Assessment of allocation of cases to Eurojust and to the European Judicial Network

Joint report by Eurojust and the EJN

5 November 2019
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Executive summary

The aim of this report is to assist practitioners, Eurojust and the European Judicial Network (EJN) in determining whether a particular case should, in the interest of efficiency and prevention of duplication of work, be directed to Eurojust or the EJN. The report constitutes an assessment of the allocation of cases to Eurojust and the EJN, identifies recent experience, difficulties and best practices and makes proposals.

Concerning the main criteria used to ascertain whether a request should be dealt with by Eurojust or by the EJN, the report shows that both Eurojust and the EJN highlight the importance of close contact between the Eurojust national desks (NDs) and the EJN contact points (CPs), and that overall, the communication between Eurojust and the EJN goes smoothly and works very well. The difficulty, however, lies in the fact that practitioners sometimes have practical difficulties in determining which actor is best placed to assist in a specific case.

The report shows that the assessment of whether a request should be dealt with by Eurojust or the EJN should be made on a case-by-case basis, taking into account first the complexity of the case, followed by its urgency, as the main criteria. However, in practice, there are sometimes other reasons why cases are sent to Eurojust instead of the EJN, and vice versa. Some examples of such reasons are (i) Eurojust’s 24/7 availability versus the EJN CPs’ sometimes more limited availability (e.g. during weekends); (ii) personal contacts within the Eurojust NDs which cause Eurojust to be favoured over the EJN; and (iii) on the other hand, certain knowledge gained in the EJN sometimes favour the EJN over Eurojust. These matters, amongst others mentioned in the report, should be addressed to ensure the correct allocation of cases to Eurojust and the EJN, for example by considering whether EJN CPs should have greater — perhaps even 24/7 — availability.

In relation to cases which are opened by one Eurojust ND towards another ND, and the latter regards them as requests falling under EJN competence, the report shows that some Eurojust NDs / Liaison Prosecutors (LPs) respect the decision taken by the first ND and will, in principle, carry out the request addressed to them. This could be a sensitive matter, but further reflection might be useful.

With regard to the possibility of redirecting a request for assistance, the report shows that the majority of Eurojust NDs/LPs and EJN CPs do have, and use, this option. To a lesser extent, Eurojust and the EJN will still deal with a request even when of the view that it better falls under the remit of the other on the basis of, for example, the urgency or the special importance of the particular case, a certain level of service they wish to maintain, or simply because the support requested can be provided in a quick and easy reply. The report also shows that, to a certain extent, Eurojust NDs and EJN CPs inform each other on a case-by-case basis of cases they consider the other to be in a better position to deal with. Thus, communication is crucial.

In relation to the use of the updated 2018 Joint Paper on the EJN and Eurojust ‘What can we do for you?’ for redirecting cases, most Eurojust NDs and EJN CPs make the paper available in their country and use it — in addition to the use of national guidelines — which could assist those countries who do not use/have either of the above in assessing the allocation of cases to Eurojust or the EJN.
Some **best practices** identified in the report include (i) **regular close and informal communication** between NDs/LPs and EJN CPs; (ii) the **possibility of redirecting** cases that have been addressed to the wrong entity; (iii) use of the **double-hat function** to avoid duplication of work (however, the distinction between the roles of the two would have to remain clear to avoid confusion); (iv) when contacting Eurojust or the EJN, **clearly indicating which, if any, other enquiries have been made / routes have been used**, to avoid duplication; (v) separation of the roles of EJN and Eurojust to avoid blurring the distinction between Eurojust and the EJN; and (vi) the development of a document or agreed practices by some Eurojust NDs and EJN CPs which helps them decide whether to provide the assistance requested or to redirect the request. While the report identifies various best practices and proposals, the structure of the judiciary and law enforcement authorities, the specific legislation in each country and the different organisational layers may mean that not all best practices or proposals could be implemented in other countries.

**Methodology**

This report is based on the analyses of the replies from Eurojust NDs/LPs and the EJN to two separate, almost identical, questionnaires sent out in parallel by Eurojust and the EJN Secretariat in 2018.

The questionnaires constituted an updated/adapted version of the one put to the Eurojust NDs/LPs and EJN CPs within the framework of the 46th plenary meeting of the EJN on 8 and 9 June 2016, under the Dutch Presidency of the Council of the European Union. Additionally, an operational workshop involving the EJN and Eurojust took place at Eurojust to discuss ‘Consultation and Complementarity in Practice’. In 2018, the Eurojust NDs/LPs and the EJN CPs were asked to review their joint replies to the 2016 questionnaire and update them, if necessary, and to reply to the additional questions put to them in 2018 within the framework of the preparation of this report. The new issues covered by the 2018 questionnaire are identified in blue.

With regard to the EJN, the CPs in the following countries provided replies: Austria, Bulgaria, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Ireland, Italy, Poland, Romania, Slovakia, Slovenia, Spain, Sweden and Norway.

With regard to Eurojust, the NDs/LPs in the following countries provided replies: Austria, Belgium, Bulgaria, Czech Republic, Denmark, Estonia, Germany, Greece, Finland, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom, Norway, Switzerland and US. The Belgian Bulgarian, Czech, Danish and Estonian NDs indicated that their replies were joint Eurojust–EJN replies.
Introduction

Cooperation between Eurojust and the EJN translates to privileged relations based on consultation and cooperation. Structural cooperation between Eurojust and the EJN is ensured via, inter alia, regular meetings between the Secretary to the EJN and the representative for the EJN to the Eurojust Board of Relations with Partners. With regard to the allocation of cases to Eurojust or the EJN, the final report of the sixth round of mutual evaluations states that Eurojust should be contacted in complex or very urgent cases, requiring coordination of investigations, and prosecutions, while the EJN, being a network of Contact Points and having a more flexible structure, should be contacted to facilitate direct contacts between practitioners when dealing with less complex cases.

Despite their distinct, albeit related, roles, experience has shown that there are practical difficulties involved in determining whether a particular case should be directed to the EJN or to Eurojust and that the competent national authorities often simply use the entity they know best and have had good experiences with (1).

In an effort to address these difficulties, Eurojust and the EJN prepared the Joint Paper ‘Assistance in International Cooperation in Criminal Matters for Practitioners — What can we do for you?’ explaining the difference between the two entities and their respective roles in providing mutual legal assistance (2). One of the recommendations resulting from the sixth round of mutual evaluations is that this Paper should be ‘formalised’, adopted, translated into all languages and used as a basis to develop national guidelines for determining whether cases should be addressed to the EJN or Eurojust. Furthermore, both Eurojust and the EJN should collect national practices and should seek to publicise and promote their use at the European level (3).

Very recently, in its conclusions on ‘Synergies between Eurojust and the networks established by the Council in the area of judicial cooperation in criminal matters’, the Council stated that it ‘considers that … the privileged partnership between Eurojust and the EJN … should be reflected both at operational and strategic level, including by continuing to contribute to an appropriate allocation of cases between these two actors of judicial cooperation’ (4).

This report is divided into three sections:
Section 1 — Joint assessment of the allocation of cases to Eurojust and the European Judicial Network,
Section 2 — Best practices,
Section 3 — Conclusions.

This report constitutes a joint assessment by Eurojust and the EJN of the allocation of cases to one or the other, identifies recent experience, difficulties and best practices and offers possible points for reflection.


(2) Council document 11233/14. This paper also covers the Eurojust National Coordination System (ENCS). It was distributed to the Council Working Party on Cooperation in Criminal Matters (COPEN) in June 2014 in connection with the discussion on Article 39 and accompanying recital [24] of the draft regulation on Eurojust.

(3) Recommendation 14 of the Final report of the 6th round of mutual evaluations (p. 43).

1. Joint assessment of the allocation of cases to Eurojust and the European Judicial Network

1.1. Criteria for assessing which actor should deal with a request for assistance

With regard to the criteria used to ascertain whether a request should be dealt with by Eurojust or by EJN CPs, both Eurojust and the EJN have identified the complexity of the case, followed by its urgency, as the most-used criteria. Possible indicators of a complex case — which Eurojust is best equipped to handle — were suggested: (i) the need for coordination of investigations/prosecutions, and not merely ad hoc cooperation; (ii) coordinated simultaneous execution of multi-jurisdictional measures; (iii) the existence of parallel investigations in several Member States; (iv) the nature of the legal/practical issue at stake (e.g. Eurojust is used for issues related to conflicts of jurisdiction or to joint investigation teams and for complex issues concerning European arrest warrants (EAWs) (including multiple EAWs as laid down in Article 16 of the Framework Decision on EAWs); and (v) extensive planning at the procedural level.

The EJN is used both for providing guidance in specific cases (e.g. where to send a request/order, requirements for the request/order, assistance with videoconferences or establishing direct contacts) and for answering general questions related to, for example, mutual legal assistance / European Investigation Orders (EIOs) or EAWs, or applicable legislation (e.g. on its status of implementation or ratification) or information about the legal system in a Member State. The EJN CPs, as active intermediaries, enable direct contacts between competent judicial authorities, expediting the handling of cases.

Similarly, both Eurojust and the EJN identified the type/nature of the crime as a relevant criterion. They both also highlighted that the assessment of which entity should deal with a request is made on a case-by-case basis, and emphasised the importance of direct contact and preliminary discussions between Eurojust and the EJN CPs. Moreover, both Eurojust and the EJN referred to the use of national guidelines and to the use of the Joint Paper on the EJN and Eurojust ‘What can we do for you?’ for redirecting cases.

Eurojust and the EJN also mentioned the issue of the more limited availability (e.g. during weekends or holidays) of the EJN CPs as a possible criterion. Eurojust also identified, though to a lesser extent, other possible criteria: queries related to the organisation of the judicial system and/or the EJN system in the Member State in question, issues related to recurrent difficulties and delays in the execution of mutual legal assistance requests or mutual recognition instruments, and ongoing operational matters (dealt with by the LP) versus non-case-related legal questions (referred on by the LP to EJN CPs).

Eurojust also noted that, at times, it is brought in when there have been difficulties with the assistance from the EJN CPs, and that personal contacts, along with the fact that the NDs do not want to convey the impression that they are reluctant to serve the practitioner, also play a role.

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5 Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States
It is worth noting that personal contacts and efficiency also play an important role in the reasons why the EJN is contacted.

1.2. Use of the updated 2018 Joint Paper on the European Judicial Network and Eurojust ‘What can we do for you?’ for redirecting cases

Most Eurojust NDs/LPs and EJN CPs use the updated Joint Paper. The remainder of the NDs/LPs and EJN CPs do not use it, and some have noted that (i) they have national guidelines which are rather similar to the Joint Paper or contain all the same information as the joint paper; (ii) EJN CPs are experienced and assess the cases using that experience and, likewise, the national member at Eurojust can easily identify whether cases are more suitable for EJN intervention. Some EJN CPs nevertheless expressed their intention to make use of the Joint Paper. One ND indicated that it requires all practitioners of its Member State to complete an ND briefing note in order to determine whether a request should be dealt with by Eurojust.

Making the Joint Paper available to practitioners in their country

The vast majority of the NDs/LPs and some EJN CPs replied that the Joint Paper is made available to practitioners in their country. The Joint Paper is, for example, (i) published on the intranet of the Prosecutor’s Office or the extranet, or circulated via email to practitioners; (ii) presented to practitioners during training sessions, presentations, domestic workshops or regular meetings with prosecutors; or (iii) disseminated within the Eurojust National Coordination System (ENCS) by their national correspondents (NCs) and contact points. A small minority of NDs/LPs replied that the Joint Paper is not made available to practitioners in their country, but will consider making it available to practitioners.

1.3. Steps taken upon receipt by Eurojust or the European Judicial Network of a request from national authorities that appears to be better suited to the other’s competence

With regard to how Eurojust NDs/LPs and EJN CPs proceed when they believe that a request for assistance sent to them by their national authorities falls under the other’s competence, the majority of the NDs/LPs and EJN CPs have the possibility of redirecting the request. Some NDs mentioned that (i) the ND and EJN CPs discuss the case and agree on who is going to deal with it (and in some countries this consultation is an obligation under national law or a national order issued by the Prosecutor General); (ii) the ND redirects the request straight to the EJN CP, or vice versa, (iii) the requesting authority is contacted directly and it is explained that the request would be better dealt with by the EJN and that a template has been developed for this purpose; (iv) the ND recommends that the public prosecutors contact the EJN; and (v) after redirecting the case, the ND checks that the case has been followed up on properly.

Both Eurojust and the EJN highlighted the importance of close contact between the Eurojust NDs and the EJN CPs.
A very small number of Eurojust NDs indicated that Eurojust can/will carry out the request addressed to them, or that the ND will deal with case if the enquiry sent to the EJN yielded no results and is urgent. A couple of Eurojust NDs indicated having never experienced such problems, and one indicated that this is a very rare situation. For both Eurojust and the EJN, centralised offices in the Member States may help prevent this issue. For Eurojust, the double-hat function may also help.

1.4. Steps taken by a national desk upon receipt of a request from another national desk that appears to better fall under the European Judicial Network’s competence

Some Eurojust NDs/LPs indicated that they respect the decision taken by the other ND and will, in principle, carry out the request addressed to them. One ND indicated that they may ask the other to redirect, but the assessment is made on a case-by-case basis, as for reasons of efficiency or courtesy, Eurojust may deal with the case in the end. Some NDs mentioned dialogue with the other ND, and the possibility of redirecting the request and following up on the case in close cooperation and in a coordinated manner. One ND specifically mentioned that there is no possibility, under their national law, of redirecting a request sent to it by another ND (6).

1.5. Existence of national rules preventing the national desks from redirecting a case to the European Judicial Network once opened at Eurojust

All Eurojust NDs/LPs that replied indicated that no such rules exist. The following information was given: (i) once a case is opened at Eurojust, it is dealt with at Eurojust; (ii) there would not be any apparent reason to redirect, because if a case is opened at Eurojust it is because there is an operational need signalled to it by prosecutors and investigators (e.g. a need for coordination of ongoing investigations, for facilitation of the execution of an Letter of Request/EIO or for coordination of several Letters of Request/EIOs, or a need to set up a coordination centre at Eurojust or to agree on an action day) and personal data in an ongoing investigation is being shared; and (iii) in one Eurojust ND the situation is regulated by the internal organisational plan adopted by the Eurojust ND and approved by the minister of justice of the respective Member State (7).

(6) This topic was not part of the EJN questionnaire.
(7) This topic was not part of the EJN questionnaire.
1.6. Steps taken when aware that a request has been addressed both to a national desk and to a European Judicial Network contact point

With regard to how the Eurojust NDs/LPs and the EJN CPs proceed when they realise that a request for assistance has been addressed to both a Eurojust ND and an EJN CP, the vast majority of the NDs/LPs and EJN National Correspondents indicated that they would contact and consult/negotiate with each other. Some would, moreover, involve the requesting authority in such consultations, or the ENCS coordinator. Some NDs/LPs and some EJN CPs indicated that this scenario never happened or that, having not identified any such cases, they had no experience of this scenario — at least not in a domestic case. One ND replied that not only is this situation seldom clear up front, and therefore able to become a point of discussion, but also that it is mostly only recognised in hindsight and mostly not appreciated.

1.7. Use of the Eurojust National Coordination System for case-distribution purposes

With regard to the experience of NDs and the EJN CPs on the use of the ENCS for case-distribution purposes, both Eurojust and the EJN replied to a similar extent that the ENCS had not been used for case-distribution purposes, including by indicating that the ENCS is more of a platform for sharing general knowledge, information and best practices. One ND indicated that the involvement of the ENCS could be counterproductive, as the Eurojust national member and the single EJN CP decide on a case-by-case basis, after consultation, which judicial cooperation mechanism suits the case best. In addition, one other ND and EJN NC replied that this is not a task for the ENCS, and nor should it be, and that using the ENCS would also probably take more time.

To a lesser extent, both Eurojust and the EJN also indicated not having practical experience in using the ENCS for case-distribution purposes. To an even lesser extent, Eurojust and the EJN indicated that (i) the ENCS has been used for case-distribution purposes; and (ii) that the ENCS has not been established.

1.8. Added value of the European Judicial Network–Eurojust double-hat function to the distribution of cases

To a large extent, for both Eurojust and the EJN, the EJN–Eurojust double-hat function brings added value to the distribution of cases. Some have added that the double-hat function (i) contributes to a very smooth and intense flow of information; (ii) allows for a better general view of how a given case can be dealt with; (iii) streamlines the process of allocation and execution of cases; (iv) contributes to swift, smooth decisions on what channels will be used in the specific case / on whether to redirect cases from Eurojust to the EJN and vice versa, if needed; and (v) fosters the principles of complementarity and consultation which should characterise the relations between Eurojust and the EJN. Some NDs further highlighted the importance of personal contacts and close cooperation between EJN CPs and Eurojust, and
noted having **practical experience with the double-hat function** as their EJN CPs **also perform** functions at the Eurojust ND **at the same time or work or used to work** for Eurojust NDs.

To a limited extent, Eurojust and the EJN indicated being **unable to see the added value** of the double-hat function, and some NDs specifically indicated that (i) the EJN CPs and Eurojust have different functions and they should work together to add value, but **they should not need to be one and the same**; (ii) the double-hat function **could blur the distinction** between Eurojust and the EJN; and (iii) **it might even be misleading** for the national authorities if they send all requests to the NDs. To an even more limited extent, Eurojust and the EJN indicated having **no experience** with the double-hat function; however, it could bring added value to the distribution of cases.

1.9. **Liaison between the national desks and European Judicial Network contact points with a view to reaching a common approach on complementarity**

**Course of action taken if the national desk or the EJN contact point is of the view that the request of the practitioner falls more within the other’s remit**

To a large extent, Eurojust and the EJN replied that NDs and EJN CPs **liaise** with each other with a view to reaching a common approach on complementarity, the vast majority of **communication** taking place either via **direct, informal means** such as by phone or email, followed by **meetings**, or within an **institutionalised framework** (e.g. ENCS meetings, biannual meetings between EJN CPs / Eurojust and national prosecutors and investigative judges, joint training sessions for national authorities). To a great extent, they liaise **regularly** and on a **case-by-case basis**. Eurojust and the EJN also noted that the relationship and flow of information is **very smooth, and that there are no hiccups**. One ND and EJN NC mentioned that they **have not seen the need to create a common approach** on the basis of internal national structure.

To a certain extent, Eurojust indicated that it **would redirect the request from a practitioner if it was of the view that the request fell more within the remit of the EJN**. One Eurojust ND indicated that a case would only be opened at Eurojust where there is a clear indication of the type of assistance needed and the added value of Eurojust. To a lesser extent, Eurojust and the EJN **would deal with the request nevertheless**. The reasons advanced were that (i) the case has already been opened and given a Eurojust case number by the requesting ND; (ii) the case is **urgent** or has **special importance** or some other circumstance justifies it being handled; (iii) the request originates from another ND at Eurojust and the ND **does not wish to refuse assistance to a colleague**, especially one they know and to whom assistance has already been provided before and/or for whom they wish to maintain a certain level of service; (iv) this is assessed **on a case-by-case basis**, if received from a practitioner; (v) the practitioner has previously contacted the EJN CP **but not seen results**; or (vi) if the support requested can be provided **in a quick and easy reply**.

Both Eurojust and the EJN expressly indicated that **quantitative results are not required** of the NDs/LPs and EJN CPs.
Whether the national desk and the EJN contact point inform each other, on a case-by-case basis, of any cases they consider the other to be in a better position to deal with, as laid down in Article 25a(1)(a) of the Eurojust Decision\(^8\) and Article 10(b) of the EJN Decision\(^9\), respectively.

The vast majority of the NDs/LPs and almost all EJN CPs inform their EJN or Eurojust colleagues, on a case-by-case basis, of any cases they consider the other to be in a better position to deal with. A smaller number do not, for different reasons: (i) these points are discussed at the annual meeting with the EJN CPs and ENCS; (ii) the ND simply redirects the cases if appropriate; (iii) not directly, since the ND simply tells the requesting prosecutor/judge to use the EJN; (iv) from the moment that the EJN has a CP at the ND, there is no need to contact another colleague; (v) they do not see the need for such a mechanism; and (vi) there have not been any such cases so far.

Whether the EJN colleagues inform the national desk of all cases they deem Eurojust in a better position to deal with, as laid down in Article 10(b) of the EJN Decision

Whether the national desks inform the EJN contact points of all cases they deem the EJN in a better position to deal with, as laid down in Article 25a(1)(a) of the Eurojust decision

To a certain extent, Eurojust NDs/LPs indicated that the EJN colleagues inform them of cases that they deem Eurojust to be in a better position to deal with, while the EJN indicated that Eurojust NDs/LPs inform the EJN CPs of cases that they deem the EJN to be in a better position to deal with. To a lesser extent, Eurojust NDs and EJN National Correspondents indicated that their counterpart does not inform them of cases that they deem them to be in a better position to deal with. Some Eurojust NDs added that (i) the ND discusses these points at the annual meeting with the EJN CPs / ENCS; (ii) as an alternative, the deputy national member meets with the EJN National Correspondent regularly and one of the topics is casework; (iii) if the EJN colleagues require the ND’s assistance in a case, they contact the ND with a request; and (iv) given the national institutional setting the need for such a mechanism has not arisen. Some have further added that, in the ND’s experience, this has not arisen, it is done on a case-by-case basis, or in practice the EJN CP redirects the relevant prosecutor to the Eurojust ND, and that in this way the ND is informed.


1.10. Promotional work and the use of the Joint Paper as promotional material

Concerning the promotional work of both the EJN and Eurojust, and the use of the Joint Paper as promotional material, almost all Eurojust NDs and EJN CPs, in their respective capacities, are promoting the work of both EJN/Eurojust in their Member State through promotional activities such as roadshows, training sessions, meetings, seminars, EJN national meetings between EJN CPs, the ENCS and Eurojust, joint sessions promoting the work of Eurojust and the EJN, coordinated presentations, EJN meetings and internal guidelines.

A fair number of both NDs and EJN CPs find the Joint Paper useful as promotional material. For some it is mostly useful as a starting point and for others it is very useful more generally. It has been translated and is available on the websites of both Eurojust and the EJN. Others do not use it because the national Prosecutor's General Order contains all the same information as the Joint Paper, because national guidelines are used instead or because the practitioners are informed in detail about the EJN website and how to find information there.

1.11. Documents or agreed practices within the national desk or by the European Judicial Network contact points

To a limited extent, both Eurojust NDs and the EJN CPs have developed a document or agreed practices on the allocation of cases between Eurojust and the EJN which help them decide whether to provide the assistance requested or to redirect the request, by creating an internal document for the distribution of work within the Eurojust ND which is considered useful or based on good practices. Some follow the instruction of the Prosecutor General or national guidelines, while others have developed agreed practices based on criteria such as the urgency or complexity of a case, whether a request is bilateral or multilateral and the availability of the EJN CPs.

1.12. Guidelines or agreed practices developed by the Member State

Both Eurojust and the EJN indicated the existence of guidelines or agreed practices on the allocation of cases between Eurojust and the EJN that the Member States have developed and which assist them in deciding whether to provide the assistance requested or redirect the request, and that they have found helpful. Some have guidelines to assist in deciding whether a case should be handled by Eurojust or by the EJN, while others have guidelines specifically for prosecutors, but not for other authorities or courts.

However, Eurojust NDs, to a large extent, and to a lesser extent, the EJN CPs, indicated that Member States do not have any such guidelines or agreed practices but many use the Joint Paper on the EJN and Eurojust for the purpose of allocating cases and find this helpful.
2. Best practices

Both Eurojust and the EJN have, to a very large extent, identified best practices which could be applied to other Member States. To an equally large extent, the practices identified by each entity are similar. While the report identifies various best practices, the structure of the judiciary and law enforcement authorities, the specific legislation in each country and the different organisational layers may mean that not all best practices are suitable for all countries. The best practices are as follows.

A. Communication

1. Regular meetings and frequent contact via email or phone between the EJN CPs and the Eurojust ND. This reduces the risk of a request for assistance being dealt with twice, and contributes to solving the question of whether Eurojust or the EJN should deal with the case.

2. Regular close, personal, direct and informal cooperation and exchange of information between Eurojust, the EJN CPs, central authorities and the EJN national correspondents.

3. Both Eurojust NDs and EJN CPs should have a very good knowledge of the roles, functioning and competences of Eurojust and the EJN, and promote the use of both by explaining the differences between their roles to practitioners.

4. Both Eurojust and the EJN participate in meetings organised by the other.

B. Minimising the risk of duplication of work

5. Where the EJN and Eurojust are activated in parallel, informing each other is a matter of key importance for avoiding duplication of work.

6. Maintaining permanent contact between the EJN CPs and their respective Eurojust NDs — this is the only way of handling a scenario where a request is addressed both to Eurojust and to the EJN.

7. Before officially approaching Eurojust or the EJN, practitioners contact one of them informally to find the most suitable way to get assistance in their specific case.

8. As implemented by one Eurojust ND, requiring all practitioners of their Member State to complete a briefing note in order to determine whether a request should be dealt with by Eurojust. (The briefing note also requires the practitioners in their Member State to confirm what other enquiries have been made / routes have been used).

9. Laying down clear internal guidance (e.g. guidelines, circulars, and instructions) for practitioners.
10. Notifying the central authority where EJN CPs work of cases registered at a Eurojust ND that involve the EJN. (A briefing form has been created for sending this notification.) Such a system enables the coordination of the activities of Eurojust ND and EJN CPs in order to avoid duplication of work.

11. The NDs that use an internal document or agreed practices or, where absent, the Joint Paper on the EJN and Eurojust, find this documentation very useful for deciding whether to provide assistance or to redirect the request to an EJN CP.

C. Redirecting a request for assistance

12. As implemented by one Eurojust ND, development of a template for redirecting the case to an EJN CP and informing the requesting ND.

13. Sending cases to the ENCS coordinator, who redirects them to the best-placed EJN CP.

D. Institutional/organisational choices

14. Placing an EJN CP at the Eurojust ND / Liaison Prosecutor's office.

15. Appointing members at the Eurojust ND who are former EJN CPs and EJN CPs who were once members of the ND.

16. Members of the ND are members of the national judicial network and thus interact with all judges and prosecutors dealing with judicial cooperation at the national level.

17. Placing an EJN CP at the national appellate court of final instance who can share all relevant decisions in the field of judicial cooperation issued by the court with the Eurojust ND.

18. Appointing two former seconded national experts at the Eurojust ND as assistants to the national member and as EJN CPs. They are based in their Member State. Requests from their national authorities addressed to the Eurojust ND, which the EJN might be better placed to deal with, are referred to one of these people and they decide which channel to use.
3. Conclusions

In this section, conclusions and proposals are both given, on the basis of the replies from the Eurojust NDs/LPs and the EJN CPs.

Conclusions

1. The criterion of whether a case is bilateral/multilateral plays a limited role in the allocation of cases to Eurojust and to the EJN, and the most commonly used criteria by far for making such an assessment is the complexity of the case, which can be assessed by taking into account a number of factors.

2. In the vast majority of issues/practices related to the allocation of cases, Eurojust and the EJN share the same views, and the interaction between NDs and the EJN CPs in this matter works rather smoothly for the most part.

3. Communication is key, whether direct communication between Eurojust NDs/LPs and EJN CPs or communication via other channels, such as the ENCS.

4. Systematic awareness by Eurojust and the EJN of each other’s roles.

Proposals

To Eurojust

5. Consideration could be given to establishing a practice at Eurojust whereby NDs check, when appropriate, with their practitioners whether other enquiries have been made / routes (such as the EJN) have been used, to avoid duplication of work.

6. When approaching another Eurojust ND, a requesting Eurojust ND could explain whether the EJN route has been tried and if not, why.

7. It could be a positive step to also have the possibility of redirecting cases to the EJN in passive cases, i.e. those opened by other Eurojust NDs, in consultation with the ND concerned.

8. Eurojust and the EJN should continue working more closely together, through joint projects and training and promotional activities.

9. Some NDs could increase their level of awareness of the EJN.

10. Eurojust could consider creating a harmonised mechanism similar to the EJN’s online reporting tool whereby the NDs would be invited to register the cases that are referred to them to which consideration was given as to whether to redirect the case to the EJN, and the decision that was made in the end. Consideration could also be given to the benefit of additionally inviting the ND to indicate its reasons for deciding to redirect the case to the EJN or deal with it at the ND. This would allow for the good practice of redirecting cases from Eurojust to the EJN being statistically reflected at Eurojust.
To the EJN

11. Awareness-raising within the EJN of the benefit of redirecting a case to Eurojust when it can be assumed that Eurojust would be in a better position to deal with it should be considered.

12. Eurojust and the EJN should work more closely together, through training and promotional activities.

13. Consideration should be given to whether EJN CPs should be more available (e.g. 24/7).

14. Some EJN CPs could increase their level of awareness of Eurojust.

To national authorities and Member States

15. National authorities are invited to avoid using the double channel of communication, i.e. directing a request both to Eurojust and to the EJN.

16. National authorities are encouraged to make full use of the Joint Paper on the EJN and Eurojust ‘What can we do for you?’ or of equivalent national guidelines in order to ensure that Eurojust and the EJN are contacted for assistance in the cases they are most suited to deal with.

17. Member States / national authorities should increase their efforts to raise awareness of the EJN and Eurojust.

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