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Subject: Eurojust report in accordance with Article 16b of the Eurojust Decision

Delegations will find in the Annex the report referred to in the subject matter.



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The Hague, 17 July 2013

Eurojust report in accordance with Article 16b of the Eurojust Decision

Mr. Director-General,

Your Excellency,

On behalf of the College, I would like to bring to your attention this report on the state of play of the implementation of access to the Eurojust Case Management System at national level.

This report covers Eurojust's undertakings in setting up connections between Eurojust and each of the Member States, as well as developments in the compatibility of systems for structured and secure data exchange. You will also find in the annex to this report, for your information, an up-to-date progress overview of the establishment of the connections per Member State.

With the considerations of the College on the future access modalities by the members of the Eurojust national coordination systems to the Eurojust Case Management System, Eurojust would like to provide further input to the implementation process. Eurojust encourages counterparts in the Member States to continue working towards the common goal of increasing information exchange and Eurojust's feedback to casework.

I hope you find this information useful.

Yours sincerely,

Michèle Coninx
President of Eurojust



IMPLEMENTATION OF ACCESS TO THE EUROJUST CASE MANAGEMENT SYSTEM AT NATIONAL LEVEL

The College of Eurojust, supported by the Administration, has undertaken notable actions and initiatives to implement in a timely manner Council Decision 2009/426/JHA of 28 February 2008 on the Strengthening of Eurojust,¹ which came into force on 4 June 2009.

One of the novelties of the revised legal framework of Eurojust relates to the connection and access of the members of the Eurojust national coordination system² to the Eurojust Case Management System.³ Prior to this, access to the Eurojust Case Management System was only foreseen with regard to Eurojust authorised users. This matter is governed by the Eurojust Decision in conjunction with the Rules of Procedure on the Processing and Protection of Personal Data at Eurojust.⁴

Relevant points of consideration in this context are:

- The connection of Member States to the Eurojust Case Management System;
- The extent of the access granted, i.e. the content/type of information accessed, once the connection is established;
- The extent of control over the information accessed and contained in the Eurojust Case Management System, i.e. the possibility or not to add or modify information.

Article 16b (4) Eurojust Decision stipulates that Eurojust is to report to the Council and the Commission on the implementation of access to the Eurojust Case Management System at national level. This Eurojust report will provide information on the progress made on the technical implementation of the connection with each of the Member States and the Eurojust Case Management System as well as on the common approach agreed by the College during its plenary of 9 July 2013 regarding the access modalities for national authorities in the Member States.

¹ The Council Decision of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime, as last amended by Council Decision 2009/426/JHA of 16 December 2008 on the strengthening of Eurojust, will be referred to in this report as the "Eurojust Decision".

² The Eurojust national coordination system as referred to in the Eurojust Decision, in particular Article 12 and Article 16b thereof.

³ The Eurojust Case Management System as referred to in the Eurojust Decision, in particular Articles 16 -16b, Article 13 (5) and (6), 27a (7) thereof.

⁴ Rules of Procedure on the Processing and Protection of Personal Data at Eurojust (text adopted unanimously by the College of Eurojust during the meeting of 21 October 2004 and approved by the Council on 24 February 2005), hereinafter referred to as "the Data Protection Rules".



1. Introduction to the Eurojust Case Management System and guiding principles

1.1. Functionalities of the Eurojust Case Management System

The design and development of the Eurojust Case Management System is based on the Eurojust Decision and Data Protection Rules. The Case Management System is the IT tool of Eurojust for the management of cases and supports the exchange of structured data between Eurojust and the Member States, it

- supports the management and coordination of investigations and prosecutions for which Eurojust is providing assistance, in particular by the cross-referencing of information;
- facilitates access to information on ongoing investigations and prosecutions;
- facilitates the monitoring of lawfulness concerning the processing of personal data.

1.2. Composition of the Eurojust Case Management System

In accordance with Articles 16 and 16a of the Eurojust Decision, the Case Management System is composed of Temporary Work Files and of an index which contain personal and non-personal data. A Temporary Work File is opened by the concerned National Member for every case for the storing and processing of case-related data. The National Member manages the cases s/he has opened and decides on the information related to the Temporary Work File that is introduced in the index. The index is accessible by all users of the Case Management System.

1.3. Eurojust National Members as data controllers

Articles 16a(1) and (2) Eurojust Decision and Article 13(2) of the Data Protection Rules stipulate that the National Member who opened the particular Temporary Work File is the data controller of the information processed in it and has discretion over whether to keep the Temporary Work File restricted or to give access to the entire file or parts of it to other National Members or to authorised Eurojust staff.

2. Adjustments of the Case Management System to requirements of the Eurojust Decision

Following an initial assessment of the impact on the existing Eurojust infrastructure, a series of IT enhancement projects have been initiated since 2010 to technically implement the changes and requirements to the Case Management System in accordance with the revised legal framework of Eurojust.

2.1. Processing and storing of data

The Eurojust Case Management System software was updated to allow the processing and storing of the new operational types of information and personal data pursuant to Articles 13



and 15 of the Eurojust Decision. One of the new features is the importation mechanism of the electronic tools developed for the exchange of information between the national desks of Eurojust and the national authorities of the Member States.⁵

2.2. Security Model for data access by external users

An important innovation is the redesign of the Case Management security model, taking into account future access modalities for external (i.e. non-Eurojust) users in line with Articles 12 (6) and 27a (7) of the Eurojust Decision. The new security model provides for the technical possibility to manage the type and level of access to the data for different user groups in a flexible but controlled manner with due respect to the applicable data protection standards.

3. Network connection between the Member States and the Eurojust Case Management System

In 2010, Eurojust initiated the so-called EJ 27 project, assessing the technical options and solutions for providing network connectivity between Eurojust and each Member State, taking into account their country specific technical constraints and reusing existing connections whenever possible.

As a result of the project, two alternatives, the s-TESTA and VPN, were identified by Eurojust IT specialists and their counterparts in the Member States as the most suitable and preferred options. Eurojust IT specialists could establish contact with the majority of Member States and the implementation of connections with each Member State is currently at different stages. A Memorandum of Understanding is signed between Eurojust and each Member State before the official usage of the connection. Pilot connections are currently in progress with 14 Member States, and connections are already established with three Member States.

An overview of the implementation status as of July 2013 is available in Annex 1 of the report.

4. Standard data format for data exchange - EPOC IV

The EPOC IV project, running from April 2009 to March 2012, focused on how to facilitate the exchange of data between different case management systems and delivered the EPOC Data Standard.⁶ The EPOC Data Standard has been compiled by mapping relevant data items from the data standards of 17 national judicial bodies or judicial organisations, and has been used in the creation of the editable Article 13 PDF Form. The EPOC software allows implementation in four distinct scenarios, thereby providing Member States with flexibility on the use of the software in their Eurojust national coordination systems. The EPOC IV project was co-funded by the European Commission within the context of the Criminal Justice Programme.

⁵ To support the secure and structured transmission and processing of information, Eurojust has developed an electronic tool; an editable PDF form available in 22 languages.⁵ The form is available for download from a restricted area of the Eurojust Website and can be used by national authorities for fulfilling their obligations under Articles 12 and 13 of the Eurojust Decision.

⁶ Deliverables from the EPOC IV project are available for download from a restricted area of the Eurojust Website and can be used by national authorities for fulfilling their obligations under Articles 12 and 13 of the Eurojust Decision.



5. ENCS Research Project - launched in July 2013

The ENCS Research Project has been initiated by Eurojust to evaluate the preferences of Member States regarding the connection of their Eurojust national coordination system members to the Eurojust Case Management System and to assess the technical requirements for the implementation of respective access modalities in the Eurojust Case Management System and concerned Eurojust infrastructure. Within the context of this project, IT specialists from the Member States will also be informed by their Eurojust counterparts of how the EPOC IV results could be used as a technical solution to support the communication of structured data with Eurojust.

6. Access modalities for members of the Eurojust National Coordination System

6.1. Point of Departure from Eurojust Decision and Data Protection Rules

6.1.1. Differentiation between categories of external users

Article 12(6) Eurojust Decision introduces a distinction between two categories of members of the Eurojust national coordination system and their access to the CMS:

- a) persons referred to in Article 12, paragraphs 1 and 2(a), (b) and (c) (*i.e.* the national correspondent for Eurojust, the national correspondent for Eurojust in terrorism matters, the national correspondent for the European Judicial Network (EJN) and up to three other contact points of the EJN) who shall be connected to the Eurojust Case Management System; and
- b) persons referred to in Article 12, paragraph 2(d) (*i.e.*, National Members or contact points in the Networks for Joint Investigation Teams, Genocide, Asset Recovery, and Corruption) who may be connected to the Eurojust Case Management System.

6.1.2. Differentiation between types of access

Article 16b Eurojust Decision determines that the level of access to the Eurojust Case Management System at national level, *i.e.* by members of the Eurojust national coordination system referred to in the aforementioned Article 12(2), in so far as they are connected to the Eurojust Case Management System in accordance with Article 12(6), is divided into three types:

- a) Article 16b(1)(a) - access to the index;
- b) Article 16b(1)(b) - access to Temporary Work Files opened or managed by the National Member of their Member State;
- c) Article 16b(1)(c) - access to Temporary Work Files opened or managed by National Members of other Member States and to which the National Member of their Member State has received access.

6.2. Eurojust Common approach



6.2.1. General considerations of the College of Eurojust

As defined in Articles 16a (1) and 16a (2) of the Eurojust Decision and Article 13 (2) of the Data Protection Rules, the National Member concerned remains the data controller and therefore has the discretion to decide whether to keep a Temporary Work File restricted or to give access to it or parts of it to other National Members or to other authorised users within the limits defined in both legal instruments.

A distinction in treatment between the members of the Eurojust national coordination system that *shall* be connected to the Eurojust Case Management System (*members listed under Article 12(2)(a-c) of the Eurojust Decision*) and the members of the Eurojust national coordination system that *may* be connected to the Eurojust Case Management System (*members listed under Article 12(2) (d) of the Eurojust Decision*) shall be made as regards the access modalities. With regard to the second category, it is the wish of the College of Eurojust to always decide on the access of those individual members of the Eurojust national coordination system to Temporary Work Files on a case-by-case basis.

6.2.2. Access to the index

Both types of external user are granted similar access to the index; such access is granted on a case-by-case basis.

The College of Eurojust wishes to have a distinction of treatment between internal and external users as regards the visibility of information contained in the index. Internal users are permitted to access up to the maximum amount of information permitted under the Eurojust Decision and the Data Protection Rules, whereas external users are permitted to view a limited amount of information.

Concerning Article 16b (3) of the Eurojust Decision, which states that the members of the Eurojust national coordination system *shall at least have access to the index to the extent necessary to access the Temporary Work Files to which they have been granted access*, it is proposed to interpret this paragraph as meaning that when a member of the Eurojust national coordination system is given access to a Temporary Work File, s/he necessarily should be given access to the index of the respective Temporary Work File.

6.2.3. Access to a Temporary Work File opened or managed by a National Member of his/her Member State

A distinction is made between the two categories of members of the Eurojust national coordination system. For the first category, the National Members may decide to make use of preference settings that allow those members to have access to the Temporary Work Files they open generally, but they will always retain the possibility to deny access to each individual forming part of the Eurojust national coordination system on a case-by-case basis. For the second category, the decision to give access will always be taken on a case-by-case basis.



6.2.4. Access to a Temporary Work file opened or managed by a National Member of another Member State

A distinction is made between the two categories of members of the Eurojust national coordination system. For the first category, National Members may decide to make use of preference settings that allow those members to have access to the Temporary Work Files they open generally, but they will always retain the possibility to deny access to each individual forming part of the Eurojust national coordination system on a case-by-case basis. For the second category, the decision to give access will always be taken on a case-by-case basis.

6.2.5. Extent of access to be given to members of the Eurojust national coordination system to information of the National Member of his/her Member State

The College is considering the idea to give members of the Eurojust national coordination system the possibility to submit draft Temporary Work Files to the National Member of their country, which will then have to be accepted or rejected by this National Member on a case-by-case basis. Only if the National Member, as controller of the file, decides to accept the information, will it form part of the Temporary Work Files of the desk. Through this system of semi-automatic importation, the National Member retains control of the information added to the Eurojust Case Management System, as a system of validation steps would be put in place before any information is inserted in the Eurojust Case Management System.

In order to ensure full compliance with the Eurojust Decision and the Data Protection Rules, a system of automatic notifications will be put in place to alert the National Member and the Data Protection Officer that a - Work in Progress Temporary Work File - has been created and requires validation. Reminders should also be sent to the National Member concerned and the Data Protection Officer if no action has been taken within four weeks.

7. Eurojust general conclusions

Eurojust would like to stress that the connection to the Eurojust Case Management System and access to it should be understood as two different concepts. While the national authorities decide on the technical connection of their members of the Eurojust national coordination system to the Eurojust Case Management System, the decision on granting access to the Eurojust Case Management System to a specific person is to be taken by the respective National Member.

The technical implementation of network connectivity between each of the Member States and Eurojust and the synchronisation of different case management systems for data exchange is a complex exercise that has been set in motion. Eurojust is committed to continuing its initiatives and building on the progress made over the past years to enhance the exchange of information between Eurojust and the competent national authorities in a secure, structured and user-friendly manner. Eurojust encourages the appointment of IT specialists by the Member States to



continue the dialogue with their Eurojust counterparts on implementing technical solutions.

The College of Eurojust wishes to treat the members of the Eurojust national coordination system, both from their own Member State and from other Member States, similar to the present process when a Temporary Work File is opened to other national desks. Therefore, it should be at the discretion of the respective National Member to decide on a case-by-case basis whether to give access to each member of the Eurojust national coordination system of his/her Member State and of other Member States as well as on the extent of access given to each one of them.

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ANNEX 1

Network connection between Member States and the Eurojust Case Management System

Overview of implementation status as per 09/07/2013

Member State	Technology selected	MS Technical Contact Point Confirmed	Awaiting resolution of domestic issues	Discussions between EJ and MS continue	Pilot Project started	Pilot Project completed	MoU signed	Connection established
BE	s-TESTA	✓	✓	✓	✓	✓		
BG	s-TESTA	✓	✓	✓	✓	✓	✓	✓
CZ	s-TESTA	✓	✓	✓	✓	✓		
DK		✓	⚙️					
DE	s-MIME	✓	✓	✓	✓			
EE	s-TESTA	✓	✓	✓	✓			
IE	VPN	✓	⚙️					
EL	No Connection at this time	✓	✓	⊕	⊕	⊕	⊕	⊕
ES	s-TESTA	✓	✓	⚙️				
FR	s-TESTA	✓	✓	✓	✓			
HR								
IT								
CY		✓	⚙️					
LV	VPN	✓	✓	✓	✓	✓	✓	
LT	VPN	✓	⚙️					
LU	No Connection at this time	✓	✓	⊕	⊕	⊕	⊕	⊕
HU	VPN	✓	✓	✓	✓	✓		
MT	No Connection at this time	✓	✓	⊕	⊕	⊕	⊕	⊕
NL	Dedicated Connection	✓	✓	✓	✓	✓	✓	✓
AT		✓	⚙️					
PL	VPN	✓	✓	✓	✓	✓		
PT	s-TESTA	✓	✓	✓	✓	✓		
RO	VPN	✓	✓	✓	✓	✓	✓	✓
SI	s-TESTA	✓	⚙️					
SK		✓	⚙️					
FI	s-TESTA	✓	✓	✓	✓	✓		
SE	s-TESTA	✓	✓	✓	✓			
UK	s-TESTA	✓	✓	✓				

- ✓ Stage completed
- ⚙️ Stage in progress
- ⊕ On hold