



EUROJUST'S INDEPENDENT DATA PROTECTION SUPERVISOR

# 2014 Activity Report of the *Joint Supervisory Body* of Eurojust







**JOINT SUPERVISORY BODY OF EUROJUST**

SECRETARIAT: P.O. BOX 16183 - 2500 BD THE HAGUE - NETHERLANDS

TEL +31 70 412 5512 - FAX +31 70 412 5515 - E-MAIL: [jsb@eurojust.europa.eu](mailto:jsb@eurojust.europa.eu)

[www.eurojust.europa.eu/jsb.htm](http://www.eurojust.europa.eu/jsb.htm)

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## Foreword

As chair of the Joint Supervisory Body of Eurojust since 21 June 2014 when I took over from my fellow member, Mr Hans Frennered, I have the pleasure to present this twelfth annual activity report.

During this year, a major focus of the Joint Supervisory Body's attention has been the revision of the Eurojust Regulation. The Joint Supervisory Body has contributed actively to the ongoing discussions and has emphasised the importance of the current regime which takes into account the judicial nature of Eurojust's work and ensures the proper involvement of Member States. On 1 December 2014, the JSB issued a second opinion on the data protection regime in the proposed Eurojust Regulation (available on our webpage), elaborating four main issues that could have an impact on Eurojust's activities and its data protection activities – supervision, the tailor-made data protection regime at Eurojust, the appointment of the Data Protection Officer and the rights of data subjects.

In addition to our regular meetings, the permanent members have met with the Presidency Team and the College of Eurojust on several occasions. These meetings have provided an invaluable opportunity to share opinions on the key matters at stake and to strengthen the cooperation between the Joint Supervisory Body and Eurojust.

We have continued to monitor Eurojust's implementation of the recommendations of the last general inspection report of 2013 and those of the inspection of the Human Resources Unit in 2012. Another inspection visit is planned at the beginning of 2015.

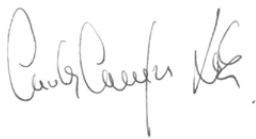
The Joint Supervisory Body has provided its views on draft agreements being negotiated between Eurojust and third states and parties, issuing favourable opinions on the Memoranda of Understanding between Eurojust and the European Agency for Fundamental Rights and the European Monitoring Centre for Drugs and Drug Addiction.

It has been a great pleasure to work with my fellow permanent members, Messrs. Hans Frennered and Wilbert Tomesen, and I warmly thank them for their expertise and commitment to the work of the JSB. I thank also the Presidency Team and the College of Eurojust as well as the staff of Eurojust for their contributions to our activities.

As Chair of the JSB and permanent member for several years, it is important to highlight the wonderful work done by the Data Protection Officer (DPO). During all this time, even in difficult situations linked to very important tasks to deal with, all the members of the Data Protection Service have done fantastic work, always with dedication, efficiency, readiness and unfailing

enthusiasm. It is clear that the team of the DPO is a very strong, competent and professional one. I thank the Data Protection Officer, Ms Diana Alonso Blas, her staff members Ms Vaida Linartaitė-Gridziuškienė, Mr Xavier Tracol, and the secretary to the JSB, Ms Fiona Coninx, for their assistance to the work of the JSB.

Best regards,



Carlos Campos Lobo  
Chair  
Joint Supervisory Body of Eurojust

## 1. Introduction

This 12<sup>th</sup> annual activity report of the Joint Supervisory Body of Eurojust (JSB) highlights the main activities of the JSB during 2014.

The JSB was established in Article 23 of the Eurojust Decision<sup>1</sup> as an independent body to monitor the activities of Eurojust involving the processing of personal data. It aims to ensure that these activities are carried out in accordance with the Eurojust Decision and do not infringe upon the rights of the relevant data subjects.

One of the tasks of the JSB is to examine appeals submitted by members of the public to access possible personal data held by Eurojust and to find out whether this information is being lawfully and accurately processed.

The JSB also monitors the permissibility of the transmission of data from Eurojust to third parties and issues opinions on the data protection provisions in draft agreements under negotiation between Eurojust and third parties.

This report sets out the future challenges facing the JSB, especially in light of the draft Eurojust Regulation and EU Data Protection reform, the discussions on the future supervisory system and the establishment of a European Public Prosecutor's Office (EPPO).

## 2. Budget and costs

The JSB received €46,400 from Eurojust's budget for its administrative expenses, covering the appointees' travel expenses, its meetings' costs, participation in the European and International conferences of data protection commissioners and the translation of its annual activity report (into French, German, Spanish and Italian).

## 3. Meetings and elections

Meetings of the permanent members took place at Eurojust's premises on 20 February, 25 April, 19 June, 20 June (plenary) and 13 November. Elections for a permanent member were held during the plenary meeting as Mr Hans Frennered (Sweden) had completed his mandate of three years. At the plenary meeting, Mr Frennered was elected again as a permanent member and Mr Campos Lobo took over from him as chair for the next year.

In addition to these meetings, the JSB members met with the Presidency Team of Eurojust on 13 January, 24 April and 22 September for an exchange of views on Eurojust's implementation

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<sup>1</sup> 2002/187/JHA setting up Eurojust with a view to reinforcing the fight against serious crime, OJ L 63 p. 1, 6.3.2003 amended by Council Decision 2009/526/JHA of 16 December 2008 on the strengthening of Eurojust, OJ L 138 p. 14, 4.6.2009.

of the recommendations of its 2013 inspection report, the latest developments at Eurojust and the draft Eurojust Regulation. These meetings provided an invaluable opportunity for both sides to find a common approach to the issues at stake.

At the invitation of the President, the JSB attended the plenary meeting of the College on 23 September. The issues discussed included the status of the implementation of the JSB recommendations of the 2013 inspection report; the use of the CMS; the state of play regarding manual files and the draft Operations Manual; the state of the implementation of Article 19 of the Data Protection Rules and the general understanding and implementation of Article 19(7) of the Eurojust Council Decision.



*Hans Frennered, Carlos Campos Lobo (Chair), Wilbert Tomesen (from left to right)*

## 4. Future developments

Throughout 2014, the JSB followed closely the developments in the draft Eurojust Regulation and Eurojust's contribution to the data protection reform.

Under the Greek Presidency of the Council of the European Union, on 31 January the JSB wrote to the President of the Hellenic Data Protection Authority and the H.E. Ambassador to the Permanent Representation of Greece to raise some concerns concerning the proposed supervisory scheme. In support of the JSB's position, the President of Eurojust wrote to the Council of EU's Working Party on Cooperation in Criminal Matters (COPEN)<sup>2</sup> on 26 March, stressing that a workable and tailor-made data protection regime needed to take into account the judicial nature of Eurojust's work and that the current supervisory scheme took into account the judicial nature of Eurojust's work and the information flow between Eurojust and Member States. The JSB was very pleased with

<sup>2</sup> 20130256 (COD), 8488/14, 04.04.2014.

Eurojust's contribution to the discussion on the Eurojust Regulation, in particular the chapter on data protection, and expressed its gratitude for the positive approach taken by Eurojust towards supervision by the JSB.

## Second opinion on the data protection regime in the proposed Eurojust regulation

In response to an updated proposal on the draft Eurojust Regulation issued on 13 November 2014, the JSB circulated its "Second opinion on the proposed data protection regime in the Eurojust regulation" to all stakeholders on 1 December <sup>3</sup>. In this opinion, the JSB elaborated four main issues that could have an impact on Eurojust's activities and its data protection regime: supervision, the tailor-made data protection regime at Eurojust, the appointment of the Data Protection Officer and the right of access of data subjects. The JSB stated that *"it considers that certain aspects contained in the initial draft proposal for a Eurojust Regulation and newly introduced changes should be reconsidered, in particular those related to the proposed supervisory model, specific tailor-made data protection rules and rights of the data subject. At the same time, the JSB regrets that the Italian Presidency has decided to postpone the discussions on the data protection part, which will be left aside and dealt with under the incoming Presidency"*.

## 5. Supervisory Work

In accordance with Article 7 of the Act of the JSB<sup>4</sup>, the JSB has carried out several inspections at Eurojust during recent years. During 2014, it continued to monitor Eurojust's implementation of the recommendations of its inspection report of 2013 and its inspection of the Human Resources Unit in 2012.

### 5.1. Follow-up to 2013 Inspection

In response to the inspection report, the College of Eurojust had provided a "roadmap" to the JSB on 18 September 2013, outlining its plan of action to implement the recommendations of the report. During 2014, Eurojust informed the JSB regularly on the progress of the plan.

A pilot project for data entry into the CMS was run from 21 October 2013 to 21 April 2014, which aimed to identify possible ways to improve data entry into the CMS and to develop a more consistent approach to the processing of personal data therein. Three national desks took part in this project. One of the direct outcomes of this project was a "Decision on the insertion of data in the Case Management System", adopted by the College of Eurojust on 17 June 2014. The College of Eurojust also adopted the following policies in response to the inspection report's recommendations: Guidelines on Confidentiality and Disclosure within the framework of Eurojust

<sup>3</sup> [http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/jsb/opinions/Second%20opinion%20about%20the%20data%20protection%20regime%20in%20the%20proposed%20Eurojust%20Regulation/SecondOpinionJSB\\_Draft-EJ-Regulation\\_2014-12-01\\_EN.pdf](http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/jsb/opinions/Second%20opinion%20about%20the%20data%20protection%20regime%20in%20the%20proposed%20Eurojust%20Regulation/SecondOpinionJSB_Draft-EJ-Regulation_2014-12-01_EN.pdf)

<sup>4</sup> "In the framework of its powers in accordance with Article 23(1) of the Eurojust Decision, the Joint Supervisory Body may carry out data protection checks at Eurojust".



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Coordination Meetings (adopted by the College of Eurojust on 8 April 2014) and Guidelines on the management of manual files (approved by the College of Eurojust on 7 October 2014).

During 2014, a draft Operations Manual, setting out policies to harmonise the procedures of Eurojust's operational work, was drawn up and presented to the JSB at its plenary meeting on 21 June.

Eurojust also informed the JSB that technical innovations were being developed for the CMS to comply with Article 19 of the Data Protection Rules<sup>5</sup> and that these would be included in the next upgrade of the CMS during 2015.

The JSB expressed its satisfaction with the aforementioned developments and was pleased with the commitment and efforts being made by Eurojust to comply with the recommendations of the inspection report. In December, the JSB requested Eurojust to provide a full overview of the status of the implementation of the recommendations, in preparation for its next inspection visit in January 2015.

## 5.2. Follow-up to 2012 inspection of HR Unit

The HR Unit informed the JSB regularly about the progress of the implementation of the recommendations of the inspection report of February 2012. At its meeting on 19 June, the JSB received a full report of all the actions taken so far. The JSB raised a question about the retention period of Article 90 decisions in the personal files of staff members and wrote to Eurojust on 1 July to request some further clarification about this, in case of challenge before the Ombudsman, the Court of Justice or the Court of Auditors. Eurojust replied on 28 August, clarifying that *"un-redacted Article 90 replies are retained for up to two years, which is the maximum period in which complaints to the European Ombudsman can be made. However, for administrative practicalities, this period may be extended by a maximum of three months as the Legal Service performs regular three monthly checks on the expiry of this maximum retention period for individual Article 90 replies"*. The JSB was satisfied with this clarification.

The JSB observed that most of the recommendations of the inspection report had been implemented, but that some policy-related decisions might require additional time and these would be monitored closely in 2015.

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<sup>5</sup> "In the context of the operational work of Eurojust, data subjects shall be provided with information as to the processing, as soon as it is apparent that the provision of this information to the data subject would not undermine (a) the fulfilment of Eurojust's tasks in reinforcing the fight against serious crime; or (b) national investigations and prosecutions in which Eurojust assists; or (c) a monitoring, inspection or regulatory task connected, even occasionally, with the exercise of official authority in the cases referred to in clauses (a) and (b)".

## 6. Cooperation with the Data Protection Officer of Eurojust

In accordance with Article 6(6) of the Act of the JSB<sup>6</sup>, the JSB cooperated closely with Eurojust's Data Protection Officer, who provided information about the daily issues of Eurojust in terms of data protection.

In accordance with Article 27(1) of the Data Protection Rules<sup>7</sup>, the Data Protection Officer presented the 8<sup>th</sup> Annual Data Protection Survey to the JSB in December. Five national desks and one administrative unit of Eurojust had participated in the survey. In her findings, the Data Protection Officer highlighted in particular that there was an increased awareness and application of Article 19 of the Data Protection Rules, which had been one of the recommendations of the 2013 JSB inspection report. The JSB will use the findings of this report as a basis for its inspection in January 2015.



*Plenary meeting in June 2014*

## 7. ICT projects

The JSB received regular information from Eurojust about the current information and communication technology (ICT) projects involving the processing of personal data. These included:

- Eurojust's connection to the Schengen Information System;
- changes to the Case Management System (CMS);
- the European National Coordination System secure network connections project (ENCS);
- the e-HR application and e-recruitment software applications being used by Eurojust;

<sup>6</sup> "The Joint Supervisory Body will liaise with the Data Protection Officer of Eurojust where appropriate".

<sup>7</sup> "The Data Protection Officer shall monitor the lawfulness and compliance with the provisions of the Eurojust Decision, the present Rules of Procedure and any other rules regarding the processing of personal data applicable to Eurojust. To that end, the Data Protection Officer[...] shall run annual surveys on the compliance with the aforementioned rules within Eurojust".

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- the introduction of an e-REC system (a software application to support the reporting on the utilisation of human and financial resources and the achievement of organisational performance indicators by Eurojust);
  - Sharepoint 2010.

## 8. Agreements between Eurojust and third states/organisations

In accordance with Article 26(2) of the Eurojust Decision<sup>8</sup>, the JSB was informed about negotiations between Eurojust and third countries/parties and issued opinions on the following draft memoranda of understanding:

### 8.1. Opinion on Memorandum of Understanding between EMCDDA and Eurojust

The JSB approved the draft memorandum of Understanding between Eurojust and the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA)<sup>9</sup> on 20 February 2014. The JSB was satisfied with the wording used in Article 4 of the agreement, concerning *“the exchange of information which is in line with the advice and recommendations made by the JSB on previous occasions”*.

### 8.2. Opinion on Memorandum of Understanding between Eurojust and FRA

The JSB approved the draft Memorandum of Understanding on cooperation between Eurojust and the European Fundamental Rights Agency (FRA) on 19 June 2014<sup>10</sup> and expressed satisfaction with the wording of its Article 4 which provided that the *“the exchange of information or experience provided for in this Memorandum of Understanding shall not include the transmission of operational information, including data relating to an identified or identifiable person”*. This provision was in line with the advice and recommendations made by the JSB on previous occasions.

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<sup>8</sup> “[...] Such agreements or working arrangements may only be concluded after consultation with the Joint Supervisory Body”.

<sup>9</sup> [http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/jsb/opinions/Opinion%20on%20the%20Memorandum%20of%20Understanding%20between%20EMCDDA%20and%20Eurojust%20\(2014\)/OpinionJSB\\_MoU-EMCDDA-Eurojust\\_2014-02-20.pdf](http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/jsb/opinions/Opinion%20on%20the%20Memorandum%20of%20Understanding%20between%20EMCDDA%20and%20Eurojust%20(2014)/OpinionJSB_MoU-EMCDDA-Eurojust_2014-02-20.pdf)

<sup>10</sup> [http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/jsb/opinions/Opinion%20on%20the%20Memorandum%20of%20Understanding%20between%20the%20Agency%20for%20Fundamental%20Rights%20and%20Eurojust.%202014/OpinionJSB\\_MoU-FRA-Eurojust\\_2014-06-19\\_EN.pdf](http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/jsb/opinions/Opinion%20on%20the%20Memorandum%20of%20Understanding%20between%20the%20Agency%20for%20Fundamental%20Rights%20and%20Eurojust.%202014/OpinionJSB_MoU-FRA-Eurojust_2014-06-19_EN.pdf)

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## 9. Rights of the data subject

As stated in Article 23(7) of the Eurojust Decision<sup>11</sup>, one of the tasks of the JSB is to examine appeals submitted to it in accordance with Articles 19(9) and 20(2) of the Eurojust Decision. If the JSB considers that a decision taken by Eurojust on the processing of data is not compatible with the Eurojust Decision, it shall refer the matter to Eurojust for reconsideration. Decisions of the JSB are final and binding on Eurojust.

### 9.1. Case-related appeals

The JSB received an appeal from a citizen of the United Kingdom on 17 July, requesting access to possible personal data held by Eurojust. In accordance with Article 16(2) of the Act of the JSB<sup>12</sup>, this appeal was forwarded to the College of Eurojust for comment within four weeks. The JSB Appointee for the UK was also invited to act as an ad hoc judge in the proceedings, as required by Article 12 of the Act of the JSB<sup>13</sup>. At its plenary meeting on 16 September, the College reached the decision to inform the applicant that Eurojust held no data on the applicant, with the exception of the data relating to the request, and requested that the Data Protection Officer inform the applicant of this decision. The Data Protection Officer informed the applicant accordingly on 19 September. Subsequently, the JSB wrote to the applicant on 14 October, confirming that Eurojust held no personal data and that the JSB now considered the case officially closed.

### 9.2. Non-case-related appeals

The JSB did not receive any non-case-related appeals during the year.

## 10. Opinion of JSB on the disclosure of names of selection board members

On 12 August 2013, the Ombudsman opened an own-initiative enquiry<sup>14</sup> into the practices of European agencies on the disclosure of selection board members' names. The Ombudsman requested that Eurojust endorse its guidelines on good practice issued on 16 May 2014<sup>15</sup>, aimed at assisting agencies with ensuring the correct balance between transparency and the legitimate requirements of confidentiality in the work of selection boards, whilst also complying with principles of data protection. The Ombudsman requested to be informed of the action taken by Eurojust to comply with these guidelines by 31 October 2014. The Administrative Director of

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<sup>11</sup> "The JSB shall examine appeals submitted to it in accordance with Articles 19(8) and 20(2) of the Eurojust Decision".

<sup>12</sup> "A copy of the complaint shall be forwarded to Eurojust for its observations, which shall be submitted within four weeks, extension for further two weeks being possible."

<sup>13</sup> "If no member of the Member States from which the personal data that form the object of the appeal originate is represented in the JSB, the person appointed by this Member State in accordance with Article 23(1) to (3) of the Eurojust Decision shall act as ad hoc judge for the duration of the examination of this appeal".

<sup>14</sup> OI/4/2013/CK.

<sup>15</sup> <http://www.ombudsman.europa.eu/en/cases/correspondence.faces/en/54521/html.bookmark>



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Eurojust requested the opinion of the JSB on this matter on 30 June 2014. The JSB issued its opinion on 13 October 2014, recommending that Eurojust endorse the Ombudsman's guidelines.

## **11. Cooperation between JSBs of Eurojust and Europol**

### **11.1. Trafficking in Human Beings**

The JSB Europol requested the cooperation of the JSB Eurojust in a project to raise increased awareness of the importance of the correct labelling of data subjects in relation to the fight against trafficking in human beings (THB). This project aimed to inform law enforcement authorities on the practical implications of data protection principles in the fight against THB. It was agreed that this matter would be discussed at the first meeting of the JSB in 2015 to explore the possibility of a joint activity.

### **11.2. Opinion on a proposed policy on processing Europol's requests to cross-check data against all data in the Case Management System**

On 12 November 2014, the President of the College requested the JSB's opinion on a proposal for a "Policy on processing Europol's requests to cross-check data against all data in the Case Management system". On 25 November 2014 the JSB issued its favourable opinion on this policy, expressing the view that the draft policy represented a balanced approach and that it took full account of the data protection safeguard requirements.

## **12. Conferences of Data Protection Commissioners**

Mr Campos Lobo represented the JSB at the European Conference of Data Protection Commissioners on 5 June 2014 in Strasbourg. The JSB did not attend this year's International Conference of Data Protection and Privacy Commissioners in Mauritius due to budgetary restrictions. Mr Campos Lobo and Mr Tomesen however attended on behalf of their own authorities, the Portuguese and Dutch Data Protection Authorities .

## **13. Transparency**

The JSB aims to be open and transparent about all its activities. The highlights of its meetings, opinions, decisions on appeals and annual activity reports are all published on its webpage <http://www.eurojust.europa.eu/about/structure/jsb/Pages/independent-joint-supervisory-body.aspx>

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## **14. Future outlook**

The JSB will carry out an inspection visit at Eurojust in January 2015. The JSB will follow closely the developments concerning the draft Eurojust Regulation and how the chapter on data protection and the supervisory scheme will affect it in the future.

## Annex 1: Appointees of the Joint Supervisory Body in 2014

Member State	Appointee	Date of appointment
Belgium	Ms Nicole LEPOIVRE	09/01/2003
Bulgaria	Ms Pavlina PANOVA	04/07/2007
Czech Republic	Mr Josef RAKOVSKÝ	14/04/2004
Denmark	Ms Birgit KLEIS	27/03/2013
Germany	Mr Bertram SCHMITT	23/06/2009
Estonia	Mr Pavel GONTŠAROV	25/10/2004
Ireland	Mr Billy HAWKES	06/06/2005
Greece	Mr Ioannis ANGELIS	02/03/2012
Spain	Mr José Luis RODRIGUEZ ÁLVAREZ	07/02/2012
France	Mr Jean-François BOHNERT Mr Frédéric BAAB	20/06/2014 11/06/2009 – 20/6/2014
Italy	Mr Alberto PIOLETTI	14/06/2010
Cyprus	Mr Yiannos DANIELIDES	14/05/2012
Latvia	Ms Zane PĒTERSONE	27/09/2004
Lithuania	Ms Laureta ULBIENĖ	31/05/2012
Luxembourg	Ms Lotty PRUSSEN	06/05/2002
Hungary	Mr Tibor KATONA	23/06/2008
Malta	Mr Saviour CACHIA Mr Joseph EBEJER	25/03/2014 30/03/2009-25/03/2014
Netherlands	Mr Wilbert TOMESEN	01/06/2012
Austria	Mr Gerhard KURAS	06/02/2010
Poland	Mr Dariusz ŁUBOWSKI	26/05/2004
Portugal	Mr Carlos CAMPOS LOBO	01/04/2006
Romania	Ms Laura-Marina ANDREI	01/10/2007
Slovenia	Mr Rajko PIRNAT	23/03/2005
Slovak Republic	Mr Dušan ĎURIAN	22/03/2012
Finland	Ms Anne HEIMOLA	01/01/2008
Sweden	Mr Hans FRENNERED	01/07/2002
United Kingdom	Mr Christopher GRAHAM	12/08/2009

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## Annex 2: Publications

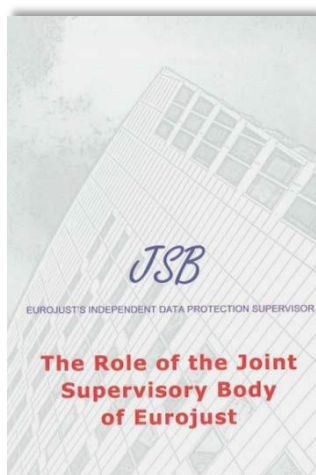
The following publications can be requested from the JSB Secretariat, PO Box 16183, 2500 BD The Hague, Netherlands, e-mail: [jsb@eurojust.europa.eu](mailto:jsb@eurojust.europa.eu).



*Data Protection at Eurojust* booklet, available in English, French, German and Spanish. Thanks to the EU-funded IPA project, the booklet has also been translated into Albanian, Bosnian and the language of the Former Yugoslav Republic of Macedonia.



Leaflet 1: *Know your rights*, printed version available in English, French, German and Spanish.



Leaflet 2: *The Role of the Joint Supervisory Body of Eurojust*, printed version available in English, French, German and Spanish.