

JSB

EUROJUST'S INDEPENDENT DATA
PROTECTION SUPERVISOR

Activity Report
of the Joint
Supervisory Body
of Eurojust

2012



JOINT SUPERVISORY BODY OF EUROJUST

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Foreword

As current chair of the Joint Supervisory Body (JSB) of Eurojust, I have the pleasure to present the 10th Activity Report of the JSB for the year 2012, during which I shared the presidency of the JSB with Carlos Campos Lobo. I have had the honour to serve as an active member of the JSB troika from 2004 to 2006 and from 2009 to 2013.

The ten years' experience of the JSB, has emphasised the importance of a strong and effective partner to Eurojust in the supervision of its lawfulness and accuracy in the processing of personal data in the area of judicial cooperation.

The enlargement of the European Union, as well as the increasing amount of cases dealt with by Eurojust, have brought about ongoing challenges that demand constant vigilance in upholding a high level of data protection when dealing with requests. The composition of the JSB and its structure, have proven to be a very workable construct in facilitating quick decision-making, non-bureaucratic communication and cost-effective functioning.

The proposed new Eurojust legal framework and the ongoing EU Data Protection reform will keep the JSB troika very busy as the processing of personal data at Eurojust should continue to ensure full compliance with data protection requirements.

As I shall not be an active member of the JSB troika after June 2013, I take this opportunity to emphasise the very precious professional and human experience I have had the opportunity to live.

In particular, it means a great deal to be able to thank all those I have met in my capacity as JSB troika member over the last ten years and to pay tribute to the contribution of the College and the staff of Eurojust to the work of the JSB.

My very special thanks for their great support in every situation go to my fellow members of the JSB troika, Hans Frennered and Carlos Campos Lobo, to Peter Alexander Michael from the Council of the EU, and to the team of the Data Protection Service of Eurojust: Diana Alonso Blas, Vaida Linartaitė-Gridziuškienė, Fernando L. Silva and Fiona Coninx.

Yours sincerely,



Lotty Prussen
Chair

Introduction

This is the 10th activity report of the Joint Supervisory Body of Eurojust (hereinafter “JSB”) since it was first established in May 2003. The report outlines the JSB’s main activities during 2012.

The JSB was established by Article 23 of the Eurojust Decision¹, as an independent body, to collectively monitor the activities of Eurojust that involve the processing of personal data and to ensure that such activities are carried out in accordance with the Eurojust Decision and do not violate the rights of the individuals concerned.

One of the most important tasks of the JSB is to examine appeals by individuals, to verify their personal data is processed by Eurojust in a lawful and accurate manner.

The JSB monitors the permissibility of the transmission of data from Eurojust and provides its obligatory opinion concerning the provisions on data protection in agreements or working arrangements with EU bodies or cooperation agreements with third States.

1. An overview of the past activities of the JSB

The 10 years of experience and expertise in judicial cooperation and data protection have allowed this authority to become a constructive partner for Eurojust.

The establishment of the JSB is naturally connected with the establishment of Eurojust. The discussion on the establishment of a judicial cooperation unit was first introduced at a European Council meeting in Tampere, Finland, on 15 and 16 October 1999, attended by heads of state and government. Eurojust was established by Council Decision of 28 February 2002 to facilitate and improve cooperation and coordination between the competent authorities in EU Member States when dealing with cross-border investigations and prosecutions of serious trans-national crime.

In the context of its casework, Eurojust receives and processes a considerable amount of personal data in dealing with referrals from national authorities. Measures have been taken at various levels to ensure the proper protection of personal data at Eurojust. The JSB is the external independent supervisor overseeing the compliance of Eurojust within the existing legal framework and that the rights of individuals are guaranteed.

The first meeting of the JSB took place on 21 May 2003. This date marks the beginning of the activities of the JSB in assuming the responsibilities provided for in the Eurojust Decision. Each Member State appointed a member, from which three made up the Joint Supervisory Body, being the member from the state which held the EU Presidency and those of the two forthcoming EU presidencies. Delays in the nomination of members by some Member States meant the JSB only became operational in May 2003. The Rules of Procedure of the JSB were adopted in March 2004². The first meeting was held with the College of Eurojust and proved to be very useful in outlining and appreciating the respective roles of the JSB and Eurojust. The JSB emphasised to the College that personal information received by Eurojust in the course of its coordinated investigations must be subject to data protection rules. The JSB highlighted that it should not be seen as a burden to Eurojust in its endeavours to investigate and improve the

¹ 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 2009/426/JHA of 16 December 2008 on the strengthening of Eurojust, OJ L 138 p. 14, 4.6.2009, hereinafter referred to as the “Eurojust Decision”.

² Act of the Joint Supervisory Body of Eurojust of 2 March 2004 (2004/C 86/01) laying down its rules of procedure, OJ C 86, p. 1, 6.4.2004

prosecution of serious cross-border crime; however, where personal data is concerned, clarity and lines of demarcation must be put in place as soon as possible.

The second meeting of the JSB is worth mentioning, as during the meeting on 14 October 2003 Eurojust was pleased to introduce Ms Diana Alonso Blas, who had been appointed Data Protection Officer (DPO) of Eurojust.

In the same year, and in accordance with the Eurojust Decision, the JSB Secretariat was established.

In 2004, the JSB welcomed the appointed representatives from 10 new Member States thereby expanding the JSB from 15 to 25 appointed members. Later, in 2007, the JSB welcomed the appointees from Bulgaria and Romania, making a total of 27 JSB appointed members.

The year 2004 saw many important developments in the field of data protection at Eurojust, above all Eurojust's *Rules of Procedure on Data Protection*, which the College of Eurojust adopted unanimously, with effect from 1 October 2004³. The JSB was heavily involved in the drafting process and welcomed this further step in establishing a sound framework of data protection, while at the same time providing the correct balance to allow Eurojust to operate efficiently in its important task of coordinating and improving cooperation between Member States in the fight against serious crime.

Since its establishment in 2003, the JSB has been entrusted with the task of supervising Eurojust's activities when processing personal data. As a joint supervisory authority, the JSB has always acted as an independent supervisor. The independence of the supervisory authority is an essential condition to guarantee the proper protection of the rights and freedoms of individuals. Article 23(1) of the Eurojust Decision stipulates that in setting up the JSB, each Member State, acting in accordance with its legal system, shall appoint a judge who is not a member of Eurojust or, if its constitutional or national system so requires, a person holding an office giving him sufficient independence for inclusion on the list of judges who may sit on the JSB as members or *ad hoc* judges.

Throughout the ten years of activities, the JSB has played an important role by giving its advice in the process of negotiating agreements with third States and bodies. According to Article 26a(2) of the Eurojust Decision, Eurojust may only conclude agreements with third States and bodies after consultation with the JSB on the provisions on data protection. The JSB issued opinions with regard to negotiations with Europol, OLAF, Norway, Iceland, the United States of America, Croatia, Switzerland, the Former Yugoslav Republic of Macedonia, the Russian Federation and the Iberoamerican Network of International Legal Cooperation (IberRed). The work done during those consultations only emphasised the JSB's strong commitment to its tasks and responsibilities as independent supervisor. On several occasions, Eurojust consulted the JSB and asked for its opinion concerning the revised draft model agreement of cooperation between Eurojust and third States.

The JSB played an important role in the development of Eurojust's Case Management System (hereinafter "CMS"), a unique information system containing judicial information, facilitating support to national authorities in combating serious organised transnational crime. During its substantial involvement in the development of the CMS, the JSB always emphasised the need to put in place an effective and controllable in-house automated system to eventually replace manual files. The actual design (architectural solution) of the CMS is based on the Eurojust

³ Rules of Procedure on the Processing and Protection of Personal Data at Eurojust (text adopted unanimously by the College of Eurojust during the meeting of 21 October 2004 and approved by the Council on 24 February 2005) (2005/C 68/01), OJ 68, p. 1, 19.3.2005 (hereinafter referred to as the "Eurojust Data Protection Rules")

Decision and Eurojust Data Protection Rules and was developed simultaneously with those Rules. The CMS has been operational since 15 September 2004. All features contained in the Eurojust Data Protection Rules have been technically implemented in the CMS which could be considered as a good example of “privacy by design”. The JSB also gave its advice on the proposed access to the Schengen Information System and the Customs Information System. The JSB also provided its comments and recommendations on Eurojust’s Security Rules.

The supervision of Eurojust’s activities requires a judicial component which is presently safeguarded by the composition of the JSB, with a heavy judicial emphasis and the involvement of all Member States. The members of the JSB are either judges or members of an equivalent level of independence and, regarding its secretariat and financial resources, they have been given all necessary resources to guarantee the independence of their work. An advisory role without practical experience and understanding of the issues, adds little to the activities of a supervisor. Therefore, the first JSB inspection of Eurojust took place in November 2005. It was done with great enthusiasm. Subsequent inspections were conducted in 2007 and 2010, as well as a specific inspection of one administrative unit in 2012. The inspections carried out by the JSB contributed to the strengthening of Eurojust’s commitment to fulfil data protection requirements and their implementation into the daily work of the organisation.

As the Eurojust Decision grants the right of access to information that Eurojust holds on individuals and the right to ask for such information to be corrected or deleted, the JSB was entrusted with the power to review the decisions of Eurojust while ensuring individuals’ rights. The decisions of the JSB are final and binding on Eurojust. The JSB acts as a quasi-judicial authority whose decisions are final which, for individuals concerned, is a very important remedy. The first appeal was received in 2006. The decision was taken in 2007 in this appeal case and changed the practice of informing personal data subjects on the processing of their personal data. The JSB emphasised the need for individual assessment of the circumstances of every single case: *“in all cases where an individual seeks access to personal data concerning him or herself processed by Eurojust, including those cases where there are no data processed, the College of Eurojust shall decide whether in the specific case the disclosure of the data or of the non-existence of data concerning the application processed by Eurojust may contravene any interests of Eurojust or of one of the Member States. If this is not the case, Eurojust shall reveal to the individual the requested data or inform him that in fact there are no data concerning him”*. Since 2003, four appeals have been received and investigated.

Another milestone in the work of the JSB that Eurojust followed with great interest was the review of the Eurojust Decision. The JSB provided valuable advice and expertise, especially on Article 15, to ensure that Eurojust may legally process all data necessary to perform its tasks, on the basis of the Eurojust Decision and in the context of the Council Framework Decision on the European Arrest Warrant (EAW)⁴ and the Council Decision of 20 September 2005 on the exchange of information and cooperation concerning terrorist offences⁵. The JSB was pleased to note that the recommendation contained in its inspection report of 2005, regarding the possible amendment of Article 15 of the Eurojust Decision, had been incorporated into the revised decision in 2008. In this context, the JSB put forward a draft opinion on the possibility to amend Article 23 of the Eurojust Decision, regarding the composition of the JSB, to the College of Eurojust. This proposal highlighted some drawbacks to the existing system at that time, as follows:

⁴ 2002/584/JHA: Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States

⁵ Council Decision 2005/671/JHA of 20 September 2005 on the exchange of information and cooperation concerning terrorist offences

“the composition of this body by three members was a very workable construction facilitating its operation and quick decision-making process and also provided a non-bureaucratic and cost-effective structure. However, the very frequent changes of members (every six months), and the short length of time for the participation in the troika of Eurojust (eighteen months), made it difficult to maintain a high level of knowledge of Eurojust’s complex legal and technical framework, its organisation and the state of play regarding the many developments at Eurojust having an impact on the protection of personal data. It therefore considered that a more permanent structure would be beneficial, while keeping the reduced size and efficient operation of the body.”

The JSB also expressed its support for the inclusion of the following sentence in Article 23(10) of the Eurojust Decision:

*“The Secretariat of the Joint Supervisory Body may rely upon the expertise of the secretariat established by Decision 2000/641/JHA”.*⁶

The JSB followed with interest the developments on the envisaged draft framework decision on data protection in the third pillar, which was discussed during the German and Portuguese EU presidencies in 2007. In response to a proposal put forward during the German EU Presidency to merge the Joint Supervisory Bodies of the third pillar (the Schengen Information System, Europol, Eurojust and the Customs Information System) into a single data protection supervisory body, Eurojust defended the retention of the current JSB structure.

The years 2008-2009 were challenging in relation to the implementation of the new Eurojust Decision and the Lisbon Treaty⁷, which promised to have important implications for how law enforcement agencies will be supervised in terms of data protection. In the latter context, the JSB regularly contacted and closely cooperated with other joint supervisory authorities (such as for Europol, Schengen and Customs), discussing the possible future supervision model in law enforcement.

The new Eurojust Decision changed the composition of the JSB troika, which had previously been linked to the presidency of the European Union. The new Article 23 foresaw an annual election at the plenary meeting of the JSB in which a new member would be chosen from among the appointees of the Member States for a period of three years (the length of appointment to the JSB was modified accordingly from the initial 18 months of participation in the troika to three years). The member in their third year would chair the troika. This new system allowed for more continuity and expertise in the JSB, as members have more time to become acquainted with the work of Eurojust and build expertise in that regard.

At the same time, the Act of the JSB, laying down its rules of procedure, was revised in alignment with the changes envisaged in the new Eurojust Decision. A first draft was drawn up by the permanent members and sent to all the appointees for review prior to the plenary meeting. A final version was adopted at the plenary meeting in 2009⁸. The first elections took place at the plenary meeting of 23 June 2009, based on the initial written proposal submitted by the JSB to the Council of the European Union, which covered the transitional period. It is important to note that at its first meeting under the new Eurojust Decision, the JSB discussed the issue of non-case-related processing operations and stated its intention to leave no part of the data

⁶ Council Decision of 17 October 2000 (2000/641/JHA) establishing a secretariat for the joint supervisory data-protection bodies set up by the Convention on the Establishment of a European Police Office (Europol Convention), the Convention on the Use of Information Technology for Customs Purposes and the Convention implementing the Schengen Agreement on the gradual abolition of checks at the common borders (Schengen Convention) (OJ L 271, p. 1, 24.10.2000)

⁷ The Treaty of Lisbon, OJ C 306, 17.12.2007.

⁸ Act of the Joint Supervisory Body of Eurojust of 23 June 2009 (2010/C 182/03) laying down its rules of procedure (*adopted unanimously at the plenary meeting of the Joint Supervisory Body of Eurojust on 23 June 2009*), OJ C 182, p. 3, 7.7.2010

processing operations at Eurojust unsupervised, underlining that the JSB's competence covered both case-related and non-case-related processing operations.

During the year 2010, the JSB invested in increasing compliance with the rules at Eurojust by carrying out an inspection and building on the results of the annual surveys of the DPO of Eurojust. The recommendations following this inspection assisted Eurojust in enhancing data protection compliance. Another important element of the work carried out in 2010 has been linked to the ongoing developments in the EU legislative field regarding data protection in the area of the former third pillar. Through participation in various EU *fora* and correspondence with Commissioner Reding, the JSB has actively contributed to this discussion and managed to call attention to the specific features linked to data protection in the area of international judicial cooperation. The JSB stressed the effectiveness of the current supervision of data processing activities done by Eurojust which is guaranteed internally by the Eurojust DPO and externally by the JSB. An additional point in favour of the current JSB structure was its troika system, which worked efficiently with a limited budget, while at the same time ensuring excellent communication with the organisation. This important work continued in 2011.

In October 2010 the JSB received official accreditation to the International Conference of Data Protection and Privacy Commissioners at the 32nd International Conference held in Jerusalem, Israel.

In 2011 the JSB was accredited as a member of the European Data Protection Commissioners' Conference; at the same time, the JSB became a member of the Working Party on Police and Justice (hereinafter "WPPJ") which looked at supervision in the area of freedom, security and justice. Both conferences provided an excellent forum to exchange views, experience and ideas on present and future challenges for supervisory authorities.

The JSB dedicated time and effort to raising public awareness about its work and activities; in particular on the rights of data subjects. At the end of 2010, the JSB launched its own webpage within the Eurojust website (www.eurojust.europa.eu/jsb.htm). This webpage contains information on the role of the JSB, its legal framework, the procedure for appeals and the rights of data subjects. A list of authorities in Member States with contact details for data subjects to contact concerning the exercise of their rights was made also available. The webpage is regularly updated with news and information about the JSB's work and the latest developments in data protection that may have implications for its supervisory function. Two leaflets have been produced entitled: *The Role of the JSB* and *Data Subject Rights*, in all 23 official EU languages and have been published on the JSB webpage.

The JSB continued enhancing the transparency and visibility of its work and endeavoured to increase public awareness of its activities. To this end the JSB launched its new webpages on the Eurojust website, making the work of the JSB of Eurojust even more accessible, visible and transparent for all EU citizens. In addition, a number of publications and information folders have been issued and translated into official EU languages; they were made available online and provided free of charge by the JSB Secretariat to any interested person.

2. New developments

2.1 The future of Eurojust

The second paragraph of Article 85(1) of the Treaty on the Functioning of the European Union (TFEU) states: "*the European Parliament and the Council, by means of regulations adopted in accordance with the ordinary legislative procedure, shall determine Eurojust's structure, operation, field of action and tasks*". Eurojust's future is challenging, particularly in view of the European Commission's proposals for regulations on Eurojust and on the establishment of a

European Public Prosecutor's Office (EPPO), both expected in 2013. The JSB followed with the great interest all of the ongoing discussions concerning the future of Eurojust in the context of any possible changes in the current data protection system. On several occasions, the JSB stated its wish to be informed about any possible proposals which Eurojust might care to put forward related to data protection and encouraged Eurojust to coordinate with the JSB on any views expressed in this context, to ensure a constructive and more effective approach. The JSB further expressed its confidence in the benefits and importance of a common approach to work between Eurojust and the JSB.

2.2 EU Data Protection reform

The entry into force of the Treaty of Lisbon⁹ in December 2009 has brought with it a number of substantial changes regarding data protection in Europe. The most important one is the introduction of its article 16¹⁰:

"1. Everyone has the right to the protection of personal data concerning him or her.

2. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall lay down the rules relating to the protection of individuals with regard to the processing of personal data by Union institutions, bodies, offices and agencies, and by the Member States when carrying out activities which fall within the scope of Union law, and the rules relating to the free movement of such data. Compliance with these rules shall be subject to the control of independent authorities. The rules adopted on the basis of this Article shall be without prejudice to the specific rules laid down in Article 39 of the Treaty on the European Union."

However, Declaration 21 of the Treaty¹¹ states that specific rules on the protection of personal data may prove to be necessary in the area of judicial cooperation in criminal matters and police cooperation, due to the specific nature of these fields, and similar arguments have been made by various stakeholders such as Eurojust and Europol¹².

When considering possible proposals regarding the data protection provisions of the Eurojust Decision and future Eurojust Regulation, it is important to keep in mind that, at this very moment, the European Commission is undertaking a thorough review of the existing EU data protection legal framework. In January 2012 the European Commission proposed a comprehensive reform of the 1995 data protection rules to strengthen online privacy rights and boost Europe's digital economy. The Commission's proposal entailed the following new framework¹³:

- A Regulation (replacing Directive 95/46/EC¹⁴) setting out a general EU framework for data protection (ex 1st pillar); and
- A Directive (replacing Framework Decision 2008/977/JHA¹⁵) setting out rules on the protection of personal data processed for the purposes of prevention, detection,

⁹ Treaty of Lisbon amending the Treaty of the European Union and the Treaty establishing the European Community, signed at Lisbon, 13 December 2007 (2007/C 306/01), OJ C 306 of 17.12.2007, p.1. See for more information: http://europa.eu/lisbon_treaty/index_en.htm

¹⁰ Article 16 of the Treaty on the Functioning of the European Union.

¹¹ Declaration number 21. Declaration on the protection of personal data in the fields of judicial cooperation in criminal matters and police cooperation.

¹² See for more information on this the "Data Protection after Lisbon" section of the JSB Eurojust webpage: <http://www.eurojust.europa.eu/jsb.htm>, and the article by ALONSO BLAS, D., *Ensuring effective data protection in the field of police and judicial activities: some considerations to achieve security, justice and freedom*, published in ERA Forum (2010), Number 2, 11: 233-250, DOI 10.1007/s12027-010-0158-8, Springer.

¹³ See http://ec.europa.eu/justice/newsroom/data-protection/news/120125_en.htm

¹⁴ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, OJ L 281/95, p.31.

¹⁵ Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters, OJ L 350, 30.12.2008, p. 60.

investigation or prosecution of criminal offences and related judicial activities (ex 3rd pillar)¹⁶.

The proposed Directive, as is the case of the Framework Decision it replaces, omits Eurojust from its scope of application. However, as the Directive will lay down general data protection rules in the area of police and criminal justice cooperation, it might have some indirect consequences for Eurojust, as it will be applicable to the processing of personal data by the national authorities with whom Eurojust works.

In the context of the review of the existing legal framework of data protection, the European Commission organised a good number of meetings and consultations with stakeholders, to which the JSB contributed, by drawing attention to the robustness and suitability of the existing data protection rules at Eurojust and has actively promoted the maintenance of the specialised supervision system currently in place.

2.3 EU developments regarding the future of joint supervision

Under the auspices of the ongoing EU Data Protection reform, Vice-President of the Commission Reding, in her speech on 3 May 2012 addressing the Spring Conference of European Data Protection Authorities (DPAs) in Luxembourg, emphasised “*strong and independent data protection authorities - the bedrock of the EU's data protection reform*”. Eurojust has a robust data protection system in place, tailor-made to the mandate and tasks of Eurojust and closely monitored by the DPO and JSB.

At Eurojust, processing operations are carried out by judicial authorities cooperating in ongoing judicial investigations or prosecutions. Therefore specialised supervision including judicial expertise and knowledge of data protection is indispensable. Eurojust's data processing activities are fully monitored by the JSB while respecting the specificity of the judicial powers. The specific nature of JSB specialised supervision is the following and works well:

- It has the necessary expertise (a fully independent combination of judges and data protection authorities (DPAs));
- It is effective: three elected members, meeting regularly (four to five times per year) at Eurojust, costing approximately EUR 40 000 per year; in appeal cases appointees of involved Member States are called in to join. It offers a quick and manageable appeal procedure for individuals.
- It carries out on-the-spot supervision: frequent inspections with direct involvement of national DPAs;
- Full transparency: webpage with regular updates, appeal decisions and reports published and distributed etc.;
- Decisions of the JSB are final and binding on Eurojust: quasi judicial nature.

During the ongoing discussion on the future model of supervision, especially in the area of police and judicial cooperation in criminal matters, the JSB has urged the Commission to carefully consider any changes and called for evaluation of the efficacy and operation of existing schemes, as the JSB is working well and is effective, understands the business of Eurojust and ensures real compliance with rules in practice, which offers a high level of protection for individuals and increased legal certainty.

¹⁶ Directive of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data.

3. Supervisory work

The JSB holds frequent inspections, covering both the case-related and non-case-related (administrative) processing operations of Eurojust and delivers extensive and detailed reports of such inspections, including findings and recommendations. The follow-up by the organisation is monitored in successive meetings. When necessary, additional inspections dedicated to single matters or issues are held. Normally, the JSB plans at least one inspection every two years.

3.1 Inspection of Human Resources Unit

In 2010, the JSB inspected the data processing activities of the Human Resources (HR) unit. Based on the findings of that inspection, the JSB concluded that improvements were required. In view of the importance of this issue, the JSB decided to check Eurojust's progress and - at its meeting of 10 November 2011 - mandated a team of data protection experts to inspect data processing by Eurojust's HR unit. In accordance with the mandate conferred upon it by the JSB, the inspection team conducted the inspection at Eurojust's premises on 23 February 2012. This was the second inspection regarding the data protection compliance of Eurojust's HR unit.

The findings of this inspection showed a general improvement in terms of data protection compliance. The appointment of a new Head of the HR unit and a senior legal officer were essential in contributing to the development of rules and procedures for the unit and the awareness of data protection.

However, the findings also demonstrated that the improvements made so far are not sufficient and a number of recommendations aimed at addressing remaining shortcomings were made. Throughout 2012 the JSB followed attentively the follow-up work done by Eurojust in relation to the implementation of the recommendations of the inspection report and was satisfied to see the ongoing progress in this matter.

3.2 Cooperation with the Data Protection Officer of Eurojust

The JSB benefits from close cooperation with the DPO of Eurojust, appointed in November 2003, who plays a fundamental role regarding the internal control of data protection compliance within the organisation. The DPO also acts as a link between Eurojust and the JSB to ensure that the JSB members are sufficiently informed about the activities of Eurojust regarding data protection matters and the implementation of rules. At every meeting, the JSB has the occasion to exchange views with the DPO, who informs the members of all ongoing matters and of the issues that might require their attention in the future. The strong collaboration between the DPO and the JSB provides mutual benefits in meeting their responsibilities to ensure the application of data protection requirements.

In accordance with Article 6(6) of the Act of the JSB, the JSB liaised regularly with the DPO, who, throughout the course of 2012, continuously informed the JSB about ongoing data protection issues and matters at Eurojust. The JSB was very pleased to learn that, as from 16 March 2012, Mr Fernando Silva was appointed as a new technical adviser to the DPO.

3.3 Case Management System (CMS)

The JSB received regular updates from Eurojust concerning the latest developments in the various CMS projects. The JSB also received a demonstration of the most recent version of the CMS and observed with great interest the developments made regarding various functionalities, in particular those related to the work of the DPO. The JSB was very appreciative of the work carried out by the Information Management unit and the fact that the DPO was closely involved in the projects from the beginning.

3.4 Secure Information Exchange Network Application (SIENA)

At its November meeting, the JSB was informed about the Secure Information Exchange Network web application (SIENA), a tool used by Europol to exchange information securely, both internally and externally, with Members States and several parties including Eurojust. SIENA would principally be a tool for the exchange of restricted information. The Europol and Eurojust DPOs were liaising on how to access the logs of Eurojust's access to SIENA: the actual logging is done at Europol, however it is fully available for Eurojust's DPO and the JSB.

4. Cooperation agreements between Eurojust and third States

Article 26(2) of the Eurojust Decision explicitly recognises that to conclude agreements or working arrangements with the institutions, bodies and agencies set up by, or on the basis of, the Treaties establishing the European Communities or the Treaty on European Union, Eurojust is obliged to consult the JSB on the provisions of the draft agreement or working arrangements concerning data protection. The same obligation, laid down in Article 26a(2) of the Eurojust Decision, applies when a draft cooperation agreement is to be concluded with a third State or international organisation.

Throughout 2012, Eurojust's External Relations Team regularly updated the JSB on relations with third States and the state of play of ongoing negotiations between Eurojust and third States/international organisations. The JSB considered thoroughly all the information provided by the DPO to the JSB when discussing the level of data protection of various third States and organisations with whom Eurojust wished to have a cooperation agreement. In this way, the JSB was fully informed and involved in the matters related to the ongoing negotiations as well as in the follow-up to the implementation of existing agreements.

5. Opinions of the JSB

5.1 Draft agreement between Eurojust and the Principality of Liechtenstein

The JSB issued a favourable opinion on the draft agreement between Eurojust and the Principality of Liechtenstein on 23 November 2012, concluding as follows:

“Considering that the Principality of Liechtenstein has ratified Convention 108 of the Council of Europe on 11 May 2004 and that the Convention entered into force in Liechtenstein on 1 September 2004.

Considering that the Principality of Liechtenstein has, following the negotiations with Eurojust, ratified the Additional Protocol to the Council of Europe Convention 108 on the 28th of January 2010 and that it entered into force on the 1st of May 2010.

Considering the fact that the Principality of Liechtenstein informed Eurojust on 6 March 2012 of the amendments to the Data Protection Act as well as the criminal procedure law, which - inter alia - implemented the EU framework decision on data protection to the satisfaction of the Data Protection Officer of Eurojust and that the amended laws entered into force on 1 October 2012.

Considering that the draft agreement contains all relevant data protection provisions in line with the model agreement positively evaluated by the Joint Supervisory Body in previous occasions,

The Joint Supervisory Body considers the provisions on the exchange of personal data contained in the draft agreement between Eurojust and the Principality of Liechtenstein adequate and gives therefore a positive opinion on the draft agreement.”

6. Rights of the data subject

One of the most important elements of the robust data protection regime established by the Eurojust Decision is the enforceable right of data subjects to access, correct, delete, or block the personal data related to them. Article 19(1) of the Eurojust Decision guarantees that every individual is entitled to have access to their own personal data processed by Eurojust. Article 20(1) of the Eurojust Decision entitles every individual to ask Eurojust to correct, block or delete their own personal data if it is incorrect or incomplete, or if the data input or storage contravenes this Decision.

If an individual is dissatisfied with Eurojust's response to his/her request, they may appeal the decision before the JSB. The JSB examines any appeals submitted to it in accordance with Articles 19(8) and 20(2) of the Eurojust Decision and carries out controls. The JSB is also competent to handle appeals concerning the processing of non-case-related data. If the JSB considers that a decision taken by Eurojust or the processing of data by it is not compatible with the Eurojust Decision, the matter is referred back to Eurojust. The decisions of the JSB are final and binding on Eurojust. Therefore, by handling the appeals the JSB reinforces the expectations and belief of data subjects in a strong data protection regime, as stated by Vice-President of the European Commission Reding on 7 December 2011 in her speech at the commencement of the reform of the European Union Data Protection laws: *"Our citizens expect nothing less from all of us: to stand up for their right to data protection. And to enforce it strongly and credibly <..>"*.

6.1 Case-related appeals

The JSB received no case-related appeals in 2012.

6.2 Non-case-related appeals

A non-case-related appeal was lodged with the JSB on 3 December 2012 against Eurojust's implied decision to reject the appellant's request for a copy of his/her personal security screening opinion, interpreted thus due to Eurojust's failure to respond to the request within the stated deadline of 3 months after its receipt. The appellant summarised his complaint as follows:

"I am therefore appealing against this implied decision rejecting my request before the Joint Supervisory Body, pursuant to Article 19(8) of Eurojust decision, Article 21(6) of the Rules of Procedure on the Processing and Protection of Personal Data at Eurojust (2005/C 68/01) and Article 7(6) of the additional rules defining some specific aspects of the application of the rules on the processing and protection of personal data at Eurojust to non-case-related operations".

The JSB secretariat forwarded the appeal to Eurojust for comments on 14 December 2012, with a request for response by 11 January 2013. The appeal was due to be discussed at the first meeting of the JSB in 2013 on 28 January.

7. Transparency

7.1 JSB webpages

Transparency is needed to gain the trust of the public. Individuals and public bodies have a right to know of the JSB's work as well as having access to information on how and why decisions are taken. The JSB is always concerned with enhancing the transparency of its work. In 2012, the JSB continued to publicise its efforts in raising public awareness of data protection at Eurojust. The information provided to the public on the JSB webpages ranges from very general to specific, concerning the procedure to be followed to exercise their rights. The JSB is also keen to inform the public on its daily work and meetings, therefore the highlights of each meeting and

any other news are published on the JSB webpage: <http://www.eurojust.europa.eu/about/structure/jsb/Pages/independent-joint-supervisory-body.aspx>

8. Self-assessment

Since its establishment in 2003, throughout a decade the JSB has been not only an external supervisor, but also an advisor to Eurojust in matters related to data protection. The JSB has appreciated every opportunity to provide its views regarding data protection matters on which it was consulted by Eurojust. The JSB always tries to come up with useful feedback, even when there is little time for extensive discussions. The frequent JSB inspections, covering both the case-related and non-case-related (administrative) processing operations of Eurojust, have contributed to a continuous growth of experience and knowledge necessary for the supervisory work, especially in the field of judicial cooperation. In-depth know-how of the work of a judicial authority such as Eurojust, and the complexity of the issues dealt with in Eurojust's operational work, convinced the JSB even more that the present system of specialised supervision must be retained.

9. Future outlook

The JSB is looking forward to the challenges awaiting it in 2013, especially in terms of the review of Eurojust's legal framework and the ongoing EU Data Protection reform. As the Commission is currently working on the Eurojust Regulation, the JSB will follow with great interest the developments in this area and will actively participate to retain the existence of tailor-made rules and the present system of joint supervision. The data protection regime in place offers a high level of protection of personal data and legal certainty for individuals while respecting the operational needs of the organisation. The JSB stresses that data protection standards cannot be lowered and that the priorities for the JSB will remain the same – to protect properly the rights of individuals.



JSB appointees' plenary meeting on 15 June 2012

Annex I Appointees to the Joint Supervisory Body 2012

Member State	Appointee	Date of appointment
Belgium	Ms Nicole LEPOIVRE	17/01/2003
Bulgaria	Ms Pavlina PANOVA	04/07/2007
Czech Republic	Mr Josef RAKOVSKÝ	14/04/2004
Denmark	Mr Jakob LUNDSAGER	05/04/2009- 15/10/2012
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 Artemi RALLO LOMBARTE	27/02/2007
France	Mr Frédéric BAAB	11/06/2009
Italy	Mr Alberto PIOLETTI	20/04/2012
Cyprus	Mr Yiannos DANIELIDES	08/11/2011
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 Joseph EBEJER	30/03/2009
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

Appointees who terminated office during 2012

Member State	Member	Date of office
Denmark	Mr Jakob Lundsager	05/04/2009-5/10/2012
Greece	Ms Anastasia Peristeraki	04/02/2010-02/03/2012
Italy	Mr Luigi Frunzio	14/06/2010-14/05/2012
Slovak Republic	Ms Renáta Janáková	31/07/2008-22/03/2012
Netherlands	Ms Jannette Beuving	01/01/2007-01/06/2012

Annex II 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



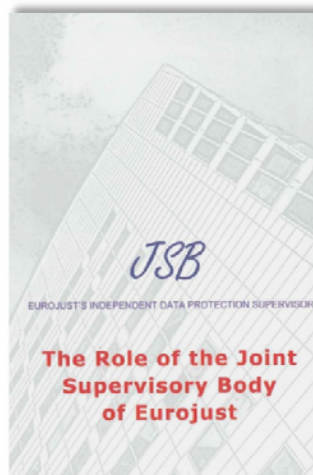
Booklet “Data Protection at Eurojust”, available in English, French, German and Spanish



Leaflet 1

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



Leaflet 2