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Under Austrian Presidency, the Council adopted conclusions on 'Promoting mutual recognition by enhancing mutual trust' (OJ C 449, 13.12.2018, p. 6).

Working further on that basis, the Romanian Presidency proceeded to an evaluation of the current EU legal framework in the field of judicial cooperation in criminal matters, in order to gauge what has been achieved so far, assess whether there are any deficiencies or gaps, and examine how these could be addressed in an efficient manner.

To that end, the Presidency published a discussion paper (6286/19) and held discussions in the COPEN Working Party and in CATS.

The report drawn up by the Presidency on the basis of the input collected, is set out in the Annex.

It is underlined that this is a Presidency report, so it reflects the views of the Presidency. However, following discussions with Member States, most recently in the meeting of CATS on 13 May 2019, the Presidency is confident that this report is supported by a large majority of Member States. To be noted, further, that minority positions are equally reflected.

To be noted that after the meeting of Coreper on 22 May 2019, where Member States agreed to submit the Presidency report to the Council, some minor linguistic refinements have been made to the text.

The Council (Justice and Home Affairs) is invited to have a policy debate in the light of this report at its meeting on 6/7 June 2019.

ANNEX

Report by the Presidency on the way forward in the field of mutual recognition of judicial decisions in criminal matters

I. Introduction

- **Context**

Judicial cooperation in criminal matters in the European Union has developed considerably since the European Council of Tampere (1999) decided that mutual recognition should become the cornerstone of such cooperation.

Nowadays, the EU has a comprehensive legal framework in the area of judicial cooperation in criminal matters, founded on shared values regarding the rule of law and fundamental rights. Instruments based on the principle of mutual recognition constitute the core of this framework.

Council Framework Decision 2002/584/JHA on the European arrest warrant and the surrender procedures between Member States remains one of the most effective legal instruments in this area. There are also various other legal instruments, some of which are used relatively often (e.g. Framework Decision 2008/909/JHA on custodial sentences), while others are used less frequently (such as Framework Decision 2008/947/JHA on probation measures and Framework Decision 2009/829/JHA on supervision measures**)**.

Directive 2014/41/EU regarding the European Investigation Order in criminal matters replaces conventional mutual legal assistance with a cooperation mechanism based on mutual recognition as regards, in particular, obtaining evidence. Regulation (EU) 2018/1805 on the mutual recognition of freezing and confiscation orders and the new proposal for a Regulation on European Production and Preservation Orders for electronic evidence in criminal matters will further complement the EU's mutual recognition instruments for judicial cooperation in criminal matters.

- **Aim of the report**

The time seemed ripe for an evaluation of the current EU legal framework in the field of judicial cooperation in criminal matters, in order to gauge what has been achieved so far, assess whether there are any deficiencies or gaps, and examine how these could be addressed in an efficient manner.

Under the previous (Austrian) Presidency, the Council focused on mutual trust as a condition for mutual recognition, and issues related thereto. To this end, on 7 December 2018, the Council adopted Conclusions on 'Promoting mutual recognition by enhancing mutual trust' (OJ C 449, 13.12.2018, p. 6).

At the informal meeting of the Justice and Home Affairs Ministers in Bucharest, which took place on 7 and 8 February 2019, ministers discussed several issues regarding the future of judicial cooperation in criminal matters within the common judicial area of the European Union.

To feed further discussions on this topic, the Presidency published on 11 February 2019 a discussion paper on 'the way forward in the field of mutual recognition of judicial decisions in criminal matters, responding to the necessity of avoiding impunity and observing procedural safeguards' (6286/19).

Many delegations responded positively to the questions put forward by the Presidency in the discussion paper and provided very valuable input and interesting ideas that could pave the way for future developments in this field.

The written responses provided by Austria, Bulgaria, Croatia, Czechia, Estonia, Finland, France, Greece, Germany, Hungary, Latvia, the Netherlands, Poland, Portugal, the Slovak Republic, Slovenia and Sweden have been compiled in WK 2948/2019 + ADD 1 + ADD 2.

Based on the written responses, the Presidency presented on 12 March 2019 an additional document, 'The way forward in the field of mutual recognition in criminal matters - Exchange of views on the basis of a note by the Presidency' (6999/19), which constituted the basis for discussions during the COPEN meeting on 18 March 2019.

The Presidency has aimed to have a crosscutting view, by focusing on four topics of discussion that are interlinked with the application of mutual recognition instruments and to the principle of mutual trust:

a) challenges encountered in the application of the criteria set out in the *Aranyosi* judgment or in the application of grounds for non-recognition in the mutual recognition instruments;

b) training and guidance on mutual recognition instruments;

c) identification of gaps in the application of mutual recognition instruments and possible solutions to fill these gaps;

d) enhancing the institutional framework which allows for a proper functioning of judicial cooperation in criminal matters at EU level, and making comprehensive use of this institutional framework.

It should be underlined from the outset that the rationale behind this report was not to give an exhaustive view on this matter, but to concentrate on issues which concern the practical application of the mutual recognition instruments and which are relevant, from the Presidency's perspective, in the context of recent developments at Union level pertaining to cooperation in criminal matters. Moreover, the report is without prejudice to the scope of the ninth round of mutual evaluations and nothing in this report is meant to anticipate the outcome of that peer evaluation.

II. Issues for reflection, as set out by the Presidency

A. Challenges encountered in the application of the criteria set out in the *Aranyosi* judgment or in the application of grounds for non-recognition

The idea behind this topic was to seek the opinion of the Member States regarding grounds for non-recognition or other challenges that arise in the application of the mutual recognition instruments. Therefore, the Presidency has sought the views of the Member States as regards the practical application of grounds for non-recognition regarding mutual recognition instruments in general, as well as potential grounds for non-recognition regarding a violation of fundamental rights in relation to European Investigation Orders.

From the responses provided by the Member States, it seems there have been no reported cases in which a violation of fundamental rights has been invoked in respect of the execution of a European Investigation Order. As for other difficulties arising with grounds for non-recognition, some delegations called for more clarity concerning minimum procedural standards as regards in absentia judgments.

The main issue under debate in the current COPEN setting has been the issue of detention conditions in the context of executing European arrest warrants (EAWs).

In this respect, the most pressing problem for the time being is the practical application of the *Aranyosi* judgment.

In 2016, the Court of Justice of the European Union (CJEU) issued the *Aranyosi* judgment[1]. The interpretation of this judgment could also be extended to Framework Decision 2008/909/JHA[2] and in fact such situations have already been encountered in practice in some Member States.

[1] Joint Cases C-404/15(Aranyosi) and C-659/15 PPU (Căldăraru).
[2] Opinion of Advocate General Bot in the *Aranyosi* and *Căldăraru* cases, par. 128.

Following this judgment, several other questions have been brought to the attention of the CJEU in relation to prison conditions. In some cases, the Court has already rendered its judgment (see e.g. the judgment in case C-220/18 PPU, *ML*), while in others the Court's is pending (C-128/18 *Dorobanțu*).

These judgments have clarified criteria that need to be taken into account by the executing judicial authorities when deciding on EAWs. In the view of the Presidency, it was interesting to see how Member States interpret these criteria and whether a common working methodology/common guidelines should be considered in the future in this particular area.

The input provided by the Member States was very valuable and demonstrated that further guidance is awaited from the CJEU, notably in the *Dorobanțu* judgment (C-128/18 – still pending).

In accordance with the *Aranyosi* judgment, as a rule detention conditions do not constitute grounds for non-recognition or non-execution, but may be grounds for postponing the execution of an EAW and allow for non-execution only as a last resort in exceptional cases. The judgment should also be strictly interpreted and only be applied in exceptional circumstances on a case-by-case basis, rather than to all pending EAW's. The two-step approach proposed by the *Aranyosi* judgment should be followed. The question that has been raised in the course of the COPEN debate is that of how the first step – that is, the assessment of the general deficiencies by the executing State – should be applied in practice so that, as a second step, individual requests may be sent to the issuing State.

In addition, requesting supplementary information on detention conditions and receiving the relevant documentation creates additional delays in the actual execution of the EAW and causes the deadlines established through the Framework Decision 2002/584/JHA to be missed.

Of course, the most adequate solution for dealing with these challenges relating to the interpretation of the recent jurisprudence of the CJEU in this field would be to eliminate any potential violation of fundamental rights, notably with regard to prison conditions. As overcrowding is apparently one of the most pressing issues regarding prison conditions, solving this issue should primarily be the responsibility of the issuing State, in order to re-establish strong mutual trust with other Member States. Domestic measures, whether of a legislative or policy nature, have already been launched in certain Member States that encounter problems in this area and progress is being made in this sense. Unfortunately, such a complex matter needs adequate strategies and relevant responses that require, in their turn, a significant amount of time and resources. However, various efforts are being undertaken either by individual Member States or through action at international level. These include compliance with the substantial acquis of the Council of Europe on treatment of prisoners and improving detention conditions. Many Member States also attended the conference organised by the Romanian Presidency in Sinaia on 1-4 April 2019, the high-level conference on 'Responses to prison overcrowding' organised by the Council of Europe and the EU and in Strasbourg on 24-25 April 2019.

Therefore, bearing in mind the above, it would seem more important in the short term to establish clear common criteria so that every executing State would ask the same questions and every issuing State would provide the same kind of information, while bearing in mind the particularities of the penitentiary system of each MS involved. The importance of such common criteria has been made clear by cases where the type of information requested by the executing State and the references to existing standards – whether Council of Europe standards or United Nations standards or other types of resources – invoked in the assessment (judgments of the European Court of Human Rights, reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, etc.) differ considerably from one Member State to another.

A significant number of delegations consider that the issue remains significantly important and that establishing some common non-binding guidelines could have a positive outcome.

In the Presidency's view, the following aspects need to be addressed:

1. **Getting a clear view of the magnitude of the phenomenon** - this process is already under way, as there has been a recent call for gathering statistical data on the number of cases where surrender based on the EAW has been refused/postponed due to detention conditions;

2. **Collecting practical expertise from the Member States** regarding the actual application of the criteria established through the recent jurisprudence of the CJEU, as regards both challenges and best practices for issuing and executing States. This endeavour could help identify recurrent issues and the best solutions.

3. **Creating a common working methodology/common guidelines** regarding the criteria that need to be taken into account when applying the two-step approach established by the Aranyosi judgment in practice, and in particular when requesting information about prison conditions. This common working methodology/these guidelines will, of course, be of a non-binding nature, but nevertheless will shed some valuable light on how the judgments of the CJEU could be interpreted, and on which type of data could primarily be requested and subsequently provided by the Member States.

However, such endeavours should only be considered after the CJEU has issued its judgment in the *Dorobanțu* case, which will hopefully bring more clarity to the issue at hand.

It should be underlined that the proposed measures are in no way duplicating the activities planned for the future ninth round of mutual evaluations, which will look at this issue in detail 'on the ground', or any other development in this field undertaken by any EU institution, the Council in particular. On the contrary, the aim of the proposals put forward by the Presidency is to provide a comprehensive approach on how the judgments of the CJEU could be interpreted in order to improve cross-border cooperation and mutual trust.

B. Training and guidance on mutual recognition instruments

The Presidency asked the delegations to express their views on whether there are any ways in which the training activities and materials regarding mutual recognition instruments, including the guidelines that are currently available, could be improved.

The responses were very detailed and provided a lot of food for thought, taking into account the fact that the 2011 Strategy for Judicial Training[3] is currently being evaluated and that the next strategy will be prepared by the Commission based on that evaluation. It would appear therefore that the topic is of great importance, in the context of judicial cooperation at EU level taking on a more significant role.

When it comes to training in the application of mutual recognition instruments, there are two processes to be observed: training organised at EU level and training organised at domestic level. These two processes are complementary and consequently need to be well coordinated, in order to avoid duplication of efforts and to make optimal use of existing resources. In addition, there are regional training courses, which include practitioners of two or more neighbouring countries as beneficiaries. These projects are very important in the context of regional cooperation in criminal matters, having a great impact upon mutual trust and the cooperation among practitioners.

[3] See Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 'Building Trust in EU-wide Justice. A new dimension to European Judicial Training', COM(2011)551 final, Brussels, 13.9.2011.

The activities undertaken at EU level notably by the European Judicial Training Network (EJTN), CEPOL and the Academy of European Law (ERA), as well as those carried out beyond the EU by the HELP Platform of the Council of Europe, are highly qualitative and the practitioners have provided positive feedback. The training provided at national level by schools for the judiciary are also welcomed by the participants, who describe them as very useful and up to the necessary standards. Eurojust and the European Judicial Network (EJN) also play an important role in disseminating their know-how and expertise by participating in training seminars, including in cooperation with the EJTN. In particular, the EJN Contact Points perform their tasks provided for in Article 4 (3) of the Council Decision 2008/976/JHA on the European Judicial Network.[4]

However, despite this positive feedback, it seems there are ways in which both domestic and EU training in the field of mutual recognition could be improved, in particular on the current challenges in the application of EU legislation regarding mutual recognition and best practices. As the field is a very dynamic one, keeping the training formats and materials updated is of great importance. As a matter of fact, Member States emphasised the need for both national and EU efforts in this area.

In the Presidency's view, the following aspects need to be addressed:

1. Awareness-raising

How can practitioners become aware of the actual existence of training courses dealing with mutual recognition instruments? They need to know *where* to look for a particular training course or material, or the information needs to be fed to them in a continuous flow. In our view, the national authorities play a major role in this area, and it is up to them to ensure proper coordination with their relevant EU counterparts. In addition to initial training, continuous training activities are also very important.

[4] OJ L 348/24.12.2008.

Bringing all the relevant EU training courses together – that is, collecting all the training information into one space – would also be very useful. In this context, the future European Training Platform (ETP) in the training section of the European e-Justice Portal will remedy the lack of comprehensive and consistent information on legal training courses for all categories of justice professionals available in the different EU Member States and bridge the existing fragmentation gap.

2. Streamline the categories of those receiving training and streamline the topics

In the current strategy, priority has been given to judges and prosecutors. However, apparently a need is still felt for judges to be involved more in training activities. In many countries a specialisation at court level in judicial cooperation in criminal matters is not possible, and the random distribution of cases in some countries makes it necessary for all the judges that work in criminal matters to be able to deal with a significant number of EU instruments applicable to cooperation in criminal matters at EU level.

Other groups that should benefit more from training activities are probation officers and penitentiary personnel on the one hand, and - as far as possible - court staff and members of other legal professions on the other. Competent national authorities and professional bodies involved in the training activities could more closely assess the specific needs of these groups, taking into account national circumstances. It was recalled that both the Council of Europe – which has adopted guidelines regarding recruitment, selection, training and development of prison and probation staff – and the network of European Prison Training Academies (EPTA) are active in this field.

As regards the topics that training activities should particularly focus on in the future, practical issues that arise in the application of probation and supervision measures (Framework Decision 2008/947/JHA and Framework Decision 2009/829/JHA) should be explored, as well as the recent jurisprudence of the CJEU, especially in the context of the application of Framework Decision 2002/584/JHA. Some delegations also felt that the training in respect of the European Investigation Order (EIO) Directive should continue to be organised in a systematic manner. The need to make penitentiary personnel more widely aware of the provisions of Framework Decision 2008/909/JHA was also specifically mentioned.

3. Keeping the training materials up to date and making them available to a wide range of legal professionals through a continuous digitalisation of training curricula.

This is a recurrent issue. Training materials need to be regularly updated, due to the continuous developments in the case law at European level, and also due to the introduction of new instruments (for example, the European Investigation Order and, in the near future, the new regulatory framework in the field of freezing and confiscation (Regulation (EU) 2018/1805)). EU training materials also need to be translated into more EU languages, not just French and English, in order to reach a wider audience.

The continuous expansion of digital and long-distance training formats could also have positive results. Participants can follow such courses at their own pace, just by using a computer connected to the internet, without needing to travel anywhere (which is, most of the time, a time- and resources-consuming process). Nevertheless, face-to-face training remains key for exchanges of good practices, facilitating networking between professionals and ultimately building mutual trust and improving judicial cooperation.

All these measures would allow a wider dissemination of documentation to those practitioners that are not proficient in English or French. The European Commission, Eurojust and the EJN have also provided very useful materials and handbooks, which are used by practitioners on a daily basis. A new handbook on the Framework Decision 2008/909/JHA is to be released in the near future by the Commission. Specialists in EU cooperation in criminal matters need to be updated regularly on what is happening in the area of mutual recognition and mutual trust, and significant efforts have been made by the Commission and Eurojust to do this. Some examples of documents used regularly by practitioners for this purpose include the 'Handbook on How to Issue and Execute a European Arrest Warrant' prepared by the Commission, the guidelines for deciding 'which jurisdiction should prosecute?', Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States, and Eurojust's 'Updated overview of case-law by the CJEU' papers. The Commission could, in the medium term, usefully explore the possibility of drafting new handbooks on European Investigation Orders and probation and supervision measures, once there is sufficient caseload that would support the launching of such initiatives.

In this context, the European Training Platform (ETP) will usefully provide easy (electronic) access through the European e-Justice Portal to EU and national law training courses across the EU and to training materials of a range of training providers for justice professionals in the EU, including the EJTN. Justice professionals will be able to find not only training activities but also self-learning material / stand-alone training material on the topics of their search.

Last but not least, in addition to handbooks launched at EU level it is important that the competent national authorities in the Member States also issue similar handbooks or guidelines at domestic level.

4. Training the trainers and disseminating knowledge at domestic level

The EU legislation regarding cooperation in criminal matters and the mutual recognition instruments should be embedded in the national training courses. Moreover, trainers should be trained not only in these legislation and instruments, but also in the legal system of the country where the training is taking place (or, in the case of international training courses, in the legal system(s) of country(ies) relevant for the participants), so that participants better understand the specific characteristics of that particular legal system(s). In addition, solutions could be explored so that those who have benefited from training should also be able to disseminate their knowledge to other colleagues that are interested, such as by writing summaries, forwarding training materials and training colleagues at local level themselves. Making the knowledge of these people – who are highly skilled in the area of mutual recognition instruments – available to their colleagues, whether at domestic or EU level, would also be useful (such as, for example, using online forums restricted to practitioners where legal options could be offered starting from specific questions).

C. Identification of gaps in the application of mutual recognition instruments and possible solutions to fill these gaps

Under this topic, the Presidency has tried to touch upon two different aspects: the reasons for the lesser application of certain mutual recognition instruments, in particular Framework Decision 2008/947/JHA (Probation) and Framework Decision 2009/829/JHA (Supervision measures); and questioning whether there is a need for further legislation proposals in the area of procedural rights in criminal proceedings and transfer of criminal proceedings.

i) Less frequent use of Framework Decision 2008/947/JHA and Framework Decision 2009/829/JHA

The majority of the delegations observed that the less frequent application of Framework Decision 2008/947/JHA (Probation) and Framework Decision 2009/829/JHA (Supervision) would be examined during the ninth round of mutual evaluations and that it was therefore not the right moment to discuss it. Moreover, the same topic was discussed during the 51st Plenary Meeting of the European Judicial Network in Vienna on 21-23 November 2018, and the conclusions of this meeting were made available in document 14574/18.

However, since several delegations provided significant input on this matter, it is the view of the Presidency that, without detracting from the results of the ninth round of mutual evaluations, it would be still useful, even as a cross-checking method, to briefly present the views of those delegations. As will be shown below, the conclusions the Presidency reached after carefully examining the responses offered by the delegations coincide to a great extent with the conclusions reached during the 51st EJN Plenary Meeting.

In the Presidency's view the following aspects need to be addressed:

– It is important to establish whether the less frequent application of the two Framework Decisions (FD 2008/947/JHA and FD 2009/829/JHA) is due to the fact that practitioners are not aware of the legal possibilities they offer/do not have enough experience in their application, or the fact that practitioners do not consider the two Framework Decisions to be adequate instruments of cooperation that could meet their practical needs. To offer an example, one delegation has referred to the supervision measures, whereby the judge need to establish the reliability of the information provided by the accused. By the time such information is received from the potential executing State, the defendant might already have been sentenced, rendering the request redundant. It would therefore appear that in many cases the additional time needed for the exchange of supplementary information requires the proceedings to be greatly prolonged, surpassing the time limits established in the instruments in question, and as a consequence the measures cannot be applied anymore.

– It is also important to establish whether the less frequent application of the two Framework Decisions might not simply be the consequence of insufficient harmonisation of substantial procedural provisions and of the differences in the transposition processes, making recognising the Decisions a practical impossibility (for example, one delegation made specific reference to the differences between the legal systems making the instruments inoperable).

The Presidency considers that this working hypothesis will be verified during the ninth round of mutual evaluations.

ii) As regards the question of whether there is a need for further legislation in the area of procedural rights in criminal proceedings, several delegations mentioned that in matters related to criminal procedural law, there are still significant differences between Member States that would justify to further analyse whether it would be advisable and necessary to take any legislative action in this respect. Some other Member States, however, clearly stated that it would not be necessary to take further legislative action in the said area, at least not at this stage. The Presidency is of the view that discussions should continue.

iii) Possible legislative proposals on judicial cooperation in criminal matters

The current view among practitioners is, as regards judicial cooperation in criminal matters at EU level, and especially mutual recognition instruments, that the EU legislation is comprehensive enough and covers a wide range of aspects. However, it is necessary to enhance the application of the existing instruments and to improve practitioners' knowledge through continuous training and awareness-raising.

With regard to transfer of criminal proceedings, EU Member States currently conduct the transfer of criminal proceedings between themselves by using Council of Europe instruments or based on reciprocity. Two particular conventions were mentioned frequently by the Member States – the European Convention on the Transfer of Proceedings in Criminal Matters, Strasbourg, 1972, and the Convention on Mutual Assistance in Criminal Matters, Strasbourg, 1959, Art. 21 ('Laying of information in connection with proceedings') – as providing valid solutions if proceedings need to be transferred to another state.

At first glance, the use of those instruments should be sufficient. As a matter of fact, there are Member States that consider that the legal framework is sufficiently comprehensive and is working at a satisfactory level. On the other hand, the concrete caseload some Member States are confronted with has shown that this is sometimes not the case. In addition, only 13 MS are parties to the European Convention on the Transfer of Proceedings in Criminal Matters, and the other valid option is for Member States to issue requests to transfer proceedings based on reciprocity, which is only possible if both states allow such cooperation under a reciprocity regime. The use of Art. 21 of the 1959 Convention on Mutual Assistance in Criminal Matters presents its limitations as well. Therefore, without entering into a detailed analysis on this topic, it is the Presidency's opinion, supported also by some Member States, that a dedicated instrument applicable at EU level could have greater ambitions than these two instruments, which were adopted a long time ago. It could also present better solutions with regard to the degree of harmonisation or approximation existing at EU level, which would lead to more positive outcomes than in the current Council of Europe setting.

The transfer of proceedings can be used in situations such as when it is obvious that the criminal justice system's goal can be better achieved in the executing State (in cases where, for example, evidence should be transferred to the executing State because the person resides there, or because the offence has been mostly committed on the territory of the executing State, or because most of the evidence is already located there). The transfer of proceedings can also be used when surrender based on the EAW cannot be completed. The application of the principle *aut dedere aut judicare* in this context represents a valid alternative in order to ensure that the purposes of the criminal justice process are fulfilled and the just desert concept is fully applied.

Such a proposal is not new. A Proposal for a Framework Decision on the Transfer of criminal proceedings was issued during the Swedish Presidency in 2009, but no agreement was reached on this initiative launched by 15 Member States.

However, the Presidency believes that this could be the time to reassess the situation in this particular area. Such a process could start gradually, and the following aspects could be addressed in the future, on a medium-term basis:

a) Having a clear assessment of the concrete application of the *aut dedere aut judicare* principle at EU level in the framework of EAW procedures, as a way to avoid impunity and in relation with refused EAWs; in addition, for those cases where the EAW has been issued in order to execute a punishment, assessing whether the MS, as the executing States, are able, subject to the applicable legal framework, to take over the execution of the punishment issued against the sought persons.

b) Further exploring in the medium term the need to launch a legislative proposal on the transfer of proceedings in criminal matters in a broader context including assessment of the provisions of Framework Decision 2009/948/JHA on conflicts of jurisdiction . This could start from a clear assessment in the future of the current caseload of transfers of proceedings and practical application of alternative (non-EU) instruments.

D. Enhancing the institutional framework which allows for a proper functioning of judicial cooperation in criminal matters.

The debate on this topic has revealed that Member States agree that Eurojust and the EJN have a crucial role in fostering judicial cooperation in criminal matters, as proven by their major achievements since their establishment. The Member States have stressed the need to preserve the status quo as regards the participation of Eurojust and the EJN in the activities of the COPEN Working Party.

The website of the EJN is considered by the vast majority of the delegations to work very well, with all its electronic tools (e.g. Judicial Atlas, *Fiches Belges,* Judicial Library) being extremely useful and user-friendly for judges, prosecutors and representatives of central authorities. As a matter of fact, the EJN website has been emphasised as the best place for EU practitioners to find relevant information about mutual recognition instruments applicable at UE level.

Many delegations specifically mentioned Eurojust and the EJN as success stories.

However, several points that could enhance the activities of both Eurojust and the EJN need to be mentioned, as follows:

1. As regards both **Eurojust and the European Judicial Network:**

- Eurojust and the EJN should continue to play an active role in addressing obstacles and identifying best practices in the application of mutual recognition instruments;

- The papers prepared by Eurojust and by the EJN regarding the practical application of mutual recognition instruments are very useful for practitioners. Specific reference was made to the summary of the case-law of the CJEU on the FD EAW and the Asset Recovery Report, as well as to the EJN conclusions on the European Investigation Order.

2. As regards **Eurojust:**

- It should be ensured that Eurojust as such has access to existing and future platforms, such as the secure platform for the exchange of electronic evidence prepared by the Commission;

- It should be ensured that Eurojust has appropriate financial resources to allow it to continue functioning at least within the same parameters as the present ones.

3. As regards the **European Judicial Network**:

- The importance of the General Secretariat regularly disseminating the EJN's plenary meeting conclusions to the delegations of the Member States. These conclusions also need to be disseminated at national level by each Member State, so that a wide range of practitioners can make use of the information;

- The necessity to provide Eurojust adequate resources also in order for it to keep the EJN's functioning intact.

4. As regards **COPEN:**

After the consultation held by the Presidency about the role of COPEN, several valuable ideas have been circulated by the Member States engaged in this active dialogue:

- to regularly take into account during the COPEN discussions to what extent the mutual recognition instruments are being applied;

- to invite Eurojust and the EJN, and, when necessary, other judicial networks, to the COPEN meetings when aspects of direct interest to them are being discussed within the ordinary legislative procedure;

– to identify new challenges and good practices, and to discuss potential questions arising from new CJEU judgments and recurring practical problems;

– to put specific, practical topics related to mutual recognition instruments on the agendas for COPEN (General) meetings and to find solutions in relation to those topics.

5. As regards the **Commission:**

Several delegations mentioned the Commission's valuable contribution at institutional level, especially through its organisation of experts' meetings on EU instruments and, in particular, on the application of the mutual recognition principle at EU level. They are of the opinion that such meetings should, in the future, be systematically held to discuss every mutual recognition instrument, before and after its implementation.

In the Presidency's view, the following aspects need to be addressed under this point:

1. Eurojust and the EJN should continue to focus on their practical and operational activities, and in order to do this to the best of their abilities, Eurojust should be allocated an adequate budget, within the applicable financial framework, which should in no way hinder Eurojust and consequently the EJN in daily activities. They should work further, including in the framework of the Eurojust National Coordination System (ENCS), on determining which of the two entities is better placed to deal with concrete cases. As regards future legislative proposals that would require feedback from practitioner level, Eurojust and the EJN or any other relevant judicial network could be invited to COPEN meetings from an early stage, on a case-by-case basis, to provide their valuable opinion in a timely manner in the framework of the consultation process.

2. COPEN should maintain its current working methodology, but should periodically assess, starting from the concrete context at hand, whether general meetings should be held more than once per semester.