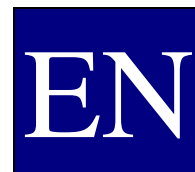




**COUNCIL OF
THE EUROPEAN UNION**



Council conclusions on the ninth Eurojust Annual Report (calendar year 2010)

*3096th JUSTICE and HOME AFFAIRS Council meeting
Luxembourg, 9 and 10 June 2011*

The Council adopted the following conclusions:

"The Council,
having examined the Annual Report,

1. Welcomes the ninth Eurojust Annual Report (calendar year 2010)¹ and notes with appreciation that most of the objectives to be achieved in 2010 and as set out in the Annual Report for 2009 have been successfully attained or are in progress to be accomplished. In particular, takes note of the initiatives undertaken by Eurojust in the course of 2010 in view of improving its organizational and operational capacities and stimulating coordination between the competent national authorities, third States and other European Union bodies, particularly Europol, CEPOL as well as the European Commission;
2. Takes note of the upward trend in caseload statistics, with 1.424 new registered cases in 2010 compared with 1372 cases in 2009 (i.e. an increase of 4%), and of the related increase in the number of coordination meetings (141 in total). Notes that the information provided in relation to the statistics of caseload indicates that one-fifth of the cases involved three or more countries;

¹ Doc. 9361/11 EUROJUST 60 CATS 23 EJM 48 COPEN 88.

P R E S S

3. Against this background reiterates its observation that Eurojust should focus further on providing assistance to complex cases which require coordination while simple bilateral cases should in general be referred to the contact points of the European Judicial Network. Requests Eurojust to further elaborate and implement mechanisms aiming at enhancing the cooperation between Eurojust and the European Judicial Network, in particular within the framework of the Eurojust National Coordination System (ENCS), and regarding the referral of simple cases to the European Judicial Network; In this respect invites the Member States to promote among their judicial authorities information about the possibilities offered by the Council Decision 2009/426/JHA of 16 December 2008 on the strengthening of Eurojust and in particular the ENCS;
4. Notes the increase indicated by Eurojust (of 4%) of cases related to crimes posing a special threat to citizens such as terrorism, drug trafficking, trafficking in human beings, fraud, corruption, cybercrime or money laundering. Notes that in respect of these crimes, indicated by the Council as priority, 92% of the coordination meetings concerned such criminality. Taking into account the added value of the coordination meetings, the Council further encourages Eurojust and Member States to promote this method of cooperation between the competent authorities of the Member States, as well as to involve, where relevant and within the framework of existing legal instruments, other EU bodies such as Europol or OLAF;
5. While over 90% of the cases referred to Eurojust in 2009 involve the type of crimes for which Europol is also competent to act, the Council notes with interest the recurring referral to Eurojust of cases concerning other types of offences, which may however be of a particularly serious nature ;
6. Notes the indications put forward by Eurojust in respect of obstacles encountered in judicial cooperation. Expresses its concerns in particular where these indications point out to the limited use of national authorities to use the instruments provided for cooperation at European level. Therefore, urges the Member States to further enhance the assistance, also in respect of training and resources, provided for the competent authorities, aiming at addressing these obstacles;
7. Welcomes that this year's report has been considerably reworked and that more examples are provided as well as recommendations on improving judicial cooperation. While the core business of Eurojust's National Members is and should remain the work on cases, notes that the ambition of Eurojust has been to become a "centre of expertise" on judicial cooperation in Europe and invites Eurojust to further its efforts in that direction with a view to providing input contributing to the debates among other concerned stakeholders;
8. Shares the analysis of Eurojust that cross-border investigations and prosecutions are difficult and engage considerable resources of the Member States. In this context notes the potential added value Eurojust may provide to the national judicial authorities and therefore invites Member States to consider making full use of Eurojust facilities, in particular in relation to complex and multilateral serious cases , ² where appropriate and possible, at an early stage of investigations;

² Modifications in points 8 and 9 made following JHA Counsellors meeting.

9. Notes with interest and, at the same time, some concern the observation put forward by Eurojust in respect of the difficulties faced by the competent authorities in the process of cross-border collection of evidence. Notes the positive assessment of Eurojust regarding the application of the 2000 MLA Convention. However, recognises also the problems stemming from, inter alia, the multiplicity of other instruments and the fact that not all of the Member States have ratified or fully implemented them. In this context, the Council points out the ongoing work on the draft Directive on the European Investigation Order and invites its preparatory bodies to continue it. The Council also invites the Member States to consider how to address these problems with a view to resolving them, where appropriate, by making use of referral arrangements in the Eurojust Decision;
10. Notes the positive trend indicated by Eurojust in respect of the implementation of Article 7(2) and (3) of the Eurojust Decision by the Member States. Encourages Member States to further explore making use of these provisions and requests Eurojust to report on it in its future Annual Report, in particular as regards any perceived problems relating to the execution of the European Arrest Warrant;
11. Notes that the cases related to execution of EAWs still constitute as much as about 20% of all cases referred to Eurojust. Appreciates the expertise and assistance provided by Eurojust in the resolution of these cases. Welcomes the contribution to the identification of issues linked to the practical application of the EAW. Notes that particular problems are often linked with on the one hand differences of implementation of the EAW Framework Decision and on the other hand differing practices among the practitioners. Therefore urges Member States to further disseminate among their practitioners information about the use of existing EAW tools such as the European Handbook on how to issue an EAW or the EAW Atlas on the EJM website;
12. Shares Eurojust's assessment concerning the importance of the coordination meetings organised by Eurojust in the investigation and prosecution of the cross-border cases. Appreciates the fact that 141 coordination meetings were organised, out of which 14 took place in the Member States. Further invites Eurojust and Member States to promote this method of cooperation between the competent authorities of the Member States, with the involvement, where relevant, of other EU bodies such as Europol or OLAF;

13. Eurojust expertise may be taken into account in policy debate (or alternatively by decision-making bodies) over future implementation of articles 85 and 86 TFEU. Reiterates its consideration that the expertise accumulated by Eurojust constitutes a significant source of information which may contribute to the identification of criminal trends or priorities that should be taken into account at European level in the shaping of an effective criminal policy. Against this background appreciates the contribution provided by Eurojust to the Council Conclusions on the Organised Crime Threat Assessment (OCTA), the Russian Organised Crime Threat Assessment (ROCTA), the EU Terrorism Situation and Trend Report (TE-SAT), and the Standing Committee on operational cooperation on internal security (COSI), and in particular the implementation of a European Security Architecture. Acknowledges the operational support provided by Eurojust to the work of the Consultative Forum of Prosecutors General and Directors of Public Prosecutions of the Member States;
14. Appreciates the efforts made by Eurojust in follow up to the Council conclusions on Eurojust 2009 Annual report, regarding the improvement of Eurojust statistics tools. Encourages Eurojust to consider further development of statistics in particular by introducing distinction on country by country basis. Notes the fact that two new categories of crime were introduced into the CMS which allows to provide the Council with more detailed figures concerning crimes connected to the presence of organised crime groups. Against this background the Council, while taking note of the indications provided by Eurojust regarding the implementation of the Council Framework Decision 2008/841/JHA on the fight against organised crime, instructs the Council preparatory bodies to further examine this information;
15. Recognises the role of Eurojust in promoting and supporting the setting up of Joint Investigation Teams and sharing of best practices in this respect, where through assistance of Eurojust, national judicial authorities may benefit from a substantial contribution, up to 2 million euro, for realising JITs. Reiterates its positive assessment of the effectiveness of JITs in cases in which they were created. Appraises the increased use being made of the JITs capacities by the national authorities (11 notifications from the Member States in 2010 regarding the setting up of JITs) and the growing involvement of Eurojust National Members (participating in 20 JITs) as well as, where appropriate, other EU bodies such as Europol or OLAF. Invites Eurojust to continue engaging in training sessions devoted to JITs;
16. Appreciates the role Eurojust has played in enhancing casework cooperation with third states. Appreciates the added value of coordination meetings organised in the context of such cooperation as well as the role of Liaison Prosecutors seconded to Eurojust from third States. Encourages Eurojust to continue providing its assistance. Requests Eurojust to ensure a high level of data protection. Points out that mutual legal assistance channels and procedures between third states and member states cannot be replaced by coordination meetings or exchange of information based on other provisions in agreements between Eurojust and third states;

17. Welcomes the work which has been carried out by Eurojust in modernising the European Pool Against Organised Crime (EPOC) software used for the operation of the Eurojust Case Management System (CMS). Looks forward to the swift implementation, on this basis, of the changes stemming from the new Eurojust Decision in respect of the exchange and provision of information to Eurojust. Believes that it will further strengthen Eurojust's capacity to deal with and analyse received information effectively including cross-referencing analysis with a view to providing Member States with information and feedback on the results of the processing of information. Stresses the importance of exploiting the full potential of the Eurojust database with a view to possible requests to Member States, on the basis of cross-referencing analysis, to request Member States to undertake an investigation or prosecution of specific acts; investigations, thereby playing an active role in stimulating Member States' cooperation and coordination;
18. Endorses the efforts of Eurojust to foster its cooperation with Europol, including on the basis of the revised cooperation agreement between the two organisations. Appreciates the indicated increased effectiveness of cooperation in both strategic and operational aspects, in particular by fostering the access to information by Eurojust within Europol's Analytical Work Files (AWFs) and by Europol while participating in coordination meetings at Eurojust. Welcomes the conclusion of the Memorandum of Understanding between the two organisations allowing for the transmission of confidential information. Encourages both Eurojust and Europol to continue working together; within the framework of existing legal instruments.; Requests Eurojust to ensure a high level of data protection;
19. Appreciates the cooperation between Eurojust and OLAF in respect of investigations of fraud related crimes. Noting the increase of referred cases, endorses the organisation of regular liaison meetings between the two organisations. Encourages Eurojust and OLAF to maintain this privileged partnership in the fight against fraud, corruption and other crimes affecting the financial interests of the EU;
20. Welcomes further enhancement of cooperation between Eurojust and the European Police College CEPOL on the basis of Memorandum of Understanding which entered into force on 1 January 2010;
21. Supports Eurojust's initiative to work towards the negotiation of a cooperation agreement with FRONTEX which, while respecting the core activities of each of the parties concerned would go beyond the ad hoc cooperation so far established in particular by enhancing the exchange of information;
22. Notes the Project on College Performance and the Organisational Structure Review Project (OSR) undertaken by Eurojust to review the College's tasks, responsibilities and working methods as well as to enhance the efficiency of the Unit by reviewing its management structure, roles and responsibilities of internal stakeholders. Expects that this project will lead to real results by ensuring increased operational activity by Eurojust and its national members. Awaits the presentation of the results of these projects in the future report;

23. Reiterates its view about the significance of the efficient and prompt implementation of the new Council Decision on the strengthening of Eurojust, amending the Decision of 28 February 2002 setting up Eurojust. Reminds Member States of the transposition deadline set out in this Decision that will expire on 4 June 2011. Welcomes the results achieved so far by the Informal Working Group and invites Eurojust and Member States to continue working together on the implementation of the new Decision so that the objectives set out therein are met. Awaits the revision of the Rules of Procedure in view of their alignment with the new Decision. The Council also endorses the work being carried out with a view to creating a standard template through which information could be transferred and processed at Eurojust. This instrument should be further developed in particular for the advantage of the Member States and the development of ENCS;
 24. Notes that the report does not contain information regarding implementation of the new Eurojust Decision in certain respects such as co-operation with the European Judicial Network, new Rules of Procedure (also on data protection, as necessary) and Eurojust preparation for receiving information (including possible adaptations to the Case Management System) and giving feed-back to national authorities. Invites Eurojust to report to the Council on the implementation of relevant provisions of the new Eurojust Decision in its next annual report;
 25. Urges Eurojust to speed up the setting up of an On Call Coordination system and awaits its operability in the course of 2011. Further encourages Eurojust and Member States to advance their efforts in the implementation of the mechanism for facilitating the transmission of casework information;
 26. Recognises the urgency of concluding the process of determining new premises for Eurojust. Appreciates the engagement of all parties involved in this process and expresses its wish that the process be finalised in the near future;
 27. Invites Member States, the relevant Council preparatory bodies and the Commission to analyse the Annual Report with a view to identifying possible courses of action to enhance the effectiveness of judicial cooperation and coordination in Europe;
 28. Invites Eurojust to report in its next Annual Report on the implementation of these conclusions."
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