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Evaluation report on the sixth round of mutual evaluations:

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

Report on Sweden

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1. EXECUTIVE SUMMARY

1. In line with Article 2 of the Joint Action 97/827/JHA of 5 December 1997, the Working Party on General Matters including Evaluations (GENVAL) decided at the Meeting on 22 June 2011 that the sixth round of mutual evaluations will be devoted to the practical implementation and operation of the Decisions on Eurojust and the European Judicial Network in criminal matters.
2. In Sweden, no acts of parliament or regulations from the government were considered necessary as regards Eurojust or the EJP. As regards Eurojust, it was only deemed necessary to make a minor amendment in the act (1976:661) on immunity and privileges, granting the Administrative Director and the Eurojust staff immunity and privileges in Sweden.
3. Sweden has fully implemented the provisions of the new Eurojust Decision on the Eurojust National Coordination System (ENCS). There are no other authorities designated within the Swedish ENCS than those referred to in Article 12 of the Eurojust Decision, such as contact points for OLAF, Europol or others.
4. Four officials are appointed to the Swedish national desk at Eurojust. The Swedish national member, deputy and assistant have more powers than required according to the new Eurojust Decision. They can make all decisions of a national public prosecutor.
5. The EJP contact points represent key positions within the Swedish Prosecution Service (the Swedish Prosecution Authority and the Swedish Economic Crime Authority). There are nine EJP contact points in Sweden.
6. The Swedish desk at Eurojust has full access to the Swedish Prosecutor CMS (Cåbra) as well as all registers available to national prosecutors. From a technical point of view, the Swedish desk is on an equal footing with a national Public Prosecution Office.
7. At the prosecutorial level, terrorist cases are handled by the Prosecution Office for National Security which is a part of the Swedish Prosecution Authority.
8. Prosecutors generally get feedback from Eurojust within two or three weeks, sometimes even within a week. So far, only feedback following requests for assistance has been received from Eurojust. The Economic Crime Authority has not yet delivered any Article 13 information to Eurojust, but six cases have been reported to Eurojust by the Prosecution Authority on the basis of Article 13 of the Eurojust Decision.

9. There are some concerns among Swedish prosecutors regarding the confidentiality of the information sent to Eurojust in accordance with Article 13 of the Eurojust Decision, when the information is received and stored in Eurojust CMS.
10. The overarching principle is that the contacts between Swedish authorities and Eurojust shall be direct, non-bureaucratic and will not involve central authorities or the ENCS.
11. According to Sweden, coordination meetings are the most important tool of Eurojust. Almost any problem of international cooperation in criminal matters could be solved during coordination meetings.
12. The Swedish desk has been organised to meet the requirements of the OCC since June 4, 2011.
13. The Swedish desk has successful experience of JITs. Eurojust has been able to solve several conflicts of jurisdiction through the setting up of a JIT and in general facilitated the work of JITs in a very good way. Europol has assisted with analysis of very large amounts of criminal intelligence data which have been of added value for the JITs.
14. Sweden has on several occasions received from the Swedish desk at Eurojust valuable assistance regarding whom to contact and information concerning the legal system in third states.
15. The resources allocated to the Swedish EJM contact points are in general sufficient. All contact points are in principle able to assist regardless of to where in Sweden the case is to be referred. The number of cases handled by each EJM contact point varies from 5 up to 50 per year.
16. The Chief Public Prosecutors of Public Prosecution Offices (the Swedish Prosecution Authority as well as the Economic Crime Authority) have the competence to authorise and coordinate controlled deliveries. This competence can be delegated to other prosecutors. The Swedish national member has all the powers needed in this respect. Many times, Swedish authorities have, using Eurojust, successfully requested assistance from other Member States concerning e.g. interception of telecommunication and attachment of GPS transmitters to vehicles.

17. In Sweden, all newly employed public prosecutors undergo 15 weeks of training during their three first years as prosecutors. The training includes sessions on international cooperation. As for the Economic Crime Authority, training is provided for all personnel involved in such processes. The course is held once a year.
18. To Sweden, the establishment of Eurojust and the EJM has contributed significantly to a more efficient international judicial cooperation. The added value of Eurojust is greater than that of the EJM. This is mainly because Eurojust consists of national members from all Member States that are located at the same place, have an On call coordination (OCC) system and the capability to arrange coordination meetings and organise and finance JTs.

2. INTRODUCTION

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

In line with Article 2 of the Joint Action, the Working Party on General Matters including Evaluations (GENVAL) decided on 22 June 2011 that the sixth round of mutual evaluations should be devoted to the practical implementation and operation of the Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime, as amended by Decisions 2003/659/JHA and 2009/426/JHA and of the Joint Action 98/428/JHA of 29 June 1998 on the creation of a European Judicial Network repealed and replaced by Council Decision 2008/976/JHA on the European Judicial Network in criminal matters.

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

The questionnaire¹ for the sixth round of mutual evaluations was adopted by GENVAL on 31 October 2011. As agreed in GENVAL on 17 January 2012, Eurojust was also provided with a questionnaire². The questionnaire to Eurojust was adopted by GENVAL on 12 April 2012. The answers to the questionnaire addressed to Eurojust were provided to the General Secretariat of the Council on 20 July 2012, and have been taken into account in drawing up the present report.

¹ Doc. 12384/3/11 GENVAL 76 COPEN 176 EUROJUST 106 EJN 87.

² Doc. 5241/2/12 GENVAL 3 COPEN 6 EUROJUST 3 EJN 2.

The order of visits to the Member States was adopted by GENVAL on 31 October 2011.³ Sweden is the first Member State to be evaluated during this round of evaluations.

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

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

The experts charged with undertaking this evaluation were Ms Světlana Kloučková (Czech Republic), Ms Ritva Sahavirta (Finland) and Mr Laimonas Vasiliauskas (Lithuania). Four observers were also present: Ms Alexandra Jour-Schroeder (DG Justice, Commission), Mr Robert Sheehan and Ms Catherine Deboyser (Eurojust) and Mr Bart de Buck (Europol), together with Mr Hans G Nilsson and Mr Peter Bröms from the General Secretariat of the Council.

This report was prepared by the expert team with the assistance of the General Secretariat of the Council, based on findings arising from the evaluation visit that took place in Sweden between 7 May and 11 May 2012, and on Sweden's detailed replies to the evaluation questionnaire together with their detailed answers to ensuing follow-up questions.

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

3. GENERAL MATTERS AND STRUCTURES

3.1. General information

For the evaluation, the Member States were requested to indicate all relevant legal or statutory provisions, if any, they had to introduce or amend in order to bring national law into conformity with the Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime as amended by Decisions 2003/659/JHA and 2009/426/JHA (“the Eurojust Decision”), or indicating intentions in this respect, and all relevant legal or statutory provisions, if any, which they had to introduce or amend in order to implement Joint Action 98/428/JHA of 29 June 1998 on the creation of a European Judicial Network as well as Council Decision 2008/976/JHA adopted on 16 December 2008 and repealing the Joint Action (“the EJN Decision”).

As regards Sweden, concerning legislation, it was only deemed necessary to make a minor amendment in the Act (1976:661) on immunity and privileges. This amendment was made when the Council Decision 2002/187/JHA of 28 February 2002 was implemented and it grants the Administrative Director and the Eurojust staff immunity and privileges in Sweden. Apart from that, no acts of the parliament or regulations from the government were considered necessary at that time. However, after the evaluation visit, on June 14, 2012, the Swedish Government decided to amend the Ordinance (2007:971) with instructions concerning the Prosecution Authority and the Prosecutor Ordinance (2004:1265). The provisions entered into force on August 1, 2012. The amendments clarify that the Prosecution Authority has the overall responsibility for Sweden's prosecution activities at Eurojust; state that the Prosecution Authority is responsible for receiving and forwarding requests from individuals in accordance with Article 19 of the Eurojust Decision, and state that the Prosecution Authority appoints the staff at the Swedish desk at Eurojust. The Prosecution Authority has had the above mentioned responsibilities ever since the start of Eurojust. These responsibilities could be derived indirectly from the Ordinances 2007:971 and 2004:1265. The purpose of the amendments is only to clarify an already well-established fact.

Similarly, no acts of parliament or regulations from the government were considered necessary as regards the EJN. However, the Prosecutor-General has promulgated detailed Instructions for the prosecutors concerning Eurojust and EJN (ÅFS 2007:12).

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

With respect to the implementation of the Eurojust national coordination system (ENCS), Sweden has fully implemented the ENCS.

There are no other authorities designated within the Swedish ENCS than those referred to in Article 12 of the Eurojust Decision, such as contact points for OLAF, Europol or others (OLAF has a contact point within the Economic Crime Authority, though). However, the prosecutor responsible for the functioning of the ENCS is also responsible for a National Coordination Office, cooperating with other national authorities, such as police authorities, the Swedish Customs, the Swedish Economic Crime Authority, etc.

According to Instruction 2007:12, the national correspondents for Eurojust are appointed by the Prosecutor General. At present there are seven national correspondents. The scope of their task is defined in the Instruction ÅFS 2007:12, chapter 6, paragraph 5. The national correspondents have an overall responsibility for Eurojust related issues within their line of work. One of them has a priority responsibility for the ENCS. They are, furthermore, to assist other Swedish prosecutors with issues concerning Eurojust, receive and answer questions from the Swedish national member and keep close contact with police, customs and other authorities regarding issues relevant for Eurojust.

The Swedish ENCS is part of a National Coordination Office within the International Public Prosecution Office Stockholm. The National Coordination Office has a national responsibility. The office is manned with two senior prosecutors experienced in handling international cases. The prosecutors have full access to the Swedish Prosecutor CMS (Cåbra) as well as all registers available to Swedish prosecutors. All contact points mentioned in Article 12 of the new Eurojust Decision are integrated in the work of the Swedish ENCS. The different contact points are seated at different Prosecution Offices (*åklagarkammare*) throughout the country. The Prosecution Offices are specifically competent in dealing with international cases.

The prosecutor in charge of the ENCS has no working hours exclusively devoted to the management of the ENCS. However that part of her work is prioritised according to her. The prosecutor does not handle criminal cases and preliminary investigations on a regular basis in order to have enough time to handle the ENCS and other issues related to Eurojust.

The National Coordination Office participates in monthly meetings with the Europol national unit (and Eurojust). Furthermore there is close cooperation between the meetings when it comes to specific cases and exchange of information.

The National Coordination Office also has very close cooperation and exchange of information with the National Bureau of Investigation, Customs and other law enforcement authorities on a national/regional level.

3.3. National desk at Eurojust

Four officials are appointed to the Swedish national desk at Eurojust. The national member is seated in The Hague, the deputy national member is seated in Stockholm, the assistant to the national member/seconded national expert (SNE) is seated in The Hague and the secretary is member of the staff of Eurojust.⁴

The national member, deputy and assistant are all appointed by the Prosecutor General. They are selected after a recruitment process handled by the Swedish Prosecution Authority. The requirements for the position of national member are:

- extensive experience in handling international cases and international cooperation;
- capability of participating in as well as running legal development;
- experience of international negotiation;
- knowledge of the structure and working forms of the EU;
- language skills; and
- considerable social skills.

The national member, as well as the deputy and assistant have, according to instruction ÅFS 2007:12, chapter 6, paragraph 4, nation-wide powers to act as prosecutors in Sweden. Their powers are equal to those of a Chief Public Prosecutor of an International Public Prosecution Office. Consequently, the Swedish national member, deputy and assistant have more powers than required according to the new Eurojust Decision.

⁴ As a temporary arrangement, the former national member for Sweden will be assistant to the national member until the end of 2012. The extra assistant is seated in Sweden. This means that there are currently five officials appointed to the Swedish desk (during June – December 2012).

They can make all the decisions that a national public prosecutor can adopt, including decisions regarding coercive measures (e.g. arrests, house searches and controlled deliveries), decisions and requests regarding judicial cooperation and decisions in ongoing investigations. It is, however, relatively rare that the national member has exercised his powers in lieu of competent national authorities.

The national member, his deputy or assistant have full access to the CMS of the Swedish Prosecution Authority (Swedish Prosecutor CMS, named Cåbra) as well as all registers available to the Swedish prosecutors (e.g. criminal records, register of suspects, register of national registration, etc.). This access is possible from the premises of the Swedish desk at Eurojust. Swedish prosecutors also have direct access to company, land and road vehicle registers.

As regards the Swedish Prosecutor CMS, there is a possibility to restrict access to a specific case. The decision to do so is taken by the prosecutor leading the preliminary investigation. The prosecutor can also provide access to the case on single user level, including the officials at the Swedish desk at Eurojust. Access is granted on a need-to-use basis. It is also a possibility in the CMS to restrict access to specific documents. There is an instruction promulgated by the Prosecutor-General, ÅFS 2007:3 on when and how to limit access to the national CMS.

Concerning Eurojust's CMS, the officials present at the Swedish desk (the national member, the deputy and the assistant) all have access to cases registered by Sweden in the CMS. The Swedish national member, decides on allocating access to other national desks at Eurojust.

As for the Swedish Prosecutor CMS (Cåbra), the Swedish Prosecution Authority and the Swedish Economic Crime Authority have access to the system. There are some general limitations between the two authorities concerning documents linked to a specific case.

As regards Eurojust's CMS, it only allows access within the Eurojust network. No national authorities have access to this system.

3.4. EJM contact points

Concerning the Swedish Prosecution Service, the EJM contact points are appointed by the Prosecutor General (ÅFS 2007:12 chapter 6, paragraph 1). The contact point of the Central Authority at the Ministry of Justice is appointed by the Ministry of Justice. There are no written guidelines regarding the selection procedure, but when appointing the contact points, the Prosecutor General takes into account what is written in the non-binding Guidelines for the selection of contact points of the European Judicial Network (EJM) (PLEN2 2007/2).

The basic requirements for the designation as EJM contact points are that they shall have:

- an extensive knowledge and experience of international cooperation in criminal matters and
- a high level of motivation for the role as contact point.

The EJM contact points represent key positions within the Swedish Prosecution Service (the Swedish Prosecution Authority and the Swedish Economic Crime Authority). At the moment there are nine contact points in Sweden. Six of them represent the local operational level where criminal investigations are handled, namely,

- three at the International Public Prosecution Office Stockholm,
- one at the International Public Prosecution Office Göteborg,
- one at the International Public Prosecution Office Malmö and
- one at the Economic Crime Authority.

The six contact points at the local level are also National Correspondents to Eurojust. The remaining three contact points are appointed at central level,

- one at the Office of the Prosecutor General, holding the position as EJM National Correspondent and EJM Tool Correspondent;
- one at central position at the Economic Crime Authority; and
- one at the Central Authority at the Ministry of Justice.

The main responsibility for the Swedish EJM contact points is to be available and assist colleagues in their own country or from abroad regarding legal and practical issues (see Article 4, paragraphs 1 and 2, of the EJM Decision).

The National Correspondent/Tool Correspondent at the Office of the Prosecutor General has a policy-making and coordinating role and performs the tasks stipulated in Article 4, paragraph 4, of the EJM Decision. The replies to questionnaires and general queries that are sent to all contact points are coordinated and taken care of by the EJM National Correspondent.

The National Correspondent/Tool Correspondent participates in all plenary meetings, with some exceptions. The other contact points participate in the EJM plenary meetings according to a rolling schedule. Since there are limitations as to the number of participants at the meetings, each contact point in practice participates in every third or fourth meeting. The National Correspondent/Tool Correspondent is attending the EJM National Correspondent meetings and the Tool Correspondent meetings. The Swedish contact points take active parts as chairs and rapporteurs at the plenary meetings.

The Tool Correspondent is taking care of the task of maintaining and updating the information on Sweden in the EJM website. An administrator assists in the actual insertion of the data in the database. This task is performed on a regular basis.

3.5. Conclusions

- In Sweden, no acts of parliament or regulations from the government were considered necessary as regards the implementation of the Eurojust and the EJM Decisions. As regards Eurojust, it was only deemed necessary to make a minor amendment in the Act (1976:661) on immunity and privileges, granting the Administrative Director and the Eurojust staff immunity and privileges in Sweden. Apparently, as a follow-up to the evaluation visit, some minor legislative changes were made.
- The regulation and organisation of judicial cooperation in criminal matters in Sweden has been ensured by the adoption of instructions promulgated by the Prosecutor General, by delegation from the Minister of Justice. These instructions form a set of rules which are binding to all prosecutors and to the Swedish Economic Authority. The main advantage of such rules (compared to statutory law) is that they are easily adopted, easy to amend and they take into account the needs and experience of practitioners. In principle, however, they do not apply to courts (to the extent that they are involved in judicial cooperation) or to law enforcement.

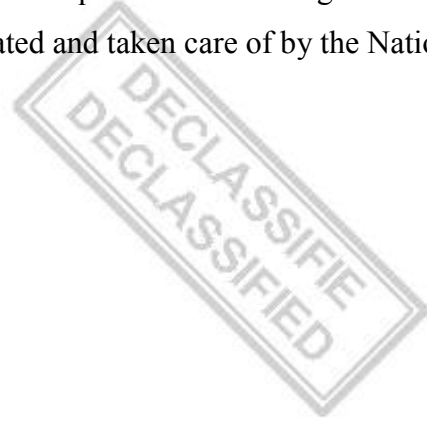
- This legal framework is assessed as being generally sufficient. There is, however, room for enhancement as regards providing information to Eurojust according to Article 13 of the Eurojust Decision if the information also contains personal data. If a prosecutor or a court asks for mutual legal assistance from authorities of other Member States, this cooperation is regulated by law. Therefore, transferring a MLA request (or a decision) with personal data abroad should not cause any problem. However, Article 13 of the Eurojust Decision has introduced a new situation where it is not a judicial authority that asks for cooperation but it is the requirement of EU legislation that judicial authorities of the member States are now obliged to send information to Eurojust, even if they do not need support from Eurojust. Therefore, Sweden could consider implementing Article 13 of the Eurojust Decision by way of legislation (not only by guidelines) as it contains an obligation to send to Eurojust information potentially containing personal data even without assistance being required from Eurojust. It should be added that this might also apply to Council Decision 2005/671/JHA of 20 September 2005 on the exchange of information and cooperation concerning terrorist offences.
- The Swedish Instruction as regards Eurojust and the EJA are part of a wider Instruction about international cooperation. As for guidelines on how to apply the new provisions of the Eurojust Decision, it seems that sometimes they are worded in a manner that wrongly, although understandably in practical terms, restricts the obligation to send information to Eurojust (e.g. the definition of “involved States” in Article 13(6) and the reference to “conflicts of jurisdiction” in Article 13(7)(a)). From the Swedish viewpoint, the guidelines are only meant to fill out the details on how to comply in practice with the legally binding requirements.
- It is not clear how close the working relations with Eurojust and Swedish courts or judges are while Eurojust can play a crucial role to facilitate judicial cooperation. It might be that the process to implement the Eurojust Decision via the Prosecutor General does not fully reach the judiciary. The evaluators, however, have been told that judges would most of the time resort to assistance from prosecutors where necessary. In Sweden, there is nothing preventing Swedish courts from contacting Eurojust directly when there is a need to facilitate judicial co-operation. However, there is a well-established practice for the courts to engage the prosecutor involved in the case to manage the contacts with Eurojust.

- The ENCS is in place in Sweden and it is impressive in its structure. The structure of ENCS is simple and functional. The functions of the ENCS are part of the everyday routines of its members which ensures that Eurojust and the EJM are used as regulated in Sweden. In Sweden, all members of the ENCS know each other, which makes the system efficient. It is as yet too early to draw any firm conclusions regarding the real added value of the ENCS for Swedish prosecutors. However, as noted by Sweden, even though Sweden is a small centralised country, the ENCS is of added value. The ENCS is a formal system ensuring that all contact points are provided with the same information. Furthermore, since it is a formal system rather than an informal network of prosecutors with certain interests in specific topics, there is a guarantee for stability and continuity. The members of the ENCS have a supporting role for all Swedish prosecutors in Eurojust related matters.
- Sweden has not made use of the possibility to appoint other authorities to the ENCS, such as contact points for OLAF, Europol or others. When more experience has been gained, perhaps some reflection could be made further.
- The fact that the prosecutor responsible for the functioning of the ENCS is also responsible for the National Coordination Office within the International Public Prosecution Office in Stockholm, frequently cooperating with other national authorities, such as police authorities, Swedish Customs and the Swedish Economic Crime Authority, is an advantage to the ENCS and the cooperation with Eurojust, since she is able to centralise a lot of information on cases and best practices.
- The National Coordination Office cooperates and exchanges information with the Europol National Unit on a regular basis in accordance with Article 12(5)(d) of the Eurojust Decision. This concerns specific cases but also questions of methods, contacts, legal provisions and other questions of relevance. The cooperation as required in Article 12(5)(d) between the ENCS and the Europol National Unit is interpreted in a very practical manner in Sweden. The Europol National Unit in Sweden is the Unit for International Police Cooperation at the National Bureau of Investigation, and therefore all cooperation between the police and prosecutors as regards international issues are in fact also to be considered cooperation between the ENCS and the Unit for International Police Cooperation.

The Swedish liaison police officers at Europol in The Hague are part of the Europol National Unit and therefore all cooperation between the Swedish desk at Eurojust and these police officers in The Hague are in accordance with Article 12(5)(d).

- Feedback provided by the National Correspondent to Eurojust and representatives from the Europol National Unit shows that the purpose of Article 12(5)(d) is not clear. In any case, its existence contributes to increased contacts between the two bodies, both at national and European level.
- The composition of the national desk corresponds to the requirements of Article 2 of the Eurojust Decision. The selection procedure for the recruitment and appointment of the desk members ensures that they possess the required experience and expertise.
- Since the national member, as well as the deputy and assistant, have nation-wide powers to act as prosecutors in Sweden, they have more powers than required according to the new Eurojust Decision including the power to initiate an investigation. Although it is favourable that a national member has as wide powers as a national prosecutor they are not very often used at Eurojust as can be seen in the case of Sweden. In the cases in which they have been used – essentially in situations where the national member was the first Swedish authority to receive information where urgent action was required – they have been useful according to the Swedish authorities. The use of the powers by the national member has made a difference, as they have allowed for a save in time and therefore ensured better coordination and support to requesting authorities from other Member States. Moreover, the national member has been able to guarantee towards other Member States that a certain measure would be undertaken. In these cases the use of powers by the national member has not created problems of coordination or conflicts with the decisions of national authorities.
- The Swedish national desk has recently issued internal practical guidelines on how to deal with a case within the desk. This is a best practice which enables smooth case handling and efficient work at the desk and provides security and coherence over time.
- The national desk has full and direct access to all national databases accessible to any national prosecution office. This has proven useful from time to time, according to the Swedish authorities.

- The main responsibility for the Swedish EJM contact points is to be available and assist colleagues in their own country or from abroad regarding legal and practical issues. It is useful that the EJM National Correspondent and Tool Correspondent at the Office of the Prosecutor General has a policy-making and coordinating role and performs the tasks stipulated in Article 4, paragraph 4, of the Eurojust Decision. The replies to questionnaires and general queries that are sent to all EJM contact points are coordinated and taken care of by the National Correspondent.



4. EXCHANGE OF INFORMATION

In June 2011, Eurojust developed an electronic form to assist the national authorities with the obligation to transmit information to Eurojust pursuant to Article 13(5) to (7) of the Eurojust Decision in a structured manner, and which has recently been released as version 2.0. In the period May 2011 to April 2012 inclusive, a total of 72 notifications under Article 13 have been registered in the CMS. A majority of notifications (25) are registered under “Article 13(6)(a) (serious crimes)”, followed by “Article 13(5) (JIT)” and “Article 13(6)(b) (involvement of criminal organisation)”.

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

Apart from the fact that the Swedish desk at Eurojust has full access to the Swedish Prosecutor CMS (Cåbra) as well as all registers available to national prosecutors, it is also possible for the officials at the Swedish desk and the Swedish prosecutors to communicate via the national internal email system. If the question implies future exchange of information between the national databases and Eurojust CMS, the only relevant Swedish database is the Swedish Prosecutor CMS, (Cåbra), where full access is available.

The obligation to exchange information under Article 13(5) to (7) of the new Eurojust Decision is established in the Instruction ÅFS 2007:12, chapter 6, paragraphs 8 and 9. Further guidance on this is to be found in guidelines issues by the Director of Public Prosecution at the Swedish Prosecution Authority responsible for Eurojust; “Instructions for the transmission of information to Eurojust”(RättsPM 2011:9). These "instructions" are not binding but are followed by prosecutors in practice since they have been developed by senior prosecutors with practical experience.

At the prosecutorial level, terrorist cases are handled by the Prosecution Office for National Security which is a part of the Swedish Prosecution Authority. To their knowledge, no information has been sent to Eurojust. When contemplating this question, the Prosecution Office for National Security realised in retrospect that they have had a case that should have been reported to Eurojust in accordance with Article 2 of Council Decision 2005/671/JHA of 20 September 2005 on the exchange of information and cooperation concerning terrorist offences.

According to Instruction ÅFS 2007:12, chapter 6, paragraph 9, Article 13 information shall be transferred to the Swedish desk at Eurojust using the internal email system of the Swedish Prosecution Authority. The form provided by Eurojust is used for the transfer of information, thus assuring that the information is transmitted in a structured way. The content relevant for the cases is filled in.

The exception provided for in Article 13(8) has not been used in practice. The guidelines in place stipulate that this exception is to be used restrictively.

4.2. Feedback by Eurojust

As far as feedback from Eurojust is concerned, the Swedish experience is that the prosecutors generally get feedback within two or three weeks, sometimes even within a week. There is a general request from the National Coordination Office to get feedback in all cases where a request has been sent no matter what the answer is. So far, only feedback following requests for assistance has been received from Eurojust.

The Economic Crime Authority has no experience of receiving information spontaneously from Eurojust and has not asked Eurojust for information in this respect. On the other hand, the Economic Crime Authority has not yet delivered any Article 13 information to Eurojust.

Asked about a qualitative perception of the information flows between Eurojust and the competent authorities, Sweden holds it that, due to the fact that there have been no hits other than in already known cases (e.g. in cases involving a JIT), this question cannot be answered in substance. General information from Eurojust to Member States, e.g. strategic reports and guidelines can be of strategic importance for the Swedish national authorities. The information is transferred to Sweden via the national member who evaluates whether or not the information is of relevance for national authorities.

The Economic Crime Authority has on occasion, on an ad hoc basis, received useful information from Eurojust related to on-going investigations.

As regards practical or legal difficulties that Sweden has encountered when exchanging information with Eurojust, there are some concerns among Swedish prosecutors regarding the confidentiality of the information sent in accordance with Article 13, when the information is received and stored in the Eurojust CMS.

This issue was addressed during the final meeting of the Informal Working Group on the implementation of the new Eurojust Decision on 10-11 November 2011. Eurojust was encouraged to analyse this issue and produce some kind of written evaluation on this matter. As far as the evaluators are aware, this analysis has not yet been performed.

The Economic Crime Authority has not identified any legal difficulties in this respect but points out that the prosecutors consider the reporting system to be cumbersome.

As mentioned above, Sweden's experience in this field is very limited. Consequently, the Swedish authorities feel that it is difficult to draw any general conclusions for the time being. An improvement, from a national perspective, would be if the Article 13 electronic form provided by Eurojust was incorporated in the Swedish Prosecutor CMS.

The Economic Crime Authority has the perception that not all relevant information is reported to Eurojust. Measures to address this issue will be taken in the immediate future. This means inter alia informing or educating prosecutors on the obligation and operational need to share information with Eurojust. This effort will also focus on the common European interest that Eurojust gather, analyse and share such information with all Member States.

According to Eurojust's answers to the questionnaire submitted to them, Eurojust does not hold a statistical overview of the information sent to competent national authorities under Article 13a of the Eurojust Decision. Eurojust routinely provides operational and strategic information and feedback to these authorities. Information and feedback are provided mostly informally via direct contact between the national member, deputy national member and assistants, and the authorities of his/her Member State. Eurojust expects to expand the extent and nature of its feedback as a result of an increase in case-related information received from national authorities pursuant to Article 13, in particular paragraphs 1, and 5 to 7. The extent and nature of this feedback greatly depends upon the amount, timing and contents of the information sent to Eurojust. Additionally, new types of operational and strategic feedback can be provided in connection with the new powers granted to Eurojust and to its obligation under Article 13a.

4.2.1. *E-POC project*

Even though it is viewed by Sweden as difficult to evaluate the usefulness of the E-POC IV project, the perception from the Swedish Prosecution Authority is that the result of the project, especially the common data format, could be useful in the long term perspective.

4.3. **Conclusions**

- Instruction AFS 2007-12 of the Prosecutor General implements Article 13 of the Eurojust Decision. The Instruction has been complemented by Guidelines issued by the Director of Public Prosecution at the Swedish Prosecution Authority responsible for Eurojust dated 25 October 2011 (RättsPM 2011:9). This should be considered to be best practice for other Member States.
- Application of Article 13 is regularly encouraged by the Prosecutor General's Office and by the National Correspondent to Eurojust at the occasion of visits, meetings and training of prosecutors. This was confirmed by all persons interviewed, including in the International Prosecution Office in Gothenburg and at the Economic Prosecution Authority in Stockholm. The policy adopted by the Swedish authorities is to stimulate authorities instead of imposing an obligation that is not always understood, as the impact expected from encouragement and support is higher than the one that could be expected from a formal obligation associated with sanctions. It has to be remembered, however, that Article 13 is binding on all Member States, including on all judicial authorities.
- After some initial difficulties, the system is operational since 1 November 2011. Prosecutors in Sweden are not yet so familiar with this exchange mechanism despite communication measures taken. It seems that for the Economic Crime Authority the level of awareness of the legally binding force of Article 13 is lower than in the prosecution service.
- In Sweden, there have been 5-6 notifications to Eurojust so far. The notifications have been based on different conditions, meaning that prosecutors have evaluated all different cases when Eurojust should be notified. Nonetheless it must be said that 5-6 notifications are not very many in light of the amount of resources put into international cooperation in Sweden.

There has been a massive information flow from the prosecution service to all prosecutors as regards the interpretation of Article 13 and measures that should be taken in order to fulfil requirements set in the Eurojust Decision. In addition, as Eurojust has provided all Member States with an electronic form, translated into all EU languages, to make it easier to exchange information in a structured way, and as prosecutors are allowed to exchange all Article 13 information directly to Eurojust in Swedish, the number of notifications is low. This is a new obligation on the Member States and, until the judicial authorities will realise its practical use, it is likely that they will be reticent, given the extra work it will cause them. The approach Sweden has taken to this issue is probably the right one, provided that reports will increase in the near future.

- However, it is the view of the experts that, generally, exchanging operational information is the task of police and other law enforcement authorities. If there would be a case where Eurojust would have a hit, identifying a connection between cases of different states before a connection has been found by police or other law enforcement authorities, to a certain extent this would represent a failure of law enforcement cooperation in the EU. In this sense, Eurojust matching of data would be seen as complementary to law enforcement cooperation relating to data stored by it.
- The number of cases to Eurojust from courts is assessed by the Ministry of Justice as being minimal, if any. According to the Ministry of Justice, perhaps courts should report more.
- Communication does not necessarily go through the National Coordination Office (NCO). However, the NCO receives a copy of all Article 13 forms sent to Eurojust. Sometimes, prosecutors send information via the ENCS because they are not used to such an exchange. Other times, information goes directly from prosecutors to Eurojust, and the ENCS gets a copy to keep an overview. All is registered at the NCO. However, there is no central overview of direct contacts taken by the national judicial authorities.
- The initiative taken by Eurojust to create an electronic form for the structured transmission of the information to Eurojust is generally welcome. The use of the form is imposed by the guidelines and, when transmitted, the information is contained in the Eurojust form. However, the form is generally criticised by the users as not being user friendly. The form is said to present technical deficiencies that make it difficult to fill in. As a result, the users are discouraged; they do not complete the form and do not send it.

- Typically, the Article 13 form is completed in Swedish, and then translated by the Swedish desk. The need to fill in the form is often seen as an extra burden. For instance, it cannot be filled in automatically. Some prosecutors prefer a more open way to send information than a form.
- In the Eurojust form, Member States are asked to regularly update it as soon as new elements are collected. This request, going beyond the wording of the Eurojust Decision, is considered excessive. The Swedish authorities believe that it creates a disproportionate and unnecessary burden on the prosecutors. According to Sweden, regular update will not happen unless in the distant future. It entails too much work. According to Sweden, Eurojust should evaluate if they should change the text in the form, asking for an update “when relevant”, as “we need a step by step approach. It is overambitious to ask for regular updates.” After some time, after an evaluation of the results, one could envisage to increase the regularity of the updates.
- The Economic Crime Authority believes there should have been Article 13 notifications from them to Eurojust. There are a couple of cases which will be reported. In 2011, overall there were 36 incoming and 76 outgoing MLAs at the Economic Crime Authority. Out of these MLA cases, perhaps some 10 to 20 could have been shared with Eurojust.
- Overall, it seems that the implementation needs more time, further communication efforts and, according to Swedish authorities, success stories. There is a general concern that the obligation imposed by Article 13 does not bring any added value. The authorities met hope that a “hit” will soon result from cross reference of data inserted in the Eurojust CMS as it is expected that such a “hit” will serve as a confirmation of the expected added value of Article 13. The “hit” that can result from cross reference of data in the Eurojust CMS seems to represent for the practitioners the principal outcome that can be expected from a systematic exchange of information to Eurojust.
- Feedback has been received from Eurojust only on specific request, and not spontaneously. Prosecutors generally get feedback within two or three weeks, sometimes even within a week. There is a general request from the National Coordination Office to get feedback in all cases where a request has been sent no matter what the answer is. So far, only feedback following requests for assistance has been received from Eurojust.

The Economic Crime Authority has no experience of receiving information spontaneously from Eurojust and has not asked Eurojust for information in this respect. On the other hand, as noted above, the Economic Crime Authority has not yet delivered any Article 13 information to Eurojust.

- There is already a dedicated technical connection between Sweden and Eurojust, which is owned by Sweden. Eurojust has asked whether this needs to be replaced by s-TESTA, but the Swedish authorities stated that they wish to keep this dedicated line with Eurojust, as their national desk has access to the national registers through it.
- Eurojust has proposed to secure the email exchange between Sweden and Eurojust; however, Sweden prefers to use their own email system, which is also secure, to transfer information between national authorities and the national desk.
- Not all prosecutors see why it would be interesting to access the Swedish part of the Eurojust CMS, even less so the other parts of the Eurojust CMS. Nevertheless, Sweden has requested access to Eurojust's CMS system for its ENCS members. For this access, Sweden would like to use s-TESTA. This connection is possible. However, Eurojust has explained that access to Eurojust's CMS cannot be granted at the moment. According to Eurojust's answers to the questionnaire submitted to them, connection and access to the CMS by ENCS members have not yet been implemented; however Eurojust has initiated a series of projects with a view to enabling that connection.
- According to the Swedish Prosecution Authority the result of the E-POC IV project, especially the common data format, could be useful in the long term perspective.

5. OPERATIONAL ASPECTS

The main objectives of Eurojust under Article 3 of the Eurojust Decision are to stimulate and improve the coordination of investigations and prosecutions in the Member States, to improve cooperation between the competent authorities of the Member States as well as to otherwise support the competent authorities of the Member States in order to render investigations and prosecutions more effective.

5.1. Practical experience in relation to Eurojust

The Swedish desk at Eurojust keeps statistics over cases where Sweden requests assistance from other Member States as well as when other Member States request assistance from Sweden. The competent authorities in Sweden do not keep these statistics. The assistance to Swedish national authorities can be divided in three categories of which two are registered by the desk in an internal Swedish case list:

- 1) Cases registered in the CMS (registered in the College) on the request of Sweden and also registered in the internal Swedish case list,
- 2) cases registered only in the internal case list (as they do not meet the requirements for registration in CMS but nevertheless have caused work for the desk), and
- 3) requests from Swedish national authorities that are not registered at all since they have been very easy to manage (e.g. telephone consultation) and the issue was solved within some minutes or hours.

| | |
|------|--|
| 2009 | 46 cases opened in the College on the request of Sweden. (57 cases opened in the College towards Sweden). 5 not opened but in the internal list. |
| 2010 | 58 cases opened in the College on the request of Sweden. (46 cases opened towards Sweden). 10 not opened but in the internal list. |
| 2011 | 58 cases opened in the College on the request of Sweden. (66 cases opened towards Sweden). 12 not opened but in the internal list. |
| 2012 | 34 cases opened on the request of Sweden in the College until 29 March. (27 cases opened towards Sweden). 4 cases not opened but in the internal list. |

Eurojust does not divide cases into complex and standard cases any longer. The cases referred to the Swedish desk during the last 5 years have almost always concerned complicated Swedish investigations. However, the fact that the investigations are complicated does not necessarily imply that the assistance required by Eurojust has to be far-reaching.

A very common reason for asking Eurojust for assistance is that suspects are in custody in Sweden and the prosecutor, because of legal requirements regarding delays, needs urgent assistance in another Member State. In such a situation, using Eurojust is often faster than engaging in direct contact with the other Member State. Some countries do not answer to requests if they are sent directly. Eurojust is the most effective facilitator in these cases. For that same reason some cases are referred to Eurojust directly even if they are not urgent.

The Swedish desk is often involved at an early stage, even before any suspect is arrested, e.g. to facilitate requests for wiretapping or surveillance.

The most important cases for the Swedish desk are large scale multinational cases (Member States as well as third countries) and cases where there is a need for coordination or a need to solve conflicts of jurisdiction.

5.2. Allocation of cases to Eurojust or the EJN or others

According to the Guidelines issued by the Swedish Prosecution Authority on the Swedish prosecutor's use of international judicial cooperation (RättsPM 2011:8), the severity of the case is one indicator of whether to use EJN or Eurojust. EJN is mainly used in bilateral cases and Eurojust in more complex multilateral cases. However, Eurojust can be used in urgent bilateral cases as well. A bilateral case may also be complicated.

The overall perception is that the cases referred to Eurojust could not have been dealt with as effectively if they had been referred to the EJN. Sometimes cases have been referred to the Swedish desk after lack of results when trying to use the EJN.

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

The former national member for Sweden (who left duties in the summer of 2012) was the chair of the Trafficking and Related Crimes Team as well as Contact Point for Child Protection. He was also often asked to represent Eurojust in different meetings and seminars and to chair workshops, etc. This means that during certain periods his possibilities to work with operational cases were more limited. The national member normally chairs the coordination meetings arranged by Sweden and the handling of these cases. He also handles other cases when there is time.

The SNE/assistant, always an experienced prosecutor, who works full time in The Hague, took care of the main part of the case work. The SNE/assistant sometimes chairs coordination meetings arranged by Sweden.

The deputy national member is seated in Sweden and travels to The Hague occasionally. She can contribute to some of the case work while still being in Sweden.

On 1 November 2011, the Swedish Prosecution Authority issued Guidelines for the Swedish prosecutor's use of international judicial cooperation, including Eurojust, RättsPM 2011:8. Simultaneously, Instructions on the transmission of information in line with Article 13 of the new Eurojust Decision were promulgated. Still, the overarching principle is that the contacts between Swedish authorities and Eurojust shall be direct, non-bureaucratic and will not involve central authorities or the ENCS (where, however, the national coordinator is often kept in copy).

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

According to Eurojust's answers to the questionnaire submitted to them, informal requests are an essential part of the daily business conducted by the national desks at Eurojust. The vast majority of requests are made informally, e.g. by phone or e-mail. In practice, informal operational guidance and recommendations are generally the result of early informal discussions between national members and their respective national authorities and they are favoured over the use of formal requests under Article 6 of the Eurojust Decision. These have, nevertheless been used, e.g. when specifically required by the national law of a Member State concerned, that formal requests are used. Also, the formal recording of these requests tends to occur when audit trails of decisions are a requirement of procedural arrangements in particular Member States. In general, it is Eurojust's experience that the respective judicial authorities provide sufficient information.

As regards Sweden, as the national member for Sweden has the same powers as a Chief Public Prosecutor (head) of an International Public Prosecution Office, there has never been a problem for the national member to execute the tasks described in Article 6.

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

Sweden reports that it is not aware of any circumstances where Article 7 has been used against Sweden.

According to Eurojust's answers to the questionnaire issued to the agency, Eurojust's continuous dialogue with judicial authorities and law enforcement agencies on operational matters normally takes place through direct contact by way of both informal and formal exchanges between the national desks involved. As a result of this fruitful dialogue, formal requests under Article 7 of the Eurojust Decision have normally not been considered necessary. (From Eurojust's casework, it appears that only a number of Member States, due to specific rules concerning the conduct of investigations, require formal written requests.)

With respect to Articles 7(2) and 7(3) of the Eurojust Decision, it should be noted that they only entered into force in June 2009 and that there has been no practical experience with these provisions. As a result of the absence thus far of deadlock situations where neither the national authorities nor the national members concerned have been unable to reach an agreement on how to resolve a case of conflict of jurisdiction, Eurojust acting as a College has not yet been asked to issue a written non-binding opinion on this matter according to Article 7(2) the Eurojust Decision. It has to be kept in mind that Article 7(2) of the Eurojust Decision is a relatively new provision. Therefore there is no practical experience with such cases.

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

The powers of the national member are outlined in instructions promulgated by the Prosecutor General, ÅFS 2007:12. Since the national member for Sweden has nationwide Swedish prosecutorial competence, he can initiate a preliminary investigation, conduct the investigation, decide on coercive measures and issue MLA requests with or without the consent of a prosecutor in Sweden. When the national member has initiated an investigation, according to the instructions, it shall be handed over to a Swedish prosecutor as soon as possible. The decision to hand over the investigation is made by the national member.

The experiences of this system have been very positive according to the Swedish authorities. A couple of times, the national member has decided on controlled deliveries and has on a number of occasions issued MLA requests to other Member States. Often the MLA requests have been issued by the national member on request of or in agreement with national authorities, for instance when they have not been present in coordination meetings. On several occasions the national member has been able to complete MLA requests that have not been drafted in accordance with the requirements of the receiving State. On a couple of occasions the case has been so urgent that there has been no time to consult the national colleague. The national member has then acted without contact, thus avoiding loss of time, but has informed the competent national authority afterwards.

So far no investigation has been initiated by the national member. After contact with the competent national authority, this decision has so far been taken at national level.

5.4. Practical experience related to coordination meetings

According to Sweden, coordination meetings are the most important tool of Eurojust. Almost any problem occurring during international legal cooperation could be solved during coordination meetings. Article 7 of the Eurojust Decision could be a solution for conflicts of jurisdiction but this article has not been used more than a couple of times, never involving Sweden. The reason for not using Article 7 more often could be that conflicts of jurisdictions are very often discussed and solved during coordination meetings. When a JIT is created, conflicts of jurisdiction are one of the first questions to be discussed as there are often parallel investigations in two or more countries. According to Sweden, there are no disadvantages related to coordination meetings but during the last years it has been established that the exchange of information during a coordination meeting is a delicate matter. If sensitive information, such as the name or position of informants or undercover agents, is included in the minutes to the meeting and the minutes are filed by the authorities of the involved Member States, they could become a part of the judicial file of the national competent authority of another Member State. This could result in a situation where the information is disclosed in one Member State while it is classified in another. Due to this fact, the coordination meetings and JIT meetings nowadays start with discussions on how to handle this issue in order to avoid the disclosure of sensitive information which could create danger of lives.

The Economic Crime Authority has limited experience of coordination meetings. Based on reports from staff that do have such experience, the Economic Crime Authority concludes that the perception of coordination meetings is very positive. No major disadvantages are noted. However, some prosecutors pointed out that it occasionally can take some time to arrange such meetings and that the reimbursement procedure is bureaucratic. The advantages noted are that it otherwise would be difficult to find and meet competent authorities. Under the auspices of Eurojust it is also easier to come to a conclusion on the issues at hand. Furthermore the reimbursement of costs associated with coordination meetings and the setting up of JITs is considered to be a huge contributor to the success of the meetings.

So far the ENCS has been present during one coordination meeting which concerned the creation of a JIT. As there was uncertainty concerning the role of the Swedish Prosecution Authority in the JIT, it was very useful to have the representative from the Swedish ENCS present during the meeting. It is possible that there could be a role to play for the ENCS in the future but so far this is the only example when the national coordinator of the ENCS has been invited.

The Economic Crime Authority has one national correspondent for Eurojust and this person is thus member of the Swedish ENCS. This person has a strategic function within the Economic Crime Authority meaning that he plays an important role as a facilitator and a motivator within the Authority, e.g. by finding cases suitable for this type of meetings and to suggest it to the prosecutors. So far, the national correspondent has not participated in any coordination meetings at Eurojust.

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

According to Eurojust's answers to the questionnaire submitted to them, several requests have been processed through the On-call coordination (OCC). The OCC has proven to be useful because it gives Eurojust the opportunity to act immediately. Most national desks can also be contacted directly via their mobile phones outside of normal office hours, without the involvement of the technical infrastructure of the OCC System. This is a long-established practice, prior to the launch of the OCC. Eurojust is planning to conduct an evaluation on the functioning of the OCC system in 2012.

As regards Sweden, the Swedish deputy national member is seated in Stockholm but can travel to Eurojust in order to replace the national member, e.g. during College plenary meetings. Sometimes it is not possible to foresee the need for replacement in time. This was one of the reasons why Sweden in April 2010 appointed a Seconded National Expert (SNE) as assistant to the national member. Another reason was to prepare for the implementation and start of the OCC.

The Swedish desk has been organised to meet the requirements of the OCC since June 4, 2011. The national member, the deputy and the SNE/assistant are on duty every third week. Some urgent cases have been taken care of by the Swedish OCC during out of office hours. The establishment of the Swedish OCC is manifested in Instruction ÅFS 2005:17, 16 §.

The Instruction ÅFS 2005:17 is available on the Intranet of the Swedish Prosecution Authority and also other kind of information related the OCC is published on the Intranet. Furthermore, the deputy national member has during visits to the International Public Prosecution Offices (Stockholm, Göteborg and Malmö) and the different offices of the Economic Crime Authority informed about the OCC. Some 90 per cent of the cases at the Swedish desk at Eurojust are referred from these offices. The rest of the cases come from the other local Public Prosecution Offices. As they rather seldom handle international cases, they normally ask for advice from an International Public Prosecution Office. Still, information about the existence of the OCC could be spread more widely according to Sweden.

The Economic Crime Authority has mirrored this information with measures within its own organisation.

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

The National Coordination Office cooperates and exchanges information with the Europol national unit on a regular basis. This concerns specific cases but also questions of methods, contacts, legal provisions and other questions of relevance.

The case where there is most cooperation concerns domestic burglaries. In addition to Europol and the Europol national unit, Eurojust is also involved in the case and has assisted with a coordination meeting and the setting up of a JIT. The ENCS has, in close cooperation with Eurojust, been the link between the Swedish Prosecution Authority, the national police and the Europol national unit. The ENCS has assisted in drawing up documents, deciding tactics, sharing information and carrying out coordination.

The EU internal security strategy calls for increased efforts to combat priority crime areas by means of close cooperation between law enforcement, prosecution and courts, both on national and international levels. However, when asked about the implementation of the OCTA 2011 priorities on national level, little information was provided whether it is incorporated into national planning mechanisms including the role of Eurojust in its implementation, and whether any common assessment criteria measuring the efficiency exist.

5.7. Conclusions

- The cases referred to the Swedish desk during the last 5 years have almost always concerned complicated Swedish investigations. However, the fact that the investigations are complicated does not necessarily imply that the assistance required by Eurojust has to be far-reaching. The overall perception is that the cases referred to Eurojust could not have been dealt with as effectively if they had been referred to the EJP contact points. Sometimes cases have been referred to the Swedish desk after lack of results when trying to use the EJP. This points to the fact that, according to the evaluators, there is sometimes a need for the EJP to improve its performance overall. Future evaluations will give an indication in this respect.
- The most important cases for the Swedish desk are large scale multinational cases (involving Member States as well as third countries) and cases where there is a need for coordination or to solve conflicts of jurisdiction. According to the evaluators, these are areas where the resources of Eurojust should be best used.
- The Swedish desk is often involved at an early stage, even before any suspect is arrested, for instance to facilitate requests for wiretapping or surveillance. This constitutes best practice for all Member States.
- The overarching principle is that the contacts between Swedish authorities and Eurojust shall be direct, non-bureaucratic and will not involve central authorities or the ENCS, although it will also be useful that the ENCS is kept informed of what the national member is doing in most cases. Otherwise the necessary national coordination risks becoming inefficient.
- The national member for Sweden has the same powers as a Chief Public Prosecutor, which presents advantages, as it makes it unnecessary to use Article 6 or Article 7 of the Eurojust Decision; his requests are in all cases complied with without the need to adopt a formal decision under those Articles. In urgent cases, this has proven efficient.
- According to Sweden, coordination meetings are the most important tool of Eurojust. Almost any problem of international cooperation in criminal matters could be solved during coordination meetings. According to statistics from Eurojust, the number of coordination meetings has risen from 150 in 2010 to 204 in 2011, a 30 per cent increase.

This is very encouraging, but there is also a need for Eurojust to prepare these coordination meetings thoroughly so that they are convened at the right moment and not too early or too late in the process. The College of Eurojust is encouraged to discuss a policy on coordination meetings and to exchange experiences in this respect.

- During the last years it has been established that the exchange of information during a coordination meeting is a delicate matter. If sensitive information is included in the minutes to the meeting and the minutes are filed by the competent authorities in the involved Member States, they could become a part of the judicial file of competent authorities in one or more Member States. This could result in a situation where the information is disclosed in one Member State while it is classified in another. This is a very sensitive matter, which has also been discussed at the meeting of the EJM in Copenhagen in June 2012. The College of Eurojust should discuss this matter and develop a policy preventing negative consequences of the disclosure of sensitive information during coordination meetings.
- The Swedish desk has been organised to meet the requirements of the OCC since June 4, 2011. The fact that the national member, the deputy and the SNE/assistant are on duty every third week seems to be a good practice, in accordance with the intention of the legislator. Some urgent cases have been taken care of by the Swedish OCC during out of office hours.
- The National Coordination Office cooperates and exchanges information with the Europol national unit on a regular basis. This concerns specific cases but also questions of methods, contacts, legal provisions and other questions of relevance. This practice should be followed by other Member States.
- It appears that on the national level, joint operational planning meetings between prosecutors and law enforcement agencies take place on a monthly basis in the Operative Council. However, when it comes to the implementation of the OCTA 2011 priorities, it is unclear whether formal criteria allowing for efficiency measurement exist, which would also include the use of Eurojust.

6. COOPERATION

As described above, the Swedish Prosecution Authority has issued Guidelines for when prosecutors should use Eurojust, EJN or other channels for international cooperation. According to these guidelines, Eurojust should be used in the following situations:

- When there is a need for coordination of investigations or prosecutions in several countries.
- When there is a need for coordination and planning of actions in several countries.
- In cases concerning the establishment, cooperation and financing of JITs.
- When there is a need for urgent judicial assistance, even in bilateral cases, such as cases with suspects in custody with tight deadlines, a need for urgent coercive measures in other countries (controlled deliveries, wiretapping, house searches, freezing orders, etc.) or if there is a risk that a time limit in an EAW is exceeded.
- When a request has not been executed in reasonable time after using other channels such as direct contacts or the EJN.
- When there is a need for assistance in a complicated matter concerning the execution of an EAW.
- If a conflict of jurisdiction occurs or is at risk.
- In matters concerning complicated or sensitive requests for mutual legal assistance (MLA) even if they are bilateral and not urgent (e.g. MLA requests concerning complex economic crimes or corruption).
- When a request for legislative information concerns complicated legislation that could require analysis or discussion.

In this document it is also mentioned that the Europol national unit should only by way of exception be used for facilitation of MLA requests. If Europol is used, the prosecutor has to inform Eurojust.

The Economic Crime Authority adheres to the guidelines issued by the Prosecution Authority in this respect. Consequently, if the case is multilateral and falls within the mandate of Eurojust, the case is addressed to Eurojust. In other situations, the EJN is most often used. However, the Economic Crime Authority recommends that Eurojust is consulted in all cases when there are uncertainties with regards to the efficiency of the EJN contact point in the country in question or if the matter is urgent or there are legal issues for example with regard to double criminality. The same applies if the case is urgent, sensitive or complicated with regards to measures sought.

Furthermore it is recommended that Eurojust is contacted if the requesting prosecutor does not receive a reply or confirmation from EJN within three weeks. As a general rule, Eurojust should also be consulted when the issue involves third countries.

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

According to Eurojust's answers to the questionnaire submitted to them, Eurojust assists practitioners in the area of joint investigation teams (JITs) in the drafting, amending and extending JIT agreements. From its frequent dealings in JITs, Eurojust has also developed expertise that allows it to advise on potential legal obstacles and help prevent other difficulties. Eurojust national members, deputies and assistants have participated either as competent national authorities or on behalf of Eurojust in 29 JITs during 2011, 20 JITs during 2010, and 7 JITs during 2009.

The role of Eurojust in assisting Member States has also been recognised in Article 13(5) of the Eurojust Decision which provides that Member States have to inform Eurojust of the setting up of JITs, established either under the 2000 MLA Convention or the Framework Decision 2002/465/JHA, and of the results of the work of such teams. Eight notifications were received at Eurojust under this provision in 2011, 11 in 2010, and 10 in 2009.

In addition to its practitioner advice, Eurojust has financially and logistically supported JITs via its JIT Funding Project, so that financial limitations are not an obstacle to the use of JITs in fighting organised crime groups. Eurojust has been able to support 34 JITs in 2011, 22 in 2010, and 5 in 2009.

The Swedish desk has a successful experience of Joint investigations teams (JITs). The national member has chaired around 20 JIT coordination meetings and has been involved in drafting JIT agreements, requests for funding of JITs and provided an overall support to Swedish prosecutors involved in JIT cooperation. Unfortunately, the national member has not power to sign a JIT agreement on behalf of Sweden which could be disadvantageous particularly in urgent cases. Nevertheless, the national member has (as national judicial authority) been involved in the internal work of the Swedish JITs facilitated by Eurojust. The Swedish desk is still supporting one ongoing JIT (the Playa JIT) in which the first JIT agreement was signed in May 2009. After 3 years of cooperation a team has been established and positive results have been achieved.

A first trial concerning drug trafficking has started in Sweden against 8 suspects. They have been indicted for serious drug trafficking offences (smuggling of tons of cocaine from South America to Europe) and money laundering. 1, 4 tons of cocaine has been seized and assets worth EUR 6 million have been seized to be confiscated.

Eurojust has been able to solve several conflicts of jurisdiction and in general facilitated the work of JITs in a very good way. Europol has assisted with analysis of very large amounts of criminal intelligence data which have been of added value for the JITs.

6.2. Cooperation with EU agencies and others

According to Eurojust's answers to the questionnaire submitted to them, OLAF carries out administrative investigations of crimes affecting the financial interests of the EU and transmits relevant information to Eurojust when it appears that a case directly involves judicial cooperation between the competent national authorities of two or more Member States, or where the case concerns a Member State and the European Union. Close cooperation between Eurojust and OLAF is essential to help ensure that the taxpayers of the EU are protected from cross-border fraud. OLAF and Eurojust cooperate on an institutional and operational level.

Europol is an important partner in Eurojust's work. Alongside continuous strategic cooperation, Eurojust has also developed intensive operational cooperation with Europol. Casework cooperation with Europol is increasing steadily. In 2011, Europol was represented at 89 of Eurojust's coordination meetings (1/3 of the total number of Eurojust coordination meetings), compared with 41 in 2010. Moreover, the exchange of operational information between Europol and Eurojust has improved throughout the years. Messages sent through the secure communication link between Eurojust and Europol increased by 35 per cent in 2011.

In addition, Eurojust is associated with 17 out of 23 Analysis Work Files (AWFs). Eurojust representatives are appointed for each AWF and participate in the respective meetings and support the work of the AWF by contributing with feedback on cases or trends from a judicial viewpoint. However, some Member States are opposed to offering Eurojust associate status in certain important AWFs, such as Islamic terrorism and domestic extremism. The negotiations on this are still ongoing.

Negotiations between Eurojust and Frontex with a view to concluding a Memorandum of Understanding in accordance with Article 26(1) of the Eurojust Decision are on-going. In 2011, Eurojust participated in the Frontex project “Trafficking in Human Beings Training for Border Guards” to develop specialised training for border guards within the European Union and the Schengen Associated Countries. Prosecutorial and judicial aspects were taken into account with a view to the development of common curricula.

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

The Swedish desk has experience of cases involving OLAF and Europol but not with Frontex. When the Swedish desk opens a case concerning crimes against the financial interests of the EU, the case is not only opened towards the involved Member States but also towards OLAF. Sweden has designated the national member of Eurojust as a competent authority as regards cooperation with OLAF in accordance with Article 26(5) of the Eurojust Decision. On one occasion, the Swedish desk was contacted by OLAF which had experienced difficulties in attracting the interest of national authorities in Sweden for an investigation concerning “trafficking of garlic”. The EU had lost customs fees of at least 3 million Euros when garlic was transported over the EU border by an organised group of criminals. The Swedish desk found a prosecutor competent to investigate the crime. The investigation is still ongoing.

When the Swedish desk opens a complicated case concerning a type of crime that is covered by an analytical work file (AWF) at Europol, the case is also always opened towards Europol. If there is a coordination meeting in such a case, the AWF case handlers are very often invited. If any of the Europol national units have been involved in the case, they are also often invited. The Swedish desk has so far had very good experience in this regard. Europol is invited to around 70 per cent of the coordination meetings organised at the initiative of the Swedish desk.

6.3. Cooperation with third states

Eurojust has official contact points (prosecutors on high level or representatives in Ministries of Justice) in around 30 third countries. They have been very helpful in facilitating requests to their countries. Eurojust has also several other international partners that could assist in cooperation with third countries (e.g. IberRed- , the International Association of Prosecutors (IAP) and liaison magistrates seconded by EU Member States to third countries). This means that Eurojust can be of great added value for the Member States in facilitating cooperation with third countries.

Sweden has on several occasions received valuable assistance regarding whom to contact and information concerning the legal system in the relevant third country.

6.4. Practical experience of the EJM

The national member (and the deputy and assistant) have regular exchanges with the EJM contact points, facilitated by the fact that the EJM contact points are prosecutors with the task of leading criminal investigations or work within the Central Authority. The National Correspondent/Tool Correspondent has contacts with the Eurojust national member on specific issues. Some of the contacts have concerned questions related to cooperation between the EJM and Eurojust.

In appropriate cases, the EJM contact points advise prosecutors to contact the Eurojust national member.

The resources allocated to the Swedish EJM contact points are in general sufficient according to the Swedish authorities. Since most of the contact points have tasks as ordinary prosecutors dealing with criminal investigations and prosecutions, individual contact points may from time to time not have the time to assist. In this case there is always the possibility to turn to another contact point. All contact points are in principle able to assist regardless of where in Sweden the case is to be referred.

Since the local EJM contact points are located within the Central Authority or at the International Public Prosecution Offices which have a specific responsibility to deal with international cooperation, the situation for the EJM contact points is rather beneficial for them to be able to perform their EJM tasks.

There are only two EJM contact points within the Economic Crime Authority. One is fully operational and the other one, at the HQ (this person is also one of several Swedish national correspondents for Eurojust), has a strategic function. According to Sweden, both of these EJM contact points have adequate resources to fulfil their tasks although the operational contact point might on occasion be under a heavy workload. For that reason the Economic Crime Authority has designated two additional prosecutors as internal contact points (called *kontaktåklagare*, i.e. "contact prosecutors") with the same training and experience as the EJM contact points. They function as contact points within the organisation and they also handle incoming MLA requests although they are not appointed as EJM contact points due to internal rules of the Swedish Prosecution Service. This means that the Economic Crime Authority has at least one specially trained prosecutor at each main office (Stockholm, Göteborg and Malmö). In summary, the impression is that the Economic Crime Authority has allocated adequate resources within the organisation to handle issues related to international legal cooperation.

The typical EJM cases concern questions on how to draft and where to send requests, and also to assist and check the execution of requests. The EJM contact points are often asked to find the executing prosecutor in Sweden.

The outcome of the Swedish requests in other countries is varying. Sometimes it works, sometimes not, both in respect of the assistance provided as such and as to the time lapse. Sometimes there are difficulties in respect of the language, even if it is indicated on the EJM website that the EJM contact points can handle a certain language (normally English). There is still room for improvement of the performances of the EJM contact points in other Member States according to Sweden.

The number of cases handled by each contact point varies from 5 up to 50 per year.

Concerning the Economic Crime Authority, it is somewhat difficult to ascertain in which capacity each contact point is contacted since its EJM contact points also are specialised in international cooperation and one of them is also a national correspondent for Eurojust. This means that they for example receive a number of incoming MLA requests, sometimes via other Prosecution Offices, and from other prosecutors within the organisation. The Economic Crime Authority has not identified any need to establish a system to measure in which capacity these contact points are contacted. The contact points handle in average about 20 MLA requests each year in both directions.

As mentioned, the EJM contact points handle both incoming and outgoing MLA requests falling within the mandate of the Economic Crime Authority (e.g. tax crimes, money laundering, book keeping crimes and major fraud cases). Many queries concern bank statements. Overall, both incoming and outgoing requests are successful and a reply is often received within a reasonable timeframe (i.e. one month). However, on occasion it takes far too long to receive answers from certain Member States.

Certain countries are slower than others and this is often the case where a central authority is the designated contact point. In these cases it has turned out to be more efficient to address Eurojust directly even though the case is bilateral. On occasion the prosecutors have experienced that the designated contact point does not speak the language stated on the EJM website. There are also examples of when the prosecutor has been instructed to translate an MLA request into the language of the receiving country although the country is said to accept a request in English. This obviously slows the process. Overall, the answers received are useful but there is often a need to ask for additional information and since some countries in these cases request an additional MLA request it means loss of valuable time.

6.4.1. The EJM Website

Reporting on the EJM Website and its tools (such as the Atlas, EAW Wizard, Library), Sweden believes that, in general the website is becoming better.

There are still problems with the accuracy and stringency of the information. The responsibility lies both at the EJM Secretariat as well as the Member States (Tool Correspondents). There is a need to be clear on the allocation of the responsibilities and follow-up measures on the updates.

There is a need of a system for quality check. Still one cannot be 100 per cent certain that the information in e.g. the MLA or the EAW Atlases is correct.

There is a need for a transparent strategic plan for the development of the website. As a result of the lack of such a plan there is a risk that the work that is being done is not performed in the correct sequence.

There are also some concerns about the plans on translation. There are clear advantages of having all the information translated into all languages. This is a huge task though initially, but even more so considering the issue of updating. According to Sweden, it is better to have high ambitions on creating an English version that is accurate and that works, than to translate bad quality information into many languages.

The most important parts of the website are the contact points section and the Atlas sections. The library is of value, but there is a risk that the information in the library becomes inaccurate, if too much information is inserted and at the end not handled properly on a continuous basis.

The Economic Crime Authority states that the EJN website and its tools are useful in the daily work of the prosecutors. The idea to have all this information on a website is very good but in their view the site ought to be updated more frequently. The overall opinion is that it would be even more useful if it was updated regularly. Moreover the inclusion of a MLA Wizard and a Freezing Order Wizard would add to its value.

6.5. Conclusions

- Swedish JITs have mostly been on robberies, THB and solicitation, murder and drugs. The Swedish desk has positive experiences of JITs. Generally, all persons interviewed have considered that the fact that Eurojust is involved in a JIT brings a substantial added value, not only because of the financing possibilities it opens but also because it enhances the operation of the JIT. The JITs are described as ongoing success stories. Europol has assisted with analysis of very large amounts of criminal intelligence data which have been of added value for the JITs. The practice of using Eurojust and Europol for JITs should be further extended.
- Sweden should have an overview of all JITs and systematically assess their potential problems or benefits. In addition, the Swedish national member should have the possibility set by a law to sign a JIT agreement on behalf of a national authority in Sweden.
- The International Public Prosecution Office in Gothenburg identifies a domestic problem as regards JITs, stating that they are in fact too rapid in investigations, going for what is immediately feasible and leave traces of other crimes behind. Thus, they do not have the time to go into JITs. If this is the practice in Sweden, it appears that it would be worth examining this matter at the level of Chief Prosecutors.

- According to the Swedish prosecutorial rules, the scope of the investigation which determines the scope of the JIT must be clearly pre-defined, so as to exclude the possibility for the defence to challenge the fact that the scope of the JIT is not limited.
- The Swedish desk has experience of cases involving OLAF and Europol but not with Frontex. When the Swedish desk opens a case concerning crimes against the financial interests of the EU, the case is not only opened towards the involved Member States but also towards OLAF. When the Swedish desk opens a complicated case concerning a type of crime that is covered by an AWF at Europol, the case is also always opened towards Europol. The Swedish desk has so far had very good experience in this regard. Europol is invited to around 70 per cent of the Swedish coordination meetings.
- Eurojust has official contact points (prosecutors on high level or representatives in Ministries of Justice) in around 30 third countries. Sweden has on several occasions received valuable assistance regarding whom to contact and information concerning the legal system in the relevant third State. According to the International Public Prosecution Office in Gothenburg, the secondment of liaison magistrates by Eurojust to third States, as foreseen in the new Eurojust Decision, would be useful, in particular in Thailand where such function would greatly help in investigations and prosecutions concerning THB cases involving victims coming from South Asia countries
- There are 9 EJM Contact Points in Sweden, 6 at local level (all of them members of the ENCS) and 3 at central level. The National Correspondent is also the Tool Correspondent. The resources allocated to the Swedish contact points are in general sufficient. All contact points are in principle able to assist regardless of to where in Sweden the case is to be referred. Although there are only two contacts points within the Economic Crime Authority, their impression is that the Economic Crime Authority has allocated adequate resources within the organisation to handle issues related to international legal cooperation
- Instruction 2011:8 of the Prosecution Authority on Choosing Support for International Judicial Cooperation provides for guidelines on when to use Eurojust, the EJM and Europol. Criteria for referring a case to Eurojust rather than to EJM are severity of the case, urgency of the request and the multilateral character of the case. In this document it is also mentioned that the Europol national unit should only by way of exception be used for facilitation of MLAs. If Europol is used, the prosecutor has to inform Eurojust. This is a best practice where also other Member States could learn.

There are close contacts between the Ministry of Justice and the Swedish desk at Eurojust, almost on a daily basis. This will be formalised in the near future, with four annual meetings arranged from the autumn. Issues to be covered include proposals from the Commission as regards new legislation, and information exchange.

- According to the Economic Crime Authority, sometimes it is a problem to have two different prosecution services. For instance, contacts with Eurojust are easier for people from the Prosecutor General's Office since the members of the Swedish national desk at Eurojust usually originate from this Office. However, this is not a big problem because cooperation between the Prosecutor General's Office and the Economic Crime Authority works very well. Nevertheless, the Economic Crime Authority is planning to have a police officer working half time at Europol. It is also being discussed (in far-going discussions) to recruit members of the national desk from the Economic Crime Authority.
- The desks at Eurojust and Europol have regular and frequent meetings (about once a month). It helps and does not result in extra work. The focus in the meetings is on operational issues. The NCO takes part through video link and keeps notes. This does not need to be formalised. Everyone involved is informed about what they need to know.
- Otherwise, cooperation with the police is mainly arranged either through the Operative Council/National Operational Steering Group instead of the Unit for International Police Cooperation at the National Bureau of Investigation which is only a facilitator (besides being responsible for the Europol desk).
- The general opinion of the judicial authorities met during the evaluation visit is that the EJN contact points in some Member States do not meet all the requirements suggested in the non-binding Guidelines for the Selection of contact points of the European Judicial Network (PLEN2 2007/2) as some of them are not operational and some of them do not meet the linguistic requirements. In addition, the lists of contact points are not regularly updated. As a consequence, the judicial authorities sometimes prefer to address their request directly to Eurojust, even if the case could be dealt with by EJN, as they expect better results from Eurojust.

- The national member (and the deputy and assistant) have regular exchanges with the EJNI contact points, facilitated by the fact that the EJNI contact points are prosecutors with the task of leading criminal investigations or work within the Central Authority. The EJNI National correspondent/Tool correspondent has contacts with the Eurojust national member on specific issues. Some of the contacts have concerned questions related to cooperation between EJNI and Eurojust. Since the local contact points are located within the Central Authority or at the International Public Prosecution Offices which have a specific responsibility to deal with international cooperation, the situation for the contact points is rather beneficial for them to be able to perform their EJNI tasks.
- The number of cases handled by each EJNI contact point varies from 5 up to 50 per year. The contact points at the Economic Crime Authority handle both incoming and outgoing MLA requests falling within its mandate. All contacts that are needed can be taken. The exchange of information can normally take place without problems. Overall, both incoming and outgoing requests are successful and a reply is often received within a reasonable timeframe (i.e. one month). However, on occasion it takes far too long to receive answers.
- All recognise the importance of the EJNI tools. The Swedish National Correspondent recognises that the information related to Sweden on the website has not always been regularly updated. The so called back office for the EJNI website has not been functioning very well which has resulted in non-accurate data on the website. The National Correspondent for EJNI and several other judicial authorities regret that the tools – and in particular the Atlas - are not regularly updated for some Member States and that, moreover, no indication is available on the website as to the date of the last update. As an outcome, the tools, and in particular the Atlas, are not considered reliable.

7. SPECIAL INVESTIGATIVE TECHNIQUES

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

According to the Instruction ÅFS 2007:12, chapter 1, paragraph 5, the Chief Public Prosecutors of Public Prosecution Offices (the Swedish Prosecution Authority as well as the Economic Crime Authority) have the competence to authorise and coordinate controlled deliveries. This competence can be delegated to other prosecutors, which is often the case, at least at International Public Prosecution Offices.

The Swedish national member has since 2002 had the powers to authorise and coordinate controlled deliveries with or (in urgent cases) without the agreement of the prosecutor responsible for the case (if there is one).

The Swedish desk has been asked to facilitate several controlled deliveries in the past. The last years, this has always been done in cooperation with the Europol national unit who has taken care of the contacts with law enforcement authorities while Eurojust has coordinated the judicial contacts.

The Swedish national member has all the powers needed in this respect. Still, laments Sweden, nearly a year after the new Eurojust Decision should have been implemented, some national members has not yet received the minimum powers described in the decision. The full capacity of Eurojust is thus not yet used.

7.2. Other special investigative techniques (SITs)

Swedish authorities have on numerous occasions, using Eurojust, successfully requested assistance from other Member States concerning e.g. interception of telecommunication and attachment of GPS transmitters to vehicles. The overall experience of these cases is that the added value of Eurojust in terms of liaison between the involved national desks and overcoming language barriers were decisive for achieving the requested assistance within the often very limited time frame.

7.3. Conclusions

- It appears that the Swedish system of giving powers to the national member has worked well and not caused any problems in practice.

8. TRAINING AND AWARENESS RAISING

8.1. Promotion of the use of Eurojust and the EJM

In Sweden, all newly employed public prosecutors undergo 15 weeks of training during their three first years as prosecutors. The training includes sessions on international cooperation. In total, the training for newly employed prosecutors encompasses 20 sessions (45 minutes each) targeting international judicial co-operation. Eurojust and the EJM are dealt with during those sessions. The prosecutors working at the three International Public Prosecution Offices in Stockholm, Göteborg and Malmö, regularly meet to exchange experiences regarding, among other topics, Eurojust and the EJM. The prosecutors from all three International Public Prosecution Offices meet once a year for a one day workshop. Apart from this formalised way to meet and exchange experiences, there are contacts on a daily basis related to operative matters. As a part of their training, they also have the possibility to be interns at the Swedish desk for a couple of weeks.

As for the Economic Crime Authority, training is provided for all personnel involved in such processes. All prosecutors at the Economic Crime Authority with the rank of Senior Public Prosecutors can be involved in MLA requests and it is therefore envisaged that all these prosecutors should undergo training in international cooperation. Furthermore the training is open to all personnel such as forensic accountants and police officers. The objectives of this training are that prosecutors after the training should be able to use all relevant instruments in the field of international legal cooperation and know about the international police cooperation system as well as how to use the asset recovery office (ARO) system. The objectives for the other personnel groups are limited so that they should have such knowledge of international cooperation that they will be able to assist the prosecutors in dealing with MLA requests. Furthermore, with regard to police officers, they should after this training be able to use the channels available to them for international police cooperation. The course is held by one of the EJM contact points together with one of the internal contact prosecutors and an experienced police officer. The Swedish national member or assistant always participates as speaker on these courses as well as representatives from the Ministry of Justice and other relevant authorities.

The course is held once a year. It is possible to participate several times and this is also recommended since this area of law is rapidly changing. There are also plans to introduce a refresher training program and also to ascertain that all prosecutors have adequate training within this field.

Apart from training, national authorities in Sweden are made aware of the existence and role of Eurojust and of the EJP (including the EJP website) in different ways. There is information about Eurojust and the EJP available on the Intranets of the Prosecution Authority and the Economic Crime Authority. Furthermore, news flashes and highlights concerning important changes and news regarding Eurojust and the EJP are regularly published on these intranets. National authorities in Sweden are informed of the projects on which Eurojust or the EJP are working, such as the documents disseminated by Eurojust or the EJP (e.g. the Eurojust Guidelines for deciding which jurisdiction should prosecute) mainly through the Intranet of the Swedish Prosecution Authority. There is also information on this at the yearly meetings of the prosecutors working at the International Public Prosecution Offices.

8.2. Specific training for national members and EJP contact points

Since the prosecutor who is commissioned to be national member always is chosen from a group of senior prosecutors with extensive experience of international cooperation in criminal matters, no specific training concerning legislation is regarded necessary.

The new national member for Sweden, who took up his position in the summer of 2012, has had a number of meetings with senior officials at the Ministry of Justice to discuss legal and other issues relevant for the position as national member. Furthermore, he has been on a one week study visit to Brussels where he met officials at the Commission (DGs Home/Justice), personnel at the permanent Swedish representation and senior officials at the General Secretariat at the Council. He also spent two days visiting the Unit for International Police Cooperation at the National Bureau of Investigation in Stockholm and has had meetings with the Deputy Police Chief for National Bureau of Investigation and numerous meetings and discussions with colleagues at the Office of the Prosecutor General.

8.3. Conclusions

- The training of a prosecutor starts with a master of law degree followed by two years of service as a court clerk. After that start a nine-month trainee period followed by a two-year period as assistant prosecutor. Then a candidate becomes a public prosecutor. There is no formal accreditation. The decision is taken after an evaluation of how a candidate has managed during his trainee period.

- In Sweden, all newly employed public prosecutors undergo 15 weeks of training during their three first years as prosecutors. The training includes sessions on international cooperation. Eurojust and the EJP are dealt with during those sessions.
- Because of the resources invested in international cooperation including Eurojust and the EJP, it has been possible for Swedish prosecutors to visit and work at Eurojust, which has increased the level of knowledge on the EU institutions in Sweden. However, many of these prosecutors seem to work in the Ministry of Justice, at the Prosecutors General's Office or within international units. This may centralise the expertise to the higher levels of the administration. As the evaluation team did not meet anyone from local prosecution offices, it cannot be assessed what is the actual level of knowledge and whether there is a need for awareness raising there.
- Some 70 per cent of all Swedish prosecutors working at the International Public Prosecution Offices have (individually) been to Eurojust for on the spot visits since Eurojust came into operation. Whilst this was seen as useful, it also proved to be quite expensive. Today, Sweden instead is developing a structure for receiving a few prosecutors for 3-4 weeks per year at the desk.
- Nevertheless, further training is needed, especially as regards international cooperation. For instance, it was stated that the document dated 1 November 2011 on channels for international cooperation and Article 13, is not known to all prosecutors.
- It is useful that the prosecutors working at the three International Public Prosecution Offices in Stockholm, Göteborg and Malmö, regularly meet to exchange experiences regarding, among other topics, Eurojust and the EJP.
- As for the Economic Crime Authority, training is provided for all personnel involved in such processes. The course is held once a year. It is possible to participate several times and this is also recommended since this area of law is rapidly changing. Sweden should go ahead with the plans to introduce a refresher training program and also to ascertain that all prosecutors have adequate training within this field.
- Apart from training, national authorities in Sweden are made aware of the existence and role of Eurojust and of the EJP (including the EJP website) in many ways, mainly on the Intranets of the Prosecution Authority and the Economic Crime Authority.

- All judges in their training visit for one week Eurojust and the EU institutions. In addition, the court manual about international cooperation is available on the court Intranet, also publicly so. It is deemed as being very useful and updated was quite recently. As a matter of fact, this court manual is also used by some prosecutors as a complement to their own guidelines.



9. GENERAL OBSERVATIONS AND FINAL REMARKS

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

It has appeared to the evaluators that Sweden approve of and strongly support the existence and work carried out by Eurojust and EJM in the field of international cooperation and welcomes the initiative to evaluate the implementation of the Eurojust and EJM Decisions and the operational aspects of the work of Eurojust and EJM with a view to making the fight against organised crime more efficient.

The general opinion from prosecutors involved in cases concerning international legal cooperation, is that Eurojust and the EJM are very useful and really bring added value to the management of such cases.

Their establishment has contributed significantly to a more efficient international judicial cooperation. It seems that the added value of Eurojust is greater than that of the EJM. This is mainly because Eurojust consists of national members from all Member States that are located at the same place and has the capability to arrange coordination meetings and organise and finance JTs.

As for further suggestions (practical measures or legislative steps) in view to assist Eurojust and the EJM to meet the expectations placed on them, Sweden holds it that it is important to take into account that since some Member States have not yet implemented the new Eurojust Decision, the full impact of the decision cannot be assessed. Any possible re-organisation or other far reaching measures should be avoided until the result of the last structural changes can be established.

9.1. Conclusions

- The general assessment of the quality and efficiency of the support received from Eurojust by central and local authorities is very positive. The Swedish desk at Eurojust is seen and described as a partner with which the contacts are frequent, easy and fruitful. Eurojust as an institution also enjoys a very good reputation. This is due to several factors. One of them is certainly the assiduous marketing provided by the Swedish Authorities as to the usefulness of Eurojust: seminars, training, visits to Eurojust, etc. For example, the brochures issued for the public on

the Prosecution Services and on the Swedish judicial system contain a reference to the importance of international cooperation and mention Eurojust and the EJP (the first one even shows the logo of Eurojust). Eurojust is therefore seen as “part of the system”. It is also due to the fact that many practitioners in charge of international cooperation have spent time at Eurojust and have a personal knowledge not only of the members of the Swedish desk but also of members of other desks and in the administration. The cooperation with Eurojust is informal, which makes it user friendly and efficient, according to all persons interviewed. This is not unique in relation to Eurojust but is a general characteristic of the Swedish judicial system.

- According to the Ministry of Justice, Eurojust has shown very much added value as regards cooperation between the Member States. The Ministry of Justice wants to facilitate and enhance this, and deepen trust and understanding. According to them, some administrative burdens on the College could be lifted to give the College a chance to focus on operational issues. In general terms, there is a lot of space for improving Eurojust's operational activities.
- Sweden has invested a large amount of resources in international cooperation including Eurojust and the EJP. For instance at least two members of the Prosecutor General's Office have been involved in the implementation process on a full-time basis. As a result, the system has been able to produce a set of guides and other documents regarding the implementation of the new Eurojust Decision.
- Sweden has overall a very good and very professional operational implementation of the Eurojust rules in place. Interlocutors in the Justice Ministry and in the Public Prosecutor Office, the international public prosecutor office and the Economic Crime Agency are fully aware of the Eurojust *acquis*, spread it to prosecutors in Sweden (who do not yet seem to have the same level of awareness) and work closely with Eurojust.
- According to the Prosecutor General's Office, the Informal Working Group forum set up by Eurojust to accompany and support the implementation of the new Eurojust Decision by the Member States (IWG) was very useful, and they argue that Eurojust should now organise yearly meetings of the National Correspondents responsible for the ENCS aimed at the exchange of best practices.
- Sweden believes that Eurojust should be developed to its full potential before creating any new organisation. Other Member States should use the full potential of Eurojust, for instance by increasing the powers of their national members.

10. RECOMMENDATIONS

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

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

Sweden should conduct a follow-up on the recommendations given in this report 18 months after the evaluation and report on the progress to the Working Party on General Affairs, including Evaluations (GENVAL). The results of this evaluation should also, at some point, be examined by the Working Party on Cooperation in Criminal Matters (COPEN).

10.1. Recommendations to Sweden

1. Sweden has a general law relating to international judicial cooperation, but Eurojust and the EJN are not mentioned therein. When the law changes next time, it is recommended that reference to the assistance of Eurojust and the EJN are inserted, with a view to ensuring that also courts are encompassed by the obligations.
2. The Swedish Instruction as regards Eurojust and the EJN is part of a wider Instruction about international cooperation issued by the Prosecutor General. The Guidelines adopted on 25 October 2011 (complementing Instruction AFS 2007-12 of the Prosecutor General implementing Article 13 of the Eurojust Decision) at times appear to be worded in a manner that does not fully correspond with the requirements of the Eurojust Decision (see 3.5. Conclusions). Sweden is therefore recommended to revise the guidelines with a view to aligning its content with the Eurojust Decision.

3. These guidelines state that “the crime types specified by Eurojust are not all directly transferrable to equivalent Swedish crime classifications”, and note that some of them are “difficult to interpret.” Sweden is therefore recommended to develop and distribute clear guidelines in this area by identifying a list of crimes according to the Swedish Criminal Code which fit categories listed in Article 13(6)(a) of the Eurojust Decision. Sweden is recommended to ensure that the process to implement the Eurojust Decision also reaches courts and judges. If not done by law, this could, for instance, be done in court manuals that are published by the Court Administration.
4. In view of the massive information flow from the prosecution service to all prosecutors as regards the interpretation of Article 13 of the Eurojust Decision and measures that should be taken in order to fulfil the requirements set therein, the low number of notifications based on this provision is disappointing. This is particularly the case in relation to the Economic Crime Authority. Sweden is recommended to continue its efforts of encouragement and support with a view to fostering an understanding of the requirements and benefits as regards Article 13 exchanges. In that context, the electronic form developed by Eurojust could be integrated into the Swedish prosecutor CMS (Cåbra).
5. To deepen their involvement in JITs, Sweden is recommended to reconsider the pace, scope and orientation of investigations to allow for the enhanced inclusion of their international aspects and involvement of Eurojust. This may enhance the quality of many investigations. The way to achieve this could be to have a discussion of the principle among Chief Prosecutors.
6. Sweden is recommended to ensure that the information related to Sweden on the EJN website is regularly updated.
7. Training efforts in Sweden as regards international cooperation are impressive. Nevertheless, further continuous training is needed, to ensure that necessary knowledge is spread to all prosecutors. In particular, Swedish prosecutors should receive training in how Eurojust handles confidential information, with a view to gaining confidence in the system.
8. Sweden is recommended to ensure that common EU priorities as well as efficiency measurement mechanisms are incorporated within the national planning systems of prosecutors and law enforcement agencies, including the use of Eurojust.

10.2. Recommendations to the European Union, its institutions and agencies, and to other Member States

1. A best practice identified in Sweden is the issuing of internal practical guidelines for the national desk. A guidebook describing the work and responsibilities of the national desk is a good practice and should be adopted by other Member States too. The guideline on dealing with information received under Article 13 of the Eurojust Decision is also useful and could be adopted by other national desks. This would foster an assessment of the role of the desk and its tasks in those Member States as well.
2. Combining international and national coordination structures and coordination role and functions in one person presents the advantage of ensuring an economy of structures and, moreover, guaranteeing an optimal coordination and exchange of information. Including the ENCS in the structure ensures a multidisciplinary approach to crime and a prioritisation and alignment of resources at all levels. It is recommended to all Member States to consider adopting these best practices.
3. The fact that the Swedish desk at Eurojust has access to all registers available to Swedish prosecutors, including criminal records and the register of suspects is a best practice and should be adopted by other Member States.
4. All Member States should consider introducing centralised databases on both investigations and prosecutions (national case management systems), in order to avoid the risk of overlapping criminal cases and failure to match cases that often have a large geographical and even international scope. Such a system should ideally cover all facets of the investigation/prosecution chain.
5. Furthermore, the EU should facilitate the linking of such national case management systems, at least on a "hit/no hit" basis. This could ideally be done in a de-centralised way similar to the European Criminal Records Information System (ECRIS).
6. Sweden has done a lot to give guidelines on when to refer a case to Eurojust or the EJN. In a similar vein, Member States should provide their practitioners with practical and simple guidelines on when to refer a case to Eurojust, the EJN and Europol.

7. According to the Eurojust Decision, the national members of Eurojust should be designated as competent authorities as regards cooperation with OLAF (Article 26(5)). Sweden has done so, and all Member States are recommended to do so as well to ensure compliance with the Eurojust Decision.
8. Similar to Sweden, other Member States should encourage the proper application of Article 13 of the Eurojust Decision by the issuance of practical guidelines, the provision of training, and regular meetings of prosecutors with the National Eurojust Correspondent.
9. When the Commission, in accordance with Article 13(12) of the Eurojust Decision assesses the provision of information to be shared at the EU level, it could also make proposals with a view to specifying unambiguously the requirements in the Eurojust Decision as regards Article 13.
10. As regards the EJNI, the Member States should ensure that the designated contact points meet the necessary qualifications in accordance with the EJNI Decision and, where appropriate, provide language training. They should also ensure a proper and regular updating of the EJNI contact points' list on the EJNI website.
11. Member States should ensure the accuracy of the national data available on the EJNI website.
12. Furthermore, the European Union is recommended to ensure better synergies between the EJNI and Eurojust, including consideration of the streamlining of their roles and increasing joint responsibilities and sharing of knowledge and expertise.
13. The EJNI should consider providing language training to EJNI contact points.
14. The practice of the Swedish desk at Eurojust, when opening a case in the CMS related to a type of crime covered by an AWF at Europol, is to invite Europol and relevant members of the AWF to coordination meetings. This practice is recommended to other Member States.
15. Member States are recommended to ensure that common EU priorities as well as efficiency measurement mechanisms are incorporated within the national planning systems of prosecutors and law enforcement agencies, including the use of Eurojust.

10.3. Recommendations to Eurojust/the EJM

1. Eurojust should organise annual meetings of the Eurojust National Correspondents in view of exchanging best practices.
2. Eurojust should collect and, where appropriate, translate and disseminate to all National Correspondents to Eurojust the guidelines issued at national level on the implementation of Article 13 of the Eurojust Decision, and support and encourage the adoption of such guidelines by national authorities of all Member States (best practices).
3. Eurojust should provide clear information as to the range of products, services and feedback that can be expected from Eurojust on the basis of Article 13a, as a result of the exchange of information based on Article 13.
4. Eurojust should provide spontaneous feedback (even if negative) to national authorities as a result of information sent to Eurojust on the basis of Article 13.
5. Eurojust is further recommended to simplify and make more user-friendly the Article 13 electronic form to enhance the necessary exchange of information. Eurojust should also reconsider the requirement to update the form as soon as new elements are collected.
6. As concerns have been expressed by practitioners as to the confidentiality of the information exchanged with Eurojust and via Eurojust, and when the information is received and stored in the Eurojust CMS, Eurojust is recommended to urgently analyse this issue and propose solutions. In addition, in view of the concerns raised as regards the confidentiality of documents and information exchanged during coordination meetings, the procedure for taking minutes provided by Eurojust should be reconsidered.
7. Eurojust should collect and disseminate guidelines issued at national level on the reference of cases to Eurojust or the EJM, and support and encourage the adoption of such guidelines at national level.

8. As the Swedish marketing of Article 13 has already been quite comprehensive, to support this work, further developments by Eurojust should be encouraged, to make its support more concrete and operational, including by the establishment of a secure connection and enhanced information technology.
9. In view of criticism raised against the results of the work of the EJM Secretariat, Eurojust should ensure that the work of the EJM Secretariat is organised in a manner which ensures the efficient functioning of the Network.
10. The Presidency (aided by the EJM Secretariat at Eurojust) should monitor the fulfilment of requirements by the Member States when designating contact points, and monitor the regular and proper update of the list of contact points.
11. The Presidency (aided by the EJM Secretariat at Eurojust) should clarify roles and responsibilities of the Member States in the updating of the data available through the EJM tools and closely monitor the update by Member States, in particular as regards the Atlas.

ANNEX A: PROGRAMME FOR VISIT

May 7

Travel and arrival of the team.

May 8

09.30 - 12.00 The Ministry of Justice. Director Ari Soppela, Senior Adviser Katrin Hollunger Wågner and Special Adviser Erik Fågelsbo

12.00 - 13.30 Lunch and transportation

13.30 - 16.00 The Office of the Prosecutor-General. Director of Public Prosecution Björn Blomqvist, the National Member for Sweden at Eurojust Ola Laurell, Senior Legal Manager Ola Löfgren and Senior Legal Manager Henrik Olin

Dinner with the team.

May 9

09.30 – 12.00 The International Public Prosecution Office Stockholm. Director of Public Prosecution Björn Blomqvist, Deputy Chief Public Prosecutor Lise Tamm, the Deputy National Member for Sweden at Eurojust Leif Görts and the Head of the Swedish ENCS Office Marie Lind Thomsen

12.00 – 13.30 Lunch and transportation

13.30 – 15.45 The Swedish Economic Crime Authority. Director of Planning and Coordination Fredrik Holmberg and Senior Public Prosecutor Jan Tibbling

16.00 – 17.30 National Criminal Police, Unit for International Operative Police Cooperation. Tanja Calafatis and Lena Taylor

May 10

08.10 – 13.00 Travel (train) to Gothenburg and lunch.

13.00 – 16.00 International Public Prosecution Office Gothenburg. Deputy Chief Public Prosecutor Thomas Ahlstrand and Senior Public Prosecutor Jonas Arvidsson (The Swedish Economic Crime Authority)

16.42 – 19.50 Travel (train) to Stockholm

May 11

09.30 – 12.00 The Ministry of Justice. Any remaining issues and summing up. State Secretary Martin Valfridsson, Director Ari Soppela, Special Adviser Erik Fågelsbo, Senior Legal Manager Henrik Olin, the Head of the Swedish ENCS Marie Lind Thomsen, Senior Public Prosecutor Jan Tibbling

ANNEX B: LIST OF PERSONS INTERVIEWED/MET

The Office of the Prosecutor-General.

Björn Blomqvist

Ola Laurell

Ola Löfgren

Henrik Olin



The International Public Prosecution Office Stockholm.

Björn Blomqvist,

Lise Tamm

Leif Görts a

Marie Lind Thomsen

The Swedish Economic Crime Authority.

Fredrik Holmberg

Jan Tibbling

National Criminal Police, Unit for International Operative Police Cooperation.

Tanja Calafatis

Lena Taylor

International Public Prosecution Office Gothenburg.

Thomas Ahlstrand

Jonas Arvidsson (The Swedish Economic Crime Authority)

The Ministry of Justice.

Martin Valfridsson,

Ari Soppela

Erik Fågelsbo

Henrik Olin

Marie Lind Thomsen

Jan Tibbling

Katrin Hollunger Wågner



ANNEX C: LIST OF ABBREVIATIONS/GLOSSARY OF TERMS

| ACRONYM ABBREVIATION TERM | ACRONYM IN THE ORIGINAL LANGUAGE | ENGLISH TRANSLATION/EXPLANATION |
|--|---|---|
| ARO | -/- | Asset Recovery Office |
| AWF | -/- | Europol's Analysis Work Files |
| COPEN | -/- | Working Party on Cooperation in Criminal Matters |
| EAW | -/- | European Arrest Warrant |
| ECRIS | -/- | European Criminal Records Information System |
| EJN | -/- | European Judicial Network |
| ENCS | -/- | Eurojust National Coordination System |
| EU | -/- | European Union |
| GENVAL | -/- | Working Party on General Affairs, including Evaluations |
| IAP | -/- | International Association of Prosecutors |
| IWG | -/- | Informal Working Group (Eurojust) |
| JIT | -/- | Joint Investigation Teams |
| MLA | -/- | Mutual Legal Assistance |
| NBI | -/- | National Bureau of Investigation |
| NCO | -/- | National Coordination Office |
| OCC | -/- | On call coordination system |
| OLAF | Office européen de lutte anti-fraude | European Anti-Fraud Office |
| SNE | -/- | Seconded national expert (Eurojust) |
| STSs | -/- | Special Investigative techniques |
| THB | -/- | Trafficking Human Beings |