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**NOTE**

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From:	The Slovak Delegation
To:	Delegations
No. prev. doc.:	17900/2/12 REV 2 GENVAL 99
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 Slovakia

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As a follow-up to each Round of Mutual evaluations, each Member-State is requested to inform the General Secretariat of the Council of the actions it has taken on the recommendations given to it. This follow-up should be submitted within the 18 months of the adoption of the report concerned.

Delegations will find in the Annex the follow-up of Slovakia regarding the recommendations that were made in the report 17900/2/12 REV 2 GENVAL 99 for the Sixth Round of Mutual Evaluations.

**Recommendations to the Slovak Republic**

**6<sup>th</sup> round of mutual evaluations**

**Follow-up**

**1. The Slovak Republic should be encouraged to promote more direct contacts towards Eurojust to improve the flow of information in order to make Eurojust's work more efficient and easier to reach for the practitioners.**

The communication between the Ministry of Justice of the Slovak Republic, or more precisely, Slovak courts, and Eurojust is carried out directly and without issues. The Ministry of Justice of the Slovak Republic as well as the Slovak courts assess the cooperation and contacts to be very good, continuous and sufficiently effective. Direct communication of the courts and Eurojust speeds up the resolution of requests for judicial assistance and shortens the total length of the court proceedings.

Departments of the Ministry of Interior of the Slovak Republic, or more precisely, of the Presidium of the Police Force, directly communicate and cooperate with Eurojust. For example, many cases of committing cross-border drug-related crime, corruption, and illegal migration are being consulted in direct contact. Likewise, the Europol National Unit as well as police liaison officers of the Slovak Republic in Europol in The Hague cooperate with Eurojust. This concerns mainly cases of simple queries on persons, vehicles, or companies in some databases and information systems.

The subject of the cooperation is also the exchange of information provided by the liaison officers on legal regulations, appropriate methods in investigated matters, and other matters as needed by the Eurojust representative, the departments of the Police Force, or the Financial Administration Criminal Office.

The cooperation with Eurojust occurs in two ways. The communication with Eurojust is either done by the departments directly themselves or through Europol, when the information on coordination meetings organised by Eurojust is forwarded to the Europol's Liaison Office of the Slovak Republic in The Hague and then further to the Europol National Unit. The liaison officers attend such meetings upon request individually or with invited representatives of the Slovak Republic, to whom they provide logistical assistance and professional support. Eurojust and the national agencies are connected to SIENA, through which they communicate with Europol and selected countries including the Slovak Republic. In addition, the communication is performed through telephones or e-mails, alternatively personally or via the Special Prosecutor's Office of the General Prosecutor's Office of the Slovak Republic.

Despite the fact, that the request to encourage promotion of more direct contacts seems more formal than to have any actual relation to the effectiveness of Eurojust's activities or the "hindered" access of prosecutors to Eurojust, the General Prosecutor's Office of the Slovak Republic took several measures to comply with this recommendation. The encouragement to promote more direct contacts is the subject of professional training and exchange of experiences of prosecutors acting in the section of legal relations with abroad. The cooperation of the prosecutor's office and Eurojust is a regular topic at meetings of the Director of International Department of the General Prosecutor's Office of the Slovak Republic and prosecutors processing the agenda of legal relations with abroad.

Besides this, a new instruction of the Prosecutor General regulating the cooperation of prosecutors with the Slovak national member of Eurojust was prepared, that will replace the instruction of the Prosecutor General seq. no. 4/2008 of 12 June 2008, which regulates the procedure of the prosecutors when submitting information to Eurojust in criminal matters within its competence. According to the draft, this new instruction expressly states that the prosecutor is authorised to directly request the cooperation of the national member of Eurojust (art. 2 sec. 1). It also regulates the reporting done by prosecutors directly to the national member and direct cooperation of Eurojust with contact points of the European Judicial Network in criminal matters (hereinafter as “EJN”).

**2. In order to ensure the flow of information, the monitoring role of the General Prosecutor's Office should be carried out with prudence. On the level of the Prosecution Services throughout the country it should be further clarified, through for instance written instructions, training and awareness-raising, who is obliged to send the relevant information and whether the police should be obliged to report cases to Eurojust as well.**

The report states that *“It was said during the meetings that both ways are in use, but the experts got the impression that individual prosecutors are somewhat hesitant towards a direct approach”* (p. 34 first section) or *“...it appears that a rather significant amount of requests exist, that remained at the General Prosecutor’s Office”* (p. 34 first section), *“...it seems, that individual prosecutors are hesitant to act independently”* (p. 34 second section) and so on. However, during the evaluation mission it was not analysed, or more precisely verified, whether the reason for not sending these requests to Eurojust was that the General Prosecutor’s Office was able to resolve the request based on its own knowledge or that the subject of the request did not fall within the competence of Eurojust, as was stated by the representatives of the General Prosecutor’s Office during the evaluation.

The report asserts that 14 reports have been forwarded to the national member in 2012, who evaluated them all and considered that no case falls under the Article 13. Despite this the report states that “*Nevertheless, it seemed during the evaluation visit that there were more cases that should have been reported to Eurojust in accordance with Article 13 of the Eurojust Decision than what was actually received by the national section*” (p. 35 second section).

The General Prosecutor’s Office conducts its “*monitoring*” role according to its own beliefs with caution and adequate “*prudence*”. Surely, the objective of the recommendation no. 2 is not to achieve that even reports and requests, that can be more effectively resolved on the domestic level or that do not fall within the competence of Eurojust, are submitted to Eurojust. By the direct contact support, which occurs in professional training and exchange of experiences and which is also observed in the new prepared instruction of the Prosecutor General, mentioned in the statement to the recommendation no. 1, cases like this can also happen, as the “*monitoring*” act of the General Prosecutor’s Office can only be subsequent.

**3. The 2008 instruction from the Prosecutor General imposes an obligation to forward information to the national member via General Prosecutor's Office, in effect introducing an obstacle to direct contacts. With regard taken to effectiveness of the Act no. 383/2001, Coll., which regulates direct transmission of information from law enforcement bodies and courts to the national member, the instruction should be redrafted to reflect both Slovak legislation and the Eurojust Decision.**

As already stated in the statement to the recommendation no. 1, a new instruction of the Prosecutor General is prepared, which regulates the cooperation of prosecutors with the Slovak national member of Eurojust. This instruction will replace the instruction of the Prosecutor General seq. no. 4/2008 of 12 June 2008, which regulates the procedure of the prosecutors when submitting

information to Eurojust on criminal matters within its competence. This instruction is currently in consultation proceedings, in which the national member of Eurojust participated as well. The new instruction, according to the draft, expressly states that the prosecutor is authorised to directly request the cooperation of the national member of Eurojust (art. 2 sec. 1). It regulates the submission of reports by prosecutors directly to the national member as well and also the direct cooperation of Eurojust and the EJM contact points.

**4. The use of Eurojust and EJM by the courts should be promoted and enhanced. There should be a focus on the spread of information towards judges to allow them to make the most use of both Eurojust and EJM when international cooperation is needed during the trial stage.**

The education of judges is provided by the Justice academy (educational institution with national scope), which organises and conducts the education of judges, prosecutors and judicial clerks. Seminars are conducted annually (legal relations with abroad – judicial cooperation in criminal matters, European arrest warrant, recognition and enforcement of criminal sanctions in the European Union), which also “promote” the Eurojust and EJM and their activity. Courts that invite lecturers/experts working at the Ministry of Justice of the Slovak Republic organise special trainings, or more precisely work meetings, on this issue as well.

The Ministry of Justice of the Slovak Republic, or more precisely, the Division of Judicial Cooperation in Criminal Matters also provides information through letters addressed to courts in specific cases, where it draws attention to the EJM webpage, or more precisely, to states’ declarations on individual legal acts, and to the communication channel (direct communication of a Slovak court with the judicial bodies of the EU Member States and, only as an exception to this rule, a supplemental and optional assistance of the Ministry of Justice of the Slovak Republic provided if a relevant executive body in another Member State is determined).

The report on the activity of the Slovak national member is published on the website of the Ministry of Justice of the Slovak Republic.

## **5. The Slovak authorities should further promote the use of Eurojust and Europol more efficiently when setting up a JIT.**

The Ministry of Interior of the Slovak Republic within the Presidium of the Police Force has a record of 5 established joint investigation teams (hereinafter only as “JIT”), while one was established in 2012 and the remaining JITs were established during the year 2013. Communication is on-going in case of establishing two more JITs. The number of created and prepared joint investigation teams has increased since 2012. If it is possible to expect effective contribution of Eurojust, or more precisely Europol, steps are taken to connect them into JIT. This tool of judicial cooperation is being increasingly utilized and the Slovak Republic is becoming one of the few states of the European Union that have relatively extensive practical experiences from working with JITs.

The Ministry of Interior of the Slovak Republic has an interest in creating JITs, although smaller complications occur with regards to the funding of the JITs, when expert or translator costs are not reimbursed in full. The communication channel for the exchange of information in individual cases, either before or after the establishment of the JIT, is Europol. The Europol National Unit provides cooperation to the departments of the Ministry of Interior with establishing JIT in terms of information exchange for the organised and serious crime cases being solved, and with logistical assistance, as well as with organising operative meetings before and after establishing the JIT.

To supplement the information, it is necessary to note that Eurojust played an important role also in the case of executing the Europol’s international anti-drug operation under the code name “Provence”, where three judicial meetings took place in The Hague (the investigator and prosecutor were from Slovakia) and where we were very close to creating a JIT. However, due to the lack of time, the JIT was not created from an operational viewpoint, but particular implementations in

Norway, Sweden, Germany and the Slovak Republic were done. Thanks to the support of Eurojust, the main person of interest in the Slovak Republic and co-organiser have been accused and more than 150 kg of amphetamine in Sweden have been seized. The acts, which would otherwise be conducted by one state, were replaced by requests of legal assistance (such as interrogation of persons, execution of a house search, non-residential and other premises, private motor vehicle...) and also by European arrest warrants.

For the purpose of broadening general and professional knowledge from the utilization of tools of international cooperation in criminal matters, several professional seminars were conducted at the National Criminal Agency of the Presidium of the Police Force of the Slovak Republic during 2013 and 2014 also with international attendance of representatives of the EU Member States. The professional seminars were focused on application of international legal cooperation tools in the course of identifying criminal offences with an international element. The professional seminars were lectured by distinguished experts from the relevant field, the Vice President of Eurojust, national representative of the Slovak Republic in Eurojust, and representatives of the General Prosecutor's Office of the Slovak Republic who served as lecturers.

The mentioned lecturers from Eurojust and the General Prosecutor's Office of the Slovak Republic presented the position and competencies of Eurojust in their lectures, while they emphasized its importance in enforcing and coordinating the prosecution of serious cross-border and organised crime within the judicial authorities of the European Union Member States. In this respect, the mission of Eurojust accented the support of the law enforcement authorities when executing international legal assistance, exercising European arrest warrants, utilizing joint investigation teams, facilitating coordination meetings, and developing international judicial cooperation in criminal matters.



They illustrated the important tool of international cooperation in criminal matters, joint investigation teams, from the point of its legislative provision, content focus, as well as practical methods of securing their funding and full functionality, in their lectures that were thematically focused on the cooperation of Eurojust with national authorities. The significant potential of Eurojust was also presented in this context, which results from an analysis of practical knowledge, experiences and best practices from utilizing joint investigation teams from the perspective of evaluation at the European level.

The main objective of the professional seminars, including seminars with international attendance, organised for the needs of the National Criminal Agency of the Presidium of the Police Force of the Slovak Republic, was to make the utilization of available tools, methods and best practices of international police and judicial cooperation more efficient when identifying and investigating crime with an international element within the competence of the National Criminal Agency of the Presidium of the Police Force of the Slovak Republic, broadening of knowledge and information on international cooperation in criminal matters, and the improvement of mutual relationships with the representatives and management of Eurojust.

The international section of the General Prosecutor's Office of the Slovak Republic ensures cooperation at coordination meetings within the preparation as well as within the functioning of the JIT, cooperates on preparation of agreements on establishing JIT, and also draws them up after consultation with the Minister of Justice.

The JITs are most commonly established in cooperation with neighbouring countries, especially the Czech Republic and Hungary. The list of states, with which the Slovak Republic cooperates or is preparing to cooperate in establishing JITs, is gradually expanding.

**6. In the Slovak Republic, there is an inspection once per year which also looks at how the obligation to inform Eurojust and the EJM is observed. Based on this, as suggested by the national member, an inspection should be carried out to specifically address whether the obligation is fulfilled as regards Article 13 notifications and, if not, why this is so.**

The verification of fulfilment of obligations in regards to the Article 13 notifications is and also has been until now an integral part of inspections, whether the obligations to forward information to Eurojust and the European Judicial Network in criminal matters are fulfilled. Despite this, the recommendation is implemented into the operation of the prosecutor's office by giving special attention, in a separate part of the evaluation, to the consideration of fulfilment of this obligation and to the reasoning of the would-be failure to fulfil this obligation in individual cases.

**7. The Slovak Republic is recommended to ensure that the information related to the Slovak Republic on the EJM website is regularly updated.**

The Tool Correspondent of the European Judicial Network in criminal matters, who is appointed by the Minister of Justice from among the employees of the Division of Judicial Cooperation in Criminal Matters of the Ministry of Justice of the Slovak Republic, is responsible for updating the website. All updates that fall within his capacity are updated on time. If this is not the case, it is due to technical issues on the side of the European Judicial Network in criminal matters.

**8. The Slovak Republic is recommended to ensure that common EU priorities as well as efficiency measurement mechanisms are incorporated within the national planning systems of prosecutors and law enforcement agencies, including the use of Eurojust.**

From neither the wording of the recommendation nor from the report is it clear, what is understood under "*common priorities of the EU*". Most likely it refers to the utilization of investigative tools, such as cross-border tracking of packages or joint investigation teams. However, the utilization of

these tools cannot be planned. The possibility and necessity of utilization of individual investigative tools must result from the course of the proceedings in specific criminal matters. Slovak authorities can initiate cross-border tracking only when they find out in a timely manner about the existence of a suspicious package that should leave the territory of the Slovak Republic and continue on the territory of another Member State. In addition, the investigation in the Slovak Republic is conducted by police authorities, not prosecutors. The prosecutor only approves the utilization of the controlled package and only in the preliminary proceedings. The General Prosecutor's Office of the Slovak Republic concludes the agreement on creation of a joint investigation team after prior consultation with the Minister of Justice of the Slovak Republic, but as a rule this comes at the request of the police authority or at the request of a foreign judicial authority, or more precisely, the Eurojust.

It is also not clear what to understand under the “*efficiency measurement mechanism*” with respect to the “*common EU priorities*”, what should be a sign of efficiency of the joint investigation teams, speed of the proceedings, number of identified offenders or acts, their final conviction or what other indicators. It is also unclear whether their efficiency should be evaluated with respect to usual indicators when providing legal assistance by means other than creating joint investigation teams, or with respect to what. We don't even know the objective of such evaluation, for what purpose can such complex efficiency measurements be useful, except for statistical reporting.