



Council of the
European Union

Brussels, 19 November 2020
(OR. en)

13165/20

COPEN 333
JAI 1003
EUROJUST 148

COVER NOTE

From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 19 November 2020

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

No. Cion doc.: COM(2020) 743 final

Subject: Recommendation for a COUNCIL DECISION authorising the opening of
negotiations for Agreements between the European Union and Algeria,
Armenia, Bosnia and Herzegovina, Egypt, Israel, Jordan, Lebanon,
Morocco, Tunisia and Turkey on cooperation between the European Union
Agency for Criminal Justice Cooperation (Eurojust) and the competent
authorities for judicial cooperation in criminal matters of those third States

Delegations will find attached document COM(2020) 743 final.

Encl.: COM(2020) 743 final



Brussels, 19.11.2020
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Recommendation for a

COUNCIL DECISION

authorising the opening of negotiations for Agreements between the European Union and Algeria, Armenia, Bosnia and Herzegovina, Egypt, Israel, Jordan, Lebanon, Morocco, Tunisia and Turkey on cooperation between the European Union Agency for Criminal Justice Cooperation (Eurojust) and the competent authorities for judicial cooperation in criminal matters of those third States

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE RECOMMENDATION

In a globalised world where serious crime and terrorism are increasingly transnational and polyvalent, law enforcement and judicial authorities should be fully equipped to cooperate with external partners to ensure the security of their citizens. Eurojust should therefore be able to cooperate and exchange personal data with the judicial authorities of third countries to the extent necessary for the accomplishment of its tasks. At the current time, Eurojust has cooperation agreements which allow for exchanges of personal data in place with Montenegro, Ukraine, Moldova, Liechtenstein, Switzerland, North Macedonia, the USA, Iceland, Norway, Georgia, Albania and Serbia. Under Article 80(5) of Regulation 2018/1727¹ (the Eurojust Regulation) these cooperation agreements remain valid.

Since the entry into application of the Eurojust Regulation on 12 December 2019 and pursuant to the Treaty, the Commission is responsible, on behalf of the Union, for negotiating international agreements with third countries for the cooperation with and exchange of personal data with Eurojust. In so far as necessary for the performance of its tasks, in line with Chapter V of the Eurojust Regulation, Eurojust may establish and maintain cooperative relations with external partners through working arrangements. However, these cannot by themselves be a legal basis for the exchange of personal data.

Taking into account the political strategy, the operational needs of judicial authorities across the EU, and the potential benefits of closer cooperation in this area, the Commission considers it necessary to start negotiations in the short-term with ten third countries to regulate the way Eurojust can cooperate with these.

The Commission has made its assessment of priority countries taking into account Eurojust's operational needs. The draft Eurojust external relations strategy submitted to the Commission for review indicates that Eurojust has identified that there is a particular operational need for cooperation with the People's Democratic Republic of Algeria, the Republic of Argentina, Bosnia and Herzegovina, the Republic of Colombia, the Arab Republic of Egypt, the State of Israel, the Hashemite Kingdom of Jordan, the Republic of Lebanon, the Kingdom of Morocco, the Republic of Tunisia and the Republic of Turkey. Other priority third States identified by Eurojust include the Federative Republic of Brazil, the People's Republic of China, Canada, the United Arab Emirates, the federal Republic of Nigeria, the Republic of Panama, the United Mexican States and the Russian Federation.

While the Commission recognises these operational needs, it is clear that they are not identical in terms of intensity. The current level of cooperation depends on various factors, such as the availability of a Eurojust Contact Point in the country concerned. Given resource constraints it is not possible for the Commission to enter into negotiations with all these third States at the same time – a further prioritisation is considered necessary. For the Commission the first priority should be to enhance cooperation with candidate countries and potential candidates, as these third States should be best prepared for high-level judicial cooperation in criminal matters as a matter of EU *acquis*. The Commission's view regarding Bosnia and Herzegovina and Turkey was set out in the Commission's 2020 Regular Reports². In both cases, the conclusion of an international agreement, allowing for the exchange of personal data with Eurojust, is subject to both countries making the necessary amendments to their relevant data protection laws.

¹ Regulation (EU) 2018/1727 of 14 November 2018, OJ L 295, p. 138, 21.11.2018.

² Brussels, 6.10.2020 COM(2020) 660 final 2020 Communication on EU enlargement policy.

The second priority should be to enhance cooperation with other third countries which have not applied for Union membership but have a potentially high security impact on Europe for geographical reasons, such as countries in the Middle East and North African Region. As indicated above, the countries in this Region are all top priority third countries for Eurojust for operational reasons. This choice is also in line with the Global Strategy for the European Union's Foreign and Security policy.³

A third priority should be to ensure as much as possible consistency in JHA agencies' relations with third countries, in particular between Europol and Eurojust, thus ensuring possible follow-up between law enforcement and judicial cooperation. At the current time, the Commission - on behalf of Europol - seeks to conclude agreements with 8 out of the 10 of the above countries. The Commission considers it worthwhile, as far as possible and feasible, to strive towards having both Eurojust and Europol included in these future negotiations, which might also make them more attractive to the third countries concerned.

Against this background, the Commission therefore recommends to the Council that as a first step, the Commission should be given a mandate to negotiate with the following third States: Armenia, Algeria, Bosnia and Herzegovina, Egypt, Israel, Jordan, Lebanon, Morocco, Tunisia and Turkey. Armenia recently indicated its desire to Eurojust to enter into cooperative relations with it.

Political context

Armenia

Armenia is an important partner of the EU within the Eastern Partnership, strategically located in the Southern Caucasus. In 2017 it signed a Comprehensive and Enhanced Partnership Agreement with the EU, which includes legislative approximation in important sectors such as environment, energy, transport and consumer protection. Armenia and the EU signed a Visa Facilitation Agreement in 2012 and a Readmission Agreement in 2013. After a peaceful democratic revolution in 2018, Armenia set on a reform course to improve rule of law and living standards, including judicial reform and fight against corruption. The new government stressed the common values with the EU and termed the agreement with the EU as a blueprint for domestic reform. Armenia is a member of the Russia-led Eurasian Economic Union and Collective Security Treaty Organisation. The EU supports the implementation of the justice and anti-corruption reforms with the EU-Armenia justice policy dialogue. As a result reform strategies were adopted in 2019 in line with European standards. A programme amounting to EUR 30 million under the 2020 budget allocation will support their implementation.

³ https://eeas.europa.eu/sites/eeas/files/eugs_review_web_0.pdf

Algeria

Algeria is a partner of strategic importance to the EU, due to both its position in the Maghreb area and the role it plays at regional level and in the African Union. From a strategic point of view, Algeria is a focal point in the Mediterranean and a key actor for the stabilisation of the Sahara-Sahel region. The country is very active in the fight against terrorism within its territory.

The EU-Algeria partnership priorities adopted in March 2017 include migration and security among the identified priorities. In October 2017, the EU and Algeria established a high-level informal dialogue on counter-terrorism and regional security, expressing their willingness to strengthen bilateral cooperation in the field of security and the fight against terrorism. In particular, the following critical areas with high potential of cooperation have been identified: de-radicalisation; cooperation between Europol and Algeria; the fight against organised crime, including illicit trafficking of firearms and cybercrime; counter-terrorist financing; and forensic investigations.

Algeria and the EU are members of the Global Counter Terrorism Forum. One of the EU-funded regional Centres of Excellence on Chemical, Biological, Radiological and Nuclear Risk Mitigation (CBRN CoE) is hosted in Algiers.

Bosnia and Herzegovina

Bosnia and Herzegovina is a key partner for the European Union. Along with other Western Balkans countries, Bosnia and Herzegovina was identified as a potential candidate for EU membership during the Thessaloniki European Council summit in June 2003.

In February 2016, Bosnia and Herzegovina applied for EU membership and in September 2016 the European Council invited the European Commission to submit its opinion on the merits of Bosnia and Herzegovina's application. In May 2019, the Commission adopted its Opinion and accompanying analytical report on Bosnia and Herzegovina's EU membership application.⁴ The Opinion identifies 14 key priorities for Bosnia and Herzegovina to fulfil in order to be recommended for the opening of accession negotiations, in the areas of democracy/functionality, the rule of law, fundamental rights, and public administration reform.

Bosnia and Herzegovina signed the Joint EU-Western Balkans Action Plan on Counter-Terrorism in 2018, which sets out concrete steps for enhanced cooperation in countering terrorism and preventing radicalisation over the next two years.⁵ In this context, a policy dialogue on counter-terrorism between the EU and Bosnia and Herzegovina takes place regularly. It focusses on the implementation of the strategic framework and internal coordination – in particular on the prevention of violent extremism, appropriate sentencing for foreign terrorist fighters and their subsequent social re-integration, on arms trafficking, border control, terrorism financing, and regional and international cooperation on the full implementation of the agreement with Europol as well as the conclusion of an agreement with Eurojust.

Bosnia and Herzegovina first established contact points for Eurojust in 2014 to initiate negotiations for the conclusion of a cooperation agreement. Later an expert group for preparation of work in the pre-negotiation phase of the cooperation agreement was also

⁴ <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-bosnia-and-herzegovina-opinion.pdf>

⁵ https://ec.europa.eu/home-affairs/sites/homeaffairs/files/news/docs/20181005_joint-action-plan-counter-terrorism-western-balkans.pdf

established. In April 2020, after the entry into force of the new Eurojust regulation in December 2019, the Bosnian authorities sent a letter to Eurojust, expressing its intention to initiate the formalisation of their cooperation through a working arrangement.

Egypt

Egypt is an important partner for the EU, and could play a central role in promoting peace, prosperity and stability in the Southern Neighbourhood region. The general framework for cooperation between the EU and Egypt is provided by the Association Agreement in force since 2004. The jointly agreed EU-Egypt Partnership Priorities 2017-2020 identify the main areas of cooperation. These include: 1) developing a sustainable and modern economy and social development for Egypt; 2) reinforcing cooperation in foreign policy; 3) enhancing cooperation in the stabilisation process, notably in the fields of good governance, human rights, security and migration⁶.

The Partnership Priorities refer to possible development of judicial cooperation on criminal and civil matters. At the 7th meeting of the Subcommittee on Justice and Security in November 2019 the two sides conducted a comprehensive dialogue covering several issues of mutual interest in particular, judicial cooperation, combating terrorism, and the fight against drugs and organised crime⁷. At the 2nd meeting of the EU-Egypt Migration Dialogue in July 2019, Eurojust has identified migrant smuggling as a potential area of engagement with Egypt's judicial and law enforcement authorities.

The EU recognises Egypt's key role for regional security and stability, managing migration and efforts to counter terrorism and recalls the need to tackle it in full respect of international human rights law. At the UN Human Rights Council on 10 March 2020, the EU recalled the importance of the respect of online and offline freedom of expression, media, peaceful assembly and association in Egypt and the need to stop unduly restricting space for civil society, including through assets freezes, travel bans and long periods of pre-trial detention⁸.

Israel

The legal framework for EU-Israel relations is provided by the EU-Israel Association Agreement⁹, which has been in force since 2000. The EU-Israel Action plan, which covers all areas of cooperation, dates back to 2005 and a unanimous Council decision renewed it at the end of 2018.¹⁰

Both the EU and Israel consider a priority to counter security threats and, in their dialogue, express a mutual interest in an effective cooperation. One important area of cooperation is counter-terrorism: three EU-Israel Counter Terrorism and Security Dialogue already took place respectively in March 2015, September 2016 and June 2018. In those meetings, parties agreed to cooperate in areas such as countering violent extremism, terrorism financing, non-conventional terrorism, aviation and transport security as well as cybercrime.

Israeli expressed interest in enhancing cooperation with EU agencies in the field of justice and home affairs. The EU and Israel discuss Judicial Cooperation in Civil and Criminal Matters in

⁶ <https://www.consilium.europa.eu/media/23942/eu-egypt.pdf>

⁷ https://eeas.europa.eu/delegations/egypt/71267/eu-egypt-stability-and-social-development-7th-cluster-meeting_en

⁸ https://eeas.europa.eu/delegations/un-geneva/75884/hrc43-item-4-human-rights-situations-require-councils-attention-eu-statement_en

⁹ http://www.eeas.europa.eu/archives/delegations/israel/documents/eu_israel/asso_agree_en.pdf

¹⁰ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019D0105&from=EN>

the framework of the yearly Subcommittee on Justice and Home Affairs. The last one took place in December 2019.

Israel is part of the four-year Cooperation Strategy, which Eurojust put together taking into account operational needs of the Agency. In its dialogue with the EU, Israel reiterated the view that the Eurojust network serves as a very important tool.

In accordance with Council Conclusions of 2012¹¹, in all agreements signed with Israel a “*territorial clause*” is to be inserted, which explicitly limits the scope of application to Israel itself and excludes the occupied territories: “*All agreements between the State of Israel and the EU must unequivocally and explicitly indicate their inapplicability to the territories occupied by Israel in 1967*”.¹²

Jordan

Jordan is a key partner for the EU in particular for its role in promoting stability, moderation and inter-faith tolerance in the Middle East. Jordan is facing difficult economic, social and security challenges. In particular, Jordan is hosting more than 650,000 registered Syrian refugees (around 10% of the Jordanian population before the Syria crisis), as well as other refugee populations.

The EU and Jordan have a strong partnership across many sectors and have been linked by an Association Agreement since 2002 (advanced status since 2010).

The EU and Jordan adopted in December 2016 the EU-Jordan Partnership Priorities, as policy framework valid until 31 December 2020, and the EU-Jordan Compact 2016-2018.¹³ Through the Partnership Priorities, the EU and Jordan have confirmed the ambition and advanced to strengthen the cooperation on three main pillars of mutual interest: 1) Foreign and security policy, including the fight against terrorism and preventing violent extremism; 2) The economic domain, to sustain Jordan’s macro-economic stability and enhance its social and economic development; 3) Strengthening governance, the rule of law, democratic reform and human rights. The EU-Jordan subcommittee meeting on Justice and Security held on 15 February 2018 in Amman provided an opportunity to further discuss possibilities to enhance the EU-Jordan judicial cooperation.

The EU-Jordan Compact includes mutual commitments through which both sides fulfil the pledges made in February 2016 at the London conference on supporting Syria and the region. These commitments were reinforced at the Brussels Conference on Supporting the Future of Syria and the Region on 5th April 2017, including in view of strengthening Jordan's resilience in light of the impact of the Syria's crisis.¹⁴

Jordan remains a key partner for the EU in the Middle East and it is important that Jordan continues to play a constructive role in the stability of the region. The country is under persistent multiple pressures, including of regional, economic and social nature. It has been hosting large numbers of Syrian refugees for a protracted period. The COVID-19 pandemic has added important pressure on the health sector and poses further significant socio-economic challenges.

Lebanon

¹¹ https://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/foraff/130195.pdf

¹² https://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/134152.pdf

¹³ <https://data.consilium.europa.eu/doc/document/ST-12384-2016-ADD-1/en/pdf>

¹⁴ <https://www.consilium.europa.eu/en/press/press-releases/2017/04/05/syria-conference-co-chairs-declaration/>

The EU and Lebanon face common challenges linked to protracted crises and instability in the region. The EU-Lebanon partnership is strong and encompasses many sectors, as set out in the Association Agreement in force since 2006.¹⁵ Lebanon is confronted by serious political, economic, social and security challenges, in particular an unprecedented economic and financial crisis aggravated by the impact of the COVID-19 pandemic. Adding to systemic weaknesses, the nine-year old conflict in Syria continues to put pressure on Lebanon's institutions and infrastructure and adversely affect its socio-economic stability. Lebanon hosts more than one million registered Syrian refugees in addition to the approximately 300,000 Palestinian refugees that were already present and is therefore the country with the highest per capita ratio of refugees in the world.

In 2016, the EU and Lebanon also signed a Compact containing mutual commitments and priority actions to improve the living conditions of both Syrian refugees and host communities, in line with the Statement of Intent made at the 2016 London Conference.¹⁶ The renewed commitments given at the successive Brussels Conferences (2017 to 2020) on Supporting the Future of Syria and the Region reinforced these shared responsibilities in addressing the impact of the Syrian crisis. The EU and Lebanon enjoy a strong partnership, cooperating across many sectors, as defined by the Association Agreement. On 11 November 2016, the EU and Lebanon adopted the Partnership Priorities setting a policy framework for the years 2016-2020.¹⁷

The Partnership Priorities expressed commitment to further deepen ties building on three main pillars of mutual interest and challenges: 1) Security and counter terrorism; 2) Governance and rule of law; 3) Fostering growth and job opportunities. The EU-Lebanon Security and Justice cluster meeting held on 3 October 2018 in Beirut recalled the importance of the security and justice issues as integral to the EU-Lebanon partnership. It was agreed to further judicial cooperation, also exploring possibilities to strengthen cooperation with Eurojust to this end.

Lebanon faces at present severe socioeconomic challenges, which are exacerbated by the Syrian conflict and the COVID-19 pandemic.

Morocco

Morocco is a key neighbour and EU partner. In an increasingly volatile regional context, it is an element of stability in the Maghreb and potentially a bridge between Europe and sub-Saharan Africa. For more than fifty years, the EU and the Kingdom of Morocco have built a long-term partnership, underpinned by a number of political and economic agreements. In 1996 Morocco and the EU signed an Euro-Mediterranean Association Agreement, which entered into force in 2000.¹⁸ They boosted bilateral relations in a number of areas, including political and security cooperation, economic and financial relations, and social and human relations. In addition, Morocco has benefited from an Advanced Status with the European neighbourhood policy since 2008. The 2013-2017 Action Plan for the implementation of the Advanced Status, which was extended in 2018 and 2019, covers a wide array of cooperation

¹⁵ https://ec.europa.eu/neighbourhood-enlargement/neighbourhood/countries/lebanon_en#:~:text=The%20partnership%20between%20the%20European,and%20economically%20strong%20neighbouring%20country.

¹⁶ <http://www.businessnews.com.lb/download/LondonConferenceLebanonStatementOfIntent4Feb2016.pdf>

¹⁷ <https://www.consilium.europa.eu/en/press/press-releases/2016/11/15/eu-lebanon-partnership/>

¹⁸ [https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:22000A0318\(01\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:22000A0318(01)&from=EN)

areas, including cooperation on matters of justice and home affairs such as the fight against organised criminal networks, border management or judicial and police cooperation.

Following a slowdown in bilateral relations resulting from the judgement of the European Court of Justice of December 2015¹⁹ on the geographic scope of application of the Association Agreement, the EU and Morocco renegotiated the concerned legal instruments in light of the case law of the Court and agreed to relaunch their partnership in early 2019. This relaunch was officially endorsed during the 14th meeting of the Association Council, on 27 June 2019, during which an ambitious Joint Political Declaration was adopted.²⁰ The Joint Declaration sets out a number of key areas where Morocco and the EU intend to enhance their cooperation in the coming years. These include specifically four strategic areas: values; economy and social cohesion; knowledge; security; and two key horizontal axes (mobility/migration and climate/environment).

The relaunch of the relations has also allowed for the resumption of the dialogue structures stemming from the Association Agreement, whose sub-committees notably include dialogue in a vast array of areas, such as justice and security or political cooperation. Simultaneously, operational cooperation in fields related to security and border management, including the fight against migrant smuggling, trafficking in human beings and other criminal networks, has been greatly enhanced. Moreover, Morocco has developed close bilateral Counter-Terrorism cooperation with EU Member States. Morocco is a member of the Global Coalition against Daesh and since 2016 co-chairs the Global Counter Terrorism Forum. Morocco also hosts one of the EU-funded regional CBRN Centres of Excellence.

Tunisia

Tunisia is a major partner for the EU, an example of democratic transition and a pillar of stability in the region. EU-Tunisia relations date back to 1976 and gained significant momentum when Tunisia and the EU signed an Association Agreement in 1995, establishing closer ties across all sectors of cooperation.²¹ Following the 2011 revolution, the EU and Tunisia concluded a Privileged Partnership (2012), comprising enhanced economic and trade integration and a Mobility Partnership.²² Since 2011, the EU has substantially supported Tunisia, politically and financially doubling its financial assistance, thus making Tunisia one of the first beneficiaries of EU support per capita. The EU strongly supports the consolidation of the democratic transition in Tunisia and the implementation of relevant pending political and economic reforms.

The security situation remains however delicate, in particular as a result of the unstable regional environment. The EU has committed to strengthening the implementation of its extensive cooperation with Tunisia in the security sector, in the fight against terrorism and in preventing violent radicalisation and extremism, including by strengthening Tunisia's cooperation with relevant EU agencies and bodies, in particular Europol. Two operational/strategic partnerships have been developed in recent years, the former between the Tunisian Garde Nationale and the European Gendarmerie Force (EGF) on counter-terrorism capabilities; the latter between the Police Academy of Carthage Salamboard and the EU Agency for Law Enforcement Training (CEPOL).

¹⁹ <http://curia.europa.eu/juris/document/document.jsf?docid=172870&doclang=EN>

²⁰ <https://www.consilium.europa.eu/en/press/press-releases/2019/06/27/joint-declaration-by-the-european-union-and-the-kingdom-of-morocco-for-the-fourteenth-meeting-of-the-association-council/>

²¹ https://eur-lex.europa.eu/resource.html?uri=cellar:d3eef257-9b3f-4adb-a4ed-941203546998.0008.02/DOC_4&format=PDF

²² https://eeas.europa.eu/sites/eeas/files/plan_action_tunisie_ue_2013_2017_fr_0.pdf

Organised migrant smuggling activity has increased since 2017. Pursuing legal proceedings against smugglers/traffickers is critical and the EU stays committed to offer specialist support from Eurojust and Europol. To this end information and analysis sharing remains important. Moreover, cooperation with regard to document fraud, a crime area linked to migrant smuggling, is a sector where enhanced cooperation would also be greatly beneficial.

Turkey

Turkey is a key partner for the European Union. In December 1999 the European Council granted the status of candidate country to Turkey and accession negotiations were launched in October 2005.²³

At the EU-Turkey Summit held on 29 November 2015 it was agreed to expand and intensify the political dialogue across all areas, including foreign and security policy, migration and counter terrorism.²⁴ Turkey and the EU have reiterated their commitment to tackle the threat posed by Daesh, as well as the threat which continues to be posed by the PKK²⁵. The EU-Turkey Statement agreed on 18 March 2016 addressed the migration crisis.²⁶ On 9 March 2020 the Presidents of the European Council and Commission met with the President of Turkey agreed to strengthen the implementation of the EU-Turkey Statement.²⁷

Deepening cooperation with Eurojust is relevant in the context of fulfilling all remaining requirements under the Visa Liberalisation Roadmap. The European Union launched the Visa Liberalisation Dialogue with Turkey on 16 December 2013. The Visa Liberalisation Dialogue is based on a Roadmap setting out the requirements that Turkey needs to meet in order to be put on the visa-free list.

In the interim, Turkey and Eurojust have established contact points to facilitate the exchange of non-sensitive information. The Turkish contact points also take part in the meetings of the European Judicial Network. Eurojust and the Turkish authorities have exchanged letters on further practical cooperation. The Turkish authorities wrote to Eurojust on 2 May 2016 to formally reaffirm their intention to conclude a cooperation agreement as soon as possible and to step up practical cooperation in the meantime. It will be of crucial importance that the Turkish contact points swiftly reply and follow up on requests for information and cooperation sent to them via Eurojust and to participate in strategic meetings on organised crime and terrorism. Eurojust replied to the Turkish authorities on 3 May 2016 to invite Turkey to the Eurojust tactical meeting on terrorism and further proposed the active participation of Turkish judges and prosecutors in Eurojust's events on enhanced cooperation in criminal justice issues and to share information and best practice. Talks did not progress in recent years but contacts were re-established in 2019.

2. LEGAL ELEMENTS OF THE RECOMMENDATION

Regulation (EU) 2018/1727 on the European Union Agency for Criminal Justice Cooperation (Eurojust) sets out a legal framework for Eurojust, in particular its objectives, tasks, scope of competence, data protection provisions and ways to cooperate with external partners.

This Recommendation is consistent with the provisions of the Eurojust Regulation.

²³ https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/ACFA4C.htm

²⁴ <https://www.consilium.europa.eu/en/press/press-releases/2015/11/29/eu-turkey-meeting-statement/>
²⁵ Kurdistan Workers' Party (in Kurdish: Partiya Karkerên Kurdistanê).

²⁶ <https://www.consilium.europa.eu/en/press/press-releases/2016/03/18/eu-turkey-statement/>

²⁷ <https://www.consilium.europa.eu/en/meetings/international-summit/2020/03/09/>

The objective of this recommendation is to obtain from the Council the authorisation for the Commission to negotiate the future agreements on behalf of the EU. The legal basis for the Council to authorise the opening of negotiations is Article 218(3) and (4) TFEU.

In line with Article 218 of Treaty on the Functioning of the European Union, the Commission shall be nominated as the Union negotiator for the agreements between the European Union and the third countries identified in this Recommendation on the cooperation between the European Union Agency for Criminal Justice Cooperation (Eurojust) and the competent authorities for judicial cooperation in criminal matters in those third countries.

Recommendation for a

COUNCIL DECISION

authorising the opening of negotiations for Agreements between the European Union and Algeria, Armenia, Bosnia and Herzegovina, Egypt, Israel, Jordan, Lebanon, Morocco, Tunisia and Turkey on cooperation between the European Union Agency for Criminal Justice Cooperation (Eurojust) and the competent authorities for judicial cooperation in criminal matters of those third States

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union (TFEU), and in particular Article 218(3) and (4) thereof,

Having regard to the recommendation from the European Commission,

Whereas:

- (1) Regulation (EU) 2018/1727 of the European Parliament and of the Council²⁸ was adopted on 14 November 2019 and is applicable as of 12 December 2019.
- (2) This Regulation, in particular its Article 56, sets out the general principles for the transfer of personal data from the European Union Agency for Criminal Justice Cooperation (Eurojust) to third countries and international organisations. Eurojust may transfer personal data to a third country on the basis of an international agreement concluded between the Union and that third country pursuant to Article 218 TFEU that provides for adequate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals.
- (3) Negotiations should be opened with a view to concluding such Agreements between the European Union and Algeria, Armenia, Bosnia and Herzegovina, Egypt, Israel, Jordan, Lebanon, Morocco, Tunisia and Turkey.
- (4) Where necessary, the Commission should be able to consult the European Data Protection Supervisor (EDPS) also during the negotiation of the Agreements and in any event, before the Agreements are concluded.
- (5) The Agreements should respect the fundamental rights and observe the principles recognised by the Charter of Fundamental Rights of the European Union, in particular the right to private and family life, recognised in Article 7 of the Charter, the right to the protection of personal data, recognised in Article 8 of the Charter and the right to an effective remedy and fair trial recognised in Article 47 of the Charter. The Agreements should be applied in accordance with those rights and principles.
- (6) The Agreements should not affect, and should be without prejudice to the transfer of personal data or other forms of cooperation between the authorities responsible for safeguarding national security.

²⁸ Regulation (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation (Eurojust), and replacing and repealing Council Decision 2002/187/JHA (OJ L 295, 21.11.2018, p. 138).

- (7) Ireland is bound by Regulation (EU) 2018/1727 and therefore takes part in the adoption of this Decision.
- (8) In accordance with Articles 1 and 2 of Protocol No. 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part of the adoption this Decision and is not bound by it or subject to its application.
- (9) The EDPS and European Data Protection Board have been consulted on this Decision and the Annex thereto and issued an opinion on (date).

HAS ADOPTED THIS DECISION:

Article 1

- (1) The Commission is hereby authorised to open negotiations for Agreements between the European Union and Algeria, Armenia, Bosnia and Herzegovina, Egypt, Israel, Jordan, Lebanon, Morocco, Tunisia and Turkey on cooperation between the European Union Agency for Criminal Justice Cooperation (Eurojust) and the competent authorities for judicial cooperation in criminal matters of those third States.
- (2) The negotiations shall be conducted on the basis of the negotiation directives of the Council set out in the Annex to this Decision.

Article 2

The Commission is hereby nominated as the Union negotiator.

Article 3

The negotiations shall be conducted in consultation with the relevant Council Working Party and in accordance with the directives contained in the Annex, subject to any directives which the Council may subsequently issue to the Commission.

The Commission shall regularly report to the Council Working Party on the progress of the negotiations and shall forward all negotiating documents to it without delay.

Article 4

This Decision is addressed to the Commission.

Done at Brussels,

*For the Council
The President*