



Council of the
European Union

043185/EU XXVI. GP
Eingelangt am 19/11/18

Brussels, 19 November 2018
(OR. en)

7989/13
DCL 1

GENVAL 20

DECLASSIFICATION

of document: ST 7989/13 RESTREINT UE/EU RESTRICTED

dated: 26 March 2013

new status: Public

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

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The text of this document is identical to the previous version.



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THE EUROPEAN UNION**

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Evaluation report on the sixth round of mutual evaluations:

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Report on Finland

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1. EXECUTIVE SUMMARY

Finland has transposed Council Decision 2002/187/JHA Council Decision 2009/426/JHA on the strengthening of Eurojust as well as Council Decision 2009/426/JHA (thereafter referred to as the 'new Eurojust Decision') that has been implemented by the Act on the Enforcement of Certain Provisions of the Decision on Eurojust (742/2010, Eurojust Act), which entered into force on 4 June 2011.

The general assessment of the quality and efficiency of the support received from Eurojust by central and local authorities in Finland has been very positive and the added value that Eurojust is lending to the work of law enforcement and the judiciary is appreciated throughout the country, not only in the central authorities, but also in the regional units of the prosecution and law-enforcement services.

The Finnish desk at Eurojust is seen and described as a partner with whom the contacts are frequent and fruitful. The Finnish authorities have highlighted that Eurojust is also a valuable partner in contacts to third states, especially those that have close ties to national desk of other Member States, e.g. the Latin American countries.

Every year a seconded national expert is sent to work at the Finnish desk at Eurojust for six months in order to gain a deeper understanding of the tasks accomplished within the institution and contribute in spreading this knowledge throughout the national authorities later on during their further career.

Due to the specific Finnish system, law enforcement authorities have a very strong role in the pre-trial investigation; although they are no judicial authorities as such, the Finnish national legislation e.g. empowers the law enforcement authorities to decide on certain coercive measures. In addition, the law enforcement authorities are, according to the declaration given by Finland, considered as judicial authorities under the Council of Europe convention on mutual legal assistance when they are conducting criminal investigations. They are therefore enjoying frequent contacts with Eurojust. While this also applies to prosecutors, judges would only very rarely get involved in requests for mutual legal assistance (MLA) and contacts to Eurojust are rather an exception.

While Finland has a well-organised and well-functioning system, the law enforcement authorities' role with regard to mutual legal assistance appeared to be the a source of concern between them and the prosecution authorities.

2. INTRODUCTION

Following the adoption of the Joint Action 97/827/JHA of 5 December 1997¹, a mechanism for evaluating the application and implementation at national level of international undertakings in the fight against organised crime has been established.

In line with Article 2 of the Joint Action, the Working Party 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 crime², as amended by Decisions 2003/659/JHA³ and 2009/426/JHA⁴ and of the Joint Action 98/428/JHA of 29 June 1998 on the creation of a European Judicial Network⁵ repealed and replaced by Council Decision 2008/976/JHA on the European Judicial Network in criminal matters⁶.

The evaluation aims to be broad and interdisciplinary and not focus on Eurojust and European Judicial Network (EJN) only but rather on the operational aspects in the Member States. This is taken into account to encompass, apart from cooperation with prosecution services, also, for instance, how law enforcement authorities cooperate with Eurojust national members, how the National Units of Europol will cooperate with the Eurojust National Coordination System and how feedback from Eurojust is channelled to the appropriate law enforcement authorities. The evaluation emphasises the operational implementation of all the rules on Eurojust and the EJN. Thus, the evaluation will also cover operational practices in the Member States as regards the first Eurojust Decision, which

¹ Joint Action of 5 December 1997 (97/827/JHA), OJ L 344, 15.12.1997 pp. 7 - 9.

² Council Decision of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime (2002/187/JHA), OJ L 63, 2.3.2002, pp. 1-13.

³ Council Decision 2003/659/JHA of 18 June 2003 amending Decision 2002/187/JHA setting up Eurojust with a view to reinforcing the fight against serious crime, OJ L 245, 29.9.2003, p. 44-46.

⁴ Council Decision 2009/426/JHA of 16 December 2008 on the strengthening of Eurojust and amending Decision 2002/187/JHA setting up Eurojust with a view to reinforcing the fight against serious crime, OJ L 138, 4.6.2009, pp. 14-32.

⁵ Joint Action 98/428/JHA of 29 June 1998 adopted by the Council on the basis of Article K.3 of the Treaty on European Union, on the creation of a European Judicial Network, OJ L 191, 7.7.1998, p. 4-7.

⁶ Council Decision 2008/976/JHA of 16 December 2008 on the European Judicial Network, OJ L 348, 24.12.2008, p. 130-134.

entered into force in 2002. Experiences from all evaluations show that Member States will be in different positions regarding implementation of relevant legal instruments, and the current process of evaluation could provide useful input also to Member States that may not have implemented all aspects of the new Decision.

The questionnaire for the sixth round of mutual evaluations was adopted by GENVAL on 31 October 2011. As agreed in GENVAL on 17 January 2012, Eurojust was also provided with a questionnaire. The questionnaire to Eurojust was adopted by GENVAL on 12 April 2012. The answers to the questionnaire addressed to Eurojust were provided to the General Secretariat of the Council on 20 July 2012, and have been taken into account in drawing up the present report.

The order of visits to the Member States was adopted by GENVAL on 31 October 2011. Finland was the third Member State to be evaluated during this round of evaluations.

In accordance with Article 3 of the Joint Action, a list of experts in the evaluations to be carried out has been drawn up by the Presidency. Member States have nominated experts with substantial practical knowledge in the field pursuant to a written request on 15 July 2011 to delegations made by the Chairman of GENVAL.

The evaluation teams consist of three national experts, supported by two staff from the General Secretariat of the Council and observers. For the sixth round of mutual evaluations, GENVAL agreed with the proposal from the Presidency that the European Commission, Eurojust and Europol should be invited as observers.

The experts charged with undertaking the evaluation of Finland were Mrs Astrid Laurendt-Hänioja (Estonia), Mrs Mariana Radu (Romania) and Mr Christian Schierholt (Germany). Two observers were also present: Ms Anna Richterová (Eurojust) and Ms Stephanie Bovensiepen (Eurojust), together with Ms Kristi Raba and Mr Peter Nath from the General Secretariat of the Council.

This report was prepared by the expert team with the assistance of the General Secretariat of the Council, based on findings arising from the evaluation visit that took place in Finland between 8 and 11 October 2012, and on Finland's detailed replies to the evaluation questionnaire together with their detailed answers to ensuing follow-up questions.

3. GENERAL MATTERS AND STRUCTURES

3.1. General information

3.1.1. Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust

Finland has implemented Council Decision 2002/187/JHA.

3.1.2. Council Decision 2009/426/JHA on the strengthening of Eurojust

The Act on the Enforcement of Certain Provisions of the Decision on Eurojust (742/2010, Eurojust Act), which has entered into force on 4 June 2011, has implemented Council Decision 2009/426/JHA.

The Eurojust Act contains provisions on the obligations of the new Eurojust Decision that requires legislation to be enacted at national level, such as provisions on the national member and his/her competence and functions. Furthermore, in implementing the Eurojust Decision, the Act on Joint Investigation Teams (743/2010) was amended to comply with Article 9 f of the new Eurojust Decision. According to said amendment the national member at Eurojust shall be invited to participate in a joint investigation team which involves Finland and for which EU funding is provided. Furthermore, it specifies that the national member participates in the joint investigation team (JIT) as a state prosecutor and has competence under section 7 of the Act on Public Prosecutors (199/1997). This means that the national member has the competence of a state prosecutor.

3.2. Implementation of the Eurojust National Coordination System

3.2.1. Eurojust National Coordination System (ENCS)

At the time of the on-site visit Finland's Eurojust National Coordination System (ENCS) consisted of the following contact persons that were assigned from their appropriate authorities:

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- National Correspondent for Eurojust/Deputy for the national member (OPG)
- National Correspondent for Eurojust for terrorism matters (OPG)
- National Correspondent for EJM (OPG)
- (Two) contact points for EJM (OPG)
- Contact point for the Genocide Network (OPG)
- Contact points for the Network against Corruption (OPG and NBI)
- Contact points for the Asset Recovery Offices (OPG, Head of FIU Finland/NBI)
- (Three) National Experts for the JIT Network (OPG, NBI, National Board of Customs)

All contact persons were appointed by the Office of the Prosecutor General (hereinafter OPG). The ENCS consists of the contact persons who actually deal with the criminal matters that fall within the competence of Eurojust.

The authorities constituting the ENCS cooperate with other national authorities such as the Police, Customs, Border Guard, the Money Laundering Clearing House, Finnish Security Intelligence Service and the Unit for International Administration of Justice at the Ministry of Justice, where the EJM national correspondent is stationed. Cooperation with police liaisons and Europol officials is also undertaken on an as-needed basis.

3.2.2. *National correspondents*

The Act on the Enforcement of Certain Provisions of the Decision on Eurojust (the Eurojust Act) stipulates that the OPG shall appoint one or more national correspondents referred to in Article 12(1) of the Eurojust Decision. The Prosecutor General has delegated this task to the head of the International Unit of the OPG.

Finland has one national correspondent for Eurojust: Finland's previous national member at Eurojust. The national correspondent is a state prosecutor assigned to the OPG. The national correspondent works in close cooperation with the Finnish desk at Eurojust, monitoring Eurojust matters on a daily basis, and preparing and managing matters related to Eurojust. The national correspondent therefore also works closely with a number of authorities in Eurojust matters.

3.2.3. *Operation of the ENCS and connection to the CMS*

The structure of the ENCS is derived from the obligations imposed on the criminal investigation authorities and prosecutors in the Criminal Investigations Act, pursuant to which the criminal investigation authorities shall notify the prosecution service about a suspected offence subjected to a criminal investigation. Having received such a notification, the prosecutor must enter into close cooperation with the criminal investigation officials. The prosecutor responsible for the case shall notify the OPG if the case falls within the jurisdiction of Eurojust. When the national authorities operate according to the Criminal Investigations Act, the relevant matters will be processed appropriately as specified in the Eurojust Decision. The aim in appointing contact persons has been to ensure that all the information required for Eurojust to execute its duties may be submitted to Eurojust as required in Article 13(1) of the Decision, while fulfilling the requirements of paragraphs 4 to 7 of the same Article. Moreover, the arrangement aims to assist Eurojust in resolving whether a criminal matter should be managed through Eurojust or the EJM.

In order to secure the exchange of information specified in Article 13 of the Eurojust Decision, persons with extensive access to national criminal cases with international connections have been appointed to the ENCS. Most of the contact persons are stationed at the OPG, because it has been agreed at the national level that any prosecutor in charge of a case relevant under Article 13 shall notify Eurojust through the OPG. A prosecutor is involved in a criminal case immediately upon being notified by the criminal investigation authorities that a crime has been reported. Thereafter the prosecutor is obliged to comply with Article 13 of the Eurojust Decision.

The aforementioned arrangement ensures that the International Unit of the OPG will centrally receive information on all cases notified to Eurojust and the general problems in international cooperation observed in Finland. The OPG can therefore advise prosecutors to notify Eurojust of particular cases and take any problems into account in training planning.

The annual report produced by the national member at Eurojust also provides information about areas of international coordination that require attention at national level in the work of the ENCS.

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Information exchange pursuant to Article 13(1) of the Eurojust Decision is principally ensured by informing and training prosecutors and criminal investigation authorities on the jurisdiction of Eurojust and on how international judicial cooperation may be promoted in practice. Information on Eurojust is available on the prosecution service intranet. Also, notifications to Eurojust are covered in all trainings on international cooperation, whether involving the prosecution service or other stakeholders. Also, the national members have been contributing articles on the operations of Eurojust to the prosecution service newsletter for many years, and the annual report of the national member is distributed widely, also to local prosecutors and interest groups. The deputy national members, seconded national experts, assistants currently and formerly assigned to the Finnish desk are also obliged to distribute information on Eurojust at national level. Individual prosecutors have reported on their collaboration with Eurojust at training events and have also written up their cases in the prosecution service newsletter.

The contact person of the ENCS in the Office of the Prosecutor General has access to the relevant national registers and systems: the police information register (*PATJA*), the prosecution case management system (*SAKARI*) and the criminal register. The police liaison of the ENCS has access to all other systems except *SAKARI* and the criminal records.

A technical link to the Eurojust Case Management System (CMS) has been established. However, e-mail communications concerning matters pending at Eurojust can already be monitored by all persons assigned to the Finnish desk through the Eurojust e-mail link.

ENCS work forms part of the regular daily work of a contact person. Any urgent Eurojust matters take priority.

3.2.4. *Cooperation of the ENCS with the Europol national unit*

Under Finnish law, the National Bureau of Investigation is the Europol national unit. The head of the International Affairs division of the National Bureau of Investigation is the Head of National Unit (HENU). Finland's Europol contact persons in The Hague are considered members of the national unit. The International Unit of the OPG and hence the ENCS has a close working relationship with

the International Affairs division of the National Bureau of Investigation in matters such as international cooperation and information exchange, in which representatives of the aforementioned bodies in Finland are consulted. Finland's national member at Eurojust is also regularly in contact with the relevant parties in Finland and with Finland's representatives in The Hague concerning individual cases.

The ENCS also efficiently receives information on cases at the intelligence-gathering stage, because the terrorism and JIT contact person participating in the *LAVA* team (coordination team for extensive and demanding criminal cases) attends meetings of the criminal investigation authorities where the launching and funding of criminal investigations into extensive cases are decided upon. The criminal investigation authorities are required to notify the competent prosecutor's office about launching a criminal investigation in any extensive or demanding criminal case. Furthermore, the chief of NBI and the Prosecutor General have agreed that the OPG shall be notified about cases taken under investigation by NBI.

Information is conveyed among ENCS members unofficially and effectively, because all members know each other and most of them work at the OPG. The ENCS may hold meetings as needed to exchange information, which the Eurojust Decision requires to be submitted to Eurojust.

ENCS members and the International Unit of the OPG have good contacts with SIRENE through the management of operational matters. The national member also consults SIRENE as necessary. SIRENE operations also support the Eurojust on call coordination system. This cooperation is smooth and flexible.

3.3. National desk at Eurojust

3.3.1. Organisation

The Finnish desk in The Hague is manned by the national member and a secretary recruited by Eurojust. Each year, a seconded national expert (SNE) is assigned to the national desk for a six-month period. The deputy national member and the two assistants carry out their duties at the OPG in Helsinki.

3.3.2. *Selection and appointment*

The national member is appointed to the post of a state prosecutor at the OPG for a fixed term by the government on a proposal from the OPG.

State prosecutors handle criminal cases of national importance and cases where a court of appeal is the court of first instance. State prosecutors are required to have a Master's degree in law and to be well acquainted with the Finnish criminal justice system, which in practice means that they must have extensive work experience as a prosecutor. The national member is required to have a good working knowledge of the cooperation instruments of the EU criminal justice system, good interaction skills, good language skills, initiative and the ability to work in a multicultural environment. Experience of international duties is considered an asset.

Under the Eurojust Act, deputy national members are appointed by the OPG, in practice by the Prosecutor General. The deputy national member is a state prosecutor who has previously been Finland's national member in The Hague. This arrangement enables Finland to fully leverage the know-how gained and networking achieved by the former national member. The deputy is not only an experienced prosecutor but also has language and excellent networking skills. The deputy national member is assigned to the International Unit of the OPG and reports in Eurojust matters to the head of the International Unit.

Under the Eurojust Act, one or more assistants to the national member are appointed by the OPG, in practice by the Prosecutor General. There are currently three assistants, two of them stationed at the International Unit of the OPG in Helsinki while the SNE is stationed in The Hague. Of the OPG-based assistants one is the unit lawyer, and the other is a police officer assigned to the OPG on an official exchange. The lawyer has extensive knowledge of the handling of cases with international implications, while the police officer is a highly experienced criminal investigator who is well connected with criminal investigation authorities throughout Finland. Assistants must have good interaction skills and good language skills. All report to the head of the International Unit.

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The seconded national expert (SNE) is appointed by the Prosecutor General. The SNE is required to have a few years of experience of working as a prosecutor, good interaction skills and good oral and written skills in English. Experience of handling cases with international implications is considered an asset. The national member is the immediate supervisor of the SNE, who reports to the head of the International Unit of the OPG.

3.3.3. Powers granted to the national member

3.3.3.1. General powers

The national member has the powers of a state prosecutor in matters falling within the competence of Eurojust. The national member has the access to information required in Article 9(3) and the powers specified in Articles 9 a and 9 b. The national member also has the power to exchange information with the European Anti-Fraud Office (OLAF) as specified in the Eurojust Decision. The national member may also exercise the powers specified in Articles 9c and 9d. Therefore, the national member may, at the request or with the consent of the competent national authority:

1. refer a criminal case to Eurojust;
2. submit a request for cooperation in criminal investigation to another state and to make enforcement decisions (e.g. MLA requests, confiscation orders and extradition insofar as these matters fall within a prosecutor's competence);
3. decide to execute a criminal investigation measure in Finland if determined necessary at a Eurojust coordination meeting; and
4. authorise a controlled delivery in Finland.

The request or consent of the national authority may be given as a freeform notification.

In an urgent case, the national member may independently decide on the measures referred to in points 2.) to 4.) above.

The national member has the right to participate in JITs. The national member must be invited to join a JIT which involves Finland and for which EU funding has been granted.

In certain cases, the national member has powers exceeding those of other state prosecutors: the national member may decide on matters which under Finnish law are within the sole competence of the head of investigation (technical homing and technical viewing) and may also decide on allowing controlled delivery, which a state prosecutor may not do.

Deputy national members must fulfil the same qualifications as national members. A deputy national member has equal powers to those of the national member when acting on behalf of the national member.

The lawyer assistant has the powers of a prosecutor.

The police officer assistant has criminal investigation powers equal to those of national criminal investigation authorities but does not have the authority of a prosecutor.

Decisions related to criminal investigations naturally require close cooperation with the Finnish criminal investigation authorities.

Experience with respect to the powers granted to the national member

The national member has the competence to undertake any of the actions listed in Article 9, paragraphs a) to f). In some cases, the national member's powers even exceed that of other prosecutors.

These extensive powers allow the Finnish desk to function effectively. Owing to these powers the national member has been able to act directly in a variety of situations where legal assistance was required and therefore the experience in this respect has been very positive.

3.3.3.2. Access to national databases

The persons working at the Finnish desk at Eurojust in The Hague (national member, deputy, assistants and SNE) have the same access to national information as national prosecutors. The Finnish prosecution service has provided them with a computer from where they can access the data contained in the information network of the Finnish justice administration, i.e. the same information technology services as national prosecutors. They can e.g. access the Finnish police information system (*PATJA*) and the criminal register from Eurojust. They also have a technical connection to the Finnish prosecution CMS (*SAKARI*) and to the Finnish Population Information System. In addition to these they have access to many other data bases and IT services.

Data from any other sources not accessible directly from Eurojust for technical reasons are sent to Eurojust by the relevant national authorities on request.

3.3.4. Access by the national desk to the restricted part of the Case Management System (CMS)

The personnel of the Finnish desk (national member, deputy national member, assistant and SNE) operate at Eurojust within the powers granted to them at the national level. These persons, except for the police assistant, have the authority of a prosecutor. The same rules apply to them as to criminal investigation authorities and prosecutors in Finland. They have unlimited access to the Eurojust CMS.

With regard to confidential information, the staff at the Finnish desk is bound by Finnish national legislation on confidentiality.

Under the Eurojust Act, Finland's contact persons in the ENCS are entitled to access the Eurojust CMS register on an as-needed basis. The national member may decide on granting contact persons access to temporary databases, if necessary for the contact persons to carry out their duties.

National authorities do not have access to the Eurojust CMS. National authorities always handle Eurojust cases through the Finnish desk.

3.4. EJM contact points

3.4.1. Selection and appointment

The policy of Finland has been to choose EJM contact points widely from different organisations and actors involved in judicial cooperation: the law enforcement authorities, the prosecution service, judges and central government. The selection and approval of contact points takes place in accordance with national guidelines that were drawn up in 2010. Every competent authority selects from its ranks a person or persons to be named contact points which are then discussed and usually approved at the contact points' periodic, national meetings. The main selection criteria are: duties involving handling of requests on cross-border legal assistance, adequate professional skills and good command of at least English. The contact points appointed include also the Finnish liaison prosecutor stationed in Estonia.

Prosecution service contact points are prosecutors who are specialised in international affairs and are known as 'international key prosecutors'. There are four such prosecutors, employed as district prosecutors at local prosecution offices. They all have extensive experience as prosecutors and have been specifically trained in international legal assistance matters and languages. Therefore, they are familiar with the appropriate international channels and know how to best employ them. They assist other prosecutors in matters involving requests for international legal assistance and extradition and also provide training for officials in these matters. Other contact points include a state prosecutor and two lawyers at the International Unit of the OPG and the SNE at Eurojust⁷. These last-mentioned persons have considerable experience in the relevant matters and regularly assist other prosecutors in matters involving procedure and provide training.

The EJM contact persons of the police are charged with mutual legal assistance duties at the International Affairs division of the National Bureau of Investigation, through which 90% of all requests for assistance are transmitted. The contact points are generally lawyers with good language skills, experience and practical duties related to international legal assistance.

The Border Guard has no EJM contact points. The Border Guard handles matters involving international legal assistance principally through the National Bureau of Investigation.

3.4.2. *Practical operation of the EJM contact points in Finland*

No formal legal provisions were introduced or amended in relation to the Joint Action of 29 June 1998 on the creation of a European Judicial Network⁸ or Council Decision 2008/976/JHA of 16 December 2008 on the European Judicial Network⁹. However, in 2010 guidelines were drawn up regarding functioning of the European Judicial Network in Finland. These guidelines contain provisions about the selection of contact points, organisation of national meetings, attending international meetings, the functions of contact points, the national correspondent and the tool correspondent, and also about the relationship of the EJM to Eurojust.

⁷ The Finnish authorities have informed after the visit that the SNE was no longer assuming responsibilities as an EJM contact point.

⁸ Joint Action of 29 June 1998 adopted by the Council on the basis of Article K.3 of the Treaty on European Union, on the creation of a European Judicial Network (98/428/JHA), OJ L 191, 7.7.98, pp. 4-7.

⁹ Council Decision 2008/976/JHA of 16 December 2008 on the European Judicial Network, OJ L 348, 24.12.2008, pp. 130-134.

The main task of the EJM contact points is to be available for advice and assistance both to foreign and domestic actors. They also attend national meetings of the contact points twice a year where topical issues are discussed. Selected contact points from the Finnish delegation are attending the EU-wide EJM meetings. The national correspondent is first and foremost a national coordinator of activities in Finland.

The law enforcement contact points handle MLA requests sent by Finnish criminal investigation authorities to other countries and similar requests received from abroad.

Finally, the national tool correspondent monitors the content of the website and updates information regarding Finland.

3.5. Conclusions

3.5.1. Formal (legislative) implementation process

- The Council Decision 2009/426/JHA on the strengthening of Eurojust has been implemented by Finland through the Act on the Enforcement of Certain Provisions of the Decision on Eurojust (742/2010 Eurojust Act). This law entered into force on 4 June 2011. The Eurojust Act regulates the procedure for the appointment, the competences and functions of the national member, deputy, assistants and members of the ENCS. Moreover, this Act regulates information exchange between Finland and Eurojust as well as the possibility for requests to inspect personal data processed by Eurojust. In addition, the Finnish Act on Joint Investigation Teams (743/2010) was amended so that the national member of Finland at Eurojust would be invited to participate in every JIT involving Finland when funding is provided by the European Union.
- Internal handbooks complement the legal framework and guidelines from the Office of the Prosecutor General and the National Bureau of Investigation, which set out in more detail the daily practice and serve as help for prosecutors or law enforcement officers in need of assistance. They are available through the intranet of the prosecution service.

- The adoption of the national law that is transposing the new Eurojust Decision was considered as a good practice that could be taken into account by other Member States that are in the process of transposing the Decision.

3.5.2. *Division of responsibilities between police and prosecutor's office*

- The Finnish Criminal Investigations Act endows police in Finland with much wider powers during an investigation than in the majority of other EU Member States. Although the experts understood that this was a well-established and well-functioning practice they nevertheless deemed that there was merit in the interest from the prosecution side to take steps for enhancing the role of the prosecutor during the pre-trial stage. Not only should this contribute the prosecutor's expertise in MLA matters and thus optimise the quality of outgoing MLA requests but it would also safeguard that prosecutors could lend their advice to the police for gathering all relevant information for a trial from the beginning of the process.
- From the discussions it became clear that police acting as a judicial body tends to use police channels. At the very beginning the risk is that police sends out informal requests for intelligence information and do not inform the prosecutor. Difficulties arise once the prosecutor gets involved and has to use this as evidence. Police sometimes gathers information in an informal way and sometimes cannot use this intelligence in court.
- During the on-site visit it became apparent that the European Judicial Network (EJN) was better known and used among the police while particularly the local prosecution offices did not have the same level of awareness regarding the functions and added value of the EJN. In order to remedy such deficiencies the experts would see a feasible solution in disseminating news on the EJN via the prosecution service newsletter as Eurojust information is already circulated on a regular basis therein. Furthermore, the national member might also inform the prosecutors about the EJN during his on-site visits at the prosecution offices.¹⁰

3.5.3. *The national desk at Eurojust*

- The regular place of work of the national member is at the seat of Eurojust in The Hague.

¹⁰ The Finnish authorities have informed after the on-site visit that a training for all prosecution units, to be held in spring 2013, will contain a part where the national member is to explain via video conference the benefits of Eurojust for the prosecutors. The training is also to cover EJN matters. Finnish prosecutors have uttered that the EJN website was lacking the request they would mostly need, namely the request for double criminality. The matter has been raised in EJN plenaries however, to no avail.

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- The term of office of the national member is four years and can be renewed once.
- The national desk has a secretary, who is employed by Eurojust directly.
- A Seconded National Expert assists the national member in his daily work for six months every year. This Seconded National Expert is also appointed assistant.
- After returning to Finland, the latest Seconded National Expert continues to be appointed assistant.
- The former national member, with her regular place of work at the Prosecutor General's Office in Helsinki, has been appointed as deputy.
- The expert team deemed the appointment of persons who have direct work experience at Eurojust to related positions in Finland as a best practice because the further use of their acquired knowledge is optimised.
- The selection procedure for the recruitment and appointment of the Finnish desk members ensures that they possess the required experience and expertise. The Finnish government appoints them upon a proposal from the Prosecutor General.
- The selection procedure for the post of the national member is transparent and competitive. It is organised in the form of an open competition. The call for applications is published online as well as in newspapers.
- The national member presents written reports on a regular basis to the Prosecutor General and sends monthly statistics on case activities. In addition, there are annual meetings between the head of the International Unit at the Prosecutor General's Office and the national member. In these meetings, an action plan for the next year is developed and the achievement of goals in the past year is analysed.

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- The national member has been granted all powers mentioned in the Eurojust Decision. Consequently the national member has more powers than all other prosecutors in Finland. Within the Finnish legal system, the police lead the investigation. They can take decisions on investigative measures, e.g. house searches, controlled deliveries etc. without any involvement of a prosecutor or a judge. According to Finnish law however, a prosecutor should be informed about an ongoing investigation as soon as there is a suspect identified¹¹. Yet in practice, this information is sometimes being forwarded after e.g. a suspect has been arrested. According to the Criminal Investigations Act Finnish prosecutors do have the competence to instruct the law enforcement agencies on investigative measures. As an exception among other prosecutors Section 3 of the Finnish Eurojust Act exclusively grants the national member the powers to decide on the enforcement of a MLA request in Finland, to decide at a coordination meeting on the performance of an investigative measure in Finland and to authorise controlled deliveries. The national member has exercised these powers in the past. This experience has been very positive in the view of the Finnish authorities, as the national desk can act efficiently and rapidly.
- The national member has direct access to all national databases accessible to prosecutors via a secure connection to the Finnish prosecution intranet.
- Apart from the extent to which all prosecutors in Finland have access to such data, the national member has no direct access to other law enforcement authorities' databases, but does have access to PATJA.
- The Finnish authorities can contact the national desk directly, via phone or e-mail. In practice, prosecutors and police officers do this. Judges rather seek the assistance of the Ministry of Justice should they require help in the field of MLA. This is due to the fact that judges are less often confronted with issues related to Eurojust and do not have much experience in this regard.

¹¹ According to the current law “the police shall inform the prosecutor of an offence which has been reported to it for investigation, when someone can be suspected of the offence“ excluding simple cases. The Finnish authorities have informed after the visit that in the law entering into force in the beginning of 2014 the pre-trial investigation authorities shall inform the prosecutor of cases that fall into the categories of which the authorities have decided that information should be passed to prosecutor. A handbook on this has been approved by law enforcement authorities and OPG.

3.5.4. *Implementation of the ENCS*

- The set-up of the ENCS is foreseen in Section 7 of the Eurojust Act.
- The National Correspondent for Eurojust is the former national member and current Deputy based at the Prosecutor General's Office.
- ENCS contact points have been appointed throughout the national authorities.
- One ENCS meeting has taken place so far. Regular meetings are planned for the future.
- It is foreseen that members of the ENCS will at some point be granted access to the CMS, but this has not been established yet and is not planned for the near future.

3.5.5. *Implementation of Article 13 of the Eurojust Decision*

- Section 9 of the Eurojust Act implements Article 13 of the Eurojust Decision.
- The prosecutor dealing with the case is responsible for transmitting the information to Eurojust. This decision was made based on the consideration that only the prosecutor is involved in a case from the beginning to the end and can therefore provide updates as the cases progresses. However, this might be problematic in practice, as prosecutors are sometimes informed at a very late stage in investigations (e.g. after a coordination meeting at Europol has already taken place or suspects have already been arrested).
- At the time of the on-site visit Finland had served 15 notifications¹² under Article 13. Most of them had originated from the special prosecutors, i.e. economic crime, drug trafficking and sexual abuse of children and four from the Office of the Prosecutor General. Apart from those with regard to the setting up of a joint investigation team, notifications have been made on the basis of the following reasons: conflict of jurisdiction, Art. 13(6)(a)(i)+ 13(6)(c), Art. 13(6)(a)(iii), Art. 13(6)(a)(v) and Art. 13(6)(a)(viii).
- The prosecutors use the form provided by Eurojust to submit the information. In the past there have been problems because it was not possible to save data already entered in the form and continue work later on. In some cases, it was also impossible to print the form. The national member has already informed the Eurojust information management unit about these problems. In general, the form is viewed as complicated, but usable.

¹² The Finnish authorities have informed after the on-site visit that this number had risen to 20 when the report was discussed in the GENVAL.

- In the view of one of the prosecutors that the team met, the notification form pursuant to Article 13 required entering too much information where in some instances it was not even possible to provide that specific information. Therefore they were questioning whether the information requested was actually contributing to add any value.
- The representatives from the Helsinki prosecution office also reported that at the time of the on-site visit they had not received any feedback on information sent on the basis of Article 13. The experts therefore considered it beneficial to recommend that Eurojust should consider providing spontaneous feedback (even if negative) to national authorities as a result of information sent to them on the basis of Article 13. Furthermore, Eurojust should provide clear information as to the range and products that can be expected in terms of feedback from Eurojust on the basis of Article 13 a, as a result of the exchange of information with Eurojust on the basis of Article 13.

3.5.6. *Connection to the CMS*

- At the time of the evaluation visit no connection existed from the Finnish IT systems to the CMS; furthermore such a connection was not planned for the near future¹³.

3.5.7. *EJN*

- During the visit at the Helsinki District Prosecution office the discussion on the work of the EJN contact points has revealed that their allocation of time to the EJN tasks was largely governed by their 'normal' tasks as prosecutors and they therefore seemed to be less available for their EJN duties due to heavy case-load. Bearing in mind the importance of the EJN contact point function this would call for organisational measures that would ensure that the EJN contact points were given the necessary resources (in terms of time) to concentrate on the latter task.

¹³ The Finnish authorities have informed after the on-site visit that from 15 March 2013 onwards a connection to the CMS could be established via remote access.

4. EXCHANGE OF INFORMATION

4.1. Exchange of information from judicial and law enforcement authorities to Eurojust

4.1.1. *Databases relevant for the information exchange with Eurojust*

Information exchange between the Finnish Eurojust desk and the national authorities functions smoothly, at coordination meetings and otherwise. As already noted above, the national member has the same access to information as national prosecutors.

Information is exchanged by phone and e-mail and over a secure connection.

4.1.2. *Obligation to exchange information under Article 13(5) to (7)*

In order to ensure the information exchange referred to in Article 13 of the Eurojust Decision, persons with extensive access to national cases with international dimensions have been appointed to the ENCS. Most of the contact persons work at the OPG, because it has been agreed at national level that prosecutors responsible for such cases submit the notification to Eurojust specified in Article 13 through the OPG. As a result, the International Unit of the OPG centrally receives information about cases that have been notified to Eurojust and about what problems in international cooperation occur in Finland. The OPG may thus also instruct a prosecutor to submit a notification to Eurojust and note any shortcomings in training related to the notification procedure.

The annual report of the Eurojust national member also reveals which areas of international cooperation should be particularly addressed in the work of the ENCS.

Information exchange pursuant to Article 13(1) of the Eurojust Decision is generally ensured by providing information and training for prosecutors and criminal investigation authorities concerning the competence of Eurojust and about practical ways of promoting cooperation in the area of international legal assistance. Information on Eurojust is available on the intranet of the prosecution service. Also, information on Eurojust is included in all trainings involving international cooperation, whether for the prosecution service or other stakeholders.

The national member has been writing articles on Eurojust in the prosecution service newsletter for many years, and the annual report of the national member is widely distributed to local prosecutors. Current and former SNEs, assistants and deputy members of the Finnish desk are required to publicise the operations of Eurojust at the national level. Also, individual prosecutors have reported on their cooperation with Eurojust and written their cases up in the prosecution service newsletter.

In practice, the Finnish desk at Eurojust has mostly been dealing with financial crime and drug-related crime. The information exchange requirement of Article 13 has been implemented in the coordination system by appointing contact persons who are prosecutors with national responsibility for drug crime, corruption and financial crime and who participate in LAVA (coordination team for extensive and demanding criminal cases). Other ENCS members include the prosecutor responsible for terrorist connections and all national JIT contact persons from the prosecution service, the police and Customs. The JIT contact person at customs is also the international liaison officer and thus has extensive knowledge of trans-border criminal cases investigated by Customs. The genocide contact persons are the police officer and prosecutor involved in Finland's only case of genocide to date. They have national expertise in this field and will be consulted in any future cases of genocide emerging in Finland. There are two ARO contact persons which are the head of Finland's ARO office and the ARO contact point of the prosecution service (in the OPG). The EJM contact persons are EJM experts at the OPG. These experts have close connections with Finland's other EJM contact points, including the Unit for International Administration of Justice at the Ministry of Justice where Finland's EJM national correspondent is stationed.

Under Finnish law, the National Bureau of Investigation is the Europol national unit. The head of the International Affairs division of the National Bureau of Investigation is the Head of Europol National Unit (HENU). Finland's Europol contact persons in The Hague are considered members of the national unit. The International Unit of the OPG and hence the ENCS has a close working relationship with the International Affairs division of the National Bureau of Investigation in matters such as international cooperation and information exchange, in which representatives of the aforementioned bodies in Finland are consulted. Finland's national member at Eurojust is also regularly in contact with the relevant parties in Finland's National Europol Unit and with Finland's Europol representatives in The Hague concerning individual cases.

The ENCS also efficiently receives information on cases at the intelligence-gathering stage, because the terrorism and JIT contact person participating in the *LAVA* team (coordination team for extensive and demanding criminal cases) attends meeting of the criminal investigation authorities where the launching and funding of criminal investigations into extensive cases are decided upon. Also, the criminal investigation authorities are required to notify the competent prosecutor's office about launching a criminal investigation in any extensive or demanding criminal case and the chief of the NBI and the Prosecutor General have agreed that the OPG shall be notified about cases taken under investigation by NBI.

Information pursuant to Article 13 is disclosed by a prosecutor. Criminal investigation is a process conducted in close cooperation between the head of investigation and the prosecutor. The prosecutor is subject to national confidentiality rules, which were taken into account when the Eurojust Act was enacted (Eurojust Act, section 10(2)).

Information is conveyed among ENCS members effectively, because all members know each other and most of them work at the OPG. The ENCS may hold meetings as needed to exchange information that the Eurojust Decision requires to be submitted to Eurojust.

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4.1.3. *Application of obligation to exchange information under Article 2 of Council Decision 2005/671/JHA*

Under the Finnish Penal Code, chapter 34a section 7, the Prosecutor General decides on bringing charges for terrorism offences and also designates the prosecutor who is to bring the charges. Therefore terrorism offences are dealt with by the OPG. The National Bureau of Investigation is responsible for the criminal investigation in such cases, and the Finnish Security Intelligence Service is also involved.

A state prosecutor at the OPG has been designated the national correspondent for Eurojust for terrorism matters pursuant to Article 12(2) paragraph b of the Eurojust Decision. This state prosecutor is in regular contact with the authorities responsible for terrorism prevention and is also a member of the counter-terrorism working group appointed by the Ministry of the Interior. This working group forms part of the national counter-terrorism strategy. The working group coordinates the counter-terrorism efforts of various authorities and ensures communication of information , with expert members from a large number of fields.

Finland has submitted a notification under Article 2 of Council Decision 2005/671/JHA in one matter and a notification pursuant to Article 13 of the Eurojust Decision in the same matter.

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4.1.4. Channels for information transfer to Eurojust

The competent prosecutor through the OPG submits information pursuant to Article 13 to Eurojust. Notifications are submitted on a form provided by Eurojust, available in Finnish in the prosecution service intranet.

Secure e-mail (via the secure S-TESTA network) to transfer the information to Eurojust was not used at the time of the on-site visit but it was said to be employed in the near future.

The information is to be transmitted in a structured way, utilising the templates developed by Eurojust and instructions how to handle this may be found in the prosecution service intranet.

4.1.5. Exchange of information on the basis of Article 13(5) to (7) of the Eurojust decision

Information is submitted using the form provided by Eurojust. All relevant information on the case is submitted using this form.

The possibility of refusing to provide information pursuant to Article 13(8) will in all probability be exercised only extremely rarely. So far, no such situation has arisen. The Eurojust Act does not specifically provide for criteria for such a refusal, although section 9 of the Act stipulates when information should be submitted to the national member, referring to the relevant points in Article 13.

At the time of the on-site visit, Finland has submitted ten notifications pursuant to Article 13. No connection to data in the Eurojust CMS was found.

Concerning other matters handled by the Finnish desk, the Finnish desk sends the information and responses received from other countries directly to the authority requesting assistance from Eurojust. The data are conveyed automatically to the competent authorities in Finland immediately upon receipt by the Finnish desk.

4.2. Feedback by Eurojust

4.2.1. *Qualitative perception of the information flows between Eurojust and Finland*

As already explained earlier in this report Finland has up to the date of the on-site visit submitted ten notifications pursuant to Article 13. No connection to data in the Eurojust CMS was found. Those ten matters have not resulted in any action to date.

4.2.2. *Practical or legal difficulties encountered when exchanging information with Eurojust*

There were technical difficulties in building the secure communications channel from the internal network of the prosecutors to Eurojust, but these problems have been solved. Initially there were also problems in filling in the Article 13 notification form. No legislative shortcomings were noted. On the other hand, it seems that it will take some time before prosecutors become fully aware of the significance of Article 13 and will automatically and systematically submit information to Eurojust in all cases relevant under the Eurojust Decision.

Due to differing confidentiality rules in different countries, it is not clear what information may be disclosed and in what form in a JIT situation and whether such information may be discussed at a Eurojust coordination meeting. If confidential information is entered in the minutes of a meeting, it might end up being disclosed so as to complicate criminal investigation and a subsequent court case. This is an obvious risk in cases where the investigation proceeds at different pace in different countries: while criminal investigation is only beginning in one country, the case could already be in court in another.

4.2.3. *Suggestions for improving the information exchange between Finland and Eurojust*

The use of the structured templates (developed by Eurojust) should be promoted. The good practices in the construction of the secure communication channel between MS and Eurojust should be disseminated.

The Eurojust notification form should be as user-friendly as possible. It should be easy to fill in the information. Using the form for the first time was reported to be very difficult. The form did not save all the information that the Finnish officials were trying to enter, and it proved impossible to print out the form at Eurojust.

The major challenge, however, rests in training the national authorities to make notifications pursuant to Article 13. The OPG has arranged a joint meeting for the ENCS members that mainly elaborated on the enforcement of Article 13. During autumn 2012 the same item was on the agenda of one of the prosecutors' basic training courses. It is foreseen that the OPG will be holding a one-day training session on international affairs at every local prosecution office in Finland and also cover submitting notifications pursuant to Article 13 in the context of that training session. This training is due to take place in the course of 2013. Furthermore, the enforcement of Article 13 has been discussed on various occasions with other stakeholders

4.2.4. *The E-POC project*

Finland did not participate in the E-POC IV project, but Finland has been observing the project. The project has developed a number of practical tools for the exchange of information between MS and Eurojust.

4.3. **Conclusions**

- From the information received the expert team concluded that by involving the prosecutor more intensively at the pre-trial stage, where Finnish law enforcement authorities are enjoying wider powers than in other EU Member States, would possibly help to ensure the exchange of the relevant information under Art 13 of the Eurojust Decision, particularly as the prosecutor is the only instance handling the information chain from the beginning to the end of the proceedings.
- During the meetings of the on-site visit with local prosecutors in the court of Vantaa it seemed that in a case involving Eurojust it was not absolutely clear whether a local prosecutor should present information to the OPG or directly to Eurojust.
- The expert team has been made aware of the fact that the data that has to be forwarded to Eurojust under Article 13 was considered by representatives from the Finnish prosecution offices to be far too comprehensive, particularly in the light of the fact that usually most of this information has been transmitted by the Finnish law enforcement authorities to Europol before and Eurojust has no access to that.

5. OPERATIONAL ASPECTS

5.1. Statistics

The Finnish desk compiles statistics on:

- 1) cases received by the desk and entered in the Eurojust CMS, and
- 2) any other matters received by the desk.

Cases under point 1 are reported once a month to the OPG in Finland.

Cases under point 2 are compiled into a statistical report that the Finnish desk publishes annually, submitted to the prosecution service in Finland and to other authorities too.

Cases registered by Finland

2009	2010	2011	2012 (by 31 May 2012)
45	41	37	19

Cases registered to Finland

2009	2010	2011	2012 (by 31 May 2012)
36	24	44	19

Other matters handled

2009	2010	2011	2012 (by 31 May 2012)
58	76	80	41

Total

2009	2010	2011	2012 (by 31 May 2012)
139	141	161	79

The National Bureau of Investigation enters all measures related to requests for legal assistance in its own CMS, but only under ‘measures’, which means that compiling statistics in this system is in practice not possible. It may be estimated that some twenty operational requests per year are submitted to Eurojust. The Border Guard’s cases are included in the figures for the National Bureau of Investigation.

5.2. Practical experience in relation to Eurojust

The Finnish authorities have consulted Eurojust on a wide variety of cases. Most of the requests concern bilateral affairs, both ordinary and serious or complicated. A typical Eurojust consultation involves a case where another state has not responded to a request from a Finnish authority, or a response is delayed, or if measures must be undertaken with a country with which Eurojust has a cooperation agreement in place. The Finnish desk quite often receives urgent requests.

Eurojust have emphasised their willingness to serve, noting that they can help even if a request does not directly involve a case that is serious and involving several countries, as per the Eurojust brief.

The Finnish desk has been much acclaimed by the national authorities for its service attitude. This is partly due to the fact that the Finnish desk has taken up requests related to ordinary criminal cases too. Also, the Finnish desk has been able to process the requests it receives at a rapid rate.

Another typical scenario involving Eurojust consultation is when a response has not been received within a reasonable time to a message sent to an EJM contact point.

Most frequently prosecutors and the law enforcement authorities are the national authorities submitting requests to the Finnish desk. Some requests have been received from the Customs and the Border Guard, and from courts. The majority of the requests concern the criminal investigation stage.

Most of the requests from Finland concern financial crime and property crime, followed by drug crime. The rest concerns violent crime and trafficking in human beings.

5.3. Allocation of cases to Eurojust, the EJM or others

5.3.1. Cases related to the tasks of Eurojust acting through its national members (Article 6)

The issue when the EJM channel should be used as opposed to the Eurojust channel has been often on the agenda in prosecutors training. The focus in the training is to use the Eurojust service primarily when coordination is required in the criminal investigation and prosecution stages of a criminal case. The seriousness of the case is a relevant factor, as is whether the case requires presenting several requests to different countries. Eurojust is the best forum for handling such cases.

Urgent cases should be handled in an appropriate and effective way. In such cases, Eurojust has proved to be the best channel.

The police manual in electronic form for international official and legal assistance describes the operations of Eurojust and the EJM and provides instructions for their use, largely similar to that described above. This manual is available also to officials in the Border Guard, Customs and prosecution service who handle international official and legal assistance matters.

5.3.2. Requirements for cooperation between Finnish national authorities and Eurojust

Prosecutors have been instructed on how and in what kind of cases they should turn to Eurojust, at several training events, in the prosecution service intranet and in the newsletter. The OPG is preparing official guidelines on Eurojust instructions, but this is not yet finished.

In any case, the principle is that contacts between the Finnish authorities and Eurojust and vice versa should be effortless and involve as little bureaucracy as possible. Prosecutors and heads of investigation can contact the Finnish desk directly, and the national member, deputy national member, assistants and SNE can contact the competent Finnish authorities directly. Article 13 notifications are an exception, as these must be submitted centrally through the OPG.

The Eurojust Act and the Act on International Legal Assistance in Criminal Matters enshrine the principle of direct contact.

5.3.3. Cases related to the powers exercised by the national member (Article 6)

The Finnish national member has the authority to request actions in all of the cases listed in Article 6. In practice, the national member contacts the competent national authority directly. The national member is well acquainted with the national authorities and with the relevant contact channels.

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The current national member participates in the handling of every request received at Eurojust that involves Finland, discussing with and consulting the competent prosecutor regarding the handling of the international dimension in the case and personally exploring the case with the desk of the other country or countries involved and the national authorities. The national member is thus directly involved, and this is the most important duty of the national member, who also chairs coordination meetings.

The current national member is a member of the Eurojust Financial and Economic Crime team (FEC) and the Eurojust Case Management Team (CPT) and of the working group investigating the position of the SNE. The national member often represents Eurojust and the Finnish prosecution service at international conferences and, naturally, is responsible for raising awareness of Eurojust in Finland.¹⁴

Administrative work takes up an increasing amount of time, and this is time away from casework. Time management requires a lot of attention to make sure that sufficient time is available for casework, which is the most important part of the job.

The deputy national member and the assistants are stationed in Finland. They participate in casework for instance by referring matters to the Eurojust desk or otherwise by promoting the efficient management of matters with international implications.

The deputy national member travels to Eurojust when the national member is unable to attend a meeting and there is a vote or an important matter to be discussed. The deputy national member or an assistant can also travel to The Hague on Eurojust business if the case is considered important. The deputy national member and assistants manage various matters submitted to the Finnish desk in Finland, such as responding to queries. They also promote awareness of Eurojust operations through training.

¹⁴ The Finnish authorities have informed after the on-site visit that the Finnish national member has been elected as EC3 Program Board Member at Europol and is the chair of the Task Force on cyber crime at Eurojust.

The SNE also participates in casework; in fact, this was one of the principal reasons for assigning a SNE to the Finnish desk. This reinforces the contribution of the Finnish desk to operational work while efficiently introducing a Finnish prosecutor to international cooperation. The SNE also has an obligation to raise awareness of Eurojust in Finland.

All of the above persons take turns being the Eurojust duty officer in alternate weeks.

5.3.4. Cases related to the tasks of Eurojust acting as a College (Article 7)

In their answers to the questionnaire the Finnish authorities have explained that Article 7 had not been applied to Finland to date.

5.4. Practical experience related to coordination meetings

5.4.1. Qualitative perception

Coordination meetings held at Eurojust are considered very useful for cooperation between countries. Coordination meetings increase mutual trust between authorities in different countries when all are gathered around one table to discuss judicial cooperation problems and to find solutions to these matters. There are no language issues, because interpretation is provided and paid by Eurojust. JIT agreements can also be drafted and signed during coordination meetings. No disadvantages have been identified.

Moreover, Eurojust always takes the minutes during coordination meetings, and these minutes are afterwards disseminated to all participants for comments and information. All decisions and conclusions made during the meeting will be entered in the minutes. The Finnish desk will follow up a case if it contains MLA requests or other requests sent to Eurojust and where Eurojust assistance and actions are needed.

The police and the Border Guard have had very good experiences with the arrangements (meeting facilities, meeting materials, accommodation, communications). The meetings have yielded useful contacts and discussions about project funding. A critical point made is that it often takes too long to set up the meetings. Representatives of some states have not been prepared or committed enough. Giving feedback (follow-up meetings) could well be handled electronically. It is not seen as feasible in terms of the use of resources to organise a separate meeting for feedback.

5.4.2. Role of the ENCS

The ENCS may advise a prosecutor on the most feasible approach to official cooperation in a case with international implications. The ENCS can probably not have an independent role at a coordination meeting, because the parties to the meeting – the competent authorities in the case – are the prosecutors and heads of investigation. The meeting is chaired by the national member, who can consult the ENCS as required, for instance if national coordination measures are required.

5.5. Use of the On-Call Coordination (OCC)

The deputy national member who works at the OPG in Finland manages the duties of the national member when the national member is unable to do so. The deputy national member can travel to The Hague at short notice if required. Although it may not be possible to organise a trip to The Hague in some circumstances, in such cases communication will be established by technical means (e.g. e-mail, video link, phone).

The national member, deputy national member and two assistants act as duty officers in the evenings, at night and on weekends during alternate weeks. OCC officers also support the national duty officers of the prosecution service in case of an emergence with any cases with international implications.

To date, no actions have come up during on-call time outside office hours.

The Finnish criminal investigation authorities and the prosecution service have been informed about the on-call coordination. In Finland, a 24/7-duty-officer is on call at the National Bureau of Investigation for in Finland a criminal investigation is led by the head of investigation. The duty desk at the National Bureau of Investigation has been informed about the Eurojust duty officer. The prosecution service has provided for a duty officer on weekends. It is currently being explored how the national on-call duties of the prosecution service should be further developed, and the Eurojust duty officer's post will also be discussed.

5.6. Experience of cases relating to the cooperation between the ENCS and the Europol national unit

The cooperation in concrete cases between ENCS and the Europol national unit is only just emerging, and at the time of the on-site visit, the Finnish authorities had no concrete experiences of joint action to report.

So far, Eurojust has come on board as the result of direct contacts between Finland's national member on the one hand and an individual prosecutor, a head of investigation or the SIRENE office on the other hand.

5.7. Conclusions

- From the information received on the practical experience in relation to Eurojust it appeared that the Finnish national member seems to be loaded with cases that are actually more suited for the EJM. Although there was no tangible quantitative information on the extent to which this took place, such practice could in the worst-case have a detrimental effect on other national desks that are rather concentrating on core Eurojust cases.¹⁵
- At the time of the on-site visit, no calls had been received through the On-Call Coordination (OCC).

¹⁵ The Finnish authorities informed after the on-site visit that four cases had been transferred from the Finnish desk to the EJM due to their nature. On the policy it was clarified that the desk was submitting simple EJM cases to other national desks only if they are subject to extreme urgency or the EJM has already failed to provide the requested information.

- The members of the national desk take weekly turns to be on duty, should a call be received outside office hours. It is thus ensured that the national desk can be reached at all times without putting too much of a burden on one person's shoulders.
- With regard to the information received the expert team thought that better explanations were needed for practitioners as for what cases the services of either EJM or Eurojust should be sought. Although Eurojust appears to be known in Finland to prosecutors this only applies to a lesser degree to the EJM. Although there are great merits in a one-desk-policy this can also result in overburdening the national member with requests that could be dealt with by the EJM. Despite the fact that the seconded national experts (SNE) act as EJM contact point for six months of a year this task falls on the national member for the rest of the year¹⁶. Another aspect to be considered in this respect is that if the Finnish national member always turns to his colleagues from other Member States with requests that are more appropriate for the EJM, this might also have an adverse effect on them.

6. COOPERATION

6.1. Cooperation with EU agencies and others

The Finnish desk at Eurojust and Europol have been developing closer cooperation in recent years. The Finnish desk at Eurojust has always invited the Finnish Europol desk to attend coordination meetings concerning matters handled by Europol. Before 2010, Europol had invited the national member to two coordination meetings. Joint meetings have been held twice a year for several years now, and almost on a monthly basis in the previous year. The Finnish desk at Eurojust has been receiving information regularly from the Europol AWF since 2010, and joint coordination meetings are now more frequent.

There has been some cooperation with OLAF, but none with Frontex to date.

¹⁶ The Finnish authorities have informed after the visit that the SNE was no longer assuming responsibilities as an EJM contact point.

6.2. Cooperation with third states

6.2.1. Policy with respect to the involvement of Eurojust

At any time when the operations of Eurojust have been described to criminal investigation officials and prosecutors in training and on other occasions, or in articles, the following criteria have been emphasised.

Eurojust should be consulted when:

- the criminal investigation and prosecution process involve several countries, and coordination is required for handling the case,
- it is necessary to set up a JIT, especially if financial support from Eurojust is requested,
- the situation is urgent, and it is impossible or unfeasible to handle the matter through the EJM; Eurojust may then be consulted even in a bilateral matter,
- legal assistance through other channels has not been received or is unreasonably delayed,
- the case involves a conflict of jurisdictions¹⁷ as outlined in the Eurojust Decision, or
- there is a need to discuss a complex legal problem or the procedures of another country, or a particularly sensitive matter.

In general, the Finnish authorities noted that criminal investigation authorities and prosecutors are pleased to contact the Finnish desk, being able to talk about a complex or urgent matter with a person who speaks Finnish and knows a lot about international cooperation and - in many cases - is personally known to the person contacting them. Eurojust has a clear ability to speed up the criminal investigation process.

¹⁷ The Finnish authorities have explained after the on-site visit that with regard to the reporting obligation under Article 13 of the new Eurojust Decision they would consider any positive or negative conflict of jurisdiction to fall there under. According to information received after the visit, there has so far only been one case of conflict of jurisdiction concerning freezing of assets in a UK bank account when frozen money originates from a suspected *Ponzi* fraud in Finland. The conflict has been solved and assets will be transferred to Finland, and a Finnish court will decide on whether there are grounds for confiscating this money as proceeds from crime.

Prosecutors' manuals (e.g. those concerning EAW or freezing orders) and the prosecution service intranet contain reminders about both Eurojust and the EJM.

6.2.2. *Added value of Eurojust involvement*

The Finnish authorities have maintained that Eurojust has been a great help to them in working with third countries (e.g. the USA, Brazil, Egypt, Russia, Serbia, Croatia, Switzerland, Turkey and the British Virgin Islands).

The way in which Eurojust was developing its connections beyond Europe was considered as excellent.

6.3. **Practical experience of the EJM**

6.3.1. *Cooperation between the Finnish member and the EJM*

Cooperation with EJM contact points in Finland generally works fine. If the national member assesses that an EJM contact point should rather handle a case, it will be transferred to the contact point (which is currently very easy, because the SNE is also an EJM contact point)¹⁸. Conversely, EJM contact points have been referring cases to Eurojust.

Finland's EJM contact points meet twice a year; the Eurojust national member is invited to these meetings. The national member is copied in on the EJM meeting reports. The national EJM meeting was held at Eurojust in The Hague in April 2012, giving the contact points the opportunity to see Eurojust in operation.

6.3.2. *Resources allocated domestically to the EJM*

At present 15 contact points have been appointed to the EJM, all of them with experience of international legal cooperation.

¹⁸ The Finnish authorities have informed after the visit that the SNE was no longer assuming responsibilities as an EJM contact point.

The judicial system has appointed two judges, both with experience of criminal cases with international implications.

The Unit for International Administration of Justice at the Ministry of Justice has appointed four contact points, one of them being the NC and the other being the TC. One of the contact points is a liaison prosecutor in Tallinn in Estonia. All are civil servants with experience in international judicial affairs.

The prosecution service has appointed seven contact points, of whom four are district prosecutors specialising in criminal cases with international implications and three are prosecutors at the International Unit of the OPG. All have plenty of experience of international cooperation in criminal cases and have been actively participating in EJM annual meetings and of course in national EJM activities.

The criminal investigation authorities (the International Affairs division of the National Bureau of Investigation) have appointed two officials specialising in international legal cooperation.

6.3.3. *Operational performance of EJM contact points*

The Finnish EJM contact points handle all in all approximately 50 to 60 cases a year¹⁹. Many cases deal with information on Finnish law. Sometimes the contact points facilitate the setting up of a videoconference. Mostly the feedback is positive. In some cases, the response time of foreign contact points could be improved.

The prosecutor contact points have processed about 40 cases a year. Roughly half of these involve sending or filling in requests for legal assistance or issues related to the issuing or executing of a European arrest warrant; one in four has been about legal inquiries; and the remaining have involved other trans-border crime. The information required, measures to be undertaken or contact information for the competent authority has generally been received through the EJM. Sometimes a request for contact sent to another country has remained unanswered, which may be due to the contact person's details on the EJM website being out of date. Hence, whenever a contact point is located in a particular country and that contact point is knowledgeable and responsive, the tendency is to use that person for all contacts thereafter.

¹⁹ According to information received after the visit the prosecutors had 167 cases in 2009. In 2012 Finland had 207 EJM cases.

The National Bureau of Investigation recorded eight cases in 2009, 19 cases in 2010 and 11 cases in 2011. These include cases that were actually handled by the Border Guard.

Finland has not reported any legal or procedural problems and communications have reportedly been direct and unproblematic.

6.3.4. Perception of the EJN Website and its tools

With regard to the usefulness of the EJN instruments, the EJN website is presently regarded as the most valuable tool.

Overall, the website is considered being user-friendly and well maintained. Especially the library section and its status implementation tables are a welcome addition to the website. The *Fiches Belges* section of the website is considered less useful.

The wizards are not considered being particularly user-friendly, and the Finnish translation was rated as being of poor quality.

From the user's perspective, the website was generally regarded as a good tool and was said to work well, especially now that a lot of information has been added. The problem seems to be that there is no way of knowing whether the information is up to date and the Finnish authorities have urged their counterparts to do so. Because updating takes time, it would be useful for users if all information were to include the date when it was posted. However, in Finland and in many other Member States there is often a lack of human resources allocated to updating the contents of the website.

User experiences suggest that there is scope for improvement in the contact point information, which is often outdated (last updated years ago, in the case of some personal data) and does not indicate the person's job description (just giving the name of the agency is not helpful), so it is difficult to choose the right person to contact. This problem is exacerbated in countries such as Italy where there are dozens of contact points.

The Finnish authorities deemed it especially important to ensure that contact points are persons who have sufficient language skills and are practical experts in the field of criminal justice or criminal procedural law. It was also regarded as imperative that contact points monitor their e-mail regularly and actually respond to messages received. EJN users have criticised the fact that contact points do not always respond to messages.

Filling in forms on the website (e.g. EAW) is difficult, as information needs to be entered in a variety of boxes and the whole form is not visible at one time. Moreover, forms usually cannot be saved and reused and should be more user-friendly. The *Fiches Belges* are drawn up or filled in such a way that they are generally of no help; instead, users need to turn to the authorities in the country in question. The problem with the *Fiches Belges* and the EJM Atlas is that they only cover certain actions, and the list is not comprehensive. Also, the list of actions is not applicable to all countries.

A search for the appropriate authority may yield several options in case of some countries (Italy and Romania were mentioned as examples from recent experiences), in which case the appropriate authority has to be found through consulting contact points or Eurojust.

Information on how to implement various instruments is largely available, though not always up to date. Documentation on the instruments is available. Another positive feature is that the texts of all instruments, including consolidated versions, can be found in all relevant languages. Also, notifications always indicate who the appropriate authority is and in which languages documents are accepted.

Links to treaties of the Council of Europe and the UN are considered a positive aspect.

On a more general note, the Finnish authorities stated that it would be important to receive information well ahead of time about the agenda of the regular meetings organised by the Presidency of the Council of the EU or the EJM secretariat, so that participants can better prepare for the meeting.

6.4. Conclusions

- The Finnish authorities welcome the possibility of posting Eurojust liaison magistrates to third states.
- A liaison magistrate would be especially appreciated in Russia because Finland shares a border with Russia and the cooperation in legal matters with the Russian authorities is cumbersome at times.
- The EJM is widely appreciated in Finland and its support function is considered to be useful.
- The EJM is used frequently in simple cases, e.g. reminders regarding the execution of requests for mutual legal assistance.

- The prosecution services have stated that they would generally prefer using Eurojust before reverting to the EJM. This is due to the fact that contacts with the national member are close and frequent and are thus regarded as easier, faster and more efficient than the contacts through the EJM. Especially in urgent cases, Eurojust is considered being “overwhelmingly the best” channel by the prosecutors.
- The national member at Eurojust cooperates with the EJM regularly. The Seconded National Expert appointed to the national desk at the beginning of 2012 was also coincidentally²⁰ an EJM contact point at the same time. All practitioners interviewed regarded the fact that they only had to call one number to reach both Eurojust and the EJM at the same time as improving and simplifying their work.
- In order to ensure that contact points exist at every stage of the criminal proceedings the 15 EJM contact points in Finland were selected from sectors with different roles in cooperation in criminal matters. Therefore contact points are located in the police, the prosecution service, the courts, and the Ministry of Justice.
- During the on-site visit the fact that EJM contact points are not members of the Eurojust National Coordination System (ENCS) was raised, particularly from the NBI EJM contact point. In order to strengthen the cooperation and coordination the expert team would see strong points in recommending the inclusion of at least the national coordinator as well as two more EJM contact points (the number foreseen in the Eurojust Decision) in the ENCS.
- During the on-site visit representatives from the National Police Board (NPB) informed that they had started an initiative to also being allocated an EJM contact point. However, as the experts were informed after the visit, in a meeting that has taken place in November 2012 the NBI failed to secure the support of the contact points and hence no changes to the existing system were made.
- There are guidelines for the functioning of the EJM contact points from every relevant actor involved in judicial cooperation are included and national meetings of contact points are held regularly. This is much more than most Member States have in place and efforts are clearly undertaken to promote the role of EJM and to disseminate knowledge and awareness about it.

²⁰ The Finnish authorities have informed the evaluation team that this was not the case in 2013 and they had concluded not to nominate the SNE of 2013 as EJM contact point although as a prosecutor he enjoys full access rights to EJM database and can easily deal with EJM-matters.

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- The experts would see certain benefits if the Council Presidency (with the assistance from the EJM Secretariat) would monitor that the Member States comply with the standards when designating contact points for the EJM, and monitor the regular and correct updating of the list of contact points.
- The plenary meetings of the EJM are regarded as essential to establish personal contacts between the contact points from all Member States.
- Finnish EJM contact points also take part in regional or national meetings in other Member States in order to develop stronger personal contacts.
- A national EJM meeting was held in The Hague in 2012, giving the Finnish EJM contact points a possibility to visit the EJM Secretariat and Eurojust. For this meeting, funding was received from the EJM. The application process for funding from the EJM was regarded as easy and smooth.
- All recognise the importance of the EJM tools, and the Atlas is the tool used most frequently. However, at the same time it was emphasized more than once that keeping the information up to date was of utmost importance.
- It is crucial that the EJM website, the Atlas in particular, is always updated. More assistance from the EJM Secretariat in this regard, e.g. by appointing an additional webmaster in charge of this task, would be viewed as positive.
- The experts would also see benefits if the Council Presidency (with the assistance of the EJM Secretariat) would clarify roles and responsibilities of the Member States in the updating of the data available through the EJM tools and closely monitor the update by Member States, in particular as regards the Atlas.
- The wizards are not widely used. It was suggested during the visit to introduce better interactive forms to create MLA requests that could be filled in, saved and printed and if necessary reused by the user. The forms should also be visible entirely when completing them instead of seeing just one separate box at a time. The Finnish national member has already created such forms in the Finnish language for EAW and submitted them to the EJM Secretariat.
- More consistency regarding the EJM contact points would be desirable from the point of view of the Finnish authorities. They change often which makes the formation of stable personal contacts difficult.

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- The Finnish authorities stressed the importance of choosing the contact points according to their language skills (at least English or French) and availability. In some cases, contact points in other Member States could not be reached despite several attempts, requests have not been replied to at all or only with great delay.
- The fact that two European Union agencies dealing with crime issues are seated in The Hague would call for making optimum use of these resources. Nevertheless the evaluation team was made aware of a case where Eurojust and Europol coordination centres had operated simultaneously and they would therefore deem it necessary to remind of the necessity to improve such cooperation between Eurojust and Europol in order to avoid overlaps.

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7. SPECIAL INVESTIGATIVE TECHNIQUES - PRACTICAL EXPERIENCES

7.1. Controlled deliveries (Article 9d (a))

The competent authorities to authorise or coordinate a controlled delivery in Finland are the National Bureau of Investigation, National Board of Customs, Border Guard, and the Eurojust national member in urgent cases.

Controlled deliveries have been very rare. There have been no cases so far coordinated by Eurojust.

7.2. Participation of national members in joint investigation teams (Article 9f)

7.2.1. *Practical experience*

At the time of the on-site visit Finland had participated in 34 JITs, most of them with Estonia or Sweden. By 1 June 2012, EU funding had been received for nine JITs. Funding was sought through Eurojust in seven of these cases and through the Prevention of and Fight against Crime programme of the European Union (ISEC) in two.

In most of these JITs, the offence under investigation had been drugs crime. The practical experience derived from the operation of the JITs have been reported as mainly positive: not only have the teams served to increase mutual confidence, they apparently helped to enhance the criminal investigations by improving and speeding up judicial cooperation.

Financial support has been hugely beneficial. However, the funding mechanism has proved to be inflexible in certain cases. Firstly, the fact that the funding periods cannot be altered may impose limitations on operations or at least require extra applications. After funding is granted, funding is available for measures for a period of 12 weeks. If the investigation goes on for longer than that due to reasons beyond the control of the authorities (e.g. delays in an extradition procedure or persons of interest otherwise not located), it may become necessary to file a new application for funding. Users have expressed a desire for a simplified notification procedure in such cases as opposed to submitting a completely new funding application.

Another kind of inflexibility has been noted in how the funding may be allocated: interpretation, translation, accommodation and travel costs are all under different cost categories, for instance. It is often not possible to know at the time of the application what investigative measures will be required, yet funding once allocated to a specific category cannot be reallocated to another item even if the investigation so requires.

At the date the on-site visit was conducted, Finland reportedly has had more than 10 joint investigation teams operating partly or fully on their territory.

7.2.2. Added value

Generally, Eurojust participation in JITs has been perceived very positively. The coordination meetings have been very useful. The criminal investigation authorities would like to see Eurojust national members that are involved in JITs taking a more active position on the choice of forum and that the national members would contribute actively to the JIT process from start to finish. The main thing is to include the prosecutor and head of investigation of the criminal case in the JIT.

The participation of Europol has also left positive experiences. The analysis data and secure data transfer channels provided by Europol have been very useful.

7.3. Other special investigative techniques

With regard to cooperation between the Finnish national authorities and Eurojust (acting through the national members or as a college) relating to other special investigative technique no experiences had been recorded as per time of the on-site visit.

7.4. Conclusions

- Generally, all persons interviewed have considered Eurojust's involvement in a joint investigation team as adding substantial value to the operating of the JIT.
- The Finnish law enforcement authorities are regularly involved in JITs; in this regard the geographical emphasis lies on JITs with Estonia and Sweden.

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- At the time of the on-site visit, funding from the European Union has been received for nine JITs. Eurojust funded nine JITs while two JITs have been financed by the Prevention of and Fight against Crime programme of the European Union (ISEC).
- However, the process of applying for funding from Eurojust is considered to be administratively demanding. The funding mechanism is seen as being too inflexible in certain cases, e.g. when the funding period needs to be extended. Furthermore, the Finnish authorities saw some benefit if Eurojust could lend more assistance and guidance during the phase of the application process.
- During the deliberations on-site it became clear that in order to safeguard an optimal running of a joint investigation team (JIT) a prosecutor should be at least a member and be aware about the planning of a JIT from the very beginning. The experts therefore deemed it appropriate to recommend consider amending the domestic legislation about the membership of a JIT in order to allow such participation.
- During the on-site visit the Finnish authorities were reporting on an operational meeting that had taken place at Europol between the French and Finnish authorities regarding the setting-up of a JIT. However, initially neither the Finnish prosecution services nor Eurojust were invited. Only after the French investigating magistrate had intervened the Finnish prosecutor was invited to the JIT. Bearing in mind that the prosecution offices have to comply with the obligation to inform Eurojust about such cases the experts would deem it appropriate that the necessary steps are being taken to involve the prosecution services at the earliest possible stage.
- The national member stated that despite the large number of JITs in which Finland has been engaged he has not been informed about the outcome of these activities as foreseen in the Eurojust Decision.
- During the meeting at the NBI the issue of ensuring the obligation under Article 13 to report to Eurojust the setting up of a JIT was discussed. It appeared as if in absence of the obligation for the JIT leader to file such a report and a prosecutor possibly not knowing about the JIT a collision of interests would prevail, particularly as national regulations seemed not having been amended in a way as to formalize this reporting. The experts would therefore deem it appropriate to recommend introduce such formalized reporting in order to prevent information gaps regarding JITs.
- The added value that Eurojust has lent to the JITs by participating therein has been perceived as very positive by the Finnish authorities.

- The Finnish authorities stated that it would add value to the outcome of a JIT if an evaluation meeting could be held at Eurojust upon its conclusion, a view to which the experts could adhere to as such concluding meetings would inevitably contribute to the continued development and improvement of the instruments of the joint investigation teams. Such meeting however, would not necessarily need to always take place in The Hague, but could also be conducted by means of video conference in order to save time and money.
- During the visit the expert team was informed about a draft law on joint investigation teams that was expected for 2014. At the time of the drafting of this report, the draft law had been disseminated to various authorities in order to receive their views. It is expected to be sent to parliament by mid-2013. The draft law will not foresee the mandatory participation of prosecutors in JITs but contains an obligation for the competent authority to report to the prosecutor in charge when the setting up of a JIT is planned. Furthermore, the competent prosecutor has the right to join a JIT as a member.

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8. TRAINING AND AWARENESS RAISING

8.1. Promoting the use of Eurojust and the EJM

8.1.1. Training

Training concerning Eurojust and the EJM and the availability of the prosecution services' website are explained and emphasized to the actors in the field at every appropriate juncture.

The OPG organises a two-day training event on international affairs each year, mainly for prosecutors, including information on Eurojust and EJM services. Though principally intended for prosecutors, a few places are reserved for judges and criminal investigation officials. Also, the OPG has on occasion organised a one-day training session on the use of the EJM website. Current affairs related to Eurojust and the EJM are often discussed at the annual meetings of prosecutors specialising in international affairs.

Also, international cooperation has been covered in several special courses for prosecutors (including those focusing on financial crime and drug crime), including information on Eurojust and EJM services. In spring 2013, the OPG will be organising a one-day training session on international affairs at every prosecution office.

The national member has visited prosecution offices and the Border Guard to talk about Eurojust. Groups of prosecutors have visited Eurojust, and in spring 2012 the national EJM contact points went on an excursion to The Hague to visit both Eurojust and the EJM secretariat.

Training sessions organised by the police on international official cooperation have included information on Eurojust and EJM services.

The Ministry of Justice promotes the EJM website and Atlas at the training sessions in international judicial cooperation held for judges and court clerks two to four times a year.

8.1.2. Other measures

The Ministry of Justice has created an intranet system (*Ilona*) for the justice administration. All the sections have their own pages (courts, prosecution, legal aid etc.) but may visit and use the pages of the other sections if they wish. The pre trial investigation authorities do not have access to this intranet.

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One section is devoted to cross-border cooperation. There is information on both Eurojust and EJM, with links to both websites. Articles on both bodies have been published in the prosecution service newsletter. The national member releases a detailed annual report, which along with the Eurojust annual report is widely distributed throughout the prosecution service and to other authorities. Prosecutors' manuals (e.g. those concerning EAW or freezing orders) and the prosecution service's intranet pages contain reminders about both Eurojust and the EJM.

All law enforcement authorities have access to an online manual on international affairs, which includes information on Eurojust and the EJM. This manual is also available to all judicial authorities.

Finland has a coordination group for international legal assistance in criminal cases (KARI), led by the Ministry of Justice. Current Eurojust and EJM matters and best practices are discussed in this group, and its members convey the information back to their respective organisations.

This group is a cross-sector expert group that meets seven to eight times a year. Its membership includes representatives of the judicial system (judges), the prosecution service, criminal investigation authorities (police, Customs and Border Guard), the Criminal Sanctions Agency, the Ministry of Justice (Unit for International Administration of Justice, Law Drafting Department and Criminal Policy Department), the Ministry of the Interior and National Police Board. The group may invite other experts to participate as needed. The purpose of the group is to promote matters related to international administration of criminal justice in various administrative sectors, to distribute information on trends in international regulations (e.g. international legal instruments), practices and procedures, to eliminate overlapping functions, to coordinate matters, and to develop procedures conducive to efficient cooperation among the authorities. The group's meetings include discussions of Eurojust and EJM activities. This group coordinates national evaluations regarding MLA in the broadest sense in Finland, for instance the present sixth round of Mutual Evaluations. The group draws up an action plan each year, monitors its implementation and improves cooperation. Meetings in 2012 have e.g. been focusing on the Nordic Arrest Warrant, the MLA procedure with USA, Russia and Hong Kong, JIT matters, the Naples II Convention, and investigation and prosecution procedures in cases of international crime (genocide).

A cross-sector expert group monitoring implementation practices of the European Arrest Warrant is led by the OPG. Eurojust is relevant for the work of this group whenever an EAW matter requires Eurojust to be consulted.

Information on relevant Eurojust and EJM documents is also provided in the intranets of national authorities and at training events.

8.2. Specific training for national members and EJM contact points

The national member is an experienced prosecutor who was working with Eurojust even before the appointment. The deputy national member is a state prosecutor who used to be the national member and has instructed the present national member. The current national member was also the first SNE appointed to the Finnish desk, and this experience too was very useful with the duties of the national member in mind. Both the national member and the deputy national member have trained the assistants.

The national member is in regular contact with the deputy national member, assistants and the International Unit at the OPG. Information produced by the OPG is also copied to the national member. The national member is well acquainted with the national official network and is able to leverage it to improve operations.

There is no specific regular training for all EJM contact points. Contact points appointed in the prosecution service have been provided EJM training for instance in the context of training concerning international legal cooperation.

In April 2012 Finnish contact points organised their national meeting in The Hague, including visits to Eurojust, the EJM, the ICC, Europol and a Dutch Centre for mutual legal assistance (*IRC*) in *Zoetermeer*.

8.3. Conclusions

- From the information received it could clearly be deduced that in the Office of the Prosecutor General a training system for all prosecutors at every step of their career has been established. However, from the visits conducted at district and local level it became also apparent that there was a need among the local prosecutors for more information about the possibilities of the EJM, about the system of contact points as well as the role of Eurojust.
- During the discussions held at the National Bureau of Investigations the experts were under the impression that while the police was expertly exploiting the possibilities of the role that is assigned to them during a criminal investigation by the Finnish Criminal Investigations Act a certain fear prevailed that an investigation leader would duplicate their efforts if he/she had to inform the prosecutor for the purpose of Article 13 of the Eurojust Decision. The expert team would therefore recommend that in order to alleviate such fears, to identify the crucial points and also to facilitate cooperation at this stage, this issue should be elaborated in trainings of NBI staff.
- The national member at Eurojust is active in approaching the authorities to make the possibilities of Eurojust assistance widely known.
- Training on Eurojust and the EJM is included in the basic training received by all prosecutors. This training is mandatory for prosecutors.
- Advanced trainings on MLA, including more detailed information on Eurojust, is offered by the Prosecutor General's Office, but not mandatory. Officials from the pre-trial investigation bodies and judges can also take part in this training.
- Training on Eurojust matters is also included in the curriculum of the Finnish Police Academy.
- The intranet of the prosecution service that is accessible to prosecutors, judges and pre-trial investigation officers contains detailed information on Eurojust.
- However, despite the fact that a number of trainings and information on the prosecution service intranet exist where the role of Eurojust and EJM is explained, the expert team had the impression that the assignment of cases to one channel or the other would benefit from clear guidance that could e.g. be given by the Finnish national member at Eurojust when participating in trainings.

9. GENERAL OBSERVATIONS

9.1. Overall assessment

The overall impression, at least among prosecutors, is that Eurojust has provided more concrete and more significant assistance than the EJM. Dealing with Eurojust is also considered easier than using the EJM. In general, the Finnish authorities noted that the criminal investigation authorities and prosecutors highly appreciated the fact that in the Finnish desk at Eurojust they had a contact point where they could discuss a complex or urgent matter with a person who not only speaks their language but furthermore is specialized in international legal cooperation – and in many cases is personally known to the person contacting them. Eurojust has a clear ability to speed up the criminal investigation process. However, users consider the EJM website and the EJM Atlas as being quite useful, and it would be important for Member States to recognize that it is of utmost importance to timely contribute to updating this information.

Dealing with Eurojust is perceived as easier above all because officials can talk to the national member in Finnish. Particularly in complex cases requiring a lot of communication, it is considered easier to be able to communicate in one's native language. The national member is always immediately available and can forward the matter swiftly from the Finnish desk. One of the problems noted with the EJM is that contact points in some countries do not respond to queries. Problems are caused and resources wasted because of the same request being sent to all Finnish contact points at the same time, as a result of which several officials spend time responding to the same request. A request or query should always be addressed only to one official or to the national EJM coordinator, who can then find out who should respond.

The network of EJM contact points is also considered a very useful tool, providing swift, professional and precise information whenever there is an MLA-related problem. Personal contact always yields better results than consulting a website.

9.2. Further suggestions from Finland

Both Eurojust and the EJM are definitely needed, but both need to be continuously developed. It is important to develop both bodies in an operational direction. Eurojust should focus action and resources on providing assistance in actual criminal cases, and all Member States should urgently implement the new Eurojust Decision. Seminars and strategy meetings held by Eurojust remain welcome, but they should focus on concrete case analysis and on explaining how Eurojust has helped close criminal cases at operational level. If the content is of high quality, the frequency of meetings can be kept feasible. The more national authorities hear of successful cooperation, the more likely they are to consult Eurojust (and the EJM). The percentage of administrative affairs in the operations of Eurojust must be critically monitored and its growth actively discouraged as necessary.

As for the EJM, both the Secretariat and the Member States should primarily focus on updating the website. Users will not use the network if they repeatedly come across outdated information. Member States should also appoint contact points that are capable of dealing with international affairs and are effective.

Enhancing operations will also require eliminating overlaps between various actors (such as Eurojust, the EJM, Europol and OLAF); on the other hand, all potential synergy benefits should be leveraged. In operational terms, having the same thing handled by several bodies should be avoided. Seminars and meetings are often held on the same topics; it might be possible to introduce more coordination in this area too.

An individual concrete item on the wish list is to obtain advance financial support for JIT meetings organised by Eurojust. This would make it easier to handle the practical arrangements.

9.3. Perception of the evaluation process with regard to the subject under review

In their answers to the questionnaire, the Finnish authorities have emphasized the important role that Eurojust and the EJM were playing in international judicial cooperation. The current evaluation process was therefore considered highly beneficial with regard to the extent to which they were exploited in the Member States, what practices they were actually applying and to explore how Member States would like to see Eurojust and the EJM being shaped in the future in order to strengthen their impact.

10. RECOMMENDATIONS

As regards the practical implementation and operation of the Decisions on Eurojust and the European Judicial Network in criminal matters, the expert team involved in the evaluation of Finland has been able to satisfactorily review the system in Finland. Overall, the working principles and legal framework of the system are very robust and functional and the various actors know their roles and responsibilities.

Finland should conduct a follow-up on the recommendations given in this report 18 months after the evaluation and report on the progress to the Working Party on General Affairs, including Evaluations (GENVAL). The results of this evaluation should also, at some point, be examined by the Working Party on Cooperation in Criminal Matters (COPEN).

The evaluation team thought it fit to make a number of suggestions for the attention of the Finnish authorities. Furthermore, based on the various good practices, related recommendations to the EU, its institutions and agencies, Eurojust in particular, are also put forward.

10.1. Recommendations to Finland

1. Should consider amending the domestic legislation about the membership of a JIT in order to allow prosecutors to participate in a JIT; (cf. 3.5 and 7.4)
2. Should consider disseminating news on the EJM, together with Eurojust information that is already circulated on a regular basis via the prosecution service newsletter; (cf. 3.5.2 and 5.8)
3. Should allocate a certain portion of working time of the EJM contact points in the prosecution offices solely to EJM matters in order to be able to devote sufficient time to these duties apart from their normal case work; (cf. 3.5.7)
4. Should consider including at least the national coordinator as well as two more EJM contact points (the number foreseen in the Eurojust Decision) in the ENCS in order to strengthen cooperation and coordination; (cf. 6.4)

5. Should ensure that the prosecution services are involved at the earliest possible stage in cases where a JIT is about to be set up; (cf. 7.4)
6. Should ensure that the Finnish national member at Eurojust is informed about the outcome of the activities of a JIT in accordance with the provisions laid down in the Eurojust Decision; (cf. 7.4)
7. Should consider intensifying the information at local and district level about the possibilities of the EJM and its structure as well as about the role of Eurojust; (cf. 8.3)
8. Should elaborate in trainings of law enforcement personnel how prosecutors could best be informed for the purpose of Article 13 of the Eurojust Decision while at the same time avoiding a duplication of efforts; (cf. 4.3 and 8.3)
9. Should introduce formalized reporting in order to meet the obligation under Article 13 to report to Eurojust the setting up of a JIT and in order to prevent information gaps regarding JITs; (cf. 7.4)

10.2. Recommendations to the European Union, its institutions and agencies, and to other Member States

10. Member States should take note of the consistent way in which Finland is using and promoting the use of the European Judicial Network and also the national guidelines that Finland has issued; (cf. 6.4)
11. Member States should take note of the well-structured reporting system and analysis activities of the Finnish national member at Eurojust; (cf. 3.5.3)
12. The European Union should ensure easier access to JITs funding while reducing formalities and granting more flexibility; (cf. 7.4)
13. Eurojust and Europol should further improve their cooperation in order to avoid overlaps; (cf. 6.4)
14. Member States should take note of the policy of continuity that Finland has adopted with regard to the staff it is employing at Eurojust and their later domestic assignments; (cf. 3.3 and 3.5.3)

15. Member States should take note of the positive example of the Finnish national member having the same access to national databases as national state prosecutors; (cf. 3.3.3.2 and 3.5.3)
16. Member States should take note of the *KARI* group as an excellent cross-sector forum for discussing issues related to judicial cooperation in criminal matters; (cf. 8.1.2)
17. The Presidency (with the assistance of the EJM Secretariat) should monitor the respect of requirements by the Member States when designating contact points to the EJM, and monitor the regular and proper update of the list of contact points; (cf. 6.4)
18. The Presidency (with the assistance of the EJM Secretariat) should clarify roles and responsibilities of the Member States in the updating of the data available through the EJM tools and closely monitor the update by Member States, in particular as regards the Atlas; (cf. 6.4)

10.3. Recommendations to Eurojust/the EJM

19. The national members at Eurojust should be able to devote most of their time to case work and not be overloaded with administrative work; (cf. 5.3.3)
20. The EJM should update its website more regularly and consider reinforcing the staff entrusted with this task; (cf. 6.4)
21. The EJM should provide dynamic forms (e.g. for the EAW) in every language as filling in the forms on the EJM website has proven to be difficult; (cf. 6.4)
22. Eurojust should consider holding an evaluation meeting upon the conclusion of a JIT; (cf. 7.4)
23. Eurojust should provide clear information as to the extent and products that can be expected in terms of feedback from Eurojust on the basis of Article 13 a, as a result of the exchange of information with Eurojust on the basis of Article 13; (cf. 3.5.5)
24. Eurojust should provide spontaneous feedback (even if negative) to national authorities as a result of information sent to Eurojust on the basis of Article 13; (cf. 3.5.5).
25. Eurojust is further recommended to simplify the Article 13 template to enhance the necessary exchange of information; (cf. 4.1.5 and 4.3)

ANNEX A: PROGRAMME FOR THE ON-SITE VISIT AND PERSONS INTERVIEWED/MET

6th Round of Mutual Evaluations - Finland 9 - 11 OCTOBER 2012

Tuesday 9 October 2012

Venue: Prosecutor General's Office, Helsinki

9.00-12.30 Meeting with representatives of Ministry of Justice and Prosecutor General's Office and Eurojust national member for Finland

Venue: Helsinki district prosecutor's office

14.00 Meeting with district prosecutors

Wednesday 10 October 2012

Venue: National Bureau of Investigation, Tikkurila, Vantaa

08.30 Train to Tikkurila from the Central Railway station Helsinki

9.00-14.00 Meeting with police, customs and border guard officials

Venue: Courthouse, Tikkurila, Vantaa

14.30-15.30 Meeting with district judges from Vantaa and Helsinki district courts

15.45-16.30 Meeting with district prosecutors from three prosecutor's offices

Thursday 11 October 2012

Venue: Prosecutor General's Office, Helsinki

09.00 EJM NC and CPs

10.00-12.30 Discussion and additional questions

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ANNEX B: PERSONS INTERVIEWED/MET

Meetings 9 October 2012

Venue: Office of the Prosecutor General

Person interviewed/met	Organisation represented
Katariina Jahkola	Ministry of Justice
Juhani Korhonen	Ministry of Justice
Mika Junninen	Ministry of Justice
Helinä Lehtinen	Ministry of Justice
Harri Tiesmaa	National member at Eurojust
Raija Toiviainen	The Office of the Prosecutor General
Tuuli Eerolainen	The Office of the Prosecutor General
Ritva Sahavirta	The Office of the Prosecutor General
Mika Illman	The Office of the Prosecutor General

Venue: Helsinki District Prosecutors' Office

Person interviewed/met	Organisation represented
Malla Sunell	Helsinki District Prosecutors' Office
Hannu Joona	Helsinki District Prosecutors' Office
Toomas Soosalu	Helsinki District Prosecutors' Office
Jussi Kivi	Helsinki District Prosecutors' Office
Elina Hyppönen	Helsinki District Prosecutors' Office
Katri Lyytikäinen	Helsinki District Prosecutors' Office
Anja-Riitta Rinkinen	Helsinki District Prosecutors' Office
Elisabet Stenman-Haltia	Helsinki District Prosecutors' Office

Meetings 10 October 2012

Venue: National Bureau of Investigation

Person interviewed/met	Organisation represented
Hannele Taavila	Ministry of Interior
Jenni Juslen	National Police Board
Tommi Hartman	Finnish Customs, Vaasa
Petri Härmä	Boarder Guard
Jarmo Keskitalo	Helsinki District Police
Taina Neira	National Bureau of Investigation
Pekka Vasara	National Bureau of Investigation
Jouko Kangasmaa	National Bureau of Investigation
Kaj Björkqvist	National Bureau of Investigation
Jan Bergström	National Bureau of Investigation

Venue: Vantaa District Court

Person interviewed/met	Organisation represented
Nina Hotti	Vantaa District Court
Antti Vuorenmaa	Vantaa District Court
Risto Tikka	Vantaa District Court
Mia Sundström	Helsinki District Court
Riitta Mutanen	Helsinki District Court
Katja Ruoho	Tampere District Prosecution Office

Venue: Vantaa District Prosecution Office

Person interviewed/met	Organisation represented
Mikko Sipilä	Vantaa District Prosecution Office
Katja Ruoho	Tampere District Prosecution Office
Mika Lopmeri	Kouvola District Prosecution Office

Meetings 11 October 2012

Venue: Office of the Prosecutor General

Person interviewed/met	Organisation represented
Taina Neira	National Bureau of Investigation
Pekka Vasara	National Bureau of Investigation
Petri Härmä	Border Guard
Merja Norros	Ministry of Justice
Anna-Lena Halttunen	Ministry of Justice
Mika Junninen	Ministry of Justice
Harri Tiesmaa	National member at Eurojust
Matti Nissinen	Prosecutor General
Raija Toiviainen	Office of the Prosecutor General
Tuuli Eerolainen	Office of the Prosecutor General
Ritva Sahavirta	Office of the Prosecutor General

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ANNEX C: LIST OF ABBREVIATIONS/GLOSSARY OF TERMS

ACRONYM ABBREVIATION TERM	ACRONYM IN THE ORIGINAL LANGUAGE	ENGLISH TRANSLATION/EXPLANATION
ARO	-/-	Asset Recovery Office
AWF	-/-	Europol's Analysis Work Files
CMS	-/-	Eurojust Case Management
COPEN	-/-	Working Party on Cooperation in Criminal Matters
EAW	-/-	European Arrest Warrant
FEC	-/-	Eurojust Financial and Economic Crime team
CPT	-/-	Eurojust Case Management Team
HENU	v	Head of Europol National unit
EJN	-/-	European Judicial Network
ENCS	-/-	Eurojust National Coordination System
EU	-/-	European Union
GENVAL	-/-	Working Party on General Affairs, including Evaluations
KARI	-/-	Coordination group for international legal assistance in criminal cases, chaired by Ministry of Justice
LAVA	-/-	Coordination Team for Extensive and Demanding Criminal Cases
ISEC	-/-	Prevention of and fight against Crime programme of the European Union
NC	-/-	

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ACRONYM ABBREVIATION TERM	ACRONYM IN THE ORIGINAL LANGUAGE	ENGLISH TRANSLATION/EXPLANATION
TC	-/-	
JIT	-/-	Joint Investigation Teams
MLA	-/-	Mutual Legal Assistance
OCC	-/-	On call coordination system
PATJA	-/-	Police Information Register
SIRENE	-/-	Schengen Information System
SAKARI	-/-	Prosecution Case Management System
OPG	-/-	Office of the prosecutor General
OLAF	Office européen de lutte anti-fraude	European Anti-Fraud Office
SNE	-/-	Seconded national expert (Eurojust)

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