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#### I/A-PUNKT-VERMERK

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Absender:	Gemeinsame Kontrollinstanz von Eurojust
Empfänger:	Ausschuss der Ständigen Vertreter/Rat
Nr. Vordok.:	11354/16
Betr.:	Tätigkeitsbericht der gemeinsamen Kontrollinstanz von Eurojust für das Jahr 2015

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1. Artikel 23 Absatz 12 des Beschlusses des Rates vom 28. Februar 2002 über die Errichtung von Eurojust lautet wie folgt: "Die Kontrollinstanz erstattet dem Rat einmal im Jahr Bericht."
2. Der Vorsitz der gemeinsamen Kontrollinstanz von Eurojust hat am 14. Juli 2016 den Tätigkeitsbericht der gemeinsamen Kontrollinstanz von Eurojust für das Jahr 2015 übermittelt.
3. Der AStV wird ersucht, den Rat zu bitten, den als Anlage beigefügten Bericht zur Kenntnis zu nehmen und ihn gemäß Artikel 32 Absatz 2 des Beschlusses des Rates zur Errichtung von Eurojust dem Europäischen Parlament zur Information zuzuleiten.

**Activity Report of the  
Joint Supervisory Body of  
Eurojust for 2015**

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## Foreword

As Chair of the Joint Supervisory Body of Eurojust since 16 June 2015 when I took over from my fellow member, Mr Campos Lobo, I have the pleasure to present the 13th annual JSB activity report providing insight into the work and activities of the JSB in 2015.

From a data protection perspective the year 2015 is marked as historical. After more than four years of negotiations that began when the European Commission presented its proposals for a Data Protection reform in January 2012, an informal agreement on the data protection package - the general Data Protection Regulation and the so-called 'Police' Directive - was reached in December 2015. The Data Protection reform is an essential step towards strengthening citizens' fundamental rights and emphasising the importance of data protection. Now, more than ever, in face of the recent terrorism atrocities, there is huge pressure on EU legislators to take meaningful actions to fight terrorism and ensure security across the EU. This involves a call to process more personal data for law enforcement purposes. Therefore, there is a need to ensure that agreed measures contain solid data protection safeguards.

During 2015 the JSB focused on the legislative processes related to the draft Eurojust Regulation and the Proposal for a Regulation on the establishment of the European Public Prosecutor's Office (EPPO). The JSB actively expressed its views on different occasions and to different actors, emphasising once again the need to guarantee the involvement of representatives of national authorities, preferably experts with judicial experience, in the supervision scheme not only for Eurojust,

but also for the EPPO. The strong and direct involvement of Member States in the oversight on data protection, where information is received from those Member States and goes back to them, is essential.

Throughout the years, carrying out regular, on-the-spot inspections, the JSB has built up an excellent insight into Eurojust's "business". In 2015 we have continued to monitor Eurojust's implementation of the recommendations of the last general inspection report of 2013 and those of the inspection of the Human Resources Unit in 2012. For this purpose, the JSB has carried out another inspection visit at the beginning of 2015. The JSB expressed its satisfaction with the status of the implementation of various recommendations and the serious steps taken by the organisation to ensure a high level of compliance.

The year 2015 was intense and challenging, nevertheless it has been a great pleasure to work with my fellow permanent members, Messrs. Hans Frennered and Carlos Campos Lobo, and I thank them for their expertise and commitment to the work of the JSB. On behalf of the JSB, I would like to thank Mr Peter Michael, Data Protection Secretary at the General Secretariat of the Council of the European Union, for his expertise, work and contribution to the work of the JSB.

As Chair of the JSB for the first time, I would like especially to highlight the important work and the support provided by the Data Protection Officer (DPO). In this year again, all the members of the Data Protection Service have done their work with strong commitment, efficiency, readiness and enthusiasm. The team of the DPO is a strong, competent and professional one. So, on behalf of the JSB, I would like to thank the Data Protection Officer, Ms Diana Alonso Blas, her staff members Ms Vaida Linartaitė-Gridziuškienė, Mr Xavier Tracol, and the secretary to the JSB, Ms Fiona Coninx, for their assistance to the work of the JSB!



Wilbert Tomesen

Chair

Joint Supervisory Body of Eurojust

# 1. Introduction

The 13th annual activity report of the Joint Supervisory Body of Eurojust (JSB) provides a summary of the JSB's main activities during 2015.

The JSB was established in Article 23 of the Eurojust Decision<sup>1</sup> as an independent body to monitor the activities of Eurojust involving the processing of personal data. It aims to ensure that these activities are carried out in accordance with the Eurojust Decision in full respect of the rights of the data subjects. One of the JSB's tasks is to examine appeals from members of the public against decisions of Eurojust on their requests for access to personal data that might be held by the organisation and to discover whether this information is being lawfully and accurately processed. In addition, the JSB monitors the permissibility of the transmission of data from Eurojust to third parties and issues opinions on data protection provisions in draft agreements being negotiated between Eurojust and third States/parties.

The data protection regime of Eurojust (reinforced by tailor-made rules and internal and external supervisory schemes) is a robust, strong and effective regime, offering a high level of protection of personal data and legal certainty for individuals while respecting the operational needs of the organisation. The JSB is facing an exciting and dynamic period of transformation not only in terms of supervision, but also data protection law in the EU as such. The changes foreseen, especially with regard to the supervisory mechanism, in the draft

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<sup>1</sup> 2002/187/JHA setting up Eurojust with a view to reinforcing the fight against serious crime, OJ L 63 p. 1, 6.3.2003 amended by Council Decision 2009/526/JHA of 16 December 2008 on the strengthening of Eurojust, OJ L 138 p. 14, 4.6.2009

Proposal for a Regulation on Eurojust<sup>2</sup>, as well as the recently adopted Data Protection package<sup>3</sup>, will affect in one way or another the future of Eurojust's data protection regime, currently under discussion with the EU legislators. The JSB Eurojust was and remains committed to actively contribute to the discussions about the proposed data protection regime, including the supervision, in the draft Eurojust Regulation, offering its full assistance and expertise.

## 2. Budget and costs

Eurojust underlined, in its letter of 22 January 2015 to the Working Party on Cooperation in Criminal Matters (COPEN)<sup>4</sup>, providing its contribution on the proposed data protection supervisory regime of Eurojust, the effectiveness of the current supervisory scheme *“with the JSB's tasks being carried out for less than €40,000 a year”*.

In 2015 the JSB received an amount of €46,400 from Eurojust's budget to cover the costs of its administrative expenses, including appointees' travel costs for meetings, meeting expenses, fees for participation in the European and International Data Protection Commissioners' conferences and the translation of its annual activity report (into French and German). A total of €26,400 was spent.

In light of Eurojust's budgetary restrictions, the JSB's budget will be reduced to €30,000 in 2016.

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<sup>2</sup> Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Criminal Justice Cooperation (Eurojust) /\* COM/2013/0535 final - 2013/0256 (COD) \*/

<sup>3</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), OJ L 119, 4.5.2016, p. 1  
Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA, OJ L 119, 4.5.2016, p. 89

<sup>4</sup> Doc. 5611/15 Council of European Union

In accordance with Eurojust's financial planning cycle, the JSB submitted a plan of its planned objectives and activities for 2017, together with an estimate of the financial resources needed to achieve these.

### 3. Meetings and elections

The regular meetings of the JSB contribute to an excellent communication with Eurojust and an extremely good understanding of Eurojust's "business" and data protection issues in the context of international judicial cooperation in criminal matters.

In the course of the year 2015, the JSB permanent members held four meetings at Eurojust's premises (3 March, 23 April, 15 June, and 19 November). A plenary meeting of the appointees took place on 16 June, at which elections were held for a new permanent member, with the outcome of Mr Campos Lobo (Portugal) being elected by acclamation for a renewed three year term. Mr Wilbert Tomesen (The Netherlands), in the third year of his mandate, took over as Chair in accordance with Article 3(2) of the Act of the Joint Supervisory Body of Eurojust.



*Photo: JSB permanent members. Left to right: Mr Hans Frennered (Sweden), Mr Wilbert Tomesen (Chair - The Netherlands), Mr Carlos Campos Lobo (Portugal)*

In addition, the JSB met with the College of Eurojust on 22 September 2015 to present the findings of its inspection, which took place on 19-21 January 2015. At this meeting, the Chair of the JSB also expressed the JSB's views on the draft Eurojust regulation and the European Public Prosecutor's Office (EPPO)<sup>5</sup>, stating that:

*“As stated in various opinions and underlined in its third one of May 2015, the JSB considers it vital that the involvement of representatives of national authorities, preferably experts with judicial experience, is guaranteed through a Cooperation Board in which they should work together with the EDPS.*

*Based on my personal experience as a prosecutor in the Netherlands and as well as in my current role at the Dutch DPA, I am strongly in favour of the involvement of national authorities in the Eurojust supervisory scheme, given the fact that the data processed by Eurojust come from the national authorities and go back to them afterwards. Eurojust increasingly plays a crucial role in the processing of personal data of European citizens.*

*Extensive national involvement and experience with law enforcement information, as well as thorough and authoritative knowledge of data protection is essential - for the sake of data protection as well as for the sake of Eurojust. Eurojust needs that position in regard to the Member States.*

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<sup>5</sup> Proposal for a Council Regulation on the establishment of a European Public Prosecutor's Office 17.7.2013 COM(2013) 534 final 2013/0255

*This is a point which we from the JSB will continue to stress at every possible occasion, not only, as far as Eurojust is concerned, but also regarding the European Public Prosecutor's Office (EPPO). What applies to Eurojust certainly also applies to a front-organisation the EPPO is supposed to become. Strong and direct involvement of the Member States in the oversight on data protection is essential.”<sup>6</sup>*



Plenary meeting in June 2015

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<sup>6</sup> The Chair's statement at this occasion can be found on the JSB's webpage:

<http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/jsb/meetings/Statement%20of%20Chair%20of%20JSB%20to%20College%202015-09-22/Statement%20of%20Chair%20of%20JSB%20to%20the%20College%20of%20Eurojust%20of%202022-09-2015.pdf>

## 4. Data Protection Commissioners' conferences

The JSB Eurojust is active in the international data protection arena and follows up closely the major international data protection events. Such occasions are always a perfect opportunity to meet with counterparts from other organisations and to discuss and exchange views on the ongoing data protection matters.

The JSB Eurojust is an accredited member of both the European Conference of Data Protection Commissioners and the International Conference of Data Protection Commissioners.

Mr Campos Lobo represented the JSB at the European Conference of Data Protection Commissioners in May in Manchester, where a Resolution on meeting data protection expectations in the digital future and a Resolution on the opening of a dedicated European Conference section on the CIRCABC platform were adopted by the Conference.

Mr Campos Lobo also attended the 37th International Conference of Data Protection and Privacy Commissioners in October 2015 in Amsterdam. The focus of the “open part” of the conference, among others, was a search for transatlantic privacy solutions, resulting in a framework of practical options that advance strong, globally accepted privacy values in a manner that respects the substantive and procedural differences between the two jurisdictions.

## 5. Supervisory work

As mentioned earlier, by carrying out regular, on-the-spot inspections throughout the years, the JSB has built up an excellent insight into Eurojust's "business". The inspections are one of the main tasks of the JSB's monitoring as to whether Eurojust processes personal data in accordance with the Eurojust Council Decision.

The JSB holds frequent inspections, covering both the case-related and non-case-related (administrative) processing operations of Eurojust, and delivers extensive and detailed reports of such inspections, including findings and recommendations. In accordance with Article 7 of the Act of the JSB<sup>7</sup>, the JSB has carried out several inspections at Eurojust during recent years. On 19-21 January 2015 the JSB carried out its fifth inspection.

### January inspection

The main objective of this fifth inspection was to check Eurojust's follow-up to the recommendations of the JSB's 2013 inspection report. The inspection team included legal and technical experts from national data protection authorities and the Data Protection Secretariat of the Council of the European Union.

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<sup>7</sup> Article 7 : Checks on locations and experts

Despite the different judicial cultures at Eurojust, the JSB found a growing common drive to create a strong and effective organisation. The JSB expressed its satisfaction with the status of the implementation of the recommendations regarding the use of the Case Management System (CMS), the handling of manual files, the level of data protection awareness within the organisation and the implementation of Article 19 of the Data Protection Rules<sup>8</sup>. However, the JSB highlighted the need for a consistent approach in fully implementing the data management policy at the National Desks.

The JSB held an additional and very useful meeting with representatives of Eurojust in May to discuss and explore more technical aspects of the inspection, concerning the implementation of IT and outlook-related recommendations and the available solutions.

On 2 June 2015, the JSB submitted its final report to the President of Eurojust and on 22 September the Chair of the JSB presented the main findings and conclusions of the report to the College of Eurojust, stressing that the JSB expected high commitment from the side of Eurojust to solve the outstanding difficulties.

As a continuous follow-up to the inspection held in January, the JSB will carry out a further inspection at Eurojust at the beginning of 2016 to check on the progress of the implementation of the recommendations. As the Chair of the JSB, Mr Tomesen, underlined during his statement at the College meeting on 22 September “*Key still is how policies and guidelines are implemented in practice and this is where we will welcome further actions and commitment from Eurojust.*”

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<sup>8</sup> <http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/dataprotection/Eurojust%20Data%20Protection%20Rules/Eurojust-Data-Protection-Rules-2005-02-24-EN.pdf>

## 6. Cooperation with the Data Protection Officer of Eurojust

The Data Protection Officer of Eurojust plays a fundamental role in ensuring respect and compliance with data protection requirements within the organisation. The recently adopted data protection package reinforces the position and status of the Data Protection Officer. The role of the Data Protection Officer of Eurojust is to assist Eurojust in monitoring internal compliance with the provisions of the Eurojust Council Decision and applicable rules. In accordance with Article 6(6) of the Act of the JSB<sup>9</sup>, the JSB collaborates closely and supports Eurojust's Data Protection Officer. This close cooperation continued successfully throughout the year 2015. At the meeting with the College of Eurojust on 22 September, the Chair of the JSB, Mr Tomesen, expressed the JSB's satisfaction with the work of the Data Protection Officer (DPO) *"who makes a substantial effort to build bridges between data protection requirements and the operational needs of the organisation"*.

## 7. ICT projects

The continuous enhancement of the CMS, including analytical and information exchange tools which address at the same time the questions of data quality and synergy with other IT systems at an EU level (for example Europol), is a strategic Eurojust objective having an impact on data protection. The JSB follows closely and receives regular updates from Eurojust about the latest developments in the main information and communication technology (ICT) projects involving the processing of personal data. Such approach has proved to be a success as the JSB is consulted at an early stage of the processes and can provide its advice in terms of compliance with data protection rules. In such a way it is ensured that ICT projects meet data protection requirements and comply with the Eurojust Council Decision and applicable rules. Some of them deserve to be named specifically.

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<sup>9</sup> "The Joint Supervisory Body will liaise with the Data Protection Officer of Eurojust where appropriate".

- A new CMS 4.1 release incorporated a feature to facilitate compliance with Article 19 of the Data Protection Rules, thus fulfilling the JSB's recommendation for implementation of Article 19 in its inspection report of 2013. The changes to the CMS now provide the CMS users with a simpler, more structured way to record a decision (taken on a case-by case basis) of the National Member to inform or not a data subject directly into the CMS.
- A Case Information Form (CIF), not including any personal data, was developed and supports a project for Eurojust to become a centre of expertise and to preserve vital strategic knowledge for future reference.
- A system called e-REC(ording) was released in 2015, which supports the recording of and reporting on the utilisation of human and financial resources and the achievement of organisational performance indicators per Eurojust's organisation unit.

## 8. Exchange of information with Member States

The key to any successful IT system (independent of the IT solution/architecture chosen) is the feeding of the system with information, and doing it in a coherent way. In this regard, the College Decision on the insertion of data in the CMS adopted in June 2014 was a positive development. Based on its experience gained through the years of carrying out inspections at Eurojust, the JSB would like to underline how vital it is for the work of Eurojust to receive efficiently and reliably structured case-related information from the relevant authorities of Member States. It is important that Eurojust continues to invest in its Case Management System and that the Eurojust National Coordination System (ENCS) is set up in the Member States to coordinate the work carried out by the national correspondents for Eurojust in order to ensure that the Case Management System receives information from the Member State in an efficient and reliable manner. Despite the budgetary cuts foreseen for 2016 and the freezing of IT projects due to Eurojust's move to new premises in 2017, it is important that Eurojust continues to invest in developing these IT resources.

## 9. Future supervision mechanism

On 13 March 2015, the Council of European Union approved a revised proposal on the draft Eurojust Regulation, containing some changes in Chapter IV on data protection and the future supervisory mechanism of Eurojust<sup>10</sup>. This agreed Common Approach took on board some of Eurojust's<sup>11</sup> and JSB's proposals from previous opinions and correspondence<sup>12</sup>. It proposed the idea of a cooperation board to work in conjunction with the European Data Protection Supervisor (EDPS) as a supervisory model for Eurojust. The JSB expressed its commitment to support the cooperation board proposal and to safeguard the role and involvement of the national authorities in the Eurojust's supervision activities as much as possible.

On 6 May 2015 the JSB issued a **third opinion on the data protection regime in the proposed Eurojust regulation on Chapter IV concerning data protection**<sup>13</sup>, expressing its support for the proposal of a cooperation board, but outlining at the same time its concern over two key issues which could impact the activities of Eurojust and its data protection regime: first - the need to strengthen the involvement of experts with judicial and law enforcement experience in the cooperation board and second - the need to involve Eurojust in discussions about the processing of personal data by the supervision mechanism. This opinion was circulated to key policy makers and published as an official Council document on 8 May 2015<sup>14</sup>.

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<sup>10</sup> Eurojust Regulation, Chapter IV, 6643/15 of 27 February 2015

<sup>11</sup> Council of EU 5611/15 written contribution from Vice-President of Eurojust on a data protection supervisory regime to Eurojust

<sup>12</sup> In this regard, see previous opinions of the JSB regarding data protection in the proposed new Eurojust legal framework of 14 November 2013 and 1 December 2014:

<http://www.eurojust.europa.eu/about/structure/jsb/Pages/jsb-publications.aspx>

[http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/jsb/opinions/Opinion%20on%20the%20new%20Eurojust%20Regulation%2c%202013/OpinionSB\\_new\\_Eurojust\\_Regulation\\_2013-11-14\\_EN.pdf](http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/jsb/opinions/Opinion%20on%20the%20new%20Eurojust%20Regulation%2c%202013/OpinionSB_new_Eurojust_Regulation_2013-11-14_EN.pdf)

<sup>13</sup> [http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/jsb/opinions/Third%20Opinion%20on%20the%20data%20protection%20regime%20in%20the%20proposed%20Eurojust%20Regulation%2c%202015/3rdOpinionSB\\_on-data-protection-in-proposed-Eurojust-Regulation\\_2015-05-06\\_EN.pdf](http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/jsb/opinions/Third%20Opinion%20on%20the%20data%20protection%20regime%20in%20the%20proposed%20Eurojust%20Regulation%2c%202015/3rdOpinionSB_on-data-protection-in-proposed-Eurojust-Regulation_2015-05-06_EN.pdf)

<sup>14</sup> ST 8638 2015 INIT Proposal for a Regulation on the European Union Agency for Criminal Justice Cooperation (Eurojust) - Third Opinion of the Joint Supervisory Body of Eurojust

## 10. Data protection processing in European Public Prosecutor's Office

The JSB closely monitored the discussions on the Proposal for a Regulation on the Establishment of the European Public Prosecutor's Office (EPPO). The core business and tasks of the latter would involve processing case-related personal data with law enforcement and prosecutorial authorities of Member States, similar to Eurojust. The JSB believes that the protection of personal data should be at the heart of the Regulation on the Establishment of the EPPO. As emphasised in the JSB's statement to the College of Eurojust at the plenary meeting of 22 September, *“what applies to Eurojust on data protection certainly also applies to a front-organisation the EPPO is supposed to become. This position is needed in regard to the Member States. The strong and direct involvement of the Member States in the oversight on data protection is essential.”*

In December the JSB issued an opinion on the protection of personal data in the Proposal for a Regulation on the Establishment of the European Public Prosecutor's Office (EPPO) to be circulated to key policy makers. Once again, the JSB reiterated the need to ensure that the Regulation complies with all applicable fundamental data protection principles; that the EPPO efficiently and reliably receives case-related personal data from relevant prosecutorial authorities of Member States and has a secure information technology system to successfully carry out its mandate.

In its Opinion, the JSB considered two main issues, i.e. access of the EPPO to the CMS, as well as relations of the EPPO with Eurojust. The JSB accordingly drew attention to the need for an integrated supervisory scheme. With regard to the latter, the JSB underlined that *“Consistency in the data protection supervision of the EPPO is best served by the creation of an independent and effective joint supervisory*

structure – Cooperation Board – with the equal, structural participation of national authorities and the EDPS. Extensive national experience with how to deal with law enforcement information, as well as thorough and authoritative knowledge of data protection, is essential.”

## 11. Agreements between Eurojust and third States/parties

In accordance with Article 26(2) of the Eurojust Council Decision<sup>15</sup>, Eurojust reported regularly to the JSB on the status of negotiations between Eurojust and third States and parties.

During 2015, the JSB issued the following opinions regarding the draft agreements being negotiated with third States/parties:

### 11.1 Opinion on draft agreement between Eurojust and Ukraine

In March, the JSB reviewed the draft agreement between Eurojust and Ukraine. It welcomed the fact that the draft agreement contained all the relevant data protection provisions in line with the text of the model agreement template which had been previously positively evaluated by the JSB.

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<sup>15</sup> “[...] Such agreements or working arrangements may only be concluded after consultation with the Joint Supervisory Body”.

On 3 March, the JSB issued a positive opinion<sup>16</sup> on the draft agreement, stating that it considered adequate the provisions on the exchange of personal data contained in the draft agreement.

## 11.2 Opinion on draft agreement between Eurojust and Montenegro

In April, the JSB considered the draft cooperation agreement between Eurojust and Montenegro. It appreciated that, as a result of the substantial preparatory work done by the External Relations Team and the Data Protection Service of Eurojust, the level of protection in Montenegro had been assessed as satisfactory by the Data Protection Service. It also welcomed the substantial work done by the Montenegrin authorities in cooperation with Eurojust to raise awareness regarding data protection issues with local judges and prosecutors in Montenegro and the high level of effort and commitment shown by those authorities in this context.

The JSB issued a positive opinion<sup>17</sup> on the provisions of the draft Agreement between Eurojust and Montenegro concerning data protection on 23 April.

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<sup>16</sup>[http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/jsb/opinions/Opinion%20on%20the%20draft%20agreement%20between%20Eurojust%20and%20Ukraine%2c%202015/OpinionJSB\\_draft-Eurojust-Ukraine-agreement\\_2015-03-03\\_EN.pdf](http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/jsb/opinions/Opinion%20on%20the%20draft%20agreement%20between%20Eurojust%20and%20Ukraine%2c%202015/OpinionJSB_draft-Eurojust-Ukraine-agreement_2015-03-03_EN.pdf)

<sup>17</sup> [http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/jsb/opinions/Opinion%20of%20the%20JSB%20of%20Eurojust%20on%20the%20draft%20Cooperation%20Agreement%20between%20Eurojust%20and%20Montenegro%20\(2015\)/Opinion%20JSB%20re%20draft%20agreement%20with%20Montenegro%20\(2015\).pdf](http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/jsb/opinions/Opinion%20of%20the%20JSB%20of%20Eurojust%20on%20the%20draft%20Cooperation%20Agreement%20between%20Eurojust%20and%20Montenegro%20(2015)/Opinion%20JSB%20re%20draft%20agreement%20with%20Montenegro%20(2015).pdf)

### 11.3 Memorandum of Understanding with the Office for Harmonization in the Internal Market (OHIM)

On 19 May the JSB issued a positive opinion on the draft Memorandum of Understanding between the Office for Harmonization in the Internal Market (OHIM) and Eurojust<sup>18</sup>. The JSB welcomed in particular the provision in Article 3.5 whereby the "*[e]xchange of information or experience provided for in this MoU shall not include the transmission of operational information including data relating to an identified or identifiable person.*"

## 12. Rights of the data subject

As mentioned in the introduction, one of the main tasks of the JSB is to examine appeals submitted to it in accordance with Articles 19(8) and 20(2) of the Eurojust Council Decision<sup>19</sup>. If the JSB considers that a decision taken by Eurojust on the processing of data is not compatible with the Eurojust Decision, it shall refer the matter to Eurojust for reconsideration. Decisions of the JSB are final and binding on Eurojust.

During 2015, the JSB received no appeal requests. Eurojust informed the JSB about one case-related request for access to personal data, which had been received in December 2015.

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<sup>18</sup> [http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/jsb/opinions/Opinion%20of%20the%20JSB%20of%20Eurojust%20on%20the%20draft%20Memorandum%20of%20Understanding%20between%20OHIM%20and%20Eurojust%20\(2015\)/Opinion%20of%20JSB%20on%20MoU%20between%20OHIM%20and%20Eurojust%20\(2015\).pdf](http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/jsb/opinions/Opinion%20of%20the%20JSB%20of%20Eurojust%20on%20the%20draft%20Memorandum%20of%20Understanding%20between%20OHIM%20and%20Eurojust%20(2015)/Opinion%20of%20JSB%20on%20MoU%20between%20OHIM%20and%20Eurojust%20(2015).pdf)

<sup>19</sup> "The JSB shall examine appeals submitted to it in accordance with Articles 19(8) and 20(2) of the Eurojust Decision".

## 13. Revision of Eurojust Security Rules

Article 7 of the Eurojust Data Protection Rules requires Eurojust to develop a comprehensive security policy and lays down an obligation for Eurojust to consult the JSB regarding such policy. At the meeting in November, Eurojust informed the JSB about the revision of Eurojust's Security Rules. The JSB expressed satisfaction that the Data Protection Service of Eurojust had closely participated in the Working Group on the revision of the Security Rules and welcomed the proposed revision, issuing a positive opinion, pursuant to Article 7(3) in fine of the Eurojust Data Protection Rules, on 1 December.<sup>20</sup>

## 14. Cooperation between Eurojust and Europol JSBs

The JSB liaises frequently with other existing JSBs and consults them when dealing with matters of common interest. In June 2015 the JSB Europol presented its "Report on the data protection perspective of the processing of data on victims of trafficking in human beings" to the plenary meeting<sup>21</sup>. This report aims to tackle the problem of ensuring the accuracy of data relating to persons who are victims of trafficking. The JSB Europol intends to use this report in training sessions for those who are responsible for data processing to ensure accuracy. The JSB Europol requested the cooperation of the JSB Eurojust in helping to raise awareness of the importance of the correct labelling of data subjects in relation to the fight against trafficking in human beings (THB). The JSB expressed its support for this important initiative.

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<sup>20</sup> [http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/jsb/opinions/Opinion%20of%20the%20JSB%20on%20the%20revision%20of%20the%20Eurojust%20Security%20Rules%20%282015%29/Opinion%20of%20the%20JSB%20on%20the%20revision%20of%20the%20Eurojust%20Security%20Rules\\_2015\\_EN.pdf](http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/jsb/opinions/Opinion%20of%20the%20JSB%20on%20the%20revision%20of%20the%20Eurojust%20Security%20Rules%20%282015%29/Opinion%20of%20the%20JSB%20on%20the%20revision%20of%20the%20Eurojust%20Security%20Rules_2015_EN.pdf)

<sup>21</sup> <http://www.europoljsb.europa.eu/media/277592/thb.pdf>

## 15. Max Planck Institute research project

The Max Planck Institute of Luxembourg invited the JSB in September to take part in a research project on boards of appeal and other similar appellate bodies of the EU agencies. The project aimed to identify best practices and issues in the activity of boards of appeal with the aim to stimulate reflection by academics and practitioners and to prompt some reform proposals. The JSB expressed a wish to participate in the project and nominated Mr Xavier Tracol, Senior Legal Officer of the Data Protection Service, to take part in this research project on behalf of the JSB.

## 16. Transparency

The JSB aims to be open and transparent about all its activities and publishes the highlights of its meetings, opinions, decisions on appeals on its webpage<sup>22</sup>. In accordance with Article 23 (12) of Eurojust Council Decision, the JSB submits its annual activity report to the Council and publishes it on the webpage as well.

## 17. Future developments

The JSB will continue to be closely involved in the data protection processes at Eurojust and to provide constructive input as long as it exercises its supervisory tasks at Eurojust. The following years will bring important challenges and changes, in view of the proposed replacement of the existing JSB by a cooperation board composed of national authorities in cooperation with the EDPS. During this changeover period, the JSB will continue to give its input to all the ongoing discussions with EU legislators to ensure that the best possible data protection supervision mechanism is put in place at Eurojust together with the knowledge and expertise acquired through more than a decade of work done by the JSB Eurojust.

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<sup>22</sup> <http://www.eurojust.europa.eu/about/structure/jsb/Pages/independent-joint-supervisory-body.aspx>

## Annex 1: Appointees of the Joint Supervisory Body in 2015

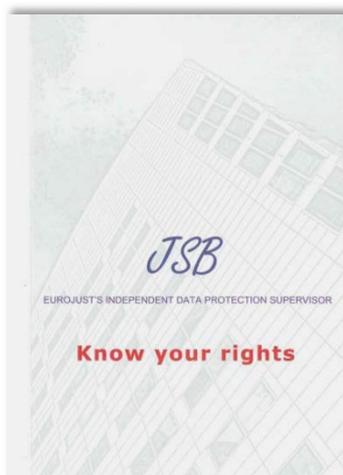
<b>Member State</b>	<b>Appointee</b>	<b>Date of appointment</b>
Belgium	Ms Nicole LEPOIVRE	09/01/2003
Bulgaria	Ms Pavlina PANOVA	04/07/2007
Czech Republic	Mr Jindřich URBÁNEK	01/01/2015
Denmark	Ms Birgit KLEIS	27/03/2013
Germany	Mr Bertram SCHMITT	27/04/2012- 24/02/2015
Estonia	Mr Pavel GONTŠAROV	25/10/2004
Ireland	Ms Nicola MURPHY	07/12/2015
Greece	Mr Ioannis ANGELIS	02/03/2012
Spain	Mr José Luis RODRIGUEZ ÁLVAREZ	07/02/2012- 25/07/2015
France	Mr Jean-François BOHNERT	20/06/2014
Italy	Mr Alberto PIOLETTI	14/06/2010
Cyprus	Mr Yiannos DANIELIDES	14/05/2012- 21/12/2015
Latvia	Ms Zane PĒTERSONE	27/09/2004
Lithuania	Ms Laureta ULBIENĖ	31/05/2012
Luxembourg	Ms Lotty PRUSSEN	06/05/2002
Hungary	Mr Tibor KATONA	23/06/2008
	Mr Saviour CACHIA	25/03/2014
Netherlands	Mr Wilbert TOMESSEN	01/06/2012
Austria	Mr Gerhard KURAS	06/02/2010
Poland	Mr Dariusz ŁUBOWSKI Ms Katarzyna NASZCZYŃSKA	26/05/2004- 11/05/2015
Portugal	Mr Carlos CAMPOS LOBO	01/04/2006
Romania	Ms Laura-Marina ANDREI	01/10/2007
Slovenia	Mr Rajko PIRNAT	23/03/2005
Slovak Republic	Mr Dušan ĎURIAN	22/03/2012
Finland	Ms Anne HEIMOLA	01/01/2008
Sweden	Mr Hans FRENNERED	01/07/2002
United Kingdom	Mr Christopher GRAHAM	12/08/2009

## Annex 2: Publications

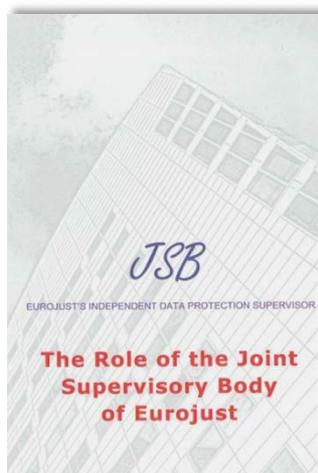
The following publications can be requested from the JSB Secretariat, PO Box 16183, 2500 BD The Hague, Netherlands, e-mail: [jsb@eurojust.europa.eu](mailto:jsb@eurojust.europa.eu).



*Data Protection at Eurojust* booklet, available in English, French, German and Spanish. Thanks to the EU-funded IPA project, the booklet has also been translated into Albanian, Bosnian and the language of the Former Yugoslav Republic of Macedonia.



Leaflet 1: *Know your rights*, printed version available in English, French, German and Spanish.



Leaflet 2: *The Role of the Joint Supervisory Body of Eurojust*, printed version available in English, French, German and Spanish.