



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 20 May 2010**

**9959/10**

**EUROJUST 53  
COPEN 121  
EJN 14**

**"I/A" ITEM NOTE**

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From :            Presidency  
To :              Coreper/Council  
Subject :        Draft Council conclusions on the eight Eurojust Annual Report  
                    (calendar year 2009)

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Delegations will find enclosed the Draft Council Conclusions on the eight Eurojust Annual Report (calendar year 2009) as agreed on by CATS at its meeting on 18 May 2010.

Coreper is invited to request the Council to adopt the Conclusions set out in the Annex.

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**Draft Council Conclusions on the eight Eurojust Annual Report  
(calendar year 2009)**

The Council,  
having examined the Annual Report,

1. Welcomes the eighth Eurojust Annual Report (calendar year 2009)<sup>1</sup> and notes with appreciation that most of the objectives for achievement in 2009 set out in the 2008 Annual Report have been successfully attained or are in the process of being accomplished. In particular, takes note of the initiatives undertaken by Eurojust in the course of 2009 with a view to improving its organizational and operational capacities and stimulating coordination between the competent national authorities, third states and other European Union bodies, particularly Europol and CEPOL, as well as the European Commission;
2. Appreciates the efforts made by Eurojust, in compliance with the Council conclusions on the seventh Annual Report, to focus more, in its Annual Report, on examples of casework and on its efforts to improve judicial co-operation in specific operational cases. Welcomes the new concept introduced by the Annual Report 2009, based on improved case evaluation tools and procedures. Encourages Eurojust to further strengthen and increase its capacity to analyse obstacles to judicial cooperation in criminal matters at EU level and invites Eurojust to continue making use of its casework evaluation tools with a view to providing regular information on the state of judicial cooperation within the European Union;
3. Notes that the information provided in relation to caseload statistics is based on the new approach to classifying cases in line with the Eurojust objectives and priorities as set out by the Council (fight against terrorism, drug trafficking, trafficking in human beings, fraud, corruption, cybercrime and money laundering). Takes note of the upward trend in caseload statistics, with 1.372 new cases registered in 2009 as compared with 1193 cases in

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<sup>1</sup> 8147/10 EUROJUST 38.

2008 (i.e. an increase of 15%), and of the related increase in the number of coordination meetings (131 in total). Draws attention to the number of complex cases (16% in 2008 and just above 20% in 2009) in the overall caseload, which is still too low. Reiterates its view that Eurojust should continue giving statistics on standard /complex cases as well as on bilateral /multilateral cases, in order to ensure comparability of statistics. Against this background reiterates its observation that Eurojust should focus further on complex cases which require coordination, while simple cases should in general be referred to the European Judicial Network. Asks Eurojust to report in its Annual Report 2010 on concrete measures taken to this effect and on its referral of cases to the European Judicial Network, indicating obstacles in this respect;

4. Reiterates its request to Member States to further encourage their judicial authorities to make full use of Eurojust facilities and to refer complex and serious multilateral cases to Eurojust by involving the Unit, where possible, at an early stage of investigations;
5. While over 90% of the cases referred to Eurojust involve the type of crimes for which Europol was also competent in 2009, the Council notes with interest the repeated referral to Eurojust of cases concerning other types of offences, which may however be of a particularly serious nature (i.e. genocide);
6. Shares Eurojust's assessment of the added value of coordination meetings in the investigation and prosecution of cross-border cases. Appreciates the fact that as many as 131 coordination meetings were held, 16 of them in the Member States. Further invites Eurojust and Member States to promote this method of cooperation between the competent authorities of the Member States, as well as to involve, where relevant, other EU bodies such as Europol or OLAF;

7. Reiterates its view that the expertise accumulated by Eurojust constitutes a significant source of information which may, whenever relevant, contribute to the identification of criminal trends or priorities that should be taken into account at European level in the shaping of an effective policy to fight cross-border crime. Endorses the synchronisation of Eurojust's operational priorities for 2010 with the Council Conclusions on the Organised Crime Threat Assessment (OCTA) , the Russian Organised Crime Threat Assessment (ROCTA) and the EU Terrorism Situation and Trend Report (TE-SAT), as shown in the new approach to classification of casework and calls for a contribution of Eurojust to these reports;
8. Notes with interest the specific practical and legal obstacles to judicial co-operation identified in the Annual Report, *inter alia* in relation to admissibility of evidence, compliance with formalities of MLA requests, the enforcement of confiscation orders, conflicts of jurisdiction and delays in implementation of EU instruments . Considers that the Member States and judicial authorities should further reflect on these problems with a view to resolving them. In particular, invites Member States to make use of the new provisions of Article 7(2) and (3) of the Eurojust Decision by referring regular difficulties and conflicts of jurisdiction to Eurojust and asks Eurojust to report on the implementation of these provisions by the Member States and by Eurojust in its future Annual Report;
9. Notes the almost 25 per cent increase in the number of money laundering cases registered at Eurojust. In view of the analysis provided by Eurojust in this respect, encourages Member States to promote, among their competent authorities, the exchange of information concerning legal issues related to the investigation and prosecution of these crimes as well as concerning suspicious cash transit transactions. Recalls the importance of implementation by the Member States of the EU instruments adopted in this respect;
10. Regarding the increased involvement of organised crime in the commission of crimes which has been observed, supports Eurojust's intention to improve its statistics tools in order to be able to provide the Council with more detailed figures concerning crimes of this type;

11. Notes that the use of Eurojust powers under Article 7(1) of the Decision is still limited, despite an increase in requests under Article 6(a). Endorses Eurojust's assessment that the new Eurojust Decision includes improvements in the exchange of information and strengthening of the powers of National Members and the College, thereby enhancing the possibility of coordinating investigations and prosecutions. Endorses, in this respect, the efforts made with a view to establishing the Eurojust National Coordination System and calls on Eurojust and the Member States to increase their efforts with a view to setting up the system efficiently by June 2011;
12. Recognises the role of Eurojust in promoting and supporting the setting up of Joint Investigation Teams and the sharing of best practice in this respect. Reiterates its positive assessment of the effectiveness of JITs in the cases in which they were created. Praises the inclusion of comprehensive information in relation to JITs, including information on financial assistance, on the Eurojust website. Invites Member States and Eurojust to undertake further efforts in order to promote among practitioners the setting up JITs (Articles 6 and 7(1) of the Eurojust Decision) as well as the involvement, where appropriate, of other EU bodies such as Europol or OLAF. Underlines the role that JITs can play in the investigation of crimes involving organised crime activity;
13. Welcomes the contribution to the identification of issues linked to the practical application of the European Arrest Warrant and suggests reflecting on them with a view to finding solutions. Further encourages Eurojust to gather information , based on its activities, on the practical and legal difficulties related to the use of judicial cooperation instruments, including via the Eurojust National Coordination Systems once they have been established, to analyse them and to report to the Council, the Parliament and the Commission;

14. Welcomes the work which has been carried out by Eurojust in modernising the European Pool Against Organised Crime (EPOC) software used for the operation of the Eurojust Case Management System (CMS). Underlines the importance of the compliance of such software with commonly agreed standards and principles to ensure interoperability, as called for by the Information Management Strategy for EU Internal security (IMS). Looks forward to the swift implementation, on this basis, of the changes stemming from the new Eurojust Decision in respect of the exchange and provision of information to Eurojust. Believes that it will further strengthen Eurojust's capacity to deal with and analyse received information effectively including cross-referencing analysis. Stresses the importance of exploiting the full potential of the Eurojust database with a view to possible requests to Member States, on the basis of cross-referencing analysis, to initiate investigations, thereby playing an important role in stimulating Member States' cooperation and coordination;
15. Appreciates the new revised Eurojust website which now provides detailed and updated information on its activity. Welcomes the fact that the website includes dedicated sections on Joint Investigation Teams or the Contact Point for Child Protection. Encourages Eurojust to establish similar sections in respect of the other networks for which Eurojust is to provide Secretariats;
16. Welcomes the intention of Eurojust to further enhance its cooperation with the European Judicial Network, both at the central level, as well as via the Eurojust National Coordination System in the Member States, as laid down in Article 25a of the new Eurojust Decision;
17. Appreciates the signing of the new cooperation agreement between Eurojust and Europol. Believes it will increase the effectiveness of cooperation in both strategic and operational aspects, in particular by fostering Eurojust's access to information in Europol's Analytical Work Files (AWFs) and Europol's access to information when participating in coordination meetings at Eurojust. Awaits the submission of the joint annual report on cooperation;

18. Welcomes the strategic project on enhancement of exchange of information and MLA between judicial authorities of the Member States, which Eurojust has prepared together with Europol. Notes the initial results of this undertaking with interest and awaits further information on its outcome;
19. Notes with interest the increasing scope of cooperation between Eurojust and OLAF in respect of investigations of fraud-related crimes. Considers that this privileged partnership in the fight against fraud, corruption and other crimes affecting the financial interests of the EU should be consolidated;
20. Welcomes the initiatives taken by Eurojust with a view to strengthening the cooperation with the European Police College CEPOL which resulted in the conclusion of a Memorandum of Understanding which entered into force on 7 December 2009;
21. Calls for the establishment of formal working arrangements with FRONTEX which would go beyond the ad hoc cooperation so far established;
22. Welcomes Eurojust's efforts to strengthen its relations with third States and organisations outside the EU, in particular in view of difficulties related to data protection issues, where there is a need for such relations;
23. Reiterates the need to focus the National Members' activity on Eurojust core business, which is to work on cases. Invites Eurojust to further consider measures in order to reduce the burden put on the College and on National Members stemming from tasks other than those provided for in Articles 6 and 7 of the Council Decision. Welcomes the Project on College Performance and the Organisational Structure Review Project (OSR) undertaken by Eurojust to review the College's tasks, responsibilities and working methods as well as to enhance the efficiency of the Unit by reviewing its management structure and the roles and responsibilities of internal stakeholders. Awaits the presentation of the results of these projects in the future report;

24. Shares Eurojust's view on the significance of the efficient and prompt implementation of the new Council Decision on the strengthening of Eurojust, amending the Decision of 28 February 2002 setting up Eurojust. Welcomes the outcome achieved so far by the Informal Working Group and invites Eurojust and Member States to continue working together on the implementation of the new Decision so that the objectives set out therein are met. Awaits the revision of the Rules of Procedure to align them on the new Decision. Invites Eurojust to report on the setting up of the On-Call Coordination introduced by the new Decision and the added value brought by it;
25. Recognises the urgency of concluding the process of finding new premises for Eurojust. Regarding the character of the work of Eurojust National Members and national desks, underlines the importance of finding a site which would allow all Eurojust staff to work in one building;
26. Invites Member States, the relevant Council preparatory bodies and the Commission to analyse the Annual Report with a view to identifying possible courses of action to enhance the effectiveness of judicial cooperation and coordination in Europe;
- 26(bis) Invites Eurojust to continue providing versions of Eurojust Annual reports in all official languages of the institutions of the European Union, and to do so as soon as possible;
- 26(ter) Invites Eurojust to publish Council conclusions on Eurojust Annual reports on its website;
27. Invites Eurojust to report on the implementation of these conclusions in its next Annual Report.