last point the continuation of the Task Force was suggested to be one of the options allowing strengthening their relation, which would not be only a point of information but also a work programme so as to state to the Trio Presidency and the EJM about the goal, the methodology and the planning of the meetings. In addition to that, it was suggested that in order to improve the cooperation between Eurojust and EJM the two structures would introduce each other in all conferences they take part. For that matter, it would allow informing the practitioners on the functions that the EJM and Eurojust had and underline the added values of each structure.

As for the revamping of the EJM website, the creation of the Library had become the priority ever since the Council Conclusions, as well as the Atlas, which required a particular focus. The ongoing updating of the website implied for the Secretariat to provide training, especially to the Tool Correspondents. Hence, on the initiative of the EJM Secretariat, the EJM Webmaster was going to all Member States in order to help and train the Tool Correspondents on the updating of the website, which proved to be very efficient. Moreover, the participants were informed that there were discussions still ongoing about the

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<sup>29</sup> EJM/2012/5

recent request from the e-Justice Portal so as to integrate the EJM Website into their platform.

During that meeting the Prosecutor from Spain provided a questionnaire from IberRed for each Member State of which answers would lead to a project improving cooperation; initiative which was encouraged by the EJM Secretariat to the contact points to participate. This brought the matter of how to exchange contacts between IberRed and other Networks.

#### 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 a year. The Tool Correspondents meeting is established to discuss website related issues and the tasks of the EJM Secretariat and the Tool Correspondents in this respect.

With regard to the Tool Correspondents meetings, years 2011 and 2012 are also remarkable in a fact that on the initiative of the EJM Secretariat, these meetings now last 1,5 days as oppose to a previous 1-day meeting. The second day is dedicated entirely on practical issues: with the help of the EJM Webmaster and usually of the representatives of the contractor, the EJM Tool Correspondents are able to make use of a half day workshop, fully dedicated on the updating of the website. The Tools Correspondents would therefore, on the second day of the meeting, have all technical help what they might need from the Secretariat in order to keep their pages up to date, at their hand.

This initiative has proved to be a success as every year, on the second day of the meeting, information is put up to date as regards to several Member States.

##### The 10<sup>th</sup> Tool Correspondents Meeting

The 10<sup>th</sup> Tool Correspondents Meeting (TCM) took place the 17-18 March 2011 in The Hague, Netherlands, under the Hungarian presidency<sup>30</sup>. Invited was also Bilbomática, the company contracted for the development and maintenance of the EJM website.

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

Design of the new EJM website was presented; its new functionalities were introduced as well as upcoming projects. After the adoption of the Council Conclusions it became an obligation for the EJM Secretariat to have on its website data relevant to mutual recognition tools but in addition to that, the EJM Secretariat had launched 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 mutual recognition instruments tools. Library on judicial cooperation would be a completely new tool. There would be one Atlas, including “branches” in future. Exception was the European Arrest Warrant Atlas that was and would be remain separately.

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<sup>30</sup> EJM/2011/2

It was announced that all pages and tools were to follow a new lay-out. Moreover, in order the Tool Correspondents to be trained, working meetings were to be held in The Hague and in Member States; plus, Tools Correspondence Application would enable Tool Correspondents for consultation on website matters and to offer channel to exchange ideas and raise concerns.

It was also announced that the new back office would be ready by the end of year 2011. Thus, old information will be automatically transferred to the new back office. For that purpose, it was reminded that the Member States have the duty to update the information needed, which was for some of them out of date. Firstly, because the updating of the website could not be solved solely by the EJM Secretariat; secondly, the Tool Correspondents had not the responsibility for building the tools, but to update the Atlas. Once again it was stressed that Article 8 of the EJM states that Member States should provide the accurate and updated information to the EJM Secretariat.

The cooperation between the EJM and e-Justice was also discussed between the participants. It was pointed out that this cooperation was important in order to avoid duplication and was an added value through useful information for practitioners.

The question of the training of the Tool Correspondents was central. All Tool Correspondents agreed on the fact that training was necessary for the new back office, even though the new back office would be made "user-friendly".

The use of videoconference for training was mentioned and accepted as to be used occasionally with Tool Correspondents.

The EJM Secretariat supported the idea of so-called "welcome package", which was suggested during the meeting by several Tool Correspondents. Together with a sort of wizard for the new back office, it would be a very important idea for the future, once the revamp is completed. The EJM Secretariat found it important to be aware of the reality that in some Member States there was a problem for the newly appointed Tool Correspondents who did not have a handover of this file and were not really aware of their functions as Tool Correspondents. However, it appeared that in some Member States there was no official Tool Correspondent but the work was divided between contact points. The profile of what is a Tool Correspondent was defined not only as a technician but as a person who should also be able to give certain judicial input to the work.

Regarding translations, it was pointed out that at that point, database could mostly be found in French or English. The only additional task the EJM Secretariat would ask from the Tool Correspondents would be the proofreading — and occasionally small parts of translation — of the website translations, but it could be agreed that this would be a shared task with the National Correspondent or with other contact points.

## The 11<sup>th</sup> Tool Correspondents Meeting

The 11<sup>th</sup> Tool Correspondents Meeting (TCM) took place the 22-23 March 2012 in The Hague, under the Danish presidency of the EU<sup>31</sup>. Invited was also Bilbomática, the company contracted for the development and maintenance of the EJM website.

First of all, the latest developments and changes of the EJM website and back office were presented to the Tool Correspondents. They were provided with detailed information regarding the different projects. Firstly, since the contact points had been previously summed to proofread the translations in their own language, the EJM website would then be available in the languages they had sent to the Secretariat. Even though it was specified that when particular content was not available in the chosen language it would be shown in English, which was the default language.

Secondly, novelties regarding front and back office were explained to the Tool Correspondents, from which translation was the next step.

Thirdly, the section of News and Events of the website was being designed to have a further user-friendly and intuitive presentation. It would have a central part at the website transforming the section divided by categories to ensure a higher 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 as it included useful content and information available to all practitioners.

Finally, the Atlas tool would undergo changes through a deep restructuring as this is the most complex and difficult to manage in the back office. Other sections, such as the Compendium or the Photo Gallery would also be revamped. The conclusion of this part of the meeting was that the Atlas should be the priority for the website, in order to make it functional, accessible and broader in the scope. For that purpose, it was also reminded that the translation of the Atlas tool would require a deep commitment from the Tool Correspondents' part.

The second part of the meeting was turned to the Tool Correspondents contribution in the website activities and projects. The Tool Correspondents were invited to update the information regarding the judicial and procedural systems in their Member State on the EJM website. The Tool Correspondents were also requested to check the information presented in the Status of implementation and to provide the Secretariat with the information missing and to inform the Secretariat with any update or relevant information on the status of implementation they may find.

As regards the priorities for 2012 and 2013, the Atlas and the interlinking of the map and some other tools were considered priority. The Secretary to the EJM continued by providing the reasoning on the importance and creation of the Atlas and the complexity of building this tool and its branches since it required time from all the staff that contributed in each

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<sup>31</sup> EJM/2012/2

part and the contractor. Hence, the Atlases would be released in separate lots in order to facilitate the work of the practitioners.

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

Furthermore, the role as a Tool Correspondent came up during the meeting, especially regarding the awareness of the EJM website to the National Correspondents in the Member States. This function entailed to update the website and be the ones who provided the information about the EJM website to their national authorities.

Finally, the question of the cooperation between the EJM and e-Justice was mooted. Updated information were provided to the Tool Correspondents over the meetings between the members of the e-Justice and EJM Secretariat that had taken place in order to find the best way of cooperating and complementing the relevant information in criminal matters in the e-Justice portal and the EJM website. The EJM would integrate privilege links with the e-Justice portal so as to both of the websites had their specialised information without overlapping information.

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

The possibility for the EJM Regional Meetings is envisioned in the EJM Vision Paper adopted during the 25<sup>th</sup> Plenary Meeting of the EJM contact points in Rovaniemi 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 founding idea of introduction of these meetings was that the EJM’s efficiency may be improved by organizing the regional meetings of the EJM contact points in various Member States. The financial and organizational aspects of the meetings are regulated in the Guidelines on the EJM meetings<sup>32</sup>.

The first organisation guidelines for these meetings were adopted at the 32<sup>nd</sup> Plenary of the EJM, 25-26 June 2009. After their implementation, some points were adjusted. Therefore, to bring these guidelines in harmony with the EJM’s needs and Eurojust’s internal procedure, that document was later on updated.

The term “regional” should not be construed in a narrow geographical sense. The EJM regional meetings may be organized by the Member States, regardless of their geographic proximity or distance. Therefore the countries involved in the meetings do not necessarily have to be neighbouring states and also 3<sup>rd</sup> states might take part in them.

According to the Guidelines, the functioning of the EJM may be improved through organising the regional meetings of the EJM contact points in various Member States. The EJM Secretariat provides support to the organization of regional meetings. Since 2011,

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<sup>32</sup> EJM/2010/1/REV



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 Contact point of the Member States organizing the regional meeting; the EJM budget will bear up to a maximum of 95% of the organizational costs, with a ceiling of 5000 € per meeting.

### EJM Regional meeting in 2011 in Helsinki, Finland

The regional meeting of the EJM, organized by the contact points of Finland, took place on 12-13 May 2011 in Helsinki. The aim of the meeting was to discuss the relevant agreements as well as the competent authorities and routes for requesting mutual legal assistance.

The following national contact points were represented in 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: the agreements to be applied in various cases, competent authorities under the different agreements, and the appropriate routes for requesting mutual legal assistance.

On the first day of the meeting presentations were held on the Finnish System of Legal Assistance; on the Swedish System of Legal Assistance; and on the Norwegian System of Legal Assistance. In addition, three case studies were discussed with the topics such as violent crime investigation, drug investigation and the financial crime investigation.

On the second day of the meeting Participant Countries discussed topics such as the types of assistance that may be requested from Sweden without request for mutual assistance; an analysis of a case in which Norway had been requested to interview a witness; secret wiretapping; a Norwegian case (Operation CATCH) of organised shoplifting, in which the aim was to carry out controlled delivery with Estonia; the act on extradition between Finland and other Nordic countries; experiences in joint investigation teams (JIT).

In conclusion, according to the organisers, the regional meeting of the EJM Contact points was very useful. It was concluded that good practices 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 mutual assistance must state the relevant agreement as well as the competence of the requesting party and the grounds for it 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 NAW in all Nordic countries will facilitate practical implementation.

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



### EJN Regional meeting in 2011 in Salzburg, Austria

The regional meeting of the EJN, organized by the contact points of Austria, took place on 5-7 October 2011 in Salzburg. The general topic of the meeting was "Cross-border Cooperation and the Role of the EJN".

According to the report on the regional meeting, submitted to the EJN Secretariat by the contractor, during the three-day meeting, contact points from five different countries presented their national regulations regarding the cross border-cooperation.

Presentations were held on overview on recent legislation in criminal matters in Austria; on implementation of the Framework Decision on Financial Penalties in Germany by October 28th, 2010; on new legislation of Czech Republic in criminal matters as an act on criminal liability of legal persons; on single competence to execute requests concerning financial penalties throughout the Slovenia is at the Regional Court of Celje; on update on the negotiations of a cooperation-agreement with EUROJUST because the agreement has been signed but there are still concerns with regard to the data protection regime; and what is the main objective in crime policy in Germany

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

On the third day of the meeting, the Federal Ministry of Justice Vienna/Austria reported about the state of play in the discussions on the European Investigation Order (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 Legal Assistant to the Austrian Desk reported news from Eurojust.

In conclusion, topics of the meeting and the work of the participants were summed up. The meeting was of high value for the Austrian contact points, since it offered a possibility to strengthen direct contacts with other contact points. In addition, it was announced that in 2012 the Austrian Regional Meeting shall be held in Graz including 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 presentations were held on the innovations of the French Code of Criminal Procedure and on overview of the police information exchange and cooperation with the German police authorities.

On the second day of the meeting, German EJN contact points presented their activities, problems, case-load, ideas, and experiences in 2011.

The work of the German contact points was presented, incl. regarding the EJN website, especially the modified design, and the new EJN brochure. An overall evaluation of the

annual report of the EJM revealed that Germany with a total of 800 operations in the processing remains one of the top group EJM operations.

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

Secretary to the EJM underlined the importance of the regional EJM meeting. She emphasized the need for cooperation with other judicial cooperation Networks and in this regard the organization of meetings with the contact points all over and beyond European Networks. The EJM is important due to the practical help and support it offers at both the national and international level.

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

On the third day of the meeting, the developments of the Eurojust for 2011 were discussed. Furthermore, the reform of OLAF Regulation was discussed. The aim of the reform is to commit the fundamental rights of OLAF in the conduct of the investigation.

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

### EJM Regional meeting in 2012 in Seggau, Austria

The regional meeting of the EJM, organized by the Austrian Contact points, took place on 10-12 October 2012 in Seggau (Province of Styria). The overall title of the meeting was "Crossing Borders", which means that subject was to focus on some aspects of cross-border cooperation and the role of the EJM.

With regard to the geographical site of Austria the invitation to this meeting was addressed to the Contact Points in Italy, Germany, Slovenia, Luxemburg, Liechtenstein and Suisse.

On the first day of the meeting presentations were held on overview of the importance of networks for the proper development of good transborder cooperation both in civil and criminal matters; presentation under the title "The-Internet- a Global Network and the Framework of Criminal Law" criminological analysis of the phenomenon called cybercrime; on new legal developments within the Austrian Federal Law on Cooperation in Criminal Matters with the Member States of the EU because by January 1st, 2012 Austria implemented the Framework Decision on Custodial Sentences, the Framework Decision on Proceedings in Absentia and altered the Austrian legislation in connection with the applicable law on cases of an EAW falling under the Austrian declaration to Art 32 of the Framework Decision on the EAW; on the German implementation of the Eurojust and EJM- Decisions which had been recently adopted.

In addition, with regard to the new legislative developments Gabriele Schmelezer (Professor for Criminology and Criminal Law) highlighted two newly introduced crimes to the Austrian Criminal Code by January 1st, 2012. The first one is "Grooming" (Trying to make personal contact with a minor person through the internet - Sec 208a Austrian Criminal Code), the second one is presentation or incitation of sexual acts via the internet towards a minor

person (Sec 215 a para 2a Austrian Criminal Code). Both crimes require a high standard of proof so the future will show whether convictions can be achieved in practice.

On the second day of the meeting the COBRA, a specialised Anti-Terror Unit of the Austrian police forces gave an overview on its functions and its history. The unit provides special assistance in urgent and difficult threats and dangerous situations. During the visit to the COBRA the members of the meeting had the possibility to watch special forms of interventions of the unit, including drugs search with police dogs, stopping of criminals on the street by car, entering buildings through windows. Finally the group of participants was kept as hostages and took part in a rescue situation by the special police unit.

The second half of the day, the participants had the opportunity to visit the Prosecution Service of Maribor in Slovenia in order to strengthen the personal contacts and to get to know the judicial system and practice of a neighbouring country. The head of the authority pointed out that the Slovenian prosecution service is independent and follows the principle of mandatory prosecution. The international cooperation with the neighbouring countries is good, direct contacts are the rule.

At the Regional Court of Maribor the President of the Court welcomed the participants as well and on her behalf a trainee judge explained the competences and the degrees of Courts under the Slovenian Criminal Procedure. In a guided tour through the city which is the Cultural Capital of Europe in 2012 the participants got an impression of the historical heritage of the border city.

Finally, Austrian procedure of extradition was explained and surrender according to the FD on the EAW. Furthermore, 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.

In conclusion, topics of the meeting and the work of the participants were summed up. The meeting resulted in successful conclusions on the enforcement of international practical cooperation among the contact points of the participating countries. In addition, the participants of the Regional Meetings wish to underline that for the proper functioning of the EJM, the personal contacts between the largest numbers of contact points possible is crucial. Therefore, the number and character of the plenary meetings should be fully kept up and all efforts should be made to ensure these meetings as an excellent form of building up mutual trust and confidence among the Member States judicial authorities.

Finally, other contact points were invited to give an overview of their experience when working with the Network. It was stressed that informal and direct contacts were the main added-value achieved by the EJM ever since its creation.

### EJM Regional meeting in 2012 Bucharest, Romania

The regional meeting of the EJM, organized 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?"

EJN Regional meeting in 2012 in Tallinn, Estonia

EJN Regional meeting in 2012 in The Netherlands

### 1.6. Organisation of Trio meetings (Activity 1.6)

According to the Guidelines on the structure of the EJN, the EJN Secretariat shall organise meetings of the EJN Trio Presidencies before each EJN meeting, in order to prepare the respective meeting, to ensure continuity in EJN activities and to meet with Eurojust representatives.

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

On the occasion of the 39<sup>th</sup> plenary meeting under the Cypriot Presidency, an Enlarged Trio meeting took place. Namely, in accordance with *the Revised Guidelines on the Structure of the European Judicial Network (EJN)*<sup>33</sup>, the Trio Presidencies have to work closely with the EJN Secretariat for the implementation of the Work Programme during the respective 18 months. 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 Bilbomatica.

The activity has been running smoothly without any significant problems.

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<sup>33</sup> 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.

### 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 Correspondent meeting (Activity 3.2)

2011 and 2012 are characterized by major changes as regards the EJM website.

2010 was the cornerstone for redesigning and revamping the EJM website. The EJM Secretariat, as managerial body of the EJM and therefore with a role of a visionary, identifying new areas where the EJM may be involved in as well as developing its website, took an initiative to restructure and to redesign the website. Along with this task, an idea of a comprehensive Library for the practitioners was born. 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 2010<sup>34</sup> further stressed an intense work on this EJM Secretariat's project: to have a totally revamped website, containing a comprehensive library on judicial co-operation in criminal matters, as well as e-tools that are adequate for all types of judicial co-operation, including the new mutual recognition legal instruments.

This 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. Other than the text of each legal instrument, EJM Library includes 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 any other practical information. 2011 and 2012 is therefore characterized by a throughout redesign of the website.

The "redesign" does not only imply to the design as such and neither to providing for a judicial Library but to the entire revamp of Atlas, as another initiative of the EJM Secretariat when it comes to the redesign. The EJM website has always included much valuable information; however, the out-dated look and structure of the site did not always help find such information. In response to those ideas, the EJM Secretariat dedicated itself to enhance the site where possible, always keeping the end user in mind. Therefore, several projects were undertaken to enhance the website with an aim to achieve a comprehensive tool and user friendly environment for the practitioners.

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 thus a comprehensive tool for judicial cooperation. Although new Atlas is yet to

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<sup>34</sup> 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.

come, by the end of 2012 the major steps have been taken in technical and judicial development of it.

As a result, several fundamental changes that are discussed below in detail have been made to the EJM website. Development of the Atlas and the website nevertheless has to continue.

New activities according to proposals of the EJM Secretariat and Tool Correspondents are continuously being identified. Each year in 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 of the Atlas and the finalization of it. Revamp of the Compendium and possible amendments to the *Fiches Belges* have clearly been postponed until the first priorities are completed. It is important to note that it has been agreed that the finalized Atlas would include also map functionality – a possibility to use a geographic map when identifying competent judicial authority for a specific request. Finalization of the Atlas and the interlinking of the map were considered priority and will have to be completed through the following reporting period.

In addition to the development of the Atlas, other two priorities have been agreed between the Tool Correspondents and the EJM Secretariat – the translation of the website and training of the EJM Tool Correspondents by the EJM Secretariat. Both activities are continuously being completed by the Secretariat, the first of the two in cooperation with the Tool Correspondents – they have been asked to proofread the translations.

The website will continue being enhanced, in accordance with the legislative evolutions and decisions agreed upon at the TCMs, considering also the EJM demands and taking into account the Conclusions of the Council on the follow up of the implementation of instruments based on the principle of mutual recognition of judicial decisions in criminal matters.

### *Atlas Revamp*

Consequently, 2011 is particularly remarkable due to a revamped EJM website that was put online by the EJM Secretariat by the end of 2011. It was first introduced to the contact points at the 33<sup>rd</sup> Regular Meeting of the EJM in The Hague. The website now has a user-friendly structure and a comprehensive content. The new EJM website will also include a part related to the EJM and its activities, while the most important segments of the website will be those containing the practical tools for the application of the legal instruments on judicial co-operation in criminal matters. The judicial Atlas, however, is yet to be completed. A finalized comprehensive Atlas will be one made of different “branches” of the Atlas, each comprising a mutual recognition instrument and the competent authority for the latter.

### *Library*

Library, a completely new tool has been introduced; a task mandated by the Council through its Conclusions on the follow-up of the mutual recognition instruments. EJM Library contains all the information that practitioners may 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 legislations transposing the mutual recognition instruments, forms, reports, practical information, handbooks, etc. The Library on judicial cooperation in criminal matters which will be a new EJM e-tool was introduced by together with its structure. The EU legal instruments would be there in 23 languages: full text of each legal instrument; table with status of implementations and ratifications; forms as transposed in the Member States' national legislations; practical information; national legislations; evaluation reports and other documents; relevant case law

#### *News & Events section*

The section of News and Events of the website has been created to have a further user-friendly and intuitive presentation. The website now includes a separate 'News' section which is constantly being updated to inform all local authorities about what is going on in Europe.

#### *Welcome package*

The idea of so-called "welcome package" for the Tool Correspondents were put on the table during the years of reporting and discussed further. Together with a sort of wizard for the new back office, it would help the new Tool Correspondents to guide through the EJM website and would help to clarify to the Tool Correspondents its tasks in this role. The implementation of the idea will remain for future.

#### *Tasks of the TC's*

The division of the tasks between the EJM and the Tool Correspondents has touched upon in several meetings. It has been confirmed several times that the updating of the website could not be solved solely by the EJM Secretariat; the Tool Correspondents had not the responsibility for building the tools, but to update the Atlas. The Tool Correspondents are also requested to check the information presented in the Status of implementation and to provide the Secretariat with the information missing and to inform the Secretariat with any update or relevant information on the status of implementation they may find. It was then concluded that the Member States should only mark as implemented the legal instruments that had been previously notified to the Council.

#### *Translation of the website*

When it comes to translation of the website, this task was launched in 2011 and has been ongoing since then. The EJM Secretariat has the static parts of the website translated, and would then have the translations proofread by the Tool Correspondents. All this information shall be available in all EU official languages.

#### *Contact Points*

The contact points tool, which consists in listing the contact points of each Member State, was improved by a new version where it is now indicated their particular status such as National Correspondent (NC), Tool Correspondent (TC) or part of the Eurojust National Coordination System (ENCS).

#### *eJustice*

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



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

After consultations and awareness of the project through informal meetings, the EJM Secretariat stated on a paper the main areas of cooperation between both parties, which consisted in the complementarity between both IT structures with the main principle of safeguarding the EJM Website autonomy. The EJM website autonomy issue was ever present in all discussions between the EJM Secretariat and the e-justice representatives. The website is a unique tool that is and will be managed and belonging to 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 is a mandate for the EJM.

Discussions went to a more practical level during 2011, both parties gathered to see where they could contribute to share more visibility. The EJM website now has a part dedicated to partners, where the e-justice is included. And in the e-justice portal, there are several sections referring to the EJM and to its tools. The last discussions between both parties took place in November 2012. The representatives from Council and Commission proposed the idea of preparing a very first draft on the strengthening of cooperation between EJM and e-justice. This paper would be presented first to the e-justice/ e-law group in the end of the year and afterwards to the EJM Contact Points on the occasion of the Regular Meeting in February 2013. In effect, during the NCM in October 2012, it was decided to bring the e-justice topic to the Regular meeting and discuss it at length. The discussions on the cooperation in detail would continue therefore in 2013 in the beginning of the year on the occasion of the 35<sup>th</sup> Regular Meeting.

## 4. Objective 4: Functioning of the EJM Contact points

### 4.1. Supporting language training of 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 European Union languages other than their national language. The EJM Secretariat has adopted measures to support the efforts of the Member States in meeting the requirement of article 2 (5) of the EJM decision.

Both in 2011 and 2012 language training for the EJM contact points took place. Language trainings organised are tailor made courses for EJM contact points exclusively. The courses are meant to familiarise the EJM contact points with language and technical expressions in



the area of judicial co-operation and the different judicial systems of the European Union. The purpose of these courses is to facilitate the process of European integration via contributing to the creation of a European judicial area. The objectives of the courses were: to improve the knowledge of legal language (spoken and written) with a particular focus on the terminology specific to international judicial co-operation; to improve the knowledge of the main judicial systems in 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. Thus, the language skills taught in the courses are fully operational. The fact that in both times EJM contact points were involved in the trainings as the trainers implies to the high level of practicality of these trainings.

The specialised language courses in international judicial co-operation were made available to the contact points in English.

In the light of this activity, the EJM Secretariat has established a very good cooperation with European Academy of Law (ERA). Although organizational issues are all taken care of the EJM Secretariat when implementing this activity, ERA is a valuable partner to provide the training materials and in liaising with the trainers. Also, due the fact that the training programme must be tailor-made “language training” for the EJM contact points bearing in mind the operational needs of the contact points, covering both legal and operational language skills. An entity offering this service must have a capacity and a strategical position to act as an intermediate between the legal and technical experts (trainers) and legal practitioners, which would enable it to provide a structured exchange of knowledge between all actors in the field of international criminal law, including judicial cooperation in criminal matters. It must be in contact with trainers and teachers who are capable to teach to the EJM contact points not only foreign language (i.e. English) but operational language through substantial and operational knowledge in the specific field of international criminal law.

## 5. Objective 5: To increase awareness of the EJM among practitioners in Member States and candidate & accession countries

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 MS to increase awareness of the EJM among practitioners (Activity 5.1)

On the initiative of the EJM Secretariat, and in order to help the Tool Correspondents in updating the EJM website, this activity has been implemented widely over the two years of

reporting. EJM Secretariat Webmaster was going to Member States in order help the EJM Tool Correspondents in their task and to offer personalized support based on each Tool Correspondent's need. The activity is highly appreciated by the contact points as the demand for the visit of the EJM Webmaster is constantly high.

In order to help and train the Tool Correspondents on the updating of the website, over the years 2011 and 2012, the EJM Webmaster visited the following 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 the EJM Secretariat (in Eurojust headquarters). The National meetings of the EJM Contact points are included in the Conclusions of the 35th Plenary of the EJM on 28-30 November 2010.

The Member States are encouraged to provide support to their EJM contact points to organise regularly, at least once per year, working meetings between themselves and between them and the national judicial networks in criminal matters, where applicable. In case a Member State needs financial support for the organization of this meeting, rather than organizing it at the full cost of the Member State concerned, it is invited to apply for a grant awarded by the EJM Secretariat every year.

In 2011 grants were awarded for a national meeting organized in Spain, and for two national meetings organized in The Netherlands.

In 2012 grants were awarded for a national meeting organized in Belgium, Finland, Romania and United Kingdom.

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

This objective aims at organizing informal meetings involving the EJM with other judicial Networks and similar structures in order to promote international judicial co-operation. Also meetings with EJM partners (that is, other than the Networks) in the field of judicial co-operation may be organized.

Additionally, the objective also aims at the representation costs of the EJM in conferences, meetings and seminars held by other actors of judicial co-operation.

### 6.1. Missions (Activities 5.3 & 6.1)

Apart from the missions to the EJM plenary meetings and to meetings to the Member State holding the EU Presidency in order to prepare the plenary meetings, the vast majority of the events that the EJM Secretariat has attended concern meetings with the partners referred

to in Chapter 5 of Part II of this report. Therefore, the cooperation with different partners and consequently relevant events has been referred to in further details in Chapter 5.

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

In order to respond to the new challenges of transnational crime, and in line with the documents referred to above, the EJM Secretariat has launched meetings – the Hague Meetings – for the judicial Networks across the world. The initial goal to organise such a meeting was to provide the other Networks with an opportunity to get to know each other, considering that all criminal judicial Networks have the active involvement of EJM contact points from several EU Member States. The purpose of these meetings was evolved over the time to create a platform for the judicial Networks enabling the contact points/ members of the Networks to exchange views of best practices and to create synergy in cooperation. The possibility to meet and therefore to strengthen mutual trust between contact points/ members of the Networks within each Network was the reason behind the success of the operational Networks; the same principle has now been applied to the cooperation between the Networks.

### The 3<sup>rd</sup> Hague meeting

Bearing in mind the latter, the EJM Secretariat offered the possibility to meet, forming the basis for the 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 due to its aim to achieve cooperation between the Networks in the form of meetings.

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

In the meeting representatives of different networks were presented, such as la *Commission de l'Océan Indien* (Judicial Regional Platform of the Indian Ocean Commission, COI) countries, the Judicial Regional Platform of Sahel countries, which had been created jointly by 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.

Representatives of the abovementioned network explained legal background of their Network and shared experience in the domain of the judicial cooperation.

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

the court Mr. Brammertz emphasized the role of the networking and interconnection, which is what brings along real operational results. During the following discussion the Secretary to the EJM presented the previous two Hague Meetings that had taken place in 2010 with the same aim to elaborate the possible platform for the Networks, for the interconnection of the Networks and consequently to contribute to the efficiency of mutual legal assistance.

The term “interconnection” referred that the communication between the Networks should be operational. During the meeting participants put attention to the EJM experience in the field of the creation a functional network based on the mutual trust and how this experience can be used for 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 the mutual trust between the actors of judicial cooperation through mutual cooperation. It was all about real and effective cooperation of existing judicial operational Networks, and about support to create such similar Networks in other regions of the world.

In the end of the meeting it was once again pointed out that the main purpose of the meeting was not to create something new but to achieve interconnection between different networks and multilateral approach. It was agreed that the reason behind successful and operational Network is the mutual trust between the actors of judicial cooperation through mutual cooperation. Between Networks the idea is the same but in order to achieve this, the Networks should be provided with the possibility to interconnect. EJM Secretariat is offering this possibility in the form of the Hague meetings.

### First operational meeting between the EJM, COI and SAHEL Networks

In January 2012, cooperation established between the EJM Secretariat and the representatives of the UNODC, reached to a first operational Meeting between the Networks, jointly organized by the EJM Secretariat and UNODC. For the first time an operational meeting between contact points of three judicial Networks based in two continents took place.

The meeting between the Networks organized by the EJM Secretariat jointly with UNODC took place on 30-31 January 2012 in Hague. The aim of the meeting was to transmit the trust through Networks to spread the EJM philosophy and to learn from each-other.

Apart from contact points from EJM, members of Judicial Regional Platform of the Indian Ocean Commission countries (COI) and the Judicial Regional Platform of Sahel countries (SAHEL) were represented, as well as representatives from the EJM Secretariat and the UNODC. Presentations were held on all three regional judicial Networks and on tools developed by EJM and those of the UNODC in order 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 COI Networks.

Furthermore, the challenges in the criminal judicial cooperation in practice between the participating countries were discussed and the links between the contact points of the

three judicial cooperation Networks were established, as well as informal direct contacts. It was acknowledged that the new Networks being created embraced the importance of human relations as the key factor to reach 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 period of days.

On the first day of the meeting the participants had the opportunity to visit the International Criminal Court where it was explained the work of the Court and the importance of judicial cooperation in Criminal Matters to progress with the work of the Court.

On the second day of the meeting presentations were held on overview of regional judicial platforms Sahel countries and the Indian Ocean Commission and the work of the European Judicial Network; on sharing of tools developed by UNODC and the EJM; and on information on the implementation of a network of prosecutors/investigating magistrates in West Africa to deal with drug trafficking and other forms of organized crime. In addition to this, the meeting proved to be extremely operational as several concrete cases were discussed and solved.

Furthermore, discussions on the challenges encountered in practice in the criminal judicial cooperation between the participating countries and the links between the three judicial cooperation networks were presented. In addition, the new Networks being formed today have also embraced the importance of the human relations as the key factor to reach mutual trust. Secretary to the EJM, Ms Fatima Martins highlighted in conclusion that this meeting was of high importance to improve judicial cooperation in criminal matters at a global level.

## Chapter 4: Self-assessment on the Network's management

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### 4.1. Overview

In accordance with article 2 (8) of the EJM Decision, EJM has a Secretariat is *"responsible for the administration of the Network."* According to Article 25a and paragraphs 19 and 20 of the Preamble of 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."* What is more, Article 11 of the EJM Decision provides for 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<sup>35</sup>, the EJM Secretariat is

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<sup>35</sup> EJM/2009/1.

accountable before two stakeholders: the Administrative Director of Eurojust, and before 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 to have Eurojust and the EJM work together towards the same goal, despite having different means and different functional organisations. In the past two years, just as in the previous years, the EJM Secretariat was devoted to the interest of the EJM when implementing the EJM work programme, that is performing its tasks as an independent Network, bearing in mind at the same time that both the EJM and the Eurojust Council Decisions provide for the need for privileged relations between the EJM and Eurojust.

The EJM Secretariat provided the EJM with proper administration and management while keeping costs low: in 2011 the EJM Secretariat was composed of 6 staff members (1 AD position, 1 TA position, with grade AST 3, and 3 CA positions with grades FG IV, FG III and another FGIII) and a Seconded National Expert (SNE). On the course of 2012 the situation was improved on one hand due to the upgrade through new recruitment procedures of the posts and hence launch of vacancy notes for several positions. On the other hand, the position of the SNE, that remained vacant in July 2011, has not been filled in since then mainly due to a time-consuming procedure. By the end of the reporting period of 2012, the EJM Secretariat was composed of 5 staff members (4 AD positions, with grades AD9, AD6 and two AD5, and 1 TA position, with grade AST 3).

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 its tasks completed.

As regards to regular financial planning, the EJM Work Programme is prepared on a bi-annual basis. The EJM Secretariat prepares the Work Programme with budget information and submits it to the EJM National Correspondents for their information and agreement. The EJM Secretariat attends the College 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.

In order to better provide the EJM perspective at budget discussions at Eurojust College meetings, at the request of the EJM Secretariat, since 2010 the EJM Secretariat is invited to participate in these meetings together with the EJM Trio Presidency, to present the EJM Secretariat as an independent structure. This practical amendment is in line with the management policy of the EJM, as the EJM Secretariat is a body representing the EJM in close consultation and coordination with the contact points of the Member State holding the Presidency. In 2011 and 2012, the procedure, therefore differed for the EJM Secretariat as oppose to other units within Eurojust in that it attended the College meeting together with EJM Trio Presidency – precisely due its dual role.

## 4.2. 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 25 a (b) of the Eurojust

Decision, the EJM Secretariat forms part of the Eurojust staff, but functioning as a separate unit. It enjoys autonomy, as stated in paragraph 20 of Eurojust Decision.

As the administrating body of the EJM, providing the EJM with the necessary professional experience, history and continuity, the EJM Secretariat tasks in practical terms inter alia include:

- ensuring the proper administration of the EJM, 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 order to fulfill the tasks put on the EJM Secretariat in the legal acts, through the reporting period the EJM Secretariat was composed of the following staff:

- Secretary to the EJM and Head of EJM Secretariat, **Ms Fátima Adélia PIRES MARTINS**,
- Seconded National Expert, **Mr Florin-Răzvan RADU** (until July 2011, SNE position remains vacant since),
- Secretariat Coordinator, **Ms Maria João ALMEIDA GOMES**,
- Legal Assistant, **Ms Ianina LIPARA** (as of 1 December 2012 filling a position of the EJM Legal Specialist),
- Legal Assistant, **Ms Ele-Marit EMOIS** (as of 1 December 2012 filling a position of the EJM Legal Specialist),
- Webmaster, **Mr Remco NIGGEBRUGGE**.

Over the period of reporting, the EJM Secretariat has been managing and representing the EJM in close consultation and coordination with the Member State, which holds the Presidency of the Council and in order to fulfil its tasks according to the EJM Decision.

The EJM Secretariat is the only body of the EJM that contributes to its sustainability as it is the only permanent body of the EJM and helps therefore contribute to the permanently established cooperation and continuity of its actions.

In fulfilling its tasks, the EJM Secretariat has adopted a proactive approach, meaning that it contributes to identifying the needs of the Network to further facilitate its daily work i.e.



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. It also means that the EJM Secretariat has an important visionary role, acting as think-tank to the EJM.

EJM Secretariat uses its strategic position by transmitting to the National Correspondents updated information concerning what is going on in the field of the international judicial cooperation within the EU. As the representative body of the EJM, the Secretariat enables the EJM to create awareness of the EJM and of judicial cooperation in Member States as well as to establish and strengthen relationships with other partners in judicial cooperation.

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 in widened reach of the EJM globally.

## Chapter 5: External actions

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The external actions of the EJM have been divided in this report into three parts.

The first point refers to the EJM cooperation with EU institutions and other EU actors. The second point describes the activities as regards the third countries. Finally, the third part gives an overview of the interconnection of the Networks, meaning the EJM cooperation with other judicial Networks and Similar structures.

### 1. EJM cooperation with EU institutions and other EU actors

#### 1.1. European Commission

Entering into force of the Lisbon Treaty on 1 December 2009<sup>36</sup> shifts the perspective and shows the entire field of judicial cooperation in a whole new light. As the Lisbon Treaty did away the pillar system, police and judicial cooperation in criminal matters are now placed in Title V of the TFEU under the heading of “Area of Freedom, Security and Justice” increasing therefore the powers of the EU and the Commission as oppose to the pre-Lisbon “intergovernmental” approach. By the end of 2014, European Court of Justice, too, will have full jurisdiction in this field.

EJM itself is mentioned in Article 85(1)b in reference to the new possible regulation on Eurojust by stating 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*”.

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



In the light of this legal framework, the EJM has established particularly good cooperation with the EU Commission. Commission 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 the field of judicial cooperation in criminal matters and relevant. It is therefore represented regularly at the EJM Plenary meetings. Commission has also appointed its EJM contact point. Apart from mere attendance at the meeting, it is very common for a representative of the EU Commission to present an actual topic relevant to the judicial cooperation in criminal matters at the EJM meeting.

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

## 1.2. Council of the European Union

Just like the EU Commission, the Council of the EU, too, has appointed its EJM contact point. The representative from the Council is regularly attending the EJM Plenary meetings. EJM is for the Council a valuable mean to further discuss on the development of the EU legal instruments proposed by the Commission. Again, it is very common for a representative of a representative of the Council Secretariat to present an actual topic relevant to the judicial cooperation in criminal matters at the EJM meeting, explaining new legal instruments discussed and other relevant topics.

The 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 then on, the EJM Secretariat received through formal channels from the Council Secretariat notifications, statements and declarations made by the Member States in order to upload them to the Library section of its website, as provided for in the Council Conclusions.

## 1.3. Council of Europe

Since 2009, when the EJM Secretariat initiated a close co-operation 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 co-operation in criminal matters, which explains why most of EU Member States have appointed EJM contact points as representatives in the PC-OC.

EJM Secretariat has been regularly invited to the PC-OC meetings. Council of Europe has attended on several occasions at the EJM plenary meetings based on regular invitations.

## 1.4. E-Justice

The EJM Secretariat is following the e-justice dossier from its beginning. The secretariat has attended to meetings of the e-justice/ e-law group in 2010. However, discussions between the EJM Secretariat and the e-justice started in 2011, upon request of the General Secretariat of the Council, European Commission and the Member State holding the Presidency of the European Union. EJM cooperation with eJustice portal, through the chair of the Council Working Party on e-Justice continued over the last two years. Over the two years of reporting, meetings continued with the representatives of the EJM Secretariat and the Working Party on eJustice. In the end of 2012, on the occasion of the 5<sup>th</sup> NCM, the EJM Secretariat made a very thorough presentation on possible cooperation and it was discussed by the National Correspondents in great detail. The exact methodology for the future and the extent of the cooperation is yet to be decided.

The JHA Council decided that work should be carried out with a view to developing 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 with the use of such new technologies. It was clear by then that an electronic system in this area would also reduce procedural deadlines and operating costs, thus benefiting the citizens, businesses, legal practitioners and the administration of justice. Hence, there is a clear mandate from the European institutions to have the e-justice portal as a system for the EU justice area gathering widespread relevant information concerning this area.

e-Justice Portal is 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 e-Justice portal an efficient and interactive instrument for practitioners and citizens in the 21st century. Further cooperation with eJustice and the visibility of the EJM in e-Justice Portal will allow the Portal to cover the important area of judicial cooperation in criminal matters – it will contain information for national judicial authorities and operational IT tools developed by practitioners. On the other hand, to the EJM, it would bring along great visibility of the EJM website to more practitioners in local authorities, helping them to contribute to the international and national judicial cooperation. In addition, it will make the website accessible to all the practitioners in all EU official languages.

Common interest in this are:

- Visibility of the EJM website to more practitioners;
- The more the practitioners are aware of the EJM website, the more EJM can contribute to the international and national judicial cooperation;
- Make use of the joint promotions for the EU justice to strengthen the EU justice culture in the Member States;
- Support the practical implementation of the EU legal instruments in the member states;
- Support the training to the practitioners to use the available tools for the facilitation of international judicial cooperation;
- Make the website accessible to all the practitioners in all EU official languages;

- Create a user-friendly IT environment to the practitioners so that they can benefit from a daily usage of the available practical and facilitator tools.

After consultations and awareness of the project through informal meetings, the EJM Secretariat stated on a paper the main areas of cooperation between both parties, which consisted in the complementarity between both IT structures with the main principle of safeguarding the EJM Website autonomy. In fact, the EJM website autonomy issue was ever present in all discussions between the EJM Secretariat and the e-justice representatives. The website is a unique tool that is and will be managed and belonging to 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 is a mandate for the EJM.

### 1.5. Training of the judiciary

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

An important landmark is the communication by EU Commission of September 2011, "*Building trust in EU-wide justice. A new dimension to European judicial training*", which set the goal of 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 on judicial co-operation in criminal matters, therefore the Secretary to the EJM considers one of her mandate's priorities to actively involve the EJM in the training of national judicial authorities for the practise of judicial co-operation in criminal matters and especially the EU mutual recognition instruments.

In the 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 on judicial co-operation in criminal matters are ongoing.

EJM Secretariat has developed particularly close cooperation with ERA. Every summer, the EJM Secretariat has been invited to present the EJM in its Summer School of Criminal Justice. The Secretary of the EJM has also been invited to the high-level Annual Conference of Criminal Justice. The cooperation is based on a road map for a close partnership between the EJM and ERA, agreed between ERA and the EJM, in the interest of the practitioners in judicial co-operation in criminal matters from the EU Member States, candidate countries and third countries.

Cooperation with ERA has another field too – as regards to the organization of language trainings for the EJM contact points. ERA has the capacity and a strategical position to act as an intermediate 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 for the EJM contact points tailor-made "language trainings", 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 to teach to the EJM contact points not only foreign language but language through substantial and 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 European Judicial Training Network (EJTN) to identify areas of common interest and agree on the involvement of the EJM contact points in the EJTN training seminars, as both trainees and speakers. This practice is now commonly being implemented.

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

Such presentations do not necessarily always involve missions. Several delegations have visited EJM Secretariat and Eurojust. In the course of 2011 and 2012 an Asser institute study tour was organized in Eurojust premises and the EJM Secretariat was represented there to make a presentation on the EJM.

## 1.6. EUROJUST

As regards cooperation with Eurojust, an important keyword was the common work on the draft judicial cooperation paper. This topic is not only in the hands of the EJM Task Force but also commonly discussed with Eurojust in the EJM-Eurojust Joint Task Force. There is a hope that the paper, once adopted, would help to strengthen the relation of the two structures. In order to improve the cooperation between Eurojust and EJM, EJM Presidencies have started to invite Eurojust regularly to its plenary meetings.

Apart from the administrative meetings with other units in Eurojust administration for budgetary, legal or human resources matters, the EJM Secretariat also contributed to the activities of the Eurojust Team on the EJM and Liaison Magistrates.

In addition to that, the Secretary to the EJM regularly gets invited to the strategic seminars of Eurojust taking place every year. EUROJUST is also invited to the EJM Plenary meetings.

## 1.7. The Network of National Experts on Joint Investigation Teams

EJM Secretariat is regularly being 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 the EJM Plenary meetings.

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

EJN Secretariat is regularly being 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 the EJN Plenary meetings.

## 2. EJN and 3<sup>rd</sup> countries

As regards collaboration with the 3<sup>rd</sup> countries, aside from interconnection of the Networks, EJN has taken a direction to also promote a closer cooperation with 3<sup>rd</sup> countries. This is necessary in the light of globalization, new concept of movement and time as well as open borders. EU neighbourhood policy is inspired by shared values and common interests and this approach is widened because EU and other 3<sup>rd</sup> countries are dealing with similar challenges to find appropriate solutions for effective mutual legal assistance, such as practical forms and tools, whereas this progress should be reviewed to pinpoint weaknesses and further challenges. Solutions for efficient mutual legal assistance with 3<sup>rd</sup> countries would include practical forms and tools, increasing informal and practical cooperation, sharing of information and operational training.

### 2.1. Delegation from Georgia

In 2011 a visit of High Delegation from Georgia to Eurojust and to the EJN Secretariat took place. EJN Secretariat introduced to the participants the EJN.

### 2.2. Visit to the judicial authorities of the Cape Verde

In 2011 UNODC invited the Secretary to the EJN to a visit to Cape Verde in order to meet the judicial authorities there and make a presentation on the EJN. This even was part of the UNODC regional training programme, it was a working meeting of the practitioners at operational level.

### 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 - Study tour to Eurojust and to the EJN Secretariat was organized. EJN Secretariat introduced to the participants the EJN.

### 2.4. Study tour from Japan

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

## 2.5. UNODC (other than networks)

Owing to close cooperation with UNODC developed over many years, UNODC regularly invites the Secretary to the EJM to events organized by different branches of the UNODC. United Nations conventions and their related protocols underpin all the operational work of UNODC; these are the crime-related treaties, drug-related treaties and terrorism-related treaties. In particular as regards practical application of crime related treaties, i.e. United Nations Convention against Transnational Organized Crime and the Protocols Thereto as well as United Nations Convention against Corruption are those where the expertise of the EJM is highly valued by the UNODC. As a result, the EJM Secretariat is receiving invitations to its meetings and conferences as experts, despite its observer status. These events also enable the EJM to benefit from by emphasizing the role for the EJM.

Over the period of reporting, apart from a visit to Cape Verde in 2011, in 2012 the EJM Secretariat attended as an observer in the Sixth session of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime in Vienna. EJM Secretariat had 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 from The Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Systems and Their Development in a Changing World.

## 2.6. JustPAL

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

## 3. Interconnection of judicial operational Networks

During the past two years, EJM continued to have a leading role in networking judicial authorities dealing with the fight against cross-border crime. Because of its privileged position as a pioneer judicial Network having contact points involved in other networks (such as IberRed and SEEPAG), EJM has been a promoter of a closer co-operation between the existing judicial operational networks and the setting up of similar networks in those regions of the globe where there were not yet judicial networks.

As a result of the increasing importance of networking between the structures involved in judicial co-operation, on the occasion of the 10th anniversary of EJM, in Madeira, Portugal, on the 13th of October 2008, the existing Networks gathered together for the first time. Apart from EJM, Networks represented in Madeira were i.e. the Ibero-American Network of International Legal Cooperation (IberRed), Network of Judicial international cooperation of

the Portuguese speaking countries (RJCPLP), Commonwealth Network of Contact Persons (CNCP) and South East European Prosecutors Advisory Group (SEEPAG). It was commonly agreed in the discussions that practitioners in the field should be made aware of the existence of EJN. EJN was said to be a joint solution to practical problems in judicial cooperation matters and that it was essential to know who to turn to in other Member States in this field. What is more, 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 EJN 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 EJN participated in the United Nations initiatives on this matter and contributed actively. At the Twelfth United Nations Congress on Crime Prevention and Criminal Justice in San Salvador, Brazil, on the 12<sup>th</sup> to the 19<sup>th</sup> of 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 EJN Secretariat, the Ministry of Justice of Federative Republic of Brazil and UNODC. *The Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Systems and Their Development in a Changing World*<sup>37</sup> paid particular attention to the international cooperation in fighting crime and expressly included in its text the importance of judicial cooperation Networks. In addition, the participants of an ancillary meeting to the Congress dedicated to the international legal cooperation Networks adopted five recommendations with the aim of facilitating 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, in Vienna, on the 17<sup>th</sup> – 21<sup>st</sup> of May 2010, a *Resolution on Strengthening of regional networks for international cooperation in criminal matters*<sup>38</sup> had been adopted. It "urges the Member States participating in networks for legal cooperation to strengthen international cooperation in criminal matters and the coordination amongst such networks" and "encourages Member States to facilitate the establishment of similar regional networks".

In 2011 and 2012 the EJN continued its dedication to the interconnection of the Networks. The vision of the EJN Secretariat as regards close relations between the existing judicial operational networks and the support to the creation of similar networks is that "only if we

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<sup>37</sup>Twelfth 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.

<sup>38</sup> Nineteenth 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



unite, can we effectively deal with transnational crime. The EJM Secretariat already supported the interconnection of existing judicial Networks, by organising in the third Hague meeting and a n operational meeting between the contact points of EJM and focal points of SAHEL and COI Networks.

### 3.1. Cooperation with other judicial Networks

#### “The 3<sup>rd</sup> Hague meeting”

Bearing in mind the latter, the EJM Secretariat offered the possibility to meet, forming the basis for the 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 due to its aim to achieve cooperation between the Networks in the form of meetings.

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

In the meeting representatives of different networks were presented, such as la *Commission de l’Océan Indien* (Judicial Regional Platform of the Indian Ocean Commission, COI) countries, the Judicial Regional Platform of Sahel countries, which had been created jointly by 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, reached to a first operational Meeting between the Networks, jointly organized by the EJM Secretariat and UNODC. For the first time an operational meeting between contact points of three judicial Networks based in two continents took place.

Apart from contact points from EJM, members of Judicial Regional Platform of the Indian Ocean Commission countries (COI) and the Judicial Regional Platform of Sahel countries (SAHEL) were represented, as well as representatives from the EJM Secretariat and the UNODC. Presentations were held on all three regional judicial Networks and on tools developed by EJM and those of the UNODC in order 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 COI.

Furthermore, the challenges in the criminal judicial cooperation in practice between the participating countries were discussed and the links between the contact points of the three judicial cooperation Networks were established, as well as informal direct contacts. It was acknowledged that the new Networks being created embraced the importance of



human relations as the key factor to reach 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 period of days.

The meeting proved to be extremely operational as several concrete cases were discussed and solved. 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 period of days.

### 3.2. SEEPAG

South East European (SEE) Prosecutors Advisory Group (SEEPAG), is the second oldest judicial Network, constituted in 2003 by the Declaration during the first meeting, is composed of prosecutors from countries of the SEE region. The objective of SEEPAG is to reinforce fight against serious and 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 insights regarding other legal systems, share problems and best practices. Since 2003 SEEPAG had more than 20 regional meetings and workshops.

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

In 2011 the EJM Secretariat was represented in one of the two meetings that year; in 2012 the EJM Secretariat was unfortunately not able to attend the 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 comprised of Contact Points of judges and prosecutors, along with representatives of Central Authorities i.e. liaison officers, as well and any other appropriate judicial or administrative authority with responsibilities 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 cooperation at operational level between Contact Points of the two Networks, especially with those who had close links resulting from common cases.

The Memorandum of Understanding between the EJM and IberRed only formalised the long existing co-operation. The signature of the MoU offered anyhow the basis for strengthening such co-operation in different ways: sharing contact points, having joint training sessions and ad-hoc working groups. EJM has invited IberRed regularly to its plenary meetings. The

MoU is continuously being implemented, an exchange of contact details is going to be the next step.

### 3.4. National Council of the Prosecutors-General of Brazil

In 2011 and 2012, EJM launched cooperation with Brazilian judicial authorities, with 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 of the states are subject to the same criminal code and civil code. The CNPG gathers all 27 states (27 *Procurador-Geral de Justiça*), the Prosecutor-General (*Procurador-Geral da República*), the Ministry of Labour (*Ministério Público do Trabalho*), the Ministry of Defence (*Ministério Público Militar*) (since the latter two are separated according to Brazilian law).

The request for cooperation came from Brazilian Attorney General's Office (Treatment to refugees and/or refugee seekers in European Community countries). Thus, an operational cooperation was established between the CNPG with a Memorandum of Understanding signed by the Secretariats in 2012. In order to efficiently cooperate with EJM, CNPG designated its President as the main contact point, acting according to the powers as a President of the CNPG and in the functions based on this authority, to be in charge of the direct communication with the EJM Secretariat. The formal meetings of CNPG contain an item in the agenda related to the discussed cooperation with the EJM. EJM contact points have made operational use of this cooperation on several occasions.

CNPG was invited to the third Hague meeting in 2011.

### 3.5. Judicial Network in Morocco

EJM Secretariat launched cooperation the *Réseau Marocain de Coopération Judiciaire Internationale* (RMCJI, created in 2009). The Network was established as a group of experts for international legal cooperation with judges for the facilitation, improvement and promotion of international judicial cooperation requested or granted by the Kingdom of Morocco, in strict compliance with the legal framework and conventions. The essential function of the Contact Points of the RMCJI is to facilitate, improve and promote international legal cooperation requested or granted by the Kingdom of Morocco.

Representative of the RMCJI was invited to the third Hague meeting in 2011.

### 3.6. UNODC: COI and SAHEL Networks

The Judicial Regional Platform of the Indian Ocean Commission was created jointly by UNODC's Terrorism Prevention Branch and Organised Crime and Illicit Trafficking Branch and with the support of France; the Judicial Regional Platform of Sahel countries was created jointly by UNODC's Terrorism Prevention Branch and Organised Crime and Illicit Trafficking Branch and COI. The EJM Secretariat has been involved in this process with expertise; however, no actual meetings have been attended by the EJM Secretariat due to budget

constraints. However in 2012, both Networks were gathered in The Hague to have a joint meeting with the EJM contact points.

The representative of UNODC also attended the third Hague meeting in 2011.

### 3.7. Western Balkan Prosecutors Network

On the invitation of the European Commission, the EJM Secretariat has established cooperation with the EU funded Pre-Accession Assistance (IPA) 2010 project "Fight against organised crime and corruption: Strengthening the Prosecutors' Network". The purpose of the instrument is to assist beneficiary countries in facing the challenges of European integration to implement the reforms needed to progress in 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 Prosecutors' 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 is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence).

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

### 3.8. EUROMED Justice III

The EJM Secretariat has established cooperation with the EuroMed Justice III project funded by the EU, following the EuroMed Justice I and II projects. The projects were launched with one of the aims of reinforcing justice in the participating countries, namely as 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 activities consist in carrying out Working Groups and Training sessions and in organising Study visits covering the 3 components of the project: Access to Justice and Legal Aid, Resolution of Cross-Border Family Conflicts along with Criminal and Prison Law. Research Reports, Handbooks and Training Modules will also be produced during the project lifecycle. EJM Secretariat has been asked to attend the meetings of EuroMED Justice projects to provide its expertise in the topic.

# Part III

## Criminal policy issues and proposals to improve judicial co- operation in criminal matters

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

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Further elaborating on the operational conclusions of the EJM meetings, the EJM contact points made several important observations and draw conclusions on the operational activities in their meetings. This chapter highlights the main topics and points made, in the next chapter concrete proposals made by the EJM are highlighted.

As follow up of the Belgian presidency conclusions of 2010, in 2011 the EJM Secretariat mapped all regional Networks, based on the answers received from the EJM and therefore creating an additional electronic tool. Regional co-operation between judicial authorities, on the model of police co-operation was encouraged also in the conclusions of the previous report of the management and the operation of the EJM 2009/2010.

In the 37<sup>th</sup> Plenary Meeting of the EJM in Gdansk, 17 to 18 November 2011, the EJM proposed practical aspects of securing procedural rights of parties to criminal proceedings in the course of international cooperation. Additionally, it was focused on specific forms of mutual legal assistance, such as videoconference and teleconference.

The 38<sup>th</sup> Plenary meeting of the EJM took place in Copenhagen, Denmark, on the 19 and on the 20 June 2012 was dedicated on the Joint Investigation teams – the use of evidence gathered and exchanged the disclosure of information and the exercise of powers. The EJM contact points concluded in this meeting that there is an increasing importance of setting up and effectively running JITs as a decisive prerequisite for the Member State to effectively fight cross border and organised crime in the EU. Contact points share many positive experiences as regards the JITs. As the JIT Funding Project supported under the European Commission financial programme was to expire in 2013, the Plenary meeting requested the Danish Presidency to draw the attention to the utmost importance of ensuring the continuation of the JITs funding and to consider to ensure that the Member States will maintain the possibility to seek funding for JITs either through Eurojust or directly from European Commission.

Based on the conclusions of the 38<sup>th</sup> EJM plenary meeting, the Danish Presidency of the EU, with the support of the EJM contact points, submitted a request to the Vice President of the European Commission, Ms Vivian Reding for the further funding of the JITs under the programme "Prevention and fight against Crime". The following year 2013 demonstrated that the request of the Danish Presidency, with the support of the EJM contact points had been successful.

## Chapter 2: Proposals for improving judicial co-operation in criminal matters

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### 2.1. European Arrest Warrant

European Commission has expressed clearly that as regards the practical application of the European Arrest Warrant (EAW) it must be operated within the existing legal framework so the solutions must be of practical nature; there will be no amendment of the legislation in near future. EJM contact points discussed possible solutions, with the emphasis of the principle of proportionality among EU Member States the EJM at the 39<sup>th</sup> Plenary Meeting of the European Judicial Network in Nicosia in November 2012. As the outcome of panel discussions, it was commonly acknowledged that the proportionality test must be performed at issuing stage of an EAW. It is not possible to refuse from execution for reasons other than provided for in the FD on EAW. It is highly important that this approach worked in practice because only then the principle of mutual trust is respected.

Both the discussions and the questionnaire fulfilled by the contact points in the light of the plenary meeting, had revealed that Member States had reached a common understanding on their obligation to execute an EAW without performing an additional proportionality check. In practice, it was however not always followed. As a result, it was acknowledged that the focus must be on the issuing stage and on the question of how to harmonize the practice of issuing an EAW in order to make sure that the executing Member State would have no temptation to perform (another) proportionality check. The suggestions based on this acknowledgement were the following:

- i. Consider the use of alternative measures instead of applying the EAW procedure.
- ii. EAW only to be issued when thoroughly motivated so that the executing MS would have neither doubts nor uncertainty in it. Thus the issuing country must have had performed the proportionality check before issuing an EAW.
- iii. Filling out an optional box "F" on the EAW form for any additional explanations. This box is not widely used but could be used for explaining issues related to proportionality, e.g. why EAW has been issued for "minor offence" (if that is the case) and for any other issues that could make the executing MS concerned about whether the proportionality test has been performed before the EAW had been issued.
- iv. National (internal) guidelines on issuing an EAW could be introduced on the basis on the handbook of EAW, which would give relevant directions for the judiciary on how to act.
- v. In case of doubt or uncertainty, despite steps undertaken by the issuing MS, the executing MS could consult with the authorities of the issuing MS instead of initiating a proportionality test itself.
- vi. Necessity to raise awareness of the judiciary and to train the practitioners on the proportionality issue and on EAW.

- vii. Intensive meetings between MSs because even neighbouring countries may differ enormously when it comes to the legal systems and practice.
- viii. Use possibilities offered by EC to apply for grants from EC for such meetings.

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

- In case of doubt, uncertainty or unclarity, both issuing and executing MS could make use of EJM for consultations and contact; no additional formal mechanism necessary.
- In particular, a CP of EJM in the issuing MS could contact EJM CP in the executing MS in advance, in order to explain the details of the case, for instance in case of “minor offence” or other issues that may result in making the executing MS doubt in the proportionality of the issued EAW.
- Intensified consultations among CPs within the network e.g. through regional meetings of EJM CPs dedicated to this topic.
- Intensified consultations among CPs within the network, e.g. through creating an informal WG on EAW within EJM.
- Trainings, and to raise awareness among practitioners about EJM and about the possible role of EJM in EAW mechanism.

EJM invited all practitioners of the international judicial cooperation, 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 more harmonized approach in application of the EU legislation all across the EU.

## 2.2. Interconnection of the judicial Networks

Organised crime networks and transnational crime may be more efficiently tackled by a flexible Networks of judges, prosecutors and other practitioners from local judicial authorities and central authorities, specialized on judicial cooperation in criminal matters, working together in a decentralised and informal manner, with a view to facilitating the practical implementation of the binding legal framework, since a Network compliments traditional and formal judicial cooperation allowing for faster procedures.

Consequently, EJM has acknowledged the need to create an optimal framework for the collaboration between the Networks and for providing support to the creation of new similar operational mechanisms in the future. Judicial cooperation in criminal matters is not limited to the borders of the EU or Europe, and actions on EU level could therefore aim at supporting creation of judicial cooperation Networks in criminal matters in different regions across the world and their functioning, and at facilitating interconnection of the Networks, as well as cooperation with 3<sup>rd</sup> countries in regional context. This is particularly important when it comes to operational cooperation between the practitioners all across the world. Cooperation already established by the EJM contact points and their colleagues in other parts of the world, voice the operational work and trust that had been established by EJM contact points over the years.

The EJM considers that the strengthening of the judicial networks is one of the solutions to improve judicial co-operation in criminal matters:

- It should be highly important to assume any steps needed in order to strengthen EJN's capacity to tackle crime – and this infers the support to global networking as well as informal cooperation with 3<sup>rd</sup> countries.
- Providing the EJN and other operational Networks for co-operation in criminal matters with all the necessary resources will represent a low-cost way of facilitating judicial co-operation in criminal matters, while keeping a direct contact between the judicial authorities as a rule.

### 2.3. Training of Judicial authorities

The training of judicial authorities on judicial co-operation in criminal matters is a “must” in a European judicial criminal area. The judges, prosecutors and other practitioners shall be also trained in legal terminology in different languages, to facilitate communication. An important landmark is the communication by EU Commission of September 2011, “Building trust in EU-wide justice. A new dimension to European judicial training”, which set the goal of 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 EJN contact points is to disseminate their knowledge and expertise on judicial co-operation in criminal matters. EJN reaches the widest platform of criminal law practitioners within the EU (judges, prosecutors, ministries of justice & is completely decentralized ). EJN contact points are in close contact with the practitioners in their Member States as they are part of them; EJN meetings provide fora for discussions (incl. in training matters).

Thus, the EJN suggests:

- a continuation of a closer co-operation between the key players in the field of judicial co-operation with a view to promote and actively participate in training activities at national level, including through the creation of best practice guidelines in this field,
- and in particular, the involvement of the EJN contact points in such trainings as trainers, due to their high experience in this field.
- This point also involves the exchange of experience between the judicial authorities of the Member States, within exchange programmes supported by the EJTN or study visits organised in the EJN framework, shall become a permanent practice.

### 2.4. Raising awareness of the existing mechanisms

In order to combat crime involves strengthening dialogue and action between the criminal justice authorities of Member States. Consequently, specific bodies to facilitate mutual assistance in the EU has been established, EJN (with its highly valuable website) and Eurojust among them. Considering that a European dimension is often present in criminal matters, judicial cooperation is necessary.

In order to take the full advantage of the existing structures and to contribute to the success of the judicial cooperation, a significant keyword is raising awareness among the



practitioners in this field. EJM contact points have concluded the need of awareness raising over and over again in their meetings. Despite harmonized procedure and mutual recognition, it is clear that there is a certain lack of awareness present and as a result, the EU does not yet make full benefit from all its existing resources and structures.

Raising awareness should be a joint effort of all stakeholders. In present this is the case and judicial practitioners are continuously being informed and trained. It is important to stress that training and awareness raising cannot be underestimated by no means, it continues to be highly relevant. On the other hand, bottom-up element has to be present as well. An ongoing dialogue between the practitioners in local authorities and with the central authorities of the EU Member States must be present. Relationship between the local and central authorities, and central authorities and EU must be close and efficient in order to guarantee the best results in the judicial cooperation in criminal matters.

## ANNEXES

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

ANNEX 2 Extract from the 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

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

ANNEX 4 Guidelines on the EJM Meetings

ANNEX 5 Extract from the EJM Work Programmes 2011 and 2012