



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 7 January 2008

5039/08

COPEN	3
EUROJUST	3
EJN	3

INITIATIVE

from : Slovenian, French, Czech, Swedish, Spanish, Belgian, Polish, Italian,
Luxembourg, Dutch, Slovak, Estonian, Austrian and Portuguese delegations

dated : 7 January 2008

Subject : Draft Council Decision on the European Judicial Network

Delegations will find attached an initiative from the Slovenian, French, Czech, Swedish, Spanish, Belgian, Polish, Italian, Luxembourg, Dutch, Slovak, Estonian, Austrian and Portuguese delegations.¹

Encl.

¹ An explanatory note will be included in 5038/08 COPEN 2 EUROJUST 2 EJN 2.

Draft Council Decision on the European Judicial Network

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the TEU, and in particular Articles 31 and 34(2)(c) thereof,

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

Whereas:

1. Set up by the Joint Action 98/428/JHA of 29 June 1998¹, the EJM has demonstrated its usefulness in the facilitation of judicial cooperation in criminal matters.
2. According to article 53 of the Convention of 19 June 1990 implementing the Schengen Agreement and article 6 of the convention of 29 May 2000 on Mutual Assistance in Criminal Matters between the Member States of the European Union, mutual legal assistance takes place through direct contacts between judicial competent authorities. This decentralisation of mutual legal assistance is now widely implemented.

¹ OJ L 191, 7.7.1998, p. 4.

3. The principle of mutual recognition of judicial decisions in criminal matters is implemented gradually. It does not only confirm the principle of direct contacts between competent judicial authorities: it also fasten the procedures and make them entirely judicial.
4. The impact of these changes brought to judicial cooperation was further increased by the enlargement of the Union in 2004 and 2007. Because of this evolution, the EJM is even more necessary than at the time of its creation and must therefore be strengthened.
5. Eurojust was set up by the Decision 2002/187/JHA of 28 February 2002 to improve coordination and cooperation between competent authorities of the Member States. Article 2 of Decision 2002/187/JHA provides that Eurojust shall maintain privileged relations with the European Judicial Network based on consultation and complementarity.
6. Five years of coexistence of Eurojust and the EJM have demonstrated both the need to maintain the two structures and the need to clarify their relationship.
7. It is necessary to strengthen judicial cooperation between the Member States of the European Union and to allow contact points of the EJM and Eurojust for this purpose to communicate whenever needed, directly and more efficiently through a secure telecommunications network.

HAS ADOPTED THIS DECISION:

Article 1

Creation

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

Article 2

Composition

1. The European Judicial Network shall be made up, taking into account the constitutional rules, legal traditions and internal structure of each Member State, of the central authorities responsible for international judicial cooperation and the judicial or other competent authorities with specific responsibilities within the context of international cooperation.
2. One or more contact points of each Member State shall be established in accordance with its internal rules and internal division of responsibilities, taking care to ensure effective coverage of the whole of its territory.
3. Each member state shall appoint, among the contact points, a national correspondent for the EJN.

4. Each Member State shall ensure that its contact points have functions in relation to judicial cooperation in criminal matters and an adequate knowledge of a language of the European Union other than its own national language, bearing in mind the need to be able to communicate with the contact points in the other Member States. Before appointing a new contact point, the member states may seek the national correspondents' opinion.
5. Where the liaison magistrates referred to in Joint Action 96/277/JHA have been appointed in a member state of the European Union and have duties analogous to those assigned by Article 4 to the contact points, they shall be linked to the European Judicial Network and to the secure communications network pursuant to the provisions of article 10, by the Member State appointing the liaison magistrate in each case, in accordance with the procedures to be laid down by that State.
6. The Commission shall designate a contact point for those areas falling within its sphere of competence.
7. The EJM shall have a Secretariat which shall be responsible for the administration of the network, in cooperation and in consultation with the Presidency of the Council. The Secretariat shall be able to represent the network, in consultation with the Presidency.

Article 3

Manner of operation of the network

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

- (a) it shall facilitate the establishment of appropriate contacts between the contact points in the various Member States in order to carry out the functions laid down in Article 4;
- (b) it shall organise periodic meetings of the Member States' representatives in accordance with the procedures laid down in Articles 5, 6 and 7;
- (c) it shall constantly provide a certain amount of up-to-date background information, notably by means of an appropriate telecommunications network, under the procedures laid down in Articles 8, 9 and 10.

Article 4

Functions of contact points including the national correspondent

1. The contact points, including the national correspondent, shall be active intermediaries with the task of facilitating judicial cooperation between Member States, particularly in action to combat forms of serious crime. They shall be available to enable local judicial authorities and other competent authorities in their own country, contact points in the other countries and local judicial and other competent authorities in the other countries to establish the most appropriate direct contacts.

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

2. The contact points, including the national correspondent, shall provide the legal and practical information necessary to the local judicial authorities in their own country, to the contact points in the other countries and to the local judicial authorities in the other countries to enable them to prepare an effective request for judicial cooperation or to improve judicial cooperation in general.
3. At their respective level the contact points, including the national correspondent, shall organize training sessions on judicial cooperation for the benefit of the competent authorities of their Member State, in cooperation with the European Judicial Training Network.

Article 5

Purpose of the periodic meetings of contact points

1. The aims of the periodic meetings of the European Judicial Network, to which at least two contact points per Member State shall be invited, shall be as follows:
 - (a) to allow the contact points to get to know each other and exchange experience, particularly concerning the operation of the network;
 - (b) to provide a forum for discussion of practical and legal problems encountered by the Member States in the context of judicial cooperation, in particular with regard to the implementation of measures adopted by the European Union.

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

Article 6

Frequency of plenary meetings

The European Judicial Network plenary, composed of the national correspondents, shall meet periodically on an ad hoc basis, at least once a year and as its members feel the need, at the invitation of the Presidency of the Council, which shall also take account of the Member States' wishes for the Network to meet.

Article 7

Venue of meetings

1. Meetings may be held on the premises of the Council in Brussels, in accordance with the provisions laid down in the Council's Rules of Procedure.
2. However, alternative meetings in the Member States may be held to enable the contact points of all the Member States to meet authorities of the host State other than its contact points and visit specific bodies in that State with responsibilities in the context of international judicial cooperation or of combating certain forms of serious crime.

Article 8

Content of the information disseminated within the European Judicial Network

The EJN shall make the following information available to contact points and competent judicial authorities :

1. full details of the contact points in each Member State with, where necessary, an explanation of their responsibilities at national level;
2. an IT tool allowing the issuing authority of a Member State to identify the competent authority in another Member State to receive and execute its request for judicial cooperation, including European Arrest Warrants, European Evidence Warrants, orders for the freezing of assets and requests for mutual legal assistance;
3. concise legal and practical information concerning the judicial and procedural systems in the Member States;
4. the texts of the relevant legal instruments and, for conventions currently in force, the texts of declarations and reservations.

Article 9

Updating of information

1. The information distributed within the European Judicial Network must without fail be constantly updated.

2. It shall be each Member State's individual responsibility to check the accuracy of the data contained in the system and to inform the Secretariat of the EJM immediately as soon as data on one of the four points referred to in Article 8 need to be amended.

Article 10

Telecommunication Tools

1. The EJM shall ensure that :

- (a) the information provided under article 8 is made available on a website constantly updated.
- (b) a secure telecommunications network is set up for the operational work of the contact points of the EJM
- (c) the secure communication network enables flow of data and of all requests for judicial cooperation between member states, as well as between them and the national members, national correspondents of Eurojust and liaison magistrates appointed by Eurojust.

2. The secure communication network referred to in paragraph 1 may also be used for their operational work by the national correspondents, national correspondents for terrorist matters, the national members of Eurojust and liaison magistrates appointed by Eurojust. It may be linked to the Case Management System of Eurojust referred to in Article 16 of Decision .../.../JHA on Eurojust.

Article 11

Relationship between the EJM and Eurojust

1. Eurojust and the EJM shall maintain privileged relations with each other, based on consultation and complementarity, especially between the national member of Eurojust, the EJM contact points of the same Member State and the national correspondents of Eurojust and of the EJM. In order to ensure efficient cooperation the following measures shall be taken:
- (a) Eurojust shall have access to centralised information from the EJM in accordance with article 8 of this Decision and to the secured telecommunication network set up under article 10 of this Decision.
- (b) without prejudice to Article 13 of Decision .../...JHA on Eurojust and in accordance with article 4(4) of this Decision, the contact points of the EJM shall, on a case by case basis, inform Eurojust on cases involving two Member States and entering the field of competence of Eurojust:
- in cases where conflicts of jurisdiction are likely to appear
 - or
 - in cases of a refusal of a request for judicial cooperation, including European Arrest Warrants, European Evidence Warrants, orders for the freezing of assets and requests for mutual legal assistance
- (c) The contact points of the EJM shall also inform Eurojust, on a case by case basis, on all cases entering the field of competence of Eurojust and involving at least three Member States.

- (d) National members shall, on a case by case basis, inform EJM contact points on all cases that the network would be deemed to be in a better position to deal with.
- (e) the Secretariat of the EJM shall form part of the Eurojust secretariat. It shall function as a separate and autonomous unit. It shall be able to draw on the resources of Eurojust which are necessary for the performance of the EJM's tasks. The rules applying to Eurojust staff shall apply to the staff of the EJM's secretariat where this is not incompatible with the operational autonomy of the EJM's secretariat;
- (f) The national members of Eurojust may attend meetings of the EJM at the invitation of the latter. EJM contact points may be invited on a case-by-case basis to attend Eurojust meetings.

2. The EJM shall be supported by the Administration of Eurojust. Operational expenses of the EJM shall be able to be covered by the Eurojust budget in accordance with Article 33 of Decision ..././JHA.

Article 12

Information to the Council and the European Commission

The Administrative Director of Eurojust and the Presidency of the Council, shall report to the Council and the Commission in writing every second year on the activities and management, including budgetary management, of the EJM. To that end, the Presidency shall prepare a bi-annual report on the activities of the EJM and on any criminal policy problems within the Union highlighted as a result of the EJM's activities. In that report, the EJM, through the Presidency, may also make proposals for the improvement of judicial cooperation in criminal matters. The EJM may also submit any report or any other information on the operation of the EJM which may be required by the Council or the Presidency.

Article 13

Budget

The budget of Eurojust shall, in accordance with Article 35.1. of Decision ..././JHA, include a specific part on the EJM in order for it to be able to carry out its tasks.

Article 14

Territorial application

As regards the United Kingdom, the provisions of this Decision shall apply to the United Kingdom of Great Britain and Northern Ireland, the Channel Islands and the Isle of Man.

Article 15

Assessment of the operation of the European Judicial Network

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

Article 16

Repeal of Joint Action 98/428/JHA

Joint Action 98/428/JHA is hereby repealed.

Article 17
Entry into force

This Decision shall enter into force on the day of its publication in the Official Journal of the EU.

Article 18
Publication

The Decision shall be published in the Official Journal.

Done at

For the Council

The President
