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INFORMATION NOTE

From: Lithuanian Delegation

To: Delegations

No. prev. doc.: 15372/2/12 REV 2

Subject: Mutual Evaluation report on the sixth round of Mutual Evaluations "The practical implementation and operation of the Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime and of the Council Decision 2008/976/JHA on the European Judicial Network in criminal matters"
- Follow-up to the Report on Lithuania

Dear Sir or Madam,

The evaluation on "The practical implementation and operation of the Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime and of the Council Decision 2008/976/JHA on the European Judicial Network in criminal matters" took place in Lithuania on 21-25 May, 2012, and resulted in the EU Council's Sixth Round Evaluation Report on Lithuania No.15372/2/12 Rev 2 of 15 February 2013. The report contains thirteen recommendations addressed to Lithuania. According to the report, Lithuania shall within 18 months after the report conduct a follow up outlining the actions taken in relation to the recommendations. Thus, hereby we provide you with the follow-up of the recommendations to Lithuania in the order of sequence as it is provided in the Doc No. 15372/2/12 Rev 2:

10.1. *Lithuania is recommended to consider whether to insert Eurojust and the EJM in its legislation, with a view to giving them visibility also towards judges involved in pre-trial investigations. Therefore, Lithuania is recommended to continue discussions to adopt a legal act binding not only to prosecutors, but all practitioners involved in the field of international judicial cooperation on the implementation of the Decisions on Eurojust and the EJM.*

Following the above-mentioned recommendation of the evaluation team the competent institutions of the Republic of Lithuania, i.e. Ministry of Justice, Prosecutor General's Office and National Administration of Courts have arranged several inter-institutional meetings to consider this matter in-depth. After discussions a unanimous agreement was reached that the existing domestic legal regulation on implementation of Eurojust decision shall not be subject to any changes, since the current cooperation system between the Eurojust and competent institutions of Lithuania is well-functioning. Moreover, it was agreed that with regard to a new Regulation on Eurojust being negotiated at the moment, it would be inexpedient to make any modifications to a national regulation at current stage. As far as the implementation of EJM Decision is concerned, it was decided to develop the present legal regulation on EJM and possibly to adopt a new legal act - a joint Order of the Prosecutor General and Minister of Justice with a view to ensuring that not only prosecutors but also but all practitioners involved in the field of international judicial cooperation were encompassed by the obligations.

By the same token it could be noted that on 30 May 2013 the amendments to the Criminal Procedure Code of the Republic of Lithuania were adopted in relation to the National Member of Eurojust, whereby a general provision was introduced concerning the possibility for prosecutors and judges to cooperate via National Member of Eurojust. Moreover, the possibility to cooperate via National Member is indicated in the new Rules for issuing the European Arrest Warrant and Taking over of the Persons concerned, adopted at the end of the year 2013. It is also foreseen to introduce the amendments to the Criminal Procedure Code of the Republic of Lithuania as regards the role of National Member in solving conflicts of jurisdiction, which is a part of the plan for implementation of the Framework Decision 2009/948/JHA.

10.2. *Lithuania is recommended to raise awareness among the courts that there is an obligation on Lithuania (not only the Prosecutor General's Office) to send in information to Eurojust. Relevant law enforcement agencies (police, customs, Financial Intelligence Unit, etc.) could also benefit from similar awareness raising, thereby increasing their involvement and sense of responsibility.*

In order to implement the recommendations on raising the awareness on Eurojust and EJM among the courts, the Ministry of Justice is going to circulate the guidance letter about the possibilities and obligations set forth in the decision of Eurojust and EJM in the nearly future, which will be published on the website of the Ministry of Justice. Moreover, for the purpose of raising awareness on Eurojust and EJM the Lithuanian national member at Eurojust together with the Prosecutor General's Office is going to organise 5 marketing seminars of Eurojust on annual basis in 5 different regional units of Lithuania (the first was held on June 19 of this year in Kaunas). The audience of these seminars will be comprised of prosecutors, judges and pre-trial investigation offices involved in the field of international judicial cooperation.

10.3. *The Lithuanian authorities indicate in their answers to the questionnaire (under 2.A.2.) that the National Member exchanges information with other National Members of Eurojust "when there is such a need and on the basis of an order given by a competent authority". This does not seem to be in conformity with the Eurojust Decision which does not foresee such a restriction. The Lithuanian authorities are recommended to make it clear that it is the National Member that decides on the exchange of information submitted to Eurojust.*

Commenting the above-mentioned recommendation, Lithuania would like to inform that that a slightly incorrect translation of the questionnaire 2.A.2. has given rise to this comment. The correct wording is as follows: *"The National Correspondent must refer the incoming communications without delay to the National Member of Eurojust for Lithuania, who in his/her turn exchanges the information received with other national members of Eurojust (when there is such a need and/or there is a request of a competent authority) by ensuring the confidentiality of such information.* Thus it can be assured that in practice, actually, it is the National Member who decides on the exchange of information submitted to Eurojust.

10.4. Lithuanian authorities are recommended to clarify that information under Article 13(7) of the Eurojust Decision information related to conflicts of jurisdiction, controlled deliveries or repeated difficulties or refusals will not only be transmitted in cases of "difficulties in cross-border pre-trial investigations" as provided for in the order No. 10 of 28 October 2011 but should be transmitted in all such cases according to the Eurojust Decision.

The quoted order No. 10 of 28 October 2011 of the Prosecutor General on supplying data to Eurojust national member for Lithuania specifies in detail what information should be transmitted to Eurojust national member and covers in full the cases specified under Eurojust Decision. However, for the purpose of this recommendation and for the sake of clarity the wording of the issue concerned will be reconsidered in a revised legal act on Eurojust, which will be binding the prosecutors and the judges, which is at the preparation stage now.

10.5. Lithuania is recommended to consider giving full powers to the National Member as a competent national authority exercised in urgent cases, in accordance with the Eurojust Decision (Article 9(d)) as regards controlled deliveries and the right to execute requests or decisions on judicial cooperation. It may be envisaged that this power will be rarely used, but it may in certain urgent cases prove useful as experience has shown.

It should be noted that a current national regulation towards the implementation of the Eurojust Decision (Article 9(d)) as regards controlled deliveries is well-functioning in practice (in urgent cases as well), thus Lithuania believes that no changes are needed.

10.6. Lithuania is recommended to give direct access to the National Member to national databases. This may prove to be useful when the National Member participates in coordination meetings without any national authorities present.

Although this aspect in practice has not raised any difficulties in the view of the receipt of the required information on the timely basis and in the proper extent so far, this matter will be subject to review in connection with the implementation of a new electronic database system.

10. 7. Lithuania is recommended to continue their ongoing review whether all Articles of the Decisions on Eurojust and the European Judicial Network have been implemented in full, including Article 19 on the right of access to personal data.

For the implementation of Article 19 on the right of access to personal data of Eurojust Decision the State Data Protection Inspectorate has been appointed as the competent authority for that purpose in the Republic of Lithuania.

10.8. Lithuania is recommended to speed up the implementation of the ENCS in line with Article 12 of the Eurojust Decision. Lithuania is recommended to formally include in the ENCS the national correspondent for the EJM and to continue organising meetings of the ENCS which would include all actors involved, including the national correspondent for the EJM and EJM contact points that are situated outside the structure of the Prosecutor's Office, to facilitate contact and exchange best practices. The results of such meetings should be made known to practitioners, for instance via the Intranet.

In the view of this recommendation, the Prosecutor General's Office of the Republic of Lithuania decided to organise the meetings of EJM contact points in order to discuss the operational issues and exchange best practices on regular basis – once or twice a year (the first meeting of this kind took place on May 6, 2014). The recommendation of the evaluation team to continue organising meetings, including the EJM contact points that are situated outside the structure of the Prosecutor's Office, will be considered in the light of a new legislation referred to in the answer to *10.1. Recommendation*.

10.9. Knowledge about the EJM does not appear to be spread widely enough among the practitioners in Lithuania. Lithuania is recommended to increase its efforts on awareness raising about the usefulness of the EJM.

In order to increase the awareness of the usefulness of the EJM and Eurojust among the practitioners, the Prosecutor General's Office of the Republic of Lithuania and the Ministry of Justice of the Republic of Lithuania are preparing the explanatory notes to the prosecutors and judges respectively, wherein it will be in details explained about the cooperation possibilities and obligations envisaged in the Decisions of Eurojust and EJM, which will be published at the official websites and Intranets of the institutions. Moreover, during the inter-institutional meetings of the Ministry of Justice, the Prosecutor General's Office and the National Administration of Courts it was proposed to include the topics on the cooperation with Eurojust and EJM into the training programmes of the judges.

10.10. Lithuania should be praised for the organisation of a "marketing seminar" on different aspects of cooperation with Eurojust and are encouraged to continue organising such events on a regular basis and to invite all practitioners involved in international cooperation.

As it was mentioned before, for the purpose of raising awareness on Eurojust and EJM the Lithuanian national member at Eurojust together with the Prosecutor General's Office of the Republic of Lithuania is going to organise 5 marketing seminars of Eurojust in different regional units of Lithuania (the first to be held on June 19 in Kaunas). The audience of these seminars will be comprised of prosecutors, judges and pre-trial investigation offices involved in the field of international judicial cooperation.

10.11. Lithuania is recommended to continue to further explore the possibilities of the practice where judicial and law enforcement representatives from Member States not formally involved in a given case, but possibly affected by the crime, are invited to take part in coordination meetings at Eurojust.

Having regard to the recommendations of the evaluation team, Lithuania continues to further explore the suggested possibilities and at its very best extent takes part in coordination meetings at Eurojust.

10.12. Lithuania is recommended to spread information among interested parties on the possibility of being provided with financial and logistical support to JITs by Eurojust.

The information among interested parties on the possibility of being provided with financial and logistical support to JITs by Eurojust will be spread by means of:

- marketing seminars to be held in the different territorial regions of Lithuania;
- explanatory notes to be prepared by the Ministry of Justice and the Prosecutor General's Office;
- supplementation of training programmes to judges.

10.13. Lithuania should ensure the accuracy of the national data available on the EJM website.

Following the recommendation of the evaluation team, the information related to Lithuania on the EJM website is updated on regular basis.

(complimentary close)
