



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 18 July 2013

12566/13

**Interinstitutional File:
2013/0256 (COD)**

**EUROJUST 59
EPPO 4
CATS 36
COPEN 109**

COVER NOTE

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

date of receipt: 18 July 2013

to: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European
Union

No Cion doc.: COM(2013) 535 final

Subject: Proposal for a
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL
On the European Union Agency for Criminal Justice Cooperation (Eurojust)

Delegations will find attached Commission document COM(2013) 535 final.

Encl.: COM(2013) 535 final



Brussels, 17.7.2013
COM(2013) 535 final

2013/0256 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the European Union Agency for Criminal Justice Cooperation (Eurojust)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

Eurojust was set up by Council Decision 2002/187/JHA¹ to reinforce the fight against serious organised crime in the European Union. Ever since, Eurojust has facilitated coordination and cooperation between national investigative and prosecutorial authorities in dealing with cases affecting various Member States. It has helped to build mutual trust and to bridge the EU's wide variety of legal systems and traditions. By rapidly solving legal problems, and identifying competent authorities in other countries, Eurojust has facilitated the execution of requests for cooperation and mutual recognition instruments. These years have witnessed the continued growth of the organisation into what is now a central player in judicial cooperation in criminal matters.

The fight against organised crime and the disruption of criminal organisations remain a daily challenge. Regretfully, the past decade has seen an explosion of cross-border crime. Drug trafficking, trafficking in human beings, terrorism and cybercrime, including child pornography are some examples. A common feature of all these areas of crime is that they are committed across borders by highly mobile and flexible groups operating in multiple jurisdictions and criminal sectors. Combatting them effectively therefore requires a coordinated pan-european response.

The increased cross-border dimension of crime as well as its diversification into multi-crime activities make it more difficult for single Member States to detect and tackle cross-border crime, and in particular organised crime. In this context, Eurojust's role in improving judicial cooperation and coordination between competent judicial authorities of Member States and assisting investigations involving third countries remains crucial.

Under the Lisbon Treaty, new possibilities to enhance Eurojust's efficiency in tackling these forms of criminality have been introduced. Article 85 of the Treaty on the Functioning of the EU (TFEU) explicitly recognises Eurojust's mission of supporting and strengthening coordination and cooperation between national investigating and prosecuting authorities in relation to serious crime affecting two or more Member States or requiring a prosecution on common bases. It is therefore important to ensure that the best possible use is made of Eurojust and that obstacles to its efficient functioning are removed.²

In 2008 a wide reform of the Eurojust Decision was put into place in order to strengthen Eurojust.³ The transposition deadline was 4 June 2011. The correct implementation of the Decision as amended is important, but should not prevent progress in addressing new challenges and improving Eurojust's functioning whilst maintaining those aspects that strengthened its operational effectiveness.

Article 85 TFEU also provides for Eurojust's structure, operation, field of action and tasks to be determined by regulations adopted in accordance with the ordinary legislative procedure. It also requires that they determine arrangements for involving the European Parliament and national Parliaments in the evaluation of Eurojust's activities.

¹ Council Decision of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime and amended by Council Decision 2003/659/JHA and by Council Decision 2009/426/JHA of 16 December 2008 on the strengthening of Eurojust. OJ L 063, 6.3.2002, p. 1.

² Enhanced police cooperation and assistance in preventing and combating serious crime is addressed by the draft proposal for a new Europol Regulation.

³ Council Decision 2009/426/JHA of 16.12.2008, OJ L 138, 4.6.2009, p. 14.

In addition, following the Commission Communication "European agencies: the way forward"⁴, the European Parliament, the Council and the Commission agreed to launch an inter-institutional dialogue in order to improve the coherence, effectiveness and work of decentralised agencies, leading to the creation of an Inter-Institutional Working Group (IIWG) in March 2009. It addressed a number of key issues, including the role and position of the agencies in the EU's institutional landscape, their creation, structure and operation, funding, budgetary, supervision and management issues.

This work led to the Common Approach on EU decentralised agencies, endorsed by the European Parliament, the Council and the Commission in July 2012, which is destined to be taken into account in the context of all their future decisions concerning EU decentralised agencies, following a case by case analysis.

This proposal for a Regulation takes all these elements into consideration and provides a single and renovated legal framework for a new Agency for Criminal Justice Cooperation (Eurojust) which is the legal successor of Eurojust as established by Council Decision 2002/187/JHA.

Whilst maintaining those elements that have proved efficient in the management and operation of Eurojust, the Regulation modernises its legal framework and streamlines its functioning and structure in line with the Lisbon Treaty and the requirements of the Common Approach, as far as its nature allows.

Since the proposal for this Regulation is adopted at the same time as the proposal for a Regulation establishing the European Public Prosecutor's Office, provisions have been included to ensure that this Office is set up from Eurojust as required under Article 86 TFEU, and that Eurojust can support it.

2. RESULTS OF CONSULTATIONS WITH INTERESTED PARTIES

In order to prepare this Regulation, the Commission has consulted specialist stakeholders on a number of occasions. The objective of the proposal is, largely, to use the opportunity offered by the Lisbon Treaty to modernise Eurojust by giving it an improved management structure that reduces the administrative burden currently placed on the College and allows it to focus on its core mission.

On 18 October 2012 the Commission organised a consultative meeting with Member State experts, representatives of the Council Secretariat, the European Parliament and Eurojust to discuss issues related to a possible reform under Article 85 TFEU. The issues included strengthened governance, parliamentary involvement at European and national level and possible additional powers, as well as links with the development of the European Public Prosecutor's Office (EPPO). The meeting generally supported improving Eurojust's governance structure and efficiency.

Eurojust has also participated directly in the consultation process and provided its input through contributions and meetings with the Commission. In addition, discussions on the reform have taken place in the framework of different Seminars such as the Strategic Seminar "Eurojust and the Lisbon Treaty. Towards more effective action" (Bruges 20-22 September 2010) and the Eurojust-ERA Conference "10 Years of Eurojust: Operational Achievements and Future Challenges", which took place in The Hague on 12 and 13 November 2012. In addition, Eurojust's future was discussed at the special informal meeting of the Council at the occasion of Eurojust's tenth anniversary, in February 2012.

⁴ See COM(2008) 135

The views of stakeholders were also collected through the "Study on the strengthening of Eurojust"⁵, ordered by the Commission, which provided a good overview of the existing issues and presented several policy alternatives to address these.

3. PROPOSAL

3.1. The legal basis

Article 85 TFEU provides the legal basis for the proposal. It prescribes the use of a Regulation.

3.2. Subsidiarity and proportionality

There is a need for EU action because the measures foreseen have an intrinsic EU dimension, as they imply the creation of an entity whose mission is to support and strengthen coordination and cooperation between national judicial authorities in relation to serious crime affecting two or more Member States or requiring a prosecution on common bases. This objective can only be achieved at Union level, in accordance with the subsidiarity principle.

In accordance with the principle of proportionality, this Regulation does not go beyond what is necessary in order to achieve this objective.

3.3. Explanation of the proposal by chapters

The main objectives of the proposals are:

- to increase Eurojust's efficiency through providing it with a new governance structure;
- to improve Eurojust's operational effectiveness through homogeneously defining the status and powers of National Members;
- to provide for a role for the European Parliament and national Parliaments in the evaluation of Eurojust's activities in line with the Lisbon Treaty;
- to bring Eurojust's legal framework in line with the Common Approach, whilst fully respecting its special role regarding the coordination of on-going criminal investigations;
- to ensure that Eurojust can cooperate closely with the European Public Prosecutor's Office, once this is established.

3.3.1. Chapter I Objectives and tasks

This chapter regulates the setting up of the European Union Agency for Criminal Justice Cooperation (Eurojust) as the legal successor of Eurojust as established by Council Decision 2002/187/JHA. It also defines its tasks and competence. The latter is autonomously defined in the draft Regulation by means of an Annex.

3.3.2. Chapter II: Structure and organisation of Eurojust

This chapter contains some of the main elements of the reform.

Section II is devoted to Eurojust's national members. The reform maintains their link to their Member State of origin but at the same time explicitly lists the operational powers they shall all have. This will allow them to cooperate with each other and with national authorities in a more effective way.

⁵ "Study on the Strengthening of Eurojust" conducted by GHK.

Sections III, IV and V set up the new structure of Eurojust by respectively regulating the College, the Executive Board and the Administrative Director. Eurojust's governance is improved by clearly distinguishing between two compositions of the College, depending on whether it exercises operational or management functions. The former refer to the core business of Eurojust in supporting and coordinating national investigations. The latter are related for example to the adoption of the agency's work programme, annual budget or the Annual report. A new organ, the Executive Board, is set up to prepare the College's management decisions and to directly assume some administrative tasks. The Commission is represented in the College when it exercises its management functions and in the Executive Board. Finally, the appointment procedure, responsibilities and tasks of the Administrative Director are clearly spelled out.

This introduces a double degree of governance as foreseen in the Common Approach whilst maintaining Eurojust's special nature and safeguarding its independence. It is also cost-effective, and contributes to Eurojust's efficiency, as national members will be assisted in budgetary and administrative matters, which will allow them to focus on their operational tasks.

3.3.3. Chapter III: Operational matters

This chapter maintains existing mechanisms for the operational effectiveness of Eurojust, including the On-call Coordination (OCC), the Eurojust National Coordination System (ENCS), the exchanges of information and follow-up to Eurojust's requests. The architecture of the Eurojust Case Management System remains the same.

3.3.4. Chapter IV: Processing of Information

This chapter contains a reference to Regulation 45/2001⁶ as the applicable regime for the processing of all personal data at Eurojust. In addition, the Regulation particularises and complements Regulation 45/2001 as far as operational personal data are concerned, respecting the specificity of judicial cooperation activities while taking into account the need for consistency and compatibility with the relevant data protection principles. Restrictions on the processing of personal data continue to be possible.

The chapter also aligns the provisions on the rights of the data subjects with Regulation 45/2001 and takes into account the standards of protection foreseen in the data protection reform package, adopted by the Commission in January 2012. Furthermore, the chapter foresees an important change in the supervision mechanism. It establishes the responsibilities of the European Data Protection Supervisor (EDPS) as regards the monitoring of all personal data processing at Eurojust. The EDPS will take over the tasks of the Joint Supervisory Body established under the Eurojust Council Decision.

3.3.5. Chapter V: Relations with partners

This chapter reflects the importance of partnership and cooperation between Eurojust and other EU institutions, bodies and agencies in the fight against crime. This includes firstly the relations with the Secretariats of the European Judicial Network, the Joint Investigation Teams Expert Network and the Genocide Network, which are hosted by Eurojust. It also includes a specific provision on relations with the European Public Prosecutor's Office.

Secondly, cooperation with Europol is particularly important, especially as regards its role in supplying information to Eurojust in line with Article 85 TFEU. A specific provision has been introduced to spell out the privileged relationship between the two agencies in order to increase their effectiveness in combating serious forms of international crime within their

⁶ OJ, L 8, 12.1.2001, p. 1.

competence. This includes a mechanism for cross-checking of their respective information systems and the ensuing exchange of data. Practical details will be settled by means of an agreement.

Links with third countries are very frequently detected in serious and organised crime cases, which makes close cooperation with such countries crucial. The Lisbon Treaty has changed the way in which the European Union conducts its external relations, and these changes also affect the agencies. As a consequence, agencies will no longer be able to negotiate international agreements themselves – such agreements will have to be established in accordance with Article 218 TFEU. However, Eurojust will be able to conclude working arrangements to enhance cooperation with competent authorities of third countries, including by exchanging information. The validity of pre-existing international agreements is maintained.

3.3.6. Chapter VI Financial provisions

These provisions aim to modernise Eurojust's budget, its establishment and implementation, presentation of accounts and discharge provisions.

3.3.7. Chapter VII Staff provisions

These provisions reflect the principles of the Common Approach while respecting Eurojust's specificities. Eurojust's hybrid nature and the importance of the operational link between national desks and their Member States of origin explain that salaries and emoluments of such staff are borne by the Member States. Eurojust's Administrative Director is still appointed by the College of Eurojust but on the basis of a shortlist drawn up by the Commission, following an open and transparent selection procedure. This respects the autonomy of the agency whilst guaranteeing a rigorous evaluation of candidates. A similar procedure is foreseen for dismissal of the Administrative Director.

3.3.8. Chapter VIII Evaluation and Reporting

This chapter aligns Eurojust's legal framework with the increased democratic legitimacy of Eurojust required by the Lisbon Treaty. It spells out the involvement of the European Parliament and national parliaments in the evaluation of Eurojust's activities. This is done in a cost-effective way, on the basis of Eurojust's Annual Report, whilst preserving Eurojust's operational independence. A periodic overall evaluation of Eurojust in line with the Common Approach is also provided.

3.3.9. Chapter IX General and final provisions

This chapter contains provisions to align the Eurojust Regulation with the Common Approach, as well as those related to the entry into force of the Regulation.

4. BUDGETARY IMPLICATION

There are no cost implications of the governance reform ("management board" back to back with the College) and there are no new tasks foreseen for Eurojust in this proposal, other than supporting the European Public Prosecutor's Office, which will be done on a zero cost basis.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the European Union Agency for Criminal Justice Cooperation (Eurojust)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 85 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

After consulting the European Data Protection Supervisor,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Eurojust was set up by Council Decision 2002/187/JHA⁷ as a body of the European Union with legal personality to stimulate and to improve coordination and cooperation between competent judicial authorities of the Member States, particularly in relation to serious organised crime. Council Decision 2003/659/JHA⁸ and Council Decision 2009/426/JHA⁹ on the strengthening of Eurojust amended Eurojust's legal framework.
- (2) Article 85 of the Treaty provides for Eurojust to be governed by a regulation, adopted in accordance with the ordinary legislative procedure. It also requires determining arrangements for involving the European Parliament and national Parliaments in the evaluation of Eurojust's activities.
- (3) Article 85 of the Treaty also provides that Eurojust's mission shall be to support and strengthen coordination and cooperation between national investigating and prosecuting authorities in relation to serious crime affecting two or more Member States or requiring a prosecution on common bases, on the basis of operations conducted and information supplied by the Member States' authorities and by Europol.
- (4) Since the European Public Prosecutor's Office should be established from Eurojust, this Regulation includes the provisions necessary to regulate the relations between Eurojust and the European Public Prosecutor's Office.
- (5) Whilst the European Public Prosecutor's Office should have exclusive competence to investigate and prosecute crimes affecting the Union's financial interests, Eurojust should be able to support national authorities when they are investigating and prosecuting these forms of crime in accordance with the Regulation establishing the European Public Prosecutor's Office.
- (6) In order for Eurojust to fulfil its mission and develop all its potential in the fight against serious cross-border crime, its operational functions should be strengthened by reducing the administrative workload of national members, and its European dimension enhanced

⁷ OJ L 63, 6.3.2002, p. 1.

⁸ OJ L 245, 29.9.2003, p. 44.

⁹ OJ L 138, 4.6.2009, p.14.

through the Commission's participation in the management of the agency and the increased involvement of the European Parliament and national Parliaments in the evaluation of its activities.

- (7) Therefore, Council Decision 2002/187/JHA should be repealed and replaced by this Regulation determining arrangements for parliamentary involvement, modernising its structure and simplifying Eurojust's current legal framework, whilst maintaining those elements that have proven to be efficient in its operation.
- (8) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.
- (9) The forms of serious crime affecting two or more Member States for which Eurojust is competent should be laid down. In addition, cases which do not involve two or more Member States, but which require a prosecution on common bases, should be defined. Such cases should include investigations and prosecutions affecting only one Member State and a third State, as well as cases affecting only one Member State and the Union.
- (10) When exercising its operational functions in relation to concrete criminal cases, at the request of competent authorities of Member States or on its own initiative, Eurojust should act either through one or more of the national members or as a College.
- (11) To ensure Eurojust can appropriately support and coordinate cross-border investigations, it is necessary that all national members have the same operational powers in order to cooperate between themselves and with national authorities in a more effective way. National members should be granted those powers that allow Eurojust to appropriately achieve its mission. These powers should include accessing relevant information in national public registers, issuing and executing mutual assistance and recognition requests, directly contacting and exchanging information with competent authorities, participating in joint investigation teams and, in agreement with the competent national authority or in case of urgency, ordering investigative measures and controlled deliveries.
- (12) It is necessary to provide Eurojust with an administrative and management structure that allows it to perform its tasks more effectively and respects the principles applicable to Union agencies whilst maintaining Eurojust's special characteristics and safeguarding its independence in the exercise of its operational functions. To this end, the functions of the national members, the College and the Administrative Director should be clarified and an Executive Board established.
- (13) Provisions should be laid down to clearly distinguish between the operational and the management functions of the College, reducing the administrative burden on national members to the minimum so that the focus is put on Eurojust's operational work. The management tasks of the College should include in particular the adoption of Eurojust's work programmes, budget, annual activity report, appropriate financial rules, and working arrangements with partners. It should exercise the power of appointing authority towards staff of the agency including the Administrative Director.
- (14) To improve Eurojust's governance and streamline procedures, an Executive Board should be established to assist the College in its management functions and to allow for streamlined decision-making on non-operational and strategic issues.
- (15) The Commission should be represented in the College when it exercises its management functions and in the Executive Board, to ensure non-operational supervision and strategic guidance of Eurojust.
- (16) In order to ensure an efficient day-to-day administration of Eurojust, the Administrative Director should be its legal representative and manager, accountable to the College and the

Executive Board. The Administrative Director should prepare and implement the decisions of the College and the Executive Board.

- (17) The setting up of an On-Call Coordination (OCC) within Eurojust is necessary to make Eurojust available around the clock and to enable it to intervene in urgent cases. It should be the responsibility of each Member State to ensure that their representatives in the OCC are able to act on a 24-hour/7-day basis.
- (18) Eurojust national coordination systems should be set up in the Member States to coordinate the work carried out by the national correspondents for Eurojust, the national correspondent for Eurojust for terrorism matters, the national correspondent for the European Judicial Network and up to three other contact points, as well as representatives in the Network for Joint Investigation Teams and of the networks set up by Council Decision 2002/494/JHA of 13 June 2002 setting up a European network of contact points in respect of persons responsible for genocide, crimes against humanity and war crimes¹⁰, Council Decision 2007/845/JHA of 6 December 2007 concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to crime¹¹ and by Council Decision 2008/852/JHA of 24 October 2008 on a contact-point network against corruption¹².
- (19) For the purposes of stimulating and strengthening coordination and cooperation between national investigating and prosecuting authorities it is crucial that Eurojust receives relevant information from national authorities necessary for the performance of its tasks. To this end, national competent authorities should inform their national members of the setting up and results of joint investigation teams, of cases under the competence of Eurojust directly involving at least three Member States and for which requests or decisions on judicial cooperation have been transmitted to at least two Member States, as well as, under certain circumstances, information on conflicts of jurisdiction, controlled deliveries and repeated difficulties in judicial cooperation.
- (20) Whilst the processing of personal data at Eurojust falls under the scope of Regulation (EC) 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data¹³, the processing of personal data by the Member State's authorities and the transfer of such data to Eurojust are covered by the Council of Europe Convention 108 [to be replaced by the relevant Directive in force at the moment of adoption].
- (21) When Eurojust transfers personal data to an authority of a third country or to an international organisation or Interpol by virtue of an international agreement concluded pursuant to Article 218 of the Treaty the adequate safeguards adduced with respect to the protection of privacy and fundamental rights and freedoms of individuals have to ensure that the data protection provisions of this Regulation are complied with.
- (22) Eurojust should be authorised to process certain personal data on persons who, under the national legislation of the Member States concerned, are suspected of having committed or having taken part in a criminal offence in respect of which Eurojust is competent, or who have been convicted of such an offence. It is not intended that Eurojust carry out an automated comparison of DNA profiles or fingerprints.
- (23) Eurojust should be given the opportunity to extend the deadlines for storage of personal data, subject to observance of the purpose limitation principle applicable to processing of

¹⁰ OJ L 167, 26.6.2002, p.1

¹¹ OJ L 332, 18.12.2007, p.103.

¹² OJ L 301, 12.11.2008, p.38.

¹³ OJ L 8, 12.1.2001, p. 1

personal data in the context of all activities of Eurojust, in order to achieve its objectives. Such decisions should be taken following careful consideration of all interests at stake, including those of the data subjects. Any extension of deadlines for processing personal data, where prosecution is statute barred in all Member States concerned, should be decided only where there is a specific need to provide assistance under this Regulation.

- (24) Eurojust should maintain privileged relations with the European Judicial Network based on consultation and complementarity. This Regulation should help clarify the respective roles of Eurojust and the European Judicial Network and their mutual relations, while maintaining the specificity of the European Judicial Network.
- (25) Eurojust should maintain cooperative relations with other Union bodies and agencies, with the European Public Prosecutor's Office, with the competent authorities of third countries as well as with international organisations, to the extent required for the accomplishment of its tasks.
- (26) To enhance operational cooperation between Eurojust and Europol, and particularly to establish links between data already in the possession of either body, Eurojust should enable Europol to have access to and be able to search against data available at Eurojust.
- (27) Eurojust should be able to exchange personal data with other Union bodies to the extent necessary for the accomplishment of its tasks.
- (28) Provision should be made for Eurojust to post liaison magistrates to third countries in order to achieve objectives similar to those assigned to liaison magistrates seconded by the Member States on the basis of Council Joint Action 96/277/JHA of 22 April 1996 concerning a framework for the exchange of liaison magistrates to improve judicial cooperation between the Member States of the European Union¹⁴.
- (29) Provision should be made for Eurojust to coordinate the execution of requests for judicial cooperation issued by a third country when they relate to a single investigation and require execution in at least two Member States.
- (30) To guarantee the full autonomy and independence of Eurojust, it should be granted an autonomous budget, with revenue coming essentially from a contribution from the budget of the Union, except as regards the salaries and emoluments of the national members and assisting persons, which are borne by their Member State of origin. The Union budgetary procedure should be applicable as far as the Union contribution and other subsidies chargeable to the general budget of the Union are concerned. The auditing of accounts should be undertaken by the Court of Auditors.
- (31) In order to increase the transparency and democratic oversight of Eurojust it is necessary to provide mechanisms for the involvement of the European Parliament and national Parliaments in the evaluation of Eurojust's activities. This should not hinder the principles of independence as regards action taken in specific operational cases or the obligations of discretion and confidentiality.
- (32) It is appropriate to evaluate regularly the application of this Regulation.
- (33) Regulation (EU, EURATOM) No 966/2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002¹⁵ should apply to Eurojust.
- (34) Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF)¹⁶ should apply to Eurojust.

¹⁴ OJ L 105, 27.04.1996, p.1.

¹⁵ OJ L 298, 26.10.2012, p.1.

- (35) The necessary provisions regarding accommodation for Eurojust in the Member State in which it has its headquarters, that is to say in the Netherlands, and the specific rules applicable to all Eurojust's staff and members of their families should be laid down in a headquarters agreement. Furthermore, the host Member State should provide the best possible conditions to ensure the proper functioning of Eurojust, including schools for children and transport, so as to attract high-quality human resources from as wide a geographical area as possible.
- (36) As Eurojust as set up by this Regulation replaces and succeeds Eurojust as established on the basis of Decision 2002/187/JHA, it should be the legal successor of Eurojust with respect to all its contractual obligations, including employment contracts, liabilities and properties acquired. International agreements concluded by Eurojust as established on the basis of that Decision should remain in force.
- (37) Since the objective of this Regulation, namely the setting up of an entity responsible for supporting and strengthening coordination and cooperation between judicial authorities of the Member States in relation to serious crime affecting two or more Member States or requiring a prosecution on common bases, cannot be sufficiently achieved by the Member States and can, therefore, by reason of the scale and effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity, as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (38) [In accordance with Article 3 of the Protocol (No 21) on the position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, those Member States have notified their wish to take part in the adoption and application of this Regulation.] OR [Without prejudice to Article 4 of the Protocol (No 21) on the position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, the United Kingdom and Ireland are not taking part in the adoption of this Regulation and are not bound by or subject to its application.]
- (39) In accordance with Articles 1 and 2 of the 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 in the adoption of this Regulation and is not bound by it or subject to its application.

HAVE ADOPTED THIS REGULATION:

¹⁶ OJ L 136, 31.5.1999, p.1.

CHAPTER I

OBJECTIVE AND TASKS

Article 1

The European Union Agency for Criminal Justice Cooperation

1. The European Union Agency for Criminal Justice Cooperation (Eurojust) is hereby established.
2. Eurojust, as established by this Regulation, shall be the legal successor of Eurojust as established by Council Decision 2002/187/JHA.
3. In each of the Member States, Eurojust shall enjoy the most extensive legal capacity accorded to legal persons under their laws. It may, in particular, acquire and dispose of movable and immovable property and be party to legal proceedings.

Article 2

Tasks

1. Eurojust shall support and strengthen coordination and cooperation between national investigating and prosecuting authorities in relation to serious crime affecting two or more Member States, or requiring a prosecution on common bases, on the basis of operations conducted and information supplied by the Member States' authorities and by Europol.
2. In the implementation of its tasks Eurojust shall:
 - a) take into account any request emanating from a competent authority of a Member State or any information provided by any body competent by virtue of provisions adopted within the framework of the Treaties or collected by Eurojust itself;
 - b) facilitate the execution of requests for, and decisions on, judicial cooperation, including those based on instruments giving effect to the principle of mutual recognition.
3. Eurojust shall exercise its tasks at the request of the competent authorities of the Member States or on its own initiative.

Article 3

Competence of Eurojust

1. Eurojust's competence shall cover the forms of crime listed in Annex 1. However, its competence shall not include the crimes for which the European Public Prosecutor's Office is competent.
2. Eurojust's competence shall cover related criminal offences. The following offences shall be regarded as related criminal offences:
 - a) criminal offences committed in order to procure the means of perpetrating acts listed in Annex 1;
 - b) criminal offences committed in order to facilitate or carry out acts listed in Annex 1;
 - c) criminal offences committed to ensure the impunity of acts listed in Annex 1.
3. At the request of a Member State's competent authority, Eurojust may also assist investigations and prosecutions affecting only that Member State and a third country where a cooperation agreement or arrangement establishing cooperation pursuant to Article 43 has been concluded with that third country or where in a specific case there is an essential interest in providing such assistance.

4. At the request either of a Member State's competent authority or of the Commission, Eurojust may assist investigations and prosecutions affecting only that Member State and the Union.

Article 4

Operational functions of Eurojust

1. Eurojust shall:
 - a) inform the competent authorities of the Member States of investigations and prosecutions of which it has been informed and which have repercussions at Union level or which might affect Member States other than those directly concerned;
 - b) assist the competent authorities of the Member States in ensuring the best possible coordination of investigations and prosecutions;
 - c) give assistance in order to improve cooperation between the competent authorities of the Member States, in particular on the basis of Europol's analyses;
 - d) cooperate and consult with the European Judicial Network in criminal matters, including making use of and contributing to the improvement of the documentary database of that European Judicial Network;
 - e) provide operational, technical and financial support to Member States' cross-border operations and investigations, including joint investigation teams.
2. In the exercise of its tasks, Eurojust may ask the competent authorities of the Member States concerned, giving its reasons, to:
 - a) undertake an investigation or prosecution of specific acts;
 - b) accept that one of them may be in a better position to undertake an investigation or to prosecute specific acts;
 - c) coordinate between the competent authorities of the Member States concerned;
 - d) set up a joint investigation team in accordance with the relevant cooperation instruments;
 - e) provide it with any information that is necessary to carry out its tasks;
 - f) take special investigative measures;
 - g) take any other measure justified for the investigation or prosecution.

3. Eurojust may also:
 - a) provide Europol with opinions based on analyses carried out by Europol;
 - b) supply logistical support, including assistance for translation, interpretation and the organisation of coordination meetings.
4. Where two or more Member States cannot agree on which of them should undertake an investigation or prosecution following a request made under point (b) of paragraph 2, Eurojust shall issue a written opinion on the case. The opinion shall be promptly forwarded to the Member States concerned.
5. On request of a competent authority Eurojust shall issue a written opinion on recurrent refusals or difficulties concerning the execution of requests for, and decisions on, judicial cooperation, including those based on instruments giving effect to the principle of mutual recognition, provided it could not be resolved through mutual agreement between the competent national authorities or through the involvement of the national members concerned. The opinion shall be promptly forwarded to the Member States concerned.

Article 5

Exercise of operational functions

1. Eurojust shall act through one or more of the national members concerned when taking any of the actions referred to in Article 4(1) or (2).
2. Eurojust shall act as a College:
 - a) when taking any of the actions referred to in Article 4(1) or (2):
 - (i) when so requested by one or more of the national members concerned by a case dealt with by Eurojust;
 - (ii) when the case involves investigations or prosecutions which have repercussions at Union level or which might affect Member States other than those directly concerned;
 - b) when taking any of the actions referred to in Article 4 (3), (4) or (5);
 - c) when a general question relating to the achievement of its operational objectives is involved;
 - d) when otherwise provided for in this Regulation.
3. When it fulfils its tasks, Eurojust shall indicate whether it is acting through one or more of the national members or as a College.

CHAPTER II

STRUCTURE AND ORGANISATION OF EUROJUST

SECTION I

STRUCTURE

Article 6

Structure of Eurojust

The structure of Eurojust shall comprise:

- a) the national members;
- b) the College;
- c) the Executive Board;
- d) the Administrative Director.

SECTION II

NATIONAL MEMBERS

Article 7

Status of national members

1. Eurojust shall have one national member seconded by each Member State in accordance with its legal system, who shall have his or her regular place of work at the seat of Eurojust.
2. Each national member shall be assisted by one deputy and by an Assistant. The deputy and the Assistant shall have their regular place of work at Eurojust. More deputies or Assistants may assist the national member and may, if necessary and with the agreement of the College, have their regular place of work at Eurojust.
3. The national members and deputies shall have a status as a prosecutor, judge or police officers of equivalent competence. The competent national authorities shall grant them the powers referred to in this Regulation in order to be able to fulfil their tasks.
4. The deputy shall be able to act on behalf of or to substitute the national member. An Assistant may also act on behalf of or substitute the national member if he or she has a status as referred to in paragraph 3.
5. Operational information exchanged between Eurojust and Member States shall be directed through the national members.
6. National members shall contact the competent authorities of their Member State directly.
7. The salaries and emoluments of the national members, deputies and Assistants shall be borne by their Member State of origin.
8. Where national members, deputies and Assistants act within the framework of Eurojust's tasks, the relevant expenditure related to these activities shall be regarded as operational expenditure.

Article 8

Powers of national members

1. The national members shall have the power to:

- a) facilitate or otherwise support the issuing and execution of any mutual legal assistance or mutual recognition request or issue and execute them themselves;
 - b) contact directly and exchange information with any national competent authority of the Member State;
 - c) contact directly and exchange information with any competent international authority, in accordance with the international commitments of their Member State;
 - d) participate in joint investigation teams including in their setting up.
2. In agreement with the competent national authority the national members shall:
 - a) order investigative measures;
 - b) authorise and coordinate controlled deliveries in the Member State in accordance with national legislation.
 3. In urgent cases when timely agreement cannot be reached, the national members shall be competent to take the measures referred to in paragraph 2, informing as soon as possible the national competent authority.

Article 9

Access to national registers

The national members shall have access to, or at least be able to obtain the information contained in, the following types of registers of their Member State, in accordance with national law:

- a) criminal records;
- b) registers of arrested persons;
- c) investigation registers;
- d) DNA registers;
- e) other registers of public authorities of their Member States where such information is necessary to fulfil their tasks.

SECTION III ***THE COLLEGE***

Article 10

Composition of the College

1. The College shall be composed of:
 - a) all the national members when the College exercises its operational functions under Article 4;
 - b) all the national members and two representatives of the Commission when the College exercises its management functions under Article 14.
2. The term of office of the members and their deputies shall be at least four years, renewable once. Upon expiry of their term of office or in the event of their resignation, members shall remain in office until their term is renewed or until they are replaced.
3. The Administrative Director shall attend the management meetings of the College, without the right to vote.
4. The College may invite any person whose opinion may be of interest to attend its meetings as an observer.

5. The members of the College may, subject to the provisions of its Rules of Procedure, be assisted by advisers or experts.

Article 11

The President and Vice-President of Eurojust

1. The College shall elect a President and two Vice-Presidents from among the national members by a two thirds majority of its members.
2. The Vice-Presidents shall replace the President if he or she is prevented from attending to his or her duties.
3. The term of office of the President and the Vice-Presidents shall be four years. They may be re-elected once. When a national member is elected President or Vice-President of Eurojust, his or her term of office as national member shall be extended to ensure he or she can fulfil his or her function as President or Vice-President.

Article 12

Meetings of the College

1. The President shall convene the meetings of the College.
2. The College shall hold at least one operational meeting per month. To exercise its management functions, the College shall hold at least two ordinary meetings a year. In addition, it shall meet on the initiative of the President, at the request of the Commission, or at the request of at least one third of its members.
3. The European Public Prosecutor shall receive the agendas of all College meetings and shall be entitled to participate in such meetings, without the right to vote, whenever issues are discussed which he or she considers to be of relevance for the functioning of the European Public Prosecutor's Office.

Article 13

Voting rules of the College

1. Unless stated otherwise, the College shall take its decisions by a majority of its members.
2. Each member shall have one vote. In the absence of a voting member, the deputy shall be entitled to exercise the right to vote.
3. The President and Vice-Presidents shall have voting rights.

Article 14

Management functions of the College

1. The College exercising its management functions shall:
 - a) adopt each year Eurojust's programming document by a majority of two thirds of its members and in accordance with Article 15;
 - b) adopt, by a majority of two thirds of its members, the annual budget of Eurojust and exercise other functions in respect of Eurojust's budget pursuant to Chapter VI;
 - c) adopt a consolidated annual activity report on Eurojust's activities and send it, by [date foreseen in FFR] of the following year, to the European Parliament, national parliaments, the Council, the Commission and the Court of Auditors, and make the consolidated annual activity report public;
 - d) adopt staff resource programming as part of the programming document;
 - e) adopt the financial rules applicable to Eurojust in accordance with Article 52;
 - f) adopt rules for the prevention and management of conflicts of interest in respect of its members;
 - g) in accordance with paragraph 2, exercise, with respect to the staff of the Agency, the powers conferred by the Staff Regulations¹⁷ on the Appointing Authority and by the Conditions of Employment of Other Servants¹⁸ on the Authority Empowered to conclude Contracts of Employment ("the appointing authority powers");
 - h) appoint the Administrative Director and where relevant extend his or her term of office or remove him or her from office in accordance with Article 17;
 - i) appoint an Accounting Officer and a Data Protection Officer who shall be functionally independent in the performance of their duties;
 - j) adopt working arrangements concluded in accordance with Article 43;
 - k) elect the President and Vice-Presidents in accordance with Article 11;
 - l) adopt its rules of procedure.
2. The College shall adopt, in accordance with Article 110 of the Staff Regulations, a decision based on Article 2(1) of the Staff Regulations and on Article 6 of the Conditions of Employment of Other Servants delegating the relevant appointing authority powers to the Administrative Director and defining the conditions under which this delegation of powers can be suspended. The Administrative Director shall be authorised to sub-delegate these powers.
3. Where exceptional circumstances so require, the College may temporarily decide to suspend the delegation of the appointing authority powers to the Administrative Director and those sub-delegated by the latter and exercise them itself or delegate them to one of its members or to a staff member other than the Administrative Director.

¹⁷ Council Regulation No 31 (EEC), 11 (EAEC) of 18 December 1961 laying down the Staff Regulations for Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community, OJ P 045, 14.6.1962, p. 1385, as amended, in particular, by Council Regulation 259/68, of 29 February 1968 (OJ L 56, 4.3.1968, p. 1), as itself subsequently amended.

¹⁸ Council Regulation No 31 (EEC), 11 (EAEC) of 18 December 1961 laying down the Staff Regulations for Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community, OJ P 045, 14.6.1962, p. 1385, as amended, in particular, by Council Regulation 259/68, of 29 February 1968 (OJ L 56, 4.3.1968, p. 1), as itself subsequently amended.

4. The College shall reach decisions on appointment, extension of the term of office and removal from office of the Administrative Director on the basis of a two-thirds majority of its members.

Article 15

Annual and multi-annual programming

1. By [30 November each year] the College shall adopt a programming document containing multi-annual and annual programming, based on a draft put forward by the Administrative Director, taking into account the opinion of the Commission. It shall forward it to the European Parliament, the Council and the Commission. The programming document shall become definitive after final adoption of the general budget and if necessary shall be adjusted accordingly.
2. The annual work programme shall comprise detailed objectives and expected results including performance indicators. It shall also contain a description of the actions to be financed and an indication of the financial and human resources allocated to each action, in accordance with the principles of activity-based budgeting and management. The annual work programme shall be coherent with the multi-annual work programme referred to in paragraph 4. It shall clearly indicate which tasks have been added, changed or deleted in comparison with the previous financial year.
3. The College shall amend the adopted annual work programme when a new task is given to the Agency. Any substantial amendment to the annual work programme shall be adopted by the same procedure as the initial annual work programme. The College may delegate to the Administrative Director the power to make non-substantial amendments to the annual work programme.
4. The multi-annual work programme shall set out overall strategic programming including objectives, expected results and performance indicators. It shall also set out resource programming including multi-annual budget and staff. The resource programming shall be updated annually. The strategic programming shall be updated where appropriate, and in particular to address the outcome of the evaluation referred to in Article 56.

SECTION IV

THE EXECUTIVE BOARD

Article 16

Functioning of the Executive Board

1. The College shall be assisted by an Executive Board. The Executive Board shall not be involved in the operational functions of Eurojust referred to in Articles 4 and 5.
2. The Executive Board shall also:
 - a) prepare the decisions to be adopted by the College in accordance with Article 14;
 - b) adopt an anti-fraud strategy, which is proportionate to the fraud risks having regard to cost-benefit of the measures to be implemented;
 - c) adopt appropriate implementing rules to the Staff Regulations and the Conditions of Employment of Other Servants in accordance with Article 110 of the Staff Regulations;
 - d) ensure adequate follow-up to the findings and recommendations stemming from the internal or external audit reports, evaluations and investigations, including those of the European Data Protection Supervisor (EDPS) and the European Anti-fraud Office (OLAF);

- e) take all decisions on the establishment and, where necessary, the modification of Eurojust's internal administrative structures;
 - f) without prejudice to the responsibilities of the Administrative Director, as set out in Article 18, assist and advise him or her in the implementation of the decisions of the College, with a view to reinforcing supervision of administrative and budgetary management;
 - g) take any other decision not expressly attributed to the College in Articles 5 or 14 or under the responsibility of the Administrative Director in accordance with Article 18;
 - h) adopt its rules of procedure.
3. When necessary, because of urgency, the Executive Board may take certain provisional decisions on behalf of the College on administrative and budgetary matters, which shall be subject to confirmation by the College.
 4. The Executive Board shall be composed of the President and Vice-Presidents of the College, one representative of the Commission and one other member of the College. The President of the College shall be the Chairperson of the Executive Board. The Executive Board shall take its decisions by a majority of its members, each member having one vote. The Administrative Director shall take part in the meetings of the Executive Board, but shall not have the right to vote.
 5. The term of office of members of the Executive Board shall be four years, with the exception of the member of the College who shall be appointed following a two-year rotation system. The term of office of members of the Executive Board shall end when their term as national members ends.
 6. The Executive Board shall hold at least one ordinary meeting every three months. In addition, it shall meet on the initiative of its Chairperson or at the request of the Commission or of at least two of its other members.
 7. The European Public Prosecutor shall receive the agendas of all Executive Board meetings and shall be free to participate in such meetings, without the right to vote, whenever issues are discussed which he or she considers to be of relevance for the functioning of the European Public Prosecutor's Office.
 8. The European Public Prosecutor may address written opinions to the Executive Board, to which the Executive Board shall respond in writing without undue delay.

SECTION V ***THE ADMINISTRATIVE DIRECTOR***

Article 17 **Status of the Administrative Director**

1. The Administrative Director shall be engaged as a temporary agent of Eurojust under Article 2(a) of the Conditions of Employment of Other Servants of the European Union.
2. The Administrative Director shall be appointed by the College from a list of candidates proposed by the Commission, following an open and transparent selection procedure. For the purpose of concluding the contract of the Administrative Director, Eurojust shall be represented by the President of the College.
3. The term of office of the Administrative Director shall be five years. By the end of this period, the Commission shall undertake an assessment which takes into account an evaluation of the performance of the Administrative Director.

4. The College, acting on a proposal from the Commission which takes into account the assessment referred to in paragraph 3, may extend once the term of office of the Administrative Director for no more than five years.
5. An Administrative Director whose term of office has been extended may not participate in another selection procedure for the same post at the end of the overall period.
6. The Administrative Director shall be accountable to the College and the Executive Board.
7. The Administrative Director may be removed from the office only upon a decision of the College acting on a proposal from the Commission.

Article 18

Responsibilities of the Administrative Director

1. For administrative purposes, Eurojust shall be managed by its Administrative Director.
2. Without prejudice to the powers of the Commission, the College or the Executive Board, the Administrative Director shall be independent in the performance of his or her duties and shall neither seek nor take instructions from any government or from any other body.
3. The Administrative Director shall be the legal representative of Eurojust.
4. The Administrative Director shall be responsible for the implementation of the administrative tasks assigned to Eurojust. In particular, the Administrative Director shall be responsible for:
 - a) the day-to-day administration of Eurojust;
 - b) implementing the decisions adopted by the College and the Executive Board;
 - c) preparing the programming document and submitting it to the Executive Board and College after consultation of the Commission;
 - d) implementing the programming document and reporting to the Executive Board and College on its implementation;
 - e) preparing the annual report on Eurojust's activities and presenting it to the Executive Board for completion and to the College for approval;
 - f) preparing an action plan following-up on the conclusions of the internal or external audit reports, evaluations and investigations, including those of the European Data Protection Supervisor and OLAF and reporting on progress twice a year to the Executive Board, the Commission and the European Data Protection Supervisor;
 - g) protecting the financial interests of the Union by the application of preventive measures against fraud, corruption and any other illegal activities, by effective checks and, if irregularities are detected, by the recovery of the amounts wrongly paid and, where appropriate, by imposing effective, proportionate and dissuasive administrative and financial penalties;
 - h) preparing an anti-fraud strategy for Eurojust and presenting it to the Executive Board for approval;
 - i) preparing the draft financial rules applicable to Eurojust;
 - j) preparing Eurojust's draft statement of estimates of revenue and expenditure and implementing its budget.

CHAPTER III OPERATIONAL MATTERS

Article 19

On-call coordination (OCC)

1. In order to fulfil its tasks in urgent cases, Eurojust shall operate an On-Call Coordination able to receive and process at all times requests referred to it. The On-Call Coordination shall be contactable, through a single On-Call Coordination contact point at Eurojust, on a 24 hour/7 day basis.
2. The On-Call Coordination shall rely on one representative (On-Call Coordination representative) per Member State who may be either the national member, his deputy, or an Assistant entitled to replace the national member. The On-Call Coordination representative shall be able to act on a 24 hour/7 day basis.
3. The On-Call Coordination representatives shall act without delay, in relation to the execution of the request in their Member State.

Article 20

Eurojust National Coordination System

1. Each Member State shall designate one or more national correspondents for Eurojust.
2. Each Member State shall set up a Eurojust national coordination system to ensure coordination of the work carried out by:
 - a) the national correspondents for Eurojust;
 - b) the national correspondent for Eurojust for terrorism matters;
 - c) the national correspondent for the European Judicial Network in criminal matters and up to three other contact points of that European Judicial Network;
 - d) national members or contact points of the Network for Joint Investigation Teams and of the networks set up by Decision 2002/494/JHA, Decision 2007/845/JHA and by Decision 2008/852/JHA.
3. The persons referred to in paragraphs 1 and 2 shall maintain their position and status under national law.
4. The national correspondents for Eurojust shall be responsible for the functioning of the Eurojust national coordination system. When several correspondents for Eurojust are designated, one of them shall be responsible for the functioning of the Eurojust national coordination system.
5. The Eurojust national coordination system shall facilitate, within the Member State, the carrying out of the tasks of Eurojust, in particular by:
 - a) ensuring that the Case Management System referred to in Article 24 receives information related to the Member State concerned in an efficient and reliable manner;
 - b) assisting in determining whether a case should be dealt with the assistance of Eurojust or of the European Judicial Network;
 - c) assisting the national member to identify relevant authorities for the execution of requests for, and decisions on, judicial cooperation, including those based on instruments giving effect to the principle of mutual recognition;

- d) maintaining close relations with the European National Unit.
6. In order to meet the objectives referred to in paragraph 5, persons referred to in paragraph 1 and in points (a), (b) and (c) of paragraph 2 shall, and persons referred to in point (d) of paragraph 2 may be connected to the Case Management System in accordance with this Article and with Articles 24, 25, 26 and 30. The connection to the Case Management System shall be at the charge of the general budget of the European Union.
7. The setting up of the Eurojust national coordination system and the designation of national correspondents shall not prevent direct contacts between the national member and the competent authorities of his Member State.

Article 21

Exchanges of information with the Member States and between national members

1. The competent authorities of the Member States shall exchange with Eurojust any information necessary for the performance of its tasks in accordance with Articles 2 and 4 as well as with the rules on data protection set out in this Regulation. This shall at least include the information referred to in paragraphs 5, 6 and 7.
2. The transmission of information to Eurojust shall be interpreted as a request for the assistance of Eurojust in the case concerned only if so specified by a competent authority.
3. The national members shall exchange any information necessary for the performance of the tasks of Eurojust, without prior authorisation, among themselves or with their Member State's competent authorities. In particular, the competent national authorities shall promptly inform their national members of a case which concerns them.
4. The national competent authorities shall inform their national members of the setting up of joint investigation teams and of the results of the work of such teams.
5. The national competent authorities shall inform their national members without undue delay of any case concerning crimes under the competence of Eurojust affecting at least three Member States and for which requests for or decisions on judicial cooperation, including those based on instruments giving effect to the principle of mutual recognition, have been transmitted to at least two Member States.
6. The national competent authorities shall inform their national members of:
 - a) cases where conflicts of jurisdiction have arisen or are likely to arise;
 - b) controlled deliveries affecting at least three countries, at least two of which are Member States;
 - c) repeated difficulties or refusals regarding the execution of requests for, and decisions on, judicial cooperation, including those based on instruments giving effect to the principle of mutual recognition.
7. National authorities shall not be obliged in a particular case to supply information if this would mean:
 - a) harming essential national security interests; or
 - b) jeopardising the safety of individuals.
8. This Article shall be without prejudice to conditions set in bilateral or multilateral agreements or arrangements between Member States and third countries including any conditions set by third countries concerning the use of information once supplied.
9. Information referred to in this Article shall be provided in a structured way as established by Eurojust.

Article 22

Information provided by Eurojust to competent national authorities

1. Eurojust shall provide competent national authorities with information on the results of the processing of information, including the existence of links with cases already stored in the Case Management System. This information may include personal data.
2. Where a competent national authority requests Eurojust to provide it with information, Eurojust shall transmit it in the timeframe requested by that authority.

Article 23

Follow-up to requests and opinions of Eurojust

The competent national authorities shall respond without undue delay to Eurojust's requests and opinions made under Article 4. Where the competent authorities of the Member States concerned decide not to comply with a request referred to in Article 4(2) or decide not to follow a written opinion referred to in Article 4(4) or (5), they shall inform Eurojust without undue delay of their decision and of the reasons for it. Where it is not possible to give the reasons for refusing to comply with a request because to do so would harm essential national security interests or would jeopardise the safety of individuals, the competent authorities of the Member States may cite operational reasons.

Article 24

Case Management System, index and temporary work files

1. Eurojust shall establish a Case Management System composed of temporary work files and of an index which contain personal data as referred to in Annex 2 and non-personal data.
2. The purpose of the Case Management System shall be to:
 - a) support the management and coordination of investigations and prosecutions for which Eurojust is providing assistance, in particular by the cross-referencing of information;
 - b) facilitate access to information on on-going investigations and prosecutions;
 - c) facilitate the monitoring of lawfulness and compliance with the provisions of this Regulation concerning the processing of personal data.
3. The Case Management System may be linked to the secure telecommunications connection referred to in Article 9 of Decision 2008/976/JHA.
4. The index shall contain references to temporary work files processed within the framework of Eurojust and may contain no personal data other than those referred to in points (1)(a) to (i), (k) and (m) and (2) of Annex 2.
5. In the performance of their duties, the national members may process data on the individual cases on which they are working in a temporary work file. They shall allow the Data Protection Officer to have access to the temporary work file. The Data Protection Officer shall be informed by the national member concerned of the opening of each new temporary work file that contains personal data.
6. For the processing of operational personal data, Eurojust may not establish any automated data file other than the Case Management System or a temporary work file.
7. The Case Management System and its temporary work files shall be made available for use by the European Public Prosecutor's Office.
8. The provisions on access to the Case Management System and the temporary work files shall apply *mutatis mutandis* to the European Public Prosecutor's Office. However, the

information entered into the Case Management System, temporary work files and the index by the European Public Prosecutor's Office shall not be available for access at the national level.

Article 25

Functioning of temporary work files and the index

1. A temporary work file shall be opened by the national member concerned for every case with respect to which information is transmitted to him or her in so far as this transmission is in accordance with this Regulation or other applicable legal instruments. The national member shall be responsible for the management of the temporary work files opened by that national member.
2. The national member who has opened a temporary work file shall decide, on a case-by-case basis, whether to keep the temporary work file restricted or to give access to it or to parts of it, where necessary to enable Eurojust to carry out its tasks, to other national members or to Eurojust staff authorised by the Administrative Director.
3. The national member who has opened a temporary work file shall decide which information related to this temporary work file shall be introduced in the index.

Article 26

Access to the Case Management System at national level

1. Persons referred to in Article 20(2), in so far as they are connected to the Case Management System, may only have access to:
 - a) the index, unless the national member who has decided to introduce the data in the index expressly denied such access;
 - b) temporary work files opened by the national member of their Member State;
 - c) temporary work files opened by national members of other Member States and to which the national member of their Member States has received access unless the national member who opened the temporary work file expressly denied such access.
2. The national member shall, within the limitations provided for in paragraph 1, decide on the extent of access to the temporary work files which is granted in his or her Member State to persons referred to in Article 20(2) in so far as they are connected to the Case Management System.
3. Each Member State shall decide, after consultation with its national member, on the extent of access to the index which is granted in that Member State to persons referred to in Article 20(2) in so far as they are connected to the Case Management System. Member States shall notify Eurojust and the Commission of their decision regarding the implementation of this paragraph. The Commission shall inform the other Member States thereof.
4. Persons which have been granted access in accordance with paragraph 2 shall at least have access to the index to the extent necessary to access the temporary work files to which they have been granted access.

CHAPTER IV

PROCESSING OF INFORMATION

Article 27

Processing of personal data

1. Insofar as it is necessary to achieve its explicitly stated task, Eurojust may, within the framework of its competence and in order to carry out its operational functions, process by automated means or in structured manual files in accordance with this Regulation only the personal data listed in point 1 of Annex 2, on persons who, under the national legislation of the Member States concerned are suspected of having committed or having taken part in a criminal offence in respect of which Eurojust is competent or who have been convicted of such an offence.
2. Eurojust may process only the personal data listed in point 2 of Annex 2, on persons who, under the national legislation of the Member States concerned, are regarded as witnesses or victims in a criminal investigation or prosecution regarding one or more of the types of crime and the offences referred to in Article 3, or persons under the age of 18. The processing of such personal data may only take place if it is strictly necessary for the achievement of the expressly stated task of Eurojust, within the framework of its competence and in order to carry out its operational functions.
3. In exceptional cases, Eurojust may also, for a limited period of time which shall not exceed the time needed for the conclusion of the case related to which the data are processed, process personal data other than those referred to in paragraphs 1 and 2 relating to the circumstances of an offence where they are immediately relevant to and included in ongoing investigations which Eurojust is coordinating or helping to coordinate and when their processing is strictly necessary for the purposes specified in paragraph 1. The Data Protection Officer referred to in Article 31 shall be informed immediately of recourse to this paragraph and of the specific circumstances which justify the necessity of the processing of such personal data. Where such other data refer to witnesses or victims within the meaning of paragraph 2, the decision to process them shall be taken jointly by at least two national members.
4. Personal data, processed by automated or other means, revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, and data concerning health or sex life may be processed by Eurojust only when such data are strictly necessary for the national investigations concerned as well as for coordination within Eurojust and if they supplement other personal data already processed. The Data Protection Officer shall be informed immediately of recourse to this paragraph. Such data may not be processed in the Index referred to in Article 24(4). Where such other data refer to witnesses or victims within the meaning of paragraph 3, the decision to process them shall be taken by the College.
5. Regulation (EC) No 45/2001 shall apply to the processing of personal data by Eurojust in the context of its activities. This Regulation particularises and complements Regulation (EC) No 45/2001 in as far as personal data processed by Eurojust for its operational tasks are concerned.

Article 28

Time limits for the storage of personal data

1. Personal data processed by Eurojust may not be stored beyond the first applicable among the following dates:

- a) the date on which prosecution is barred under the statute of limitations of all the Member States concerned by the investigation and prosecutions;
 - b) the date on which the person has been acquitted and the judicial decision became final;
 - c) three years after the date on which the judicial decision of the last of the Member States concerned by the investigation or prosecutions became final;
 - d) the date on which Eurojust and the Member States concerned mutually established or agreed that it was no longer necessary for Eurojust to coordinate the investigation and prosecutions, unless there is an obligation to provide Eurojust with this information in accordance with Article 21(5) or (6);
 - e) three years after the date on which data were transmitted in accordance with Article 21(6) or (7).
2. Observance of the storage deadlines referred to in points (a), (b), (c) and (d) of paragraph 1 shall be reviewed constantly by appropriate automated processing. Nevertheless, a review of the need to store the data shall be carried out every three years after they were entered. If data concerning persons referred to in Article 27(4) are stored for a period exceeding five years, the European Data Protection Supervisor shall be informed accordingly.
 3. When one of the storage deadlines referred to in points (a), (b), (c) and (d) of paragraph 1 has expired, Eurojust shall review the need to store the data longer in order to enable it to perform its tasks and it may decide by way of derogation to store those data until the following review. The reasons for the continued storage must be justified and recorded. If no decision is taken on the continued storage of personal data, those data shall be deleted automatically after three years. However, once prosecution is statute barred in all Member States concerned as referred to in point (a) of paragraph 1, data may only be stored if they are necessary in order for Eurojust to provide assistance in accordance with this Regulation.
 4. Where, in accordance with paragraph 3, data have been stored beyond the dates referred to in paragraph 1, a review of the need to store those data shall take place every three years by European Data Protection Supervisor.
 5. Where a file contains non-automated and unstructured data, once the deadline for storage of the last item of automated data from the file has elapsed, all documents in the file shall be returned to the authority which supplied them and any copies shall be destroyed.
 6. Where Eurojust has coordinated an investigation or prosecutions, the national members concerned shall inform Eurojust and the other Member States concerned of all judicial decisions relating to the case which have become final in order, inter alia, that point (b) of paragraph 1 may be applied.

Article 29

Logging and documentation

1. For the purposes of verification of the lawfulness of the data processing, self-monitoring and ensuring proper data integrity and security, Eurojust shall keep records of any collection, alteration, access, disclosure, combination or erasure of personal data used for operational purposes. Such logs or documentation shall be deleted after 18 months, unless the data are further required for on-going control.
2. Logs or documentation prepared under paragraph 1 shall be communicated on request to the European Data Protection Supervisor. The European Data Protection Supervisor shall

use this information only for the purpose of data protection control, ensuring proper data processing, and data integrity and security.

Article 30

Authorised access to personal data

Only national members, their deputies and their Assistants, persons referred to in Article 20(2) in so far as they are connected to the Case Management System and authorised Eurojust staff may, for the purpose of achieving Eurojust's tasks and within the limits provided for in Articles 24, 25 and 26, have access to personal data processed by Eurojust for its operational tasks.

Article 31

Appointment of the Data Protection Officer

1. The Executive Board shall appoint a Data Protection Officer in accordance with Article 24 of Regulation (EC) No 45/2001.
2. When complying with the obligations set out in Article 24 of Regulation (EC) No 45/2001, the Data Protection Officer shall:
 - a) ensure that a written record of the transfer of personal data is kept;
 - b) cooperate with Eurojust staff responsible for procedures, training and advice on data processing;
 - c) prepare an annual report and communicate that report to the College and to the European Data Protection Supervisor.
3. In the performance of his or her tasks, the Data Protection Officer shall have access to all the data processed by Eurojust and to all Eurojust premises.
4. Eurojust's staff members assisting the Data Protection Officer in the performance of his or her duties shall have access to the personal data processed at Eurojust and to Eurojust premises to the extent necessary for the performance of their tasks.
5. If the Data Protection Officer considers that the provisions of Regulation (EC) No 45/2001 or this Regulation related to the processing of personal data have not been complied with, he or she shall inform the Administrative Director, requiring him or her to resolve the non-compliance within a specified time. If the Administrative Director does not resolve the non-compliance of the processing within the specified time, the Data Protection Officer shall inform the College and shall agree with the College a specified time for a response. If the College does not resolve the non-compliance of the processing within the specified time, the Data Protection Officer shall refer the matter to the European Data Protection Supervisor.
6. The Executive Board shall adopt the implementing rules referred to in Article 24(8) of Regulation (EC) No 45/2001.

Article 32

Modalities regarding the exercise of the right of access

1. Any data subject wishing to exercise the right of access to personal data may make a request to that effect free of charge to the authority appointed for this purpose in the Member State of their choice. That authority shall refer the request to Eurojust without delay and in any case within one month of receipt.
2. The request shall be answered by Eurojust without undue delay and in any case within three months of its receipt by Eurojust.

3. The competent authorities of the Member States concerned shall be consulted by Eurojust on a decision to be taken. A decision on access to data shall be conditional upon close cooperation between Eurojust and the Member States directly concerned by the communication of such data. In any case in which a Member State objects to Eurojust's proposed response, it shall notify Eurojust of the reasons for its objection.
4. When the right of access is restricted in accordance with Article 20(1) of Regulation (EC) No 45/2001, Eurojust shall inform the data subject in accordance with Article 20(3) of that Regulation in writing. The information about the principal reasons may be omitted where the provision of such information would deprive the restriction of its effect. The data subject shall at least be informed that all necessary verifications by the European Data Protection Supervisor have taken place.
5. Eurojust shall document the grounds for omitting the communication of the principal reasons on which the restriction referred to in paragraph 4 is based.
6. The national members concerned by the request shall deal with it and reach a decision on Eurojust's behalf. The request shall be dealt with in full within three months of receipt. Where the members are not in agreement, they shall refer the matter to the College, which shall take its decision on the request by a two-thirds majority.
7. When in application of Article 46 and 47 of Regulation (EC) No 45/2001, the European Data Protection Supervisor checks the lawfulness of the processing performed by Eurojust, he or she shall inform the data subject at least that all necessary verifications by the European Data Protection Supervisor have taken place.

Article 33

Right to rectification, erasure and restrictions on processing

1. If the personal data that have to be rectified, erased or whose processing has to be restricted in accordance with Articles 14, 15 or 16 of Regulation (EC) No 45/2001 have been provided to Eurojust by third countries, international organisations, private parties, private persons or are the results of Eurojust's own analyses, Eurojust shall rectify, erase or restrict the processing of such data.
2. If the personal data that have to be rectified, erased or whose processing has to be restricted in accordance with Article 14, 15 and 16 of Regulation (EC) No 45/2001 have been provided directly to Eurojust by Member States, Eurojust shall rectify, erase or restrict the processing of such data in collaboration with Member States.
3. If incorrect data were transmitted by another appropriate means or if the errors in the data supplied by Member States are due to faulty transfer or were transmitted in breach of this Regulation or if they result from their being input, taken over or stored in an incorrect manner or in breach of this Regulation by Eurojust, Eurojust shall rectify or erase the data in collaboration with the Member States concerned.
4. In the cases referred to in Articles 14, 15 or 16 of Regulation (EC) No 45/2001, all addressees of such data shall be notified forthwith in accordance with Article 17 of Regulation (EC) No 45/2001. In accordance with rules applicable to them, the addressees shall then rectify, erase or restrict the processing of those data in their systems.
5. Eurojust shall inform the data subject in writing without undue delay and in any case within three months of the receipt of the request that data concerning him or her have been rectified, erased or their processing restricted.
6. Eurojust shall inform the data subject in writing on any refusal of rectification, of erasure or of restrictions to the processing, and the possibility of lodging a complaint with the European Data Protection Supervisor and seeking a judicial remedy.

Article 34

Responsibility in data protection matters

1. Eurojust shall process personal data in such a way that that it can be established which authority provided the data or where the personal data has been retrieved from.
2. The responsibility for the quality of personal data shall lie with the Member State which provided the personal data to Eurojust and with Eurojust for personal data provided by EU bodies, third countries or international organisations, as well for personal data retrieved by Eurojust from publicly available sources.
3. The responsibility for compliance with Regulation (EC) No 45/2001 and this Regulation shall lie with Eurojust. The responsibility for the legality of transfer of personal data provided by the Member States to Eurojust shall lie with the Member State which provides the personal data, and with Eurojust for the personal data provided to Member States, EU bodies and third countries or organisations by Eurojust.
4. Subject to other provisions in this Regulation, Eurojust shall be responsible for all data processed by it.

Article 35

Cooperation between the European Data Protection Supervisor and national data protection authorities

1. The European Data Protection Supervisor shall act in close cooperation with national authorities competent for data protection supervision with respect to specific issues requiring national involvement, in particular if the European Data Protection Supervisor or a national authority competent for data protection supervision finds major discrepancies between practices of the Member States or potentially unlawful transfers using Eurojust's communication channels, or in the context of questions raised by one or more national supervisory authorities on the implementation and interpretation of this Regulation.
2. In cases referred to under paragraph 1 the European Data Protection Supervisor and the national authorities competent for data protection supervision may, each acting within the scope of their respective competences, exchange relevant information, assist each other in carrying out audits and inspections, examine difficulties of interpretation or application of this Regulation, study problems related to the exercise of independent supervision or to the exercise of the rights of data subjects, draw up harmonised proposals for joint solutions to any problems and promote awareness of data protection rights, as necessary.
3. The National Supervisory Authorities and the European Data Protection Supervisor shall meet for the purposes outlined in this Article, as needed. The costs and servicing of these meetings shall be for the account of the European Data Protection Supervisor. Rules of procedure shall be adopted at the first meeting. Further working methods shall be developed jointly as necessary.

Article 36

Right to lodge a complaint with the European Data Protection Supervisor

1. Where a complaint introduced by a data subject pursuant to Article 32(2) of Regulation (EC) No 45/2001 relates to a decision as referred to in Article 32 or 33, the European Data Protection Supervisor shall consult the national supervisory bodies or the competent judicial body in the Member State which was the source of the data or the Member State directly concerned. The decision of the European Data Protection Supervisor, which may extend to a refusal to communicate any information, shall be taken in close cooperation with the national supervisory body or competent judicial body.

2. Where a complaint relates to the processing of data provided by a Member State to Eurojust, the European Data Protection Supervisor shall ensure that the necessary checks have been carried out correctly in close cooperation with the national supervisory body of the Member State which has provided the data.
3. Where a complaint relates to the processing of data provided to Eurojust by EU bodies, third countries or organisations or private parties, the European Data Protection Supervisor shall ensure that the necessary checks have been carried out by Eurojust.

Article 37

Liability for unauthorised or incorrect processing of data

- 1 Eurojust shall be liable, in accordance with Article 340 of the Treaty, for any damage caused to an individual which results from unauthorised or incorrect processing of data carried out by it.
2. Complaints against Eurojust pursuant to the liability referred to in paragraph 1 shall be heard by the Court of Justice in accordance with Article 268 of the Treaty.
3. Each Member State shall be liable, in accordance with its national law, for any damage caused to an individual, which results from unauthorised or incorrect processing carried out by it of data which were communicated to Eurojust.

**CHAPTER V
RELATIONS WITH PARTNERS**

***SECTION I
COMMON PROVISIONS***

Article 38

Common provisions

1. In so far as necessary for the performance of its tasks, Eurojust may establish and maintain cooperative relations with Union bodies and agencies in accordance with the objectives of those bodies or agencies, the competent authorities of third countries, international organisations and the International Criminal Police Organisation (Interpol).
2. In so far as relevant to the performance of its tasks and subject to any restriction stipulated pursuant to Article 21(8), Eurojust may directly exchange all information, with the exception of personal data, with the entities referred to in paragraph 1.
3. Eurojust may, in accordance with Article 4 of Regulation (EC) No 45/2001, receive and process personal data received from the entities referred to in paragraph 1 in so far as necessary for the performance of its tasks and subject to the provisions of Section IV.
4. Personal data shall only be transferred by Eurojust to third countries, international organisations, and Interpol if this is necessary for preventing and combating crime that falls under Eurojust's competence and in accordance with this Regulation. If the data to be transferred have been provided by a Member State, Eurojust shall seek that Member State's consent, unless:
 - a) the authorisation can be assumed as the Member State has not expressly limited the possibility of onward transfers; or
 - b) the Member State has granted its prior authorisation to such onward transfer, either in general terms or subject to specific conditions. Such consent may be withdrawn any moment.

5. Onward transfers to third parties of personal data received from Eurojust by Member States, Union bodies or agencies, third countries and international organisations or Interpol shall be prohibited unless Eurojust has given its explicit consent after considering the circumstances of the case at hand, for a specific purpose that is not incompatible with the purpose for which the data was transmitted.

SECTION II ***RELATIONS WITH PARTNERS***

Article 39

Cooperation with the European Judicial Network and other networks of the European Union involved in cooperation in criminal matters

1. Eurojust and the European Judicial Network in criminal matters shall maintain privileged relations with each other, based on consultation and complementarity, especially between the national member, the European Judicial Network contact points of the same Member State and the national correspondents for Eurojust and the European Judicial Network. In order to ensure efficient cooperation, the following measures shall be taken:
 - a) national members shall, on a case-by-case basis, inform the European Judicial Network contact points of all cases which they consider the Network to be in a better position to deal with;
 - b) the Secretariat of the European Judicial Network shall form part of the staff of Eurojust. It shall function as a separate unit. It may draw on the administrative resources of Eurojust which are necessary for the performance of the European Judicial Network's tasks, including for covering the costs of the plenary meetings of the Network;
 - c) European Judicial Network contact points may be invited on a case-by-case basis to attend Eurojust meetings.
2. The Secretariat of the Network for Joint Investigation Teams and of the network set up by Decision 2002/494/JHA shall form part of the staff of Eurojust. These secretariats shall function as separate units. They may draw on the administrative resources of Eurojust which are necessary for the performance of their tasks. Coordination between the secretariats shall be ensured by Eurojust. This paragraph shall apply to the secretariat of any new network set up by a decision of the Council where that decision provides that the secretariat shall be provided by Eurojust.
3. The network set up by Decision 2008/852/JHA may request that Eurojust provide a secretariat to the network. If such request is made, paragraph 2 shall apply.

Article 40

Relations with Europol

1. Eurojust shall take all appropriate measures to enable Europol, within its mandate, to have indirect access on the basis of a hit/no hit system to information provided to Eurojust, without prejudice to any restrictions indicated by the providing Member States, Union bodies, third countries, international organisations or Interpol. In case of a hit, Eurojust shall initiate the procedure by which the information that generated the hit may be shared, in accordance with the decision of the Member State, Union body, third country, international organisation or Interpol that provided the information to Eurojust.

2. Searches of information in accordance with paragraph 1 shall be made only for the purpose of identifying whether information available at Eurojust matches with information processed at Europol.
3. Eurojust shall allow searches in accordance with paragraph 1 only after obtaining from Europol information about which staff members have been designated as authorised to perform such searches.
4. If during Eurojust's information processing activities in respect of an individual investigation, Eurojust or a Member State identifies the necessity for coordination, cooperation or support in accordance with the mandate of Europol, Eurojust shall notify them thereof and shall initiate the procedure for sharing the information, in accordance with the decision of the Member State providing the information. In such a case Eurojust shall consult with Europol.
5. Europol shall respect any restriction to access or use, in general or specific terms, indicated by Member States, Union bodies or agencies, third countries, international organisations or Interpol.

Article 41

Relations with the European Public Prosecutor's Office

1. Eurojust shall establish and maintain a special relationship with the European Public Prosecutor's Office based on close cooperation and the development of operational, administrative and management links between them as defined below. To this end, the European Public Prosecutor and the President of Eurojust shall meet on a regular basis to discuss issues of common concern.
2. Eurojust shall treat any request for support emanating from the European Public Prosecutor's Office without undue delay, and shall deal with such requests, where appropriate, as if they had been received from a national authority competent for judicial cooperation.
3. Whenever necessary, Eurojust shall make use of the Eurojust National Coordination Systems established in accordance with Article 20, as well as the relations it has established with third countries, including its liaison magistrates, in order to support the cooperation established in accordance with paragraph 1.
4. The cooperation established in accordance with paragraph 1 shall entail the exchange of information, including personal data. Any data thus exchanged shall only be used for the purposes for which it was provided. Any other usage of the data shall only be allowed in as far as such usage falls within the mandate of the body receiving the data, and subject to the prior authorisation of the body which provided the data.
5. For the purpose of identifying whether information available at Eurojust matches with information processed by the European Public Prosecutor's Office, Eurojust shall put in place a mechanism for automatic cross-checking of data entered into its Case Management System. Whenever a match is found between data entered into the Case Management System by the European Public Prosecutor's Office and data entered by Eurojust, the fact that there is a match will be communicated to both Eurojust and the European Public Prosecutor's Office, as well as the Member State which provided the data to Eurojust. In cases where the data was provided by a third party, Eurojust shall only inform that third party of the match found with the consent of the European Public Prosecutor's Office.
6. Eurojust shall designate and inform the European Public Prosecutor's Office which staff members shall be authorised to have access to the results of the cross-checking mechanism.

7. Eurojust shall support the functioning of the European Public Prosecutor's Office through services to be supplied by its staff. Such support shall in any case include:
 - a) technical support in the preparation of the annual budget, the programming document containing the annual and multiannual programming and the management plan;
 - b) technical support in staff recruitment and career-management;
 - c) security services;
 - d) Information Technology services;
 - e) financial management, accounting and audit services;
 - f) any other services of common interest.

The details of the services to be provided shall be laid down in an agreement between Eurojust and the European Public Prosecutor's Office.

8. The European Public Prosecutor may address written opinions to the College, to which the College shall respond in writing without undue delay. Such written opinions shall in any case be presented whenever the College adopts the annual budget and work programme.

Article 42

Relations with other Union bodies and agencies

1. Eurojust shall establish and maintain cooperative relations with the European Judicial Training Network.
2. OLAF may contribute to Eurojust's coordination work regarding the protection of the financial interests of the Union, in accordance with its mandate under Regulation (EU, Euratom) of the European Parliament and of the Council No .../2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999.
3. For purposes of the receipt and transmission of information between Eurojust and OLAF, and without prejudice to Article 8, Member States shall ensure that the national members of Eurojust shall be regarded as competent authorities of the Member States solely for the purposes of Regulation (EC) No 1073/1999 and Council Regulation (Euratom) No 1074/1999¹⁹. The exchange of information between OLAF and national members shall be without prejudice to the information which must be given to other competent authorities under those Regulations.

SECTION III

INTERNATIONAL COOPERATION

Article 43

Relations with the authorities of third countries and international organisations

1. Eurojust may establish working arrangements with the entities referred to in Article 38(1).
2. Eurojust may designate, in agreement with the competent authorities, contact points in third countries in order to facilitate cooperation.

¹⁹ OJ L 136, 31.5.1999, p. 8.

SECTION IV

TRANSFERS OF PERSONAL DATA

Article 44

Transfer of personal data to Union bodies or agencies

Subject to any possible restrictions pursuant to Article 21(8) Eurojust may directly transfer personal data to Union bodies or agencies in so far as it is necessary for the performance of its tasks or those of the recipient Union body or agency.

Article 45

Transfer of personal data to third countries and international organisations

1. Eurojust may transfer personal data to an authority of a third country or to an international organisation or Interpol, in so far as this is necessary for it to perform its tasks, only on the basis of:
 - a) a decision of the Commission adopted in accordance with Articles 25 and 31 of Directive 95/46/EC of the European Parliament and of the Council²⁰ that that country or international organisation, or a processing sector within that third country or international organisation ensures an adequate level of protection (adequacy decision); or
 - b) an international agreement concluded between the Union and that third country or international organisation pursuant to Article 218 of the Treaty adding adequate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals; or
 - c) a cooperation agreement concluded between Eurojust and that third country or international organisation in accordance with Article 27 of Decision 2002/187/JHA .

Such transfers do not require further authorisation. Eurojust may conclude working arrangements to implement such agreements or adequacy decisions.

2. By way of derogation from paragraph 1, Eurojust may authorise the transfer of personal data to third countries or international organisations or Interpol on a case-by-case basis if:
 - a) the transfer of data is absolutely necessary to safeguard the essential interests of one or more Member States within the scope of Eurojust's objectives;
 - b) the transfer of the data is absolutely necessary in the interests of preventing imminent danger associated with crime or terrorist offences;
 - c) the transfer is otherwise necessary or legally required on important public interest grounds of the Union or its Member States, as recognised by Union law or by national law, or for the establishment, exercise or defence of legal claims; or
 - d) the transfer is necessary to protect the vital interests of the data subject or another person.
3. Moreover the College may, in agreement with the European Data Protection Supervisor, authorise a set of transfers in conformity with points a) to d) above, taking into account the existence of safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals, for a period not exceeding one year, renewable.
4. The European Data Protection Supervisor shall be informed of cases where paragraph 3 was applied.

²⁰ OJ L 281, 23.11.1995, p. 31.

5. Eurojust may transfer administrative personal data in accordance with Article 9 of Regulation (EC) No 45/2001.

Article 46

Liaison magistrates posted to third countries

1. For the purpose of facilitating judicial cooperation with third countries in cases in which Eurojust is providing assistance in accordance with this Regulation, the College may post liaison magistrates to a third country subject to a working arrangement as referred to in Article 43 with that third country.
2. The liaison magistrate referred to in paragraph 1 is required to have experience of working with Eurojust and adequate knowledge of judicial cooperation and how Eurojust operates. The posting of a liaison magistrate on behalf of Eurojust shall be subject to the prior consent of the magistrate and of his or her Member State.
3. Where the liaison magistrate posted by Eurojust is selected among national members, deputies or assistants:
 - a) he or she shall be replaced in his or her function as a national member, deputy or Assistant, by the Member State;
 - b) he or she ceases to be entitled to exercise the powers granted to him or her in accordance with Article 8.
4. Without prejudice to Article 110 of the Staff Regulations, the College shall draw up rules on the posting of liaison magistrates and adopt the necessary implementing arrangements in this respect in consultation with the Commission.
5. The activities of liaison magistrates posted by Eurojust shall be the subject of supervision by the European Data Protection Supervisor. The liaison magistrates shall report to the College, which shall inform the European Parliament and the Council in the annual report and in an appropriate manner of their activities. The liaison magistrates shall inform national members and national competent authorities of all cases concerning their Member State.
6. Competent authorities of the Member States and liaison magistrates referred to in paragraph 1 may contact each other directly. In such cases, the liaison magistrate shall inform the national member concerned of such contacts.
7. The liaison magistrates referred to in paragraph 1 shall be connected to the Case Management System.

Article 47

Requests for judicial cooperation to and from third Countries

1. Eurojust shall coordinate the execution of requests for judicial cooperation issued by a third country where these requests are part of the same investigation and require execution in at least two Member States. Such requests may also be transmitted to Eurojust by a competent national authority.
2. In case of urgency and in accordance with Article 19, the On-Call Coordination (OCC) may receive and process requests referred to in paragraph 1 of this Article and issued by a third country which has concluded a working arrangement with Eurojust.
3. Without prejudice to Article 3(3), where requests for judicial cooperation, which relate to the same investigation and require execution in a third country, are made, Eurojust shall facilitate judicial cooperation with that third country.

CHAPTER VI FINANCIAL PROVISIONS

Article 48

Budget

1. Estimates of all the revenue and expenditure of Eurojust shall be prepared for each financial year, corresponding to the calendar year, and shall be shown in Eurojust's budget.
2. Eurojust's budget shall be balanced in terms of revenue and of expenditure.
3. Without prejudice to other resources, Eurojust's revenue shall comprise:
 - a) a contribution from the Union entered in the general budget of the European Union;
 - b) any voluntary financial contribution from the Member States;
 - c) charges for publications and any service provided by Eurojust;
 - d) ad-hoc grants.
4. The expenditure of Eurojust shall include staff remuneration, administrative and infrastructure expenses, operating costs.

Article 49

Establishment of the budget

1. Each year the Administrative Director shall draw up a draft statement of estimates of Eurojust's revenue and expenditure together, for the following financial year, including the establishment plan, and send it to the College.
2. The College shall, on the basis of that draft, produce a provisional draft estimate of Eurojust's revenue and expenditure for the following financial year.
3. The provisional draft estimate of Eurojust's revenue and expenditure shall be sent to the European Commission by no later than 31 January each year. The College shall send a final draft estimate, which shall include a draft establishment plan, to the Commission by 31 March.
4. The Commission shall send the statement of estimates to the European Parliament and the Council (the budgetary authority) together with the draft general budget of the European Union.
5. On the basis of the statement of estimates, the Commission shall enter in the draft general budget of the European Union the estimates it considers necessary for the establishment plan and the amount of the contribution to be charged to the general budget, which it shall place before the budgetary authority in accordance with Articles 313 and 314 of the Treaty.
6. The budgetary authority shall authorise the appropriations for Eurojust's contribution.
7. The budgetary authority shall adopt Eurojust's establishment plan.
8. Eurojust's budget shall be adopted by the College. It shall become final following final adoption of the general budget of the European Union. Where necessary, it shall be adjusted accordingly.
9. For any building project likely to have significant implications for the budget Eurojust shall inform the European Parliament and the Council as early as possible in accordance with the provisions of Article 203 of Regulation (EU, EURATOM) No 966/2012.

10. Except in cases of force majeure referred to in Article 203 of Regulation (EU, EURATOM) No 966/2012 the European Parliament and the Council shall deliberate upon the building project within four weeks of its receipt by both institutions.

The building project shall be deemed approved at the expiry of this four-week period, unless the European Parliament or the Council take a decision contrary to the proposal within that period of time.

If the European Parliament or the Council raise duly justified concerns within that four-week period, that period shall be extended once by two weeks.

If the European Parliament or the Council take a decision contrary to the building project, Eurojust shall withdraw its proposal and may submit a new one.

11. Eurojust may finance a budget acquisition project through a loan subject to prior approval of the budgetary authority in accordance with Article 203 of Regulation (EU, EURATOM) No 966/2012.

Article 50

Implementation of the budget

The Administrative Director shall act as the authorising officer of Eurojust and shall implement Eurojust's budget under his or her own responsibility and within the limits authorised in the budget.

Article 51

Presentation of accounts and discharge

1. By 1 March following each financial year, Eurojust's Accounting Officer shall send the provisional accounts to the Commission's Accounting Officer and the Court of Auditors.
2. Eurojust shall send the report on the budgetary and financial management to the European Parliament, the Council and the Court of Auditors, by 31 March of the following financial year.
3. By 31 March following each financial year, the Commission's accounting officer shall send Eurojust's provisional accounts consolidated with the Commission's accounts to the Court of Auditors.
4. In accordance with Article 148(1) of Regulation (EU, EURATOM) No 966/2012, the Court of Auditors shall, by 1 June of the following year at the latest, make its observations on the provisional accounts of Eurojust.
5. On receipt of the Court of Auditors' observations on Eurojust's provisional accounts pursuant to Article 148 of Regulation (EU, EURATOM) No 966/2012, the Administrative Director shall draw up Eurojust's final accounts under his or her own responsibility and submit them to the College for an opinion.
6. The College shall deliver an opinion on Eurojust's final accounts.
7. The Administrative Director shall, by 1 July following each financial year, send the final accounts to the European Parliament, the Council, the Commission and the Court of Auditors, together with the College's opinion.
8. The final accounts of Eurojust shall be published in the Official Journal of the European Union by 15 November of the following year.
9. The Administrative Director shall send the Court of Auditors a reply to its observations by 30 September of the following year at the latest. The Administrative Director shall also send this reply to the College and to the Commission.

10. The Administrative Director shall report to the European Parliament on the performance of his/her duties when invited to do so. The Council may invite the Administrative Director to report on the performance of his/her duties.
11. The Administrative Director shall submit to the European Parliament, at the latter's request, any information required for the smooth application of the discharge procedure for the financial year in question in accordance with Article 165(3) of Regulation (EU, EURATOM) N° 966/2012.
12. On a recommendation from the Council acting by a qualified majority, the European Parliament, shall, before 15 May of year N + 2, give a discharge to the Administrative Director in respect of the implementation of the budget for year N.

Article 52

Financial Rules

The financial rules applicable to Eurojust shall be adopted by the College in accordance with [Regulation 2343/2002 of 23 December 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities] and after consultation with the Commission. They shall not depart from [Regulation 2343/2002] unless such departure is specifically required for Eurojust's operation and the Commission has given its prior consent.

**CHAPTER VII
STAFF PROVISIONS**

Article 53

General provisions

The Staff Regulations of the European Union and the Conditions of Employment of Other Servants of the European Union and the rules adopted by agreement between the institutions of the European Union for giving effect to those Staff Regulations and those Conditions of Employment of Other Servants shall apply to the staff of Eurojust.

Article 54

Seconded national experts and other staff

1. Eurojust may make use of seconded national experts or other staff not employed by Eurojust.
2. The College shall adopt a decision laying down rules on the secondment to Eurojust of national experts.

**CHAPTER VIII
EVALUATION AND REPORTING**

Article 55

Involvement of the European Parliament and national Parliaments

1. Eurojust shall transmit its Annual Report to the European Parliament, which may present observations and conclusions.
2. The President of the College shall appear before the European Parliament, at their request, to discuss matters relating to Eurojust, and in particular to present its Annual Reports,

taking into account the obligations of discretion and confidentiality. Discussions shall not refer directly or indirectly to concrete actions in relation with specific operational cases.

3. In addition to the other obligations of information and consultation set out in this regulation, Eurojust shall transmit to the European Parliament for information:
 - a) the results of studies and strategic projects elaborated or commissioned by Eurojust;
 - b) working arrangements concluded with third parties;
 - c) the annual report of the European Data Protection Supervisor.
4. Eurojust shall transmit its Annual Report to the national Parliaments. Eurojust shall also transmit to the national Parliaments the documents referred to in paragraph 3.

Article 56

Evaluation and review

1. By [5 years after the entry into force of this Regulation] at the latest, and every 5 years thereafter, the Commission shall commission an evaluation of the implementation and impact of this Regulation, as well as the effectiveness and efficiency of Eurojust and its working practices. The evaluation shall, in particular, address the possible need to modify the mandate of Eurojust, and the financial implications of any such modification.
2. The Commission shall forward the evaluation report together with its conclusions to the European Parliament and national Parliaments, the Council and the College. The findings of the evaluation shall be made public.
3. On the occasion of every second evaluation, the Commission shall also assess the results achieved by Eurojust having regard to its objectives, mandate and tasks.

CHAPTER IX GENERAL AND FINAL PROVISIONS

Article 57

Privileges and Immunities

The Protocol on the Privileges and Immunities of the European Union shall apply to Eurojust and its staff.

Article 58

Language arrangements

1. Regulation No 1²¹ shall apply to Eurojust.
2. The translation services required for the functioning of Eurojust shall be provided by the Translation Centre of the bodies of the European Union.

Article 59

Confidentiality

1. The national members, their deputies and their Assistants referred to in Article 7, Eurojust staff, national correspondents and the Data Protection Officer shall be bound by an obligation of confidentiality with respect to any information which has come to their knowledge in the course of the performance of their tasks.

²¹ OJ L 17, 6.10.1958, p.385.

2. The obligation of confidentiality shall apply to all persons and to all bodies called upon to work with Eurojust.
3. The obligation of confidentiality shall also apply after leaving office or employment or after the termination of the activities of the persons referred to in paragraphs 1 and 2.
4. The obligation of confidentiality shall apply to all information received by Eurojust, unless that information has already been made public or is accessible to the public.
5. Members and the staff of the European Data Protection Supervisor shall be subject to the obligation of confidentiality with respect to any information which has come to their knowledge in the course of the performance of their tasks.

Article 60
Transparency

1. Regulation (EC) No 1049/2001 shall apply to documents which relate to Eurojust's administrative tasks.
2. The College shall, within six months of the date of its first meeting, adopt the detailed rules for applying Regulation (EC) No 1049/2001.
3. Decisions taken by Eurojust under Article 8 of Regulation (EC) No 1049/2001 may form the subject of a complaint to the Ombudsman or of an action before the Court of Justice of the European Union, under the conditions laid down in Articles 228 and 263 of the Treaty respectively.

Article 61
OLAF and the European Court of Auditors

1. In order to facilitate combating fraud, corruption and other unlawful activities under Regulation (EC) No 1073/1999, within six months from the entry into force of this Regulation, it shall accede to the Interinstitutional Agreement of 25 May 1999 concerning internal investigations by the European Anti-fraud Office (OLAF) and adopt the appropriate provisions applicable to all the employees of Eurojust using the template set out in the Annex to that Agreement.
2. The European Court of Auditors shall have the power of audit, on the basis of documents and on the spot, over all grant beneficiaries, contractors and subcontractors who have received Union funds from Eurojust.
3. OLAF may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Regulation (EC) No 1073/1999 and Council Regulation (Euratom, EC) No 2185/96²² with a view to establishing whether there have been any irregularities affecting the financial interests of the Union in connection with expenditure funded by Eurojust.
4. Without prejudice to paragraphs 1, 2 and 3, working arrangements with third countries, international organisations and Interpol, contracts, grant agreements and grant decisions of Eurojust shall contain provisions expressly empowering the European Court of Auditors and OLAF to conduct such audits and investigations, according to their respective competences.

²² OJ L 292, 15.11.1996, p. 2.

Article 62

Security rules on the protection of classified information

Eurojust shall apply the security principles contained in the Commission's security rules for protecting European Union Classified Information (EUCI) and sensitive non-classified information, as set out in the annex to Commission Decision 2001/844/EC, ECSC, Euratom²³. This shall cover, inter alia, provisions for the exchange, processing and storage of such information.

Article 63

Administrative inquiries

The administrative activities of Eurojust shall be subject to the inquiries of the European Ombudsman in accordance with Article 228 of the Treaty.

Article 64

Liability other than liability for unauthorised or incorrect processing of data

1. Eurojust's contractual liability shall be governed by the law applicable to the contract in question.
2. The Court of Justice of the European Union shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by Eurojust.
3. In the case of non-contractual liability, Eurojust shall, in accordance with the general principles common to the laws of the Member States and independently of any liability under Article 37, make good any damage caused by the College or the staff of Eurojust in the performance of their duties.
4. Paragraph 3 shall also apply to damage caused through the fault of a national member, a deputy or an Assistant in the performance of their duties. However, when he or she is acting on the basis of the powers granted to him or her pursuant to Article 8, his or her Member State of origin shall reimburse Eurojust the sums which Eurojust has paid to make good such damage.
5. The Court of Justice of the European Union shall have jurisdiction in disputes over compensation for damages referred to in paragraph 3.
6. The national courts of the Member States competent to deal with disputes involving Eurojust's liability as referred to in this Article shall be determined by reference to Council Regulation (EC) No 44/2001²⁴.
7. The personal liability of its staff towards Eurojust shall be governed by the provisions laid down in the Staff Regulations or Conditions of Employment applicable to them.

Article 65

Headquarters Agreement and operating conditions

The seat of Eurojust shall be The Hague, The Netherlands.

The necessary arrangements concerning the accommodation to be provided for Eurojust in the Netherlands and the facilities to be made available by the Netherlands together with the specific rules applicable in the Netherlands to the Administrative Director, members of the College, Eurojust staff and members of their families shall be laid down in a Headquarters Agreement between Eurojust and the Netherlands concluded once the College's approval is obtained.

²³ OJ L 317, 3.12.2001, p. 1.

²⁴ OJ L 12, 16.1.2001, p. 1. Regulation (EC) No 44/2001 is replaced by Regulation (EU) No 1215/2012 from 10 January 2015

The Netherlands shall provide the best possible conditions to ensure the functioning of Eurojust, including multilingual, European-oriented schooling and appropriate transport connections.

Article 66

Transitional arrangements

1. Eurojust shall be the general legal successor in respect of all contracts concluded by, liabilities incumbent on, and properties acquired by Eurojust as established by Council Decision 2002/187/JHA.
2. The national members of Eurojust who were seconded by each Member State under Decision 2002/187/JHA shall take the role of national members of Eurojust under Section II of this Regulation. The term of their office may be extended once under Article 10(2) of this Regulation after the entry into force of this Regulation, irrespective of a previous extension.
3. The President and Vice-Presidents of Eurojust at the time of the entry into force of this Regulation shall take the role of the President and Vice-Presidents of Eurojust under Article 11, until their term in accordance with Decision 2002/187/JHA expires. They may be re-elected once after the entry into force of this Regulation under Article 11(3) of this Regulation, irrespective of a previous re-election.
4. The Administrative Director who was lastly appointed under Article 29 of Decision 2002/187/JHA shall take the role of the Administrative Director under Article 17 until his or her term as decided under Decision 2002/187/JHA expires.. The term of the Administrative Director may be extended once after the entry into force of this Regulation.
5. This Regulation shall not affect the legal force of agreements concluded by Eurojust as established by Decision 2002/187/JHA. In particular, all international agreements concluded by Eurojust which have entered into force before the entry into force of this Regulation shall remain legally valid.

Article 67

Repeal

1. This Regulation replaces and repeals Decisions 2002/187/JHA, 2003/659/JHA and 2009/426/JHA.
2. References to the repealed Council Decisions referred to in paragraph 1 shall be construed as references to this Regulation.

Article 68

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

ANNEX 1

List of forms of serious crime which Eurojust is competent to deal with in accordance with Article 3(1):

- organised crime;
- terrorism;
- drug trafficking;
- money-laundering;
- corruption;
- crime against the financial interests of the Union;
- murder, grievous bodily injury;
- kidnapping, illegal restraint and hostage taking;
- sexual abuse and sexual exploitation of women and children, child pornography and solicitation of children for sexual purposes;
- racism and xenophobia;
- organised robbery;
- motor vehicle crime;
- swindling and fraud;
- racketeering and extortion;
- counterfeiting and product piracy;
- forgery of administrative documents and trafficking therein;
- forgery of money and means of payment;
- computer crime;
- insider dealing and financial market manipulation;
- illegal immigrant smuggling;
- trafficking in human beings;
- illicit trade in human organs and tissue;
- illicit trafficking in hormonal substances and other growth promoters;
- illicit trafficking in cultural goods, including antiquities and works of art;
- illicit trafficking in arms, ammunition and explosives;
- illicit trafficking in endangered animal species;
- illicit trafficking in endangered plant species and varieties;
- environmental crime;
- ship-source pollution;
- crime connected with nuclear and radioactive substances;
- genocide, crimes against humanity and war crimes.

ANNEX 2

Categories of personal data referred to in Article 27

1.
 - a) surname, maiden name, given names and any alias or assumed names;
 - b) date and place of birth;
 - c) nationality;
 - d) sex;
 - e) place of residence, profession and whereabouts of the person concerned;
 - f) social security numbers, driving licences, identification documents and passport data, customs and Tax Identification Numbers;
 - g) information concerning legal persons if it includes information relating to identified or identifiable individuals who are the subject of a judicial investigation or prosecution;
 - h) bank accounts and accounts with other financial institutions;
 - i) description and nature of the alleged offences, the date on which they were committed, the criminal category of the offences and the progress of the investigations;
 - j) the facts pointing to an international extension of the case;
 - k) details relating to alleged membership of a criminal organisation;
 - l) telephone numbers, e-mail addresses, traffic data and location data, as well as the related data necessary to identify the subscriber or user;
 - m) vehicle registration data;
 - n) DNA profiles established from the non-coding part of DNA, photographs and fingerprints.
2.
 - a) surname, maiden name, given names and any alias or assumed names;
 - b) date and place of birth;
 - c) nationality;
 - d) sex;
 - e) place of residence, profession and whereabouts of the person concerned;
 - f) the description and nature of the offences involving them, the date on which they were committed, the criminal category of the offences and the progress of the investigations.

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

- 1.1. Title of the proposal/initiative
- 1.2. Policy area(s) concerned in the ABM/ABB structure
- 1.3. Nature of the proposal/initiative
- 1.4. Objectives
- 1.5. Grounds for the proposal/initiative
- 1.6. Duration and financial impact
- 1.7. Management mode(s) envisaged

2. MANAGEMENT MEASURES

- 2.1. Monitoring and reporting rules
- 2.2. Management and control system
- 2.3. Measures to prevent fraud and irregularities

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

- 3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected
- 3.2. Estimated impact on expenditure
 - 3.2.1. *Summary of estimated impact on expenditure*
 - 3.2.2. *Estimated impact on [body]'s appropriations*
 - 3.2.3. *Estimated impact on [body]'s human resources*
 - 3.2.4. *Compatibility with the current multiannual financial framework*
 - 3.2.5. *Third-party contributions*
- 3.3. Estimated impact on revenue

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Criminal Justice Cooperation (EUROJUST)
--

1.2. Policy area(s) concerned in the ABM/ABB structure²⁵

Policy area: 33 - Justice

Activity: 33.03 - Justice in criminal and civil matters (as from 2014: 33.03 – Justice)

1.3. Nature of the proposal/initiative

- The proposal/initiative relates to **a new action**
- The proposal/initiative relates to **a new action following a pilot project/preparatory action**²⁶
- The proposal/initiative relates to **the extension of an existing action**
- The proposal/initiative relates to **an action redirected towards a new action**

1.4. Objective(s)

1.4.1. *The Commission's multiannual strategic objective(s) targeted by the proposal/initiative*

Eurojust was set up following a MS initiative by Decision 2002/187/JHA as a body of the Union with legal personality with a view to reinforcing the fight against serious crime. Article 85 TFEU provides for Eurojust to be governed by a Regulation, adopted in accordance with the ordinary legislative procedure. Its mission is to support and strengthen coordination and cooperation between national investigating and prosecuting authorities relating to serious crime affecting two or more Member States of the European Union. This proposal for a Regulation provides for a single renovated legal framework for a new European Union Agency for Criminal Justice Cooperation, which is the legal successor of Eurojust.

1.4.2. *Specific objective(s) and ABM/ABB activity(ies) concerned*

<u>Specific objective N°2:</u> Enhance judicial cooperation in criminal matters and thus contribute to creating a genuine European Area of Justice
--

<u>ABM/ABB activity(ies) concerned</u>
--

33.03 - Justice in criminal and civil matters

²⁵ ABM: Activity-Based Management – ABB: Activity-Based Budgeting.

²⁶ As referred to in Article 49(6)(a) or (b) of the Financial Regulation.

1.4.3. *Expected result(s) and impact*

Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.

By bringing together senior prosecutors and judges from all the Member States of the EU, Eurojust plays a central role in developing a European area of justice. It also plays a major role in fighting cross-border crime in the EU as an effective facilitator of judicial co-operation whose assistance is increasingly sought by national practitioners. The expected effects include:

1. Eurojust's operational work

Eurojust supports and strengthens judicial cooperation in criminal matters. National members, acting individually or as a College, intervene in concrete criminal cases, where national authorities need enhanced coordination or need to overcome difficulties in the practical use of judicial cooperation and mutual recognition instruments. Eurojust has helped to bridge the EU's wide variety of legal systems and traditions and to foster mutual trust, which is the cornerstone of mutual recognition instruments by rapidly solving linguistic or legal problems or identifying competent authorities in other countries.

2. Eurojust centre of judicial expertise for effective action against serious cross-border crime

Eurojust plays a major role in the fight against cross-border crime. Eurojust organises coordination meetings, where national authorities come together to agree on a common approach to investigations, prepare assistance requests, solve or anticipate answers to legal questions or decide upon simultaneous operations. Eurojust is involved in the setting up and participation in JITs (Joint Investigation Teams), providing support to Member States.

3. Eurojust's cooperation with partners

Eurojust cooperates with other agencies, in particular Europol, OLAF as well as with 3rd States and hosts the Secretariats of the European Judicial Network, the Joint Investigation Teams Expert Network and the Genocide Network, in accordance with the Council Decision.

4. Eurojust's relations with the European Public Prosecutor's Office

In accordance with Article 86 TFEU, the European Public Prosecutor's Office must be established "from Eurojust". This proposal therefore also aims to regulate the relations between Eurojust and the European Public Prosecutor's Office. The administrative support to the EPPO will be provided on a zero cost basis.

1.4.4. *Indicators of results and impact*

Specify the indicators for monitoring implementation of the proposal/initiative.

In accordance with the Roadmap for the implementation of the Common Approach on agencies, the Commission is developing guidelines for the definition of key performance indicators for the Agencies. This is expected to be concluded in 2013.

1.5. Grounds for the proposal/initiative

1.5.1. *Requirement(s) to be met in the short or long term*

In the short run Eurojust is expected to continue conducting its core activities, notably those directly related to supporting and strengthening coordination and cooperation between national investigating and prosecuting authorities in cases of serious cross-border crime. The flow of information and link between national authorities and Eurojust are bound to be strengthened.

In the medium term, Eurojust's structure, operation, tasks and parliamentary oversight will be strengthened through this proposal in accordance with Article 85 TFEU. There are also requirements linked to Article 86 TFEU and the establishment of a European Public Prosecutor's Office from Eurojust: Eurojust will be required to provide administrative support services to the European Public Prosecutor's Office.

1.5.2. *Added value of EU involvement*

The added value of the action developed by Eurojust: facilitating judicial cooperation between national authorities of Member States and enhancing coordination to fight organised crime more effectively, has an intrinsically EU dimension and can only be achieved at EU level.

1.5.3. *Lessons learned from similar experiences in the past*

Eurojust's annual reports confirm that there is an on-going need for EU and international coordination and support in the area of cross-border serious crime. The past decade has seen an explosion of organised crime, such as drug trafficking, trafficking in human beings, terrorism and cybercrime, including child pornography. A new criminal landscape is emerging, marked increasingly by highly mobile and flexible groups operating in multiple jurisdictions and criminal sectors, and aided, in particular, by widespread, illicit use of the Internet. Member States cannot effectively combat these at national level, so coordination and assistance become paramount. Eurojust is the only EU agency that supports national judicial authorities to appropriately investigate and prosecute these cases.

1.5.4. *Compatibility and possible synergy with other appropriate instruments*

The reinforcement of judicial cooperation in criminal matters is a crucial part of creating an area of freedom, security and justice. Eurojust's mission in facilitating coordination and cooperation is developed in the context of other legal instruments in the area such as the 2000 MLA Convention, the Council Framework Decision on the European Arrest Warrant or the Council Framework Decision on conflicts of jurisdiction. Synergies with the rest of JHA agencies, in particular Europol, and the need to avoid duplication of tasks and enhance cooperation are to be borne in mind. Clear synergies will also be part of the cooperation between Eurojust and the European Public Prosecutor's office.

1.6. Duration and financial impact

Proposal/initiative of **limited duration**

– Proposal/initiative in effect from [DD/MM]YYYY to [DD/MM]YYYY

– Financial impact from YYYY to YYYY

Proposal/initiative of **unlimited duration**

– Implementation with a start-up period from YYYY to YYYY,

– followed by full-scale operation.

1.7. Management mode(s) envisaged²⁷

Direct management by the Commission

– by its departments, including by its staff in the Union delegations;

– by the executive agencies;

Shared management with the Member States

Indirect management by delegating implementation tasks to:

– third countries or the bodies they have designated;

– international organisations and their agencies (to be specified);

– the EIB and the European Investment Fund;

– bodies referred to in Articles 208 and 209 of the Financial Regulation;

– public law bodies;

– bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;

– bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;

– persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.

– *If more than one management mode is indicated, please provide details in the "Comments" section.*

Comments

This legislative proposal aims at modernising the legal framework of Eurojust and streamlining its functioning.

It has been drafted with a spirit of budget neutrality. As a consequence, the financial programming of Eurojust which has been prepared for the period 2014-2020 adopted by the Commission in July 2013 is valid for this legislative proposal.

However, there is a new element introduced by this Regulation which concerns the relations with the European Public Prosecutor's office: as defined in this Regulation Eurojust would provide

²⁷ Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: http://www.cc.cec/budg/man/budgmanag/budgmanag_en.html

administrative support structures to the European Public Prosecutor's Office, including finances, human resources, security and IT.

In parallel, Eurojust would not work anymore on the offences affecting the EU's financial interests which represent between 5 to 10% of the current caseload. Consequently posts can be moved within the agency to cover the support to the EPPO function.

Therefore, the financial impact of this proposal is budget neutral and does not change the total of the posts mentioned in the financial programming for the period 2014-2020.

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

Specify frequency and conditions.

Each year the President of the Eurojust, on behalf of the College, shall forward the Annual report to the European Parliament on the work carried out by Eurojust, as well as information on working arrangements concluded with third parties, and the annual report of the European Data Protection Supervisor.

An external independent evaluation of the implementation of the Regulation and the activities of Eurojust shall be commissioned by the Commission within five years after the Regulation takes effect, and every five years thereafter.

2.2. Management and control system

2.2.1. Risk(s) identified

No specific risks in management and control systems were identified at this stage.

2.2.2. Control method(s) envisaged

Eurojust is subject to administrative controls including budgetary control, internal audit, annual reports by the European Court of Auditors and the annual discharge for the execution of the EU budget.

2.3. Measures to prevent fraud and irregularities

Specify existing or envisaged prevention and protection measures.

In order to combat fraud, corruption and other unlawful activities, the provisions of Regulations (EC) N. 1073/1999 shall apply without restrictions to the Agency.

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- Existing budget lines

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number [Heading]	Diff./non-diff. (28)	from EFTA countries 29	from candidate countries ³⁰	from third countries	within the meaning of Article 18(1)(aa) of the Financial Regulation
3	33.0304 European Union Agency for Criminal Justice Cooperation (EUROJUST)	Diff	NO	YES After agreement	NO	NO

- New budget lines requested

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number [Heading]	Diff./non-diff.	from EFTA countries	from candidate countries	from third countries	within the meaning of Article 18(1)(aa) of the Financial Regulation
		Diff	NO	NO	NO	NO

²⁸ Diff. = Differentiated appropriations / Non-Diff. = Non-differentiated appropriations.

²⁹ EFTA: European Free Trade Association.

³⁰ Candidate countries and, where applicable, potential candidate countries from the Western Balkans.

3.2. Estimated impact on expenditure

3.2.1. Summary of estimated impact on expenditure

EUR million (to three decimal places)

Heading of multiannual financial Framework:	Number	Security and citizenship									
		Year 2014	Year 2015	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020	TOTAL		

EUROJUST			Year 2014	Year 2015	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020	TOTAL
Title 1		(1)								
		(2)								
Title 2		(1a)	0	0	0	0	0	0	0	0
		(2a)	0	0	0	0	0	0	0	0
Title 3		(3a)	0	0	0	0	0	0	0	0
		(3b)	0	0	0	0	0	0	0	0
TOTAL appropriations for EUROJUST	Commitments	=1+1a+3a								
	Payments	=2+2a+3b								

Justice Programme			Year 2014	Year 2015	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020	TOTAL
33 03 02 – Improving judicial cooperation in civil and criminal matters		(1)						0.400		0.400
		(2)						0.400		0.400
TOTAL Justice Programme ³¹	Commitments	(1)						0.400		0.400
	Payments	(2)						0.400		0.400

³¹

Article 56 of the draft Regulation foresees an obligation for the Commission to present a report on the implementation of the Regulation. This report shall be based on an external study.

The current calculation is based on the assumption that the administrative support structures provided by Eurojust to the European Public Prosecutor's Office, including finances, human resources, security and IT, is budget neutral and does not require additional staff from the establishment plan of Eurojust, as internal redeployment within Eurojust is foreseen as a result of the cease of some activities after the establishment of the European Public Prosecutor's Office.

In practical terms, Eurojust's administrative structure would cover the needs of both Eurojust and the European Public Prosecutor's Office. This administrative structure would ensure coordinated budgetary planning and execution, various aspect of staff management and the provision of all other support services.

The accountant of Eurojust is expected to be the accountant of the European Public Prosecutor's Office.

The costs for the evaluation to assess in particular the implementation and impact of this regulation, as well as the effectiveness and efficiency of Eurojust should be covered by the new Justice Programme.

Heading of multiannual financial framework:	5	'Administrative expenditure'
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EUR million (to three decimal places)

	Year 2014	Year 2015	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020	TOTAL
DG: JUSTICE								
• Human resources	0	0	0	0	0	0	0	0
• Other administrative expenditure	0	0	0	0	0	0	0	0
TOTAL DG JUSTICE	0	0	0	0	0	0	0	0

TOTAL appropriations under HEADING 5 of the multiannual financial framework	0	0	0	0	0	0	0	0
(Total commitments = Total payments)								

EUR million (to three decimal places)

	Year 2014	Year 2015	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020	TOTAL
TOTAL appropriations under HEADINGS 1 to 5 of the multiannual financial framework						0.400		0.400
Commitments						0.400		
Payments						0.400		.0400

3.2.2. *Estimated impact on [body]'s appropriations*

- X The proposal/initiative does not require the use of operational appropriations The proposal/initiative requires the use of operational appropriations, as described below:

Commitment appropriations in EUR million (to three decimal places)

Indicate objectives and outputs ↓	Type ³²	Average cost	Year 2014		Year 2015		Year 2016		Year 2017		Year 2018		Year 2019		Year 2020		TOTAL	
			Number	Cost	Number	Cost	Number	Cost	Number	Cost	Number	Cost	Number	Cost	Number	Cost		
OUTPUTS																		
SPECIFIC OBJECTIVE NO 1 ³³ ...																		
- Output																		
SPECIFIC OBJECTIVE No 2																		
...																		
- Output																		
SPECIFIC OBJECTIVE No 3																		
Output																		
TOTAL COST																		

³² Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).

³³ As described in point 1.4.2. 'Specific objective(s) ...'

3.2.3. Estimated impact on [body]'s human resources

3.2.3.1. Summary

- The proposal/initiative does not require the use of appropriations of an administrative nature
- The proposal/initiative requires the use of appropriations of an administrative nature, as described below:

in Full Time Equivalent: FTE

Human resources	Year 2014	Year 2015	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020	Total
Establishment plan posts (in headcounts)								
- <i>Of which AD</i>								
- <i>Of which AST</i>								
External personnel (FTE)								
- <i>Of which contract agents</i>								
- <i>Of which Seconded National Experts (SNE)</i>								
Total staff								

EUR million (to three decimal places)

Staff expenditure	Year 2014	Year 2015	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020	Total
Establishment plan posts								
- <i>Of which AD</i>								
- <i>Of which AST</i>								
External personnel								
- <i>Of which contract agents</i>								
- <i>Of which Seconded National Experts (SNE)</i>								
Total staff expenditure								

3.2.3.2. Estimated requirements of human resources for the parent DG

- X The proposal/initiative does not require the use of additional human resources.
- The proposal/initiative requires the use of human resources, as described below:

Estimate to be expressed in full amounts (or at most to one decimal place)

	Year 2014	Year 2015	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020
• Establishment plan posts (officials and temporary staff)							
XX 01 01 01 (Headquarters and Commission's Representation Offices)							
XX 01 01 02 (Delegations)							
XX 01 05 01 (Indirect research)							
10 01 05 01 (Direct research)							
• External staff (in Full Time Equivalent: FTE)³⁴							
XX 01 02 01 (CA, SNE, INT from the 'global envelope')							
XX 01 02 02 (CA, LA, SNE, INT and JED in the delegations)							
XX 01 04 yy³⁵	- at Headquarters ³⁶						
	- in delegations						
XX 01 05 02 (CA, SNE, INT - Indirect research)							
10 01 05 02 (CA, SNE, INT - Direct research)							
Other budget lines (specify)							
TOTAL							

XX is the policy area or budget title concerned.

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

³⁴ CA= Contract Agent; LA = Local Agent; SNE= Seconded National Expert; INT= agency staff ('Intérimaire'); SNE= Seconded National Expert.

³⁵ Sub-ceiling for external staff covered by operational appropriations (former "BA" lines).

³⁶ Mainly for the Structural Funds, the European Agricultural Fund for Rural Development (EAFRD) and the European Fisheries Fund (EFF).

Description of tasks to be carried out:

Officials and temporary staff	Policy shadowing and advise to the agency, budgetary and financial advice to the agency and actual payments, discharge, draft budget procedures
External staff	

Description of the calculation of cost for FTE equivalent should be included in the Annex, section 3.

3.2.4. *Compatibility with the current multiannual financial framework*

- Proposal/initiative is compatible the next multiannual financial framework.
- Proposal/initiative will entail reprogramming of the relevant heading in the multiannual financial framework.

Explain what reprogramming is required, specifying the budget lines concerned and the corresponding amounts.

- Proposal/initiative requires application of the flexibility instrument or revision of the multiannual financial framework³⁷.

Explain what is required, specifying the headings and budget lines concerned and the corresponding amounts.

3.2.5. *Third-party contributions*

- The proposal/initiative does not provide for co-financing by third parties.
- The proposal/initiative provides for the co-financing estimated below:

Appropriations in EUR million (to three decimal places)

	Year	Year	Year	Year	Enter as many years as necessary to show the duration of the impact (see point 1.6)			Total
	2014	2015	2016	2017				
Specify the co-financing body								
TOTAL appropriations cofinanced								

³⁷ See points 19 and 24 of the Interinstitutional Agreement.

3.3. Estimated impact on revenue

- Proposal/initiative has no financial impact on revenue.
- Proposal/initiative has the following financial impact:
 - on own resources
 - on miscellaneous revenue

EUR million (to three decimal places)

Budget revenue line:	Appropriations available for the current financial year	Impact of the proposal/initiative ³⁸						
		Year 2014	Year 2015	Year 2016	Year 2017	Enter as many years as necessary to show the duration of the impact (see point 1.6)		
Article								

For miscellaneous 'assigned' revenue, specify the budget expenditure line(s) affected.

Specify the method for calculating the impact on revenue.

³⁸ As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 25% for collection costs.