Subject: Eurojust annual report for 2002

The Eurojust annual report for 2002 highlights many problems linked to the functioning and the activities of that body.

As regards Eurojust and its relations with other bodies, does the Council not share my view:

- that there is overlap between and confusion regarding the roles of Eurojust and the European Judicial Network (particularly as the report itself acknowledges that those roles are ‘similar in many ways’ and states that the difference is not yet by any means clear to legal practitioners at national level);

- that they are two separate bodies which administer confidential, personal information, that relations between Eurojust and the European Judicial Network should be based on clear rules, rather than, as stated in the report, flexible, informal arrangements;

- that there is a need to make relations between Eurojust, on the one hand, and Europol and OLAF, on the other, more transparent and provide for legal and democratic scrutiny at European level;

- that there is a need to clarify Eurojust’s role in the Joint Investigation Teams;

- that relations between Eurojust and third States and bodies which have already taken part in Eurojust meetings and exchanged information with Eurojust are consistent with Article 27 of the decision setting up Eurojust?

As regards access to information, data protection and transparency, does the Council not share my view:

- that Eurojust’s proposal, set out in the 2002 report, to establish a database covering investigations (and, in particular, one dealing with child pornography on the Internet) is vague and raises doubts as to its conformity with the decision setting up Eurojust;

- that the current rules do not provide for Eurojust access to the Schengen database, or indeed ‘direct or indirect access to the information’ contained in the SIS by the national members of Eurojust;

- that access to the minutes of Eurojust meetings should be guaranteed in accordance with Regulation (EC) 1049/2001(1);

- that the report contains no information regarding the appointment of a data protection officer;

- that the appointment, only in early 2003, of the final member of the Joint Supervisory Body for Data Protection which is responsible for Eurojust put an end to what had been, to that point, a major breach of the provisions on data protection in the decision setting up Eurojust?


Reply

(2 October 2003)

The Council, at its meeting of 5 and 6 June 2003, adopted conclusions on the first annual report of Eurojust (calendar year 2002)(1). It agreed in those conclusions to examine the first annual report of Eurojust more in detail during the Italian Presidency.

Subject to that examination, the following may be noted in relation to the questions raised by the Honourable Member of the European Parliament.
The European Judicial Network (EJN) was set up by a Joint Action in 1998 (1) and Eurojust through a Council Decision in 2002 (2). Eurojust has legal personality and represents therefore a certain level of integration at European level with very specific tasks whereas the EJN, being a Network firmly rooted in the judicial authorities of the Member States, has more general tasks. The two bodies work in the field of judicial cooperation so there is necessarily some overlap but this overlap is not detrimental to the functioning of the two bodies which are both crucial to the European Union's fight against serious, organized crime.

It is true that practitioners sometimes in some Member States are not clear about the respective roles of each body. This is partly due to the fact that sufficient information has not yet been made available at national level concerning the division of tasks between the EJN and Eurojust and their respective roles. At the last meeting of the EJN in Kavouri, during the Greek Presidency, it was suggested that the Member States should make the national competent authorities better acquainted with the two bodies and should inform them in more detail of their respective missions. In some Member States, the EJN representatives and Eurojust have also drafted common information material. Moreover, during the Danish Presidency, a Memorandum of Understanding was agreed on cooperation between EJN and Eurojust.

The Council for its part has also taken a number of measures to ensure that overlap is reduced to the minimum and promoting the necessary coordination. In particular, the Secretariat of the EJN has been placed inside the Secretariat of Eurojust. This, it is believed, will ensure that over time necessary coordination and synergy would be created.

The Council believes that there is at the present stage of development of judicial cooperation in Europe a need for the two bodies. The EJN is national, works with bilateral cooperation and is reactive whereas Eurojust has a vocation to work with international, multilateral cases and may also act more proactively than the EJN. The national members of Eurojust are also collaborating closely with the contact points of the EJN and in some Member States the deputy national member of Eurojust is also a contact point of the EJN.

The Council considers that the Eurojust Decision is clear on how Eurojust national members may exchange information, and in particular information containing personal data. It should also be noted that exchange of information may take place on the basis of rules laid down in national law.

The Council has noted that negotiations are ongoing between Eurojust and Europol on a cooperation Agreement and that the Council Decision setting up Eurojust also provides the possibility for Eurojust to conclude agreements with other bodies such as OLAF. To the extent that such agreements provide for the transmission of personal data, they must be approved by the Council according to Article 27 of the Eurojust Decision after an opinion has been rendered by the Joint Supervisory Body of Eurojust.

As far as joint investigation teams are concerned, the Council would like to draw the attention to its Recommendation, adopted on 8 May 2003, concerning joint investigation teams (4) and the Framework Decision adopted by the Council on 13 June 2002 (5). The Council considers that these two instruments, drawing also on Article 13 of the Convention adopted on 29 May 2000 on mutual assistance in criminal matters (6), clarify, to the extent necessary, Eurojust's possible role in any such a team.

As regards a possible database, the Council recalls that the Eurojust Decision contains precise and exhaustive provisions regarding the manner in which Eurojust may deal with personal data. In this context, it should be noted that a special Eurojust Joint Supervisory body has been created which will be able to advise Eurojust in this matter. The question on access to the SIS by Eurojust national members is currently being examined by the Council.

Regulation (EC) No 1049/2001 is not directly applicable to Eurojust. However, Article 39 of the Eurojust Decision provides that the College shall adopt rules for access to Eurojust documents, taking account of the principles and limits stated in the Regulation. The Council is aware that work in the College of Eurojust is underway to adopt such rules. Equally, the procedure for recruitment of the data protection officer is underway and this officer is likely to be recruited shortly after the summer recess.
The Council is aware that due to the delays with the appointment of the members of the Joint Supervisory Body (JSB), also the practical implementation of the data protection rules have taken some time. However, this process has now been initiated and the Council expects that it will be seized rapidly with the necessary documents allowing it to approve the rules of procedure on data protection.

(1) Doc. 9771/03 Eurojust 12.
(6) OJC 197, 12.7.2000, p. 3.

WRITTEN QUESTION E-1752/03
by Eija-Riitta Korhola (PPE-DE) to the Commission

(27 May 2003)

Subject: Use of impact assessment and liability insurance to deal with oil damage

Disasters at sea are not just an environmental problem, but also do immense economic harm. Oil damage might, for example, undermine the utility value and by the same token the asset value of seaside property and land. It could impede the operation of industrial plant and power stations situated on the coast. For instance, sea water-cooled nuclear power stations would have to be shut down for a long time, even years, because oil could clog up the cooling systems, leading to serious consequences.

The provisions applicable to accidents at nuclear power stations might serve as a model to deal with potential damage. The impact of an oil tanker accident would be assessed to help determine the cumulative probability distribution of costs and other consequences. Secondly, oil liability insurance similar to nuclear liability insurance would be needed to cover the wide-ranging consequences described above.

In what ways, over and above existing legislative measures and those being drawn up, does the Commission think that impact assessment and liability insurance, as mentioned in the preceding paragraphs, might be useful in gauging and remedying the wider consequences of oil damage?

Answer given by Mrs Wallström on behalf of the Commission

(8 July 2003)

The Commission would like to draw the attention of the Honourable Member to the fact that the situation and type of damage she refers to are covered by the International Convention on Civil Liability for Oil Pollution Damage (the Civil Liability Convention' or 'CLC') and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (the Fund Convention).

These two conventions, amended in 1992, constitute a regime that covers pollution damage caused by spills of persistent oil from tankers in the coastal waters (up to 200 miles from the coastline) of the participating States. The loss and damage covered by the regime includes property and, to some extent, economic losses and costs of environmental restoration as well as preventive measures, including clean-up costs. 83 States, including all Member States, except Luxembourg and Austria, are Contracting Parties to the 1992 Conventions.