



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 20 September 2007

13079/07

**EUROJUST 48
EJN 26
COPEN 133**

NOTE

From : General Secretariat
To : Delegations

Subject : Eurojust's initial contribution for the European Commission Communication concerning the future of Eurojust and the European Judicial Network

Delegations will find attached Eurojust's initial contribution for the European Commission Communication concerning the future of Eurojust and the European Judicial Network. Eurojust has announced that it will, before the seminar in Lisbon on 29-30 October 2007, submit a further contribution.



EUROJUST’S CONTRIBUTION
FOR THE EUROPEAN COMMISSION COMMUNICATION
CONCERNING
THE FUTURE OF EUROJUST AND THE EUROPEAN JUDICIAL NETWORK

1. Generally

Eurojust welcomes the forthcoming Communication from the Commission on the future of Eurojust and the EJM (hereafter “the Communication”). We feel that this document will launch a timely opportunity to reflect on both Eurojust and the European Judicial Network (hereafter “the EJM”), assessing whether their respective structures and functioning are satisfactory and whether they allow them to fully and efficiently achieve their objectives. In this respect we are grateful that the Communication will also provide a valuable opportunity to evaluate the *acquis* built since Eurojust was created in 2002, and to consider which changes and improvements are required in the current framework to maximise its contribution to the strengthening of the Area of Freedom, Security and Justice. We feel that such an assessment could, if necessary, be coupled with or complemented by an external evaluation of the functioning of both structures.

We believe that all that is possible must be done to develop Eurojust’s potential fully. This could start by ensuring a maximal use of the tools which Eurojust currently possesses, e.g. by promoting a full implementation of the Eurojust Decision¹ in the Member States and by using the possibilities contained in this Decision as well as in other instruments involving Eurojust. This could also be achieved by changing certain structures as well as to the College’s and Eurojust National Members’ tasks and powers and via a clarification and revision of the relationship between Eurojust and others partners with whom Eurojust deals within the EU area of judicial and police co-operation in criminal matters and of their respective roles.

¹ Decision setting up Eurojust with a view to reinforcing the Fight against Serious Crime, O.J. L 63/1, 06.03.2002.



Although we have made this point in the past, Eurojust would like to draw the Commission's attention to the necessity of making full use of existing structures and mechanisms before creating new ones in order to avoid cumbersome procedures and or confusion.

Additionally we would stress that Eurojust's future is strongly linked with the further development of the Area of Freedom, Security and Justice in which we must be a key player in mutual legal assistance issues and, more generally, in practical matters related to EU criminal policy-making. Eurojust's contributions should obviously be made along with other players who are also involved in this field.

Our contribution will focus on the future of Eurojust and on our relationship with our sister organisation the EJM.

We have structured this paper by grouping our ideas under common themes for ease of reference. Where applicable we will indicate where we feel legislative changes would be required to implement the points referred to below.

2. Full implementation of the Eurojust Decision

We have mentioned above the need for the Member States to implement the Eurojust Decision fully in order to allow Eurojust, and the authorities in the Member States, to exploit its full potential and utilise all the possibilities contained in that Decision. This includes:

- The need to ensure that the Member States' competent authorities answer requests made under Article 6 of the Eurojust Decision;
- The need for those Member States which have not yet done so to recognise the role of their National Member, and to define or to lay down his/her powers and prerogatives in their national legislation (Article 9(3) of the Eurojust Decision for the latter point);



-
- The need for the Member States to put in place or appoint national correspondents in accordance with Article 12(1) of the Eurojust Decision (a *lacuna* which has been pointed out on several occasions);
 - The need for national authorities to be stimulated and encouraged to exchange with Eurojust any information which is necessary for the performance of its tasks (Article 13(1) of the Decision)¹. This could be done, for example, by clearly listing the types of information which should be forwarded to Eurojust;
 - The need for all National Members to be empowered under their respective national legislation to exchange any information necessary for the performance of Eurojust's tasks, without prior authorisation, either among themselves or with their Member State's competent authorities (Article 13(2) of the Decision);
 - The need to fully implement Article 26(4) of the Decision which addresses the receipt and transmission of information between Eurojust and OLAF.

Full implementation of the Eurojust Decision not only concerns the Member States but also Eurojust itself which should, for example, be able to maximise the use of the tasks which are at its disposition, namely Articles 6 and 7 of the Eurojust Decision. An increased use of these provisions obviously depends in part on the information received from the Member States (see also section 4 below).

¹ In this regard, it may be necessary to set out guidelines for the Member States' competent authorities on how to exchange such information.



Furthermore, we must stress the need for an assessment and scheduling of the evolution of Eurojust's activities. Many will consider it surprising that five years after its creation, certain Member States have not yet implemented the Eurojust Decision into their national legal systems. This observation also applies to the Council Decision on the exchange of information and co-operation concerning terrorist offences¹ which lack of implementation has a negative impact on Eurojust's work. We feel that an action plan or "calendar of activities" must be established, and regularly assessed to ensure that relevant EU instruments come into effect and so improve the efficiency of Eurojust and through it bring increased effectiveness of the national investigating and prosecuting authorities in Member States.

3. The College, the National Members and their powers/tasks

Eurojust would like to emphasise that it is satisfied with the current structure of the College. The fact that all Member States are represented by a National Member is an important asset which is adapted to Eurojust's *raison d'être* and functions.

We feel that the current arrangements should remain for National Members being appointed and remunerated by the Member States in order to retain their independence, constitute a natural bridge between the relevant authorities in the Member States and EU levels and as well as encouraging and stimulating appropriate interaction with Eurojust. This should also be the case for the Deputies and the Assistants to the National Members. In this regard, a uniform minimum period for the appointment of the National Members, Deputies and Assistants should be incorporated into Article 2 of the Eurojust Decision.

¹ O.J. L 253/22, 29.09.2005.



When setting up this minimum period, the Member States should take into account and reflect the importance of the tasks performed by the national desks at the operational and strategic levels, also allowing them to follow the developments in the EU Area of Freedom, Security and Justice with a long-term perspective. In a similar vein and to enable each national desk to deal with constantly increasing casework, Eurojust would like to draw the attention to the need for the Member States to deploy sufficient resources so that each national desk has the support it needs – the aim should be to have at least by one Deputy and one Assistant- as the total workload and, in particular, the casework increase. This is in addition to the complementary support in the form for example of Seconded national experts to help deal with the increasing caseloads. In this regard, possibilities should be explored in order to further provide an appropriate legal basis to employ increased human resources paid for by the EU. This would permit parts of the Eurojust Administration to assist the College with its casework.

Finally, Eurojust would like to emphasise the need for those Member States which have not yet done so to recognise the role of their National Member and to define or to lay down his/her powers and prerogatives in their national legislation.

3.1. Powers and prerogatives of the National Members in their respective national legal system

We take the view that the current wording of Article 9(3) of the Eurojust Decision offers a range of flexibility to the Member States allowing them to define the nature and extent of its National Member's judicial powers within its own territory and in their respective national legal systems. We also feel that an increased and a uniform minimum level of powers – allowing the National Members depending on their legal systems to at least retain their prosecutorial powers or to be vested with such powers (e.g. the power to initiate and/or make an investigation) – is important to enable Eurojust to act in a more co-ordinated way. If needed for the National Members, such an increase of these powers at national level could be achieved either by adopting an EU instrument to that effect, by modifying Article 9(3) of the Eurojust Decision, or by asking those Member States which have given fewer powers to their National Members to provide additional ones.

Similarly we would like to point out that the minimum access to information at national level provided by Article 9(4) of the Eurojust Decision *is too basic a level and should be increased* either via the adoption of an EU instrument to that effect, or by modifying this provision to reflect the need for increased and common access to similar information for all National Members. For example, access to all national databases *should be paramount*. Additionally, further progress should be made in due course when the principle of availability is adopted.

3.2. Tasks of the College and the National Members acting on behalf of Eurojust

We mentioned previously that the National Members should be given the capacity in their national law to be able to exercise their instrumental tasks aimed at facilitating judicial co-operation, under Articles 6(a) and 7(a) of the Eurojust Decision and so exploit more fully the possibilities which already exist under the Eurojust Decision. A more extensive use of these tasks will obviously depend in part on the information that is forwarded to the National Members by their competent national authorities (see also section 4 below).

In the context of these tasks, we feel *all requests* made by Eurojust (and not only those made under Article 7 of the Eurojust Decision) should have a more *binding character*, coupled with an obligation to justify and motivate the request. This would require a modification of Article 6 of the Eurojust Decision.

Moreover, Eurojust feels that the exercise of additional tasks is paramount for it in order to achieve its objectives and fully contribute to facilitating judicial co-operation. These new tasks would obviously require a modification of Articles 6 and 7 of the Eurojust Decision and, where appropriate, the amendment of existing EU instruments, or the adoption of additional ones. These supplementary tasks could include, for example, the following:

- Issue European Arrest Warrants;
- Issue and answer letters rogatory;

- Monitor the execution of mutual legal assistance requests, for example by supporting their national authorities;
- Authorise controlled deliveries;
- Direct and/or order the opening of an AWF;
- Initiate and lead JITs;
- Monitor all JITs;
- Have a dispute resolution function in European Arrest Warrant, mutual legal assistance and conflict of jurisdiction cases.

In addition, we see the need to provide accurate judicial information, including accurate criminal records, as a key part of our work. We hope we can develop this capacity and to work in partnership with the Member States and the Commission in this regard. We also feel that Eurojust's role as a facilitator with specific expertise, which is already acknowledged in a number of mutual recognition instruments, such as the European Evidence Warrant, should be further enhanced and developed in additional mutual recognition instruments.

Furthermore, National Members and the College should also be able to exercise certain powers in emergency situations. Such powers could include ordering specific immediate actions in the context of controlled deliveries, freezing and seizure measures, ordering prosecution or investigative measures, etc. We accept that this would also require a modification of the relevant provisions of the Eurojust Decision.

4. Information gathering and relations with the competent national authorities

The quality and quantity of information received by Eurojust from the competent national authorities has been insufficient to allow it to fully fulfil its role. Such information is however a key factor now and in future on which Eurojust depends to fulfil its core casework task.



We feel that a systematic and consistent obligation to report all serious cross-border cases at an early stage should be introduced either in an amended version of Article 13(1) of the Eurojust Decision and/or in the national law of the Member States. We feel that the scope of this obligation should be clarified; for example is it necessary to receive a copy of all letters of request? We also feel that more thought should be given to finding ways of ensuring that all Member States provide similar and equivalent information to Eurojust about most serious forms of cross-border crime. Moreover, Eurojust should be informed consistently and systematically by the Member States which are considering setting up a JIT. We also believe that we should be informed with the same consistency by the executing judicial authorities of all competing European Arrest Warrants¹, terrorism-related information, undercover investigations, etc. Some of those points would require a modification of the Eurojust Decision and/or of relevant EU instruments.

Internally, Eurojust should improve the operational effectiveness of its Case Management System and ensure that all relevant information from its casework is contained therein. Due to increasing workloads, this should be done by additional staff from the Eurojust's Administration which should be recruited and directly attached to the national desks with appropriate financial resources.

In a different line of thought and in order to provide the best possible assistance to the Member States, Eurojust should explore the possibility of the economic viability of an in-house translation service, which would require additional administrative personnel and EU funding.

¹ This would require a modification of Article 16(2) of the Framework Decision on the European Arrest Warrant and the Surrender Procedures between Member States, O.J. L 190/1, 18.07.2002, which currently formulates this as a possibility for the executing judicial authorities.



It is important for an effective flow of information that the Member States appoint national correspondents to Eurojust under Article 12(1) of the Eurojust Decision. The significance of national correspondents should not be underestimated. These national correspondents should systematically be EJM contact points or, where appropriate, EJM co-ordinating contact points¹ (or former ones in line with section 5.1. below). This would require a modification of Article 12 of the Eurojust Decision.

We feel that the transmission of information to and from Eurojust could also be facilitated by the creation, where appropriate, of “Eurojust national offices” which could act as co-ordinating centres for information and marketing about Eurojust and regarding case referrals. The creation of such offices could stimulate case referrals to Eurojust, giving Eurojust a formal point of entry at a national level in each of the Member States instead of simply remaining at EU level. As we have mentioned above, these offices should be staffed with EJM contact points/co-ordinating contact points (or former ones in line with section 5.1. below – see also footnote 5 and section 6.1. below) and should receive appropriate funding from the EU in order to fulfil their mandate.

Finally and in order to address the need to tackle serious cross-border crime by adopting a multidisciplinary approach, Eurojust should aim in the long-run at establishing information exchange mechanisms not only with the competent national judicial authorities, but also with police, administrative, customs authorities and others at national level as well as with EU and international bodies such as SitCen, Frontex, Interpol and the World Customs Organisation.

¹ In this regard, the EJM Vision Paper foresees the appointment of EJM “co-ordinating contact points” in the Member States. According to this paper, these co-ordinating contact points could be responsible for liaising with other “regular” contact points, if necessary to improve the efficiency of the EJM as the experience in several Member States shows. See the EJM Vision Paper adopted during the 25th Plenary Meeting (Rovaniemi, Finland), 29.11.2006-01.12.2006, page 4.



5. Relationship between Eurojust and other actors in the area of judicial and police co-operation in criminal matters

Despite the fact that Article 26 of the Eurojust Decision stresses the need for Eurojust to maintain close co-operation and privileged relations based on consultation and complementarities with the EJM, Europol and OLAF, as well as a case-by-case co-operation with Liaison Magistrates, Eurojust would like to emphasise the need for further clarification of the scope of action of each of these actors as well as their interrelationship. It would help to avoid the confusion which often exists between their respective roles, preventing duplication of work, and maximising not only their respective but also their mutual support and harness common synergies. Such clarification should be considered as part of an integrated approach by the judicial systems which could include Eurojust being involved in monitoring and evaluating mutual legal assistance and related activities. In this regard, Eurojust believes that the Commission's Communication should reflect as integrated approach as is possible.

5.1. Relationship with the EJM

Although the Eurojust Decision states that Eurojust should maintain "*privileged relations with the European Judicial Network based on consultation and complementarity (...)*"¹, its current relationship with the EJM should be improved.

¹ Article 26(2) of the Eurojust Decision.



This need for improvement stems from the fact that, although there are differences between the objectives and structures of Eurojust and the EJM, there is also an element of overlap between those objectives of both structures, including the speeding up and facilitation of mutual legal assistance requests¹ both in the instruments creating them as well as in practical operations they carry out. Such overlap creates confusion about Eurojust's and the EJM's respective role, how they should work together and exchange information on cases they are dealing with. This results in occasional competition between the two structures and a certain duplication of work between them. Furthermore, there is no common understanding or interpretation of the similar tasks and role of Eurojust and the EJM. The relationship between the two structures has often given rise to mixed experiences in the various Member States which will need to be addressed when considering the future development of the Eurojust-EJM relationship and taking into account the redefined roles of the central authorities following the EU Convention on Mutual Assistance in Criminal Matters of 2000².

In addition and from an "outside" or "user's" perspective, this overlap can make it difficult to know which of the two structures should be addressed for which types of cases.

¹ On the two structures' tasks in general, see Articles 3-8 of the Decision; and Articles 3-4 of the Joint Action on the Creation of a European Judicial Network, O.J. L 191/4, 07.07.1998. In particular, regarding the speeding up of mutual legal assistance requests, see Article 3 of the Decision; and Article 4 of the Joint Action on the EJM.

² Council Act of 29 May 2000 establishing in accordance with Article 34 of the Treaty on European Union the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union, O.J. C 197/1, 12.07.2000.



In this regard, Eurojust believes that the partial overlap between its mandate and that of the EJM should be addressed by merging the two structures into a single organisation. This would require the “integration” of the EJM into Eurojust, i.e. Eurojust would merge with the EJM’s function taking into account the need for a number of former EJM contact points/co-ordinating contact points to remain, although under Eurojust’s umbrella. Some of the remaining contact points could continue to work in the Member States in “Eurojust national offices” should such offices be established (see also section 4 above). Additionally, as such a merger of the EJM’s functions would increase requests for assistance coming to Eurojust and, as a result, substantially increase the national desks’ workload, some other contact points/co-ordinating contact points could become part of those national desks either by being based at Eurojust, or by remaining in the Member States whether in the Eurojust national offices or as individual “satellite” members of the national desks.

It goes without saying that such merger would require substantial structural changes which would need to be carefully reflected on. Such merger would also require important legislative changes, such as the repealing of the EJM Joint Action; a modification of the Eurojust Decision to incorporate in it the objectives and functions of the EJM which do not overlap with Eurojust; and a modification of that Decision with a view to incorporate the abovementioned role of the remaining EJM contact points/co-ordinating contact points taking into account the different framework in which the EJM was set up and, consequently, making the necessary adaptations.



5.2. Relationship with Europol

Although Article 26(1) of the Eurojust Decision states that “*Eurojust shall establish and maintain close co-operation with Europol, in so far as is relevant for the performance of the tasks of Eurojust and for achieving its objectives, taking account of the need to avoid duplication of effort*”, and although Eurojust and Europol have enjoyed increased co-operation in strategic, operational and administrative matters during the past two years¹, their relationship is not yet fully satisfactory. This is mostly due to two factors: first the need for Eurojust and Europol to further involve, interact and inform one another of matters within their respective competence, and second, a necessity to enhance the “synergy” between the two bodies.

First of all, there is a need to fully implement the possibilities which currently exist under the co-operation agreement signed between Eurojust and Europol in 2004². We should emphasise that this agreement already provides for a basis for a certain mutual information exchange and involvement of both parties.

However despite the fact that this co-operation agreement provides for regular consultations on matters of common interest in order to achieve Eurojust’s and Europol’s respective objectives³ and co-ordinate their activities, a number of issues relating to the exchange of information should be stressed as they are paramount for developing a successful and effective relationship between the two bodies.

¹ Annual Report to the Council on Co-operation between Eurojust and Europol for 2005 and 2006, provided under Point 2.3. of the Hague Programme, was submitted to CATS in January 2007.

² Agreement between Eurojust and Europol, signed on 9 June 2004.

³ *Id.*, Articles 2-3.



For example and in general, we notes that Eurojust does not receive all information within its respective competence from Europol and that Eurojust is sometimes informed and/or involved at a later stage, thereby preventing Eurojust from fully fulfilling its role. In this respect an obligation to systematically inform one another of matters within one's respective competence would substantially contribute to improving the relationship between Eurojust and Europol by allowing them to take action where necessary.

Some thought should also be given to clarifying the meaning of the College's obligation of assistance to Europol which are set out in Article 7(d) and (f) of the Eurojust Decision as follows:

- *“When Eurojust acts as a College, it: shall give assistance in order to improve co-operation between the competent authorities of the Member States, in particular on the basis of Europol's analysis”.*
- *“When Eurojust acts as a College, it: may assist Europol, in particular by providing it with opinions based on analyses carried out by Europol”.*

In this respect Eurojust's analysis work with Europol should also be facilitated by the gathering of the widest possible range of information about criminal proceedings which have a transnational impact for Eurojust to provide its full input as foreseen in the Eurojust Decision.

In the same line of thought, the relationship between the national desks at Eurojust and the national liaison offices at Europol and, depending on the national systems, the national Europol units or their equivalent in the Member States, should be further developed and structured to allow for a much more rapid flow and exchange of information between Eurojust and Europol.



We should also comment on Europol's Analytical Work Files (hereafter "AWFs"). Despite the limited possibilities set out in Article 5 of the co-operation agreement and the improvements made by the so-called "Danish Protocol" amending the Europol Convention¹ which further associates Eurojust with these AWFs, Eurojust should be entitled to systematically and automatically take part in AWFs as a full partner and not as a "third State" or "third body". Eurojust was located in The Hague to work closely with Europol. At present this partnership is not able to operate effectively. Eurojust should, for example, systematically receive the results of AWFs as this would be beneficial for the effective conduct out of its casework.

Eurojust and Europol have separate databases and the differences between the two bodies' mandates and spheres of action. Eurojust considers that it is not advisable to link these databases. However, for the future it could be envisaged for Eurojust to partially access Europol's indexes system under certain conditions and for specific purposes.

Better mutual understanding could also be achieved by considering Eurojust's participation as an observer in meetings of the Heads of Europol National Units (or "HENUs") – who meet with the purpose of i.a. advising Europol on strategic and operational matters.

Finally, any evolution giving Europol operational potentialities will have consequences on Eurojust's role as a European judicial body at the EU level. In this regard, it should be pointed out in particular that the present contribution should be considered in light of the current proposal to expand Europol's potential².

¹ O.J. C 2/1, 06.01.2004. See Article 1(6)(f) amending Article 10 of the Europol Convention, which entry into force is foreseen on 18 April 2007.

² Proposal for a Council Decision establishing the European Police Office (EUROPOL), COM(2006) 817 final, 20.12.2006.



5.3. Relationship with OLAF

Article 26 of the Eurojust Decision requires that Eurojust and OLAF establish and maintain close co-operation. In this regard and although progress is being made in the Eurojust-OLAF co-operation, the experience of National Members with OLAF has been mixed and, overall, the co-operation cannot yet be considered as sufficient and satisfactory. Therefore, a number of steps should be taken in order for this partnership to become more efficient and effective.

Eurojust considers that a formal and clear mutual obligation for OLAF and Eurojust to inform one another, at an early stage, of all cases falling within their respective competence would be desirable as it could circumvent this problem and facilitate better co-operation which has, so far, often been disappointing in both legal and practical terms. Such an obligation which is not contained in the Memorandum of Understanding concluded between Eurojust and OLAF¹ in 2003 would contribute to avoiding occasional competition between the two structures and to enhance the “synergy” between them. In parallel to this, a full implementation of Article 26(4) of the Eurojust Decision (which addresses the receipt and transmission of information between the two structures) would already improve the co-operation between them.

Another way of improving this co-operation could be to consider the appointment of contact points from Eurojust and OLAF who could improve the communication and serve as a link to the other body and answer questions about the other body. These contact points could also promote the added value for OLAF investigators of contacting the National Members in specific cases.

¹ Memorandum of Understanding between the European Judicial Co-operation Unit (“Eurojust”) and the European Anti-Fraud office (OLAF), signed on 14 April 2003. This document provides that Eurojust and OLAF should immediately and spontaneously inform one another, in writing or orally of cases within their respective competence (point 1 thereof).

It should also be envisaged whether the relevant sections of Articles 6 to 8 of the Eurojust Decision could apply to OLAF in order for Eurojust to formalise its requests to OLAF and to assist national authorities to support requests under Article 7 of the Eurojust Decision, oblige it to respond to such requests by duly justifying and motivating any refusal to co-operate¹. This would require the addition of OLAF (where appropriate) in Articles 6 to 8 of the Eurojust Decision which currently refers to the “*competent authorities of the Member States concerned*”.

Finally, we feel it important to mention that a merger of Eurojust and OLAF is not advisable given the specific function of OLAF to act as an administrative investigator.

5.4. Relationship with the Liaison Magistrates²

Article 26 of the Eurojust Decision underlines that Eurojust National Members may co-operate on a case-by-case basis with Liaison Magistrates. In this regard, Eurojust would welcome further consideration at EU level of the relationship between Liaison Magistrates and Eurojust to improve their relationship and avoid overlaps in issues related to mutual legal assistance, and taking into account the obvious need for Eurojust to keep an overview of these issues and its specific role at EU level in this area of work.

6. Relationship with third States, EU institutions and other structures

6.1. Relationship with third States and other structures

The size and structure of transnational criminal networks often have a worldwide impact even if they operate from within the EU. This makes it essential that the action of Eurojust be extended to build strong relationships with third States. In this regard, it must be noted that relations between Eurojust and third States have, so far, been fruitful.

¹ As similar regime could also be foreseen for Article 6 of the Eurojust Decision, providing an amendment of this provision.

² Joint Action concerning a Framework for the Exchange of Liaison Magistrates to improve Judicial Co-operation between the Member States of the European Union, O.J. L 105/1, 27.04.1996.



Eurojust’s mandate means it should focus and develop EU-related relationships, it should also aim at becoming a “one-stop shop” for multinational co-operation on cases within the EU with an external international dimension. This suggestion that Eurojust be designated as a central point for complex multilateral mutual legal assistance requests coming from other parts of the world, especially when they are sent to several European countries, should be considered carefully. It would encourage a more co-ordinated approach of investigations and prosecutions conducted in the Member States.

Eurojust will continue to conclude a series of operational co-operation agreements with third States, such as neighbourhood States on the basis of Article 27 of the Eurojust Decision. In this regard, criteria to prioritise the conclusion of agreements should be established. This should be done in line with Eurojust’s experience in this area as well as its own operational priorities whilst also taking into account the Council of the EU’s priorities and external relations policy.

In the framework of these co-operation agreements, Eurojust intends to continue to promote the seconding of liaison prosecutors to Eurojust¹ strongly as this contributes to reinforcing co-operation between Eurojust and third States, and to their respective marketing. To promote this, EU financial resources should be more flexible and available to allow Eurojust to host liaison prosecutors in appropriate cases. These financial resources could obviously be coupled with contributions from third States if and where needed.

In general but particularly when no co-operation agreement has been concluded, Eurojust believes it is paramount to continue to develop a network of contact points in third States and to associate them with its work where needed.

If there is an operational need to strengthen its relation with third States, consideration should also be given to setting up “Eurojust offices” in some third States which could also deal with countries of the same region.

¹ As is currently the case with Norway and the United States.



Finally, Eurojust should establish a framework and a capacity for co-operation with entities having no legal personality (such as IberRed, Caribbean network and EuroMed) but with which sound and structured co-operation would contribute to achieving Eurojust's objectives.

6.2. Relationship with the EU institutions and in particular the Commission and the Council

Eurojust wishes to emphasise the importance of being involved and playing an active role in the process leading to the adoption of various initiatives relating to the improvement of judicial co-operation in criminal matters, e.g. witness protection, initiatives in the field of criminal records, agreements with third States regarding judicial co-operation, undercover agents, etc. Eurojust believes that its expertise in this area allows it to contribute valuably to such processes.

These contributions could take place by a systematic invitation to Eurojust to attend those parts of Council working group meetings which are related to its area of work. This could also be done by the Commission which should consult Eurojust at the preliminary stage when drafting initiatives or reports which are related to Eurojust's mandate. Eurojust has noticed specific mutual advantages when it is invited to attend such meetings or is consulted. A recent illustration of this is the impact recently on the drafting of the provisions concerning Eurojust's access to alerts contained in the second generation of the Schengen Information System. In this vein, we feel that more regular invitations for topics of common interest would be beneficial for all involved parties.

6.3. Eurojust and a future European Public Prosecutor

Should a European Public Prosecutor be created, Eurojust is ready to fulfil its tasks as foreseen in Article III-274 of the Constitutional Treaty¹.

¹ O.J. C 310/1, 16.12.2004. Note: this instrument is not in force.



Before the possible establishment of a European Public Prosecutor, Eurojust believes that the strengthening of the College's tasks and of the individual National Members' powers is an important way to improve the efficiency of the fight against transnational criminal networks and activities.

6.4. Relationship with networks related to judicial co-operation in criminal matters in the EU

The diversity of networks involved in judicial co-operation in criminal matters (e.g. JITs national experts network, genocide network and European Judicial Training Network) calls for the setting up of a central, administrative, inter-face for various networks. The creation of such a structure would have the advantage of offering one central point for contacting these networks. There would be considerable cost savings in have one secretariat for such networks. At the same time, this would contribute to avoiding overlap between the work done by the different networks, and, as a result, it would improve consistency and "synergy" between them. Finally, this would also support the achievement of Eurojust's objectives and tasks. Given its key role in the area of judicial co-operation, such administrative structure should be created within Eurojust. This would require the creation of an additional administrative capacity to form a unit within it with its own personnel and financial resources.

Concerning the European Judicial Training Network in particular, we believe that such co-operation is crucial in order to develop, in a practical environment, the knowledge of judicial national authorities regarding the use of European tools to fight organised crime.



*

If possible, Eurojust would be grateful to be involved in the drafting of the Commission's Communication. In this regard, we would be pleased to offer the Commission its assistance to work and co-operate on any additional questions which could arise during the drafting process.

Eurojust would also like to thank the Commission for this opportunity to make this contribution. We remain available to provide any further information require.
