



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 18 February 2011

5843/11

LIMITE

**ENFOPOL 15
EUROJUST 11**

**DOCUMENT PARTIALLY
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NOTE

From:	Europol - Eurojust
To:	Delegations
No. prev. doc.	16760/08 EUROJUST 110 ENFOPOL 250
Subject:	Annual Report to the Council 2009 pursuant to Point III 2.3 of the Hague Programme on the co-operation between Eurojust and Europol 2009

In accordance with point III 2.3 of Hague Programme which requires Eurojust and Europol to provide the Council with an annual report on co-operation between the two organisations, delegations will find attached the joint Eurojust-Europol report to the Council on co-operation between Eurojust and Europol for 2009.

The report has been approved by both Europol and by the College of Eurojust.

Joint Eurojust-Europol Annual Report to the Council 2009
pursuant to Point III 2.3 of the Hague Programme on the co-operation between Eurojust and
Europol 2009

Point III.2.3 of the Hague Programme (“Police cooperation”), Annex I of the Presidency Conclusions of the Brussels European Council (4/5 November 2004)¹, provides that Eurojust and Europol “...*should report annually to the Council on their common experiences and about specific results...*”. What follows is the joint report for 2009.

I. Introduction

Close co-operation between Eurojust and Europol is essential to achieve their common objective of combating serious cross-border crime, and also to avoid duplication of effort. Eurojust and Europol share complementary aims and goals, the extent of which are evident in their mandates. The legal basis for their co-operation is the revised Eurojust-Europol Agreement (the “Agreement”)², together with their legal framework³. The goals of the Agreement are to further improve the quantity and quality of co-operation and to enhance effectiveness, with the overall objective of increased information exchange. The Agreement offers a range of new possibilities for additional co-operation. Ambitious implementation efforts will be needed to put the Agreement into practice on an operational basis.

The key areas of co-operation for 2009 are set out below, under strategic co-operation (II) and operational co-operation (III). The report ends with conclusions (IV).

¹ Council document 16054/04 JAI 559 of 13 December 2004.

² Agreement between Eurojust and Europol, signed at The Hague on 1 October 2009. The Agreement entered into force on 1 January 2010 and repealed the Agreement of 9 June 2004.

³ On 4 June 2009, the new Eurojust Council Decision 2009/426/JHA of 16 December 2008 on the strengthening of Eurojust and amending Decision 2002/187/JHA setting up Eurojust with a view to reinforcing the fight against serious crime entered into force. The Europol Council Decision of 6 April 2009 establishing the European Police Office (Europol) entered into force on 1 January 2010.

II. Strategic Co-operation

1. Meetings of President of Eurojust and Director of Europol

Regular contact and exchange of ideas between the President of Eurojust and the Director of Europol helped to intensify bilateral co-operation as well as to co-ordinate issues of common interest and importance. The President of Eurojust and the Director of Europol held regular meetings in 2009 to exchange views on specific topics with a view to fostering those relationships. Topics covered included the implementation of the Agreement, Eurojust's association with Analysis Work Files (AWFs), the continued close co-operation in joint investigation teams and the Organised Crime Threat Assessment (OCTA).

2. Steering Committee and other important meetings

The main tool for co-operation in strategic matters is the Eurojust–Europol Steering Committee (the “Steering Committee”), which develops strategies and priorities for bilateral co-operation and monitors the implementation of the Agreement. The Steering Committee is composed of senior representatives of Eurojust and Europol. In 2009, the Steering Committee met four times. The Steering Committee uses a scoreboard to ensure that intended activities and achieved results are properly monitored.

Since 2007, Eurojust regularly attends the meetings of the Heads of Europol National Units (HENUs), which are held approximately six times a year, and the meetings of the European Police Chiefs Task Force (PCTF). This attendance has promoted awareness about issues of common concern.

Europol participated in the meetings of the Informal Working Group on the Implementation of the new Eurojust Decision in the Member States in 2009. Europol also participated in the Eurojust seminar, “the Eurojust National Coordination System and the exchange of information”, in September 2009, with an awareness of the necessity of close relations of the Europol National Units within the framework of the Eurojust National Coordination System.

3. Revised Co-operation Agreement

Among the goals of the Agreement are improving the level of co-operation between Eurojust and Europol and enhancing the exchange of information, particularly with regard to Europol's AWFs.

The Agreement provides the legal basis for additional co-operation activities, including measures, such as the temporary posting of representatives at each other's premises, and establishes the obligation to inform each other about participation in Joint Investigation Teams (JITs). The main objective of the Agreement is to achieve a more effective system of mutual and complementary information exchange, taking into account the roles and working procedures of the two organisations.

In preparation for the entry into force of the Agreement on 1 January 2010, an implementation task force (the "Task Force") was established to support the Agreement's operational effectiveness. The Task Force provides a forum for discussion at working level on a number of projects related to the new Agreement, e.g. the practical details for the temporary posting of representatives at each other's premises, further exploration of the use of the secure communication link between Eurojust and Europol, organisation of awareness sessions for internal and external partners, and evaluation of information exchange.

4. Joint Investigation Teams

Co-operation between Eurojust and Europol on their joint JITs project began in 2005. A portion of the project involves the joint organisation of the annual meeting of the Network of National Experts on JITs, which is hosted in turn by Eurojust and Europol. In 2009, the 5th JIT Experts Meeting took place on 30 November and 1 December 2009 at Eurojust; 92 experts and practitioners from 25 EU Member States and representatives from other EU organisations attended the meeting. Two workshops took place: one on the role and future of the JIT Experts Network, with particular emphasis on the new role of the JIT Secretariat once it is established within Eurojust in accordance with the revised Eurojust Decision; the second workshop focused on the possibility of revising the

Council's JIT Model Agreement. The overall outcome of the meeting, as highlighted in the conclusions of the meeting, was very positive.⁴

The JIT Manual produced by Eurojust and Europol with guidelines for practitioners on when and how to set up a JIT received equally positive feedback from the Member States and as a result was being translated into all EU official languages in 2009. The JIT Manual will be published on the JIT websites of Eurojust and Europol at the beginning of 2010.

Europol and Eurojust have continued to work together on another aspect of promoting the JIT as an important instrument in the fight against cross-border crime. Eurojust applied for and received a grant from the Commission under the "Prevention of and Fight against Crime"⁵ Programme, which allows Eurojust to provide financial and logistical support for JITs until December 2010. Four grants to Member States' JITs were made by Eurojust in the last quarter of 2009.

Europol is also exploring ways to complement the activities of Eurojust and EU Member States in their efforts to successfully combat serious and organised crime.

III. Operational Co-operation

1. Secure Communication Link

A Memorandum of Understanding on the Establishment of a Secure Communication Link between Eurojust and Europol was signed on 7 June 2007 to devise a technical means for the secure exchange of operational, strategic and technical information between the two organisations. The conclusion of a Memorandum of Understanding on a Table of Equivalence in September 2008 allows for the formal exchange of classified information up to and including "restricted" information.

⁴ Council document 17161/09 of 11 December 2009.

⁵ Council Decision of 12 February 2007 establishing for the period 2007 to 2013 the Specific Programme "Prevention of and Fight against Crime", OJ L 058, 24.2.2007, p.7.

In 2009, a total of 529 messages were exchanged through this communication channel (from the Eurojust Message Gateway to the Europol Message Gateway and vice versa), a three-fold increase over the number of messages exchanged in 2008.

Efforts are ongoing to maximise the use of the secure link, particularly to enable its use by the Europol Liaison Bureaux and Eurojust National Desks.

2. Eurojust's association with Europol's AWFs

Eurojust's main role in the context of AWFs is the promotion of a judicial follow-up of Europol's analyses, i.e. identifying the competent judicial authorities, organising co-ordination meetings with national authorities, solving issues regarding the execution of European Arrest Warrants, organising synchronised activities to retrieve evidence in several countries (e.g. simultaneous house searches and other intrusive measures that often require authorisation from prosecutors or judges), stimulating the initiation or re-opening investigations at national level, and, in general, using its mandate as expressed in the Eurojust Decision.

Judicial co-ordination and co-operation activities complement the criminal analysis and police co-operation activities carried out by Europol, as is well illustrated by several joint operations in which Europol's criminal analyses have allowed the identification of targets and the links among them. These analyses have enabled Eurojust to act proactively in co-ordinating judicial follow up in cases of cross-border crime.

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3. EU Terrorism Situation and Trend Report

Co-operation between Eurojust and Europol was again evidenced in 2009 by the creation of the EU Terrorism Situation and Trend Report (TE-SAT). Eurojust contributed to this Europol product by collecting judicial data and providing case illustrations from prosecutions and convictions for terrorist offences sent to Eurojust by the national terrorist correspondents pursuant to Council Decision 2005/671/JHA of 20 September 2005 on the exchange of information and cooperation concerning terrorist offences.⁶

4. Joint operations and co-ordination meetings

Co-operation in operational matters continued to take place either via Eurojust co-ordination meetings or through Europol operational meetings. Eurojust held 131 co-ordination meetings in 2009, with Europol participating in approximately one-third. Europol in return has invited Eurojust to operational meetings involving the AWFs with which Eurojust has been associated and in which improved judicial co-operation was found to be beneficial to the further development of operations.

Information about upcoming Eurojust co-ordination meetings is sent every fortnight to Europol. In return, Europol – via the HENU secretariat - provides Eurojust with the annual meeting overview of the Europol Operations Department.

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⁶ Council Decision 2005/671/JHA of 20 September 2005 on the exchange of information and cooperation concerning terrorist offences.

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IV. Conclusion

The signing of the revised Cooperation Agreement between Eurojust and Europol in October 2009 represents a major step towards improving both the quantity and quality of co-operation between the two organisations. The Agreement provides the legal basis for increased and complementary information exchange, which will further stimulate the better use of the results of Europol's operational analysis.

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Nevertheless, association has already improved operational co-operation, as evidenced by Europol's participation in Eurojust's co-ordination meetings and in the increased judicial follow-up provided by Eurojust to common operations. The increase in information exchange through the secure link, and the successful execution of joint operations, also illustrate this trend.
