



**COUNCIL OF
THE EUROPEAN UNION**

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**GENVAL 34
EUROJUST 101**

NOTE

from:	Swedish delegation
to:	Delegations
No. prev. doc.:	13666/1/12 REV 1 GENVAL 64
Subject:	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" - Follow-up to Report on Sweden

The evaluation report on Sweden following the sixth round of mutual evaluations (Council document 13666/1/12 REV 1) was presented on November 14, 2012. The report contains eight recommendations addressed to Sweden. According to the report, Sweden shall within 18 months after the report conduct a follow up outlining the actions taken in relation to the recommendations.

We would like to avail ourselves of this opportunity to express our gratitude for the constructive recommendations addressed to us. We believe that they will be very useful in our efforts to further improve and strengthen Sweden's cooperation with Eurojust and the European Judicial Network.

The recommendations are listed below together with our comments on how they have been addressed.

10.1 Recommendations to Sweden

1. Sweden has a general law relating to international judicial cooperation, but Eurojust and the EJM are not mentioned therein. When the law changes next time, it is recommended that reference to the assistance of Eurojust and the EJM are inserted, with a view to ensuring that also courts are encompassed by the obligations.

Comments from Sweden

The Swedish act on international legal assistance in criminal matters will be subject to review in connection with the implementation of the Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters. The recommendations on this matter in the evaluation report will be considered in connection with this.

2. The Swedish Instruction as regards Eurojust and the EJM 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.

Comments from Sweden

The wording of the guidelines is intended to not restrict the prosecutors' notifying Eurojust in accordance with article 13 of the Eurojust Decision. The definition of "involved states" and "conflicts of jurisdiction" is in this regard intended to be interpreted in a wider sense. However, due to new legislation on money laundering entering into force on July 1st 2014, the guidelines will be revised and the recommendations of the evaluation team will then be considered. The information on the internal web page (Intranet) concerning Eurojust and EJM is also being examined for possible improvement in this regard.

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.

Comments from Sweden

Due to new legislation concerning money laundering entering into force on July 1st 2014, the guidelines will be revised. The recommendations of the evaluation team will then be considered. It is important however that such a list does not restrict the reporting of cases, and that it would be worded in an open way.

In order to ensure that that the process to implement the Eurojust Decision also reaches courts and judges, the Swedish National Courts Administration has since January 2013 in its court manual included information about in which cases a court can contact the Swedish desk at Eurojust.

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).

Comments from Sweden

The number of Article 13 notifications is low. For this reason the Prosecution Authority is currently conducting a review of the use of the template and how the information regarding the obligation and the notifying process is perceived. Following the review, an analysis on what specific measures are needed is foreseen.

The Economic Crime Authority is continually striving towards an increased awareness about the requirements and benefits as regards article 13 exchanges. As a part of this effort, a column regarding article 13 information has been issued on the authority's intranet. The requirements according to article 13 have also been emphasized during training sessions earlier this year. The training was available for all relevant personnel.

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.

Comments from Sweden

JITs are very important tools in the fight against serious trans-border organized crime and should be used in all cases where an added value is foreseen. The number of JITs in Sweden is increasing. In order to inspire the use of JITs and to show how they may be used, the Prosecution Authority is drafting a Handbook for JITs together with the National Police Board. JITs are also a recurring item at the annual meetings of exchange of experiences and best practice amongst experts of serious organized trans-border crime.

The Economic Crime Authority had one JIT during 2013 which was very successful and the authority is continuously aiming to deepen its involvement in JITs. In line with this ambition and in order to further improve the cooperation between the authority and Eurojust, it was decided (in spring 2013) that the Assistant to the National Member for Sweden should be seconded from the Economic Crime Authority.

6. Sweden is recommended to ensure that the information related to Sweden on the EJNI website is regularly updated.

Comments from Sweden

The information related to Sweden on the EJNI website is updated regularly. For example, it was recently updated with information on which Framework Decisions Sweden has implemented.

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.

Comments from Sweden

The level of trust for Eurojust among the Swedish prosecutors is high. Different rules of disclosure of information in different Member States may however have a negative impact on international judicial cooperation and the exchange of information between law enforcement bodies. As of March 2014, a guiding document for the Prosecution Authority on the suspects' right to information has been updated with information on the rules on disclosure of information in international judicial cooperation. The update has a specific section containing information on how Eurojust handles confidential information.

The Economic Crime Authority continuously trains the prosecutors as regards international cooperation. An international conference is organized every year. During 2014, the Assistant to the National Member for Sweden (who is specialized in economic crime) and one of the liaison officers at the Swedish national desk at Europol, provided training regarding this topic which was available to all prosecutors and investigators at the Economic Crime Authority.

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.

Comments from Sweden

The Police

The Swedish Police has incorporated the EU Policy Cycle Priorities (EU Priorities) as well as efficiency measurement mechanism in the planning system.

The National Bureau of Investigation (NBI) - the operational part of the National Police Board - follows up the EU Priorities, including SOCTA, MASP and EMPACT OAPs and includes this in the national planning.

The EMPACT coordinator and the Criminal Intelligence Section at the NBI include the EU Priorities in the national situation report for the Police and in the common situation report for all Swedish law enforcement agencies in the National Operative Council. Also in the threat assessment process, the NBI take account of the EU Priorities.

The NBI has a close cooperation with Europol and Eurojust.

The Police participate in several of the EMPACTs that have been created on basis of the EU Priorities.

The Customs

Swedish Customs has been given two main tasks by the Government:

- 1) Correct collection of revenues and
- 2) prevention and combat of cross-border crime.

The Government has also given the Law Enforcement authorities in Sweden, among others the Customs, a specific task to combat serious and organized crime. The EU Priorities are therefore an integrated part of the national strategy to combat organized crime. The Customs has also a direct task from the Government to combat cross-border organized crime. Also here the EU Priorities are an integrated part of the national strategy to combat cross-border organized crime.

There are no specific customs action plans for the different EU Priorities , instead the priorities are integrated as a part of the annual action plan for the Customs. The EU Priorities, as a whole, is a prioritized direction for the Customs.

The Customs participate in the following EMPACTs: Cocaine/Heroin, Excise, Firearms and Synthetic Drugs.

The Prosecution Authority

There is no specific reference made to the EU Priorities in the national planning document for the Prosecution Authority. However, most of the nine prioritized areas of the EU policy cycle are also areas of a priority to the Prosecution Authority. The EU Priorities have inspired the internal steering documents of the Prosecution Authority through the National Threat Analyses of the National Police and the annual steering document from the Ministry of Justice. This can be observed through, for instance, the Operational Plan for 2014, in which an area for follow up is the number of suspects and prosecuted offenders of human trafficking and of IPR crimes. Furthermore, a strategy for combating serious and organized crime has been adopted the Prosecution Authority, which touches upon several of the EU Priorities.

The Economic Crime Authority

The Economic Crime Authority's National Planning System and International Cooperation Strategy (2014-2017) states that the use of existing international networks should be increased in order to more efficiently investigate international crimes. As part of this, the Economic Crime Authority has become the driver for EMPACT MTIC. In this regard, the authority is also co-driver for EMPACT Excise on a national level.