Eurojust

Evaluation of the Eurojust Council Decision and the activities carried out by Eurojust

Final Report
30 June 2015

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Building a better working world

Structure of the report

This report is divided into eight chapters:

- Chapter 1 consists in the Executive Summary of the evaluation;
- Chapter 2 provides a succinct overview of the objectives and scope of the evaluation, as well as the methodological approach employed by the evaluation team and the limitations of the evaluation;
- Chapter 3 discusses the implementation of the 2008 Eurojust Council Decision;
- Chapter 4 presents the evaluation findings on the effectiveness of Eurojust, as well as the 2008 Eurojust Council Decision;
- Chapter 5 includes findings on governance, working practices and efficiency;
- Chapter 6 covers findings relating to external coherence;
- Chapter 7 presents the recommendations formulated by the evaluation team on the basis of the evaluation findings included in Chapters 3 – 6; and
- Chapter 8 lists the annexes.

Acronyms

CATS	Article 36 Committee
CEPOL	European Police College
CMS	Case Management System
COPEN	Working Party on Cooperation in Criminal Matters
COSI	Standing Committee on Operational Cooperation on Internal Security
DPO	Data Protection Officer
EASO	European Asylum Support Office
EAW	European Arrest Warrant
EC3	European Cybercrime Centre
EIGE	European Institute for Gender Equality
EJN	European Judicial Network
EMCDDA	European Monitoring Centre for Drugs and Drug Addiction
EMPACT	European Multi-disciplinary Platform against Criminal Threats
ENCS	Eurojust National Coordination System
EPOC	European Pool against Organised Crime
EPPO	European Public Prosecutor's Office
EU	European Union
eu-LISA	European Union Agency for large-scale IT systems
Europol	European Police Office
FRA	Fundamental Rights Agency
FRONTEX	European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union
GENVAL	Working Group of the Council of the EU on general matters including evaluations
Iber-RED	Red Iberoamericana de cooperación Jurídica Internacional
IWG	Informal Working Group on the Implementation of the Eurojust Council Decision

JHA	Justice and Home Affairs
JIT	Joint Investigation Team
JSB	Joint Supervisory Body
LIBE	Committee on Civil Liberties, Justice and Home Affairs of the European Parliament
MASP	Multi-Annual Strategic Plan
MLA	Mutual Legal Assistance
MoU	Memorandum of Understanding
NCAs	National Competent Authorities
OCC	On-Call Coordination
OLAF	European Anti-Fraud Office
OAP	Operational Action Plan
SNE	Seconded National Expert
SOCTA	Serious Organised Crime Threat Assessment
TE-SAT	Terrorism Situation and Trend Report
TFEU	Treaty on the Functioning of the European Union
TWF	Temporary Work File
UNODC	United Nations Office for Drug Control and Crime Prevention

1 Executive Summary

1.1 Background and approach

Background

Article 41a of the Council Decision 2009/426/JHA on the strengthening of Eurojust (hereafter referred to as "the 2008 Eurojust Council Decision") requires that the College of Eurojust shall commission an independent external evaluation of the implementation of the 2008 Eurojust Council Decision and the activities carried out by Eurojust every five years. In line with Article 41a, Eurojust appointed the consulting firm EY (formerly Ernst & Young) to conduct the independent external evaluation in July 2014.

The Decision of the College of Eurojust 2014-3[1] and the specific Terms of Reference the College issued in consultation with the European Commission for this evaluation exercise set out three objectives for the evaluation: to provide an independent assessment of

- the implementation of the 2008 Eurojust Council Decision;
- the impact of the 2008 Eurojust Council Decision on the performance of Eurojust in terms of achieving its operational objectives; and
- the effectiveness and efficiency of Eurojust's activities.

Methodological approach

The evaluation ran from September 2014 to June 2015 and was conducted in three sequential phases. The inception phase laid the methodological groundwork of the evaluation and defined the data collection strategy in close cooperation with the Steering Committee established by Eurojust for the evaluation. The data collection phase consisted of the execution of the data collection strategy, notably in depth documentary review, a programme of interviews at Eurojust and with key partners and two e-surveys targeted at the National Desks and Eurojust stakeholders on the national level[2]. The final phase of the evaluation was focused on processing, triangulating and analysing the data collected and formulating conclusions and recommendations. This phase was carried out in close consultation with the Steering Committee and notably included two workshops at Eurojust premises in The Hague covering preliminary conclusions and the recommendations.

[1] College Decision 2014-3 of 14 January 2014 on the objectives and the establishment of a Steering Committee and its mandated for the Evaluation of Eurojust under Article 41a of the Eurojust Council Decision.

[2] Members of the Eurojust National Coordination System in Member States where it has been established and Eurojust National Correspondents in Member States where it has not been established.

1.2 Main findings & recommendations

Expectations of the 2008 Eurojust Council Decision outpaced the reality of relatively minor changes.

The 2008 Eurojust Council Decision can be considered as a fine-tuning of Eurojust legal basis; however the expected effects and impact of the Council Decision were envisaged to outpace the relatively modest changes. As outlined in discussion prior to the adoption of the 2008 Eurojust Council Decision, the measures were intended to 'unlock' significant pre-existing potential that was not being realised for various reasons. The 2008 Eurojust Council Decision thus sought to transform Eurojust and the involvement of Member States, whilst not fundamentally altering the powers of Eurojust and the relationship with National Authorities. The modifications made to the Eurojust legal basis were not sufficient to achieve the full extent of the expected results.

Practical implementation at the Member State level is still a work in progress, limiting overall effectiveness.

Implementation of the 2008 Eurojust Council Decision was highly dependent on the involvement and cooperation of Eurojust and the Member States. On the Member State level, practical implementation remains a work in progress in many areas, notably Articles 12 and 13(5)-(7), even if many measures are technically implemented. The added value of some of the measures of the 2008 Council Decision was not immediately apparent (e.g. Articles 12 and 13(5)-(7)). The benefits are considered to be highly diffuse and insufficiently tangible in the short-term. This has created a weak incentive for Member States to quickly implement the required measures. At the level of Eurojust, implementation is well advanced, although room for some fine-tuning remains, particularly in view of facilitating the practical implementation of the 2008 Eurojust Council Decision on the national level.

Evaluators recommend that Eurojust should:

Continue to play an active role in the implementation of the 2008 Eurojust Council Decision at Eurojust and at Member State levels, particularly concerning the recommendations highlighted by the GENVAL evaluation, and implement the internal Action Plan elaborated by the College in order to address the main recommendations stemming from the 6th Round.

Overall, the 2008 Eurojust Council Decision has reinforced the organisation's effectiveness, but the added value of certain measures is still to be determined.

The organisation that resulted from the 2008 Council Decision has achieved some commendable success, notably in terms of harmonising the powers and status of National Members. Whilst the situation remains far from that proscribed by the 2008 Eurojust Council Decision, almost no stakeholders report day-to-day difficulties arising from a lack of powers as was the case in the past. The capacity of National Desks has also been somewhat improved, although this appears to be more driven by economic factors and National Desk caseload than by the obligation stated in the 2008 Eurojust Council Decision.

However, some of the key impacts envisaged have been slow to materialise and/or difficult to measure. Article 12 (Eurojust National Coordination Systems) has thus far had a relatively limited impact; however, results are expected in the long-term and implementation remains very much a work-in-progress in many Member States, even those where the ENCS have technically been

established. Nevertheless, National Authorities have reported highly positive perceptions of the initial experience with the ENCS.

The enhanced Article 13 has yet to show clear added value, although it remains in an implementation phase and Eurojust is working to address issues at the EU level and actively support the Member States in this task. Initial statistics on Article 13(5)-(7) notifications do show promising growth despite the continued difficulties with practical implementation on the national level underlined by the GENVAL evaluations. The evaluation of Article 13 as foreseen by the 2008 Eurojust Council Decision in Article 13(12) has not been conducted by the European Commission, posing questions as to the relevance of further expanding the reporting obligation in the new Regulation on Eurojust currently under consideration.

Eurojust continues to excel in its core operational work, benefiting from strong relationships built with National Authorities.

Eurojust is a fundamentally effective organisation that continues, time and again, to excel at its core operational work. The overall casework of Eurojust has increased steadily (increasing from 1 085 in 2007 to 1 804 cases in 2014), attesting to the good reputation and trust that the organisation has built with National Authorities and the added value it has been able to offer.

Its success and resiliency are based on the high level of social capital National Desks have built within the judicial community in Europe and its 'soft' approach based on proactive dialogue and discussion. Whilst, the 2008 Council Decision sought to provide more formal powers for Eurojust to compel Member States to coordinate and cooperate, Eurojust finds that exercising those powers outside the formal framework of Articles 6 and 7 is, in most cases, more effective.

Eurojust's effectiveness beyond its immediate casework is limited by insufficient strategic clarity.

Increasingly, Eurojust is being recognised not just as a facilitator, but also as a centre of expertise exercising a positive effect on judicial cooperation far beyond its immediate casework by capitalising on its rich experience to improve the use of judicial cooperation instruments. Eurojust has sought to build on this evolution with the recently adopted concept of Centres of Expertise. This concept has contributed to providing more structure to the policy work of Eurojust by putting in place a formal procedure for selecting and managing projects in this area. However, there remains a lack of strategic focus framing Eurojust's activities in this area. This has led to a wide and heterogeneous range of objectives, some deviating significantly from Eurojust's casework experience, and an overextension of Eurojust's limited resources across a diverse array of topics and priorities.

Evaluators recommend that Eurojust should:

Reinforce the strategic clarity of Eurojust on policy work, in particular the Centres of Expertise and the work of the College Teams, by prioritizing a limited number of high added-value strategic priorities and mobilising Eurojust resources around those priorities.

The governance of Eurojust has remained untouched in its legal basis, despite having clear efficiency implications.

The governance of Eurojust has been largely untouched since its creation. Despite formalising the role of the three main components of the governance system, namely the College, the President and the Administrative Director, the 2008 Eurojust Council Decision did not elaborate further on a clear division of roles and responsibilities. The College has devoted considerable efforts to improve its internal working methods since the 2010 Organisational Structural Review; however, these efforts are inherently limited by the governance design as included in the legal framework.

The consideration of the President as a 'primus inter pares' with limited responsibilities on external representation of Eurojust, the management of the work of the College and the day-to-day monitoring of the work of the Administrative Director limits effective leadership and the ability to set clear common vision and priorities, better streamline work processes at Eurojust and establish an accountability framework.

Efficiency of decision-making is also impacted by the current structure of the organisation. Governance issues do not appear to have a major impact on the day-to-day casework of the National Desks, which remain quite autonomous in their activities. Rather, the effect can be more clearly seen in the effectiveness and efficiency of the organisation as a whole (other activities assumed by the College in the area of policy and administrative work).

If a solution through the modification of the legal framework is not possible, governance could be streamlined through greater delegation.

Where changes in the legal framework are not possible or take time to implement, greater delegation of decision-making and monitoring responsibilities to the Presidency Team would be desirable. Evaluators noted that there has been a general tendency towards this paradigm since the completion of the Organisational Structural Review and underlined as a best practice the example of the recent creation of the Case Management System (CMS) Board, to which the College has delegated real supervisory and executive powers while retaining overall responsibility for the development and maintenance of the CMS. The evaluation pointed to the fact that this delegation resulted in the emergence of a more coherent strategic vision for the development of the CMS, notably by encouraging prioritization and trade-offs.

Evaluators recommend that the legislator should:

More clearly specify the roles and responsibilities assumed by the different actors (College, President and Administrative Director – supervisory, executive and operational roles) at Eurojust.

As a transitional measure, the College should adopt the necessary measures in order to improve Eurojust efficiency and effectiveness in the area of planning, organisational development and monitoring.

A clear strategic framework is lacking for the numerous sub-structures created by the College.

The sub-structures (College Teams/Task Forces/Working Groups and Contact Points) created by the College in order to help prepare its work require streamlining and simplification. The work of these sub-structures is not sufficiently strategically focused or monitored. However, the evaluation did note commendable progress in this area with the creation of an internal scorecard for monitoring the work of these groups against defined objectives.

Evaluators recommend that Eurojust should:

Streamline the work of the College Teams/Task Forces and Working Groups, clarifying their mandate and objectives and ensuring that their work is focused on the priorities adopted by Eurojust.

Working practices at Eurojust could benefit from a greater convergence between National Desks in a limited number of areas.

Highly heterogeneous working practices exist amongst the National Desks, reflecting divergences in personal preferences and the underlying diversity of national judicial systems and cultures. There is also a strong cultural resistance to homogenising working practices between National Desks. In most cases this diversity does not impact the collective work of Eurojust. In a number of instances, however, there appears to be a clear negative impact on collective efficiency and effectiveness. For instance, the evaluation pointed to the fact that divergent approaches to entering data into the CMS, both in terms of the type and quantity of data, likely has a negative impact on the level of Article 13a feedback. Finally, diverse working practices and expectations also place inherent limits on the efficiency of the Administration.

Evaluators recommend that Eurojust should:

To the extent that they have an evident impact on the efficiency and effectiveness of the organisation, (binding) rules should be elaborated to regulate core working practices in a more coherent manner (e.g. such as data entry, casework monitoring and use of coordination tools such as coordination meetings and centres).

The Administration can be commended for its flexibility, but a streamlined service offering may provide efficiency gains.

The Administration has proven its ability to provide a high level of service to Eurojust's operational activities. It executes its responsibilities in an efficient and effective manner and can be recognized for its flexibility. However, the evaluation found that there are often divergent understandings and expectations amongst members of the College concerning the services that the Administration should be providing. The collegial approach to governance has rendered it challenging to clearly prioritize and make trade-offs as concerns the services of the Administration.

This has the effect of 'pulling' the Administration in multiple directions and creating a transaction-intensive relationship between the College and the Administration. This also limits the extent to which units can develop a set offering of services, plan strategically in the long-term and fully harness possible efficiency gains.

Evaluators recommend that the Administrative Director should:

Promote the adoption of streamlined operational procedures at National Desks in order to be able to provide more homogenous support by the Administration.

The College should also make efforts to more clearly define needs related to operational and policy work.

Eurojust's work towards implementing a results-based management approach and cost-accounting system can be highlighted as a best practice amongst JHA Agencies.

This capacity can be expected to enhance Eurojust's planning capabilities and reinforce transparency and accountability, as well as facilitate greater prioritization and trade-offs by providing accurate data on costs.

However, the insufficient use of Key Performance Indicators limits the effectiveness of the organisation's results-based management framework, particularly in terms of performance accountability. Finally, choices made in the set-up of the organisation's cost-accounting system (the exclusion of National Desks) limit the extent to which it can fully capture the cost of Eurojust activities.

Evaluators recommend that Eurojust should:

Continue its highly commendable efforts to improve results-based management and cost accounting in order to increase efficiency and better support the College in its responsibility for defining and implementing the work programme and making strategic trade-offs.

Eurojust has continued to build strong relationships and develop fruitful cooperation with relevant partners.

Mirroring the general improvement in relations between Justice and Home Affairs actors in past years, Eurojust has continually developed and expanded its relationships with relevant EU institutions, bodies and organisations as it has matured as an organisation. The 2008 Eurojust Council Decision also contributed to the development of these relationships, notably by streamlining and clarifying the legal basis for this cooperation.

The relationship between Eurojust and the other JHA Agencies is strong. In particular, synergies and operational cooperation with Europol have notably improved (although the relationship will continue to require close coordination). Eurojust has undertaken significant efforts to strengthen its relationship with the EJN. Whilst some operational difficulties can still be cited in terms of the allocation of cases between the two organisations, it appears that EU-level guidelines would not provide a sustainable solution. However, the ENCS may provide a durable solution to more effective case allocation in the long-term. Finally, the contacts Eurojust has built with Third States and other International Organisations have allowed it to establish a consolidated network widely recognised and utilised on the operational level.

Eurojust is actively supporting EU priorities, although it should continue to assert itself as a more proactive actor in this respect.

Eurojust cooperation with EU Institutions is considered strong and Eurojust has effectively carved out a useful niche for itself within the broader framework of EU-level decision-making and priority setting processes, notably through intensive cooperation with the European Commission, relevant Council bodies (EU policy cycle) and the LIBE Committee of the European Parliament.

As a highly demand-driven organisation by nature, Eurojust relies on National Authorities for cases and case-related information. The current legal basis of Eurojust does not provide Eurojust with the mandate to fundamentally alter this relationship with National Authorities in view of more proactively aligning its casework with EU priorities. However, the evaluation has found that there is some scope to exercise greater influence over the casework of the organisation in view of focusing on providing greater added-value in the fight against serious, cross-border organised crime and better aligning the work of the organisation with the priorities set at the EU level.

Evaluators recommend that Eurojust should:

Continue to play a proactive role in the areas identified by the Council as operational priorities, whilst maintaining the underlying demand-driven approach of the organisation's operational activities.

2 Objectives, scope and challenges

2.1 Objectives and scope of the evaluation

2.1.1 Objectives

In line with Article 41a of the Council Decision 2009/426/JHA on the strengthening of Eurojust (hereafter referred to as "the 2008 Eurojust Council Decision"), before 4 June 2014 and every five years thereafter, the Eurojust College shall commission an independent external evaluation of the implementation of the 2008 Eurojust Council Decision, as well as of the activities carried out by Eurojust. The evaluation report is to include the evaluation findings and recommendations and be forwarded to the European Parliament, the Council and the Commission, and will subsequently be made public[3].

In accordance with the Decision of the College of Eurojust 2014-3[4] and the specific terms of reference the College issued in consultation with the European Commission for this evaluation exercise, the objectives of the evaluation were to provide an independent assessment of:

- the implementation of the 2008 Eurojust Council Decision;
- the impact of the 2008 Eurojust Council Decision on the performance of Eurojust in terms of achieving its operational objectives; and
- the effectiveness and efficiency of Eurojust's activities.

2.1.2 Scope

Time period

The evaluation assessed the implementation of the 2008 Eurojust Council Decision. This Council Decision entered into force on 4 June 2009 with a transposition deadline for its implementation in the Member States by 4 June 2011.

This evaluation covered a 5-year period from 4 June 2009 (the entry into force of the 2008 Eurojust Council Decision) to 4 June 2014. It is the first of a series of periodic evaluations: an independent external evaluation to assess the implementation of the Council Decision and the activities carried out by Eurojust will be commissioned every five years.

The evaluation also coincided with the discussions and negotiations that are currently ongoing on a proposal for a Regulation on Eurojust.[5]

Although the evaluation had a **retrospective focus**, targeting the period June 2009 to June 2014, it also took into account the following initiatives related to Article 85 of the Treaty on the

[3] Council Decision 2009/426/JHA of 16 December 2008 on the strengthening of Eurojust and amending Council Decision 2002/187/JHA setting up Eurojust with a view to reinforcing the fight against serious crime (Art. 41 a) and Council Decision 2003/659/JHA.

[4] College Decision 2014-3 of 14 January 2014 on the objectives and the establishment of a Steering Committee and its mandated for the Evaluation of Eurojust under Article 41a of the Eurojust Council Decision.

[5] Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Criminal Justice Cooperation (Eurojust) (COM (2013) 535 final) of 17 July 2013.

Functioning of the European Union (TFEU) and the future of Eurojust as these provided valuable insights into the general debate on the future of Eurojust, particularly current issues related to efficiency and effectiveness:

- The report on the Strategic Seminar "Eurojust and the Lisbon Treaty: towards more effective action", organised by Eurojust in cooperation with the Belgian Presidency in September 2010[6];
- The report on the Strategic Seminar "Eurojust: new perspectives in judicial cooperation" organised by Eurojust and the Office of the Prosecutor General of Hungary in May 2011[7];
- Eurojust internal outcome report of the consultative meeting with Member States' experts, representatives of the General Secretariat of the Council, the European Parliament and Eurojust on 18 October 2012 to discuss issues related to the reform of Eurojust under Article 85 of the TFEU;
- The outcome report of the Eurojust/Academy of European Law (ERA) Conference "10 Years of Eurojust: Operational Achievements and Future Challenges", of November 2012[8];
- The report on the Eurojust Seminar "The new draft Regulation on Eurojust: an improvement in the fight against cross-border crime?", held in The Hague in October 2013[9]; and
- Other reports carried out at Member State level (such as the Report of the EU Committee of the UK House of Lords on Judicial Cooperation in the EU: the role of Eurojust of July 2014), as well as academic articles and expert literature on the 2008 Eurojust Council Decision.

However, it should be noted that the evaluation did not aim to provide an impact assessment of the proposal for a Regulation on Eurojust nor of the proposal for a Regulation on the European Public Prosecutor's Office[10].

Technical scope and evaluation criteria

The scope of this evaluation was based on a twin-track evaluation approach, one focusing on the 2008 Eurojust Council Decision (the implementation thereof), and the other on Eurojust itself:

- An assessment of the implementation of the 2008 Eurojust Council Decision from a dual perspective:
    - The adoption by Eurojust of the necessary measures in order to implement the 2008 Eurojust Council Decision;

[6] Eurojust and the Lisbon Treaty: Towards more effective action - Conclusions of the strategic seminar organised by Eurojust and the Belgian Presidency (Bruges, 20-22 September) (Council Document 17625/10 of 9 December 2010).

[7] Strategic Seminar Eurojust: New Perspectives in Judicial Cooperation Budapest, 15-17 May 2011 – Report (Council Document 14428/11 of 21 September 2011).

[8] EUROJUST/ERA CONFERENCE 10 years of Eurojust Operational Achievements and Future Challenges - The Hague, 12-13 November 2012 - Outcome Report (Council document 8862/13 of 26 April 2013).

[9] Report from the Eurojust Seminar on the new draft Regulation on Eurojust: "an improvement in the fight against cross-border crime?"- The Hague, 14-15 October 2013 (Council document 17188/13 of 4 December 2013).

[10] The proposal for a Council Regulation on the establishment of the European Public Prosecutor's Office (COM(2013) 534 final of 17 July 2013).

- The impact of the implementation, partial or non-implementation of the 2008 Eurojust Council Decision by the Member States on the functioning of Eurojust, taking into account the results of the 6th Round of Mutual Evaluations devoted to the practical implementation and operation of the Eurojust Council Decision and of the Council Decision 2008/976/JHA on the European Judicial Network in criminal matters in the Member States.

- An assessment of the effectiveness and efficiency of the activities carried out by Eurojust (also those not specifically covered by the 2008 Eurojust Council Decision).

The evaluation also buildt on and/or took account of the outcomes and results of the following documents:

- the main findings/conclusions/recommendations of the Organisational Structure Review Project (OSR) launched by Eurojust in January 2009;
- the Joint Statement and the Common Approach of the European Parliament, the Council and the European Commission on decentralised Agencies adopted on 19 July 2012 and the European Commission Roadmap on the follow-up of the Common Approach adopted on 19 December 2012;
- Study on the Strengthening of Eurojust, conducted by GHK and ordered by the European Commission in 2012; and
- The country evaluation reports and final report of the Working Group of the Council of the EU on general matters including evaluation (GENVAL) on the 6th round of Mutual Evaluations devoted to the practical implementation and operation of the Eurojust Council Decision and of the Council Decision 2008/976/JHA on the European Judicial Network in criminal matters in the Member States (completed in December 2014).

In order to simplify the evaluation analysis, the issues questions raised by the Terms of Reference were classified according to key evaluation criteria. Each evaluation criteria was translated into specific evaluation questions (Annex 1 provides an overview of the evaluation framework). This final Report answers each evaluation question separately.

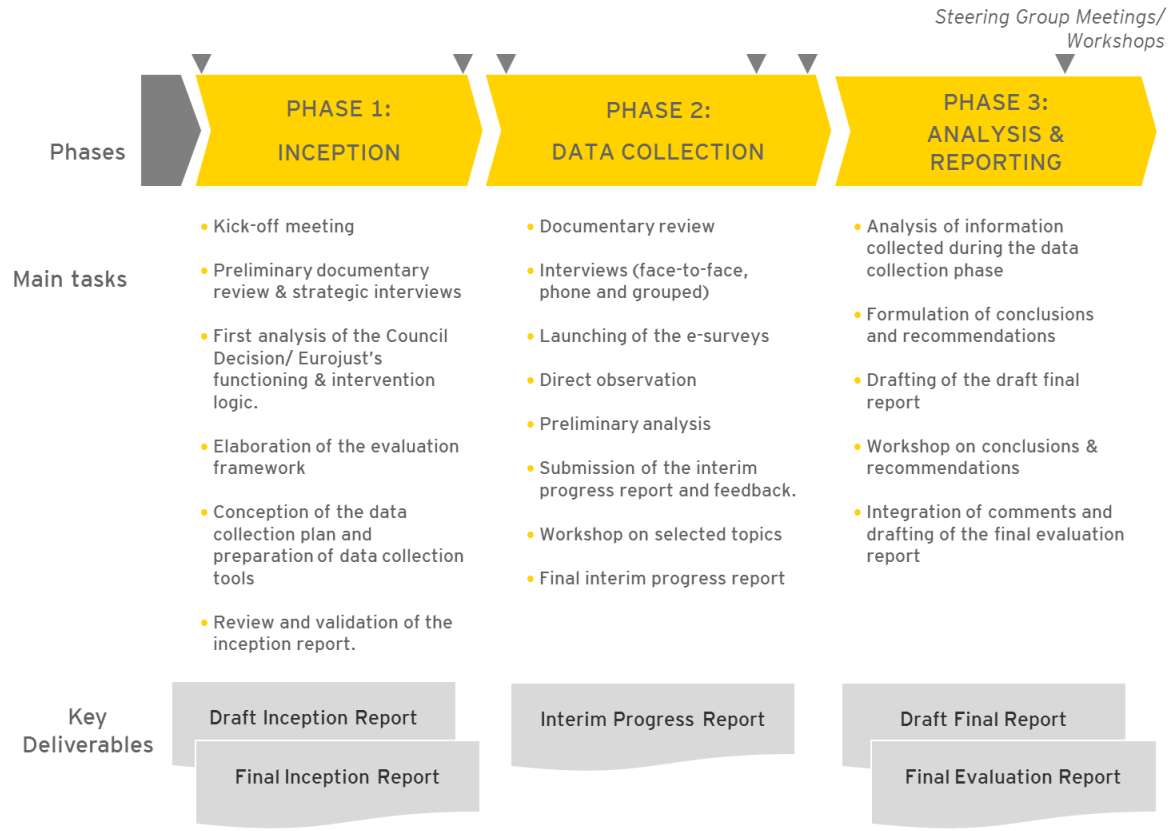
The evaluation aimed to provide fact-based conclusions and recommendations on each of these topics:

- Effectiveness of the 2008 Eurojust Council Decision implementation and more generally on Eurojust activities (achievements of Eurojust objectives);
- Quality of working practices and efficiency; and
- Relevance and added value of Eurojust towards Member States' needs and expectations, and consistency with other EU institutions, agencies and bodies active in the field of Justice and Home Affairs.

2.2 Overview of our approach

The evaluation was guided by a mixed-method approach: documentary and evaluative analyses developed on the basis of data collected in the field (survey and interviews with stakeholders). This approach comprised three main phases:

- **Inception phase**: to set up the evaluation framework, conduct first interviews, identify the relevant documents and prepare the data collection tools.
- **Data collection phase**: to compile evidence from relevant documents and collect data through interviews conducted with a sample of stakeholders and on-line surveys.
- **Analysis, conclusions and reporting phase**: to bring together the results of the documentary analysis and data collection, provide answers to the evaluation questions and translate the findings into conclusions and recommendations.



3 Eurojust Council Decision 2008 and its implementation

Main findings

- Whilst the 2008 Eurojust Council Decision can be very much considered as a fine-tuning of Eurojust legal basis, the expected effects and impact of the Council Decision were envisaged to outpace the relatively modest changes. As outlined in discussion prior to the adoption of the 2008 Eurojust Council Decision, the measures were intended to 'unlock' significant pre-existing potential.
- The 2008 Eurojust Council Decision sought to transform Eurojust and the involvement of Member States, whilst not fundamentally altering the powers of Eurojust and the relationship with National Authorities. The modifications made to the Eurojust legal basis may have not been sufficient to achieve the expected results.
- Implementation was highly dependent on the implication and cooperation of different actors: Eurojust and Member States. It is thus necessary to assess implementation from a holistic perspective.
- On the Member State level, practical implementation remains a work in progress in many areas, notably Articles 12 and 13(5)-(7), even if many measures are technically implemented. At the level of Eurojust, implementation is well advanced, although room for some fine-tuning remains.
- The added value of some of the measures of the 2008 Eurojust Council Decision was not immediately apparent (e.g. Articles 12 and 13(5)-(7)). The benefits are considered to be highly diffuse and insufficiently tangible in the short-term. This has created a weak incentive for Member States to quickly implement the required measures.

3.1 Historical genesis of the 2008 Council Decision on the strengthening of Eurojust

Since the establishment of Eurojust in 2002, investigating and prosecuting authorities have referred a growing number of cases to Eurojust for its assistance (from 200 cases in 2002 to over 1,000 in 2007). Mirroring the growth in the number of cases, the organisation itself also grew rapidly to keep up with the demand from Member States, with a ten-fold increase in the number of staff over the same period[11]. Whilst the organisation garnered praise for the quantity and quality of its work and political support never waned, it became apparent[12] that Eurojust would not be able to effectively and efficiently achieve the full extent of the objectives set out for it by the Member States within the framework of the 2002 Eurojust Council Decision.

Within the wider context of judicial cooperation in Europe, important changes were also underway during this period which made it a propitious time to rethink and strengthen the role of Eurojust. On the operational level, the progressive ratification of the MLA 2000 Convention and other Framework Decisions (e.g. European Arrest Warrant, Joint Investigative Teams) and their implementation in practice were fundamentally altering the face of judicial cooperation. Within the landscape of JHA agencies, Europol was also undergoing a major overhaul of its legal framework[13]. Finally, the prospective of significant changes in the Treaties also opened up new possibilities for Eurojust in the future.

3.1.1 Baseline and rationale: improving the use of existing structures and mechanisms

In the 2005 Hague Programme Action Plan[14], the Council of the European Union ("Council") asked the European Commission to consider Eurojust's future development in line with Article III – 273 of the defunct Treaty establishing a Constitution for Europe. With the reflection process launched, specialists in judicial cooperation met to discuss the issue of Eurojust's future in Vienna in September 2006[15]. In conclusions adopted on 13 June 2006, the Council once again asked the European Commission to present a Communication on the role of Eurojust and the European Judicial Network and stressed the need for a mid-term assessment of the effectiveness of Eurojust's performance.

Eurojust and the European Judicial Network actively contributed to the process. In its Annual Reports, Eurojust stated on several occasions that it felt its capacity to deal with casework was not

[11] Eurojust Annual Reports 2002 and 2007.

[12] Indeed, as early as 2001, operational challenges that would be addressed in the Eurojust Council Decision on the strengthening of Eurojust were identified from the initial experience of Pro Eurojust in a 2001 end of the year report published by the Pro Eurojust Secretariat. For a number of key issues, such as the powers of the National Members, the 2002 Eurojust Council Decision did not fundamentally alter the weaknesses identified following the Pro Eurojust experience.

[13] The Europol Convention was replaced by the Council Decision of 6 April 2009 (2009/371/JHA) establishing the European Police Office (Europol) as of 1st of January 2010.

[14] Council and Commission Action Plan implementing The Hague Programme on strengthening freedom, security and justice in the European Union (section 4.2)

[15] Report on the Eurojust Seminar: "A Seminar with 2020 Vision: The Future of Eurojust and the European Judicial Network", Vienna 25 – 26 September 2006 (Council document 14123/06).

being fully exploited despite the growing caseload. After five years of existence, Eurojust also felt that is was an opportune time to assess the implementation of the 2002 Council Decision setting up Eurojust. In its response to the 2006 Council Conclusions, Eurojust engaged itself to: i) draft an initial contribution to the Communication of the European Commission[16] ii) circulate a questionnaire on the implementation of the Eurojust Council Decision[17]; and iii) organise a Seminar on the future of Eurojust[18]. The European Judicial Network also contributed to the process through a Vision Paper[19].

During the Eurojust Seminars organized in 2006 and 2007, in Eurojust's initial contribution to the European Commission's Communication and in the responses of Eurojust Annual Reports to the Council Conclusions, a number of key matters began to emerge that needed to be addressed. Specifically, four areas were identified:

- **The need for Member States to implement the 2002 Eurojust Council Decision fully in order to allow Eurojust and the National Authorities to exploit its full potential and utilise all the possibilities;**
- **The status of National Members and the capacity of National Desks must be strengthened;**
- **The improvement in the exchange of information is a pre-requisite in order to allow Eurojust to transition to a more proactive role;** and
- **The relationship between Eurojust and the European Judicial Network, as well as other actors, must be more effectively coordinated.**

In its initial contribution to the Commission's Communication, Eurojust stressed the necessity of making full use of existing structures and mechanisms by promoting the full implementation of the 2002 Eurojust Council Decision in the Member States before creating new ones in order to avoid cumbersome implementation procedures and confusion.

The report on the 2007 Eurojust Seminar *Eurojust: Navigating the Way Forward*, noted that '*the question is not so much whether Eurojust's powers should be increased, but rather how best to ensure that the powers granted by the* [2002] *Eurojust Council Decision are exercised to the best possible effect, and how to reinforce them.*' The most critical need identified was thus for Member States to implement the Eurojust Council Decision fully in order to allow Eurojust and the National Authorities to exploit its full potential and utilise all the possibilities already contained in it. To achieve this, two principal avenues of improvement were identified: guarantee a satisfactory common basis of powers granted to National Members and increase the powers of the College.

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[16] Eurojust's initial contribution for the European Commission Communication concerning the future of Eurojust and the European Judicial Network (Council document 13079/07).

[17] Questionnaire on the implementation of the Council Decision of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime; preparation of a Presidency/Eurojust seminar (Council document 11143/07)

[18] General report on the Eurojust Seminar "Eurojust: navigating the way forward", Lisbon, 29 and 30 October 2007 (Council document 15542/07)

[19] Outcome of Proceedings of the 25th Plenary Meeting of the Contact Points of the European Judicial Network – Rovaniemi, 29 November – 1 December 2006 (Council document 6053/07)

It was also considered that the capacity of the National Desks needed to be further reinforced. A number of proposals were made, including the introduction of a minimum mandate of four years for National Members, the mandatory appointment of further human resources (i.e. Deputy National Members and Assistants) and the establishment of a requirement that the National Member's place of work should be on Eurojust premises in The Hague.

Backed by a common base of powers, a number of new tasks could be envisaged under Articles 6(a) (e.g. issue European Arrest Warrants, authorise controlled deliveries, initiate and lead JITs). Eurojust further stressed[20] that all requests made by Eurojust (and not only those made under Article 7 of the Eurojust Council Decision) should have a more binding character, coupled with an obligation to justify and motivate the request.

Proposals to enhance the powers of the College were relatively less ambitious. At the 2007 Eurojust Seminar, for example, participants proposed to strengthen the binding nature of requests made by the College, allowing the College to decide on the opening of an Analysis Work File at Europol and the creation of a Joint Investigation Team and permitting the College to play a role as the channel for transmission of letters rogatory from third States in cases in which they are addressed to several Member States and thus require coordination amongst them.

However, the major obstacle to fully utilizing these powers and instrumental tasks remained the limited information received by Eurojust, which restrained the organisation from transitioning from a largely reactive role (depending on the referral of cases by National Authorities) to a more proactive role in which Eurojust could better anticipate the needs of the Member States. From the Eurojust contribution to the Commission Communication and stakeholder input during seminars, it is clear that the general view amongst stakeholders was that the quantity and quality of information received by Eurojust was insufficient.

In its contribution to the Commission's Communication, Eurojust considered that an amended Article 13, including a systematic and consistent obligation to report to Eurojust all serious cross-border cases at an early stage, represented the best means to provide the stimulus to exchange with Eurojust information necessary for the performance of its tasks. This exchange of information could also be further enhanced by the creation of "Eurojust national offices". These offices would act as coordinating centres for information (not only with the national judicial authorities, but also with police, administrative, customs authorities and others at national level as well as with EU and international bodies) and Eurojust 'marketing' efforts in view of soliciting more case referrals. However, it was explicitly recognised and stressed that Eurojust was not intended to be an information processing centre. Crime analysis as such remained the main task of Europol.

Whilst Article 26 of the 2002 Eurojust Council Decision stressed the need for Eurojust to maintain close cooperation with the EJN, Europol, OLAF and Liaison Magistrates of the Joint Action 96/277/JHA[21], Eurojust also felt that there was a need for further clarification of the scope of this cooperation and the interrelationship between these actors in order to avoid the confusion over their respective roles, prevent the duplication of work and fully exploit synergies.

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[20] Eurojust's contribution to the Commission Communication on the future of Eurojust.

[21] Joint Action 96/277/JHA of 22 April 1996 concerning a framework for the exchange of liaison magistrates to improve judicial cooperation between the Member States of the European Union

- **With the EJN**, Eurojust felt that there was an overlap that created confusion about their respective roles. It was underlined that it was difficult to define strict criteria to govern referrals of cases. The most sustainable solution was thus thought to be more effectively structuring the link between Eurojust and the EJN at national level.
- **With regard to Europol**, Eurojust felt that the relationship was not yet fully satisfactory due to the need for the two organisations to further involve, interact and inform one another (i.e. a systematic obligation) of matters falling within their respective competence and to enhance the synergies between the two bodies.
- **With respect to OLAF**, Eurojust considered that the relationship could be further enhanced through a formal and clear mutual obligation for OLAF and Eurojust to inform one another, at an early stage, of all cases falling within their respective competences.
- Finally, early discussions emphasized that Eurojust was well placed to develop itself as a **"one-stop shop" for multi-national cooperation** on cases within the EU with an external international dimension.

Little priority was given in these discussions to possible evolutions in the structure or governance of Eurojust. In its initial contribution to the Commission's Communication, Eurojust stressed that it was satisfied with its structure, which was adapted to Eurojust's *raison d'être* and functioned well. The system ensured the independence of National Members and created a natural bridge with their respective National Authorities.

In its 2007 Communication on the future of Eurojust[22], the European Commission outlined its vision for the future of Eurojust and took stock of the problems needing to be addressed:

- **Implementation of the 2002 Council Decision in Member States varied and was partial in many cases.** In 2007, 10 Member States had transposed the 2002 Council Decision into national law; 14 had taken no decision at all; three implemented the necessary measures through an administrative decision; and four reported that they were in the process of implementation.
- **Wider powers were envisaged by the European Commission for National Members.** The European Commission proposed establishing a "shared base of minimum powers" and further suggested establishing a minimum term for National Members seconded on a full-time basis with support from a deputy and/or assistants with their offices in Eurojust premises.
- **Information sharing had to be improved in order for Eurojust to become more proactive.** The European Commission noted that some Member States had imposed a requirement that their national representative be informed of all transnational cases and stated that this practice should be encouraged by amending the Eurojust Council Decision.
- **Settlement of conflicts of jurisdiction by the College and other powers of the College.** The European Commission's Communication foresaw the College assuming a larger role in the settlement of conflicts of jurisdiction between Member States and conflicts regarding mutual recognition instruments.

[22] Communication from the Commission to the Council and the European Parliament on the role of Eurojust and the European Judicial Network in the fight against organised crime and terrorism in the European Union (COM(2007)644 FINAL) of 23 October 2007

- **Eurojust's relations with partners needed to be clarified and simplified.** The European Commission proposed to also give some of the European Judicial Network Contact Points the role of National Correspondent for Eurojust. Additionally, it was proposed that Eurojust host the Secretariats of other operational networks in the Justice area such as the Joint Investigation Team and Genocide Networks. It was also believed that Eurojust should step up cooperation with other European bodies, in particular, Europol, OLAF and FRONTEX. Finally, the Communication underlined the need to further develop relations with third States and the use of Eurojust Liaison Magistrates in third States.

3.1.2 The main changes introduced by the 2008 Eurojust Council Decision consisted of a fine-tuning of Eurojust's legal basis

By the end of 2007, fourteen Member States presented an initiative to amend the 2002 Eurojust Council Decision. The legislative process led to the adoption of the Council Decision on the Strengthening of Eurojust in July 2008. The Council Decision was ratified in December 2008 and published on 4 June 2009.

The 2008 Council Decision was perceived by many stakeholders interviewed as a fine-tuning of Eurojust's legal basis to enable it to more effectively exercise the powers and tasks with which it had already been vested. Whilst in many respects the changes introduced were minor, the impact was expected to be much greater by unlocking pre-existing potential.

The 2008 Eurojust Council Decision introduced a number of changes (a fmore detailed analysis is presented in Annex 5):

- **Objectives, tasks, competencies and tools:** The scope of Eurojust's objectives, tasks and competencies remained relatively unchanged from the 2002 Council Decision with the exception of some enhancements (e.g. Article 3(1)(b) and Article 6(1)(a)). Eurojust, however, was endowed with new or enhanced 'tools' such as On-Call Coordination (Article 5a) and a more robust Case Management System (Article 16).
- **Powers of National Members:** The 2008 Eurojust Council Decision sought to create a common foundation of ordinary powers (Article 9b) and rights (e.g. Article 9(3)(a) to (e) or Article 9f), whilst also allowing for some extraordinary powers to be exercised in urgent cases (Article 9d) in agreement with Member State authorities (Article 9c) and powers exercised on the national level (Article 9a). Nonetheless, an important "escape clause" was created by Article 9(e), which specifies that National Members shall at least have the power to submit a proposal to the competent authority to take action where the exercise of the extraordinary powers enumerated under Articles 9c and 9d is contrary to the constitutional rules or fundamental aspects of the criminal justice system of the Member State in question.

  A number of other provisions were also adjusted in view of modifying the status of National Members and the composition of the National Desks. Article 9(1) sets the duration of a National Member's term in office at four years and requires that explanation must be provided to the Council should a Member State wish to remove a National Member before the expiration of its term. Previously, Member States were free to set the length of terms at their discretion. Article 2(2)(b) requires that each National Member must now be assisted by at least one Deputy and one Assistant, with the possibility of having more. Article 2(5) further stipulates that the Deputy

must be able to substitute the National Member. Finally, Article 2(2)(a) specifies that the normal place of work of the National Member shall be at Eurojust in The Hague.

- **Strengthening of the College:** The tasks of Eurojust acting as a College remained unchanged, aside from the power to issue non-binding written opinions on conflicts of jurisdiction, or decisions on recurrent refusals or difficulties concerning the execution of requests for, and decisions on, judicial cooperation, including regarding instruments giving effect to the principle of mutual recognition (Articles 7(2) and 7(3)). Eurojust could not oblige Member States authorities to initiate an investigation or prosecution in a particular case, although recommendations made by Eurojust under Article 7 may have a persuasive impact in Member States.
- **Relation with the Member States:** The relationship was intensified, both in terms of the flows of information (obligatory under Article 13) and the creation of the Eurojust National Coordination System (ENCS) (Article 12).
- **Personal Data:** Few changes were made to the data protection provisions of the 2002 Eurojust Council Decision. Amendments introduced in 2008 allowed Eurojust to collect an expanded variety of personal data (Article 15) and extend the storage limits (Article 21). The provisions on data protection also laid out the modalities for access to the CMS and personal data contained by the members of the ENCS (Article 16b).
- **Relations with other actors:** The 2008 Eurojust Council Decision did not fundamentally alter the 'institutional embedding' of Eurojust and its relations with partners. It did provide for some enhancements (Articles 25a, 26, 26a, 27 and 27a).

3.2 Stock-taking of the implementation of 2008 Eurojust Council Decision

3.2.1 Overview

The 2008 Eurojust Council Decision necessitated implementation efforts at Eurojust and on the Member State level. The table below provides an overview of implementation at both Eurojust and Member State level, as well as measures requiring implementation at both levels.

Levels of implementation of the 2008 Eurojust Council Decision

Level	Key articles
Eurojust	○ **Articles 3 - 5:** Objectives, competencies and tasks ○ **Article 5a:** On-Call Coordination ○ **Article 7:** Tasks of the College ○ **Article 10:** The College ○ **Article 13a:** Article 13 feedback ○ **Article 14 - 15:** Processing of personal data ○ **Article 16 – 16a:** Case Management System ○ **Articles 17 – 22, 24 - 25:** Data protection ○ **Article 25a – 27c:** Cooperation with external partners ○ **Articles 28 – 39a:** Organisational and financial issues
Joint implementation (Eurojust/Member States)	○ **Article 6:** Tasks of the National Members ○ **Article 13:** Information sharing (specifically paragraphs 5-7) ○ **Article 16b:** Connection of the Case Management System ○ **Article 23:** Joint Supervisory Body
Member State level	○ **Article 2:** Composition ○ **Article 8:** Follow up to requests and opinions of Eurojust ○ **Articles 9 – 9f:** Powers of the National Members ○ **Article 12:** Eurojust National Coordination System

Internally at Eurojust, the new measures introduced by the 2008 Council Decision were carved up into projects and implemented over the following years. In the last six years, the vast majority of measures have been implemented internally; however, not all (i.e. Eurojust Liaison Magistrates in third States) have been fully taken advantage of in practice. Eurojust has also actively taken stock of progress made internally and formulated and implemented necessary mid-course corrections. Finally, Eurojust has also assumed a leading role coordinating the implementation of the 2008 Council Decision on the Member State level, tracking progress made and bringing together stakeholders to share best practices and discuss challenges.

On the national level, whilst progress has been notable, practical implementation remains work in progress. The ENCS has been established in 23 Member States, but in practice many are just beginning to fully function. On the technical level, however, the progress in connecting the ENCS with their respective National Desks has been much slower. Likewise, most Member States have

technically implemented the Article 13(5)-(7) reporting obligations; however, full practical implementation requires continued effort. Furthermore, a significant number of Member States have availed themselves of the possibility opened up by Article 9e, limiting the modifications made to National Members' powers. Finally, the onset of the economic crisis has limited the extent to which the capacities of National Desks have been reinforced by the 2008 Eurojust Council Decision.

3.2.2 Implementation at the level of Eurojust

An Implementation Programme was put in place by Eurojust in 2009 to provide a structured and coordinated approach to the measures, projects and activities which would drive the necessary changes to the organisation, in close cooperation with the Member States, where applicable. Within the framework of the Implementation Programme, six major projects were initiated[23]:

On-Call Coordination (OCC) (Article 5a)

Through this project, the technical system, logistics and procedures were put in place to ensure that investigators and prosecutors in cross-border cases have access to Eurojust's assistance on a 24/7 basis[24], strengthening Eurojust's ability to intervene in urgent cases. The system developed by User and Technical working groups working under the auspices of a dedicated Project Board reporting to the Implementation Programme Board. The OCC system developed is comprised of two components: i) a call manager controlling which National Desk should receive the call; and ii) the OCC Scheduler controlling which person from the National Desk receives the call. The new capacity was launched in June 2011.

Eurojust National Coordination System (Article 12)

This project aimed to support the Member States in the establishment of their ENCS to coordinate work carried out by the various National Correspondents for Eurojust, the National Correspondent for Eurojust for terrorism matters, the National Correspondent for the European Judicial Network (EJN) and up to three other Contact Points of the EJN, as well as with representatives of the Networks for Joint Investigation Teams, Genocide, asset recovery and the network against corruption.

Eurojust has supported the establishment of the ENCS by bringing together National Correspondents and other Member State authorities and experts to discuss experiences and best practices and by elaborating guidelines, and providing guidance on the establishment of the ENCS. Eurojust has also maintained a collection of available data on the particularities of the implementation of the 2008 Eurojust Decision in relation to setting up and functioning of the ENCS in each Member State and the exchange of information ("*fiches suédoises*").

Reporting obligation and feedback (Articles 13 and 13a)

The implementation of Article 13 (in particular, Article 13(5)-(7)), and the related expected feedback from Eurojust according to Article 13a, have been the object of discussion between Eurojust and the Member States in early 2009.

Early discussions with Member State authorities identified several actions to be undertaken by Eurojust in order to facilitate the implementation of Article 13(5)-(7) by the Member States:

[23] This section has been based on the Eurojust Work Programmes 2010, 2011, 2012, 2013 and 2014.

[24] In the event of urgent requests and in accordance with Article 5a of the Eurojust Decision, the OCC may receive and process requests for assistance from national authorities outside regular office hours.

clarifying the scope of the circumstances triggering the systematic reporting obligation; creating the necessary technical tools to facilitate the receiving and processing of information; and identifying and ensuring a proper feedback from Eurojust.

Eurojust adopted a clarifying note on the interpretation of Article 13 and a number of technical tools, including a secured email solution between Member States and Eurojust and a technical solution for the automatic processing of information received. From a user perspective, the most important element has been the creation of a template form on which information can be entered, and which also provides guidance on how the template is to be completed.

A Eurojust internal study on the implementation of Article 13(5)-(7) information exchanges between June 2011 and June 2014 examined initial experiences.[25] During that period, 485 notifications were received by National Desks. The study examined some of the reasons for the moderate number of notifications received from Member States and proposed concrete steps to improve this, including clearer communication on the reporting obligation and less burdensome procedures, as well as re-design of the internal information flows and management.

Information communication technology implementation (Articles 16, 16a, 16b)
This project aimed to set up the connections between the Case Management System and the national systems, enabling enhanced information exchange in a structured way required by Article 13(5)-(7) and adjusting the Case Management System according to the new requirements and functionalities. In 2010, a team was established to prepare and manage the technical changes needed to implement the 2008 Eurojust Council Decision, including the EJ27 project to establish a secure communication channel with each Member State to support the connection of the ENCS to the CMS.

The integration of new Network Secretariats as part of the staff of Eurojust (Article 25a)
The JITs Network Secretariat and the Genocide Network Secretariat were to be hosted by Eurojust (in addition to the European Judicial Network Secretariat already in place). In 2013, Eurojust completed the recruitment process for the coordinators of each Network.

Eurojust Liaison Magistrates to third States (Article 27a)
As a result of this project, rules on the posting of Eurojust Liaison Magistrates to third States were to be drawn up to adopt the necessary implementing arrangements in consultation with the European Commission and in collaboration with the Member States on the possible posting of Eurojust Liaison Magistrates to third States. Work in this area is still on-going.

3.2.3 Implementation in the Member States

Eurojust played a positive role in supporting implementation on the Member State level.
Eurojust, together with the Trio Presidency, the Council Secretariat and the European Commission, formed the Informal Working Group on the Implementation of the Eurojust Council Decision (IWG) to support a coordinated implementation approach for the 2008 Eurojust Council Decision and to enhance the dialogue between Eurojust and the Member States. The goal of this was to provide a platform for the legal and technical experts from the Member States and Eurojust's stakeholders to exchange views, information and results. The meetings dealt with a broad range of topics, in

[25] Internal Eurojust Memo: Article 13 of the Eurojust Council Decision – a possible way forward (15 May 2014).

particular Article 13(5)-(7) reporting obligations, the composition of the National Desks, the creation of the OCC system, the setting up of the ENCS and the new powers of the National Members.

Eurojust also developed a non-binding implementation plan listing also measures to be adopted by the Member States in order to provide a useful overview of the changes and responsibilities under the 2008 Eurojust Council Decision, keep track of progress concerning implementation activities and suggest implementation measures.

The GENVAL evaluation reports provided a comprehensive overview of the state of implementation of the 2008 Eurojust Council Decision.

The Joint Action 97/827/JHA of 5 December 1997 adopted by the Council established a mechanism for evaluating the application and implementation at national level of international undertakings in the fight against organised crime. In line with Article 2 of the Joint Action, the Working Group 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 and the Council Decision 2008/976/JHA on the European Judicial Network in criminal matters. Peer evaluations were conducted in all the Member States over the course of three years (2012 to 2014).

The evaluations covered the following topics:

- General matters and structures
- Exchange of information
- Operational aspects
- Cooperation
- Special investigative techniques
- Training and awareness raising
- Conclusions and recommendations

The table on the following page provides an overview of the implementation of key measures from the 2008 Eurojust Council Decision by Member States. The table covers technical implementation only and does not seek to represent the practical implementation. Evaluators draw on internal Eurojust monitoring documents ("*fiches suédoises*") as well as the GENVAL evaluation reports.

C Completed
P Planned/in progress
N No action taken/not foreseen
NA Information not available

Overview of implementation by Member State

	BE	BG	CZ	DK	DE	EE	IE	EL	ES	FR	HR	IT	CY	LV	LT	LU	HU	MT	NL	AT	PL	PT	RO	SI	SK	FI	SE	UK
National Desks[1]																												
Art. 2(2)(a): place of work	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	N	C	C	C	C	C	C	C	C	C	C
Art. 2(2)(b): staffing	N	C	N	N	C	N	N	N	N	C	N	N	N	N	N	N	N	N	C	N	N	N	N	N	N	N	C	C
Art. 9(1): mandate	N	NA	NA	NA	C	NA	NA	NA	C	NA	C	C	NA	C	C	C	NA	NA	C	NA	C	C	NA	C	C	C	NA	N
Art. 9(3): databases[2]	N	C	P	C	C	C	N	C	C	C	C	C	NA	N	N	C	C	C	C	C	C	C	C	C	C	C	C	N
Powers of the National Members[1]																												
Art. 9b(1): ordinary powers	C	C	C	C	C	C	P	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Art. 9b(2): sup mes.	N	C	C	C	C	C	N	N	C	N	P	C	C	C	C	N	C	C	C	C	C	C	C	C	C	C	C	C
Art. 9c(1)(a): issue req.	N	C	C	C	N	C	N	N	N	N	N	N	C	N	N	N	C	C	C	C	N	C	C	C	C	C	C	N
Art. 9c(1)(b): execute req.	N	C	C	C	N	C	N	N	N	N	N	N	C	N	N	N	C	C	C	C	N	C	N	C	C	C	C	N
Art. 9c(1)(c): invest. mes.	N	C	N	C	N	C	N	N	N	N	N	N	C	N	N	N	C	C	P	C	N	C	N	C	C	C	C	N
Art. 9c(1)(d): con. deliveries	N	C	N	C	N	C	N	N	N	N	N	N	C	N	N	N	C	C	P	C	N	C	C	C	C	C	C	N
Art. 9d(1)(a): con. deliveries	N	N	N	C	N	C	N	N	N	N	N	N	C	N	N	N	C	C	P	C	N	C	C	C	C	C	C	N
Art. 9d(1)(b): execute req.	N	N	N	C	N	C	N	N	N	N	N	N	C	N	N	N	C	C	P	C	N	C	N	C	C	C	C	N
Art. 9e(1): proposal	N	C	N	C	C	C	C	C	P	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Art. 9f: JITs	N	C	C	C	N	C	N	N	N	N	C	NA	C	C	NA	N	NA	C	C	C	C	C	C	C	NA	C	C	C
Art. 12: ENCS[3]																												
Art. 12(2): Establishment	C	C	C	C	C	C	C	C	N	C	C	N	N	C	C	C	C	N	P	C	C	P	C	C	C	C	C	C
Art. 12(2)(a): Nat. Corres.	C	C	C	C	C	C	C	C	C	C	N	C	N	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Art. 12(2)(b): Terror. Corres.	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Art. 12(2)(c): EJN Corres.	C	C	C	C	C	C	C	N	C	C	C	C	N	N	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Art. 12(2)(c): EJN Con. Po.	C	C	C	C	C	C	C	N	C	C	C	N	N	N	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Art. 12(2)(d): JITs Corres.	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Art. 12(2)(d): Genocide Corres.	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Art. 12(2)(d): Ass. Rec. Corres.	C	C	C	C	C	C	C	N	C	C	C	N	N	N	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Art. 12(2)(d): Cor. Corres.	N	N	C	C	N	C	C	N	C	C	C	N	N	N	C	C	C	C	C	C	C	C	C	N	C	C	C	C
Art. 12(5)(a): CMS	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Secure con. Established[4]	C	C	C	P	P	P	P	P	P	P	P	P	P	C	P	P	C	P	C	P	C	P	C	C	P	C	C	P

[1] *GENVAL reports*

[2] *Considered as implemented even if this access is not direct*

[3] *Fiches suédoises (November 2014) – This assesses the technical implementation only*

[4] *Internal Eurojust statistics (October 2014)*

Powers have been reinforced, but the current state of play remains far from the proscribed situation.

Almost all National Members now possess the ordinary powers of Article 9b. These powers were outlined in the initial reflection prior to the elaboration of the 2008 Eurojust Council Decision as the most critical for ensuring the day-to-day execution of Eurojust operational work. However, a large number of Member States have yet to, or have no plans to, bestow powers beyond those enumerated in Article 9b on their National Member.

This outcome should not be surprising given the carefully conceived wording of the 2008 Eurojust Council Decision. Whilst the 2008 Council Decision enumerates powers in Articles 9c and 9d (powers exercised in agreement with the National Authorities and those invoked in urgent cases), it also allows Member States to opt for providing their National Member with only the right to propose a measure to their competent authorities by availing themselves of Article 9e.

The 2008 Eurojust Decision sought to extend powers significantly, whilst not fundamentally changing the relationship of Eurojust with Member States.

Whilst the 2008 Eurojust Council Decision sought to extend the powers of National Members through Articles 9a-9e, as well as enhancing the tasks of Eurojust when acting through its National Members and as a College (Articles 6 and 7), it did not fundamentally alter the relationship between Eurojust and National Authorities. The 2008 Eurojust Council Decision remains squarely grounded in an inter-governmental logic with a soft approach to cooperation focused on stimulation, improvement, cooperation, support and assistance. Eurojust thus very much remains in the position of a service provider and limited by the ownership principle: the cases and information do not belong to the National Members, but to the respective National Authorities. This context dictates that Eurojust is not in a position to carry out its work by formally imposing measures. In some respects, it thus makes the use of some of the new powers unnecessary in day-to-day operational work.

The Eurojust National Coordination System has been established in most Member States.

The implementation of the ENCS is still ongoing; as of April 2015 it has been formally established by 23 Member States. Amongst Member States that have formally established the ENCS, the level of activity in practice has varied widely. Moreover, some have implemented the ENCS strictly in line with the provisions in Article 12, whilst others have adopted configurations better adapted to the national context, such as extending it to include all EJN contact points or other specialised authorities. On the technical side, connection of the ENCS to the Case Management System has progressed in that just under half of Member States have established a secure connection with Eurojust. However, the system has not yet been connected to any ENCS.

Implementation of Article 13(5)-(7) reporting obligations on the Member State level remains a work in progress.

Documentary review and the findings of the GENVAL national reports point to the fact that, whilst technical implementation has been completed in the large majority of Member States, not all Member States have fully implemented Article 13(5)-(7) reporting obligations in practice. The reports found that the obligation is not always clear and the full spectrum of information subject to Article 13(5)-(7) is not always transferred or transferred in a structured manner (e.g. using the smart form provided by Eurojust). A Eurojust internal briefing note on Article 13 implementation

noted that 66% of Article 13 notifications were transmitted to Eurojust using the smart Article 13 form.

The receipt of Article 13 notifications varies substantially from National Desk to National Desk and it is not linked to the level of general casework. For instance, the Hungarian Desk receives the most Article 13 notifications; however, this is not reflected in the casework during the same period if the notification does not lead to the opening of a specific case. On the other hand, Article 13 cases continue to be underreported in many Member States.

The incomplete implementation at the national level limits enhancements in the overall effectiveness of Eurojust

The slow and/or incomplete implementation of the 2008 Eurojust Council Decision on the national level has had clear implications for Eurojust. This has limited the overall effectiveness of the measures foreseen by the Council Decision, particularly relating to enhanced information sharing between Eurojust and National Authorities. Because greater information sharing is a lynchpin of the underlying "theory of change" of the Council Decision, this has led to a domino effect that has constrained longer-term impacts that were expected.

4 Effectiveness of the 2008 Council Decision and Eurojust

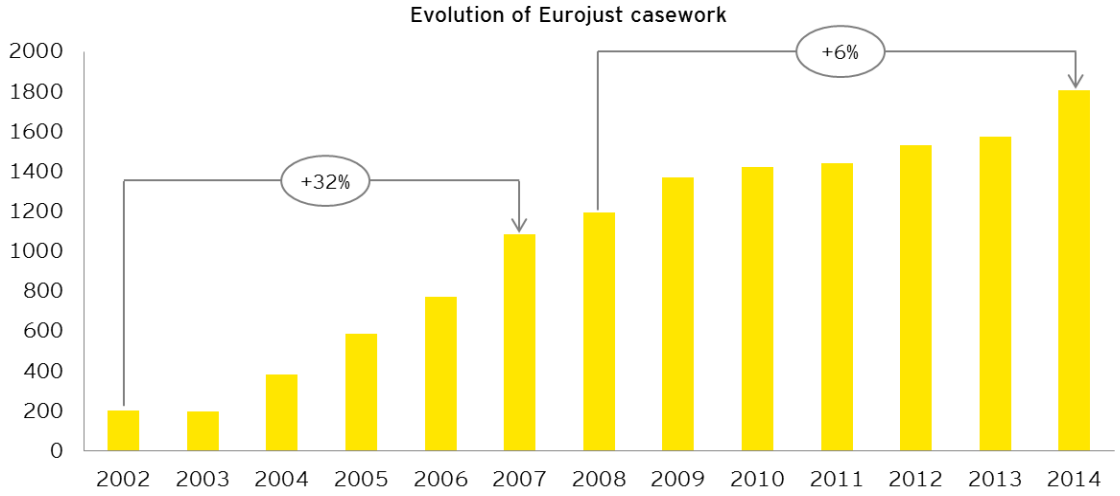
Main findings

- Eurojust is a fundamentally effective organisation that continues, time and again, to excel at its core operational work. This can be reflected in the continually increasing caseload and the almost unanimous praise it garners from National Authorities who refer cases to Eurojust. Its success and resiliency are based on the high level of social capital National Desks have built within the judicial community in Europe.
- The organisation that resulted from the 2008 Council Decision has achieved some commendable success, although some key impacts envisaged have been slow to materialize and/or difficult to measure.
- Article 12 (Eurojust National Coordination System) has thus far had a relatively limited impact; however, results are expected in the long-term and implementation remains very much a work-in-progress in many Member States, even those where the ENCS has technically been established. Nevertheless, National Authorities have reported highly positive perceptions of the initial experience with the ENCS.
- The enhanced Article 13 has yet to show clear added value, although it remains in an implementation phase and Eurojust is working to address issues at the EU level and actively supports the Member States in this task. Initial statistics on Article 13(5)-(7) notifications do show promising growth despite the continued difficulties with practical implementation on the national level underlined by the GENVAL evaluations.
- The 2008 Eurojust Council Decision has had some notable success in strengthening and harmonising the powers of National Members. Whilst the situation remains far from that proscribed by the 2008 Eurojust Council Decision, almost no stakeholders report day-to-day difficulties arising from a lack of powers as has been the case in the past.
- The capacity of National Desks has been somewhat improved, although this appears to be more driven by economic factors and National Desk caseload than by the obligation stated in the 2008 Eurojust Council Decision.
- The instrumental tasks outlined in Article 6 are very rarely used in a formal sense and the College has a very cautious approach to the use of Article 7. National Desks continue to prefer direct dialogue outside of the formal framework of Articles 6 and 7. Stakeholders report that the organisation is assuming a more proactive role in its work, as envisaged by the 2008 Eurojust Council Decision.
- The governance of the Case Management System (CMS) has been significantly strengthened, resulting in a more coherent and prioritised development of the system. However, in depth interviews have found that continued efforts can be made to improve user-friendliness.
- Data protection at Eurojust is considered as robust and adequate, having only limited implications on efficiency. Whilst the 2008 Eurojust Council Decision did not introduce major changes, it has resulted in some useful fine-tuning.
- Increasingly, Eurojust is being recognised not just as a facilitator, but also as a centre of expertise exercising a positive effect on judicial cooperation far beyond its immediate casework by capitalising on its rich experience to improve the use of judicial cooperation instruments. Eurojust has sought to build on this evolution with the concept of Centres of Expertise. This concept has resulted in greater structure and formalised procedures, however, it does not appear to have contributed to refining the strategic clarity of Eurojust's activities in this area.

4.1 Evolution of Eurojust casework

4.1.1 The overall casework has increased steadily, attesting the good reputation and trust Eurojust has built with National Authorities …

The overall casework of Eurojust has increased steadily, attesting to the good reputation and trust the organisation has built with National Authorities and the added value it has been able to offer. Whilst the number of cases grew rapidly during the first six years following Eurojust's existence, this rate has stabilised somewhat since 2007. From 2002 to 2007, the number of cases handled annually by Eurojust grew at a compound annual growth rate of 32.34% from 202 to 1085. In the period since then, whilst it remains robust, growth has slowed to slightly more than 6%, increasing from 1 085 in 2007 to 1 804 cases in 2014.

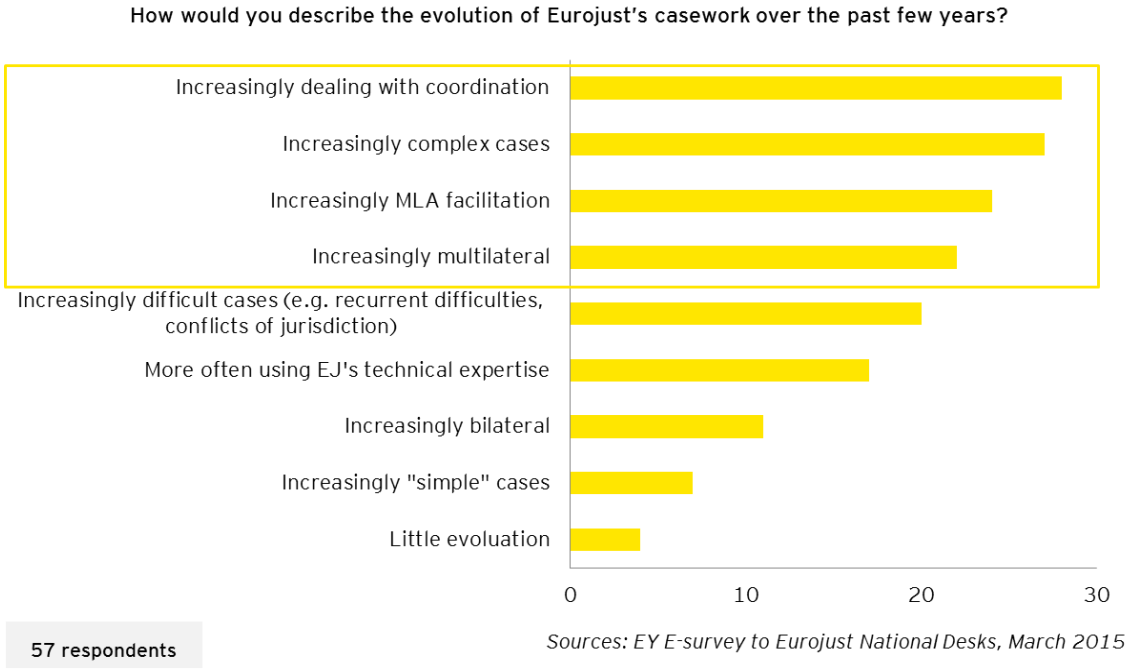


Source: Eurojust Annual Reports

4.1.2 … However it is challenging to assess evolutions in the characteristics of casework

National Members reported during interviews that the casework of Eurojust is becoming increasingly complex, multilateral and focused on coordination.

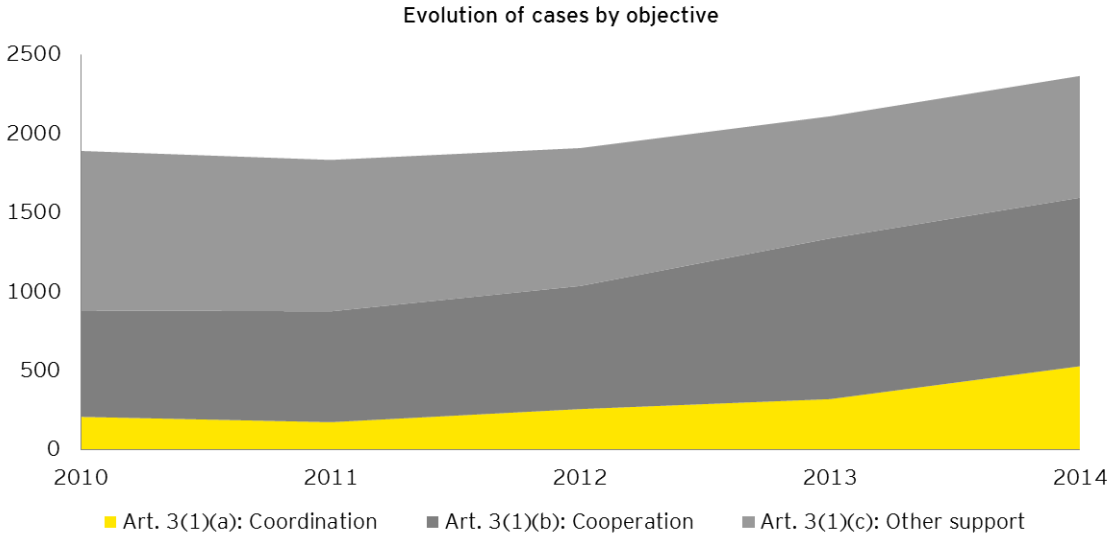
This perception is further confirmed in the results of the e-survey. The top trends that respondents selected to describe the evolution of their casework in the past few years were: i) increasingly dealing with coordination; ii) increasingly complex cases; iii) increasingly dealing with MLA facilitation; and iv) increasingly multilateral cooperation. The e-survey results were also confirmed by the interviews with National Members, who underlined in particular the growing complexity of cases.



Sources: EY E-survey to Eurojust National Desks, March 2015

The evolution of cases by objective (Article 3(1)) shows that the number of Article 3(1)(a) (coordination) cases has grown steadily, but they remain a relatively small part of Eurojust's overall casework.

Statistics from the Case Management System confirm perceptions gathered by interviews and the e-survey that Eurojust's casework is becoming increasingly characterised by coordination. Article 3(1)(a) cases have grown from 209 in 2010 to 529 in 2014, representing an increase from 14,7% of Eurojust's caseload to over 29%. Article 3(1)(b), cooperation cases have also continued to increase continuously over the past four years, whilst Article 3(1)(c) cases (other support provided to National Authorities), have declined from over 1000 in 2010 to 770 in 2014.

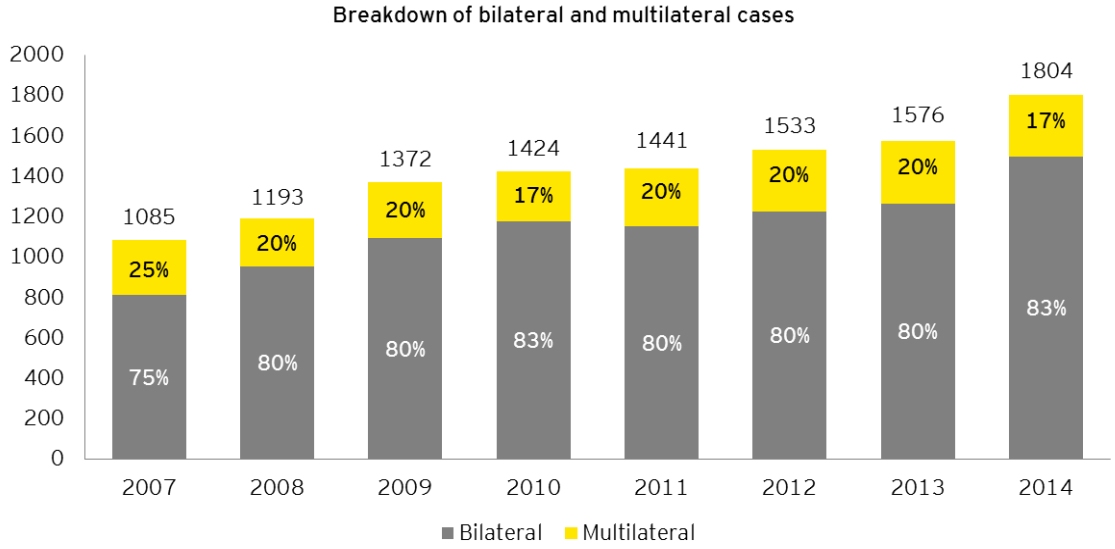


Source: CMS Statistics

There are little means by which the level of complexity of the casework of Eurojust can be objectively verified, despite the attempts made by the College in the past to measure this.

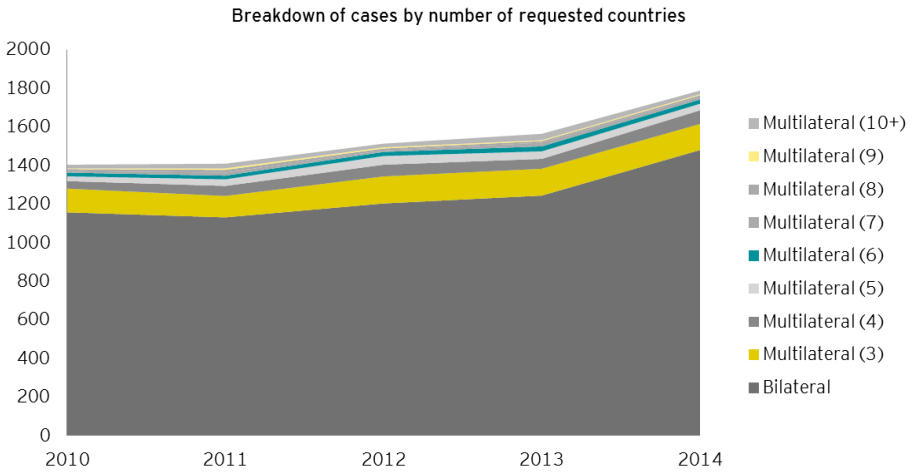
The CMS allows for the generation of casework statistics, such as the number and type (i.e. type of crime) of cases each year and the breakdown of multi- and bilateral cases. Eurojust has also experimented over the years with a number of different approaches to objectively measuring the characteristics of cases. Indeed, the Council has continually encouraged Eurojust to develop transparent, reliable and detailed statistics on the nature and quality of cases and casework.

On the basis of the statistics that are available, however, one can note the contrast between perception and reality. For example, whilst the interviews and e-survey results suggest that Eurojust's caseload is becoming increasingly multilateral, the percentage of multilateral cases has been stagnant since 2008.



Source: Eurojust Annual Reports

However, casework statistics made available by the Case Management System show that cases are becoming 'more' multilateral (i.e. there are an increasing number of requested countries on average in multilateral cases). Cases involving three countries have decreased from 49% to 43% of the total of multilateral cases. The most notable increases can be observed in multilateral cases involving four or five countries, which together make up 34% of the multilateral cases in 2014.

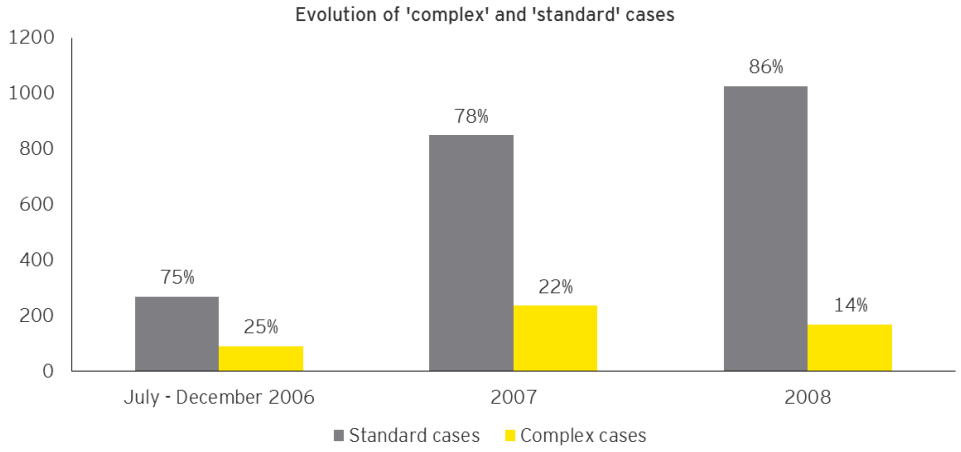


Source: CMS Statistics

Whilst it is fairly self-evident to measure the number of countries involved in a case, it is not possible to draw a strong causal link between the number of countries and the complexity of a case; nonetheless, it is worth mentioning that most of the multilateral cases imply coordination which may hint at a higher degree of complexity. However, in reality, a bilateral case can be just as complex, if not more, than a multilateral case. For example, Eurojust often finds itself dealing with bilateral MLA cases because of recurrent difficulties experienced through other channels, such as the EJN, due to the complexity of cases. This hypothesis would appear to be supported by the perception captured in the e-survey results that Eurojust's caseload is increasingly dealing with complex cases. A stable percentage of bilateral cases does not necessarily mean that Eurojust's casework is not becoming more complex.

The question of the complexity of cases at Eurojust has been an on-going point of discussion with the Council. The Council has repeatedly asked Eurojust to focus on complex, multilateral cases that required coordination and refer simple bilateral cases to the EJN (2005, 2006, 2007, 2008, 2009 and 2010). Objectively measuring this was pursued with great diligence by the College that in 2006 set-up an objective and reliable procedure for classifying cases as standard or complex. The methodology developed took into account a number of different factors:

- the nature of the assistance requested from Eurojust and the number of countries involved;
- the workload for National Members of these countries;
- the seriousness of the crimes; and
- the time elapsed in providing the requested help and the result of the assistance.



Source: Eurojust Annual Reports

The statistics resulting from the implementation of this classification methodology cast some doubts on the perceptions gathered from interviews and the e-survey. However, the robustness of this data and the lack of data since 2009 make it difficult to draw conclusions. Eurojust discontinued the use of this classification system after 2008. In response to the Council conclusions on Eurojust's 2009 Annual Report, Eurojust explained that having experimented with a number of different factors in an attempt to objectify the distinction between standard and complex cases, the College concluded that this was not possible or practical in reality. For example, indicators of complexity might not be present when a case is registered in the Case Management System, but can often appear later. On the other hand, a case initially exhibiting characteristics of a complex case may not end up requiring the level of commitment of Eurojust resources associated with complex cases.

4.2 Eurojust and the 2008 Council Decision have stimulated and improved the coordination of investigations and prosecutions in Member States

Article 3(1)(a) (and also Articles 6(1)(c) and 7(1)(c) of the 2008 Eurojust Council Decision) sets as one of Eurojust primary objectives the stimulation and improvement of the coordination between the competent authorities of the Member States and the investigations and prosecutions in the Member States, taking into account any request emanating from a competent authority of a Member State and any information provided by anybody competent by virtue of provisions adopted within the framework of the Treaties. In its day-to-day work, Eurojust can mobilise a number of tools, namely, coordination meetings and coordination centres.

Coordination meetings are seen as the most valuable tool Eurojust has to offer.

Coordination meetings constitute one of the principal tools used by Eurojust to fulfil its coordination role in cases referred to it. The Eurojust Rules of Procedure described three distinct types of meetings:

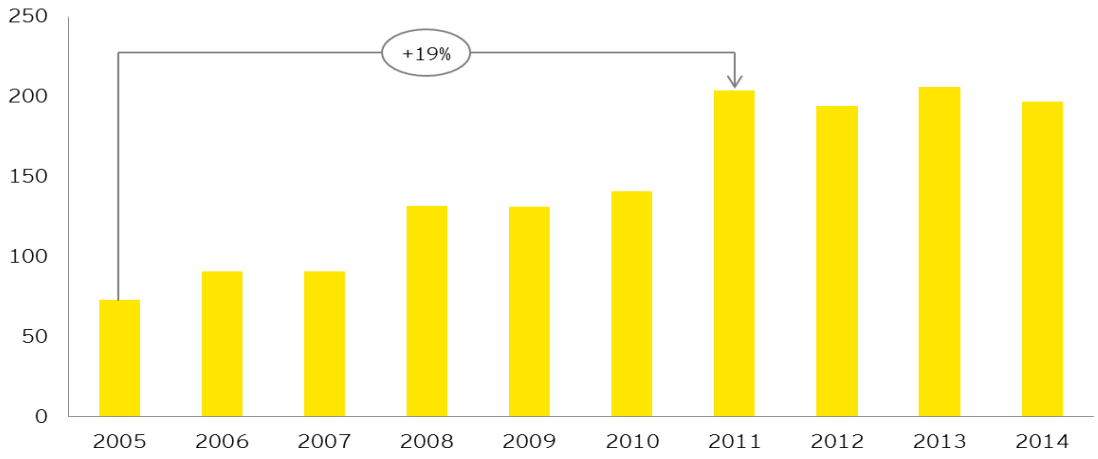
- **Level I meetings (College meetings)**: the principal objective of these meetings is to decide, on a case-by-case basis, whether to accept a case or not. Seated together around a table, National Members report new cases.

- **Level II meetings:** These meetings aim at bringing together the National Members concerned by a particular case to discuss its follow-up.
- **Level III meetings, so called coordination meetings**: These meetings are convened by the National Member(s) when the case demands that the national investigation/prosecution authorities involved (i.e. those who actually enforce subsequent procedural actions) are present so that information can be adequately shared and coordinated actions agreed upon.

Both Eurojust and Member State stakeholders have found coordination meetings to be vital for Eurojust to carry out its mission by bringing together competent National Authorities to coordinate their work. Stakeholders reported that coordination meetings notably help National Authorities to overcome the psychological barriers created by differences in language, cultures and judicial systems. Whilst coordination meetings are an exceptional event in the life-cycle of a case, they are considered to have sustainable effects over the entire course of the case by promoting early dialogue, defining strategies and making authorities less hesitant to contact one another directly or through the respective National Desks following the meeting. Furthermore, National Desks often ensure structured follow-up to the coordination meetings. The e-survey results mirror information gathered in interviews, with 100% of respondents considering the tool as very effective, effective or somewhat effective.

Statistics provided by Eurojust include only Level III meetings. Not surprisingly, the number of coordination meetings has increased in tandem with the expanding caseload and the increasing number of Article 3(1)(a) cases; from just 20 meetings in 2002, the number has swelled to 197 in 2014. Whilst the number of coordination meetings grew at a compound annual growth rate of 19% between 2002 and 2011, this growth has since been stagnant or negative. Eurojust stakeholders commented that the number of coordination meetings is naturally constrained by factors such as time and the availability of space and facilitation resources. The number of coordination meetings thus appears to have reached its natural ceiling within the limitations imposed by the size of current facilities and the level of human resources. The envisaged relocation of Eurojust in early 2017 in new premises should contribute to alleviating this problem.

Evolution of the number of coordination meetings



Source: Eurojust Annual Reports

Coordination centres are increasingly becoming recognized as an effective and efficient tool.

Initiated in 2011 as a new tool, coordination centres ensure real-time transmission and coordination of information between authorities during live operations (e.g. arrests, house/company searches and witness interviews). The objective is to facilitate real-time judicial cooperation (e.g. execution of EAWs, Letters of Requests and freezing orders) and on-the-spot decision-making and immediate judicial response. The number of coordination centres has increased steady since their creation in 2011, with seven set up in 2012 and 2013 and ten set up in 2014. The top organisers of coordination centres have been France (7), Italy (3) and The Netherlands (2). Few National Members interviewed had experience with this tool. Those who have participated in one gave overall positive feedback, which is reflected in the positive results obtained from the e-survey. Three-quarters of respondents found the tools very effective, effective or somewhat effective, whilst the majority of the remaining respondents selected 'I can't say'.

4.3 The ENCS only appears to have had a limited impact thus far, but may provide greater added value in the long-term, especially in larger Member States.

The 2008 Council Decision sought to significantly strengthen Eurojust presence on the national level, seeing it as a key avenue for improving information flows and coordination.

One of the major novelties introduced by the 2008 Eurojust Council Decision was the ENCS. In its early contribution to the European Commission's 2007 Communication on the role of Eurojust and the European Judicial Network in the fight against organised crime and terrorism, Eurojust stressed the need for an effective national presence in order to ensure the transmission of information to and from Eurojust and, more generally, to ensure that the National Desks do not become isolated from National Authorities.

The 2008 Eurojust Council Decision introduced major changes to Article 12 complementing the previous system of Eurojust National Correspondents with a more robust and formalised system for coordinating the work of Eurojust on the Member State level, particularly to enhance information sharing. The objective of the ENCS is to support the work of Eurojust by: i) ensuring that the Case Management System receives information related to the Member State concerned in an efficient and reliable manner; ii) assisting in determining whether a case should be dealt with the assistance of Eurojust or of the European Judicial Network; iii) assisting the national member to identify relevant authorities for the execution of requests for, and decisions on, judicial cooperation; and iv) maintaining close relations with the Europol National Unit. Article 12(6) also creates the possibility of connecting the members of the ENCS to the Case Management System in order to facilitate their work.

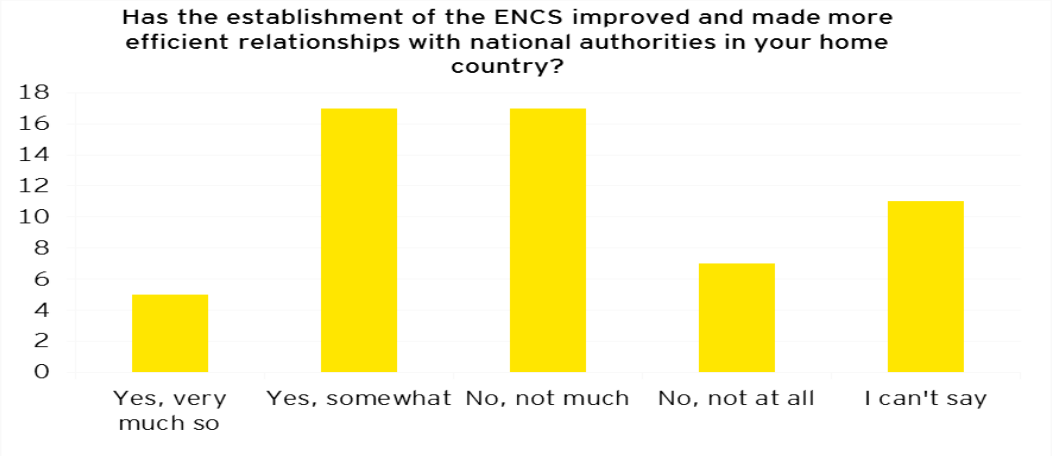
Whilst enhancing information sharing is an objective of the ENCS, equally important is the envisaged contribution to improving the external coherence of Eurojust, particularly the relationship with the European Judicial Network (EJN) and the possibility of being a platform for the coordination with Eurojust at national level. Stakeholders have highlighted that it is difficult to put in place a one-size-fits-all approach to the respective roles of Eurojust and the EJN in each Member State. The ENCS is intended to streamline and strengthen ad hoc decision-making on whether cases should be referred

to Eurojust or the EJN. Stakeholders reported that the ENCS has already begun to contribute to better structuring this relationship, whilst respecting the specificities of each national context (national preferences, regulations…).

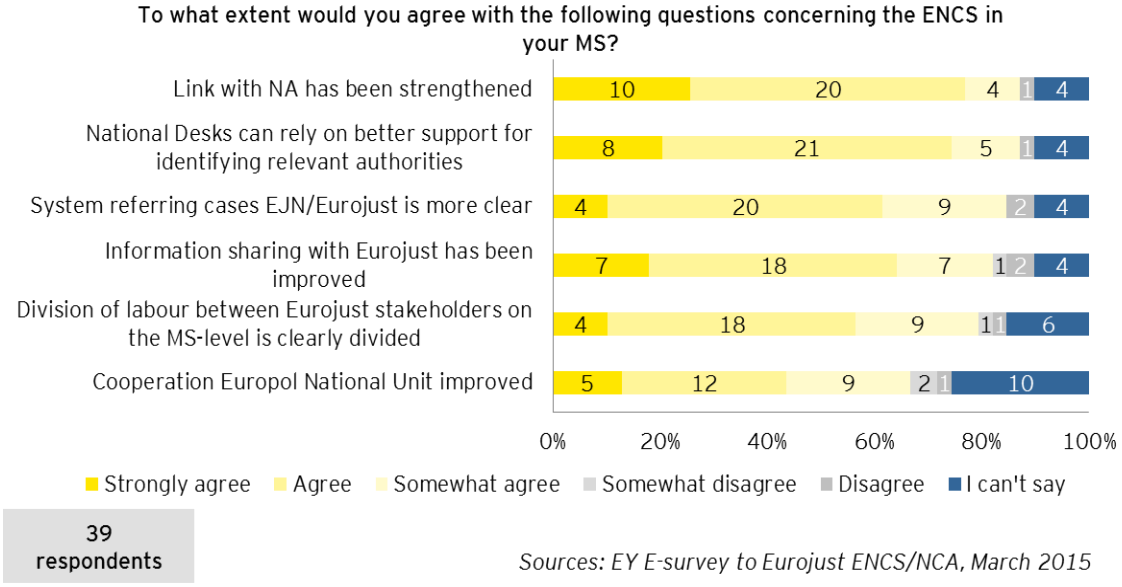
Beyond the EJN, specific mention is also made in Article 12 to the Europol National Units and other relevant networks, such as the JITs, Genocide, Asset Recovery and Corruption. Eurojust stakeholders have underlined the necessity of better formalising the interaction of these stakeholders on the Member State level in order to ensure optimal operational coordination. The ENCS is seen as the prime forum for strengthening this coordination.

The effectiveness of the ENCS has not had sufficient time to fully manifest itself.

Stakeholders interviewed supported the creation of the ENCS, but reported that its creation in the respective Member States had had a relatively limited impact thus far. Most considered that the previous system of organising the work of Eurojust on the national level worked well, thus limiting an immediate perception of the necessity of the change and additional added value of the new structures put in place. This can particularly be observed in the case of smaller Member States where the flows of information and communications between the National Desk and National Authorities is highly centralised and revolves around a smaller number of people who work with each other on a very close basis. Nonetheless, most National Members agreed that, in the long-term, formalising the ENCS on the national level is valuable.



The results from the e-survey provide a more positive picture of the immediate effects of the ENCS. For all of the tasks listed in the 2008 Eurojust Council Decision, respondents found that the ENCS had had a positive impact. It may be deduced that the early impacts of the ENCS are more visible on the national level and have not yet become readily apparent for National Desks.



Sources: EY E-survey to Eurojust ENCS/NCA, March 2015

4.4 Article 13 has faced myriad challenges, both internally and externally, limiting its effectiveness.

Article 13 is a key element of the 2008 Eurojust Council Decision.

One of the key needs identified before the adoption of the 2008 Eurojust Decision was the necessity to improve the exchange of information with the Member State authorities. This was repeated in recital 17 of the preamble to the 2008 Eurojust Council Decision: '*with a view to increasing the operational effectiveness of Eurojust, transmission of information to Eurojust should be improved by providing clear and limited obligations for National Authorities*'.

It was felt by stakeholders that the limited information sent to Eurojust left very little margin of manoeuvre for Eurojust to move away from a 'reactive' role vis-à-vis Member States. Eurojust was highly reliant on the information communicated by National Authorities to be able to assist in cases. A steady flow of comprehensive and structured information, it was believed, would open the door to a more proactive role for Eurojust, by being in a position to amass, filter and analyse incoming data and better anticipate the needs of National Authorities.

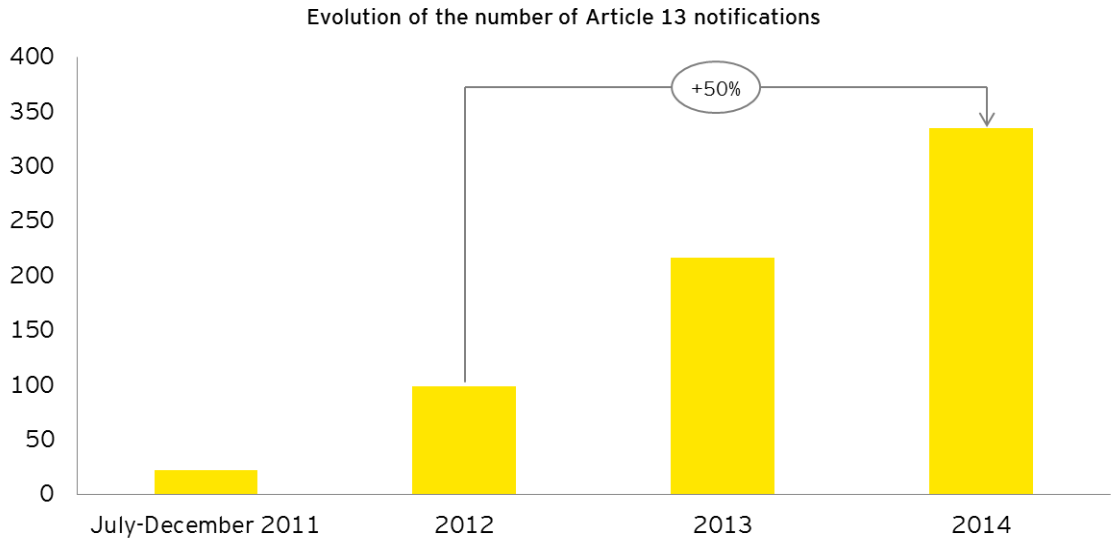
With the 2008 Eurojust Council Decision, legislators introduced a provision for a detailed reporting obligation for the Member States. This systematic reporting obligation strengthened previous language, which read that Member State authorities '*may exchange with Eurojust any information necessary for the performance of its tasks in accordance with Article 5*''. Articles 13(5), 13(6) and 13(7) establish a set of specific circumstances in which the Member States are obliged to report. Furthermore, Articles 13(10) and 13(11) stipulate that a minimum level of information must be transmitted in a structured manner. The responsibility for the implementation of this Article thus lay principally with the Member States.

Article 13(1) was left relatively untouched by the 2008 Eurojust Council Decision and it is considered to be effective.

The 2008 Eurojust Council Decision made major changes to Article 13 with the addition of detailed reporting obligations in paragraphs 5 to 7; however, Article 13(1), which represents the historical legal basis for information exchange with National Authorities for day-to-day cases, remained relatively unchanged and is considered by National Members to be effective. The 2008 Eurojust Council Decision strengthened the language of this paragraph by replacing 'may' with 'shall' and clarified the scope. This paragraph in the 2008 Eurojust Council Decision specifies that competent authorities of the Member States *'shall exchange with Eurojust any information necessary for the performance of its tasks in accordance with Articles 4 and 5'*[26].

The effectiveness of Article 13(5)-(7) is still under consideration.

Article 13(5)-(7) has thus far had only a modest impact on Eurojust casework. Despite the implementation challenges encountered, the initial numbers for the first period of implementation of this measure can be viewed positively to a certain extent. Between July 2011 and December 2014, a total of 653 Temporary Work Files (TWFs) resulted from 'Article 13 notifications'[27], of which 181 were registered as Eurojust cases (figures on registered cases not available for second half of 2014)[28]. The number of annual Article 13 notifications has grown from 99 in 2012 to 335 in 2014, representing a compound annual growth rate of 50%.



Source: Internal statistics

Whilst the growth has been substantial, cases deriving from an Article 13 notification still only represent a small fraction of the total casework in the same period, which amounted to approximately 5600 cases in the period June 2011 to December 2014. With only a limited amount

[26] Articles 4 and 5 cover the competencies and tasks of Eurojust.

[27] Notifications received by Eurojust in line with Article 13(5)-(7) obligations

[28] Article 13 notifications are inserted in the CMS as a Temporary Work File for cross-checking purposes. A registered case is a case for which Eurojust's support is activated and the file receives a College registration number.

of data since the entering into force of the obligation of the member States to notify Eurojust, it is difficult to discern at what rate Article 13 notifications will grow in the coming years and at what level it will stabilize. With no reliable estimates of what the entire population of Article 13 notifications across the EU should be, it is difficult to estimate the impact of this provision. Relying on the opinion of stakeholders consulted, the current number of Article 13 notifications received only represents a small portion of what the reporting obligation should be capturing.

Measuring the impact of Article 13(5)-(7) is still difficult because of limited reporting data.

The impact of Article 13(5)-(7) on Eurojust case work can be measured in four manners: i) through the discovery of a link between an Article 13 notification and an existing case or another Article 13 notification, leading to Eurojust providing valuable feedback to National Authorities; ii) through the addition of new pieces of information not connected to an existing case in the Eurojust CMS which may be linked with cases or Article 13 notifications in the future; iii) through the discovery of new pieces of information linked with an existing Eurojust case; or iv) the development of an Article 13 notification into a new Eurojust case.

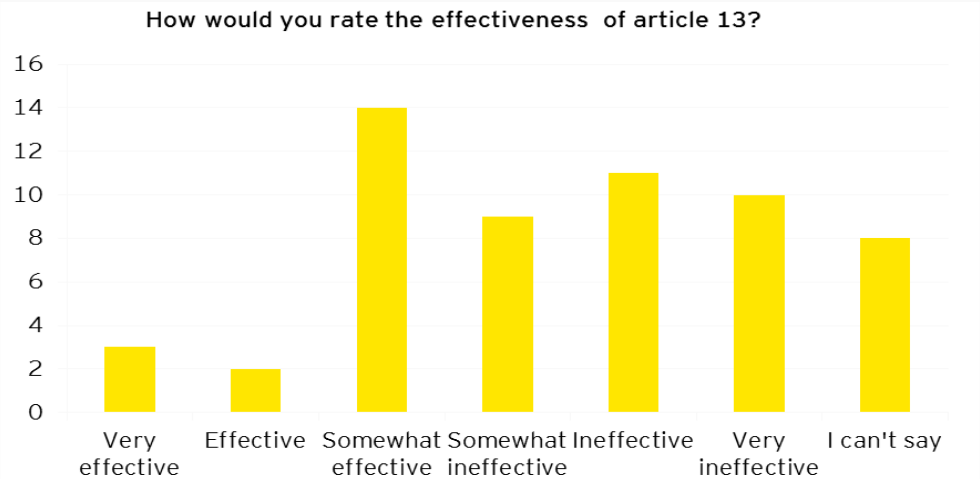
Due to the limitations of the CMS in terms of the provision of reporting data on Article 13 notifications, it is difficult to immediately verify the impact on Eurojust's casework. For example, it is not possible to report systematically on whether an Article 13 notification led to the opening of a registered case or if the registered case already existed. Likewise, the CMS does not allow for general reporting on whether an Article 13 notification resulted in a 'hit' with an existing Eurojust case or a TWF created from another Article 13 notification[29].

Internal reporting data can also provide some objective account of the other types of impact of Article 13 notifications on Eurojust casework.

- Of the Article 13 notifications received between July 2011 and June 2014, "pure Article 13 notifications" (information not in connection with an existing Eurojust case) accounted for 313 notifications.
- Article 13 notifications recorded as part of an existing operational case accounted for 172 of the total number of notifications.
- Finally, an internal survey conducted among the National Desks in 2014 found that 101 cases were registered as Eurojust cases "as a result" of the Article 13 notifications. These thus represented "pure Article 13 notifications" that developed into registered cases.

Complementing the quantitative data on the impact of Article 13, the e-survey also provides perceptive data on the impact. Overall, the results of the e-survey tend to confirm the limited impact noted through review of internal statistics. Only 33% of respondents to the National Desk e-survey rated Article 13 as very effective, effective or somewhat effective.

[29] The College Decision on data insertion (June 2013) noted that the CMS Board should implement a functionality in the CMS to count the total number of links discovered by the system should be implemented in order to assess the effectiveness of the system.



Article 13(5)-(7) may also have a wider impact on the 'proactiveness' of Eurojust.

Looking at early discussions on Eurojust in 2006 and 2007, it is important to note that Article 13 was not just envisaged in the perspective of creating a database of case information to facilitate the establishment of links between cases. It was also envisaged as a means to provide Eurojust with a sufficient level of information to take a more proactive role towards its casework, notably with regard to the use of Articles 6(1)(a) and 7(1)(a). Indeed, Eurojust's contribution to the 2007 European Commission Communication noted that: '*Full implementation of the Eurojust Council Decision not only concerns the Member States but also Eurojust itself which should, for example, be able to maximise the use of the tasks which are at its disposition, namely Articles 6 and 7 of the Eurojust Council Decision. An increased use of these provisions obviously depends in part on the information received from the Member States*'.

Because most National Desks prefer not to formally invoke Article 6 powers in their work and Article 7 remains limited in its use, it is not possible to measure the impact of Article 13 notifications on the 'proactiveness' of Eurojust using quantitative data. Any impact on the proactiveness of Eurojust would likely be found in the day-to-day working relationship between National Desks and National Authorities, which very often takes place outside the formal framework of Articles 6 and 7.

Some National Desks worry that Article 13(5)-(7) may be impacting negatively Eurojust's relationship with National Authorities.

There is some concern that Article 13(5)-(7) may be impacting negatively the relationships between National Desks and National Authorities. National Members felt that the legal obligation on the Member States created by Article 13(5)-(7), combined with the low level of immediate feedback provided by Eurojust, may impact the perception of the added value of this legal obligation. Some National Members believed that Article 13(5)-(7) risks altering the nature of Eurojust's relationship with National Authorities. Most National Members still believe that Eurojust should only assist when explicitly requested to do so and do not feel comfortable with the idea that the centre of gravity of decision-making may be migrating slightly to the supranational level.

Additionally, many stakeholders interviewed as part of the GENVAL evaluations reported that the obligation to comply with Article 13(5)-(7) requirements is perceived as a bureaucratic burden with little justification. Interviews with National Members echoed this sentiment on the national level. The GENVAL evaluation reports found that, even in Member States where Article 13(5)-(7) appears to be implemented in practice and generally complied with, authorities saw little clear added value and viewed the requirement as burdensome. The Article 13 smart form requires extensive information and must be sent to Eurojust in English, requiring additional time and resources from the Member States. Finally, some National Members stressed that National Authorities are already subject to an intricate array of reporting requirements and that they are already under an obligation to provide the same or similar information to Europol. This means that the Article 13(5)-(7) obligations add a further level of complexity and burden in the Member States impacted by limited resources and other reporting requirements.

Some stakeholders are concerned that Article 13(5)-(7) may be duplicating the information-sharing activities of Europol.

The legislator has, from the start, clearly assigned to Europol the task of conducting criminal analysis of information and intelligence. Article 5 of the Council Decision establishing Europol[30] sets out the tasks of the Agency, which include first and foremost to collect, store, process, analyse and exchange information and intelligence and to notify the competent authorities of the Member States of information concerning them and of any connections identified between criminal offences. With analysis at the core of its mandate, Europol has established extensive and renowned analytical capabilities since its establishment.

For Eurojust, the 'analysis' of information has only recently been developed as an activity. In effect, Article 13(5)-(7) significantly expands the provision of information to Eurojust by National Authorities beyond the confines of its immediate casework. With the increasing level of information in flow, Eurojust has slowly developed analytical capabilities. On the operational level, Eurojust analysis is highly qualitative and case-oriented, generally focused on the preparation of coordination meetings (e.g. identifying links between investigations and prosecutions and exploring the legal implications of the use of specific judicial cooperation instruments). Within the framework of its policy work and internal knowledge management activities, Eurojust has also developed analytical expertise focused identifying recurring judicial cooperation issues in the prosecution of serious, cross-border organised crime and best practices identified within its own casework.

Some stakeholders interviewed underlined the potential of duplication in the analytical activity of Eurojust and Europol. This has been particularly noted regarding Article 13(5)-(7) and Article 13a feedback. In general, Eurojust's analysis is very much judicially-oriented, with a clear distinction from Europol's analytical work, in particular its strategic analysis. Concerning the more operationally focused analytical activities of the two organisations, there also appears to be a clear distinction between Eurojust's case-focused work and Europol operational analysis (e.g. investigative evidence analysed in the context of Focal Points or analytical reports). Whilst the two bodies have distinct focuses, in practice, it can be difficult to draw a line between specific types of data relevant to Law Enforcement Agencies during the investigative stage and those relevant to judicial authorities during the prosecution phase. There thus may be the possibility for some minor overlaps in information reporting, but this does not appear to be a significant concern.

[30] Council Decision of 6 April 2009 establishing the European Police Office (Europol) (2009/371/JHA)

Eurojust is actively addressing difficulties related to Article 13 effectiveness and use.

The GENVAL evaluation underlined that Eurojust should continue to consider ways of encouraging the information exchange and simplify the Article 13 form and make it more user-friendly. National reports highlighted that many stakeholders found it is too complicated and/or time-consuming given the fast-paced and demanding nature of their jobs. Furthermore, the outcomes of the 2nd meeting of the National Correspondents for Eurojust in November 2014 also stressed this point.

In response, Eurojust has made numerous efforts to address these issues. It should be reminded that Eurojust has, from the beginning, taken on an important responsibility in clarifying the scope of the Article 13 obligation and creating tools to facilitate reporting. Eurojust has collected and collated feedback on the Article 13 smart form from end-users and integrated this into updated versions of the form. For example, three updated versions of the form were issued in 2014, notably allowing Croatia to initiate and import the form into the CMS and introducing a number of minor adjustments in the text of the form aimed at increasing its clarity. A new simplified version of the form is being prepared.

4.5 Article 13a(1) feedback by Eurojust has been limited

The information and feedback provided by Eurojust to National Authorities on the basis of Article 13a(1) is not only limited to information processed under Article 13(5)-(7) but also related to the information related to cases. The feedback on cases is the day-to-day activity of the National Desks; however, the feedback on hits within the CMS is limited.

The National Desks utilise the link detection functionality of the CMS in order to establish whether information in the system (both from cases or Article 13 notifications) leads to any hits in the CMS. Should a new link be discovered, the system will notify the user accordingly and the results may be transmitted to the submitting authority in the Member State. The practices concerning Article 13a feedback vary widely between National Desks concerning whether feedback is systematically provided and the manner in which the feedback is transmitted[31]. It is believed that the limited Article 13a(1) feedback received from Eurojust may be also contributing to the imperfect practical implementation of Article 13(5)-(7) by the Member States. During interviews, few National Members reported receiving hits in the CMS and being able to provide National Authorities with useful feedback in accordance with Article 13a.

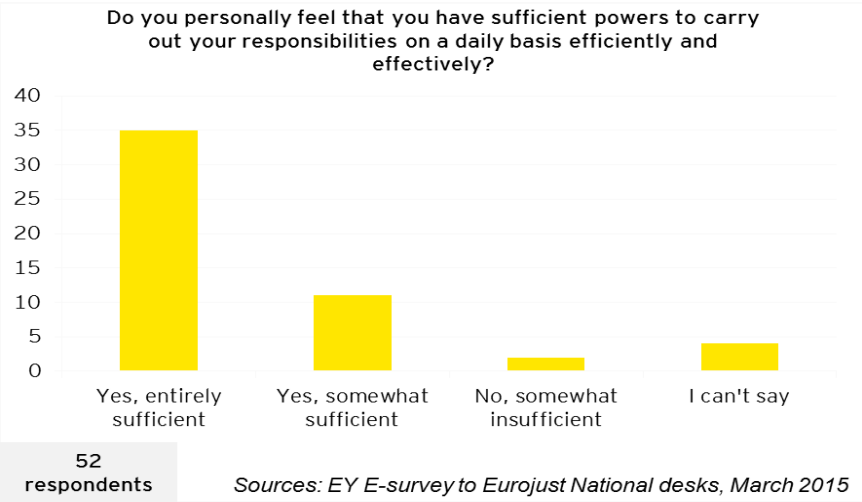
The CMS Board is exploring lowering the automatic detection threshold for cross-checking in order to increase the probability of identifying links between cases. For example, the threshold is set at 75 for natural persons, which means that a combination of matches across different fields must be made in order to make a match (surname, name and date or place of birth). It is suggested lowering the threshold for matches for natural and legal persons, places, bank accounts and identity documents to allow link detection.

[31] There has been some initiatives to standardize this process; a small number of National Desks have adopted a standard Article 13a reporting template.

4.6 The 2008 Eurojust Council Decision has provided the National Desks with the powers and tools to stimulate the assistance to National Authorities

The 2008 Council Decision has contributed to the reinforcement of powers of National Members and of the capacity of most National Desks with some exceptions.

Eurojust has largely overcome the difficulties experienced in its early days arising from the asymmetric level of powers accorded to National Members. For instance, some National Members were not authorised to transmit or receive letters of request, only a very small number of them retained prosecutorial or investigative powers, only a few had powers to receive and exchange information on criminal proceedings and some lacked the power to request information directly from their National Authorities. At present, almost no National Members report difficulties in their day-to-day work linked to a personal lack of powers or a lack of powers amongst other National Members. The large majority of National Members possess the ordinary powers described in Article 9b of the 2008 Eurojust Council Decision. However, extraordinary powers to be exercised in urgent cases (Article 9d), in agreement with Member State authorities (Article 9c) and powers exercised on the national level (Article 9a) are, in general, only partially bestowed or simply not at all.



The powers that have been accorded to National Members are rarely formally used in practice, as the tradition or legal precedent in many Member States is that the competent prosecutor must execute orders pertaining to their own cases. Many National Members also feel that unilaterally using the strongest powers provided by the 2008 Eurojust Council Decision would undermine the mutual trust that underlies Eurojust's relationship with National Authorities.

In most cases, the work of the National Member does not require the formal use of their powers for the day-to-day handling of cases. In the small minority of cases that would require this, they seem to be efficiently dealt with by working closely with national prosecutors; even in urgent cases (e.g. many Member States have a system of on-call prosecutors). When powers beyond Article 9b are used, this is almost always done in close consultation with the competent national authority. For example, some National Desks have reported using their powers to request the opening of an investigation or supplement or issue a letter of request when the competent prosecutor is not able

to easily do so. In these cases, the powers defined by the 2008 Eurojust Council Decision are highly appreciated by National Authorities. Nonetheless, these cases remain extremely rare.

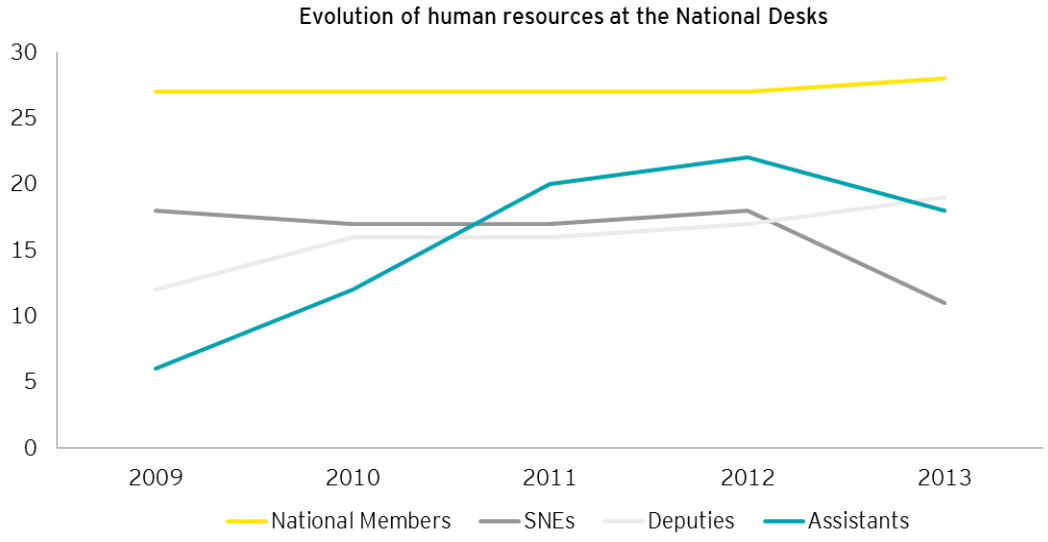
National Members are generally satisfied with their level of access to national databases.

In general, most National Desks have access to a wide array of national databases to facilitate their daily work. However, in a significant number of countries, it would appear that this access is only indirect for technical reasons, because they can only be accessed through their colleagues in their respective Member States. When the need does arise, it appears that this indirect access is generally sufficient and information can be obtained within reasonable delays.

The composition of and support to National Desks has been somewhat reinforced since 2008.

Few Member States respect the requirements set out in Article 2 of the 2008 Eurojust Council Decision. Some National Authorities have argued that more leeway should be afforded to the Member States to decide what mix is right for them, particularly given the strong budgetary pressures faced by many governments. The 2008 Council Decision's requirements concerning the location of National Members at Eurojust and their tenure, in particular those in a leadership position, has nonetheless helped to reinforce the continuity and presence of members of National Desks at Eurojust.

The rotation of representatives at the National Desks is both an inherent weakness and strength of Eurojust that must be effectively managed in order to limit the loss of internal expertise important to the effective and efficient functioning of Eurojust. While the natural rotation of representatives at the National Desks creates challenges, it also ensures that Eurojust remains highly responsive to the reality on the ground in Member States and stays abreast of important evolution in law and the practice of law in Member States.



Note: SNEs are not staff of Eurojust

The support provided by National Authorities to the National Desks is overall considered sufficient. In the context of scarce public resources, it is often a struggle to obtain new resources. National Desks recognize this and believe that their authorities are generally doing what that can within this context of austerity.

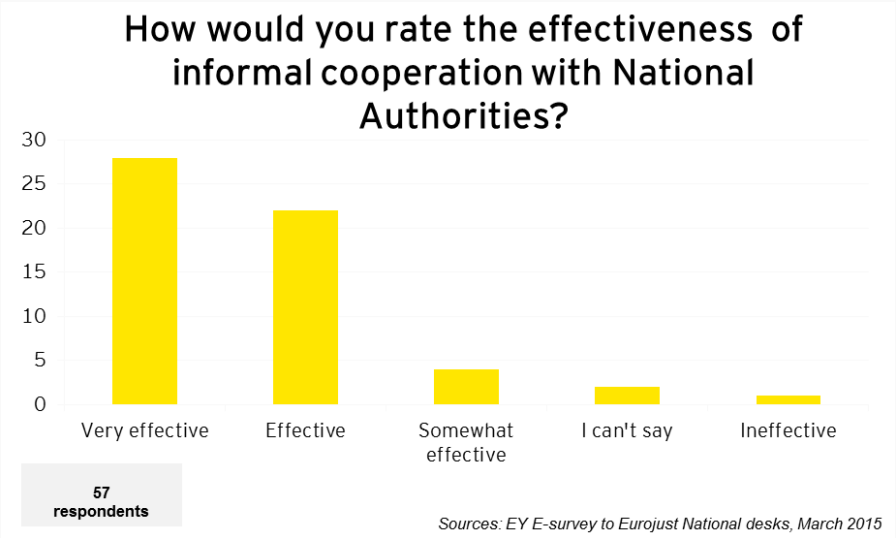
In reality, Member State decisions are based primarily on domestic financial considerations and the caseload of the National Desk. National Desks understaffed (in comparison with the requirements in the 2008 Council Decision) reported that negotiations with their home authorities for increased support were based for the most part on the demonstrated need for additional capacity (caseload) and domestic financial considerations rather than the compliance with the requirements of the 2008 Council Decision. However, the new requirements introduced in 2008 helped to create additional pressure for compliance.

4.7 Eurojust is becoming more proactive in its assistance, although this is not necessarily reflected in the use of formal case recommendations

One of the key objectives of the 2008 Eurojust Council Decision was to transition Eurojust towards a more 'proactive' role, notably through the provision of increased information. It was expected that this would be reflected in an increased use in Eurojust's formal powers (e.g. Articles 6(1)(a) and 7(1)(a)). For instance, the Council has on numerous occasions encouraged greater use of these powers in its Conclusions. Stakeholders interviewed believe that Eurojust is becoming increasingly proactive in its work, particularly in terms of fostering early and proactive dialogue to avoid problems, but that it is erroneous to assume that this should necessarily translate into greater use of formal powers. In practice, National Members continue to prefer to not invoke formal powers to request Member States authorities to take appropriate action in individual cases.

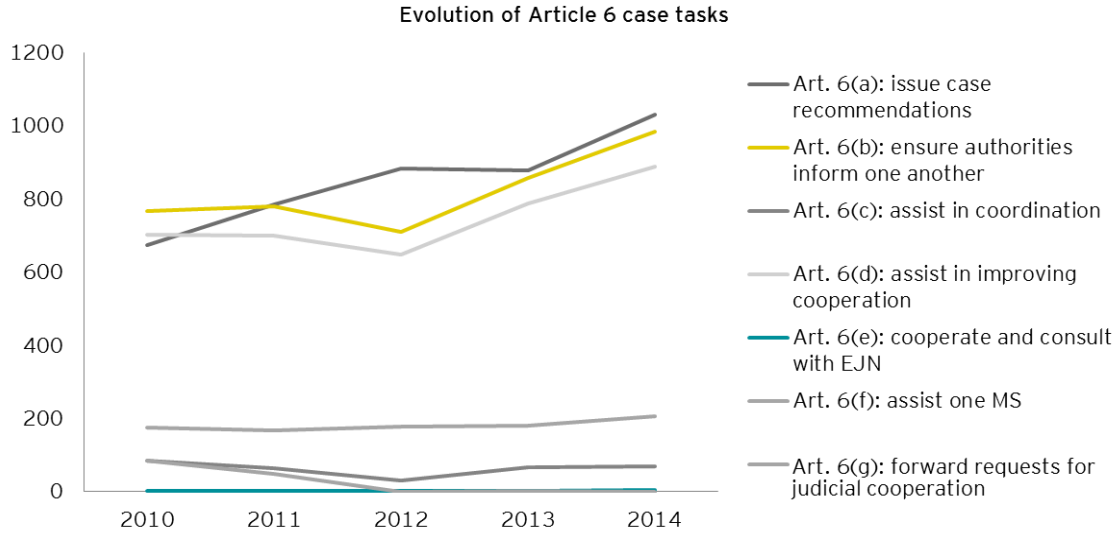
Eurojust has preferred to retain its emphasis on dialogue rather than systematically invoking formal powers

Formal Article 6(1)(a) case recommendations remain a relatively small part of the overall activity of Eurojust. Instead, National Members find it more effective to reach agreements through direct and continuous dialogue outside the formal legal framework of 6(1)(a) case recommendations. Many National Members underlined that the distinction between formal and non-formal use of Article 6(1)(a) tasks was in some sorts a false dichotomy, as the use of the latter is nonetheless based on the former. On the one hand, National Members further reported that making formal requests using their 6(1)(a) powers would entail a significant administrative burden and delay the dynamic support to be provided. On the other hand, the requests must be duly documented and reasoned in accordance with the 2008 Eurojust Council Decision. Thus, while a small number of formal requests are recorded, this cannot be taken to mean that National Desks do not very regularly make recommendations to National Authorities.



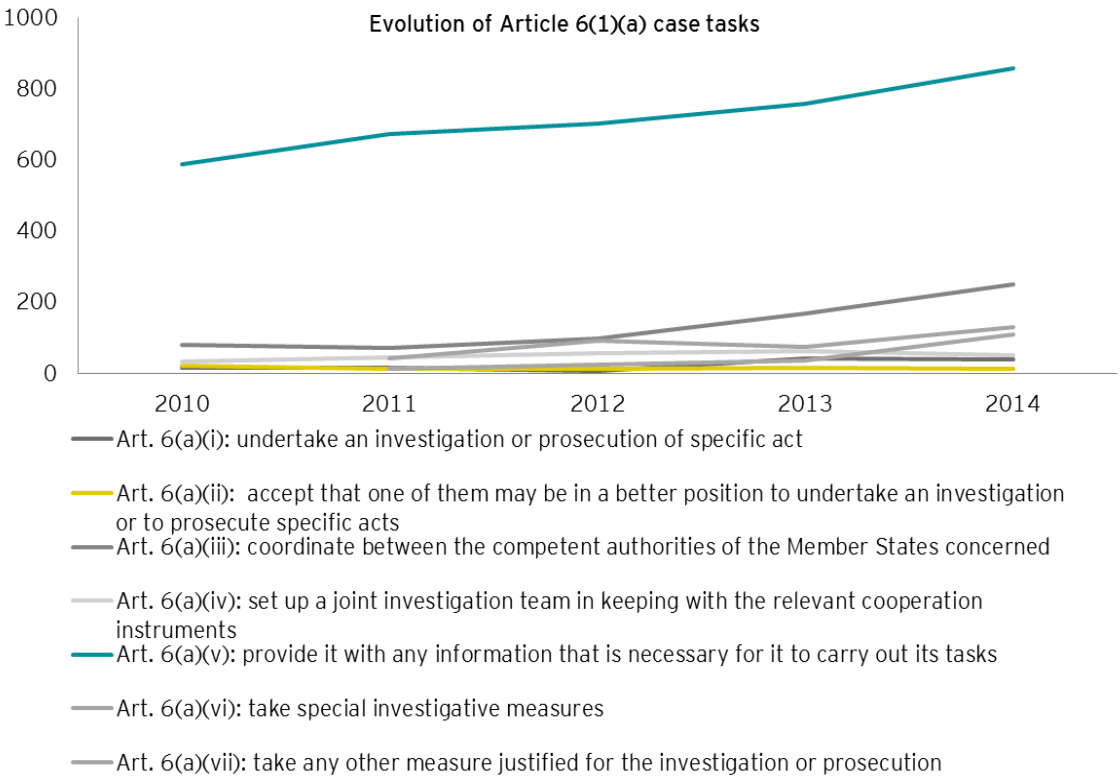
It is difficult to provide statistics on recommendations made outside the framework of a formal case recommendation under Article 6(1)(a). No formal Article 6(1)(a) requests were reported in the 2013 and 2014 Eurojust Annual Reports. Nine formal Article 6 recommendations were recorded in 2012, all of which were followed by National Authorities. Two concerned a request to initiate an investigation, two to request authorities to recognise that they rather than another authority were best placed to take action, one request for coordination, three requests for information and one request for special investigative measures. In past years the number of formal case recommendations has been as high as 30 (2010), but it has always remained a relatively small part of Eurojust's work.

Statistics on 'case tasks' made available from the CMS may provide a more accurate view of the scope of Eurojust's case recommendation activity. 6(1)(a) tasks were registered in 1031 cases in 2014, compared with 673 cases in 2010. Article 6(1)(a) case tasks are more frequently registered than any other Article 6 (or 7) case task.



Sources: CMS statistics

Looking specifically at the evolution of Article 6(1)(a) case tasks, Article 6(1)(a)(v), asking competent authorities to provide Eurojust with any information that is necessary for it to carry out its tasks, represents the majority of Article 6(1)(a) case tasks (almost 60% in 2014). The other types of case recommendations under Article 6(1)(a) have remained relatively stagnant over the past five years, with the exception of Article 6(1)(a)(iii), asking competent authorities to coordinate between themselves, which has recorded notable growth since 2012.



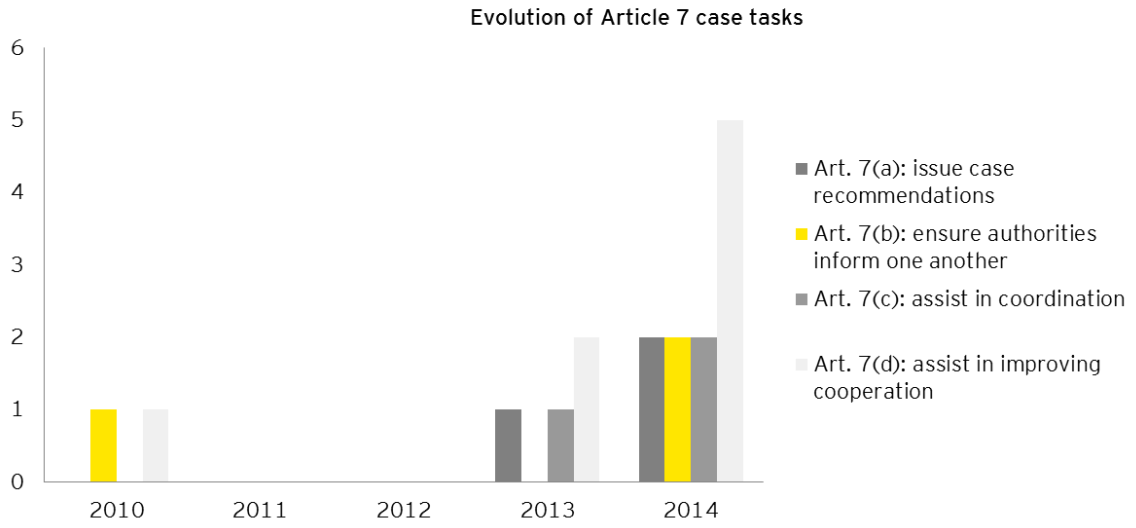
National Members may play a 'proactive' role in other ways than by exercising formal powers.

In Eurojust's written contribution to COPEN[32], Eurojust underlined that it believed it was playing the proactive role envisaged by the 2008 Eurojust Council Decision in supporting the National Authorities in their investigations and prosecutions. Interviews with National Members also stressed that much of the organisation's proactivity resides in the frequent contacts and dialogue with National Authorities, which are not recorded as a formal exercise of Eurojust powers.

On the basis of the information supplied by Europol or by the national competent authorities, in accordance with Article 13 or simply in the framework of a spontaneous exchange of information with the National Authorities, National Members regularly take actions. This can include formal or non-formal recommendations that National Authorities take investigative measures, involving new authorities not initially implicated in a case, organising a coordination meeting where the need is identified or ensuring the follow-up of decisions made in cases.

Article 7(1) also remains very infrequently used.

Article 7(1)(a) enumerates the tasks of Eurojust when acting through the College, mirroring those in Article 6(1)(a). Formal recommendations made under this Article are exceptional and rarely exceed one such request made per year. Council Conclusions have repeatedly taken notice of the limited use of Article 7 powers by the College and urged for their further use. However, most of the National Members interviewed saw little added value in managing cases through the College. Some pointed out that the College may not be the most well adapted forum for addressing cases that often require an in depth knowledge of national legal contexts. The position of Eurojust remains to prefer the use of Article 6(1)(a) (either in a formal or non-formal sense) to address issues bilaterally before contemplating a referral to the College.



[32] Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Criminal Justice Cooperation (Eurojust) - Invitation to Eurojust to provide a written contribution to the Working Party on Cooperation in Criminal Matters COPEN (Eurojust Regulation) (Council document 8488/14)

The use of Articles 7(2) and 7(3) has been explored on several occasions, but never used.

In addition to its pre-existing powers (which remained unmodified by the 2008 Council Decision), a new power granted to the College by the 2008 Eurojust Council Decision is the ability to deliver written non-binding opinions in view of resolving cases of conflict of jurisdictions (Article 7(2)) or recurrent refusals or difficulties concerning requests made to a competent authority (Article 7(3)). In both cases, the College may be requested to issue such opinions when the interested parties could not resolve the issues by themselves.

The College has yet to issue non-binding opinions pursuant to Articles 7(2) or 7(3), so it is not possible to assess its effectiveness. The College did explore the potential use of Article 7(3) in one instance, but it was decided not to issue a recommendation after careful consideration. Likewise, the use of article 7(2) was also explored by National Members in some cases, but finally, it was managed at the level of Article 6(a).

Furthermore, the College has had some difficulties grappling with the language included in Article 7(3). In Eurojust's written contribution to COPEN[33] concerning the Commission's proposal for a Regulation on Eurojust, the organisation noted that they would propose replacing them by the terms "recurrent refusals and recurrent difficulties" so as to avoid linguist uncertainties in some versions. Moreover, Eurojust underlined that there are difficulties in ascertaining whether these "recurrent refusals or difficulties" refer to one request, more than one request or whether this assessment should be carried out on a case by case basis, regardless of the number of requests, and recommended that clarification be provided.

Eurojust aims at playing an important role in the prevention of conflicts of jurisdiction and cases of recurrent difficulties, although not necessarily based on Article 7.

Whilst almost all National Members interviewed were sceptical about the issuance of formal non-binding opinions and Eurojust has made use of its formal Article 7(2) and (3) powers to resolve conflicts of jurisdiction and/or cases of recurrent difficulties in very few cases, the e-survey found that 82% of the respondents considered that Eurojust was very effective, effective or somewhat effective at preventing and/or resolving recurrent difficulties and conflicts of jurisdiction.

The question in the e-survey did not make allusion to Article 7 powers, which suggests that many National Desks do see Eurojust as having a role as bilateral mediators in the spirit of Article 6. Indeed, National Members interviewed reported that one of the reasons why non-binding opinion had never been used is that agreement can very often be worked out based on the powers of Article 6 and between National Members and National Authorities. The use of Article 7(2) is a last option one. National Members interviewed predominately saw their role in the field of prevention of conflicts of jurisdiction and cases of recurrent difficulties as a pre-emptive one, focused on identifying and avoiding potential issues before they come to a head rather than simply addressing them once they manifest themselves.

[33] Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Criminal Justice Cooperation (Eurojust) - Invitation to Eurojust to provide a written contribution to the Working Party on Cooperation in Criminal Matters COPEN (Eurojust Regulation) (Council document 8488/14)

In accordance with Article 13(7)(a) of the 2008 Eurojust Council Decision, Eurojust has to be informed of any case where conflicts of jurisdiction have arisen or are likely to arise and that a case can be referred to Eurojust at any moment if at least one competent authority involved in the direct consultations deems it appropriate. Article 12 of the 2009 Council Framework Decision on the prevention of conflicts of jurisdiction[34] also notes that, where it has not been possible to reach consensus in accordance with Article 10, the matter shall, where appropriate, be referred to Eurojust by any competent authority of the Member States involved, if Eurojust is competent to act under Article 4(1) of the Eurojust Decision.

However, National Members pointed out that nominal conflict of jurisdiction cases are only a small part of their work in this area. In reality, many cases not nominally referred to Eurojust for reason of a conflict of jurisdiction have a strong potential of developing a conflict of jurisdiction during the lifecycle of the case. Case task statistics from the CMS provide some illustration of this. Between 2010 and 2014, for instance, 69 cases included Article 6(1)(a)(ii)[35] as a task (14 cases per year on average). This number may not capture the full extent of conflict of jurisdiction activity; the tasks listed when the case is registered in the CMS may not reflect the full characteristics of the case, because conflicts of jurisdiction are often not clearly present when a case is referred to Eurojust.

Eurojust also plays a role in preventing conflicts of jurisdiction in other manners. In its 2011 Annual Report, Eurojust underlined that it acts frequently to prevent problems of this nature without the registration of a formal request. For example, coordination meetings often prove to be a practical and useful forum for early discussion and agreement between the competent authorities involved in parallel investigations. Likewise, potential conflicts of jurisdiction have also been discussed and prevented as a result of agreements reached within the scope of Eurojust-supported JITs. Finally, Eurojust elaborated written guidance contained in Eurojust's Guidelines for deciding "which jurisdiction should prosecute?" in 2003 which is explicitly referenced by the Council Framework Decision on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings.

If formal Article 6(1)(a) and 7(1)(a) recommendations are not issued, Article 8 responses by National Authorities are limited and this is in line with the wish of National Desks to rely on their powers as National Authorities to ensure compliance.

The 2008 Eurojust Council Decision introduced stronger language compelling Member State authorities to respond to a formal request referred to in Article 6(1)(a) or 7(1)(a) or give the reasons not to follow a written opinion referred to in Article 7(2) or 7(3) '*without undue delay*'. This new language reflected concerns cited by Eurojust that National Authorities do not always respond promptly to Eurojust requests.

The importance of Article 8 is not widely recognized among National Members interviewed. The level of reactivity of National Authorities was not seen as having a negative impact on the daily work of Eurojust, and most National Desks generally prefer to handle relations with National Authorities outside Articles 6(1)(a) (and thus outside of the scope of Article 8). Whilst the National Members

[34] Council Framework Decision 2009/948/JHA of 30 November 2009 on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings

[35] Article 6(1)(a)(ii) states that Eurojust, acting through its National Members, may ask a competent national authority, giving it reason, to accept that one of them may be in a better position to undertake an investigation or to prosecute specific acts

reported very few problems arising from the reactivity of National Authorities during interviews, the results of the e-survey show more of a mixed opinion. However, it is interesting to note that Deputies, Assistants and SNEs were more likely to note that the reactivity of National Authorities was an issue.

National Members prefer to work out any problems that may arise bilaterally rather than use the Eurojust legal basis to oblige National Authorities to respond promptly. This aligns with the general characteristics of the relationships between National Desks and their respective National Authorities, which tends to be more based on mutual trust rather than formalised requests. Whilst this approach has its advantages, the notable weakness of this approach is that an obligation that is not institutionalised through legal provisions depends very much on the National Member and his or her stature and network on the national level.

The Eurojust approach to formal use of Articles 6 and 7 is grounded in the political context of its creation and development.

This working style has its roots in the 2002 Eurojust Council Decision, which gave Eurojust few powers to compel Member State authorities to act, leaving the organisation dependent on the referral of cases by National Authorities. It was and is still felt that attempting to 'bind' Member States in any way may impact negatively on the trust of Member State authorities and undermine Eurojust's widely appreciated effectiveness. To succeed in this context, Eurojust has developed a highly effective approach based on 'soft' persuasion and building trust. Whilst, the 2008 Council Decision sought to provide more formal powers for Eurojust to compel Member States to act promptly (i.e. Article 8), Eurojust continues to find an approach of encouraging dialogue and discussion preferable to formally binding authorities.

However, the formal use of case recommendations is also limited by practical legal factors on the Member State level.

The non-formal use of case recommendation powers is entrenched in the preferences of National Desks and the perceived effectiveness of focusing instead on dialogue, but the use of formal recommendations is also limited due to other factors. Although the 2008 Eurojust Council Decision sought to increase the use of Article 6 and 7 powers, stakeholders widely recognized two important limitations from the outset. First, the varying division of tasks between the police, prosecutors and judges makes it difficult to confer upon the National Member powers which are not part of his or her role at national level. In other words, it is not constitutionally possible to give a National Member, who is a prosecutor, powers which belong to the police or a judge, or vice-versa. Secondly, many Member States have strong traditions which preclude an outside magistrate from taking decisions in a case. This principle arises from good practical sense (i.e. the magistrate with the greatest knowledge of a case and its history is in the best situation to take a decision).

4.8 Eurojust and the 2008 Council Decision have stimulated and improved cooperation between National Authorities

Along with coordination, facilitating cooperation is another cornerstone of Eurojust's work. Eurojust can use a number of concrete judicial cooperation tools to stimulate more efficient and effective cooperation between competent authorities. Eurojust both facilitates MLA requests, and also promotes awareness and the effective and efficient use of new cooperation instruments by drawing

on its expertise and lessons learned from its growing body of past casework. In this way, it has particularly positioned itself as a crucial player in the use of Joint Investigative Teams (JITs) and the European Arrest Warrant (EAW). This role has been recognised and encouraged by the Council. The Stockholm Programme also called for the more active involvement of Eurojust (as well as the European Judicial Network) in improving cooperation and the effective application of Union law by all practitioners.

The number of Article 3(1)(b) cooperation cases has grown quickly in past years, from 673 cases in 2010 to 1066 in 2014. It represents the largest portion of Eurojust casework, overtaking Article 3(1)(c) cases (other support to National Authorities) in 2013.

4.8.1 Eurojust and the 2008 Council Decision reinforced Eurojust support to MLAs

Eurojust has positioned itself as a key player in facilitating MLA requests.

The Eurojust 2008 Council Decision gives Eurojust a clear mandate to facilitate requests for Mutual Legal Assistance (MLA) between National Authorities. Article 3(1)(b) states that Eurojust shall work to improve cooperation between the competent authorities of the Member States, in particular by facilitating the execution of requests for, and decisions on, judicial cooperation, including regarding instruments giving effect to the principle of mutual recognition. Article 6(1)(d) and 7(1)(d) state that Eurojust, acting through the National Members or the College, shall give assistance in order to improve cooperation between the competent authorities of the Member State.

Results from the e-survey conducted among Eurojust clients show a high level of appreciation for the work of Eurojust in the domain of MLA facilitation. Stakeholders particularly appreciate that Eurojust is able to facilitate MLA requests in a highly efficient manner and in cases where National Authorities had experienced difficulties. These perceptions were also reflected in the findings of the GENVAL reports.

There are no Eurojust casework statistics published portraying the number of MLA requests that Eurojust has helped to facilitate. Statistics are only kept for specific tools such as EAWs and JITs. Internal statistics from the Case Management System provide an idea of the volume of Eurojust activity in the area of MLA facilitation. Article 6(d), assisting in improving cooperation, were registered in 889 cases in 2014, up from 703 in 2010.

In practice, it would be highly difficult to accurately measure the full extent of Eurojust's work in the domain of MLA facilitation. National Desks often do not necessarily register a case, if assistance can be provided to National Authorities quickly and with little effort (e.g. answering simple questions received via phone or email). The GENVAL evaluation noted that: '*An essential part of the daily business is replies to requests received by phone or e-mail. Due to this informal nature of exchange of information, in general no statistics are kept by the National Desks*'. Thus, official statistics would not capture these day-to-day transactions that represent an important part of Eurojust's work and are highly appreciated by National Authorities.

National Desks provide a wide range of services to requesting and requested authorities.

Most cases concern requests for legal assistance made by prosecuting and judicial authorities within the framework of the 1959 Council of Europe Convention on Mutual Assistance in Criminal Matters

and the 2000 European Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union. In practice, Eurojust can provide assistance to MLA requests in any number of areas covering all aspects of the MLA life-cycle. This includes:

- Providing specific information on national systems, such as interpreting the MLA Convention in the light of national provisions;
- Facilitating contact and dialogue between requesting and requested judicial authorities;
- Providing advice or assistance on the drafting of MLA requests;
- Drawing upon national networks in order to speed up specific MLA requests or resolve difficulties;
- Follow-up of the execution of MLA requests (e.g. request supplementary measures);
- Last resort to try resolving cases unsuccessfully tried by other actors (bilaterally between Member States and/or the EJN).

4.8.2 Encouraged by the Council, Eurojust has continually developed its expertise in order to improve cooperation beyond its immediate casework.

Eurojust operates in a dynamic legal regime in the area of criminal judicial cooperation that has been continually developed in recent years, offering an increasing number of tools to Member State authorities in the fight against cross-border crime. The Council has repeatedly called on Eurojust to strengthen its capacity to deal with and analyse data related to casework and actively support and disseminate best practice regarding the execution of MLA requests. Eurojust has responded to these requests by continually reinforcing its capacity to capitalize on its rich casework experience in view of facilitating and rendering more effective the use of MLA in the European Union. Eurojust has promoted and worked to facilitate and improve the use of (in addition to JITs and EAWs):

- **Transfer of criminal proceedings**: Eurojust works to promote the effective use of the 1972 European Convention on the Transfer of Proceedings in Criminal Matters and the 1959 Convention (Article 21).
- **Freezing orders**: Eurojust advises on practical solutions and encourages common understanding and cooperation among authorities and has encouraged fuller implementation of the Council Framework Decision 2003/577/JHA on the execution in the European Union of orders freezing property or evidence.
- **Confiscation and asset recovery**: In the past, Eurojust has launched questionnaires to better understand difficulties arising in confiscation and asset recovery cases and has encouraged Member States to reach agreements on the disposal of confiscated property and asset sharing.
- **Evidence gathering**: Eurojust works to clarify legal provisions and requirements according to national law, facilitate the exchange of information between competent authorities and provide support redrafting requests and furnishing supplementary information.
- **Controlled deliveries**: Eurojust has assisted in the execution of controlled deliveries, clarifying legal requirements related to controlled delivery procedures, which can differ substantially from

one Member State to another, and supported the requesting Member State in quickly identifying the competent authorities of the requested Member State.

4.8.3 Eurojust has effectively positioned itself as a centre of expertise for JITs

Joint Investigation Teams[36] are an important tool for cross-border judicial cooperation, allowing for the direct exchange of information and evidence without the need for passing through traditional cooperation channels (MLA requests). Over the past few years, under the impetus of The Hague Programme, a number of measures have been taken in view of stimulating the use of this instrument. The JITs' Experts Network was created[37] in order to raise awareness and further facilitate the setting up of JITs. Eurojust, as well as Europol, was also given a specific mandate to encourage the use of and support the creation and functioning of JITs (this mandate was also reaffirmed in the Stockholm Programme).

The 2002 Eurojust Council Decision provided Eurojust, acting through its National Members or the College on the basis of Article 6 and 7 respectively, with the power to request that National Authorities set up a JIT. The 2008 Council Decision further reinforced Eurojust's role with regard to JITs:

- **Article 9f** provides for National Members, as well as their Deputies or Assistants, to be members of a JIT (acting in their capacity as competent National Authorities and/or as College Members). When EU funding is granted to a JIT, Eurojust always has the possibility to become a member.
- **Article 12** requires that national contact points of the JITs Network are now members of the ENCS.
- **Article 13** recognises Eurojust's role in establishing and promoting best practice in this field. All Member States must report the establishment of a JIT to Eurojust, including basic information such as the type of crime being investigated, the size of the JIT, and the outcome of the investigation. This new obligation puts Eurojust in the unique position of being the only European body able to provide statistics on the evolution and usage of JITs.
- **Article 25a** specifies that the Secretariat of the Network for Joint Investigation Teams shall form part of the staff of Eurojust. The Secretariat functions as a separate unit and may draw on the administrative resources of Eurojust necessary for the performance of its tasks. Pursuant to this Article, Eurojust officially integrated the Secretariat in 2011.

Beyond these formal powers, Eurojust supports JITs on a day-to-day basis by: i) identifying suitable cases for JITs; ii) offering advice and information on different procedural systems; iii) drafting JIT agreements or extensions to those agreements and operational action plans; iv) providing coordination on action days; v) supporting JITs via coordination meetings; vi) providing financial support[38]; and (vii), since 2005, supporting the JITs Network to raise awareness, promote the use of and develop supporting tools for the use of JITs in the Member States[39].

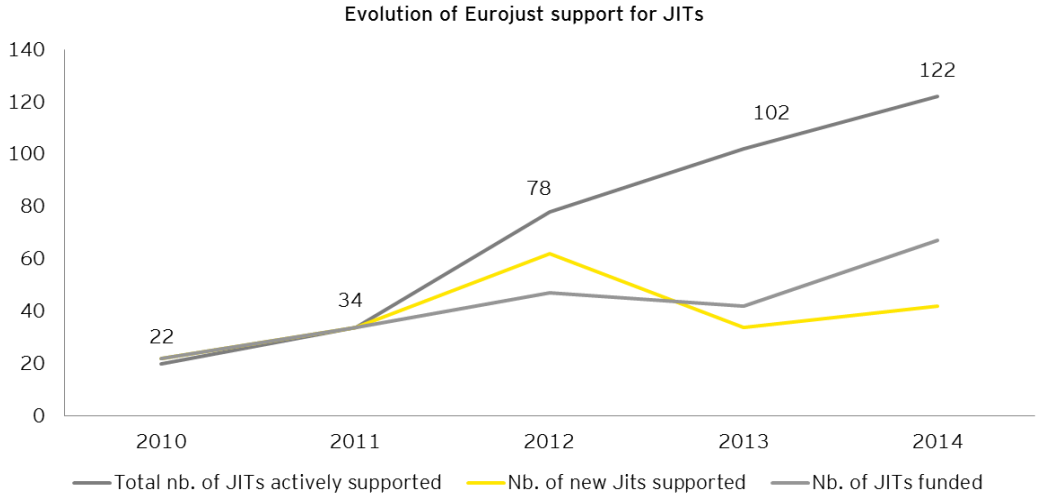
[36] The Council adopted the Framework Decision on Joint Investigation Teams (2002/465/JHA) on 13 June 2002

[37] In July 2005, the Article 36 Committee (CATS) agreed that an informal JITs Experts Network should be established (Council document 11037/05)

[38] Eurojust managed the First and Second JITs Funding Projects from 2009 to 2013, which were based on

The e-survey found that National Authorities are highly appreciative of technical assistance offered by Eurojust such as support provided to JITs. The extensive GENVAL evaluations also confirmed this perception and recommended that Eurojust continue to develop its commitments in this area.

Very few negative perceptions of Eurojust's support for JITs can be gleaned from the GENVAL report. One point raised by some National Authorities was the administrative workload required to obtain JITs funding. In 2014, Eurojust introduced a new procedure for JITs funding aimed at improving the efficiency of the grant process for practitioners. This was achieved through the simplification of forms (including new functionalities such as the automatic calculation and control of monetary ceilings) and greater flexibility in the implementation of the awards and the coverage of costs incurred by third States.



Source: Eurojust Annual Reports

The number of JITs supported[40] by Eurojust has continued to grow in recent years, from 22 new JITs supported in 2010 to 45 in 2014. Last year, Eurojust was actively supporting 122 JITs across Europe, including 67 being funded by Eurojust. For the current Call for Proposals, Eurojust plans to financially support JITs with a maximum amount of EUR 100 000 between 02 July and 01 October 2015. Eurojust awards funding on the basis of a number of criteria; for the current call for proposals, this includes the number of States involved, the present of an EU priority crime type and performance of previous JITs (e.g. execution rate).

Eurojust does not entirely finance individual JITs. Instead it reimburses the costs of the two most common areas of expenditure: i) travel and accommodation; and ii) interpretation and translation.

grants of the European Commission under the Prevention of and Fight against Crime (ISEC) programme and allowed the operational activities of JITs to be supported financially and logistically. Eurojust continues to finance the activities of JITs from its regular budget since September 2013 following the end of the Second JITs Funding Project.

[39] Eurojust 2013 Annual Report.

[40] To comply with the co-financing principle, Eurojust reimburses 95 % of the total eligible costs. An amount of at least 5 % of the total eligible costs is thus borne by the national authorities of the Member States.

Furthermore, Eurojust also provides in-kind support where needed, by loaning equipment such as mobile telephones, laptops, mobile printers and scanners for a renewable duration of six months.

4.8.4 Eurojust has also taken an active role in the facilitation of European Arrest Warrants, but the number of cases registered remains stagnant

The implementation of the Framework Decision on European Arrest Warrants[41] was completed in most Member States by the end of 2004. The EAW has since developed to become one of the most frequently used EU criminal law instruments. From the very beginning, Eurojust has played a proactive role in the implementation of the Framework Decision. It has done this through: i) promoting the effective use of EAWs; and ii) fulfilling its statutory responsibilities concerning their use stemming from both the Eurojust Council Decision and the Framework Decision on the EAW.

Eurojust has worked to promote the effective use of EAWs in the Member States that have implemented the Framework Decision on the EAW through assembling knowledge and best practices and helping to raise awareness of the tool and disseminate the knowledge it produces. It has notably organised a series of strategic meetings on the application of the EAW, contributed to the compilation of an EAW Handbook in 2008 and participated in the Fourth Round of Mutual Evaluation that assessed practical application of the instrument. On a regular basis, Eurojust also identified legal and practical issues encountered in the use of EAWs within its own casework. 2014 in particular was an active year for Eurojust in this field as the EAW was selected as the 'focus of the year'. This notably included the organisation of a strategic seminar, in cooperation with the Hellenic EU Presidency, entitled *The European Arrest Warrant: which way forward?*

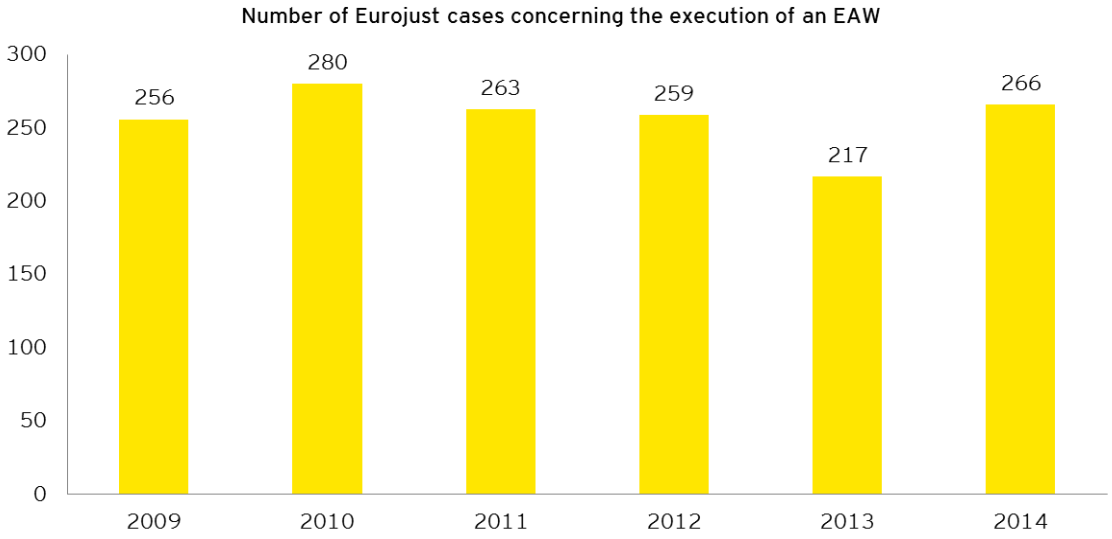
By virtue of Article 3(1)(b) of the 2008 Eurojust Council Decision, Eurojust works to facilitate the execution of EAWs and also provides advice in cases of conflicts of EAWs (article 16(2) of the Framework Decision on the EAW). On an operational level, Eurojust contributes to their effective use by facilitating the execution of EAWs and the exchange of information, helping to clarify diverging applications at national level and the legal requirements of issuing and executing authorities, advising on the drafting of EAWs and coordinating the issuance and execution of EAWs.

Furthermore, Eurojust has been tasked with registering the breaches of time limits that are reported by Member States in accordance with Article 17(7) of the Framework Decision on the EAW. If a Member State cannot observe the time limits provided for in Article 17, it informs Eurojust and provides the reasons for the delay. In 2014, for example, 123 breaches of time limits were registered at Eurojust.

The number of Eurojust cases registered concerning the improvement of the execution of EAWs has remained stagnant over the past six years. As a percentage of the overall number of EAWs issued in Europe on an annual basis, this number represents only a small fraction. For example, in 2013, over 10400 EAWs were issued and 2700 surrenders recorded[42].

41 Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (2002/584/JHA)

42 *At a Glance: European Arrest* Warrant. European Parliament, June 2014.



Source: Eurojust Annual Reports

4.9 The use of the On-Call Coordination has been limited

The first statistics on OCC usage show relatively limited use.

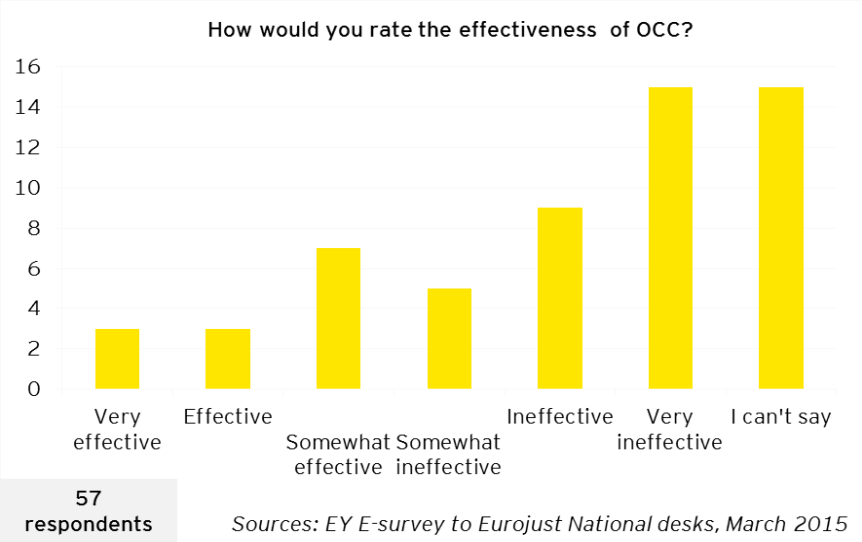
Statistics circulated internally in 2013 show fairly modest use of the On-Call Coordination system. While the system received 248 calls during the first 18 months it was operational (between Q2 2012 and Q3 2013), 204 calls, or 82% of the total calls, were abandoned by the caller. Only 44 calls reached an OCC representative (50%) or a voicemail (50%) at 14 different National Desks. Furthermore, almost all of the calls registered by the system during this period were received during normal business hours (8am to 6pm). The rollout of the OCC system has also encountered some practical and technical difficulties. For example, a number of National Desks have received irrelevant and/or abusive calls through the system OCC.

Overall, there appears to be little impact, but the system may help promote the image of Eurojust 'available 24/7'.

The OCC is almost unanimously considered by stakeholders to be of little discernible added value over previous practice. In effect, almost all National Members interviewed prided themselves on the fact that they were *de facto* available on a 24/7 basis even before the implementation of the OCC system. Eurojust distributes professional cellular phones to all National Members and the contact details of National Members are widely available for and well-known to competent National Authorities. Furthermore, stakeholders consider that the use envisaged by the legislator does not fit with the reality of international judicial cooperation. For example, National Members reported that they can in reality do little on the basis of an urgent phone call without the ability to verify the identity of the caller, which often presents itself as a practical limitation of calls received over the OCC.

The e-survey results confirmed the perception gathered through in-depth interviews, with just over 50% of stakeholders at National Desks considering the system as somewhat ineffective, ineffective or very ineffective. Moreover, a high percentage (26%) felt that they could not respond, which is

likely linked to the fact that the level of incoming calls has remained fairly low. Excluding the respondents who selected 'I can't say', 70% of respondents had a negative opinion of the tool.



Nonetheless, a limited number of 'success stories' can be identified in which the OCC system enabled National Authorities to receive a rapid response to an urgent request. However, some National Members consulted as part of an internal study on the OCC system felt that these requests could have gone through traditional communication channels and achieved the same satisfactory outcome. Another possible benefit of the OCC system noted by a number of stakeholders interviewed was the fact that having the system helps to promote the image of Eurojust 'available 24/7'. With the running-costs of the system being fairly modest, it may thus be considered as a valuable 'marketing' investment.

4.10 Eurojust has developed highly appreciated expertise, but policy work may be deviating from operational core activities and is insufficiently focused

The development of Eurojust expertise has crystallised into the idea of Eurojust as a 'Centre of Expertise'.

In many ways, Eurojust can be seen as naturally acting as a Centre of Expertise. Over the course of its day-to-day casework, National Desks make their knowledge and expertise available to the Member States to solve problems arising from casework. The idea of a Centre of Expertise was born out of the observation that this knowledge and expertise is not sufficiently managed and kept inside Eurojust when a National Member leaves. Eurojust could thus further exploit its knowledge, both internally and externally, by capturing this know-how and expertise in a meaningful and effective manner in order to build up knowledge-based 'jurisprudence'.

During the design phase of the Organisational Structure Review Project, this challenge was considered part of the report related to Performance and Risk Management – Governance. Three main development options regarding the Centre of Expertise were proposed and discussed by the College in April 2010:

- **Status quo:** this option would rely on the input to strategic documents would be done in un-structured manner and on 'ad-hoc' basis.
- **Low impact:** this option would have a low impact on the structure and be based on existing capacities.
- **High impact:** this option would create a more elaborated Centre of Expertise with a high impact on the structure and developing new capacities.

In its deliberations, the College agreed on the low impact concept. A Project Team was set up in order to prepare a Concept Paper on a 'Practical implementation of a Centre of Expertise at Eurojust'. The Concept paper defined the aim of the Centre of Expertise as contributing to the development of the judicial dimension of the fight against cross-border Organised Crime and gives input to other strategic activities of the organisation by building up organisational know-how. The proposal outlined two working methods, namely: i) Permanent Centre of Expertise; and ii) Ad-hoc Centres of Expertise.

Eurojust has set out a clear set of procedures for the operational management of the Centres of Expertise concept.

According to the concept paper, Permanent Centres of Expertise are intended to identify common problems reported by National Authorities or encountered by National Members; exchange experience on how these problems have been solved and solicit feedback from National Authorities; establish patterns and standard methods to allow for more consistent procedures; keep a record of the knowledge gathered and make it internally available; and develop proposals for the further improvement of casework.

On an operational level, meetings of the College were identified as the forum for exchanging on the know-how and experiences gained through casework. Between September and October each year, the President proposes a list of topics for the Permanent Centres of Expertise and dates of the College meetings to be devoted to discussion of these topics. Prior to these thematic discussions in the College, the College and Administration work together to jointly develop the underlying knowledge base, so that debate in the College can be focused on completing the information and providing specific case examples. Best practices, working methods and experiences identified during these discussions are gathered in a 'Repository of expertise in operational work at Eurojust' maintained for internal use.

Ad-hoc Centres of Expertise were envisaged as providing input to the European Union Internal Security Strategy and to the European Union Policy Cycle for organised and serious international crime by setting up projects to support the operational and organisational development of Eurojust. The College sets up strategic priorities annually or bi-annually and decides on a limited number of projects per year. The projects are devoted to develop expertise in a specific area and, if applicable, build on the expertise of the College Teams The results of the projects (aside from operational and organisational development) feed into regular thematic reports or are used as contributions to the SOCTA report of Europol and the Annual Reports of Eurojust.

The Centre of Expertise concept responds to a key need for more sustainable knowledge management and structure for policy activities.

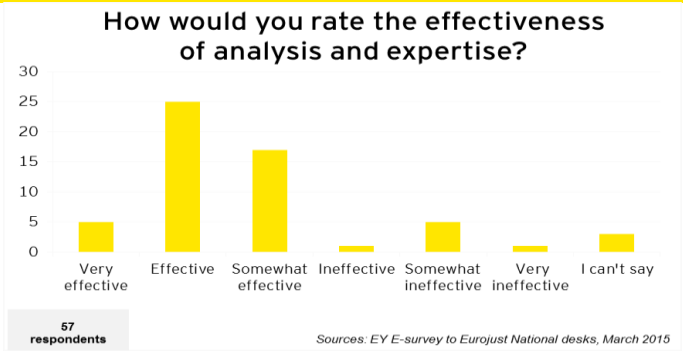
The Permanent Centre of Expertise provides an effective and efficient response to the issue of knowledge management. It puts in place a formal structure and procedures to better institutionalize the pre-existing, largely ad hoc knowledge management activity of the organisation, which resided notably in the frequent interactions between National Members during which operational experiences and best practices were exchanged. It also addresses the critical issue of retaining knowledge and know-how in an organisation with a naturally high turnover amongst key personnel central to its core business, namely the National Members. Additionally, the College created in 2014 the so-called Knowledge Management Group in order to collect, classify and store operational information and make it easily accessible for authorised users.

The Ad Hoc Centre of Expertise concept notably contributes to providing more structure to the policy work of Eurojust by putting in place a formal procedure for selecting and managing projects in this area and providing some level of strategic guidance. This should help to support the clarity and coherence strategic direction for Eurojust's operational and organisational development and, externally, provide knowledge and support to national and European authorities and strengthen the visibility of Eurojust.

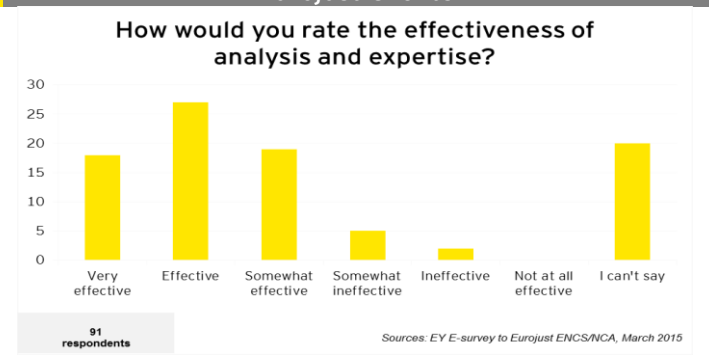
Eurojust's activities in this area are generally appreciated by stakeholders.

The e-survey results show an overall positive perception of Eurojust's policy work and provision of expertise, both at the National Desks and amongst Eurojust clients. Note that a significant portion of Eurojust clients could not provide an opinion. This may indicate a lack of awareness of Eurojust's activities in this domain.

National Desks



Eurojust Clients



The concept of Centre of Expertise is not sufficiently clear, owing to a lack of common vision.

National Members interviewed almost unanimously support the idea that Eurojust has a role to play as a centre of expertise; however, the definition of the role and objective of the Centre of Expertise is subject to many different interpretations and there is no clear vision that emerges despite the adoption by the College of the Centre of Expertise concept paper. For example, some National Members strongly associate the Centre of Expertise with the work of the College Teams, the production of reports and meetings, whilst others believed that Eurojust's centre of expertise lies more in its daily operational work with National Authorities. Both areas are covered by the concept of the Centre of Expertise.

The Centre of Expertise concept does not appear to encompass all of Eurojust's activities in this area.

The Centre of Expertise concept does not clearly address its articulation with pre-existing activities undertaken by Eurojust, notably the work of College Teams and Task Forces, or if or how the Centres of Expertise will coexist with other activities. The Concept Paper for the Centre of Expertise specifies that the proposal may impact the organisation of the College Teams that are currently working on areas that might be considered as most adequate to develop into a Centre of Expertise. It is also specified that College Teams may be called upon to provide expertise and knowledge on an ad hoc basis.

The 2014 objectives for College Teams also make mention of the Centres of Expertise, but do not specify the future role they will play alongside the Centres of Expertise or how the other work of these teams (building partnerships, producing reports and other publications…) with support or articulate with the Centres of Expertise. A number of College Teams have been tasked with elaborating proposals for the creation of ad-hoc Centres of Expertise.

- The Judicial Cooperation Instruments team is preparing a proposal on the establishment of a Centre of Expertise on JITs at Eurojust with the Europol Team and other pertinent actors (e.g. JITs Network Secretariat).
- One of the main objectives of the Counter-Terrorism Team for 2014 is to establish a Centre of Expertise on terrorism.
- The Trafficking and Related Crimes Team is preparing the development of an ad-hoc centre of expertise on Trafficking in Human Beings and on Drug Trafficking.
- The Financial and Economic Crimes Team is developing a proposal for a PIF Centre of Expertise (currently on hold pending completion of the PIF Directive).

It thus appears that the Centre of Expertise concept may be leading to a proliferation of activities in this area rather than focusing on transforming Eurojust into a Centre of Expertise on a limited number of subjects.

There is a lack of strategic clarity to guide Eurojust's policy work.

The Centre of Expertise concept has succeeded in putting formalising and providing greater structure to Eurojust activities in this domain. However, is does not address the issue of the overarching strategic framework that guides these activities. Stakeholders have noted that the Eurojust's strategic/policy work lacks strategic clarity and is insufficiently strategically focused, leading to a spreading thin of scarce financial resources.

Some policy work may be deviating from Eurojust's core operational activities.

Whilst the e-survey has overall found the perception of the policy work of Eurojust to be effective and appreciated, in depth interviews found that there are increasing concerns as to the operational focus of the policy work of Eurojust. Many National Members found the work of Eurojust in this domain was beginning to deviate too far from the core operational focus. National Members have pointed out that information being produced by Eurojust is increasingly relying on third-party sources of data rather than Eurojust's casework.

4.11 Eurojust Case Management System and data protection requirements

4.11.1 Data protection at Eurojust

Eurojust operates in a complex regulatory environment.

In the course of its daily operational work, Eurojust receives, stores and processes personal data in order to provide support to cases referred by National Authorities. Moreover, Eurojust handles sensitive personal data on persons who are suspected of having committed or taken part in a criminal offence in respect of which Eurojust is competent or have been convicted of such an offence (Article 15(1)), as well as witnesses and victims (Article 15(2)). Data Protection is thus a very important factor that must be taken into account in the day-to-day work of the organisation to gain trust in its capacity to competently handle such sensitive data.

Eurojust operates in a complex regulatory environment. The processing of personal data is framed in the 2008 Eurojust Council Decisions in Articles 14 to 25. Article 14.2 states that: '*Eurojust shall take the necessary measures to guarantee a level of protection for personal data at least equivalent to that resulting from the application of the principles of the Council of Europe Convention of 28 January 1981 and subsequent amendments thereto, where they are in force in the Member States'*. The legal framework established foresees supplementary safeguards concerning the conditions and duration of data retention for certain categories of individuals. Related provisions are also contained therein, regarding the right of access to information, as well as the system of data retention with periodic evaluations of its usefulness. These provisions are further developed through the adoption of 'Rules of procedure on the processing and protection of data at Eurojust'.

Article	Provisions
Article 14	Processing of data
Article 15	Restrictions on the processing of data
Article 16	Case management system, index and temporary work files
Article 16a	Functioning of temporary work files and the index
Article 16b	Access to the case management system at national level
Article 17	Data Protection Officer
Article 18	Authorized access to personal data
Article 19	Right to access personal data
Article 20	Correction and deletion of personal data
Article 21	Time limits for the storage of personal data
Article 22	Data security
Article 23	Joint Supervisory Body
Article 24	Liability for unauthorized or incorrect processing of data
Article 25	Confidentiality
Article 27	Transmission of data

The application of data protection rules follows a two level system. The first level consists of a Eurojust independent Data Protection Officer (DPO) (Article 17, and the second level consists of a Joint Supervisory Body (JSB) composed of judges or members with an equivalent level of independence (Article 23). The JSB is an independent supervisory body competent '*to monitor all of the processing operations carried out by Eurojust*''. The JSB is a '*redress instance for the Eurojust*

DPO in case of non-compliance, when the College has not resolved the non-compliance of the processing within a reasonable time' and examines appeals submitted to in accordance with Articles 19(8) and 20(2) of the Eurojust Decision, and carries out controls. Finally, the JSB also provides opinions on data protection provisions in agreements and working arrangements both internal to the EU and with third states.

The data protection regime of Eurojust is considered as adequate for the operational activities of Eurojust and implying minimal burden in day-to-day work.

Stakeholders consulted considered that the data protection provisions were adequate and generally adapted to the unique context of Eurojust. There was a perception amongst some stakeholders that the data protection provisions created some inefficiency in day-to-day work. The e-survey results show that a majority of respondents at National Desks believed that data collection could be ensured in a less burdensome way. On the other hand, in depth interviews with National Members found that the perception may be more nuanced than the e-survey results would suggest. In general, the burden created by data protection was considered as minimal and acceptable given the moral imperative of ensuring data protection and the practical importance for Eurojust of maintaining a high level of trust amongst National Authorities who retain ownership of the data.

The 2008 Eurojust Council Decision made a number of minor provisions to the Eurojust data protection framework that clarified legal grey areas and took into account the specific context :

- Article 9(a) clarified that when a National Member exercises the powers conferred upon him or her in Article 9b, 9c and 9d is then acting as competent national authority in accordance with national law. This conclusively clarified which processing operations take place under the Eurojust umbrella and which ones under the national law.
- Article 15 of the 2002 Eurojust Decision limited the types of personal data that Eurojust may process, both in terms of the types of persons (i.e. subject of criminal investigation, victims or witnesses) and the types of data. This created operational difficulties because the Article 15 data was not in line with the provision of data foreseen in subsequent legal texts[43]. Under the 2008 Decision, Eurojust can now process the data of persons convicted of a criminal offense for which Eurojust is competent (Article 15(1)) and new types of personal data are added to the list for persons suspected of having committed or taken part in or convicted of an offense for which Eurojust is competent (Article 15(1)(l)). While the types of data Eurojust may process remains a 'closed' list, this significantly facilitates the work of Eurojust.
- The revised Article 21 in the 2008 Eurojust Decision aims at allowing greater flexibility regarding time-limits while retaining the general principle first laid out in the 2002 Eurojust Decision that personal data shall be kept for only as long as necessary for the achievement of the objectives of Eurojust. This includes a new regime for Article 13 information.
- The revised Articles 26 and 26a notably allow for a more flexible and logical system of managing data protection issues with third parties by making a distinction between Union institutions, bodies and agencies and other independent bodies and third parties. This distinction is useful to make because third parties falling under the EU data protection umbrella are invariably subject to similar data protection and security rules and are subject to the supervision of the EDPS, whilst third parties outside this regulatory framework are subject to varying levels of data protection requirements that require assessment on a case by case basis.
- Article 23(3) of the 2008 Eurojust Decision makes modifications to the method of selection and

[43]e.g. the Council Decision of 20 September 2005 on the exchange of information and cooperation concerning terrorist offences and the Council Framework Decision on the European Arrest Warrant

length of tenure of the members of the Joint Supervisory Body. It was felt that the previous system, which can be characterised by a high frequency of 'turnover', undermined the institutional memory of the body and its effectiveness. Under the 2008 Decision, the process has been amended and now entails an annual election at the plenary meeting of the JSB in which a new member is chosen between the appointees of the Member States for a period of three years. In the same vein, Article 23(10) provides a legal basis for the hitherto informal cooperation with the data protection secretariat of the Council.

While new data protection provisions introduced by the 2008 Decision can on the whole be judged as having a positive impact, although they have introduced some new regulatory challenges that Eurojust has had to address. For instance, Article 21(2) covering the date beyond which Eurojust may no longer keep personal data, creates an obligation for Eurojust to secure the timely provision of very precise information from Member States in order to ensure compliance. In this case, the revised Article 21(2) prohibits Eurojust from keeping the personal data of persons who have been acquitted and the exceptional recourse provided for by Article 21(3)(b) is prohibited in cases of acquittal.

Source: "The new Council Decision strengthening the role of Eurojust: does it also strengthen data protection at Eurojust?" (Diana Alonso Blas)

4.11.2 Case Management System

Developed originally within the framework of an EU-funded research project, the Case Management System (CMS) was rolled out in October 2004 and has since served as Eurojust's exclusive IT tool in its casework. The CMS has been developed with a number of different functions that respond to three key objectives in accordance to Article 16(2):

- **Support to management and coordination of prosecutions which Eurojust is providing assistance:** Eurojust case cycle (registration, meetings, message exchange); interaction between NMs (TWFs and Index);
- **Facilitation of access to information on ongoing investigations and prosecutions (data management):** provision of statistics/analysis; enable cross-references between entities (persons, places, etc.) and automatic detection of potential links between cases
- **Enforcement of Eurojust Data Protection Rules:** permissions, alerts, logging.

The CMS has developed from an EU-financed research project to a well-governed tool.

The CMS began as an EU-financed research project – European Pool against Organised Crime (EPOC). During the first years of its existence, the system continued to be developed through the research consortium, which did not prove to be optimal from a project management perspective. For EPOC-III, management of the project moved under the direct purview of Eurojust. The development component of CMS management was separated out from the research component, with the research stream being more focused on long-term development of the system and managed separately from the development side.

The governance and development of the system have also been greatly improved in recent years through the creation of a CMS approach and CMS Board.

- **The CMS approach** was introduced in 2010 and is based on a prioritised list of requirements and consists of the following parallel activities: i) requirements analysis; ii) requirements specification; iii) and development. The prioritisation component of the approach defines the

order in which requirements go through the three phases of scoping and development activity. The prioritisation of the work to take place at each of the above activities is done at the CMS Board level.

- The College, which retains ultimate responsibility for the development of the Case Management System, mandated **the CMS Board** with implementing the projects and/or activities included in the Annual Work Plan for the Case Management System. The CMS Board is supported by a Project Office established within the Information Management Unit. The Project Office consists of the Project Managers responsible for managing and coordinating the work of the different CMS work flows. Finally, the CMS Board is also supported in its work by Specialised User Groups that provide the requirements for each specific user module and acceptance testing and a Core User Group tasked with coordinating the Specialised User Groups. The creation of the CMS board is notable because of the level of executive power that was delegated, which extends beyond the level of powers currently delegated to the Presidency Team.

The CMS approach and CMS Board act as a filter between the College and the Information Management Unit, structuring and prioritising the development of future functionalities. Previously, National Desks and other users would be solicited for inputs on how to develop the CMS. This resulted in a highly heterogeneous list of priorities based on personal preferences and with little overall strategic vision. Stakeholders have reported that the strengthened system governance has greatly streamlined the development of the system (e.g. precise, highly developed procedures) and the overall utility of new functionalities and infused greater strategic vision by encouraging prioritization and trade-offs.

In 2014, the CMS Board proposed a holistic approach to the CMS aimed at better serving Eurojust's objectives. The approach expands the concept of CMS beyond the current application and its respective databases, to include other components that have been added to the CMS over time in order to improve the functioning and to allow for the inclusion of additional components in the future. The holistic approach to the CMS was approved by the College on 14 October 2014.

The Case Management System has been developed since its creation; however, it is still perceived that it should be more user-friendly and efficient.

Notable improvements have been made to the Case Management System; however, there is an almost unanimous perception that the Case Management System could still be more user-friendly and efficient. The College has asked the Case Management Board to create a vision to develop the system seeking also advice by the core users.

The CMS is described in some detail in the 2002 and 2008 Eurojust Council Decisions impacting the shape the system has since the beginning. However, the legal framework left some margin of manoeuvre to design a tool for Eurojust. This is not considered good practice within the IT community and has led to some sub-optimal choices in its initial design and development.

In accordance to the 2008 Eurojust Council Decision, National Desks must use the CMS for the automated processing of all case-related personal data (without excluding the use of manual files under article 16(6) of the 2008 Eurojust Council Decision). This ensures that Eurojust is able to effectively fulfil its legal obligation to have a case management system while also complying with data protection requirements. Because the CMS is not yet connected to any stakeholders on the national level (ENCS), this means that case-related information transmitted to the National Desks

must be manually entered into the system in English before it can be exchanged with other Desks or otherwise used in the course of Eurojust's casework.

Many stakeholders consulted felt that the limited amount of information entered into the CMS concerning Eurojust cases could impact negatively the number of matches made by the Case Management System and thus the possibility of Article 13a(1) feedback. This is largely due to the fact that information stored in the CMS in many cases does not always follow common standards in terms of the level of detail and the terminology used. This situation reflects a non-standardised approach to internal working practices characterised by a reluctance to set strict norms and scrupulously follow to them at the National Desks, but also the limited capacity at some National Desks. A number of National Members felt that they needed greater support from the Case Analysis Unit for data entry.

Eurojust has identified this issue and has already taken steps to address it. In June 2014, the College introduced common standards for data entry into the CMS. National Desks have begun to substantially improve the use of the system on the basis of that decision of the College of 2014. However, the use of manual files is still prevalent. A College Decision providing guidelines for the use of manual of 2014 has put in place a certain standard approach to the manual files. This decision should be read together with the Decision on data input of 2014. Only few National Desks have decided to move towards a paperless office, whilst others consider that manual files are more conducive to carrying out their daily work and enable them to manage the work more efficiently.

The CMS allows for effective monitoring of the compliance with the data protection rules.

The CMS has proven an effective tool for assisting the organisation in monitoring the compliance with the data protection rules throughout the course of its daily work. This is perhaps not surprising as the tool was designed with compliance as one of its three principal objectives. Article 16(2)(c) of the 2008 Eurojust Council Decision specifies that the CMS shall be intended to "*facilitate the monitoring of lawfulness and compliance with the provisions of this Decision concerning the processing of personal data*".

The CMS has a number of functionalities built directly into the system that facilitate compliance with data protection rules if data is processed within the system and not in manual files. This is achieved through functionalities such as permissions, which are controlled by the National Member in accordance with Articles 16a and 16b, and built in alerts that notify users of the risk of infringement of certain limitations stemming from Eurojust data protection provisions. For example, the CMS automatically generates reminders to the data controllers when data are about the reach their time limits and sends notifications to the DPO under certain circumstances.

Member States connections are progressing; however, it has encountered technical challenges and low priority status accorded to it by National Authorities.

The EJ27 project (now called Secure Network Connection Project) was initiated in 2009 with the objective of establishing secure network connections with the 27 Member States (now 28 after the accession of Croatia) in order to facilitate the IT implementation of Articles 12 and 13. Article 12 notably foresees the provision of access to the CMS for the ENCS in each Member State, whereas Article 13 is being implemented through the use of smart PDF templates transmitted by e-mail.

As of January 2015, there is network connection established with 13 Member States and 6 ongoing or close to completion. Finally, no Member States have established a connection with the CMS yet. Therefore, the lack of connection with National Authorities also means that information is communicated between National Authorities and the National Desks largely through secure email or traditional mail and then entered into the system to be shared and exchanged with other National Desks, who must extract the information from the system in order to share it with their National Authorities. Future technical development of the system will allow for the implementation of Article 16b.

5 Governance, working practices and efficiency

Main findings

- The governance of Eurojust has been largely untouched since its creation. Despite formalising the role of the three main components of the governance system, namely the College, the President and the Administrative Director, the 2008 Council Decision did not elaborate further on a clear division of roles and responsibilities.
- The consideration of the President as a 'primus inter pares' with limited responsibilities for external representation of Eurojust, the management of the work of the College and the day-to-day monitoring of the work of the Administrative Director limits effective leadership and the ability to set clear priorities, create homogeneous practices in both operational and strategic matters, and better streamine the work processes at Eurojust.
- The sub-structures (College Teams/Task Forces/Working Groups and Contact Points) created by the College in order to help prepare its work would require streamlining and simplification.
- The College has devoted significant efforts to improve its internal working methods; however, changes are limited by the Governance design as included in the legal framework. Efficiency of decision-making may be impacted by the current structure of the organisation.
- The Governance issue does not appear to have a major impact on the day-to-day casework of the National Desks, which remain quite autonomous in their activities. Rather, the effect can be more clearly seen in the effectiveness and efficiency of the organisation as a whole (other activities assumed by the College in the area of policy and administrative work).
- Nonetheless, Eurojust has succeeded in absorbing a constantly increasing caseload within (from 2014 onwards) decreasing resources. Despite some interrogation on the alignment of this administrative support to the overall strategy, the Administration has proven its ability to provide a high level of service to Eurojust's operational activities.

5.1 The 2008 Council Decision left governance relatively untouched, leading to issues which may limit Eurojust development and ambition.

Whilst Eurojust has evolved significantly since its establishment in 2002, the governance of the organisation has been left largely unchanged, despite being identified multiple times as a necessary condition for improving the institutional effectiveness and efficiency of the organisation. The 2010 Organisation Structure Review[44], the 2012 DG Justice Study on the Strengthening of Eurojust[45], and the 2012 report prepared for the European Parliament [46] all underlined the limitations posed by the organisation's governance.

5.1.1 Eurojust is still characterized by its collegial structure. The governance design of the 2008 Council Decision allows different interpretations by National Members on how governance should work in practice.

The design of the governance of Eurojust relies on two provisions of the Eurojust Council Decision: Articles 28 and 29 which formalize the role of the three main entities:

- **The College** is *"responsible for the organisation and operation of Eurojust"* (Article 28(1)). It consists of National Members (prosecutors, judges or police officers of equivalent competence) appointed by national authorities with their status under national law. Each of them exercises one vote;
- **The President** *"exercises his duties on behalf of the College and under its authority, direct its work and monitor daily management ensured by the Administrative Director"*. The President is elected by the College with a two third majority for a period of three years. The results of this vote must be submitted to the Council for approval by qualified majority. The President exercises his/her duties on behalf of the College and under its authority, represents Eurojust, presides over the meetings of the College (setting agenda, moderating debates, overseeing the execution of decisions adopted) and monitors the daily management ensured by the Administrative Director;
- **The Administrative Director** is *"responsible, under the supervision of the President, for the day-to-day administration of Eurojust and for staff management"*Article 29(5)).

The 2008 Eurojust Council Decision did not elaborate further on a clear division of roles and responsibilities to be performed by the different actors.

As the central body of Eurojust, the College is involved in both managerial and operational matters, depending on whether it meets as an operational body or as a Management Board. Furthermore, the National Members play an active role in the functioning of the

[44] Final Report of the Organisational Structure Review Project commissioned by Eurojust to Deloitte – 2010

[45] Study on the Strengthening of Eurojust, commissioned by DG Justice to GHK - 2010

[46] Study on the Future of Eurojust commissioned by the LIBE Committee of the European Parliament – 2012 Directore General for Internal Policy – Policy Department C – Citizens'rights and Constitutional Affairs (Justice, Freedom and Security)

institution, combining a mix of supervisory, executive and operator functions in the process:

- **Supervisory role** – As members of a Management Board, National Members decide on the strategic objectives of Eurojust, approve the budget, adopt the Annual Work Programmes and are responsible for the appointment and dismissal of the Administrative Director.
- **Executive role** –The President (and Vice-Presidents in the Presidency Team) exercise executive functions being responsible for monitoring the daily management of the organisation ensured by the Administrative Director, including the administrative and operational activities. Under the supervision of the College and the President, the Administrative Director ensures the general management of the administration and monitor the establishment and the implementation of the (Administration part of the) Annual Work Program and unit plans.
- **Operator role** –National Members directly take part in the operational work performed by Eurojust, at first the casework being done by National Desks, but also being involved in policy documents and the work done in College Teams.

From a structural point of view, the existence of a collegial body assuming mixed roles and responsibilities presents a problematic accountability framework. As primus inter pares, the President directs the work of the College and monitors the day-to-day work of the Administrative Director, without having a clear power of appointment or sanction and nor being liable. Furthermore, although the College can take decisions on budgetary matters, the Administrative Director remains the sole entity accountable for the implementation of the Eurojust budget according to Article 36 of the 2008 Eurojust Council Decision.

Governance is still a sensitive issue, with no shared view amongst National Members and stakeholders on the appropriateness and effectiveness of these governance arrangements

The structure of Eurojust is unique within the European institutional landscape and a reflection of the concept of intergovernmental cooperation in criminal matters. The Evaluation of the EU Decentralised Agencies in 2009[47] stressed the ambiguity of Article 28 and 29 of the Eurojust Council Decision, which allows for considerable leeway in its interpretation. According to the 2009 Evaluation of the EU Decentralised Agencies, the governance structure has been affected by a "*very narrow interpretation of the article 28(1), which states that the College shall be responsible for the organisation and operation of Eurojust. Ideally, the College would only be involved in strategic aspects such as budget and work plans. However, the Eurojust Council Decision states that the College is responsible for the operation of Eurojust […]. For some National Members, this has been interpreted as a 'mandate to involve themselves deeply in the management of the Eurojust Administration*'.

Internally at Eurojust, the differences of view expressed by National Members on the appropriateness and effectiveness of the current governance arrangements are reflected in the diverse opinions on the possible future development of Eurojust and the new Regulation on Eurojust.

[47] Rambol, Eureval, Matrix Insight, *Evaluation of the EU Decentralised Agencies*, on behalf of the European Commission, 2009

On the one hand, some National Members consider Eurojust to be a purely inter-governmental network of national prosecutors and generally consider that the current governance structure is functioning well and is fit for the intended purpose. Whilst accepting that there is room for efficiency improvements, they stress that the representative role they perform on behalf of the national administration which appointed them, coupled with the need to ensure judicial independance, render it inappropriate for them, or Eurojust more generally, to be involved in a wider administrative role.

On the other hand, others believe that Eurojust should increase its influence within the field of EU cooperation on criminal justice matters, and argue that a clearer division of roles between the College, the Executive and the Administrative functions would facilitate such a development, so that National Desks can concentrate on operational activities.

5.1.2 Limitations on the possibilities of exercising an effective leadership at Eurojust may also limit the strategic ambition of Eurojust.

The consideration of the President as a 'primus inter pares' with very limited responsibilities may restrict the effective leadership exercised and the ability to set clear priorities, homogeneous practices in both operational and strategic matters, and to better streamine work processes at Eurojust. As a result of the collegial process of decision-making, the capacity of the institution to set ambitious strategic priorities and develop a common vision of what Eurojust should become in the future appears limited.

In effect, the consensual approach to decision-making can result in lowest-common-denominator agreements or outcomes. The difficulty of defining a single 'voice' and strategic institutional goals does not have an impact on day-to-day activities, but may jeopardize the future ambitions of Eurojust.

5.1.3 Governance does not appear to limit the activities of National Desks in their day-to-day casework …

There is little evidence that the governance structure of Eurojust has negative impact on the day-to-day operational activities of the College members.

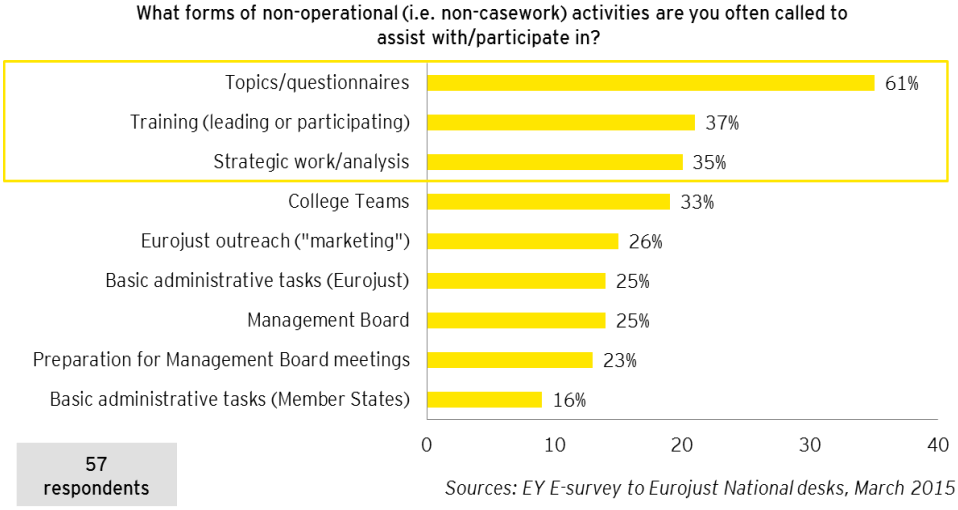
On average, respondents to the National Desk survey declared that they spend 56% of their time on purely operational issues (e.g. casework). This, however, does not imply that 44% of the time resources of the National Desks are devoted to governance questions. In effect, the National Desks also invest significant resources in activities, such as topics and strategic work analysis that could be considered as a contribution to some extent to the core operational work of Eurojust. Their participation in the governance and administration ofCollege Teams (some of which are operationally oriented), represent a relatively smaller part of National Desk time resources.

The views of National Members on their involvement in management activities, and time spent on non-operational work differs markedly, and depends to a large degree on how they perceive their role in the institution and their managerial expertise.

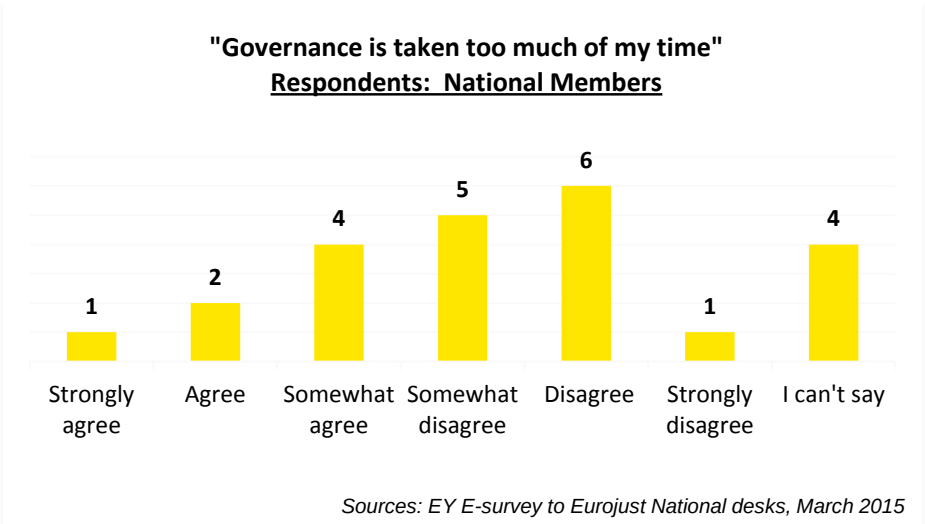
Interviews with National Members found that many considered that they did not have a sufficient level of expertise or the management skills necessary to exercise their responsibilities as members of a Management Board effectively. Furthermore, some felt strongly that there role as National

Members should be solely focused on operational matters. This has the effect of rendering the level of involvement in management issues highly variable.

In practice, this should help the streamlining of governance, as National Members with the relevant skillsets and a sufficient level of resource and willingness have stepped up to assume a greater level of responsibility for management functions. However, it also means that not all National Members are focused on administration matters to the same degree and contribute to the collegial-based governance arrangements in equal measure. Consequently, there is a risk under the current governance arrangements that the influence exerted by individual College members is heavily dependent on personal preferences.



Sources: EY E-survey to Eurojust National desks, March 2015



Sources: EY E-survey to Eurojust National desks, March 2015

5.1.4 … But governance issues may have clear implications for the effectiveness and efficiency of the organisation as a whole.

The Governance involving College members in supervisory, executive and operational matters limits the ability of Eurojust to efficiently organise and control its activities.

The current governance does not set any clear authority among National Members.

The consideration of the President as a 'primus inter pares' with limited responsibilities on external representation of Eurojust, the management of the work of the College and the day-to-day monitoring of the work of the Administrative Director limits effective leadership and the ability to set clear priorities, create homogeneous practices in both operational and strategic matters, and to better streamine the work processes at Eurojust.Furthermore, the President does not have the power to organise the operational activities of the National Members. .

Additionally, the College has created sub-structures, the College Teams/Task Forces/Working Groups/Contact Points, to help prepare the work of the College which do not appear on the legal governance scheme and do not have any executive competences. The work within these sub-structures is based entirely on voluntary work performed by the National Members.

The involvement of National Members in **College Teams/Task Forces/Working Groups/Contact Points** relies on volunteer implication and particular interest, which may lead to various levels of involvement within the College in the day-to-day functioning. These structures are designed to support and prepare the College work and to expedite decision-making, while respecting collegiality. In 2015, 10 College Teams existed, 12 thematic Taskforces or Working Groups (each of them being composed of several National Members with the support of administrative staff) and 25 Contact Points. The amount of resources allocated to support these structures is very high.

College teams	Taskforces/Working Groups
► The Presidency Team	► Taskforce on the Future of Eurojust
► Casework Strategy and Performance Management Team	► Taskforce on Cybercrime
► EJN and Liaison Magistrates Team	► Programme board for the new premises of Eurojust
► Judicial Cooperation Instruments Team	► Reflection group for the new premises of Eurojust
► Counter-Terrorism Team	► Peer group for the office concept of the new premises of Eurojust
► Brussels Team	► Steering group for the Evaluation of Eurojust
► Europol Team	► Case Management System Board
► Trafficking and Related Crimes Team	► ICT Steering Group
► Financial and Economic Crimes Team	► Security cCommittee
► External Relations Team	► Editorial Board for the Annual Report
	► Editorial Board for Eurojust news
	► Knowledge Management Group

The monitoring and control of the activities of Eurojust, including the activities of the National Desks, are limited. National Members are not formally obliged to report to the College and the Presidency Team on their operational activities and they are not accountable for the work performed within the College Teams. The President has no formal authority to constrain the implementation of decisions, except by using "soft" powers towards National Members. However, the Presidency Team has promoted the use of monitoring tools in order to gain a complete overview

of the activities of Eurojust. The Eurojust Scorecard records all activities and projects that are ongoing (or completed), the responsible person and deadlines to be complied with. The tool helps monitor the tasks given to the National Members, the College Teams and the Admininistration and allows the Presidency Team to give regular feedback.

Additionally, the independence of the National Members at the level of operational work and their consideration as *primus inter pares* in the College limit the adoption of a more institutionalised approach: for example, the necessary alignment of operational processes at Eurojust is based on standard non-binding guidelines which remain suboptimal, especially in areas which require a more homogeneous approach at an organisational level:

- Examples of this include:
  - The drafting of the Eurojust Operational Manual started in 2008 and is still a work-in-progress. The Operations Manual is "aimed at providing guidance on usual practice to National Members when dealing with cases opened at Eurojust"; however, it is considered a non-binding document and it will not be possible to enforce an application that would substantially help homonegising processes related to operational work within Eurojust.
  - Until 2014, the registration of cases in the CMS has not been subject to standardised working methods accros the National Desks. In June 2014, the College adopted its "decision on insertion of data in the Case Management System". A more uniform approach at organisation level on case registration is slowly being achieved; however, there is more work to be done that could be facilitated by rules in this area.

5.1.5 The College has devoted efforts to improve its internal working methods; however, changes are limited by the governance design. Efficiency of decision-making may be impacted by the current structure of the organisation…

Several College Decisions have striven to make a more efficient and effective use of time and resources, strengthening the differentiation between Operational and Management Board meetings of the College:

- The 2011 College Decision on the "operational Tour de Table" aimed at enhancing the work of the College on operational matters during plenary meetings;
- Several College Decisions adopted in 2012 defined practical arrangements related to its functioning, aimed at:
  - Setting very concrete rules related to the planning of operational and Management Board meetings of the College;
  - Making more efficient and effective use of time and resources, through limiting the length of discussions, the number of interventions and speaking time, and strengthening discipline and planning in Team work;
  - Preparing better the College meetings, with deadlines for sending preparatory documents and teams and taskforces productions;
  - Regulating written procedures and written information points.

In September 2014, the College assessed the implementation of these new rules[48]. Among other findings, the assessment pointed out a stabilisation of the number and frequency of the College meetings, and a more disciplined functioning overall:

Number of college meetings in 2013 – S1 2014

	2013	2014 (until 31 July 2014)
COLLEGE OPERATIONAL MEETINGS		
Number of ordinary meetings	22	14
Number of extraordinary meetings	8	4
Time spent by each participant	14 days of meetings of 8 hours each	11 days of meetings of 8 hours each
MANAGEMENT BOARD MEETINGS		
Number of ordinary meetings	9	6
Number of extraordinary meetings	1	0
Time spent by each participant	3,7 days of meetings of 8 hours each	2,6 days of meetings of 8 hours each

Source: Eurojust, College Secretariat, Briefing note, 29-09-2014

… The functioning of the College still offers several areas for improvement, such as the functioning of College Teams/Taskforces/Working Groups and Contact Points. Although they have been settled to facilitate the preparation of the decision-making process in the College, they mobilise a large number of resources within the College and the Administration and their working methods are under-regulated.

The 2014 assessment of the College functioning drew attention to some deficiencies in the planning and the implementation of College Team activities. According to the note, "the deficient planning leads to the scheduling of more and longer College plenary meetings to respond to urgent needs that should have been anticipated[49]." The College is currently undertaking work aimed at streamlining the activity, by setting a clear overview of the objectives and annual work plans of each body[50].

5.2 Efficiency of the organisation remains an important issue, even though the Administration has already invested significant efforts to streamline its support to operational activities.

The Administration of Eurojust is composed of two kinds of services:

[48] Briefing note of the College Secretariat, Evaluation of the implementation of: College Decision 2012-11 on practical arrangements related to the functioning of the College, 29-09-2014.

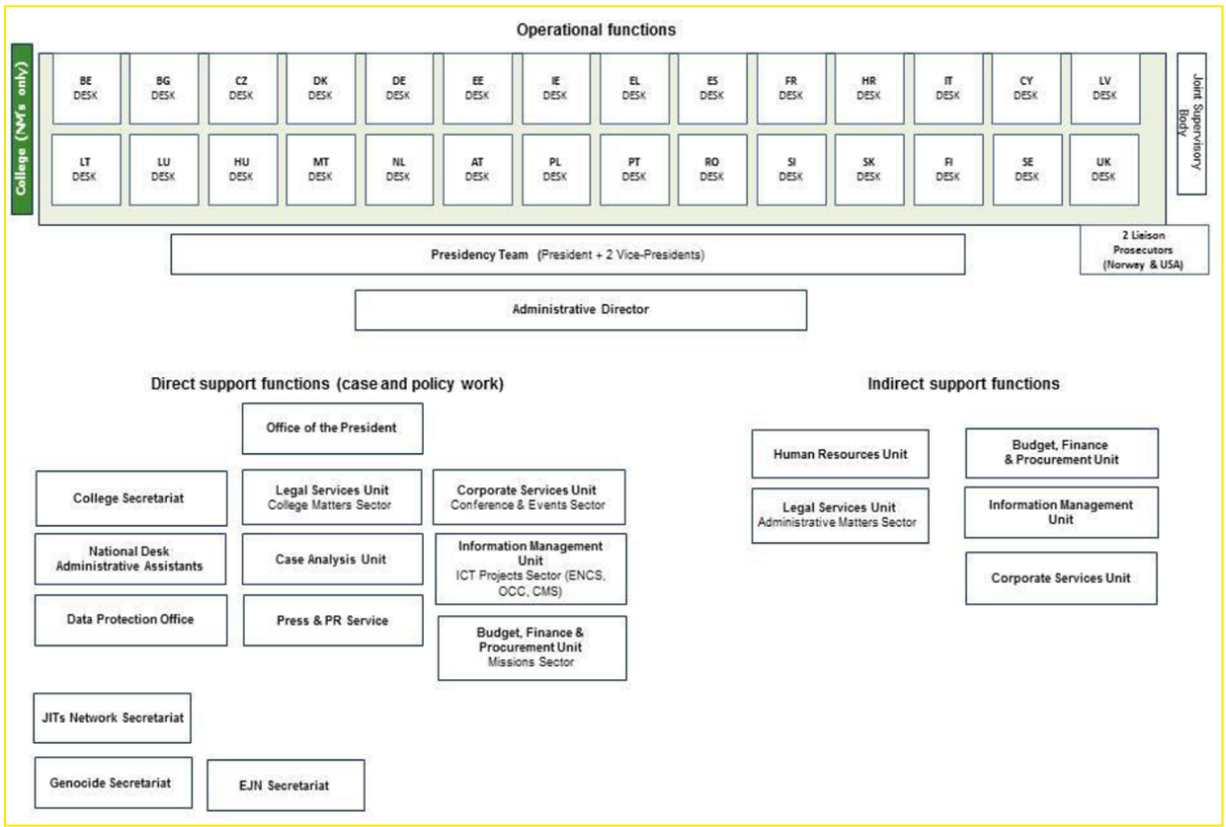
[49] Briefing note of the College Secretariat, Evaluation of the implementation of: College Decision 2012-11 on practical arrangements related to the functioning of the College, 29-09-2014.

[50] Briefing note of the College Secretariat, Preparatory work for the meeting of the Presidency Team, the Chairs of the College Teams and Contact Points of Eurojust of 23 April 2014, 16-04-2014

- Units which directly support cases and policy work such as the Office of the President, College Secretariat, Legal Services (College matters) or the Case Analysis Unit;
- Units which provide indirect support, providing backline services, such as Human Resources, Budget and Finance or Corporate Services Unit.

Several administrative Units provide both direct and indirect support, depending on the functions performed. Corporate Services may, for instance, be considered as direct support-oriented as its services help organising conference and events that take place in the field of College operational/strategic activities.

Organisational structure of Eurojust (2014)



Source: Eurojust, December 2014

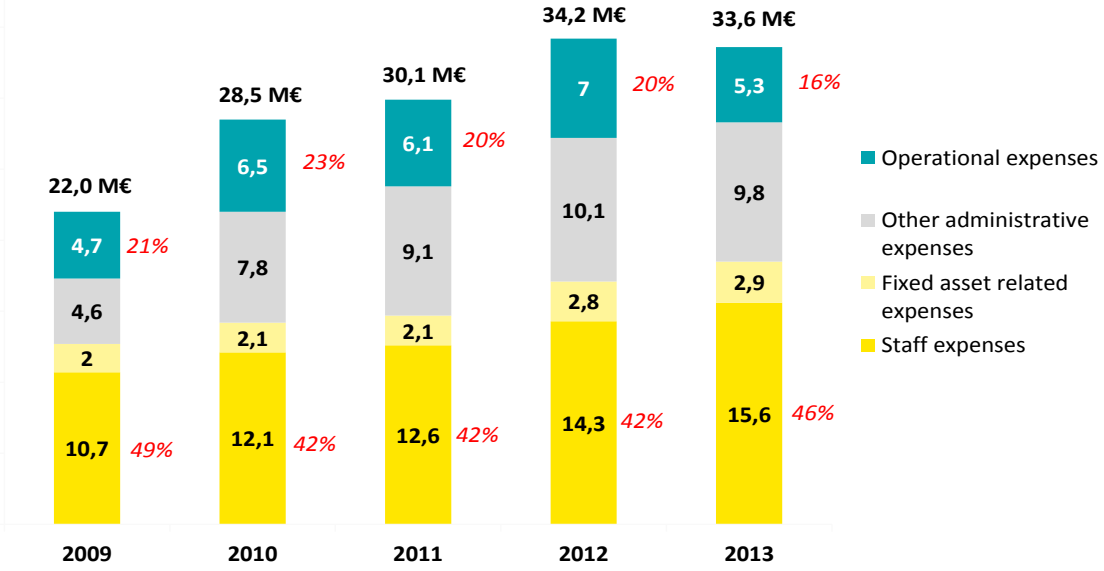
5.2.1 Even with stagnant resources, Eurojust has been able to absorb a constantly increasing caseload whilst maintaining a high level of quality and client satisfaction.

Eurojust has proven itself capable of absorbing an increasingly number of cases within decreasing resources (from 2014 onwards).

The expenditure of the organisation increased until 2012, then levelled off and finally decreased in 2014. Between 2009 and 2013, the total operating revenues of Eurojust increased by over EUR 7 million from EUR 25.1 to EUR 32.9 million.

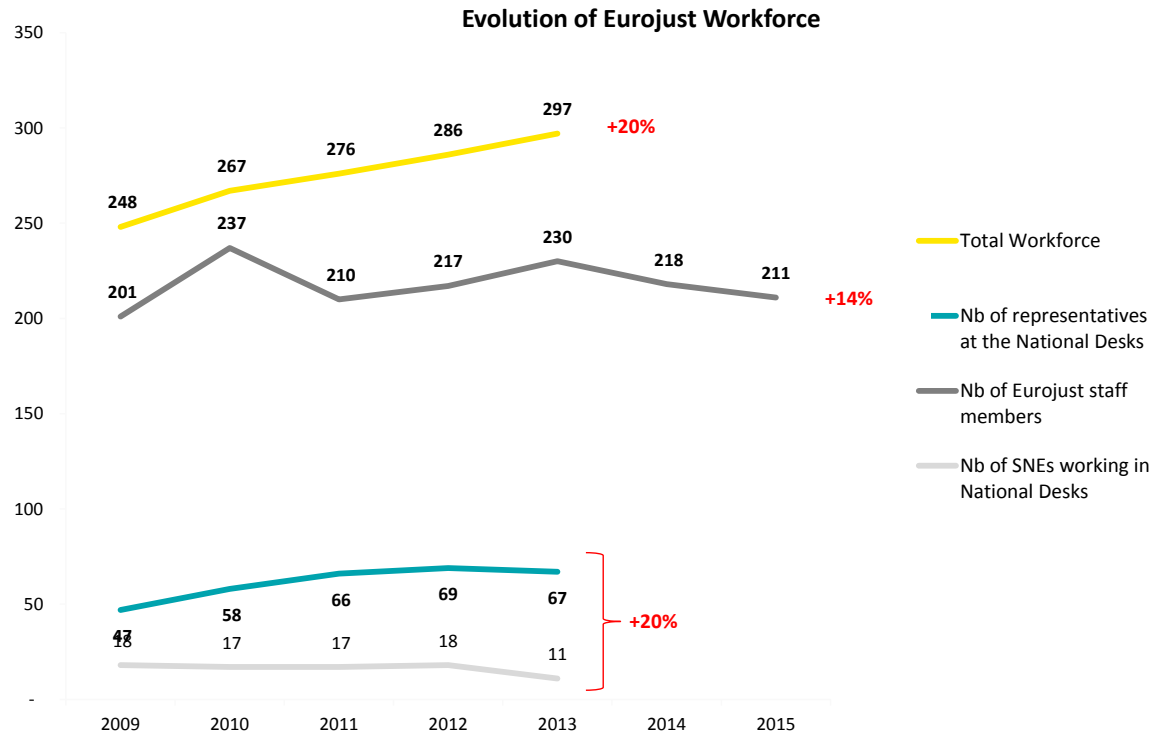
According to the Eurojust Annual Accounts, operational expenditures, mainly consisting of the functional spending of the National Desks, decreased to represent 16% of the 2013 budget (21% in 2009). However, one may note that Eurojust staff expenditure constantly increased. The salaries and emoluments of the National Members, Deputies and Assistants in National desks remain borne by their Member State of origin. Eurojust staff totalled 230 temporary and contract agents in 2013: there were 141 in 2009.

Eurojust expenditures (in millions of Euros) and budget execution (2009-2013)

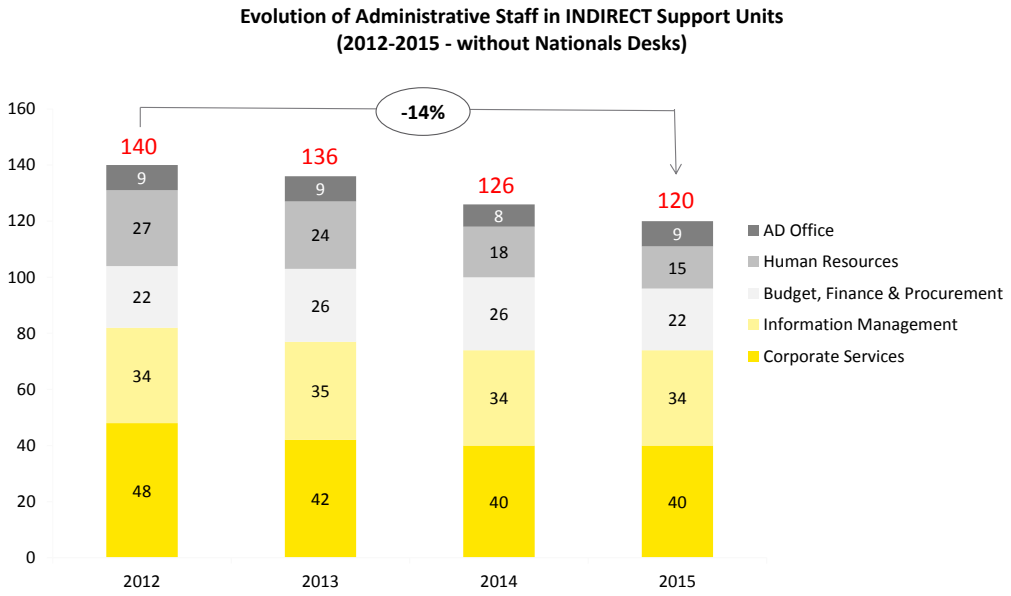


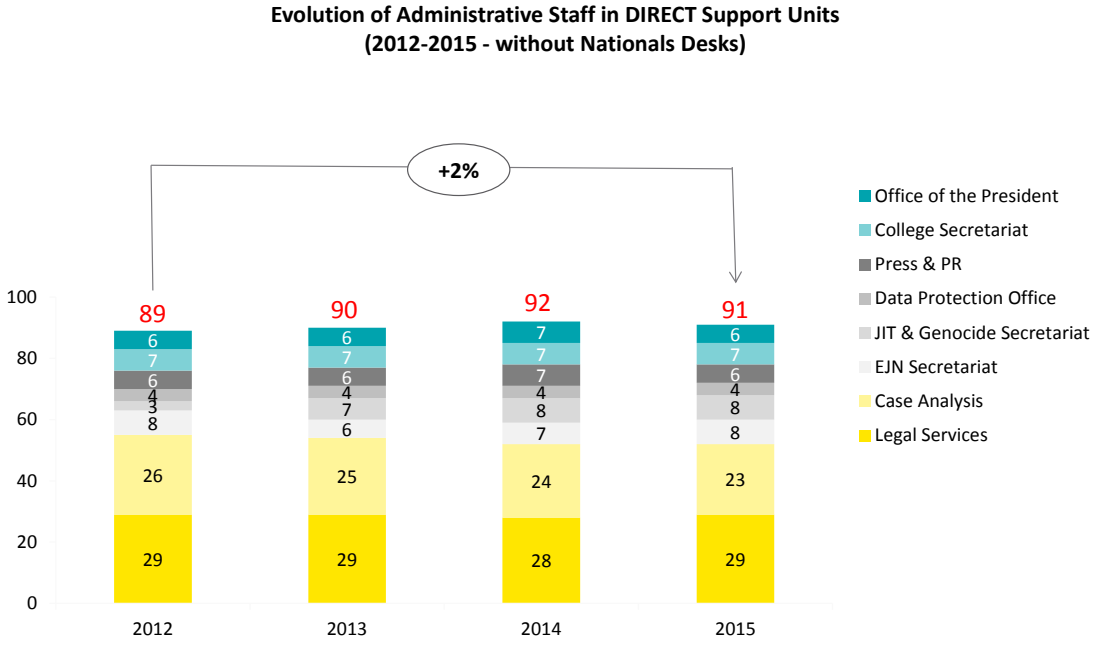
Source: EY based on Eurojust Annual Accounts

Considering Eurojust human resources, the evolution of workforce from 2009 to 2013 shows a continuous increase of staff within the National Desks, but also the Administrative staff, including SNEs working in National Desks. However, evolutions of administrative staff during the previous year confirm the trend of Eurojust expenditures, with a decrease of staff, from 230 in 2012 to 211 in 2015.



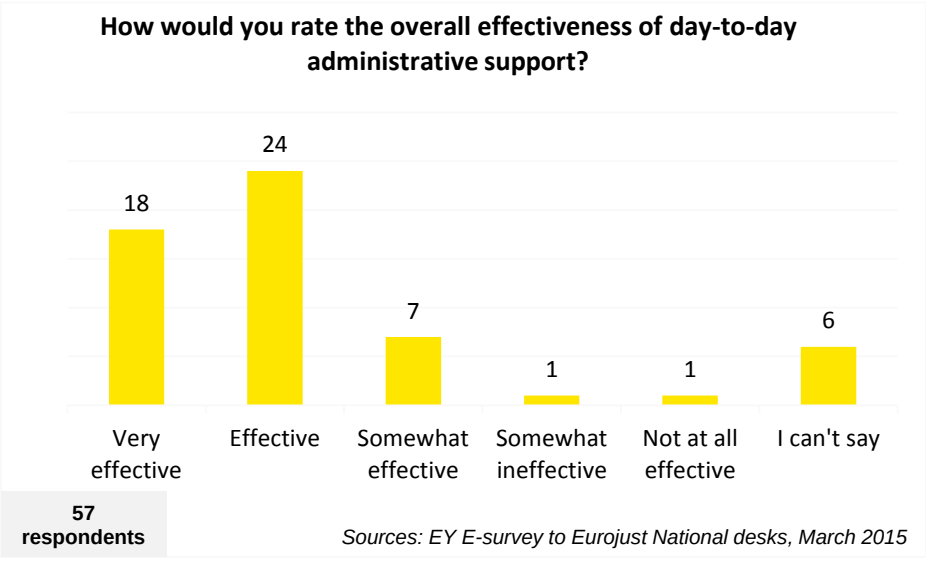
Considering administrative staff, the main efforts in staff reduction in the last two years has been supported by the indirect support Units, which decrease from 140 in 2012 to 120 in 2015 (-14%). During the same period, the direct support Units have shown a flat evolution (+2%) from 89 to 91 staff.





The support provided by the Administration is perceived as professional, effective and having a positive impact on Eurojust's work.

Interviews with National Members reveal a clear consensus on the high quality of services provided by the Administration and its ability to respond quickly to the multiple demands. Moreover, the Administration has succeeded in responding to demands with a high degree of flexibility, the needs of the National Desks being very different. On cases, some National Desks rely only on logistical support, whilst others expect more active support for their operational work: preparation of coordination meetings or filling analysis and advice (from the Case Analysis Unit and the Legal Services especially).



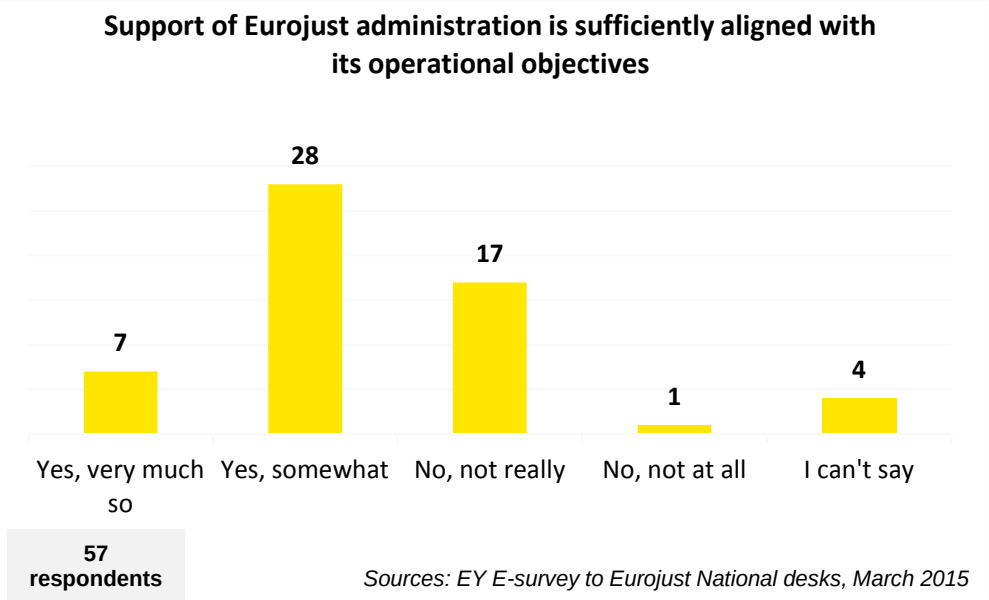
However, there is no clear view of the allocation of resources of the staff between the support to casework and other strategic tasks, especially within the Case Analysis Unit and the Legal Service.

A clear priority is given by the Administration in the support of casework. However, the support to the College Teams and the contribution to policy work also involve Administrative staff (especially within the College Secretariat, Case Analysis Unit and Legal Service); but the balance between direct and indirect support remains unknown. Also a better coordination and communication between Units and Services could enhance a better understanding of the support to be provided.

To get a better view of resource allocation, Eurojust has developed a cost-model to monitor core activities versus support overhead. Since 2012, results have been presented in the Annual Work Programmes aiming at better linking budget and costs to the four goals pursued by the organisation.

5.2.2 The alignment of the administrative support with Eurojust Strategy and activities is generally well perceived at National Desks, but faces questioning within the Administration.

Interviews with National Members reveal a common perception on a good alignment of the administrative support with Eurojust strategy and activities.



Despite the institution developing many efforts to define its goals and objectives within a multi-annual prospective…

The 2008 Eurojust Council Decision does not include objectives to cover the full scope of the mandate of Eurojust. In 2010, Eurojust began elaborating its first Multi-Annual Strategic Plan (MASP). The document is intended to set out the strategic goals of the organisation and provide strategic guidance for other key elements in the internal planning process, such as the Multi-Annual Staff Policy Plan, the Establishment Plans, the Budgets and Annual Work Programmes. The most recent Multi-Annual Strategy document covers the period 2016-2018.

… it did not succeed in precisely aligning the activities and services offered by the Administration to the National Desks' needs

Whilst the development of the Multi-Annual Strategic Plan marks an important step forward, its implementation in the Annual Work Programmes suffers from too generic strategic goals and is insufficiently used in practice, for example to :

- decide on a specific work (i.e. specific study on a subject), only if it is line with the strategy and link to a clear objective
- streamline management and monitoring processes, on the basis of a reliable set of output and result indicators;
- support the administration tasks to set specific work plans;
- guide the governance of the institution

The governance system may have negative impact on the implementation of the Annual Work programme and planning of resources

The College can often have divergent interpretations and understandings on what services the Administration should be providing and when. And there is a risk that some decisions are taken in the College without reference to, and clear consideration of, the Annual Work Programme, or the impacts on the administrative capacities. This limits the extent to which Administration can develop a firm offering of services, plan the use of available resources and look for possible efficiency gains. Moreover, much of the day-to-day interaction takes place bilaterally between Heads of Units/Services and College members. These factors have the effect of "pulling" the Administration in multiple directions, and may compromise its ability to meet competing demands on a variety of projects. Interviews conducted during the evaluation pointed out several negative consequences such as:

- an increasing number of (unplanned) activities and projects, based on a reactive cycle, without proper planning and programming;
- a proliferation of extensive and time-consuming internal meetings; and,
- some dissatisfaction amongst some National Desks with the type of support provided by the Administration, such as linguistic of analytical support.

6 External Coherence

Main findings

- Eurojust cooperation with EU Institutions is considered strong and Eurojust has effectively carved out a useful niche for itself within the broader framework of EU-level decision-making and priority setting processes, notably through intensive cooperation with the European Commission, relevant Council bodies (EU policy cycle) and the LIBE Committee of the European Parliament. The level of cooperation is well-developed and mutually satisfying. No major points of concern were raised as to the relationships with EU Institutions, either on a political or administrative level.
- Partners consulted within the framework of the evaluation were highly appreciative of the expertise of Eurojust.
- Mirroring the general improvement in relations between Justice and Home Affairs actors in past years, the relationship between Eurojust and the other JHA Agencies has continually been strengthened. In particular, synergies and operational cooperation with Europol have greatly improved, even if the relationship is inherently challenging to manage for structural reasons.
- Eurojust has undertaken significant efforts to strengthen its relationship with the EJN. Whilst some operational difficulties can still be cited in terms of the allocation of cases between the two organisations, it appears that EU-level guidelines would not provide a sustainable solution. Nonetheless, the ENCS may provide a durable solution to more effective case allocation in the long-term.
- The contacts of Eurojust with Third States and other International organisations have allowed Eurojust establishing a consolidated network widely recognised and utilised at operational level.

6.1 The external cooperation framework in Eurojust's legal basis

The 2008 Eurojust Council Decision did not fundamentally alter the 'institutional embedding' of Eurojust and its relations with European partners. It did, however, provide for some enhancements and more explicitly defined the relationship of Eurojust with partners with which it interacts.

Articles 25a, 26, 26a, 27, 27a and 27b of the 2008 Council Decision concern the possibilities for and modalities of Eurojust's cooperation and sharing of information with EU actors involved in cooperation on criminal matters (namely the European Judicial Network, the Network for Joint Investigative Teams, the Genocide Network and the European Judicial Training Network) and EU institutions, bodies and agencies (namely the European Commission, the European Parliament, the Council (Joint Situation Centre), Europol, OLAF and Frontex).

In so far as it is relevant for the performance of its tasks, Article 26 specifies that Eurojust may establish and maintain cooperative relations with other institutions, bodies and agencies. During the course of its day-to-day work, Eurojust maintains close relationships with EU Institutions: European Commission, European Parliament and Council of the EU. These relations take the form of statutory reporting (e.g. Annual Reports, budget discharge) and coordination on administrative matters, as well as cooperation of a more strategic nature.

6.2 Enhanced institutional contacts with the EU Institutions

6.2.1 European Commission

A close cooperative relationship with the Commission is foreseen in Eurojust's legal basis, both in terms of standard administrative exchanges, as well as a relationship based on the exchange of expertise and operational cooperation.

- Article 11 states that the Commission shall be fully associated with the work of Eurojust, participate in that work in the areas within its competence and may be invited to provide its expertise as regards work carried out by Eurojust on the coordination of investigations and prosecutions. The Article also mentions that a Memorandum of Understanding may be put in place.
- Article 28 states that the Commission shall be entitled to participate in the selection process for the President of the College and to sit on the selection board.
- Article 32 set out information sharing requirement with EU Institutions, including the Commission.
- Articles 35, 36, 37 and 38 cover budget and other administrative matters.

In line with Article 11 of the 2008 Eurojust Decision, a Memorandum of Understanding[51] between Eurojust and the European Commission was signed on 20 July of 2012. The Memorandum of Understanding provides a framework for the regular interactions between Eurojust and the European Commission, both its parent Directorate General (DG Justice and Consumers) and other Commission services. Contact with the Commission is well developed and takes place on a number of different levels:

[51] Memorandul of Understanding between the European Commission and Eurojust (20 July 2012)

- **At a political level**, DG JUST as the parent DG serves as the interface between Eurojust and relevant Commission services. In line with the Memorandum of Understanding, the two parties organize regular exchanges at the executive (Eurojust's President and the Director-General) and senior management levels. Moreover, DG officials are invited to the College meetings at least once per quarter and typically attend (3 – 4 times per year). The Commission also takes part in the selection process for the President of the College and the Administrative Director.
- **On an operational level**, representatives of DG JUST Institutions are regularly invited to strategic meetings and seminars organised by Eurojust and Eurojust regularly intervenes in meetings and events organised by DG JUST. The two organisations have also appointed permanent contacts that act as the main conduit for communication. Finally, The Commission may consult Eurojust within the framework of new legislative proposals. For instance, Eurojust provided input to both the 2008 Eurojust Council Decision and the current proposal for a Regulation on Eurojust, as well as that on the creation of a European Public Prosecutor's Office.
- **At an administrative level**, DG Justice receives each year the Eurojust's draft budget, and is present in discussions with DG BUDGET. The Commission is also consulted by Eurojust before the publication of strategic-level documents (Work Programme, MASP, Staff Policy Plan, Agreements…).

Overall, the cooperation between Eurojust and the Commission is considered strong. There were no issues reported by stakeholders on either side and the relationship is conducted in line with the Memorandum of Understanding.

6.2.2 European Parliament

The 2008 Eurojust Council Decision foresees few contacts between Eurojust and the European Parliament beyond administrative matters (communication of statutory documents, budgetary discharge). However, Eurojust has developed a fruitful cooperation with the European Parliament over the years and has positioned itself as a provider of expertise on judicial matters. The dichotomy between what what forseen by the 2008 Eurojust Council Decision and the rich relationship that has developed is in large part due to the enlarged powers that the European Parliament enjoys since the Treaty of Lisbon, which notably accorded it co-decision powers in Justice and Home Affairs amongst others.

- **High-level cooperation:** It has become standard practice for the President of the College to present the Annual Report to the Civil Liberties, Justice and Home Affairs Committee (LIBE). This has traditionally allowed for fruitful exchange on the role of Eurojust in the area of freedom, security and justice.
- **Strategic cooperation:** Eurojust and the European Parliament have organised joint events in the past and both organisations regularly attend relevant events and conferences organised by the other. For instance a Visibility Event was organised in November 2013 in light of the Commission Communication on the European Law Enforcement Scheme. In 2014, the Eurojust Contact Point for Child Protection attended the expert conference, *Child Alerting in the EU: Saving the lives of endangered missing children*, that was held in the European Parliament. Finally, the LIBE Committee has also organised field visits to Eurojust in order to raise awareness of the work of Eurojust and the expertise it may offer.

- **Provision of expertise:** Eurojust has provided expertise on a wide range of issues, including both formal opinions, as well contributions to studies and other initiatives launched by the European Parliament. Some examples of Eurojust's contributions include:
    - In 2012, Eurojust submitted an Opinion to the LIBE Committee on the proposal for a Directive of the European Parliament and of the Council on the freezing and confiscation of proceeds of crime in the European Union.
    - In 2012, Eurojust presented its findings on Enhancement of cooperation between the judicial authorities of the Member States involved in the fight against organised crime and the role of Eurojust to the Special Committee on Organised Crime, Corruption and Money Laundering (CRIM Committee).
    - In 2011, Eurojust also made written contributions to reports for the European Parliament on *How does organised crime misuse EU funds?* and *Estimated costs of EU counterterrorism measures*.
    - IN 2011, Eurojust presented its findings during parliamentary hearings on *Towards an EU strategy to fight transnational organised crime and Cyber-attacks against Information Systems*.
    - In 2010-2011, Eurojust held discussions with the relevant stakeholders to identify appropriate procedures for the implementation of the Terrorist Finance Tracking Programme (TFTP) Agreement between the European Union and the USA. The review was submitted to the European Parliament.

6.2.3 Council of the EU

The 2008 Eurojust Decision (as well as the Eurojust founding Decision) laid the legal base for a close and intensive relationship between Eurojust and the Council on both an administrative and substantive level.

- Article 26(1) names the Council, in particular the Joint Situation Centre, as one of the key partners with which Eurojust shall establish and maintain cooperative relations
- Articles 10(2), 26(2) and 28(2) provid the Council with important powers to approve Eurojust's Rules of Procedurs, Agreements with partners and the appointment of the President of the College respectively
- Articles 32(1), 36 and 41a set out requirements as concerns reporting and budgetary requirements of Eurojust vis-à-vis the Council.

Eurojust regularly participates in the work of the relevant Council preparatory bodies such as the Working Party on Cooperation in Criminal Matters (COPEN), the Working Party on General Matters and Evaluation (GENVAL), CATS (former Article 36 Committee) and the Standing Committee on Operational Cooperation on Internal Security (COSI) in order to provide its 'practitioner' input during the decision-making process and EU-level strategy setting (the EU policy cycle).

Eurojust has contributed to the elaboration and implementation of the EU Policy Cycle.

The JHA Council adopted in November 2010 conclusions on the creation and implementation of an EU policy cycle for organised and serious international crime. The conclusions proposed the establishment of a multi-annual policy cycle with regard to serious international and organised

crime, with the objective of ensuring effective cooperation between Member States law enforcement Agencies, EU Institutions, EU Agencies and relevant third parties and a coherent and robust operational approach targeting the most pressing criminal threats. An initial (and reduced) policy cycle was implemented between 2011 and 2013. The current cycle was commenced in 2014 and runs through 2017.

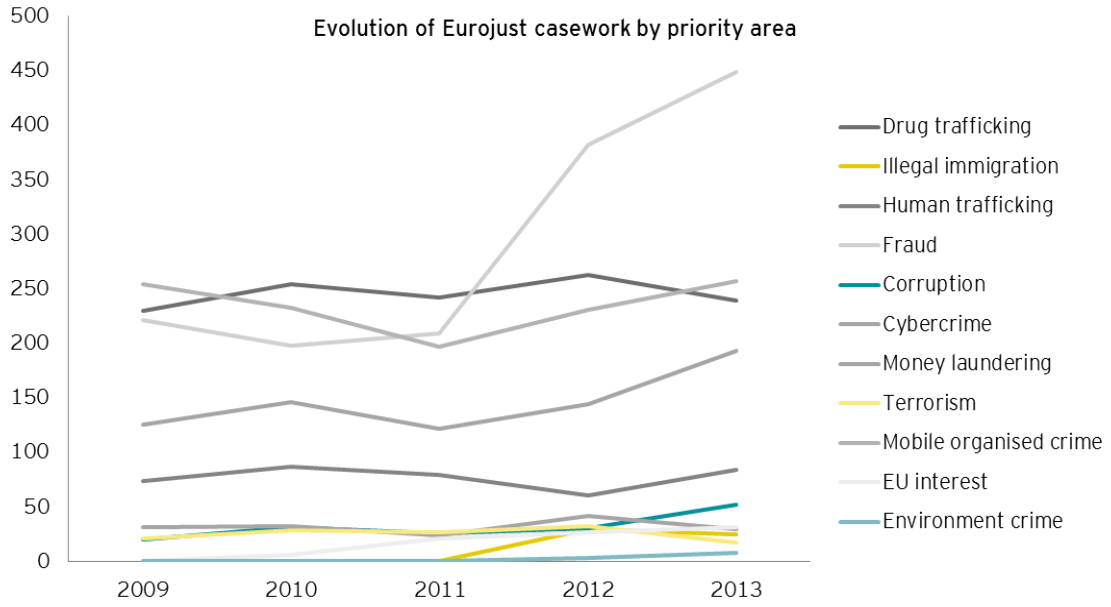
Eurojust has implemented priorities set by the Council on the basis of the Serious Organised Crime Threat Assessment (SOCTA). It has also carved out a key role for itself within the framework of the EU policy cycle for organised and serious international crime.

For the current policy cycle, Eurojust contributed to the Serious and Organised Crime Threat Assessment (SOCTA), which was developed by Europol and provided in depth analysis and recommendations to JHA Ministers in view of the definition of priorities for the EU policy cycle. On the basis of these priorities, Multi-annual Strategic Plans (MASPs) were formulated defining the strategic goals to achieve and Operational Action Plans (OAPs) and EMPACT projects are designed and implemented on an annual basis in order to coordinate actions by Member States and EU Agencies.

Eurojust also actively participates in the preparation of these MASPs and the translation of the MASPs into OAPs within the framework of the EMPACT projects. For example, in 2014, Eurojust representatives attended 33 meetings held within all nine EMPACT crime priority areas. In view of ensuring a consistent approach to supporting these projects, the College adopted a common position in September 2013 setting out the level of involvement and the kind of support it could offer for the specific actions in the OAPs.

Eurojust has streamlined its operational priorities with EU level priorities, but it possesses few levers to align its casework.

For the initial EU policy cycle implemented between 2011 and 2013 Eurojust adapted its own priorities for 2012, which included: drug trafficking, illegal immigration and THB, fraud, corruption, cybercrime - including child sexual abuse images, money laundering, criminal offences affecting the European Union's financial interests, terrorism and mobile organised crime groups. A large majority of Eurojust's casework fell into its priority crime areas (over 70% in 2013).



For the 2014–2017 EU policy cycle, Eurojust has also adopted new operational priorities largely mirroring the EU-level priorities in the fight against serious and organised crime. In one priority area, illegal trafficking in firearms, Eurojust did not establish its own priority and Eurojust is also active in a number of non-priority areas in which it has considerable expertise, namely corruption and criminal offences affecting the EU's financial interests and terrorism.

Whilst Eurojust has streamlined its priorities to be aligned with those on the EU level, Eurojust ultimately has little recourse to influence the composition of its casework. Eurojust is a highly demand-driven organisation by nature that relies on National Authorities for cases. The current legal basis of Eurojust does not provide Eurojust with the mandate to fundamentally alter this relationship with National Authorities. However, Eurojust does ultimately retain control over the alignment of its strategic/policy work with EU priorities and National Desks have some limited scope to push for certain types of cases to be referred with their National Authorities.

6.3 A context of gradually improving coordination between JHA Agencies

6.3.1 Eurojust's capacity to work with JHA actors has been strengthened by the 2008 Eurojust Council Decision and the JHA Agencies Network

Overall, the level of cooperation with EU actors is considered as strong, both within the JHA network and bilateral relationships.

With eight other decentralized EU agencies[52] active in the area of Freedom, Security and Justice, as well as a number of other relevant EU actors, the question of external coherence is critical for

[52] Namely EUROPOL, CEPOL, FRONTEX, the European Asylum Support Office (EASO), the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), the EU Agency for large-scale IT systems (eu-

Eurojust and the wider Justice and Home Affairs community in Europe. From its beginning, Eurojust has developed privileged relationships with these actors. As the organisation matured, these relationships have been further developed and multiplied.

The following sections take stock of and evaluate the relationships between Eurojust and those key partners. On the macro-level, a number of key challenges can be identified, which hold true beyond the specific context of Eurojust:

- JHA actors are at different stages of development and have been established on the basis of different legal frameworks, with some having a highly supranational approach (e.g. OLAF), whilst others are established on an inter-governmental logic acting as service providers to National Authorities (e.g. Europol).
- The Agencies and Bodies are often marked by very distinctive cultural traditions (e.g. the distinction between police and judiciary).

Additionally, the general tendency in the field of JHA over the past five years has been a progressive improvement in the relations between the EU agencies and other bodies, achieved through the (re)negotiation of bilateral Cooperation Agreements and Memoranda of Understanding, as well as the creation of coordination and monitoring mechanisms such as the JHA Heads of Agencies meetings, the JHA Contact Group, and regular reporting (e.g. the Scorecard on cooperation) to the Standing Committee on Operational Cooperation on Internal Security (COSI). The establishment of the EU policy cycle for serious and organised crime has also provided greater strategic direction to EU level actors.

The 2008 Eurojust Council Decision contributed to the development of these relationships, notably by streamlining and clarifying the legal basis for this cooperation. Article 26 specifies that Eurojust may establish and maintain cooperative relations with other bodies and agencies. The Article specifically mentions Europol, Frontex, the Council and the European Judicial Training Network. Working agreements may be established with these organisations, concerning specifically the exchange of data and the secondment of liaison officers.

Cooperation with these partners has subsequently been spelt out in further detail by agreements signed with Eurojust:

- **Europol**: Agreement between Eurojust and Europol covering inter alia regular consultations, cooperation, the temporary posting of representatives, participation in JITs and the exchange of information, right of initiative and the association of Eurojust with Europol Analysis Work Files (Focal Points).[53]
- **Frontex**: Memorandum of Understanding on cooperation between Frontex and Eurojust covering contact points, mutual consultation, the exchange of strategic and working information, joint training and the exchange of best practices.[54]

LISA), the European Union Agency for Fundamental Rights (FRA) and the European Institute for Gender Equality (EIGE).

[53] Cooperation Agreement between Eurojust and Europol of 1 January 2010

[54] Memorandum of Understanding between Eurojust and Frontex of 18 December 2013.

- **OLAF**: Practical arrangements for cooperation between Eurojust and OLAF covering contact points, the modalities of operational cooperation, the exchange of case summaries and case related information, the exchange of strategic information, operational and strategic meetings, participation in JITs and cooperation in the field of professional training, seminars and workshops[55].
- **European Judicial Training Network**: Memorandum of Understanding between Eurojust and the European Judicial Training Network covering secondments to Eurojust and other forms of cooperation[56].
- In addition, Eurojust has signed a Memorandum of Understanding with the **European Monitoring Centre for Drugs and Drug Addiction** (EMCDDA)[57], the **European Police College** (CEPOL)[58] and the **Fundamental Rights Agency** (FRA)[59].

The intensity of the cooperation differs per relationship, but generally consists of:

- Discussing strategic issues. Some JHA agencies have a very different mandate than Eurojust which makes it sometimes hard to find synergies; on a strategic level they can find areas of interaction;
- Informing each other about planned activities;
- Creating awareness on the activities of JHA agencies;
- Receiving information on the working of the judiciary in different Member States;
- Sharing strategic and technical information;
- In administrative matters, cooperation helped developing common communication tools (for example brochures on JHA agencies and corporate videos);
- The provision of training programs (for example CEPOL provides JITs trainings).

Since 2006, Eurojust involvement in the JHA inter-agency cooperation has been very active and taken place in the form of for example yearly JHA Heads of Agencies meetings, evaluations on the cooperation and proposals to improve the cooperation (for example a joint Eurojust-FRONTEX Proposal for JHA Activities in 2012-2013).

The JHA agencies (CEPOL, EASO, EIGE, EMCDDA, eu-LISA, Eurojust, Europol, FRA and Frontex) are generally very positive about the current state of their cooperation with Eurojust. These Agencies try to find the best possible ways to support each other in their work. The positive view on the cooperation between Eurojust and other EU agencies is also recognized by Eurojust itself: the National Members believe on the effectiveness of the relation with other EU agencies is rated somewhat effective or effective by almost 75% of the National Members.[60]

[55] Practical Agreement on arrangements of cooperation with OLAF of 24 September 2008.
[56] Memorandum of Understanding between Eurojust and EJTN of 7 February 2008.
[57] Memorandum of Understanding between Eurojust and EMCDDA of 15 July 2014.
[58] Memorandum of Understanding between Eurojust and CEPOL of 12 October 2009.
[59] Memorandum of Understanding between Eurojust and the Fundamental Rights Agency of 3 November 2014.
[60] EY E-survey National Members of Eurojust, 2015

6.3.2 Relations with Europol are strong and have been continually strengthened, but the relationship remains inherently challenging.

The Treaty on the Functioning of the European Union (TFEU) defines Europol's mission as "support[ing] and strengthen[ing] action by the Member States' police authorities and other law enforcement services and their mutual cooperation in preventing and combating serious crime affecting two or more Member States…". It achieves this through facilitating the exchange of information between National Authorities, providing strategic and operational analysis and coordination operational activities.

In many respects Eurojust and Europol are similar. Both were established on a strong inter-governmental logic, meaning they act as facilitators and service providers to National Authorities, with their role limited to addressing non-binding requests to National Authorities who remain owners of their respective investigations and prosecutions. Whereas Eurojust provides assistance to and coordinates national judicial authorities, Europol provides support and coordination to national police officers and other Law Enforcement Agencies. Close cooperation between these two organisations is thus imperative in order to provide assistance to National Authorities during the entire criminal justice lifecycle, from the police investigation phase up to the trial stage, and manage the necessities of cooperation and coordination between judicial and Law Enforcement authorities.

Article 26 of the 2002 and 2008 Eurojust Council Decisions reflected the necessity of Eurojust and Europol to closely cooperate, stating that the two organisations shall maintain close relationships. The TFEU also makes reference to this crucial relationship, noting that Eurojust's coordination role being based on "information supplied by Member States' authorities and Europol".

Cooperation between the two organisations is currently based on a Cooperation Agreement of 1 January 2010. A first Cooperation Agreement between Europol and Eurojust was signed on 9 June 2004; however, the perceived limitations of the first version of the cooperation agreement and the unsatisfactory level of cooperation pushed stakeholders to rethink the basis for cooperation[61].

In its contribution to the Commission Communication on the future of Eurojust, Eurojust underlined two major problems: i) the need for Eurojust and Europol to further involve, interact and inform one another of matters within their respective competences; ii) and the necessity to enhance the "synergy" between the two organisations.

The 2010 Cooperation Agreement aimed at increasing the joint effectiveness of the two organisations on both a strategic and an operational level:

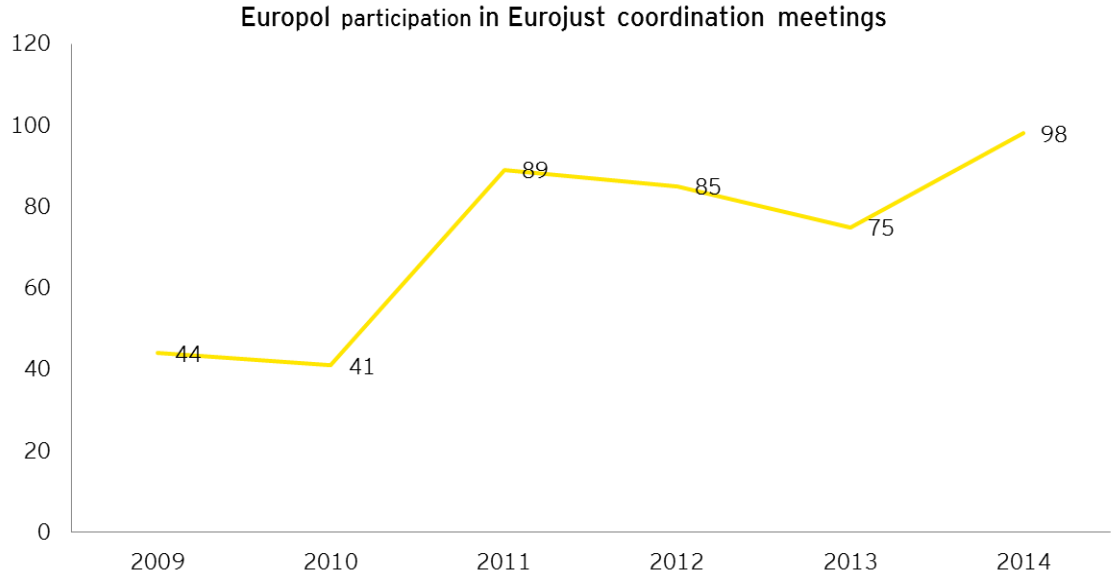
- General coordination and cooperation (consultation and coordination mechanisms, staff exchange, JITs…);
- Information-sharing (communication of information, right of initiative, association with Europol Analytical Working Files – [Focal Points] and Eurojust strategic work);
- Processing of data and other legal issues.

[61] The Council's conclusions of June 2008 notably urged Europol and Eurojust to prepare amendments to their Cooperation Agreement

Additionally, the Council Decisions on Eurojust and Europol both contain clauses aimed at enhancing the relationship. For instance, Eurojust is invited to give assistance to improve cooperation between competent National Authorities 'in particular on the basis of Europol's analysis'[62] and to assist Europol, 'in particular by providing it with opinions based on analyses carried out by Europol'[63]. Finally, a novelty introduced by the 2008 Eurojust Council Decision is the establishment of the ENCS, which notably has the objective of 'maintaining close relations with the Europol National Unit.'[64].

A Europol-Eurojust Steering Committee was put in place to deal with the follow-up to the Cooperation Agreement and its implementation. Also a high-level meeting between the President of Eurojust and the Director of Europol is devoted to analyse every 6 months the state of play of cooperation.

Within the framework of Eurojust casework, day-to-day cooperation takes place mainly through Eurojust coordination meetings, of which Europol is notified and often attends. The number of coordination meetings in which Europol has participated has grown considerably since 2009. In 2014, Europol was involved in a total of 44 Eurojust cases (versus 53 in 2013) and 98 coordination meetings (versus 75 in 2013), attesting to the operational intensity of cooperation between the two organisations. It is notable that the involvement of Europol in Eurojust coordination meetings has increased significantly given the overall stagnation of coordination meetings in recent years.



In addition to casework cooperation, other channels of cooperation have been developed include:

- National Desks and the Case Analysis Unit have access to SIENA, the secure communication channel developed by Europol on the basis of a Memorandum of Understanding on the establishment of a secure communication line between Eurojust and Europol of 30 March 2012;

[62] Article 7(1)(d) of the 2008 Eurojust Council Decision
[63] Article 7(1)(f) of the 2008 Eurojust Council Decision
[64] Article 12(5)(d) of the 2008 Eurojust Council Decision

- Eurojust is associated to most of Europol's Focal Points, and often attends operational meetings held by Europol. This allows Eurojust to attend analysis group meetings and to be informed on the development of the Focal Point. In 2015, Eurojust is associated with 24 out of 29 Focal Points. Eurojust has also appointed Contact Points to Focal Points in order to streamline the operational contacts.
- Eurojust has also appointed Contact Points for EMPACT projects that are contributing to the OAPs and Joint Action Days organised by Europol.
- Eurojust and Europol can cross-check case-related information in order to identify potential links.
- An exchange programme was established for staff of both organisations to gain knowledge of the functioning and organisation and on the basis of a Memorandum of Understanding of 17 December 2010. Reciprocal visits of delegations from both organisations are also regularly hosted.
- Europol has participated in meetings on the implementation of the 2008 Eurojust Council Decision, particularly concerning the establishment of the ENCS.
- Eurojust National Desks are frequently in contact with and coordinate with the Europol National Units of their respective countries.
- Eurojust and Europol have cooperated on joint strategic and policy work. This has taken the form of both regular participation in seminars and other strategic events organized by each organisation and joint production of reports.
- The two organisations jointly organise the annual meeting of the JITs Network, participate in training programs, exchange information on the JITs they support and have jointly elaborated and updated a JITs Manual.
- Eurojust nominated a National Member to Europol's European Cybercrime Centre (EC3) Programme Board and seconded a staff member.

Despite the practical complexity in the allocation of tasks in day-to-day work, interviews with stakeholders at both organisations found that, on a working level, the relationship is considered to function well despite isolated instances of inter-agency tensions that have led to some minor operational difficulties.

On a strategic level, cooperation is considered to work well, but is inherently challenging because of the natural overlaps between the two organisations' activities. Europol exists to serve mainly Law Enforcement authorities whereas Eurojust assists judicial/prosecutorial ones. Europol and Eurojust are therefore not aiming at the same objectives. Because of the diversity of national police and judicial systems, however, defining a strategic division of labour between the two organisations can be challenging. The two organisations thus cannot replicate a national "model" as the relations between Law Enforcement Agencies and the Judiciary are different from one Member State to another. This requires a high level of flexibility that does not lend itself to clearly defined roles and intensive and well-functioning cooperation 'on the ground' is necessary in order to avoid duplication and fully exploit synergies.

According to stakeholders, difficulties on the strategic level may also arise from different approaches to governance. Whilst both organisations were established on a clear inter-

governmental logic, the governance structures of the two organisations are highly distinctive. Whereas Europol can be characterized as highly hierarchical, with a Director possessing extensive powers, Eurojust has a collegial structure, with a President exercising its duties on behalf of the College and under its authority. Eurojust representatives (i.e. National Members, other members of National Desks or Eurojust contact points to Focal Points) do not always represent Eurojust institutional views, either because there is no common Eurojust position on the topic or because they are representing their personal views/that of their Member States.

6.3.3 The relationship with OLAF remains operationally limited, but is judged strong by stakeholders.

The European anti-Fraud Office (OLAF) investigates fraud against the EU budget, corruption and serious misconduct within the European institutions, and develops anti-fraud policy for the European Commission. Article 26(3) of the 2002 Eurojust Council Decision required that Eurojust and OLAF establish and maintain close cooperation. In line with this obligation, a Memorandum of Understanding was concluded between Eurojust and OLAF in 2003. However, Eurojust's initial contribution to the European Commission's 2007 Communication on the future of Eurojust noted that "*the experience of National Members with OLAF has been mixed and, overall, the cooperation cannot yet been considered as sufficient and satisfactory*".

Eurojust stressed that a formal and clear mutual obligation for OLAF and Eurojust to inform one another, at an early stage, of all cases falling within their respective competences would constitute the most durable solution and contribute to avoiding occasional competition. Such an obligation was not contained in the Memorandum of Understanding concluded between Eurojust and OLAF in 2003. Another proposal for strengthening the relationship with OLAF was the appointment of Contact Points from Eurojust and OLAF to serve as communication and cooperation conduits between the two bodies. Finally, it was proposed that the relevant sections of Articles 6 to 8 of the Eurojust Council Decision could apply to OLAF in order for Eurojust to formalise its requests to OLAF, and that any obligation to duly justify and motivate a refusal to cooperate also apply to requests made by OLAF.

In its Communication on the future of Eurojust, the European Commission indicated that the existing Memorandum of Understanding should be modified by a cooperation agreement in order to further reinforce the need for exchange of information, both operational and strategic. The European Commission also agreed that the designation of Contact Points would provide valuable support to efforts to enhance cooperation and communication.

The 2008 Council Decision in reality made only minor adjustments. Article 26(1) includes explicit reference to OLAF, clearly positioning it amongst Eurojust's key partners. Furthermore, paragraph 26(4) of the 2008 Eurojust Council Decision restates that OLAF may contribute to Eurojust's work to coordinate investigations and prosecution procedures regarding the protection of the financial interests of the European Communities, either on the initiative of Eurojust or at the request of OLAF where the competent National Authorities concerned do not oppose such participation.

Since 2008, the Memorandum of Understanding has been replaced by Practical Agreement on Arrangements of Cooperation with OLAF of 24 September 2008. The Practical Agreement set out a number of avenues for strengthening the cooperation between Eurojust and OLAF:

- The setting up of teams at both Eurojust and OLAF meeting (at least) quarterly in view of reinforcing common strategies, consulting one another on matters of common interest, supporting the elaboration of new priorities and strategies, identifying individual or joint activities or coordinating support provided to competent National Authorities;
- The spelling out of general rules framing operational cooperation between the two bodies;
- The obligatory exchange of information on any case dealt with under the respective competences where the case: i) in respect of Eurojust is related to fraud, corruption or any criminal offense affecting Union financial interests; or ii) in respect of OLAF implies judicial cooperation between the national judicial authorities of two or more Member States or one Member State and the Union. This obligation to inform also extends to JITs;
- A framework for exchanging case-related information during the course of collaboration on a specific case, as well as strategic information;
- A clear mandate for OLAF participation in coordination meetings concerning the protection of the European Union's financial interests, well as the opportunity for Eurojust and OLAF staff to participate in various other meetings organized;
- A framework for the protection of personal data exchanged within the framework of the Practical Agreement.

The implementation of the Practical Agreement has considerably strengthened the day-to-day cooperation with Eurojust, notably through the creation of dedicated teams at OLAF and Eurojust ("liaison groups"). The liaison groups typically meet on a quarterly basis and have helped to provide a more structured framework for cooperation. The meetings of the liaison groups are highly operationally focused, with discussion of difficulties encountered in ongoing casework cooperation and the presentation of new cases (i.e. case summaries with no personal data) where cooperation could be beneficial. The members of the liaison groups also serve as contact points and a secure email connection has been set up between them. Internally, in OLAF has elaborated Guidelines for investigators to cover the practical aspects of cooperation with Eurojust and liaison group members provide ongoing training sessions for new staff.

There is also an annual meeting between the Director General of OLAF and the President of Eurojust during which issues of a more strategic nature are discussed. On a strategic level, the respective roles of the two organizations are considered to be very clear and the nature in which they should work together evident, leaving a relatively small risk of duplication of work.

Despite the strengthening of the relationship with OLAF, cooperation remains relatively limited. In 2014, for instance, OLAF worked jointly with Eurojust on four cases (three new registered cases at Eurojust) and participated in three coordination meetings (versus two cases and one coordination meeting in 2013). The statistics on operational cooperation are limited, but a number of factors should be taken into account when considering these. Whilst more than 90% of the cases referred to Eurojust involve the types of crime and offences in respect of which Europol is also competent to act (Article 4(1) of the 2008 Eurojust Council Decision), OLAF's work is focussed on administrative investigations and actions. It is also necessary to consider that Eurojust normally works with cases involving two or more Member States, which is not the case with OLAF. Finally, whilst the number of overall cases is limited, the number of coordination meetings (relative to the number of cases) illustrates that the cooperation that does exist is quite intensive.

6.3.4 FRONTEX: a limited but developing relationship.

The European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex) was established by Council Regulation (EC) 2007/2004[65]. Frontex promotes, coordinates and develops European border management in line with the EU fundamental rights charter applying the concept of Integrated Border Management. It does this through facilitating and coordinating joint operations, developing common training standards and tools, conducting analysis and research, establishing a rapid response capacity and maintaining large-scale IT platforms amongst other tasks.

In accordance with Article 26 of the 2008 Eurojust Council Decision, Eurojust shall establish and maintain cooperative relations with Frontex. Frontex was mentioned explicitly in Eurojust's basis for the first time with the revisions brought by the 2008 Eurojust Council Decision (the Agency did not exist in 2002). Since the entry into force of the 2008 Eurojust Council Decision, cooperation has developed slowly, culminating with the signing of a Memorandum of Understanding between Eurojust and FRONTEX on 18 December 2013.

The Memorandum of Understanding set out a number of avenues for strengthening the cooperation between Eurojust and FRONTEX:

- The establishment of contact points to facilitate communication;
- Establishing a framework for regular consultations to identify areas of common interest and synergies;
- The exchange of strategic and technical information (not including operational information);
- Creation of the possibility for joint training and exchange of best practices where relevant.

Thus far, cooperation between the two organisations had been relatively limited, due principally to the small number of areas of common interest. Where cooperation has been developed, it has been considered by stakeholders in both organisations as highly effective. In 2011, for example, 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.

6.3.5 The 2008 Eurojust Council decision has provided the right basis for Eurojust to maintain privileged relations with Networks

The relationship with the EJN has been strengthened by the 2008 Eurojust Council Decision.

A network of national contact points, the European Judicial Network (EJN), was created by the Joint Action 98/428 JHA of 29 June 1998 in order to fulfil recommendation nº21 of the Action Plan to Combat Organised Crime adopted by the Council on 28 April 1997[66]. Whilst the European Judicial Network is similar to Eurojust in terms of its general tasks and objectives (bringing brings together authorities with the aim of facilitating judicial cooperation), the EJN is a network with a very limited institutional dimension.

[65] Modified by Regulations 863/2007, 1168/2011 and 1052/2013.

[66] The Council Decision 2008/976/JHA of 16 December 2008 is the current legal basis of the EJN

With both actors operating in the field of judicial cooperation, the imperative of developing a close and coherent relationship with Eurojust was recognised from the establishment of Eurojust in 2002. The 2002 Eurojust Council Decision contained a number of references to EJN. Article 26(2) specified that Eurojust shall maintain privileged relations with the European Judicial Network based on consultation and complementarity. At Eurojust, the EJN and Liaison Magistrates Team was created in order to improve cooperation. The Secretariat of the EJN was also integrated into Eurojust. The 2008 Eurojust Council Decision retained the focus on this key relationship and further multiplied references to cooperation.

Most notably, Article 12 of the 2008 Eurojust Council Decision established the ENCS. One of the key objectives set out for the ENCS is to facilitate within the Member State the carrying out of the tasks of Eurojust, in particular by assisting in determining whether a case should be dealt with the assistance of Eurojust or of the EJN. In addition to the Eurojust National Correspondent and other Contact Points, the ENCS includes the National Correspondent of EJN and up to three other EJN Contact Points.

With similar mandates and objectives, the inherent risk of overlap between the two organisations has been clear from the outset. The basic criterion that emerged from the establishment of Eurojust was that the EJN is competent for "simple cases" (e.g. bilateral cases concerning MLA facilitation), whilst cases concerning more than two Member States and/or presenting a certain level of complexity are referred to Eurojust. In practice, this dichotomy has proven somewhat difficult to implement. The division between what constitutes a simple and/or complex case is in reality difficult to discern and the allocation of cases between the two organisations is also strongly driven by national preferences and regulations. As documented in the GENVAL evaluation reports, a tapestry of diverse guidelines and practices has emerged on the national level.

Whilst undertaking efforts to better clarify the nature of the relationship and communicate this with nation authorities[67], Eurojust had preferred an ad hoc approach, preferring not to establish EU level guidelines, which stakeholders believe would be highly difficult to implement in practice given the diversity on the national level. This approach is very much embodied in the creation of the ENCS, which aims to act as a forum for Eurojust and EJN National Correspondents to coordinate their work, notably in terms of assisting in determining whether a case should be dealt with the assistance of Eurojust or the EJN. The ENCS thus presents itself as a sustainable solution to the difficulty of defining clear guidelines to regulate the allocation of cases between the two organisations. However, this of course presupposes that the ENCS are fully implemented and function on a day-to-day basis as intended by the 2008 Eurojust Council Decision. In this context, a Joint Paper Eurojust-EJN has been drafted and adopted in order to clarify the respective roles and responsibilities towards the practitioners.

Articles 12 and 25a are also seen as advances by stakeholders in terms of coordinating the work of Eurojust with other relevant networks.

Article 25a of the 2008 Eurojust Council Decision provides that the Secretariat of the Network for Joint Investigation Teams and of the network set up by Decision 2002/494/JHA (Network for the investigation and prosecution of genocide, crimes against humanity and war crimes) shall form part

[67] Eurojust has notably contributed to the Join Task Force Paper on "Assistance in International Cooperation in Criminal Matters for Practitioners"

of the staff of Eurojust and includes the possibility that other networks may request similar support[68]. National contact points for these two networks have also been included as part of the ENCS. Stakeholders interviewed found that the integration of the Secretariats of the Networks within Eurojust, as well as their inclusion in the ENCS, has had a positive impact on the coordination of their work with Eurojust.

6.4 Eurojust's capacity to work with Third States and other international organisations has been strengthened by the 2008 Eurojust Council Decision

Eurojust has consolidated its relations with Third States, but has not yet exercised the possibility of posting Eurojust Liaison Magistrates in third States.

With regard to relations with third States, the 2008 Eurojust Council Decision introduced a new provision concerning Eurojust's power to handle the execution of judicial cooperation requests to and from third states. This Article provided further clarification to the legal basis for this cooperation, which already exited under Article 27 of the 2002 Eurojust Council Decision. Since its establishment, Eurojust has concluded a number of Cooperation Agreements with third States[69]. Eurojust concluded negotiations with Ukraine and Montenegro pending the approval by the Council after consultation with the European Parliament. The continuation of negotiations with the Russian Federation is under review. Contacts have been established with a view to start negations with Israel, Serbia, Bosnia-Herzegovina, Albania and Turkey.

In 2013, a total of 188 cases involved a total of 47 different third States. The top five third States in terms of the number of cases were Switzerland (48), Norway, (33), the United States (23), Croatia (21)[70] and Serbia (15). 139 States involved third States with which Eurojust has an agreement in place and 110 involved third States with which Eurojust does not currently have a cooperation agreement in place.

The United States, Norway and, since March 2015, Switzerland, have also posted Liaison Magistrates to Eurojust. This has allowed these third States to become fully integrated into the day-to-day working relations of Eurojust, which form the backbone of its operational work, and regularly participate in coordination meetings[71] and open their own cases. Liaison Magistrates interviewed underlined that, beyond their official casework, their physical presence at Eurojust allows for their authorities to obtain information and clarifications more quickly, as well as for National Desks to contact them informally with requests. This 'facilitation' aspect of their work is seen as highly useful and appreciated by their domestic authorities. In addition to the liaison magistrate posted at Eurojust, the organisation has also created an informal network of Contact Points in Third States that can be contacted for operational matters.

68 Namely the network set up by Decision 2008/852/JHA (Network against corruption).

69 Moldova (2014), Lichtenstein (2013), Iceland (2005), Switzerland (2008), Norway (2005), the United States of America (2006) and fYROM (2010)

70 Registered until 1 July 2013 when Croatia became the 28th Member State of the European Union

71 In 2013, for example, Switzerland participated in 15 coordination meetings, Norway 12 and the United States 9

Finally, for the purpose of facilitating judicial cooperation with third States in cases in which Eurojust is providing assistance, Article 27a of the 2008 Eurojust Council Decision also provides for the posting of Eurojust Liaison Magistrates to third States where an agreement as referred to in Article 26a has been established. Eurojust continues the internal reflection on this issue, but has not yet exercised this possibility.

In general, National Authorities considered that Eurojust provided a valuable service in putting at the disposition of judicial authorities its network of contacts with third States, as well as its experience working with them. This perception was reflected in e-survey results and interviews with National Desks, but also underlined in the GENVAL evaluation reports.

Eurojust cooperation with other international organisations remains relatively limited.

In accordance with Article 26a of the 2008 Eurojust Council Decision, Eurojust may also conclude agreements with other international organisations. To date, Eurojust has concluded three Memorandum of Understanding with ICPO-Interpol (15 July 2013), the United Nations Office on Drugs and Crime Prevention (26 February 2010) and the Iberoamerican Network of International Legal Cooperation (Iber-RED) (4 May 2009). The number of Eurojust cases involving international organisations is limited. In 2013, for instance, Iber-RED was involved in two cases and Interpol and UNDOC in one case each.

7 Recommendations

The recommendations presented in this section have been elaborated by the evaluation team on the basis of the findings highlighted in the previous sections. This section is organised in line with the structure of the report and all recommendations are accompanied by a short description linking them to the main findings and providing any other necessary information.

Recommendations are divided into strategic recommendations and actions, which provide guidance on implementing the latter.

In total, eight strategic recommendations have been formulated by the evaluation team:

- **SR1.** Eurojust should continue to play an active role in the implementation of the 2008 Eurojust Council Decision at Eurojust and at Member State levels, particularly concerning the recommendations highlighted by the GENVAL evaluation, and implement the internal Action Plan elaborated by the College in order to address the main recommendations stemming from the 6th Round.
- **SR2.** Reinforce the strategic clarity of Eurojust on policy work, in particular the Centres of Expertise and the work of the College Teams, by prioritizing a limited number of high added-value strategic priorities and mobilising Eurojust resources around those priorities.
- **SR3.** The legislator should more clearly specify the roles and responsibilities assumed by the different actors (College, President and Administrative Director – supervisory, executive and operational roles) at Eurojust. As a transitional measure, the College should adopt the necessary measures in order to improve Eurojust efficiency and effectiveness in the area of planning, organisational development and monitoring.
- **SR4.** Eurojust should streamline the work of the College Teams/Task Forces and Working Groups, clarifying their mandate and objectives and ensuring that their work is focused on the priorities adopted by Eurojust.
- **SR5.** To the extent that they have an evident impact on the efficiency and effectiveness of the organisation, (binding) rules should be elaborated to regulate core working practices in a more coherent manner (e.g. such as data entry, casework monitoring and use of coordination tools such as coordination meetings and centres).
- **SR6.** The Administrative Director should promote the adoption of streamlined operational procedures at National Desks in order to be able to provide a more homogenous support by the Administration. The College should also make efforts to more clearly define needs related to operational and policy work.
- **SR7.** The Administration should continue its highly commendable efforts to improve results-based management and cost accounting in order to increase efficiency and better support the College in its responsibility for defining and implementing the work programme and making strategic trade-offs.
- **SR8.** Eurojust should continue to play a proactive role in the areas identified by the Council as operational priorities, whilst maintaining the underlying demand-driven approach of the organisation's operational activities.

7.1 Implementation of the 2008 Eurojust Council Decision

STRATEGIC RECOMMENDATION

1	*Eurojust should continue to play an active role in the implementation of the 2008 Eurojust Council Decision at Eurojust and at Member State levels, particularly concerning the recommendations highlighted by the GENVAL evaluation, and implement the internal Action Plan elaborated by the College in order to address the main recommendations stemming from the 6th Round.*

The evaluation found that, on the Member State level, practical implementation remains a work in progress in many areas, notably Articles 12 and 13, both of which are important components underlying a key objective of the 2008 Eurojust Council Decision: enhance information sharing between Eurojust and National Authorities. At the level of Eurojust, the evaluation determined that implementation is well advanced, although there remains some scope for further fine-tuning.

The findings of this evaluation reflect those underlined by the GENVAL evaluation, which formulated 22 separate recommendations concerning the implementation of the 2008 Eurojust Council Decision. Eurojust has already taken a proactive role to addressing these recommendations. Following the adoption of the final report of the Sixth Round by the Council of the EU on 17 December, the College adopted an Action Plan and timeframe for its completion based on pre-set priorities. A number of actions were also set out prior to the adoption of the final report, as well as in view of the preparation of the 2nd meeting of the National Correspondents for Eurojust (NCE) in November 2014.

ACTIONS

1.1	*Implementation of Article 12* *Continue to provide support to the practical implementation of the ENCS on the Member State level, particularly through: i) encouraging Member States to implement and/or fully implement the relevant Articles; ii) facilitating the exchange of experiences and best practices through meetings and online platforms; iii) continuing to provide all necessary support to the implementation of Article 16b; and iv) continuing to encourage greater complementarity between the work of Eurojust and the European Judicial Network and the role of the ENCS in this respect.*

Evaluators underscored that the added value of some of the measures arising from the 2008 Council Decision is still to be validated (e.g. Articles 12 and 13(5)-(7)). This has created a weak incentive for Member States to quickly implement the reforms at the national level on a consistent basis. In particular, Article 12 provides a clear added value according to National Members in terms of formalising and further developing inter-personal structures that often previously existed on the national level. However, the impact of Article 12 is likely to only be achieved in the long-term and relies on sustained efforts to maintain and develop these structures by Member States.

1.2	*Implementation of the Article 13* *Encourage the practical implementation of reporting obligations of Member States under Article 13(5)-(7) to the greatest extent possible and continue commendable efforts by Eurojust to provide the necessary practical tools for the Member States to do so in the least cumbersome manner possible (e.g. improvements to the Article 13 smart form).*

Article 13(5)-(7) introduced new reporting obligations designed to reinforce information flows to Eurojust and enable the organisation to continue its transition to a more proactive role in supporting National Authorities in combatting serious, cross-border organised crime. The evaluation detected that practical implementation on the Member State level remains varied. Whilst Eurojust has undertaken efforts to facilitate the implementation of this obligation by National Authorities, there is still work to be done by Eurojust to facilitate the reporting obligations of the Member States (always considering the feedback and experiences of the National Authorities).

1.3	*Implementation of the Article 13a* ***Encourage National Desks to put in place a systematic hit/no hit feedback system in line with Article 13a of the 2008 Eurojust Council Decision and adopt and generalize the use of the common feedback template.***

Article 13a feedback has been limited according to National Desks and the working practices of the National Desks are highly heterogeneous, contributing to the perception amongst National Authorities that there is little direct benefit to complying with Article 13(5)-(7) reporting obligations.

1.4	*Implementation of the Article 13* ***Consider assessing the opportunity and feasibility of Article 13(5)-(7) before any future extension of its scope by the future Regulation on Eurojust, including the coherence with Europol analytical capabilities and activities.***

The difficulties detected with the implementation of Article 13(5)-(7) reporting obligations and the misgivings observed on the Member State level underscore the need to further investigate the effectiveness and added-value of Article 13, as well as the obstacles to its practical implementation on the basis of Article 13(12) of the 2008 Council Decision.

1.5	*Implementation of the OCC* ***Due to the low maintenance costs and potential marketing value, the On-Call Coordination capacity (Article 5a) should be maintained; however, further investment or expansion of this capacity should be given serious consideration in light of its low level of use.***

Another novelty of the 2008 Eurojust Council Decision was the introduction of the On-Call Coordination capacity intended to provide direct access to National Desks on a 24/7 basis. Whilst the capacity was implemented at Eurojust in accordance with Article 5a and has operated with few difficulties, the evaluation found that the system has not provided the high level of added value envisaged, because of a flawed underlying use-case; however, the capacity may have a positive effect in terms of 'marketing' the availability of Eurojust according to some stakeholders.

7.2 Effectiveness of Eurojust

STRATEGIC RECOMMENDATION

2 **Reinforce the strategic clarity of Eurojust on policy work**, in particular the Centres of Expertise and the work of the College Teams, by prioritizing a limited number of high added-value strategic priorities and mobilising Eurojust resources around those priorities.

The evaluation found that the recently created Centre of Expertise concept contributes to providing more structure to the policy work of Eurojust by putting in place a formal procedure for selecting and managing projects in this area. However, evaluators noted that there remains a lack of strategic focus framing Eurojust's activities in this area. This has led to a wide and heterogeneous range of objectives, some deviating significantly from Eurojust's casework experience, and an over-extension of Eurojust's limited resources.

ACTIONS

2.1 *Programming*
Render the Multi-Annual Programming more operational by clearly defining on an annual basis (and for 3 years) the limited number of thematic priorities (2-3) selected for Centres of Expertise and clearly linking these with specific, measurable, attainable and time-bound objectives.

The evaluation also found that the Annual Work Programmes of Eurojust do not clearly identify the priorities of Eurojust's policy work, but rather a miscellany of diverse activities not clearly articulated around any particular priority.

2.2 *Budget allocation*
Align to the greatest extent possible Eurojust resources behind the priorities chosen, whilst maintaining a reasonable level of flexibility to allow Eurojust to quickly respond to unforeseen requests.

Evaluators underlined that Eurojust's limited financial and human resources were stretched thin across a diverse array of priorities, mirroring the deficiency in strategic focus highlighted above. In order to achieve a clear impact in its policy work, the evaluation pointed to the need to align resources with a limited number of priorities.

2.3 *College Teams, Task Forces and Working Groups*
Reassess the mandate and objectives of the College Teams, Task Forces and Working Groups in light of the implementation of the Eurojust Centre of Expertise concept.

The implementation of the Centre of Expertise concept has not sufficiently addressed the role of College Teams, Task Forces and Working Groups. Evaluators determined that these groups and their activities remain outside of the framework of the Centre of Expertise and subject to the same concern highlighted in terms of a lack of strategic focus.

7.3 Governance

STRATEGIC RECOMMENDATION

3 *The legislator should more clearly specify the roles and responsibilities assumed by the different actors (College, President and Administrative Director – supervisory, executive and operational roles) at Eurojust.*

As a transitional measure, the College should adopt the necessary measures in order to improve Eurojust efficiency and effectiveness in the area of planning, organisational development and monitoring.

The evaluation underlined the consequences of the unique governance structure in place at Eurojust. In particular, the collegial model can be characterised by a lack of clarity and division between the supervisory, executive and operational roles of the members of the College. Evaluators found that this inherently limits the extent to which the body can efficiently and effectively carry out its planning, organisational and monitoring roles and results in an underdeveloped level of accountability.

ACTIONS

3.1 *Separation of roles*
The supervisory and executive roles should be clearly separated and distinct from the operational role of the members of the College through a change in the legal basis of the organisation.

The collegial model of governance of Eurojust is set up by the 2008 Eurojust Council Decision and accepted, trusted and supported by the Member States. It also does not appear to have a major negative impact on the day-to-day operational work of the organisation. However, it clearly limits the organisational development of Eurojust and its efficiency and effectiveness.

3.2 *Transitional measures*
Awaiting changes in the legal framework, or where changes are not possible, greater delegation of decision-making and monitoring responsibilities to the Presidency (or Presidency Team) and/or the Administrative Director would be desirable.

There is a need to more clearly separate the various roles of the members of the College. Evaluators noted that there has been a general tendency towards this paradigm since the completion of the Organisational Structural Review and underlined as a best practice the example of the recent creation of the CMS Board, to which the College has delegated executive powers (within a certain threshold) whilst retaining overall responsibility for the development and maintenance of the CMS. The evaluation pointed to the fact that this delegation resulted in a more coherent strategic vision for the development of the CMS, notably by encouraging prioritisation and trade-offs.

In particular, the evaluation underlined that the position of the President, as defined in Article 28(3) of the 2008 Eurojust Council Decision, is limiting the extent to which the person occupying the position can assume the effective leadership of the organisation.

7.4 Working practices and efficiency

STRATEGIC RECOMMENDATION

4 ***Eurojust should streamline the work of the College Teams/Task Forces and Working Groups, clarifying their mandate and objectives and ensuring that their work is focused on the priorities adopted by Eurojust.***

Whilst the Centre of Expertise concept has established a clearer procedural framework for the regulation of Eurojust's policy work and knowledge management activities, the evaluation found that the work of the College Teams, Task Forces and Working Groups is not sufficiently strategically focused and insufficiently monitored and held accountable for delivery. Whilst often active in areas of clear strategic importance, evaluators found no overarching strategic logic to the creation of these groups. Furthermore, the evaluation pointed to an underdeveloped monitoring and accountability framework; however, evaluators noted commendable progress in this area with the creation of an internal scorecard for monitoring the work of these groups against defined objectives.

ACTIONS

4.1 *College Teams, Task Forces and Working Groups*
The creation of thematic College Teams, Task Forces and Working Groups should be result-oriented, time-bound and accompanied by clearly stated and measurable objectives, which are regularly assessed and reported on.

The findings of the evaluation point to the need for a more strategic approach to establishing College Teams, Task Forces and Working Groups and setting their objectives, as well as monitoring the attainment of those objectives.

4.2 *College Teams, Task Forces and Working Groups*
The work of the College Teams, Task Forces and Working Groups should be clearly aligned with the priorities of Eurojust and the composition should evolve to reflect changing priorities.

Echoing the recommendations of evaluators concerning Eurojust's wider policy work, the evaluation underlined the need to more clearly articulate the composition and objectives of these groups with more selective and focused institutional priorities in order to better leverage the organisation's scarce resources.

STRATEGIC RECOMMENDATION

5 ***To the extent that they have an evident impact on the efficiency and effectiveness of the organisation, rules should be elaborated to regulate core working practices in a more coherent manner (e.g. such as data entry, casework monitoring and use of coordination tools such as coordination meetings and centres).***

Evaluators found highly heterogeneous working practices amongst the National Desks, reflecting not just divergences in personal preferences, but also the underlying diversity of national judicial systems and cultures. This diversity also reflects the collegial style of Eurojust governance and the lack of clearly defined roles and responsibilities. Finally, the evaluation found a strong cultural resistance to homogenising working practices between National Desks. Whilst in many cases this

diversity does not impact the collective work of Eurojust, in a number of instances the evaluation has found a clear negative impact on efficiency and effectiveness.

ACTIONS

5.1 *Binding rules*
National Members should be held responsible for the respect of (binding) rules for certain core working practices

The lack of a common approach in a limited number of core working practices is posing obstacles to the efficiency and effectiveness of Eurojust. For instance, the evaluation pointed to the fact that divergent approaches to entering data into the CMS, both in terms of the type and quantity of data, likely has a negative impact on the level of Article 13a feedback. As already highlighted, diverse working practices and expectations also place inherent limits on the efficiency of the support provided by the Administration.

5.2 ***Guidelines***
The College should continue its commendable efforts to adopt non-binding guidelines in areas where increased homogenisation of working practices may represent an added value.

In areas where no clear negative effect can be noted, the evaluation findings point to the fact that greater homogenisation may nonetheless provide some added value whilst not necessitating binding rules.

STRATEGIC RECOMMENDATION

6 ***The Administrative Director should promote the adoption of streamlined operational procedures at National Desks in order to be able to provide a more homogenous support by the Administration.***

The College should also make efforts to more clearly define needs related to operational and policy work.

The evaluation found that the Administration executes its responsibilities in an efficient and effective manner and can be recognized for its flexibility; however, this is inherently limited to some extent by the organisational structure and governance of Eurojust. Evaluators noted in particular that there are often divergent understandings and expectations amongst members of the College concerning what services the Administration should be providing. This has the effect of 'pulling' the Administration in multiple directions and creating a transaction-intensive relationship between the College and the Administration.

ACTION

6.1 *Operations manual*
The completion of the Operations Manual should be prioritized in order to streamline operational procedures and allow for a clear mapping of the types of administrative support to be prioritised. This document could be used as an "induction catalogue" for National Desks, containing both guidelines and services offered. This should be updated in the future to reflect evolving needs.

The evaluation found that the highly heterogeneous preferences of National Desks concerning administrative support created difficulties for long-term planning, a highly transaction-intensive relationship and prevented the emergence of greater economies of scale. Streamlining administrative support will require efforts from both the Administration and the College to clearly identify priorities for administrative support, make trade-offs concerning the utilisation of scare resources if necessary and align administrative resources behind those priorities. Evaluators noted that the completion of the Operations Manual would be highly relevant to efforts to streamline administrative support.

STRATEGIC RECOMMENDATION

7 ***The Administration should continue its highly commendable efforts to improve results-based management and cost accounting in order to increase efficiency and better support the College in its responsibility for defining and implementing the work programme and making strategic trade-offs.***

The evaluation noted that Eurojust's work towards implementing a results-based management approach and cost-accounting system can be highlighted as a best practice amongst JHA Agencies. This capacity will enhance Eurojust's planning capabilities and reinforce transparency and accountability, as well as facilitate greater prioritization and trade-offs by providing accurate data on costs.

ACTIONS

7.1 *Key Performance Indicators*
Eurojust should elaborate further on its Key Performance Indicators to measure the achievement of the objectives set out in the Annual Work Programmes, both at the output and outcome levels.

The evaluation noted reluctance to the use of Key Performance Indicators. Evaluators underlined that this limits the effectiveness of the organisation's results-based management framework, particularly in terms of performance accountability.

7.2 *Cost Accounting System*
The cost accounting system should be extended to include the activity of the National Desks, notably through a time recording system.

Evaluators also noted that choices made in the setting up of the current cost-accounting system mean that it does not capture the use of a key component of the organisation's resources: the human resources at National Desks. This limits the extent to which the system can fully capture the cost of Eurojust activities.

7.5 External coherence

STRATEGIC RECOMMENDATION

8 Eurojust should continue to play a proactive role in the areas identified by the Council as operational priorities, whilst maintaining the underlying demand-driven approach of the organisation's operational activities.

Eurojust is a highly demand-driven organisation by nature that relies on national authorities for cases and case-related information. The organisation is further bound by the ownership principle; whilst it receives and processes data, ownership of the cases resides with the national authorities. For these reasons, Eurojust has traditionally exercised little control over the nature of the cases which are referred to it. The current legal basis of Eurojust does not provide Eurojust with the mandate to fundamentally alter this relationship with national authorities; however, the evaluation has found that there is some scope to exercise greater influence over the casework of the organisation in view of focusing on providing greater added-value in the fight against serious, cross-border organised crime and better aligning the work of the organisation with the priorities set at EU level.

ACTIONS

8.1 *EU priorities*
Continue efforts to focus Eurojust's operational work on high priority cases as underlined by the Council Conclusions and the EU policy cycle.

The Council's Conclusions on Eurojust's Annual Reports have repeatedly underlined the need to shift the focus of Eurojust's casework to more complex cases in line with its mandate. Whilst National Desks operate at the service of National Authorities, the evaluation underlined that there is some scope to encourage the referral of high priority casework through "soft measures", whilst not putting in place constraining criteria for case referral.

8.2 *Casework statistics*
Lead an internal reflection on the statistical information to be provided by Eurojust in order to better reflect the characteristics of Eurojust's casework in view of providing relevant data to inform Eurojust's operational strategy.

Eurojust has led commendable efforts in the past to improve the granularity of statistical reporting on its casework. These efforts have led to a higher quality of reporting, but have also underlined the inherent difficulties of producing robust statistics on this subject. Reliable data on casework characteristics is vital in order to be able to take well-informed strategic decisions on Eurojust's operational activities.

8.3 *Article 13*
Launch an internal reflection on the possibility of suggesting to Member States to reconsider the approach to the implementation of Article 13(5)-(7). It may be replaced with a more pragmatic and dynamic approach that would provide Eurojust with some leeway to modify the reporting requirements in function of evolving priorities and trends in serious, cross-border organised crime at EU level.

Evaluators observed that Eurojust possesses few direct levers to influence case referral and bring it in line with EU priorities. Outside of Eurojust's immediate casework, Article 13(5)-(7) created a

reporting obligation intended to increase information flows between Eurojust and National Authorities. However, this reporting obligation is static and fixed by the 2008 Eurojust Council Decision.

8 Annexes

The following have been annexed to the report:

- Annex 1: Explanation of the evaluation framework
- Annex 2: Overview of the interviews conducted
- Annex 3: Characteristics of e-survey respondents
- Annex 4: List of documents consulted
- Annex 5: Analysis of the 2008 Eurojust Council Decision

8.1 Annex 1: Explanation of the evaluation framework

The core of any evaluation is a comparison of what has been achieved versus what was expected. This framework was established during the inception phase of the evaluation through the reconstruction of Eurojust's intervention logic, which is presented on the following page using an "objectives tree" chart.

Eurojust's objectives tree was elaborated on the basis of strategic interviews conducted during the Inception Phase and documentary review. In particular, the following documents were used:

- The Eurojust Council Decision
- The Multi-Annual Strategy 2016-2018
- Annual reports of Eurojust

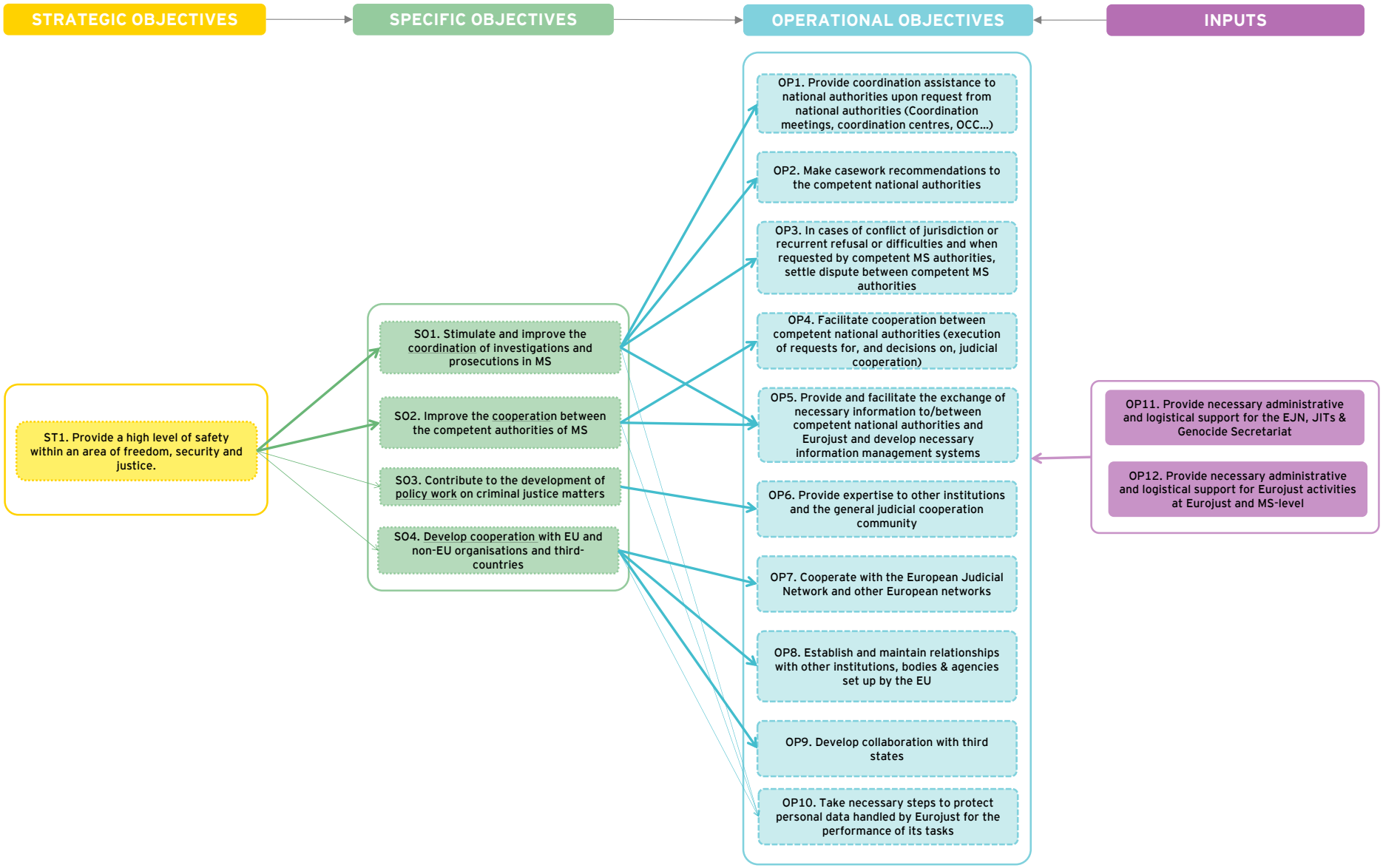
The aim of this exercise was to gain a global appreciation of the objectives of Eurojust, the activities undertaken to attain those objectives and the expected output and impacts of those activities. It also helped evaluators to assess the coverage of the evaluation questions and develop further questions where gaps were identified.

Following the reconstruction of Eurojust's evaluation framework, a finalised listed of evaluation questions were defined:

- Effectiveness: To what extent does Eurojust achieve its specific and operational objectives? What has been the impact of Eurojust Council Decision on this?
- Efficiency: Are Eurojust working practices, governance, organisation and processes efficient? Do they allow the achievement of outputs and results at lower costs?
- Relevance/External Coherence/EU added value: Does Eurojust meet Member States needs and expectations? Does Eurojust coordinate with other bodies?

The final step in setting up the evaluation framework was the elaboration of the evaluation grid, which is intended to further develop the evaluation questions and evaluation criteria in order to ensure that the evaluation is guided by a coherent logical framework and comprehensively covers all the relevant elements of the intervention. More specifically, it consists of:

- formulating the main evaluation questions;
- providing a discussion of the evaluation questions;
- breaking down the main evaluation questions into evaluation criteria and sub-criteria that are on one level suitable for assessment, whilst ensuring they can provide valid conclusions on the main evaluation questions;
- the qualitative indicators (descriptors) and quantitative indicators foreseen to answer the questions, as well as the information sources that should make it possible to feed the indicators (documentary review, identification of the interviewees, etc.).


STRATEGIC OBJECTIVES
SPECIFIC OBJECTIVES
OPERATIONAL OBJECTIVES
INPUTS
ST1. Provide a high level of safety within an area of freedom, security and justice.
SO1. Stimulate and improve the coordination of investigations and prosecutions in MS
SO2. Improve the cooperation between the competent authorities of MS
SO3. Contribute to the development of policy work on criminal justice matters
SO4. Develop cooperation with EU and non-EU organisations and third-countries
OP1. Provide coordination assistance to national authorities upon request from national authorities (Coordination meetings, coordination centres, OCC…)
OP2. Make casework recommendations to the competent national authorities
OP3. In cases of conflict of jurisdiction or recurrent refusal or difficulties and when requested by competent MS authorities, settle dispute between competent MS authorities
OP4. Facilitate cooperation between competent national authorities (execution of requests for, and decisions on, judicial cooperation)
OP5. Provide and facilitate the exchange of necessary information to/between competent national authorities and Eurojust and develop necessary information management systems
OP6. Provide expertise to other institutions and the general judicial cooperation community
OP7. Cooperate with the European Judicial Network and other European networks
OP8. Establish and maintain relationships with other institutions, bodies & agencies set up by the EU
OP9. Develop collaboration with third states
OP10. Take necessary steps to protect personal data handled by Eurojust for the performance of its tasks
OP11. Provide necessary administrative and logistical support for the EJN, JITs & Genocide Secretariat
OP12. Provide necessary administrative and logistical support for Eurojust activities at Eurojust and MS-level

8.2 Annex 2: Overview of the interviews

Name	Position	Date of interview
Scoping interviews		
Ms Michèle Coninsx	NM Belgium and President of Eurojust	27 November 2014
Mr Ladislav Hamran	NM Slovak Republic and Vice-President	27 November 2014
Mr Francisco Jiménez-Villarejo	NM Spain and Vice-President	28 November 2014
Ms Jolien Kuitert	Deputy NM Netherlands	28 November 2014
Mr Klaus Rackwitz	Administrative Director	28 November 2014
Mr Raivo Sepp	NM Estonia	27 November 2014
Eurojust National Members and members of National Desks		
Mr Lukas Starý	NM Czech Republic	16 March 2015
Ms Teresa Angela Camelio	Assistant to the NM Italy	19 March 2015
Mr Frédéric Baab	NM France	18 March 2015
Mr Gunars Bundzis	NM Latvia	16 March 2015
Ms Laima Cekeliene	NM Lithuania	18 March 2015
Mr António Cluny	NM Portugal	18 March 2015
Ms Michèle Coninsx	President of Eurojust, NM Belgium	19 March 2015
Mr Josip Cule	NM Croatia	19 March 2015
Mr Leif Görts	NM Sweden	20 March 2015
Mr Ladislav Hamran	Vice-president, NM Slovak Republic	19 March 2015
Mr Jesper Hjortenberg	NM Denmark	20 March 2015
Mr Francisco Jiménez Villarejo	Vice-president, NM Spain	20 March 2015
Ms Frances Kennah	NM United Kingdom	20 March 2015
Ms Jolien Kuitert	DNM Netherlands	18 March 2015
Mr Olivier Lenert	NM Luxembourg	18 March 2015
Ms Ingrid Maschl-Clausen	NM Austria	19 March 2015
Mr Klaus Meyer-Cabri	NM Germany	16 March 2015
Mr Kamen Mihov	NM Bulgaria	18 March 2015
Mr Han Moraal	NM Netherlands	20 March 2015
Mr Nikolaos Ornerakis	NM Greece	16 March 2015
Mr Raivo Sepp	NM Estonia	16 March 2015
Mr Mariusz Skowronski	NM Poland	17 March 2015
Mr Pietro Suchan	Assistant to the NM Italy	19 March 2015
Mr Harri Tiesmaa	NM Finland	18 March 2015
Mr Laszlo Venczl	NM Hungary	19 March 2015
Eurojust staff		
Ms Diana Alonso Blas	Data Protection Officer	17 March 2015
Mr Ulf Bergstrom	Head of Communications and External Relations	17 March 2015
Ms Carla García Bello	Legal Secretary to the College	18 March 2015
Mr Jon Broughton	Head of Information Management	20 March 2015
Ms Catherine Deboyser	Head of Legal Service	18 March 2015
Mr Alfredo García Miravete	Head of Operational Support	17 March 2015
Mr Vincent Jamin	JIT Secretariat Coordinator	17 March 2015
Ms Muriel van der Klooster	Coordinator of the Office of the President	17 March 2015
Mr Ola Lofgren	Head of EJN Secretariat	17 March 2015
Mr Mike Moulder	Head of Unit Budget Finance and Procurement	19 March 2015
Mr Matevz Pezdirc	Coordinator of the Genocide Network Secretariat	17 March 2015
Mr Nikolaos Panagiotopoulos	Head of Human Resources	17 March 2015

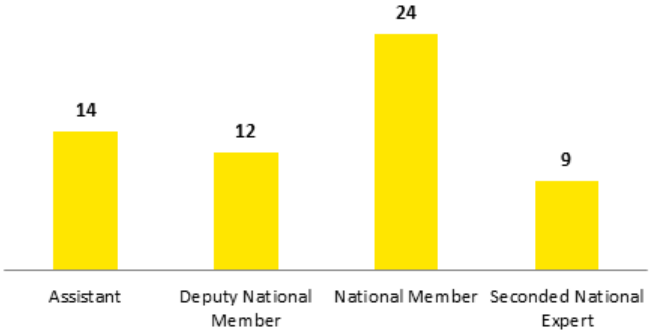
Name	Position	Date of interview
Mr Klaus Rackwitz	Administrative Director	19 March 2015
Ms Alinde Verhaag	Head of Case Analysis Unit	17 March 2015
Mr Jacques Vos	Head of Corporate Services	17 March 2015
Third States		
Mr Michael Olmsted	Liaision Magistrate of USA to Eurojust	18 March 2015
Ms Maria Schnebli	Liaison Prosecutor of Switzerland at Eurojust	19 March 2015
Mr Petter Sodal	Liaison Prosecutor of Norway at Eurojust	16 March 2015
Mr Matjaz Vlahovic	Contact Point in Switzerland	By questionnaire
EU institutions		
Ms Carine Hanssens	Legislative Officer (POC Eurojust), European Commission	23 February 2015
Mr Dick Heimans	Deputy Head of Unit, European Commission	23 February 2015
Ms Claire Rocheteau	General Secretariat of the Council of the EU	23 February 2015
Mr Axel Voss	Member of European Parliament – LIBE Committee	23 March 2015
Other JHA bodies and international organisations		
Mr Carlos Campos Lobo	Member of the Eurojust JSB	5 March 2015
Other JHA bodies and international organisations		
Mr Luis Cerdán	Advisor to the Executive Director and Legal Affairs - Executive office, EASO	6 March 2015
Mr Wolfgang Gotz	Director, EMCDDA	25 March 2015
Mr Stefano Failla	Head of Unit -Strategic affairs, Cepol	2 March 2015
Mr Duco van Heel	Head of External Relations/EU International Organisations - Executive support, FRONTEX	2 March 2015
Mr Brendan Hughes	Scientific officer to the Director and international organisations, EMCDDA	12 March 2015
Ms Ivica Lekic	Policy Officer, OLAF	1 April 2015
Mr Didier Martin	External Relations Officer, Cepol	2 March 2015
Ms Mitterbuchner	Senior Auditor, European Court of Auditors	3 March 2015
Ms Ave Poom	Policy Officer General Coordination Unit, eu-LISA	24 March 2015
Ms Ute Stiegel	Deputy Head of Unit - Policy Development, OLAF	1 April 2015
Ms Nadja Long	Governance Department, Corporate Services, External & EU Institutional Affairs, Europol	18 March 2015
Mr Bart de Buck	Governance Department, G2 Corporate Services, Head of EU & International Law, Europol	18 March 2015
Mr Dietrich Neumann	Head of Corporate Services/Legal Affairs, Europol	18 March 2015
Mr Les Fiander	Operations Department, Unit 02, Europol	18 March 2015
Mr Rob Wainright	Director, Europol	18 March 2015

8.3 Annex 3: Characteristics of e-survey respondents

8.3.1 Survey to National Desks

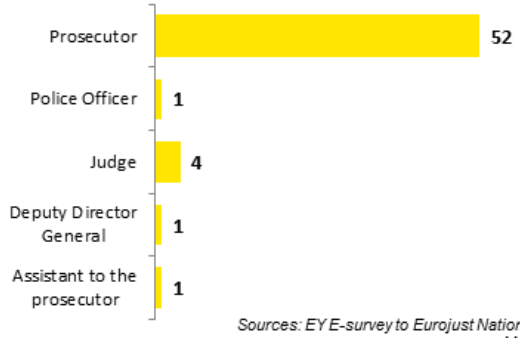
59 RESPONDENTS

Current role



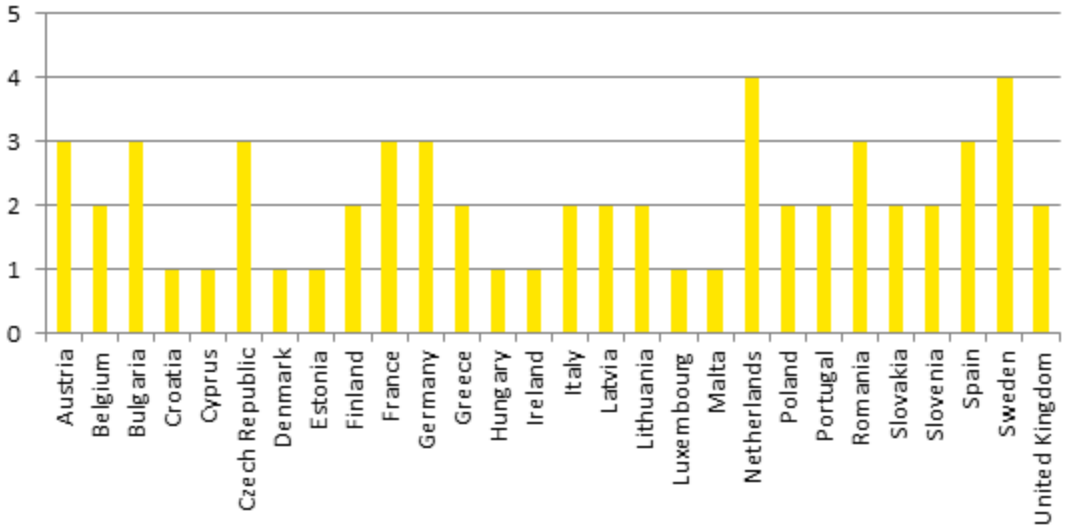
Sources: EY E-survey to Eurojust National desks, March 2015

Current status



Sources: EY E-survey to Eurojust National desks, March 2015

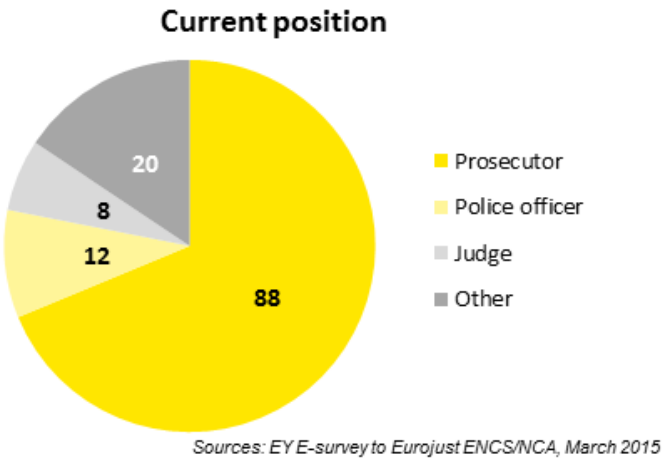
Member States



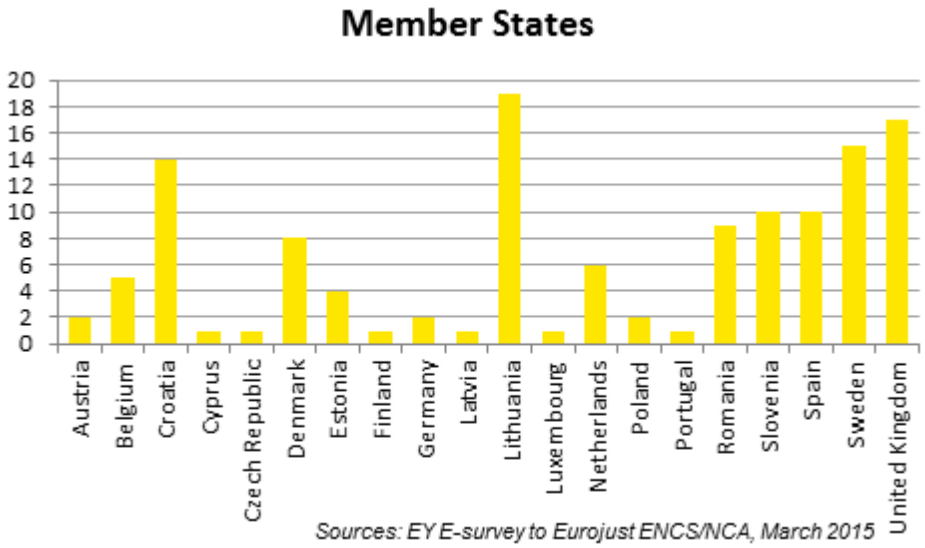
Sources: EY E-survey to Eurojust National desks, March 2015

8.3.2 Survey to ENCS and National Autorities

128 RESPONDENTS



Sources: EY E-survey to Eurojust ENCS/NCA, March 2015



Sources: EY E-survey to Eurojust ENCS/NCA, March 2015

8.4 Annex 4: List of documents consulted

Document name	Author
Legislative documents	
Council Decision 2002/187/JHA of 28 February 2002	*Council of the EU*
Council Decision 2003/659/JHA of 18 June 2003	*Council of the EU*
Council Decision 2009/426/JHA of 16 December 2008	*Council of the EU*
Council Decision 2005/671/JHA of 20 December 2005	*Council of the EU*
Consolidated version of the Eurojust Council Decision	*Council of the EU*
Council Document establishing the JITs Network	*Council of the EU*
Council Decision 2003/335/JHA of 8 May 2003	*Council of the EU*
Council Decision 2002/494/JHA of 13 June 2002	*Council of the EU*
Council Decision 2008/976/JHA of 16 December 2008	*Council of the EU*
Council Framework Decision 2003/577/JHA of 22 July 2003	*Council of the EU*
Council Framework Decision 2009/948/JHA of 30 November 2009	*Council of the EU*
Council Framework Decision 2005/212/JHA of 24 February 2005	*Council of the EU*
Council Decision 2005/671/JHA of 20 September 2005	*Council of the EU*
Council Framework Decision 2002/465/JHA of 13 June 2002	*Council of the EU*
Council Act 2000/C 197/01 of 29 May 2000	*Council of the EU*
Council Decision 2010/131/EU of February 2010	*Council of the EU*
June 2014 Joint Action 98/428 JHA of 29 June 1994	*Council of the EU*
Eurojust Seat Decision	*European Union*
Treaty on the Functioning of the European Union	*European Union*
Treaty of Nice	*European Union*
Treaty of Amsterdam	*European Union*
Treaty of Maastricht	*European Union*
Internal Regulations	
Act of the Joint Supervisory Body of Eurojust	*EUROJUST*
Rules of procedure on the processing and protection of personal data at Eurojust	*EUROJUST*
Decision of the College of Eurojust on Joint Investigations with OLAF	*EUROJUST*
Code of Good Administrative Behaviour for Staff of EUROJUST in their Relations with the Public (2006)	*EUROJUST*
Rules of Procedure of Eurojust (2002/C 286/01)	*EUROJUST*
College Decision 2014-1 on Financial Regulations Applicable to Eurojust	*EUROJUST*
College Decision 2011-18 Regulating the operation Tour de Table	*EUROJUST*
College Decision 2012-3 on the Eurojust Multiannual Staff Policy Plan 2013-2015	*EUROJUST*
College Decision 2012-13 on written procedures and preparatory consultation procedures for expressing an opinion	*EUROJUST*
College Decision 2012-12 on Points of Information to the College	*EUROJUST*
College Decision 2012-11 on Practical Arrangements Related to	*EUROJUST*

Document name	Author
the Functioning of the College	
College Decision 2013-3 on the Eurojust Multiannual Staff Policy Plan 2014-2016	*EUROJUST*
College Decision 2014-4 on Eurojust's operational priorities 2014-2017	*EUROJUST*
College Decision 2014-7 on Multiannual Staff Policy Plan 2015-2017	*EUROJUST*
College Decision 2015-4 on Multiannual staff Policy Plan 2016-2018	*EUROJUST*
Evaluation of the implementation of: College Decision 2011-18 regulating the operational Tour de Table	*EUROJUST*
Evaluation of the implementation of: College Decision 2012-11 on practical arrangements related to the functioning of the College; College Decision 2012-12 on points for information to the College; College Decision 2012-13 on written procedures and preparatory consultation procedures for expressing an opinion	*EUROJUST*
College Decision 2014-4 Adopting Eurojust's Operational priorities 2014 – 2017	*EUROJUST*
Consolidated overview of the objectives of the College Teams for 2014	*EUROJUST*
Adopted guidelines on confidentiality and disclosure within the framework of Eurojust Coordination Meetings	*EUROJUST*
Adopted guidelines on the management of manual files	*EUROJUST*
Policy context	
Presidency conclusions on the Tampere Council of 16 and 17 October	*European Council*
Draft Council conclusions on setting the EU's priorities for the fight against serious and organised crime between 2014 and 2017	*Council of the European Union*
Council Conclusions of 26-27	*Council of the European Union*
Delivering an area of freedom, security and justice for Europe's citizens Action Plan Implementing the Stockholm Programme (COM(2010) 171 final)	*European Commission*
The EU Internal Security Strategy in Action: Five steps towards a more secure Europe (COM(2010) 673 final)	*European Commission*
Communication from the Commission to the Council and the European Parliament on the role of Eurojust and the European Judicial Network in the fight against organised crime and terrorism in the European Union of 23 October 2007 (COM(2007) 644 final)	*European Commission*
Communication from the Commission to the European Council on the final implementation report of the EU Internal Security Strategy 2010-2014 of 20 June 2014 (COM(2014) 365 final)	*European Commission*
Joint Statement and the Common Approach of the European Parliament, the Council and the European Commission on decentralised Agencies	*Council of the European union, European Commission*
European Commission Roadmap on the follow-up of the Common Approach adopted on 19 December 2012	*European Commission*
EU Justice Agenda for 2020 (COM(2014) 144 final)	*European Commission*
Eurojust Multi Annual Strategic Plan 2012 – 2014	*EUROJUST*
Eurojust Multi Annual Strategic Plan 2014 – 2016	*EUROJUST*

Document name	Author
Commission Communication on the role of Eurojust and the European Judicial Network in the fight against organised crime and terrorism in the European Union (COM(2007) 644 final)	*European Commission*
Stockholm Programme (2010/C 115/01)	*Council of the European Union*
Commission Regulation Proposal on the European Union Agency for Criminal Justice Cooperation (Eurojust) (COM(2013) 535) final	*Commission*
Eurojust written contribution to COPEN	*EUROJUST*
Eurojust Contribution on Data Protection to COPEN	*EUROJUST*
European Commission's Consultative meeting with Member States' Experts on an initiative for the Reform of Eurojust	*EUROJUST*
Genocide Network Brochure	*EUROJUST*
Cooperation agreements	
Memorandum of Understanding between Eurojust and the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA)	*EUROJUST*
Memorandum of Understanding between Frontex and Eurojust	*EUROJUST*
Memorandum of Understanding between the European Commission and Eurojust	*EUROJUST*
Decision on the implementation of Regulation (EC) No 1073/1999 concerning investigations conducted by the European Anti-Fraud Office	*EUROJUST*
Practical Agreement on arrangements of cooperation between Eurojust and OLAF	*EUROJUST*
Memorandum of Understanding between Eurojust and CEPOL	*EUROJUST*
Agreement between Eurojust and Europol	*EUROJUST*
Memorandum of Understanding between Eurojust and the European Judicial Training Network	*EUROJUST*
Agreement on Cooperation between Eurojust and the Republic of Moldova	*EUROJUST*
Agreement on Cooperation between Eurojust and the Principality of Liechtenstein	*EUROJUST*
Agreement between the Swiss Confederation and Eurojust	*EUROJUST*
Agreement between the former Yugoslav Republic of Macedonia (fYROM) and Eurojust	*EUROJUST*
Agreement between the Republic of Croatia and Eurojust	*EUROJUST*
Agreement between the United States of America and Eurojust	*EUROJUST*
Agreement between the Republic of Iceland and Eurojust	*EUROJUST*
Agreement between the Kingdom of Norway and Eurojust	*EUROJUST*
Annual reports	
EUROJUST Annual Report 2013	*EUROJUST*
EUROJUST Annual Report 2012	*EUROJUST*
EUROJUST Annual Report 2011	*EUROJUST*
2011 Council Conclusions on the tenth Eurojust Annual Report	*Council of the European Union*

Document name	Author
EUROJUST Annual Report 2010	*EUROJUST*
2010 Council Conclusions on the ninth Eurojust Annual Report	*Council of the European Union*
EUROJUST Annual Report 2009	*EUROJUST*
2009 Draft Council conclusions on the eight Eurojust Annual Report	*Council of the European Union*
Work programmes	
Eurojust Work Programme 2014	*EUROJUST*
Eurojust Work Programme 2013	*EUROJUST*
Eurojust Work Programme 2012	*EUROJUST*
Eurojust Work Programme 2011	*EUROJUST*
Eurojust Work Programme 2010	*EUROJUST*
Eurojust Work Programme 2009	*EUROJUST*
Budget documents	
ECA Report on the Final Accounts of Eurojust 2012	*European Court of Auditors*
ECA Report on the Final Accounts of Eurojust 2011	*European Court of Auditors*
ECA Report on the Final Accounts of Eurojust 2010	*European Court of Auditors*
ECA Report on the Final Accounts of Eurojust 2009	*European Court of Auditors*
Eurojust Final Accounts 2014	*EUROJUST*
Eurojust Final Accounts 2013	*EUROJUST*
Eurojust Final Accounts 2012	*EUROJUST*
Eurojust Final Accounts 2011	*EUROJUST*
Eurojust Final Accounts 2010	*EUROJUST*
Eurojust Final Accounts 2009	*EUROJUST*
Eurojust budget 2014	*EUROJUST*
Eurojust budget 2013	*EUROJUST*
Eurojust budget 2012	*EUROJUST*
Eurojust budget 2011	*EUROJUST*
Eurojust budget 2010	*EUROJUST*
Consultancy studies	
Study on the future of Eurojust	*European Parliament*
Organisational Structure Review Project (OSR) launched by Eurojust in January 2009	*Deloitte*
Study on the Strengthening of Eurojust	*GHK*
Implementation of the 2008 Eurojust Decision	
Evaluation reports of the GENVAL Mutual Evaluations devoted to the practical implementation and operation of the Eurojust Council Decision and of the Council Decision 2008/976/JHA on the European	*GENVAL*

Document name	Author
Judicial Network in criminal matters in the Member States	
Internal Guide: Temporary solution for inserting in the CMS the information submitted to Eurojust under Article 13	*Eurojust*
Eurojust report in accordance with Article 16b of the Eurojust Decision	*EUROJUST*
Eurojust Internal Assessment of the OCC	*EUROJUST*
Article 5a of the Eurojust Council Decision: proposals for a way forward	*EUROJUST*
Brief case description – ID 12085 and ID 12990	*EUROJUST*
Feedback on notification under Art. 13	*EUROJUST*
Eurojust Explanatory Note on the New Obligation to Transmit Information to Eurojust	*EUROJUST*
Article 13 of the Eurojust Council Decision – a possible way forward	*EUROJUST*
Template for the transmission of information ex Article 13(5) to (7) of the Eurojust Decision	*EUROJUST*
On Call Coordination presentation	*EUROJUST*
Other documents	
Rapport d'information sur Europol et Eurojust	*French Senate*
Outcomes of the consultative meeting with Member States' experts, representatives of the General Secretariat of the Council in 2012 to discuss issues related to the reform of Eurojust under Article 85 of the TFEU	*Council of the EU*
The new draft Regulation on Eurojust: an improvement in the fight against cross-border crime?	*Council of the EU*
10 Years of Eurojust: Operational Achievements and Future Challenges	*Council of the EU*
Eurojust: new perspectives in judicial cooperation	*Council of the EU*
Eurojust and the Lisbon Treaty: towards more effective action	*Council of the EU*
EU Committee of the UK House of Lords on Judicial Cooperation in the EU: the role of Eurojust	*House of Lords*
Outcome Report European Commission's Consultative meeting with Member States' Experts on an initiative for the Reform of Eurojust	*EUROJUST*
Working methods of the College (agendas and briefing notes)	*EUROJUST*
European Added Value Assessment The EU Arrest Warrant	*Anne Weyembergh*
Eurojust Multi-disannual strategy 2016-2018	*EUROJUST*
Eurojust's scorecard	*EUROJUST*
JIT Evaluation Form	*EUROJUST*
JITs Manual	*EUROJUST*

8.5 Annex 5: Analysis of the 2008 Eurojust Council Decision

Article(s)	Description
Objectives, Competencies, Tasks and Tools: The scope of Eurojust's objectives, tasks and competencies remained relatively little changed from the 2002 Council Decision with the exception of small enhancements (e.g. Article 3(1)(b) and Article 6(1)(a)). Eurojust, however, is endowed with new or enhanced 'tools', such as On-Call Coordination (Article 5a) and a more robust Case Management System (Article 16).	
Art. 3(1)(b)	Facilitating cooperation: Article 3(1)(b) is amended by the 2008 Eurojust Council Decision to broaden the scope of Eurojust's objectives in the field of judicial cooperation. Whereas the 2002 Council Decision limited cooperation to facilitating the execution of international mutual legal assistance and the implementation of extradition requests, the 2008 Eurojust Council Decision provides for "facilitating the requests for, and decisions on, judicial cooperation, including regarding instruments giving effect to the principle of mutual recognition."
Art. 4	Competency of Eurojust: Article 4 changes the competencies of Eurojust, but only in a technical sense to take into account the Council Decision of 6 April 2009 (2009/371/JHA) establishing the European Police Office (Europol).
Art. 6(1)(a)	Tasks of Eurojust: The 2008 Eurojust Council Decision broadens the scope of requests that may be made by Eurojust when acting through its National Members. Article 6(1)(a) is amended with the addition of the following points: (vi) take special investigative measures; (vii) take any other measure justified for the investigation or prosecution.
Art. 5a	On-Call Coordination: Article 5a calls for Eurojust to put in place an On-Call Coordination (OCC) capacity capable of receiving and processing at all times requests referred to it. As stated in paragraph 2 of the article, the OCC relies on one representative per Member State to ensure its functioning. The OCC representative executes the request without delay by invoking the enhanced powers provided for National Members under the 2008 Eurojust Council Decision.
Art. 16	Case Management System: Article 16 defines in more detail the functioning of Eurojust's Case Management System formerly referred to by article 16 of the 2002 Council Decision as the temporary work files. Article 16b lays out the conditions for access to the system on the Member State-level, taking into account the creation of the ENCS (Article 12). The major development underlying this amendment is the establishment of connections between the Eurojust Case Management System and the national systems, enabling enhanced information exchange in a structured way and adjusting the Eurojust Case Management System according to the new requirements and functionalities.
Powers of National Members: One of the principal objectives of the 2008 Eurojust Council Decision was to address significant operational challenges arising from the unequal standing and powers of the National Members. The Council Decision seeks to create a common foundation of ordinary powers (Article 9b) and rights (e.g. Article 9(3)(a)-(e) or Article 9f), whilst also allowing for some extraordinary powers to be exercised in urgent cases (Article 9d) agreement with Member State authorities (Article 9c) and powers exercised on the national level (Article 9a). Nonetheless, an important "escape clause" is created by Article 9(e), which specifies that National Members shall at least have the power to submit a proposal to the competent authority to take action where the exercise of the extraordinary powers enumerated under Articles 9c and 9d is contrary to the constitutional rules or fundamental aspects of the criminal justice system of the Member State in question. The duration of the National Member mandate is also lengthened to four years and it is specified that National Members, their Deputies and Assistants should have their normal place of work on the premises of Eurojust in The Hague (Article 2(2)(a) and 9(1) respectively).	
Art. 9(1)	Duration of mandate: The duration of a national member's term in office is set at four years by the 2008 Eurojust Council Decision and explanation must be provided to the Council should a Member State wish to remove a national member before the

Article(s)	Description
	expiration of their term. Previously, Member States were free to set the length of terms at their discretion. Furthermore, article 9(1) stipulates that national members serving as President or Vice-President of the College must be allowed to finish their mandate before removal.
Art. 2(1)(b)	Support for National Members: Once optional, each National Member must now be assisted by at least one Deputy and one Assistant, with the possibility of having more. Article 2(5) further stipulates that the Deputy must be able to substitute the National Member.
Art. 9b	Ordinary powers: As set out in article 9b of the 2008 Eurojust Council Decision, ordinary powers include the capacity of the National Member to "receive, transmit, facilitate, follow up and provide supplementary information in relation to the execution of requests for, and decisions on, judicial cooperation, including regarding instruments giving effect to the principle of mutual recognition," and to request that Member State authorities take "supplemental measures" in the case of inadequate execution.
Art. 9c	Powers in agreement with competent National Authorities: Paragraph 1 of article 9c lists the powers the National Members may exercise on a case-by-case basis in agreement with competent Member State authorities. These include: issuing, completing and executing judicial cooperation requests; ordering investigative measures; and authorising and coordinating controlled deliveries.
Art. 9d	Powers exercised in urgent cases: In urgent cases, when it is not possible to identify or contact the competent national authority in a timely manner, the National Member shall have the power to, "execute, in relation to their Member State a request for, or a decision on, judicial cooperation, including regarding instruments giving effect to the principle of mutual recognition."
Art. 9a	Powers granted at the national level: National Members may be granted powers at the national level, where such powers on judicial coordination can be exercised with respect to the delegating Member State.
Art. 9e	Requests where powers cannot be executed: In article 9e, the 2008 Eurojust Council Decision nuances the powers stipulated in articles 9c and 9d, allowing Member States to provide their delegates with only the right to "propose" a measure to competent authorities in cases where going beyond a mere proposal would be contrary to constitutional rules or "fundamental aspects of the criminal judicial system" of a Member State.
Art. 9f	Participation in Joint Investigation Teams: Article 9f sets out the possibility for National Members to participate in Joint Investigation Teams, although the control of their participation remains with the Member States' National Authorities. The article further specifies that National Members shall be invited to participate in any joint investigations involving their Member State, with the Member State reserving the right to define whether the National Member participates in the JIT as a national competent authority or on behalf of Eurojust.
Art. 9(3)	Access to databases: extends the access National Members should have to information contained in national registers as it sets out minimum standards for access. In comparison to Article 9(4) of the 2002 Decision which provided that the National Member shall have access to information contained in the "national criminal records" or in any other register of his Member State "(a) criminal records; (b) registers of arrested persons; (c) investigation registers; (d) DNA registers and (e) other registers of his Member State where he deems this information necessary for him to be able to fulfil his tasks".
Art. 6(1)(a)	Requests to Member State Authorities: Acting through its National members, Eurojust may ask competent Member State authorities to undertake actions upon request by a National Member. Where previously National Members could ask that competent authorities in Member States "consider" taking action, article 6(1)(a) of the new Council Decision now stipulates that, acting through its national members, Eurojust,

Article(s)	Description
	"may ask the competent authorities of the Member States concerned, giving its reasons, to undertake".
Strengthening of the College: The tasks of Eurojust acting as a College remained unchanged, aside from the power to emit non-binding written opinions on conflicts of jurisdiction or recurrent refusals or difficulties at the behest of a Member State in cases where a resolution could not be reached by mutual agreement (Articles 7(2) and 7(3)).	
Art. 7(2)	Conflicts of jurisdiction: The College may weigh in on a jurisdictional dispute as regards the undertaking of an investigation or prosecution between two or more Member States if mutual agreement on the matter cannot be reached by competent Member State authorities. To resolve the conflict, the College will be asked in such cases to issue a non-binding written opinion.
Art. 7(3)	Recurrent refusals or difficulties: A competent Member State authority may refer to Eurojust's College cases of recurrent refusals or difficulties concerning the execution of requests for, and decisions on, judicial cooperation provided they could not be settled by mutual agreement. The College shall then issue a non-binding written-opinion on the case.
Governance: No fundamental changes were made to Eurojust's governance, which remains predominately inter-governmental in character. However, some elements of 'supra-nationalism' were introduced (i.e. qualified majority voting very specific matters within the College and simple majority by default).	
Art. 23	Joint Supervisory Body: The modalities for choosing permanent members and designating the President are modified. Whereas the 2002 Council Decision establishes a system based on the rotation of the Council Presidency, the 2008 Eurojust Council Decision puts in place a system of election by secret ballot in plenary session of the persons appointed by Member States. The term of permanent members is also extended from 18 months to three years and the possibility of re-election is also stipulated.
Art. 28	President and Vice-President(s): Under the 2008 Eurojust Council Decision, the persons elected by the College members as President and Vice-President(s) shall no longer be subject to a unanimous approval decision by the Council, but instead the Council will act by qualified majority.
Art. 29	The Administrative Director: The Administrative Director is now appointed by two-thirds majority by the College, as opposed to the previous requirement of unanimity. The 2008 Eurojust Council Decision also facilitates the renewal of the Director's mandate, by dispensing the organization of the requirement for a call for proposals should the Director garner the support of three-fourths of the College.
Art. 10	Functioning of the College: Following consultation of the Joint Supervisory Body, Eurojust's rules of procedure, under the 2008 Eurojust Council Decision, are now approved by the Council acting by a two-thirds majority rather than unanimity.
Relations with Member States: Eurojust's relationship with Member States remained fundamentally unchanged, in the sense that the body could not oblige Member States authorities to initiate an investigation or prosecution in a particular case, although recommendations made by Eurojust under Article 8 may have a persuasive impact in Member States. Nonetheless, this relationship was intensified by the new Council Decision, both in terms of the flows of information (obligatory in some cases under Article 13) and the multiplication of points of contact between Eurojust and competent Member State authorities with the creation of the ENCS (Article 12).	
Art. 12	ENCS: Whereas the 2002 Council Decision gives Member States the possibility to appoint one or more national correspondents, article 12 of the 2008 Eurojust Council Decision requires Member States, before 4 June 2011, to set up a ENCS in order to coordinate the work carried out by the National Correspondents they are now obliged to appoint in paragraph 1 of article 12. Paragraph 2 provides more specific details on the minimum National Correspondent roles required by the new Decision, which include: terrorism matters, the European Judicial Network, genocide, asset recovery and corruption. Paragraph 5 lays out the objectives of the National Coordination

Article(s)	Description
	Systems, which, overall, is to facilitate within the Member States, "the carrying out of the tasks of Eurojust."
Art. 13	Information sharing: Paragraph 1 of article 13 explicitly creates an obligation for competent Member State authorities to transmit, without undue delay, all information that is necessary for the performance of the tasks of Eurojust. Paragraph 6 provides a list of minimum requirements for fulfilling this obligation. These include: any case in which at least three Member States are directly involved, cases where judicial cooperation requests involve at least two Member States; cases regarding ten specific offences punishable by at least five or six years; - cases in which there are factual indications that a criminal organisation is involved and; -cases that may have a serious cross border dimension or repercussions at the EU level, or might affect other Member States.
Art. 8	Responding to Eurojust requests: Whereas the founding Decision only requires Member States to "inform Eurojust of their decision and reasons for it" should they decide not to comply with a request emanating from Eurojust, the 2008 Eurojust Council Decision obliges Member States authorities to inform Eurojust "without undue delay" of their decision and the reasons for it. Nonetheless, Member States preserve the prerogative to refuse in the case that doing so would harm national security interests or jeopardise investigations or the safety of individuals.
Personal Data: **Few consequential changes were made to the data protection provisions of the 2008 Eurojust Council Decision. Amendments introduced in 2008 notably allowed Eurojust to collect an expanded variety of personal data (Article 15) and extend the storage limits (Article 21) on personal data in some cases. The provisions on data protection also laid out the modalities for access to the CMS and personal data contained there within by the members of the ENCS (Articles 16, 16a and 16b).**	
Art. 15	Type of personal data: Article 15(1)(l), (m) and (n) expand slightly the type of personal data that may be processed by Eurojust (e.g. vehicle registration data, certain DNA information). Paragraph 1 is also amended slightly to allow Eurojust to process the personal data of persons suspected of a crime, whereas the 2002 Decision limited this to persons under investigation.
Arts. 16, 16a & 16b	Case Management System: Articles 16, 16a and 16b spell out the functioning of the CMS, include data protection provisions. The 2008 Decisions includes provisions for connecting the CMS with the ENCS, and the national correspondents and contact points that make up the ENCS, to access personal data in the CMS (the persons referred to in Article 12(2)).
Art. 21	Data storage limitations: Article 21(b) extends the amount of time that Eurojust may store personal data (three years after the judicial decision of the last of the Member States concerned became final subject to other limitations foreseen by Articles 21(2)(a), (aa), (c) & (d)). Article 21(3) provides Eurojust will slightly more leeway to extend the storage limits on personal data under special circumstances.
Relations with other actors: **The 2008 Eurojust Council Decision did not fundamentally alter the 'institutional embedding' of Eurojust and its relations with European and non-European partners. It did, however, provide for some enhancements and more explicitly defined the relationship of Eurojust with partners with which it interacts (Articles 25a, 26, 26a, 27 and 27a). 2008 Eurojust Council Decision does not fundamentally alter the "institutional embedding" of Eurojust within the landscape of European and third-party State and non-State actors. It does, however, provide for some enhancements and more explicitly defines the relationship of Eurojust with the different types of partners it interacts with.**	
Art. 25a	Cooperation with the European Judicial Network: The 2008 Eurojust Council Decision enhances the cooperation and complementarity of Eurojust and the European Judicial Network. Paragraph 1 of article 25a sets out three measures to be taken in order to "ensure efficient cooperation": National Members shall inform Network contact points of cases which they consider the Network to be in a better position to handle; the secretariat of the Network shall form part of the staff of Eurojust and operate as a

Article(s)	Description
	distinct unit; Network contact points may be invited to attend Eurojust meetings.
Art. 25a	Future cooperation with networks: Furthermore, paragraph 3 of article 25a stipulates that the contact point network for anti-corruption set up by Council Decision 2008/852/JHA may request that Eurojust provide a secretariat to the network. The article also opens up the possibility of lodging the secretariat of the Network for Joint Investigation Teams within Eurojust.
Art. 26	Cooperation with other EU institutions or bodies: With respect to EU operational partners, the list of EU agencies with which Eurojust is encouraged to cooperate is expanded to include FRONTEX, the Joint Situation Centre and the European Judicial Training Network (EJTN). The nature of these relationships is also spelled out in greater detail (e.g. exchange of information, secondment of liaison officers).
Arts. 26a, 27, 27a	Cooperation with non-EU Countries and international organisations: Eurojust is further empowered to establish and maintain cooperative relationships with third states and international organisations; the 2008 Eurojust Council Decision specifically mentions Interpol; however, it makes all exchange of information subject to stricter provisions laid out in the revised article 27. Finally, article 27a sets out the conditions for appointing liaison magistrates with third States.