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Report on Cyprus

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Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

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REV 1**

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Evaluation report on the sixth round of mutual evaluations:

"The practical implementation and operation of the Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime and of the Council Decision 2008/976/JHA on the European Judicial Network in criminal matters."

Report on Cyprus

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**1. EXECUTIVE SUMMARY**

1. In line with Article 2 of the Joint Action 97/827/JHA of 5 December 1997, the Working Party on General Matters including Evaluations (GENVAL) decided at the Meeting on 22 June 2011 that the sixth round of mutual evaluations will be devoted to the practical implementation and operation of the Decisions on Eurojust and the European Judicial Network in criminal matters.
2. The evaluation visit to Cyprus took place between the 5<sup>th</sup> and 8<sup>th</sup> of May 2014. It was well prepared and well organised by the Cypriot authorities. The evaluation team met with a large number of officials including representatives from the Ministry of Justice and Public Order, the Attorney General's Office, the Unit for combating Money laundering (MOKAS), the national Police, Customs and Excise and VAT Departments. The mission was organised by Cyprus' national member of Eurojust, Ms Katerina Loizou who attended most of the meetings and provided clarification on certain matters together with any supplementary information required by the evaluators.
3. From the outset, it should be noted that due to the small size of the Republic, with a population of just over 1 million, the practical functioning of the Cypriot judicial system relies largely on personal and informal contacts among the relevant competent authorities. This was particularly evident when the evaluators examined the interaction with Eurojust as the national member was clearly well known to practitioners and works closely with them.

*Legal Framework*

4. Cyprus has a common law legal system whereby the Attorney General enjoys full independence in his functions as the legal advisor to the Government and prosecutorial service for the Republic. The Police are responsible for criminal investigations without the involvement of prosecution or judicial authorities in a pre-trial phase.

5. Cyprus has not introduced any specific legislation to give effect to the Council Decisions on Eurojust (2002/187/JHA and 2009/426/JHA) as it was considered that the constitutional powers bestowed upon the Attorney General by virtue of Art 113(1) of the Constitution was sufficient in this regard.
6. The national member for Cyprus (hereafter known as the national member), presently Ms Katerina Loizou, is appointed by the Counsel of Ministers upon a proposal by the Attorney General and as a Counsel of the Republic can exercise the powers granted to the office under the Constitution. Although she was previously based in the Hague, the current financial situation and recruitment embargo in the public service of Cyprus, coupled with increased demands on the Attorney General's Office has meant that the national member has been recalled to Cyprus to resume her duties as legal Counsel since September 2009.
7. Mutual legal assistance (MLA) matters are centralised within Cyprus through the Ministry of Justice and Public Order which acts as the Central Authority with the Courts, Police, the Unit for combating Money laundering (MOKAS) and the Customs and Excise Department all recognised as competent authorities for the purpose of issuing and executing MLA requests.
8. Practitioners are familiar with the MLA process and engage with Eurojust through the national member, however, this communication takes place on a very informal ad-hoc basis and the various authorities dealing with MLA have no uniform means of informing the national member of MLA requests and cases of potential interest to Eurojust.
9. Cyprus has yet to establish the ENCS as it is considered unnecessary due to the regular information flow between the national member and the authorities dealing with MLA requests.
10. It is not particularly apparent whether practitioners make good use of the EJM although it was clear that the national member enjoys regular contact with the national correspondent for the EJM by virtue of the fact that the national correspondent for the EJM is also part of the Central Authority for MLA requests in the Ministry of Justice and Public Order.

11. Training on MLA is provided to the Police as part of the general police induction training with the national member presenting on Eurojust as part of the MLA module at the Police Academy, however training for the other competent authorities appears to be less focussed and more sporadic.
12. There is very little promotion of Eurojust and the EJM in the internal websites of the competent authorities. Some information from Eurojust such as the Annual Report is disseminated to practitioners, however, other types of Eurojust publications such as guidelines and policy papers are not posted on the websites or intranets of the relevant authorities.
13. Cyprus has participated in coordination meetings with positive effect. Although it has not been involved in a JIT to date, preparations for its first one with the UK are underway and it is scheduled to take place later this year.

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## 2. INTRODUCTION

Following the adoption of the Joint Action 97/827/JHA of 5 December 1997, a mechanism was established for evaluating the application and implementation at national level of international undertakings in the fight against organised crime.

In line with Article 2 of the Joint Action, the Working Party on General Matters including Evaluations (GENVAL) decided on 22 June 2011 that the sixth round of mutual evaluations should be devoted to the practical implementation and operation of the Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime and of the Council Decision 2008/976/JHA on the European Judicial Network in criminal matters.

The evaluation aims to be broad and interdisciplinary and not focus on Eurojust itself but rather on the operational aspects in the Member States. This is taken into account to encompass, for instance, how police authorities cooperate with Eurojust national members, how the National Units of Europol will cooperate with the Eurojust National Coordination System and how feedback from Eurojust is channelled to the appropriate police and customs authorities. The evaluation emphasises the operational implementation of all the rules on Eurojust and the EJM. Thus, the evaluation will also cover operational practices in the Member States as regards the first Eurojust Decision, which entered into force in 2002. Experiences from all evaluations show that Member States will be in different positions regarding implementation of relevant legal instruments, and the current process of evaluation could provide useful input also to Member States that may not have implemented all aspects of the new Decision.

The questionnaire<sup>1</sup> for the sixth round of mutual evaluations was adopted by GENVAL on 31 October 2011. As agreed in GENVAL on 17 January 2012, Eurojust was also provided with a questionnaire<sup>2</sup>. The questionnaire to Eurojust was adopted by GENVAL on 12 April 2012.

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<sup>1</sup> Doc. 12384/3/11 GENVAL 76 COPEN 176 EUROJUST 106 EJM 87.

<sup>2</sup> Doc. 5241/2/12 GENVAL 3 COPEN 6 EUROJUST 3 EJM 2.

The order of visits to the Member States was adopted by GENVAL on 31 October 2011.<sup>3</sup> Cyprus was the 26th Member State to be evaluated during this round of evaluations.

In accordance with Article 3 of the Joint Action, a list of experts in the evaluations to be carried out has been drawn up by the Presidency. Experts with substantial practical knowledge in the field were nominated by Member States pursuant to a written request on 15 July 2011 to delegations made by the Chairman of GENVAL.

The evaluation teams will consist of three national experts, supported by two staff from the General Secretariat to the Council and observers. For the sixth round of mutual evaluations, GENVAL agreed with the proposal from the Presidency that the Commission, Eurojust and Europol should be invited as observers.

The experts charged with undertaking this evaluation were Jarlath Spellman (Ireland), Bo Eliasson (Sweden) and Ioannis Angelis (Greece). Three observers were also present: Carine Hanssens (DG Justice, Commission), Malči Gabrijelčič and Tatiana Jancewicz, (Eurojust), together with Guy Stessens and Nicola Murphy from the General Secretariat of the Council.

This report was prepared by the expert team with the assistance of the General Secretariat of the Council, based on findings arising from the evaluation visit that took place in Cyprus between 4th and 7th of May, 2014 and on Cyprus' detailed replies to the evaluation questionnaire together with their detailed answers to ensuing follow-up questions.

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<sup>3</sup> Doc. 13040/2/11 GENVAL 82 COPEN 184 EUROJUST 111 EJM 91.

**3. GENERAL MATTERS AND STRUCTURES**

**3.1. General information**

For the evaluation, the Member States were requested to indicate all relevant legal or statutory provisions, if any, they had to introduce or amend in order to bring national law into conformity with the Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime and its amendments according to Decision 2008/426/JHA on the strengthening of Eurojust (hereafter referred to as the Eurojust Council Decision), or indicating intentions in this respect, and all relevant legal or statutory provisions, if any, which they had to introduce or amend in order to implement Joint Action 98/428/JHA of 29 June 1998 on the creation of a European Judicial Network as well as Council Decision 2008/976/JHA adopted on 16 December 2008 and repealing the Joint Action.

***(a) General Mutual Legal Assistance Framework***

According to Article 113(1) of the Cyprus Constitution the Attorney General of the Republic assisted by the Deputy Attorney-General of the Republic is the legal adviser to the Republic, the President, the Council of Ministers and of the Ministers and shall exercise all such other powers and perform all such other functions and duties as are conferred or imposed to him by this Constitution or by Law. Furthermore Article 113(2) provides that the Attorney General of the Republic shall have the power, exercisable at his direction in the public interest, to institute, conduct, take over and continue or discontinue any proceeding for an offence against any person in the Republic. Such power may be exercised by him in person or by officers subordinate to him acting under and in accordance with his instructions.

Criminal investigations are largely carried out by the police and other law enforcement bodies such as MOKAS and Customs and Excise but in serious cases the Attorney General's Office works with these authorities. In addition, they may seek the advice of the Attorney General at any stage in the investigation. The Attorney General is entitled to intervene in any case and may do so in particularly high profile or sensitive cases. When the Police investigation is complete, a file is prepared and sent to the Attorney General's office for a decision on indictment whereby the Attorney General will decide whether it is in the public interest reason to prosecute. The Attorney General may also decide to discontinue any proceedings at any stage without having to give reasons.

Cyprus has ratified the MLA Convention of 2000 (Ratification Law 25(III)/2004) .Under the International cooperation in Criminal matters law of 2001 (Law 23/2001), the Ministry of Justice and Public Order is designated as the competent authority for MLA and the Attorney General, Chief of Police, Director of the Custom's Department and members of the Unit for combating Money Laundering (MOKAS) are listed as prosecution authorities for the purposes of executing these requests. The Central Authority will transmit incoming requests to the appropriate authority for execution.

**(i) MOJ Central Authority - International Legal Cooperation Unit**

As the central authority, this Unit deals with all incoming and outgoing MLA requests. All requests are vetted to ensure they comply with the rules of the MLA Convention 2000 and incoming requests are forwarded to the appropriate authority for execution. The Unit keeps a record of all incoming and outgoing requests and figures for 2012 and 2013 are provided below:

## Mutual Legal Assistance Requests

2012	Incoming - 331	Outgoing - 112
2013	Incoming - 464	Outgoing - 54

## European Arrest Warrants:

2012	Incoming - 49	Outgoing - 31
2013	Incoming - 72	Outgoing - 24

**(ii) The Unit for anti-money laundering (MOKAS)**

This Unit working under the auspices of the Attorney General comprises multi-disciplinary professional personnel including Prosecutors, Police, Customs with Forensic account and financial analyst support. MOKAS is also designated as the national financial intelligence unit. It regularly assists FIU's of other EU and non EU states as well as being either a participant or acting on a co-operative basis in a number of international bodies in the field of international co-operation both generally in criminal matters and specifically in the fight against money laundering and asset freezing and asset recovery of the proceeds of crime.

When issuing requests for MLA, MOKAS may choose to deal directly with other FIUs, or channel requests through FIUnet, Egmont or the Central Authority at the Ministry of Justice and Public Order depending on the nature of the request. The national member is either informed directly by the Ministry of Justice and Public Order if the request is channelled through the Central Authority or by MOKAS if it considers that the case could be of interest to Eurojust.

**(iii) The National Police**

Police officers are permitted to prepare MLA requests as part of a criminal investigation. The police can seek advice from the Attorney General when preparing these requests. The request is prepared and forwarded to the hierarchy for approval before being transmitted to the Ministry of Justice and Public Order for onward transmission. All officers receive training on the preparation of MLA requests as part of the induction training provided by the Police Academy. The national member delivers specific training on Eurojust as part of this programme.

The chief of Police decides whether requests for assistance are forwarded through the police-to-police cooperation channels or the MLA channels. The Attorney General's advice is often sought in complicated cases.

**(iv) Customs and Excise Department**

The Customs and Excise Department is also authorised to issue and execute MLA requests in the course of its investigations. Similar to the Police, it may consult the Attorney General in the preparation of the request. In practice, the investigator involved prepares a report and the case is presented to the Director who decides whether to consult the national member or proceed through the more formal MLA channels depending on the case and the nature of the request.

***(b) Legal framework regarding Implementation of Eurojust and EJM***

Cyprus did not introduce legislation to implement the Eurojust Council Decision as it was not deemed necessary. The national member for Cyprus is a legal advisor of the Republic who works at the Attorney General's Office. The Constitution provides the Attorney General with the power to institute, conduct, take over and continue or discontinue any proceeding for an offence against any person in the Republic. Such power may be exercised by him in person or by officers subordinate to him acting under and in accordance with his instructions. Thus the national member as a member of the Attorney General's Office has the power to act in accordance with the Eurojust Council Decision.

### **3.2. Implementation of the Eurojust national coordination system (ENCS)**

The ENCS has not been established in Cyprus, as it is considered unnecessary given the close cooperation that exists between all of the competent authorities handling MLA Requests.

Cyprus does not have direct connection to the CMS, however, discussions between the Cypriot authorities and Eurojust to explore possibilities in this regard, have been initiated. Furthermore, the national member can access the CMS in Cyprus by using the VPN connection on the Eurojust laptop.

### **3.3. National desk at Eurojust**

The national member is appointed by the Council of Ministers upon a proposal of the Attorney-General of the Republic. The national member is supervised by the National Correspondent for Eurojust and by the Attorney-General of the Republic of Cyprus. The national member has all the powers to carry out her functions set out in the Eurojust Council Decision under the Constitution of the Republic.

As explained above the national member for Cyprus in the exercise of her functions at Eurojust is simply exercising the same functions and powers enjoyed by virtue of her capacity as Counsel of the Republic at the Attorney-General's Office. Furthermore the national member is able to submit proposals to the competent authorities, on matters relating to Article 9c and 9d of the Eurojust Council Decision arise.

The Cypriot Desk at Eurojust is composed of the national member and a secretary although the national member is no longer based in the Hague due to the severe economic difficulties faced by Cyprus. The current recruitment embargo in the public sector coupled with an increased workload has placed huge operational demands on the Attorney General's Office, therefore, it was considered necessary to recall the national member from the Hague to resume her duties as legal Counsel in the Attorney General's office.

### **3.4. EJM contact points**

Although there is no specific legislation to give effect to the Council Decision on the EJM (2008/476/JHA) the guidelines for the structure of the EJM are taken into consideration when selecting the EJM contact points.

There are presently 6 Contact points in Cyprus, 3 from the Ministry of Justice and Public Order, 2 from the Office of the Attorney General of the Republic and 1 from MOKAS.

Due to the small size of the Republic, contact points work informally and do not meet regularly to discuss their work.

Information contained in the EJM website is monitored by the EJM contact point from the Ministry of Justice & Public Order. The contact point is responsible for updating the information in close collaboration with the other contact points or with the competent authorities.

### **3.5. Conclusions**

1. Cyprus has not seen any need to introduce legislation to give effect to the Eurojust Decisions due to the constitutional powers bestowed upon the Attorney General and legal officers working in his Office.
2. The evaluation team, noted that due to the economic issues facing Cyprus, the national member has returned to Cyprus to resume her duties in the Attorney General's Office. The evaluation team noted that this move is not in conformity with Article 2 of the Eurojust Council Decision and should be addressed.
3. In addition, the team was advised that due to the pressure faced by the Attorney General's office and its increased workload, the national member is effectively working full time as legal Counsel in addition to her function as the Eurojust national member. The team consider it untenable for the national member to cover both roles in an effective manner in the medium to long term.

4. All of the authorities met during the evaluation visit advised that they keep the national member informed of cases relevant to Eurojust although it was clear that this reporting is not an inherent part of their internal procedures. Furthermore the means of reporting varied between authorities with some copying the national member into the formal requests being sent to the Central Authority and others relying on the Central Authority to notify the national member directly.
5. In terms of improving this communication, the evaluation team could see a huge value in formally establishing the ENCS as provided for in Article 12 of the Eurojust Council Decision. The team consider that its establishment could bring tangible benefits for the authorities involved in MLA and also serve to promote the use of Eurojust and the EJM in Cyprus.
6. Furthermore, whilst the team was impressed that officials in the Central Authority are also designated as EJM contact points and are therefore familiar with the specific role of each agency, it was clear that there was no real criteria in place to determine when requests should be sent to Eurojust or the EJM. The team considers that the ENCS would provide a useful forum to discuss this issue.
7. It was also considered that given the special role of Customs and Police in MLA matters it might be worth considering appointing EJM contact points in these bodies.

**4. EXCHANGE OF INFORMATION**

**4.1. Exchange of information within Cyprus**

Due to its size and relatively small public administration, authorities involved in MLA are well known to each other and seem to cooperate well.

On internal communications all contact details of the national desk at Eurojust are published on Attorney General' website. In practice, the competent authorities contact the national member by email and phone. The national member is available by these means outside of office hours and at weekends.

**4.2. Exchange of information from judicial and law enforcement authorities to Eurojust**

When asked to describe the databases that may be relevant at national level for the exchange of information with Eurojust and for coordination meetings, Cyprus advised that all the Law Enforcement databases (Police, Department of Customs & Excise) are relevant for the exchange of information with Eurojust. The national member does not have any direct access to the Law Enforcement databases but can request these authorities to provide relevant information contained therein.

As regards the Department of Customs and Excise, databases such as the cash control system, the ICS (Import Control System) and the Customs Seizures System are relevant. Moreover the Department has direct access to the Interactive System of the Cyprus Police and to the databases of the Department of the Registrar of Companies and Official Receivers, of the Cyprus Ports Authority, and of the Department of Road Transport and can acquire information from the Department of Inland Revenue, the VAT Department and the Department of Land and Surveys as required.

The VAT Service can acquire information from its own databases and registry and the VIES (Recapulative Statements) System. Furthermore the VAT Service can acquire information either from companies directly or through their consultants or accountants.

The information provided to Eurojust is generally transmitted via email or sometimes fax. The team was advised that all data pertaining to the JIT that is currently being organised between the Department of Customs and Excise and HM Revenue Customs in the UK, will be transmitted in a structured way using the templates developed by Eurojust.

#### **4.2.1 Article 13**

When asked about conformity with Article 13 of the Eurojust Council Decision, practitioners expressed very little awareness about the Eurojust template. However, the national member advised that she has been contacted by the competent authorities directly in the past and informed about cases of serious cross-border crime as provided in Article 13(6), cases where at least 3 Member States are involved or about the setting up of a Joint Investigation Team.

In addition, guidelines prepared by the Attorney General's Office have recently been circulated to the competent authorities, the Police, Customs and Excise, MOKAS and the Ministry of Justice and Public Order to encourage use of the template.

The exceptions provided under Article 13(8) have never been applied so far.

#### **4.3 Feedback by Eurojust**

Cyprus has had no experience of feedback from Eurojust to date.

##### **4.3.1 E-POC project**

Cyprus does not participate in the E-POC project.

### **4.3. Conclusions**

1. While noting that good informal communication systems exist in Cyprus, the evaluation team consider that the ENCS could provide a more structured way to exchange information on cases, current developments and exchange good practice.

2. The evaluation team welcome the recently circulated guidelines relating to the exchange of information under Article 13, although it considered that if the ENCS was established it could also serve to increase awareness about these obligations and promote wider use of the template. Furthermore, the use of the Eurojust case management designed templates in the direct inputting of information into the Eurojust Case Management system from Cyprus would be the best way to record such data for the National desk.

3. It was also suggested to the evaluation team that the national member could attend MOKAS meetings to explore how they can contribute to and use Eurojust in the course of their daily work.

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**5. OPERATIONAL ASPECTS**

**5.1. Practical experience in relation to Eurojust**

The Cyprus desk at Eurojust keeps statistics over cases where Cyprus requests assistance from other Member States as well as when other Member States request assistance from Cyprus.

The Cyprus Desk does not keep statistics on the number of times when it is contacted by national authorities as this occurs on a daily basis either through email or by phone. Statistics are, therefore, only kept regarding cases opened at Eurojust;

No. of cases since 2004	Cyprus as requesting State	Cyprus as a requested State
546	80	466

Concerning competent authorities, the Ministry of Justice and Public Order and the Department of Customs & Excise keep statistics for MLAS sent to Eurojust.

The Cypriot authorities, in most instances, refer cases which are of an urgent or serious nature, or when there has been a considerable delay in the execution of an outgoing request to Eurojust. Most cases are at the investigation stage where assistance is needed from other countries for the collection of evidence so as to conclude the investigation and decide whether to bring the case before the Court.

**5.2. Allocation of cases to Eurojust or the EJM or others**

Cyprus advised that when determining whether to allocate a case to Eurojust or the EJM it takes account of a number of factors such as the seriousness of the case or whether a MLA response is required from the requesting State. When an MLA request is complex or involves 3 or more Member States meaning that a certain level of coordination among Member States is necessary, Eurojust is considered the most appropriate route. In comparison, the EJM is primarily used to provide answers to questions of a legal nature, or to identify the correct authority to whom a request should be sent.

In addition, the Ministry of Justice and Public Order has given instructions to the Cyprus Police to communicate directly with the national member when requesting coordination with other countries.

### **5.3. Experience of cases in relation to the competences attributed to Eurojust**

#### *5.3.1. Cases related to the tasks of Eurojust acting through its national members (Article 6)*

The Cypriot authorities have never been solicited to perform any tasks under Article 6 although as a matter of good practice there is a constant exchange of information.

#### *5.3.2. Cases related to the tasks of Eurojust acting as a college (Article 7)*

The Cypriot authorities have not been asked to perform tasks relating to Article 7.

#### *5.3.3. Cases related to the powers exercised by the national member*

Cyprus advised that the national member assists National authorities in operational cases in accordance with the objectives of Eurojust as set out in Article 2 of the Eurojust Decision. The national member is generally involved in assisting in the facilitation of requests and participating in coordination meetings with other national authorities. Furthermore the national member assists and advises respective national authorities when she is asked to do so.

#### *5.3.4 Implementation of Council Decision 2005/671/JHA of 20 September 2005 on the exchange of information and cooperation concerning terrorist offences*

The evaluation team was informed that, even though Cyprus has not been confronted with many terrorist incidents in the recent years and considers the risk of terrorist attacks in for the country quite low (only 1 criminal proceedings in the field of terrorism in the past 5 years), they have implemented Council Decision 2005/671/JHA of 20 September 2005 on the exchange of information and cooperation concerning terrorist offences by incorporating its provisions within the national Anti-Terrorism Law of 2010.

In 2010 the Council of Ministers has appointed a National Counter-Terrorism Coordinator.

Furthermore, after the tragic events of 11 September 2001, a Counter Terrorism Office was established by decision of the Council of Ministers, which comprises representatives from the Ministry of Justice and Public Order, the Police, the Office of the Attorney General, the Ministry of Foreign Affairs, the Unit for Combatting Money Laundering (MOKA), the Department of Customs and Excise, the Central Information Service, etc. The evaluation team was also informed that there a number of provisions in the domestic Penal Code that can be applied to acts of terrorism.

#### **5.4. Practical experience related to coordination meetings**

Cyprus has participated in several coordination meetings organised at Eurojust with successful outcomes. Coordination meetings are generally viewed as a useful tool in the fight against cross-border organised crime. It also found that the involvement of Eurojust in certain complex or urgent cases has proved very effective and welcomed its assistance in the organisation of co-ordination meetings between the Member States involved in the investigation stage. Overall, Cyprus found that bringing together the Member States involved with the assistance of translators improves the effectiveness of MLA procedures and greatly assists the competent authorities.

One issue highlighted by Cyprus is the need to ensure that there is adequate follow up to these meetings by the competent authorities and Eurojust. From its experience, Cyprus considers that there is still room for improvement of this follow up procedure and a number of cases where this is considered to be absolutely necessary.

**5.5. Use of the On-call coordination (OCC)**

The OCC has not been used so far as the national member is always reachable by phone if urgent issues arise.

**5.6. Experience of cases relating to the cooperation between the ENCS and the Europol national unit**

None to date.

**5.7. Conclusions**

1. On the use of Eurojust and the EJM, as Cyprus is a small country most people involved in the provision of MLA know each other well. Therefore most contact between the national member and contact points takes place at a personal level. The evaluators consider that this personal approach can work well in practice and ensure effective and efficient use of Eurojust and EJM . However, the reliance on individuals and personal contacts without a clear structure in place to support this approach can leave the system very vulnerable.
2. On the allocation of cases between Eurojust and the EJM, it was clear that good communication exists between the national member and the national correspondent for the EJM, however there did not seem to be any specific discussion or agreement on how cases should be directed to the most appropriate agency.
3. Cyprus makes good use of co-ordination meetings and has found them effective in pursuing MLA with other Member States. It considers that Eurojust should ensure that an adequate follow-up mechanism should be put in place.
4. Cyprus has not made any use of the OCC to date, and should consider if this could alleviate the burden of the national member.

**6. COOPERATION**

**6.1. Relation with law enforcement authorities (Europol national unit, Sirene, ...)**

Given the specific role that the Police play in criminal investigations, Cyprus engages to a great extent with Europol, Interpol, and the Police Cooperation Unit. To this end, Cyprus has a dedicated EU and International Police Cooperation Directorate which acts as a coordination office for EU Representations, legal cooperation office and European Union and International Relations Office. It also acts as registry and sub-secretariat for EU classified documents. In addition, Cyprus has posted liaison officers to Europol, Interpol, Brussels and Athens and also participates in other EU missions: presently Moldova-Ukraine, Palestine and Greece.

Although the national member and the Europol liaison officers are in contact with each other, there appears to be quite limited interaction between them. Eurojust is however advised of the work of Europol through the use of Europol Focal Points.

**6.2. Participation of national members in joint investigation teams (Article 9f)**

Cyprus intends to participate in its first JIT, in June 2014, with the UK revenue services. The national member is actively engaged in the preparation of this JIT and has provided advice on the JITs model agreement and liaised with the JIT Secretariat to obtain information about Eurojust funding. The national member was present at a coordination meeting held at Eurojust premises on the 7<sup>th</sup> of April 2014, where the setting up of this JIT was discussed.

When asked why JITs have not been used in the past, Cyprus advised that it had not had cases that warranted a JIT in the past, although it had previously, in 2013, explored the possibility of organising a JIT with Bulgaria, which didn't proceed as the Bulgarian authorities considered it unnecessary.

### **6.3. Cooperation with other EU agencies**

As regards cooperation with other EU agencies, the Member States were asked to describe their policy, if any, with respect to the involvement of Eurojust in cases involving OLAF or other EU agencies such as Europol, Frontex.

Cyprus does not have a specific policy on this matter but encourages practical cooperation with other EU Agencies as required on a case by case basis.

### **6.4. Cooperation with third states**

Cyprus requests the assistance of Eurojust in cases involving third countries with which no form of bilateral or multilateral agreement exists. Given the geographical location of Cyprus, use of Eurojust contact points in third countries is particularly important in order to trace the relevant competent authority in the third country, as well as any form of assistance required to ensure its execution.

To this end, Cyprus values the involvement of Eurojust. It highlighted two specific occasions when it used the services of Eurojust in this regard. On both occasions, it had issued an MLA request to a third State but did not receive a reply. The national member used the services of Eurojust by contacting the Eurojust contact points in these third states which led to successful outcomes each time.

### **6.5. Practical experience of the EJM**

The national member knows and works closely with the EJM contact points, is familiar with the work of the EJM Secretariat and has attended many meetings organised by the EJM Secretariat.

As mentioned in Chapter three, there are presently 6 Contact points in Cyprus, 3 from the Unit for International Legal Cooperation of the Ministry of Justice and Public Order, 2 from the Office of the Attorney General of the Republic and 1 from MOKAS.

Due to the small size of Cyprus, contact points work informally and do not meet regularly to discuss their work.

Information contained in the EJM website is monitored by the EJM contact point from the Ministry of Justice and Public Order. The contact point is responsible for updating the information in close collaboration with the other contact points or with the competent authorities.

Due to financial constraints, there are no resources allocated specifically for the work demanded by the European Judicial Network. EJM work is conducted within the framework of normal every day duties.

*6.5.1. The EJM Website and its tools (such as the Atlas, EAW Wizard, Library...)*

Cyprus considers the tools in the website of the EJM of great value, with the information provided offering assistance. It considers that the material is clearly structured and easy to identify which makes it easy to source documents and information on Member States which would be difficult to trace on their national websites.

**6.6. Conclusions**

1. It was clear from the replies to the questionnaire and the onsite visit that cooperation between the national desk at Eurojust and Europol could be improved. At present, Europol liaison officers do not participate at coordination meetings and this is something that could be considered in the future.

2. In addition, it was suggested that consideration should be given to the possible benefits of organising the the European Union and International Police Cooperation Directorate as a SPOC (single point of contact) in respect of Europol, Interpol and Sirene and in that way make it easier for law enforcement authorities to establish contact.
3. The team noted that plans for Cyprus to participate in its first JIT, with the UK's Revenue Service are underway. It is hoped that this will prove to be a positive experience and serve to promote the use of JITs in future cross-border investigations by demonstrating the tangible benefits to be derived for Cyprus in this regard.
4. It was not clear to the evaluation team if practitioners regularly consult the EJM website in the course of their MLA dealings, therefore the team considered that the EJM website should be promoted more widely as a means of improving the general dissemination of information on Eurojust and EJM to practitioners.

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**7. SPECIAL INVESTIGATIVE TECHNIQUES**

**7.1. Controlled deliveries (Article 9d (a))**

Controlled deliveries are provided for under 'The Crime Suppression (Controlled Delivery and Other Special Provisions) Law of 1995. The same criteria is used for granting a controlled delivery in a MLA case and a domestic case. Under this legislation, controlled deliveries may be taken either by

a) the Chief of the Cyprus Police or his duly authorised for this purpose representative, with a copy of the decision to the Director of Customs and Excise Department.

b) the Director of the Customs and Excise Department or specifically authorised for this purpose representative, with a copy of the decision to the Chief of the Cyprus Police.

or,

c) Jointly by the Chief of the Cyprus Police and the Director of the Customs and Excise Department.

The Attorney General is notified in advance of any decision for controlled delivery and may give such directions as it may deem necessary or appropriate.

Cyprus advised that in practice it had executed a number of controlled deliveries with European and third countries, but only one with the support of Eurojust, in cooperation with another EU member state . This request involving the Slovakian authorities was successfully executed.

**7.2. Other special investigative techniques (SITs)**

Regarding other special investigative techniques, most of them are authorised directly by the Police (Ministry of Justice and Public Order) and not by the Judiciary. For some measures (the most intrusive ones), like for instance the gathering of communication data, house searches and freezing of bank accounts, there is a need to have a previous authorisation from the court.

MOKAS is also authorised to carry out other special investigative techniques in relation to money laundering and other types of financial crime investigations.

**7.3. Conclusions**

1. The team noted that Cyprus does not have a roster for dealing with authorisation of controlled deliveries out of hours although the competent authorities indicate that this does not create a problem in practice given the fact that the Chief of Police and Director of Customs and Excise or their deputies are available on a 24/7 basis.

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## **8. TRAINING AND AWARENESS RAISING**

### **8.1. Promotion of the use of Eurojust and the EJN**

Cyprus advised that the national desk forwards relevant Eurojust publications such as its Annual Report, to practitioners for information, however, from the on-site visit it was apparent that information is not disseminated to practitioners in a systematic way through internal websites or portals of the central authorities. It is understood, however, that plans are underway to create a link to Eurojust's website on the Police Portal.

### **8.2. Specific training for practitioners on Eurojust and EJN**

The national Police receive some training on mutual legal assistance as part of the core training provided at the Police Academy. The national member delivers specific training on Eurojust as part of this programme and is often involved in other specific seminars and training sessions as requested.

Other authorities involved in MLA receive more sporadic and less specific training on this issue to with the Customs and Excise unit advising that the last training it received was more than 3 years ago and newcomers have not received specific training MLA matters.

### **8.3. Conclusions**

1. There is no real dissemination of information on Eurojust and EJN through the competent authorities' websites or portals. This information should include contact details for the national member and the ENCS, once established. In addition, the evaluation team was advised that although there are links to Frontex and Europol on the Police internal portal there is no link to the Eurojust or the EJN websites.

2. The team also considers that use of Eurojust and EJN could be better promoted by the means mentioned above or through training seminars and development of training manuals or guidelines. Other Eurojust publications beyond the Annual report should be disseminated as they provide useful guidance on a range of specific issues which could benefit practitioners.

3. The evaluation team consider it essential that training on MLA is provided at entry level to all practitioners dealing with MLA requests, not only the Police but also Customs and Excise, Ministry of Justice and Public Order and MOKAS officials. It also sees value in offering subsequent training to practitioners by way of seminars, national events or allowing them to attend foreign seminars and relevant training on MLA issues.

4. The team considers that because of the current economic crisis, Cyprus would greatly benefit from seminars and trainings organised by Eurojust in Cyprus, as this is considered as one of the most “ cost-effective” solutions to ensure a wider participation to these training activities.

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## 9. General observations and final remarks

Eurojust was set up by the Council Decision 2002/187/JHA of the European Union in February 2002 to stimulate and improve coordination of criminal investigations and prosecutions in the Member States and to enhance cooperation between the competent national authorities by facilitating mutual legal assistance with a view to reinforcing the fight against serious crime.

Subsequently, the Eurojust Decision was amended by the Council Decision 2009/426/JHA on the strengthening of Eurojust aiming to further enhance its operational effectiveness and to create a common minimum basis of powers of the national members. This Decision is currently being implemented in the national legislation of the Member States.

The European Judicial Network in criminal matters was created in 1998 to improve judicial cooperation by facilitating the implementation of the principle of direct contact between judicial authorities. Its legal status has been reinforced in December 2008 by the adoption of a new legal basis.

Their creation answers the need to address fundamental challenges in the fight against serious crime and Terrorism across the European Union, as well as to build on the judicial dimension of the European area for freedom, security and Justice after the creation of Europol.

### 9.1 Analysis of the added value of Eurojust in investigation and prosecution cases

Overall, mutual legal assistance in general is treated as a high priority in Cyprus. In the current context, national authorities follow a largely pragmatic and informal approach in the implementation of both the Eurojust and the EJM Council Decisions.

Cyprus makes good use of Eurojust in investigations and finds that Eurojust brings great added value to judicial cooperation in criminal matters in so far as it accelerates execution of legal requests and provides support in cross border cases by organising coordination meetings. In addition, the stakeholders have direct contact with the national member. In many cases they know each other and work together very well. National authorities consult and discuss particular issues with the national member.

Indeed, the feedback received from the practitioners met by the evaluation team is very positive. Eurojust coordination meetings are considered very useful and Cyprus is positively engaged in organising its first JIT with the UK later this year.

The Cyprus authorities also found training offered by Eurojust by way of marketing seminars of immense value and welcome further training in the future.

## **9.2 Ways to improve the cooperation between the Member States and Eurojust**

Due to the positive appreciation of the role of Eurojust and the EJM the Cypriot authorities had very few suggestions (practical measures or legislative steps) to improve the functioning of Eurojust and the EJM.

The national member advised the team that she regularly receives questionnaires from other National Members who register these as topics in the CMS. The national member noted that quite often these issues are not particularly relevant for Eurojust and could more usefully be directed elsewhere.

Cyprus also suggested that Eurojust continue to offer dedicated marketing and information activities for practitioners on cooperation with Eurojust and the EJM on a regular basis and making funding available for JITs and coordination meetings.

## **9.3 General Conclusion from the Visit**

*Overall, the evaluation team considers that despite some areas for improvement the Cyprus system was found to be remarkably efficient despite ongoing domestic fiscal deficit difficulties. The identified recommendations in particular those that do not involve significant expenditure could further improve the Cyprus Judicial and Police co-operation system.*

## **10. Recommendations**

As regards the practical implementation and operation of the Decisions on Eurojust and the European Judicial Network in criminal matters, the expert team involved in the evaluation of Cyprus has been able to satisfactorily review the system in Cyprus, expertly supported by the helpfulness of their national hosts. Overall, the working principles and legal framework of the system is robust and functional and the various actors know their roles and responsibilities.

Nevertheless, certain recommendations can still be made, to contribute to the further development of the system in Cyprus. Furthermore, based on the various good and, without doubt, even best practices of Cyprus related recommendations to the EU, its institutions and agencies are also put forward.

Cyprus should conduct a follow-up on the recommendations given in this report 18 months after the evaluation and report on the progress to the Working Party on General Affairs, including Evaluations (GENVAL).

### **10.1 Recommendations to Cyprus**

1. The relevant Cyprus authorities including the Attorney General should review at the earliest opportunity the feasibility of sending the national member to the seat of Eurojust at the Hague on a more regular basis at least for two weeks each month with a view to being based primarily in the Hague after further periodic review.
2. Furthermore, it is suggested that the domestic case workload for the national member should be limited to enable the national member to better carry out her core functions as a national member at Eurojust.
3. Cyprus should formally establish the ENCS as provided for under Article 12 of the Eurojust Council Decision. The ENCS should comprise all the relevant competent authorities and provide a forum for sharing information on specific cases, current developments and good practice.

4. Cyprus should make full use of the CMS and monitor the use of the Article 13 template following the recent circulation of guidelines to practitioners to encourage its use. The reporting requirements under Article 13 should also be incorporated into the training programme which should be provided for officials dealing with MLA.
5. The evaluation team recommends better awareness raising among the Police, Prosecutors as well as MOKAS, the Customs and Excise and VAT service on the role of Eurojust and how it could be of assistance including coordination meetings, Joint Investigation Teams with access to some Eurojust funding in the exercise of these tools. All officials dealing with MLA should receive adequate training in this regard.
6. Information on Eurojust and the EJM should be regularly disseminated through the internal portals of each of the competent authorities including the contact details for the national member, EJM contact points and the ENCS members, once established.
7. Cyprus should further promote the use of JITs and Coordination Meetings as tools to assist investigations with a cross-border dimension. The JIT currently being organised with the UK should serve as a precedent in this regard.
8. Cyprus is advised to develop clear guidelines for competent national authorities on when a case should be dealt with by Eurojust or EJM as these would greatly help practitioners in the field.
9. In view of their prosecutorial powers, the opportunity of having EJM contact points from the police and custom authorities should be carefully considered.

## **10.2 Recommendations to the European Union, its institutions and agencies**

10. Ensure that competent authorities are informed about the role of Eurojust and when queries should be sent to other Member State's national desks.

### 10.3 Recommendations to Eurojust

14. Cyprus makes good use of co-ordination meetings and has found them effective in pursuing MLA with other Member States. It considers that Eurojust should ensure that an adequate follow-up mechanisms should be put in place to monitor the use of these meetings and evaluate their outcomes.
15. Eurojust should consider developing guidelines to help practitioners identify when cases should be directed to Eurojust or whether they should be more usefully directed to the EJM or Europol.
16. Eurojust should explore possibilities to provide training or offer assistance to Cyprus to develop more comprehensive training to officials dealing with MLA issues.

### 10.4 Recommendations to other Member States

17. Promote the use of JIJs and coordination meetings to assist investigations with a cross-border dimension.

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**ANNEX A: PROGRAMME FOR THE ON-SITE VISIT**

**Nicosia, 5-8 /5/ 2014**

**Monday 5 May**

Arrival in Nicosia

**Tuesday, 6 May**

**Venue: The Law Office of the Republic of Cyprus**

*Address: Apelli No 1, 1403 Nicosia*

*Second Floor meeting room at the Law Office of the Republic premises*

09:30-10:30 Welcome of the Evaluation Team. Meeting with prosecutors from the Attorney General's Office-Working Session

10:30-11:00 Coffee Break

11:00-12:30 Meeting with the Ministry of Justice and Public Order – Working Session

12:30-12:45 Transfer to MOKAS premises (Pericleous 7, 2020 Strovolos)

12:45-14:15 Meeting with MOKAS- Working Session

Free afternoon

20:00 Official Dinner by the Attorney General of the Republic

**Wednesday, 7 May**

**Venue: CYPRUS POLICE.**

European Union & International Police Cooperation Directorate

09:30-11:30 Meeting with the Police

11:30-11:45 Transfer to the premises of the Department of Customs and Excise (Corner M. Karaoli & Gr. Afxentiou, 1440 Nicosia).

12:00-14:00 Department of Customs and Excise & VAT Service

17:30-19:30 Guided tour in Nicosia

20:00 Dinner

**Thursday , 8 May**

**Venue: The Law Office of the Republic of Cyprus**

10:00- 12:30 Wrap-up meeting

**ANNEX B: PERSONS INTERVIEWED/MET**

**The Law Office of the Republic of Cyprus:**

- Ms Elena Kleopa, Senior Counsel of the Republic, Head of the Criminal Section of the Law Office of the Republic/ National Correspondent for Eurojust
- Ms Katerina Loizou, Counsel of the Republic/ National Member for Cyprus

**Unit for Combating Money Laundering (FIU-MOKAS):**

- Ms Eva Rossidou Papakyriacou, Senior Counsel of the Republic, Head of MOKAS
- Ms Maria Kyrmizi, Senior Counsel of the Republic, Member of the Unit for Combating Money Laundering
- Mr Theodoros Stavrou, Investigator

**Ministry of Justice and Public Order:**

- Mr Andreas Kyriakides, Administrative Officer A
- Ms Maria Mounti, Administrative Officer

**Department of Customs and Excise and VAT Service:**

- Mari Charalambous, Customs Officer A
- Christos Christou, Customs Officer
- Yioulika Kakouri, Customs Examiner
- Giorgos Isaia, Vat Officer

**Cyprus Police:**

- Superintendent A' Stelios Papatheodorou – Director of European Union & International Police Cooperation Directorate (EU&IPCD) – Cyprus Police Headquarters
- Superintendent B' Panayiotis Nicolaidis – Head of Combating Organized Crime Office – Criminal Investigation Department – Cyprus Police Headquarters
- Inspector Andreas Lambrianou – CID Nicosia (Joint Investigation Teams) – Nicosia District Division
- Inspector Christakis Charalambous – Police Drug Law Enforcement Unit / International Cooperation Office (Control Deliveries Issues) – Cyprus Police Headquarters
- Inspector Maria Charalambous - Head of EUROPOL Office - (EU&IPCD) – Cyprus Police Headquarters
- Senior Sergeant 2289 Charalambos Charalambous - Head of SIRENE Office - (EU&IPCD) – Cyprus Police Headquarters
- Sergeant 1383 Demetra Paraskeva – Economic Crime Investigation Office – Criminal Investigation Department – Cyprus Police Headquarters
- Senior Police Constable 1739 Anna Michael - Head of Police Cooperation Office - (EU&IPCD) – Cyprus Police Headquarters
- Police Constable 605 Marilena Panayi – Coordination Office of European Union Representations – (EU&IPCD) - Cyprus Police Headquarters

**ANNEX C: LIST OF ABBREVIATIONS/GLOSSARY TERMS**

<b>LIST OF ACRONYMS, ABBREVIATIONS AND TERMS</b>	<b>ACRONYM IN LANGUAGE OF THE MEMBER STATE</b>	<b>LIST OF ACRONYMS, ABBREVIATIONS AND TERMS</b>
EAW	-/-	European Arrest Warrant
ICS		Import Control System
EJN	-/-	European Judicial Network
ENCS	-/-	Eurojust National Coordination System
EU	-/-	European Union
GENVAL	-/-	Working Party on General Matters including Evaluations
JITs	-/-	Joint investigation team
JHA		Justice and Home Affairs
MLA	-/-	Mutual Legal Assistance
MOKAS		Unit for Combatting Money laundering
OCC	-/-	On-call Coordination
OLAF	-/-	European Anti-fraud Office
SITs	-/-	Other special investigative techniques