EUROPEAN JUDICIAL NETWORK (EJN)

CEP Expert Meeting

Enhancing the Implementation of FDs 2008/JHA/947 & 2009/JHA/829

29 September 2021

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1. The role of the European Judicial Network

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EJN in brief

What? → Pioneer network of judicial authorities fighting serious crime

When? → Established in 1998 (Joint Action 1998 replaced by the EJN Decision 2008)

Who? → Contact points appointed by each Member State as 'active intermediaries' to facilitate judicial cooperation in criminal matters: prosecutors, judges, central authority officials

Where? → All Member States of the European Union; candidate and associated countries; partners in non-EU countries

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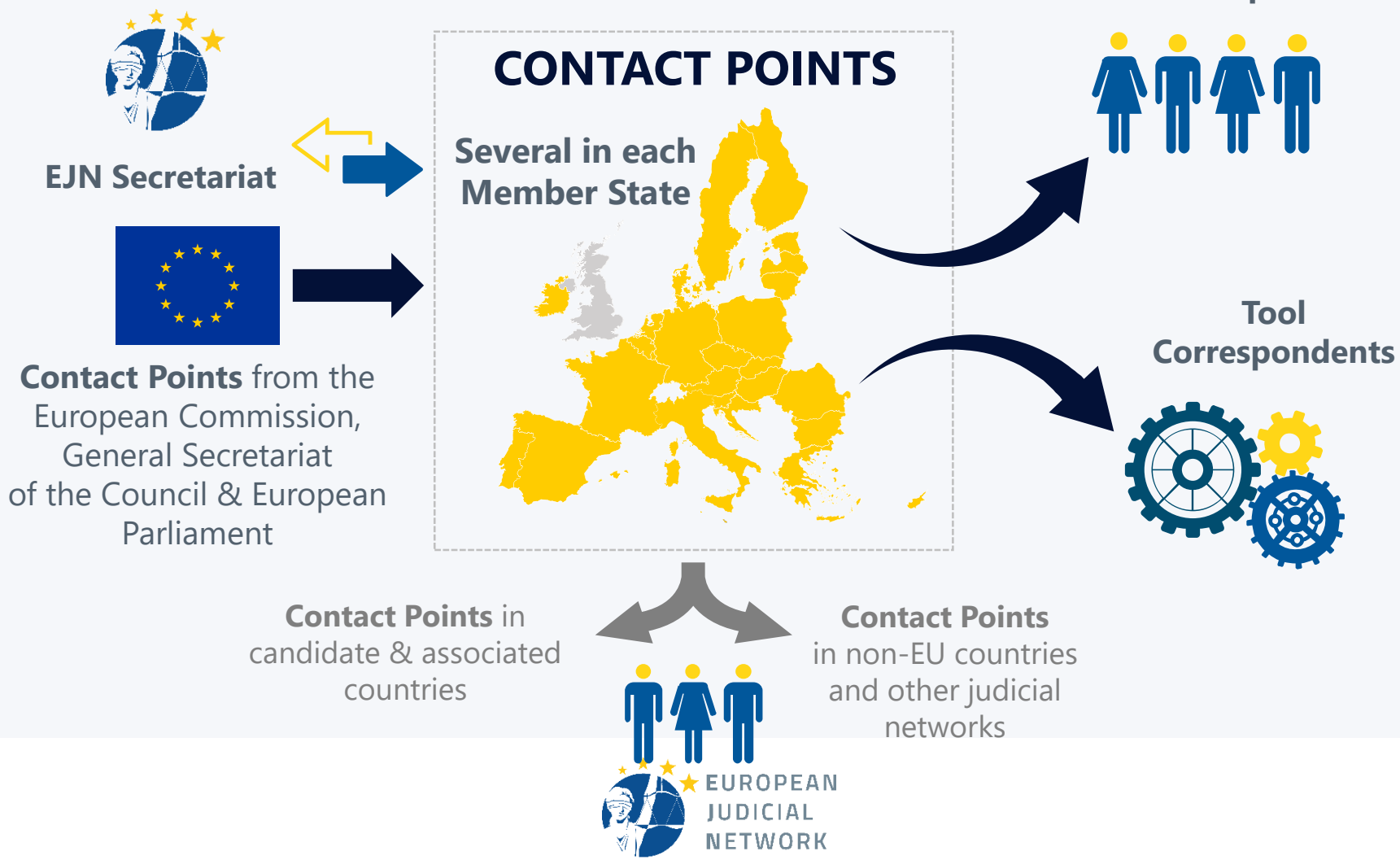
EJN Structure



Main functions of EJN CPs

01. As active intermediaries, **facilitating judicial cooperation** between Member States in actions to combat serious crime

02. **Providing the necessary legal and practical information** to enable judicial authorities to prepare an effective request for judicial cooperation or to improve judicial cooperation in general

03. **Promoting and being involved in the organisation of training sessions** on judicial cooperation for the benefit of the competent authorities.
In cooperation with the European Judicial Training Network, where appropriate

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Purpose of the EJN meetings

01. To get to know each other and **exchange experience**, particularly concerning the operation of the Network

02. Forum for **discussion of practical and legal problems** encountered in the context of judicial cooperation

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EJN case-work Statistics

7000-8000

cases per year

2000

about the European Arrest Warrant

5000

about Mutual Legal Assistance/European Investigation Order (EIO)

As of 2017 **EJN web-based online reporting tool** for EJN Contact Points
EJN case-work statistics / EJN biennial report

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2. EJN Website

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www.ejn-crimjust.europa.eu

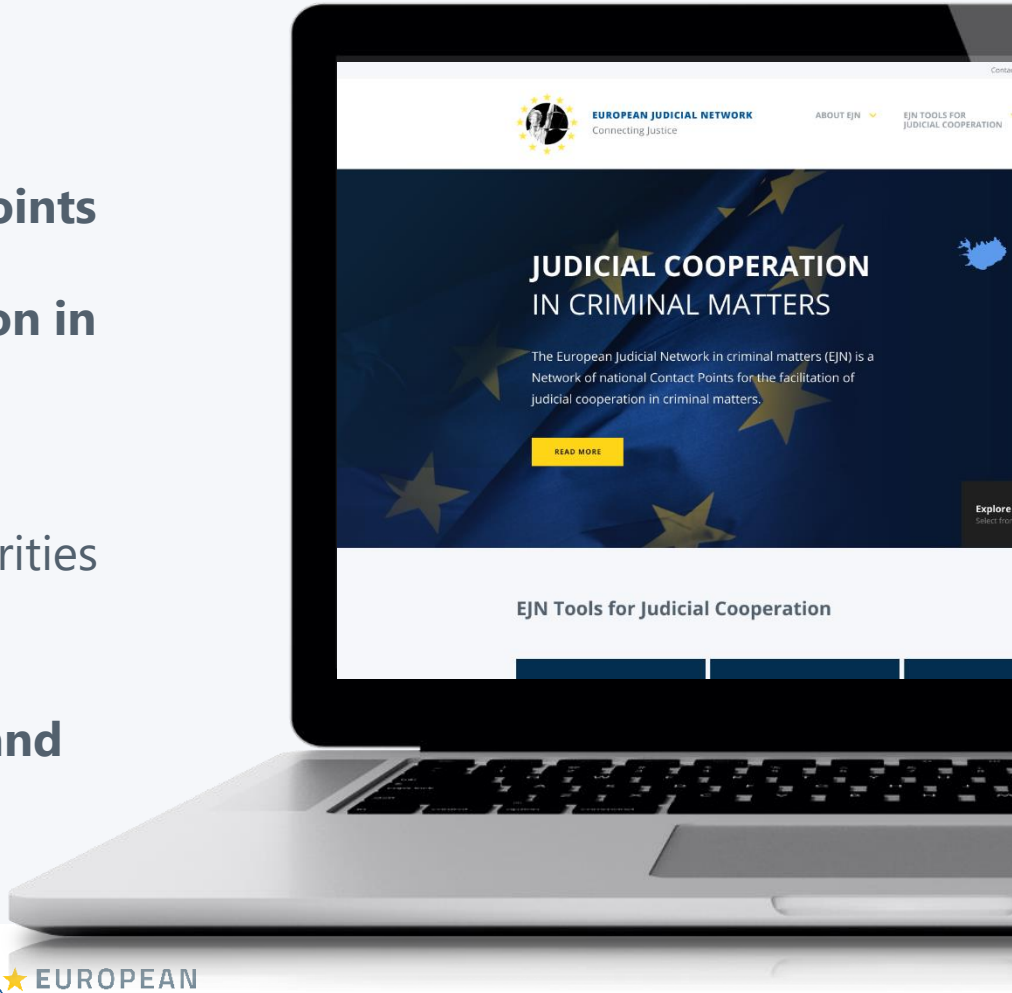
Created **in 2000**

Home base for the **EJN Contact Points**

Information on **judicial cooperation in criminal matters** to all judicial authorities

Practical e-tools for judicial authorities for judicial cooperation

Managed by the **EJN Secretariat and the EJN Tool** correspondents



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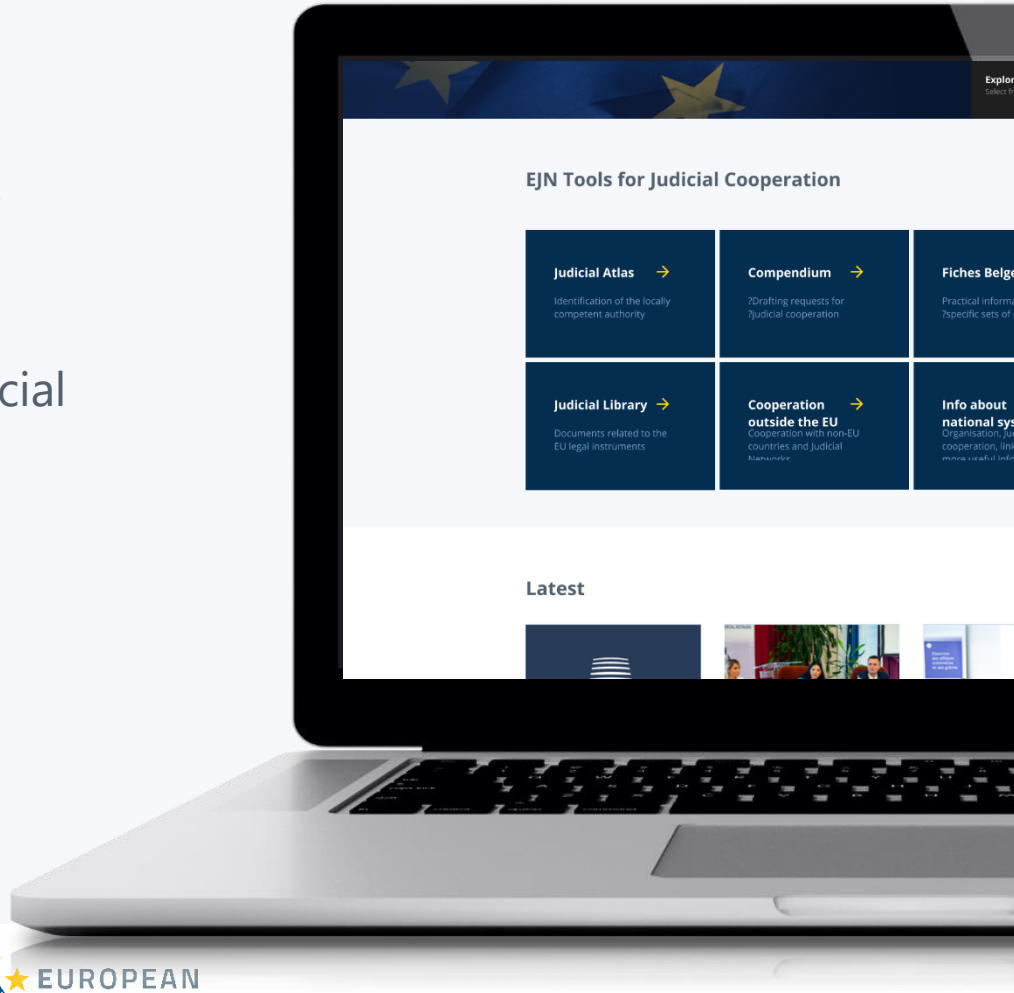
EJN e-Tools

5 e-tools

Accessible from the **home page** of the EJN website

For **practitioners** dealing with judicial cooperation in criminal law cases



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3. EJN experience with FDs 829 & 947

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EJN and MRIs in EU:

2018

Council Conclusions on Mutual Recognition in Criminal Matters adopted under the **AT PRES**: *EJN plays an active role in addressing obstacles for, and identifying best practice in, mutual recognition.*

2019

Report by the **RO PRES** on '**the way forward in the field of mutual recognition in criminal matters**' (endorsed by a large majority of MSs): a consensus among MSs on the *crucial role* of the EJN in fostering judicial cooperation in criminal matters. '*The EJN website has been emphasised as the best place for EU practitioners to find relevant information about mutual recognition instruments'*.

2019

Council Conclusions on alternative measures to detention: The use of non-custodial sanctions and measures in the field of criminal justice were adopted under the **FI PRES**: mandate to the EJN to continue working on this issue and to provide relevant practical information on the application of the instruments to the EJN CPs and the practitioners in the MSs:

> '***EJN*** *is invited to consider gathering information on its website on the different non-custodial sanctions and measures in each Member State. For this aim, cooperation with any relevant organisation, including* ***Confederation of European Probation (CEP),*** *may be considered.*'

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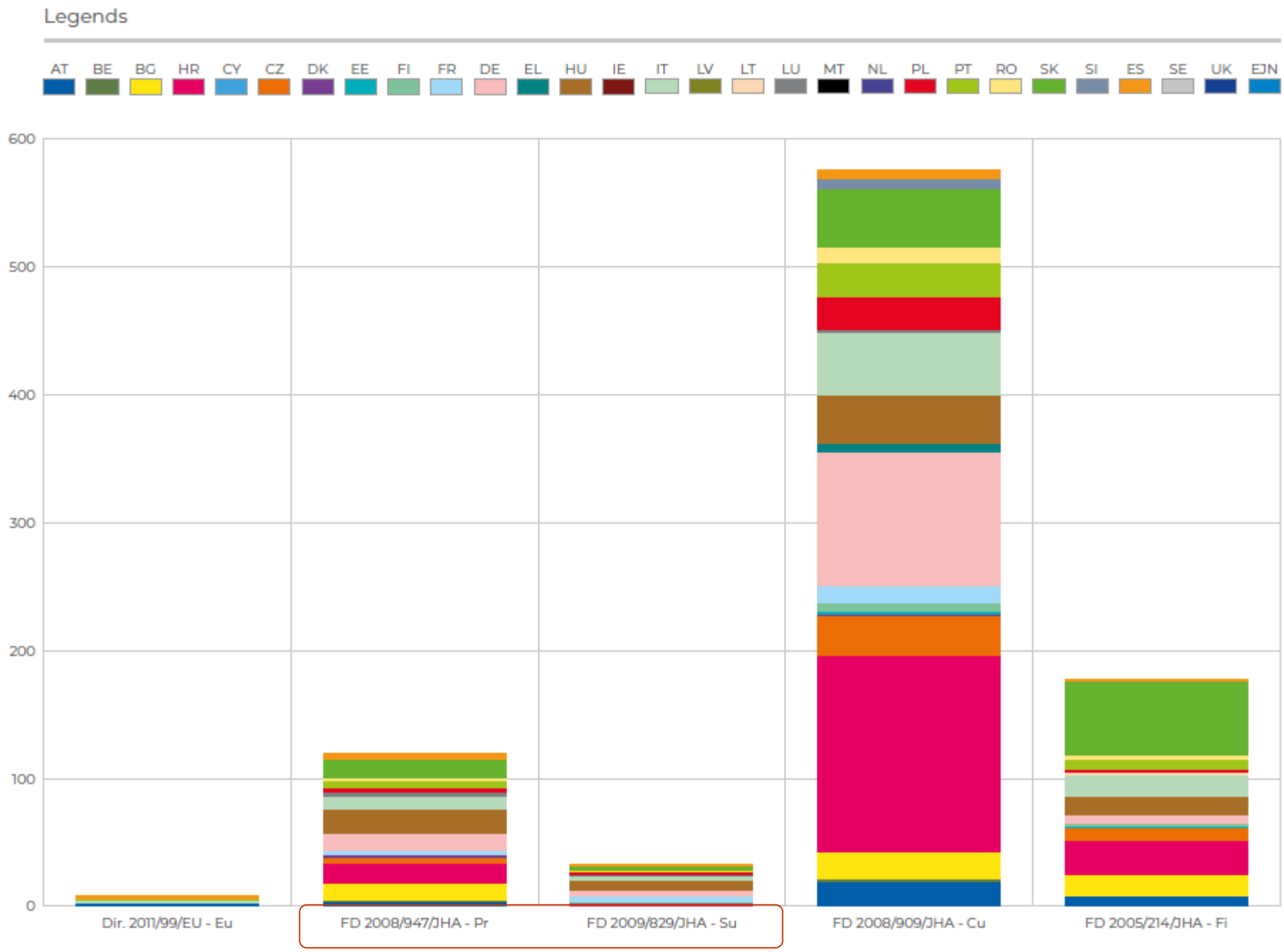
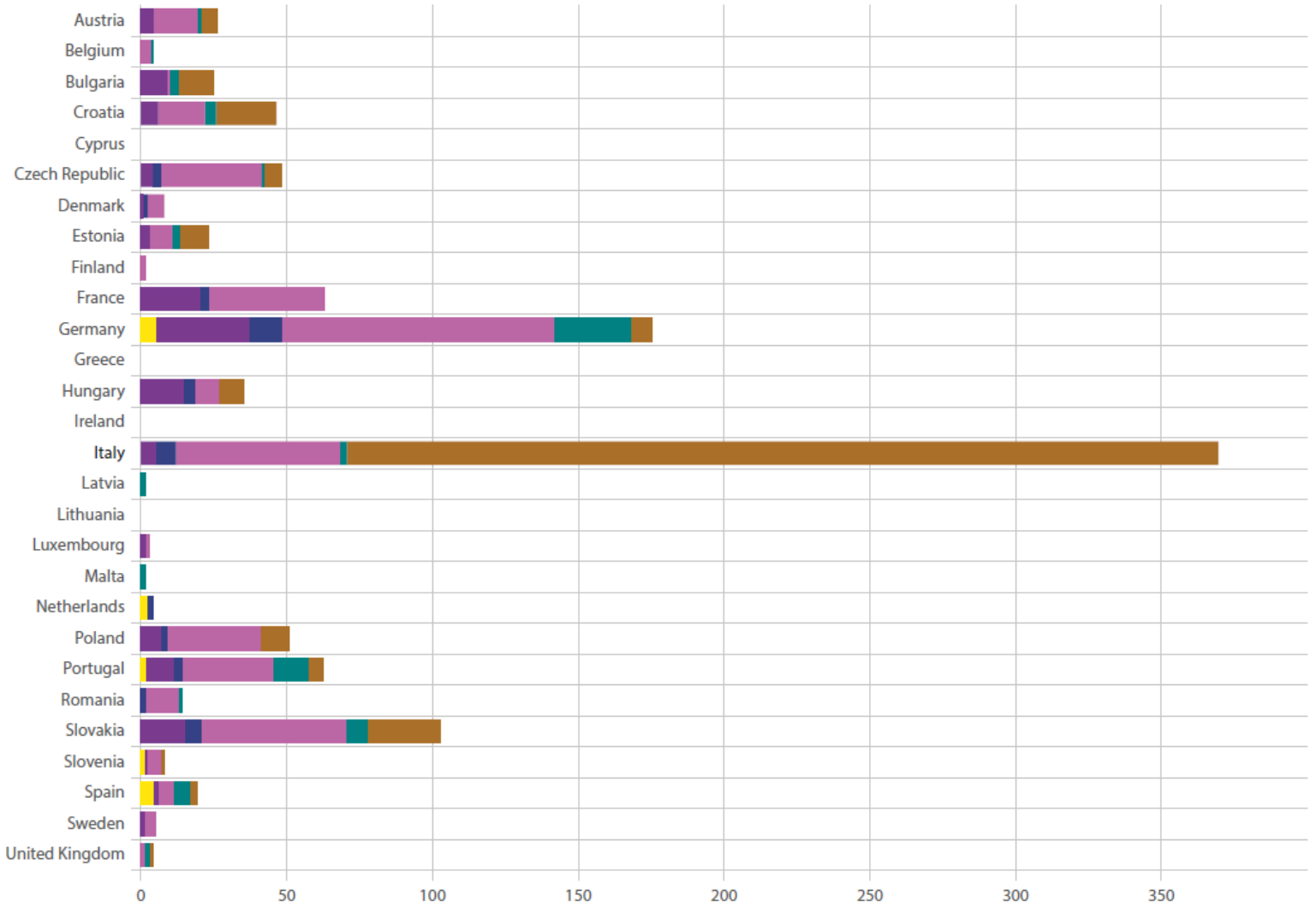


EJN CASES WITH MUTUAL RECOGNITION INSTRUMENTS, 2019-2020

Legends

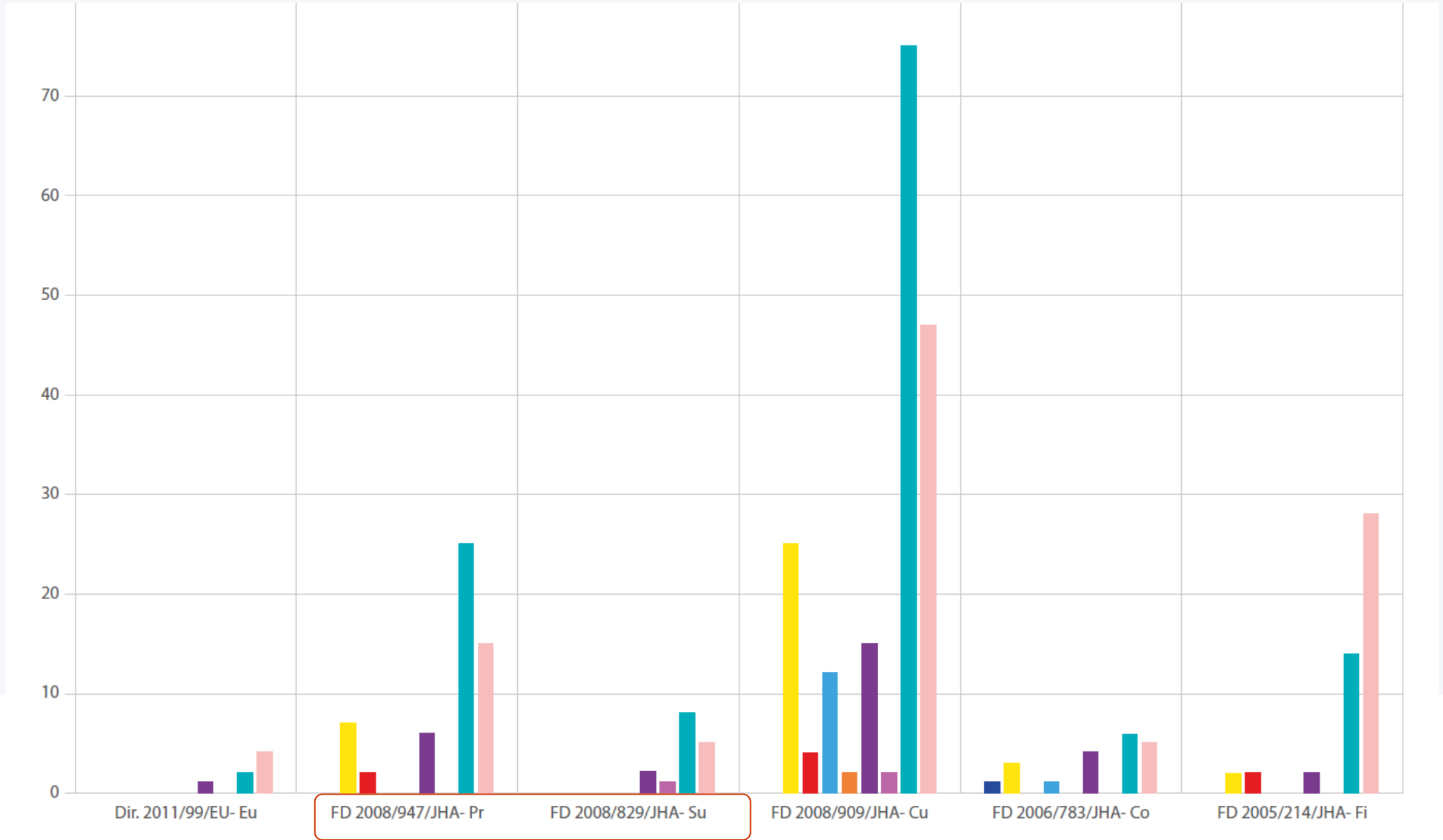
- Dir. 2011/99/EU - European Protection Order
- FD 2008/947/JHA - Probation decisions
- FD 2009/829/JHA - Supervision Measures
- FD 2008/909/JHA - Custodial Sentences
- FD 2006/783/JHA - Confiscation Orders
- FD 2005/214/JHA - Financial Penalties



EJN CASES WITH MUTUAL RECOGNITION INSTRUMENTS, 2017-18

Legends

- Corruption
- Fraud
- Trafficking in human beings
- Drug trafficking
- Illegal migrant smuggling
- Not known
- Financial crimes
- Property crimes
- Other



Questionnaire on MR instruments 2018: EJN 51st Plenary AT Pres

The aim: to identify practical problems and possible and solutions to MR instruments less used.

- A questionnaire on application of MRIs replied by EJN CPs
- More than 100 EJN CPs from 26 MSs expressed their views and shared their experience
  - Less than 2/5 CPs have dealt with 2008/947/JHA *(Supervision of Probation Measures and Alternative Sanctions)*
  - Less than 1/5 CPs have dealt with the FD 2009/829/JHA *(Supervision measures as an alternative to provisional detention)*

General conclusions on 947 and 829

- Topic to be raised in different fora for discussion
- Training at the national and at the EU level with the involvement of the EJN and EJTN
- Difficulties to identify the right authority to address the orders/certificates => continuous update of the EJN Atlas tool
- National intranet pages: share EU or national guidelines, best practices and handbooks to facilitate the issuing and execution of the orders/certificates
- Involvement of the EJN (practitioners) during the EU legislative process
- The EJN also proposes to the MSs and the EU Institutions to raise awareness among defence lawyers

Probation measures and alternative sanctions (2008/947/JHA)

- Different interpretation of measures/ sanctions in national law
  - *E.g. health related measures (treatment of a drug addict). Treatment as an out-patient and the hospitalisation falls for most MSs under the scope of FD 2008/947/JHA, others would apply the FD 2008/909/JHA (hospitalisation). For some, execution is not possible*
  - *3/5 of CPs replied that community service is an alternative sanction according to national law; 1/3 replied that it is considered a probation measure. The rest stated that both options are available for these types of measures.*
- TBC: information to the EJN website on what probation measures/ alternative sanctions in MSs?

Supervision Order (2009/829/JHA)

- Different rules on max. penalty and on pre-trial detention; adapting/ leaving out measures (without consultation) by the executing MSs
- Applying more severe supervision measure by the executing MS; confusion about types of measures listed in Art 8.1(*e.g."to remain at a specific place" (c) vs "limitations on leaving the territory" (d));* problems with obtaining consent of the person concerned (*hearing in court needed*)
- TBC: information to the EJN website on supervision measures as an alternative to provisional detention in MSs?

Thank you for your attention!

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