



European judicial network in civil and commercial matters

The role of the EJN in assisting national judges

Judicial cooperation in civil matters

- free movement of goods, services, capital and people
- cross-border implications
- EU starts building bridges between the different legal systems
- main objectives are legal certainty and easy and effective access to justice → identification of the competent jurisdiction, clear designation of the applicable law and speedy and effective recognition and enforcement procedures

Legal basis of judicial cooperation in civil matters

- Article 67 of the Treaty on the Functioning of the European Union (TFEU)
- 67/1 TFEU: "*The Union shall constitute an area of freedom, security and justice with respect for fundamental rights and the different legal systems and traditions of the Member States.*"
- 67/4 TFEU: "*The Union shall facilitate access to justice, in particular through the principle of mutual recognition of judicial and extrajudicial decisions in civil matters.*"
- Protocols No 21 and 22 annexed to the Treaties (opt-outs of Ireland, UK and Denmark)

Legal basis of judicial cooperation in civil matters

- Article 81 of the TFEU
- 81/1: *"The Union shall develop judicial cooperation in civil matters having cross-border implications, based on the principle of mutual recognition of judgments and of decisions in extrajudicial cases. Such cooperation may include the adoption of measures for the approximation of the laws and regulations of the Member States."*
- Art. 81 TFEU → implies that measures in the field of civil cooperation are necessary for the proper functioning of the internal market (includes family matters)

Legal basis of judicial cooperation in civil matters

- Art. 81/2 TFEU→ specifies the scope of EU law instruments (mutual recognition and enforcement between MS; compatibility of the rules applicable in the Member States concerning conflict of laws and of jurisdiction; effective access to justice; elimination of obstacles to the proper functioning of civil proceedings; the development of alternative methods of dispute settlement (mediation); cooperation in the taking of evidence; the cross-border service of judicial and extrajudicial documents; effective access to justice; support for the training of the judiciary and judicial staff

Legal instruments in the area of civil matters

EU law covers (and regulates) more and more areas of civil justice:

- ✓ *applicable law (Rome I, Rome II, divorce and legal separation - enhanced cooperation)*
- ✓ *free circulation of judgments in civil and commercial matters (BRX I, BRX I recast, EEO, EOPP, small claims, insolvency)*
- ✓ *free circulation of judgments in the area of family law (BRX IIa, maintenance, succession,*
- ✓ *mediation, legal aid, compensation to crime victims*

Legal instruments in the area of civil matters

EU law also covers „classic“ mutual legal assistance:

✓ *Service of documents*

✓ *Taking of evidence*

❑ *all EU legalisation available here at Eu publications' office or here:*

<https://eur-lex.europa.eu/browse/summaries.html> ;

[https://eur-lex.europa.eu/summary/chapter/justice freedom security.html?root default=SUM_1 CODED=23](https://eur-lex.europa.eu/summary/chapter/justice_freedom_security.html?root_default=SUM_1_CODED=23) ;

<https://op.europa.eu/en/publication-detail/-/publication/a160c110-ac29-11e9-9d01-01aa75ed71a1/> (compendium)

Judicial cooperation

- main tools for facilitating access to cross-border justice are the principle of mutual recognition, based on mutual trust between Member States, and direct judicial cooperation between national courts
- direct cooperation between judicial authorities (e.g. taking of evidence (Art.2), service of documents (Art.2), succession (Art.66/5 – examination of the application (providing information))
- cooperation between CA (e.g. taking of evidence (Art. 3/b), service of documents (Art. 3/b), BRX IIa – Chapter IV, maintenance – Chapter VII)

Judicial cooperation

- in order to improve, simplify and expedite judicial cooperation between the Member States and to promote access to justice for citizens engaging in cross-border disputes Council established

European Judicial Network in civil and commercial matters
(EJN)

EJN in civil and commercial matters

- established by Council Decision 2001/470/EC of 28 May 2001
- started operating on 1 December 2002
- legal basis was modified once in 2009 (by Decision No 568/2009/EC of the European Parliament and of the Council of 18 June 2009 amending Council Decision 2001/470/EC establishing a European Judicial Network in civil and commercial matters)
- major innovation introduced by the new decision → opening the network to professional associations representing legal practitioners, in particular lawyers, solicitors, barristers, notaries and bailiffs
- all Member States except Denmark participate in the EJN

EJN in civil and commercial matters

- important tool for providing support for the implementation of EU civil justice instruments in daily legal practice
- facilitates and supports relations between national judicial authorities through contact points (and members) in each Member State
- helps to facilitate cross-border cases
- aims to provide help for people (practitioners and citizens) involved in cross-border civil and commercial judicial cases

EJN - the structure

- more than 500 members (five categories) :
 - ✓ contact points designated by MS
 - ✓ central bodies and central authorities
 - ✓ liaison magistrates with responsibilities for cooperation in civil and commercial matters
 - ✓ other judicial or administrative authorities
 - ✓ professional associations

EJN - tasks

- facilitating judicial cooperation between MS
- facilitating effective access to justice (providing information)
- facilitating cross-border procedures
- effective and practical application of Community instruments or conventions in force between two or more MS
- establishment, maintenance and promotion of an information system for the public (EJN website, EJN Atlas – now incorporated in E-justice website)

EJN - functioning

- periodic meetings of the contact points (CP) and of the members of the EJN (at least one/6months; 6 representatives/MS max; plenary, bilateral, WG meetings, meetings with other networks, meeting with other national networks...)
- draws up and keeps updated the information on judicial cooperation in civil and commercial matters (information sheets, guides...)

EJN – contact points

- CPs are at disposal to central bodies and central authorities, the liaison magistrates any other appropriate judicial or administrative authority and to local judicial authorities in their own MS
- CPs ensure that the local judicial authorities receive general information concerning the Community and international instruments relating to judicial cooperation in civil and commercial matters
- ensure that the EJN is better known to the local judicial authorities
- supply information on the law of another MS that is applicable under a Community or international instrument (informal requests, reply is not binding)

EJN – contact points

- facilitate coordination of the processing of requests for judicial cooperation in the relevant MS
- supply other CPs and judicial authorities with information needed for judicial cooperation
- contribute to generally informing the public, through the Network's website
- assist with the preparation and updating of the information system for the public
- ensure coordination between members of the Network at national level (e.g. meetings at national level)

EJN – contact points

- ✓ seek solutions to difficulties arising on the occasion of a request for judicial cooperation

EJN – contact points – here for you

How can CP assist you?

- enquiring about the current status of a request for judicial cooperation (e.g. service of documents or taking of evidence)
- supplying you with information to facilitate the application of the law of another Member State that is applicable under a Union or international instrument
- seeking solutions to difficulties arising on the occasion of a request for judicial cooperation
- supplying you with information needed for sound judicial cooperation between the Member States
- supplying you with general information concerning the Union and international instruments relating to judicial cooperation in civil and commercial matters.

EJN – contact points (CP) – here for you

? How to find CP in your MS ?

If you wish to contact your national contact point, please click [here](https://e-justice.europa.eu/contactPoint.do).

<https://e-justice.europa.eu/contactPoint.do>

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EJN – contact points

- each MS nominated at least one CP
- CPs usually work at the ministry of justice of a MS
- some CPs are judges appointed to the MOJ
- if the CP is not a judge, MS provide for effective liaison with the national judiciary, a MS may designate a judge to support this function (this judge is a member of the EJN)
- up to the MS to organise EJN at national level and to ensure sufficient means

EJN Slovenia

SLOVENIA

- 3 contact points in the Ministry of Justice
 - 11 district court judges
 - 2 specialized judges in family law
- 8 specialized judges (local courts) covering the succession matters and the European cross-border proceedings (April 2019)
- professional associations (Chamber of Notaries, Bar Association and the Chamber of enforcement officers)

Need help in a cross-border case?

?need information on the law of another MS?

a wide range of (multilingual) information on European, national and international civil and commercial law can be found at the E-justice website:

https://e-justice.europa.eu/content_information_on_national_law_information_sheets-439-en.do?init=true

Need help in a cross-border case?

?need information on the Community law?

guides for practitioners and citizens to EU law instruments (produced by EJN working groups) → *EJN's publications*

https://e-justice.europa.eu/content_ejn_s_publications-287-en.do?clang=en

Need help in a cross-border case?

EJN CP receive most often requests:

- finding competent authority
 - finding proper forms
 - foreign law
- current status of a request (service/evidence/VC)

How does it work?

Judge



CP of your state (or a judge – a member of EJM)



CP of another MS (or a judge – a member of EJM)



competent authority (court) of another MS

EJN

- ✓ not only CP, but also members (judges) of the EJN can help you
- ✓ direct communication of all members (meetings, via e-mail, via telephone)
- ✓ some practical examples

on the web

e-Justice portal

<https://e-justice.europa.eu>

European Judicial Atlas in civil matters:

https://e-justice.europa.eu/content_european_judicial_atlas_in_civil_matters-321-en.do

Thank you!

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