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## EUROJUST'S NATIONAL MEMBERS AND COLLEGE: THE NEED FOR INCREASED JUDICIAL POWERS?

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**Michèle Coninx,**  
Vice-President of Eurojust  
National Member for Belgium  
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### **A. Strengthening of Eurojust's powers**

#### **1. New powers of Eurojust acting as a College**

- Resolution of conflicts of jurisdiction cases: written non-binding opinion when 2 or more NM can not agree on how to resolve them, **art. 7(2)**
  
- Resolution of difficulties or recurrent refusals concerning the execution of requests for judicial cooperation: written non-binding opinion, **art. 7(3)**

## **A. Strengthening of Eurojust's powers**

### **2. New tasks of Eurojust acting through its National Members**

- To take special investigative measures, **art.6(1)(a)(vi)**
- To take any other measure justified for the investigation or prosecution, **art.6(1)(a)(vii)**

*National authorities must give reasons for any refusal to comply with a formal request from Eurojust without undue delay (whether the request comes from the College or a National Member), **art.8***

## **A. Strengthening of Eurojust's powers**

### **3. Powers of National Members acting as national authorities**

⇒ **equivalent level of powers**

**Art. 9a to 9f**

- Each MS shall confer on its National Member at least powers described in Article 9b and, subject to Art. 9f (constitutional safeguard clause), powers described in Art. 9c and 9d

**Powers of 3 types:**

- Ordinary powers (9b)
- Powers exercised in agreement with national authority (9c)
- Powers exercised in urgent cases (9d)

## Ordinary Powers

### Art. 9b

- Requests for judicial cooperation:
  - Receive
  - Transmit
  - Facilitate
  - Follow-up
  - Provide supplementary information
- Obligation to inform competent authority thereof
- In case of partial or inadequate execution of a request for judicial cooperation, National Members shall be entitled to ask national authorities for supplementary measures in order for the request to be fully executed

## Powers exercised in agreement with a competent authority or at its request and on a case-by-case basis

### Art. 9c

- ❑ Issuing and completing requests for judicial cooperation
- ❑ Executing in their Member State requests for judicial cooperation
- ❑ Ordering in their Member State investigative measures agreed upon during a coordination meeting
- ❑ Authorizing and coordinating controlled deliveries in their Member State

**When:** \* Only in exceptional circumstances  
\* In principle: powers to be exercised by a competent national authority

## **Powers exercised in urgent cases**

### **Art. 9d**

- Authorise and coordinate controlled deliveries in their Member State
- Execute in relation to their Member State a request for judicial cooperation
  
- Condition: When it is not possible to identify or contact the competent national authority in a timely manner
- Obligation to inform the competent national authority as soon as it is identified or contacted

## **A. Strengthening of Eurojust's powers**

### **4. Participation of the National Member in Joint Investigation Teams (JIT)**

#### **Art. 9g**

- National Member shall be able to participate in JITs, including in their setting up
- However, MS may make the participation of the NM subject to agreement of competent national authority
- Invitation of NM to participate required if Community funding is provided
- MS shall define whether NM participates as a national competent authority or on behalf of Eurojust