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From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
No. prev. doc.:	8768/16
Subject:	Draft Council Conclusions on the Eurojust Annual Report 2015

1. Article 32 of the Council Decision of 28 February 2002 setting up Eurojust reads "The President, on behalf of the College, shall report to the Council in writing every year on the activities and management, including budgetary management, of Eurojust". Eurojust delivered its Annual Report 2015 (doc. 7492/16) on 1 April 2016.
2. As usual, the Presidency has proposed draft Council conclusions in reaction to this report. These draft conclusions were circulated to delegations on 11 May 2016 and discussed by CATS at its meeting on 19 May 2016.
3. Delegations' comments, including written comments received until 23 May 2016, have been integrated into the draft Council conclusions.
4. ***COREPER is requested to invite the Council to adopt the draft Council Conclusions on the Eurojust Annual Report 2015 as set out in the Annex.***

Draft Council Conclusions on the Eurojust Annual Report 2015

The Council,

having examined the Annual Report,

1. Welcomes the Eurojust Annual Report 2015¹. Notes that most of the objectives for 2015 as set out in the Annual Report for 2014 have been met or are being significantly progressed.

On global activity

2. Takes note that the casework of Eurojust continues to grow with the number of cases for which Member States requested Eurojust's assistance increasing 23% from the previous year. Commends the fact that Member States and the third States increasingly made use of coordination meetings and coordination centres and values the rising involvement of third States in joint investigation teams.

On Eurojust's priorities - terrorism, illegal migration and cybercrime

3. Confirms the need that Eurojust continues to treat terrorism, illegal migration and cybercrime as a priority, linked with the Council's agenda, supporting and strengthening action by the competent authorities of the Member States.
4. In the field of counter-terrorism appreciates in particular:
 - the ongoing efforts of Eurojust reflected in the steady increase of cases referred to Eurojust for coordination and assistance, the third Eurojust report, *Foreign Terrorist Fighters: Eurojust's Views on the Phenomenon and the Criminal Justice Response*, as well as the participation of Eurojust to the Europol focal point related to counter-terrorism²;

¹ Document 7492 /16

² FP Travellers

- Eurojust's active participation in the discussions and initiatives held at EU level to identify ways to strengthen the judicial response to terrorism.

Encourages Eurojust to continue its work in fighting terrorism, including by the enlargement of Eurojust's contact point network in the Middle Eastern and North Africa (MENA) region.

5. Face to the sharp increase of illegal immigrant smuggling, appreciates Eurojust's active involvement in this field, especially:

- the signing of a Letter of Understanding on Cooperation between Eurojust and the EU military operation in the Southern Central Mediterranean (EUNAVFOR MED) and
- the setting-up of the Thematic Group on Illegal Immigrant Smuggling.

Asks Eurojust to further address this issue as a priority, including by strengthening the judicial coordination, transfer of information, tactical meetings of experts and establishment of new contact points in countries of origin.

6. In the field of cybercrime particularly welcomes the appointment of Eurojust's cybercrime national seconded expert (SNE) to work closely with EC3 in operational matters.

Encourages Eurojust to further strengthen its capacities in the cybercrime area, especially by promoting cooperation with third countries and by Eurojust's commitment to support the setting up of the European Judicial Cybercrime Network, as a platform to facilitate the exchange of expertise, best practices and other relevant knowledge and experience on the investigation and prosecution of cybercrime and by fostering the dialogue among different actors and stakeholders that have a role in ensuring the rule of law in cyberspace is upheld.

7. Acknowledges with satisfaction Eurojust's work and the attention paid to the topic of data retention, especially the initiative taken by Eurojust in 2015 to analyse the legal framework within the different Member States and to present the outcome of this work to the Council.

Invites Eurojust to continue the work carried out thus far by collecting best practices and challenges in order to be shared between practitioners.

On other types of crime

8. Appreciates Eurojust's work in other crime areas such as fraud, corruption, drug trafficking, organised property crime committed by MOGCs³.
9. Supports Eurojust's assistance in combating other forms of crime, such as money laundering, criminal offences affecting the EU financial interests, maritime piracy and environmental crime.

Acknowledges Eurojust's determination to counter any form of child sexual abuse, THB, abduction and child abuse images.

Takes note of the work of the Contact Point for Child Protection which includes advising and supporting the national desks on tools and measures specifically designed for criminal investigations and proceedings concerning children, including witness and victim protection.

On asset recovery

10. Appreciates the important role played by Eurojust in improving cooperation between Member States in freezing, confiscation and asset recovery, notably the *Report on Eurojust's Experience in the field of Asset Recovery, including Freezing and Confiscation*. Encourages Eurojust to continue its efforts in order to further strengthen the judicial cooperation, including by sharing good practice and case law.

³ Mobile Organised Crime Groups

On judicial management

11. Acknowledges that the exchange of information and the proper functioning of the Case Management System (CMS) of Eurojust are essential for the effective functioning of Eurojust and in this respect, notes the efforts made by Eurojust to improve its operational performance, by development of two upgraded versions of CMS in 2015.

Reiterates its call for the Member States who have yet to do so, to provide access at national level to the CMS as quickly as possible in line with Article 12 (5) of the Eurojust Decision.

12. Notes with contentment the increasing use of JITs:

- in cross-border investigations on money laundering, swindling and fraud, participation in a criminal organisation, THB, drug trafficking and cybercrime,
- as well as the increasing involvement of third States in JITs.

Confirms that Eurojust should continue to finance the activities of joint investigation teams (JITs) from its regular budget, including for JITs involving both EU and third States.

Calls on EU institutions and bodies to continue to ensure stable means of funding JITs in the new financial period, as it proved to be a very successful instrument in cross-border investigations.

Calls on Member States to implement the Second Additional Protocol to the 1959 Convention on Mutual Assistance in Criminal Matters to facilitate the exchange of information with third states.

Encourages Member States to continue to make use of JITs as well of the assistance of Eurojust, including its coordinating and facilitating role.

13. Appreciates Eurojust support in cases regarding the prevention and resolution of conflicts of jurisdiction, as well as the *Report of the Strategic Seminar on Conflicts of Jurisdiction, Transfer of Proceedings and Ne Bis in Idem: Successes, Shortcomings and Solutions*.

On cooperation aspects

14. Appreciates Eurojust's commitment to support the Secretariats and the activities of the three practitioners networks - EJN, JITs and the Genocide network hosted by Eurojust as well as the Consultative Forum⁴.

Welcomes the action plan developed by EJN and Eurojust in order to implement the recommendations regarding the EJN in the sixth round of mutual evaluations and the fact that a new homepage for the EJN website was introduced to provide easier access to the information and tools on the website.

15. Notes with satisfaction that Eurojust and Europol continued in 2015 their efforts to strengthen their cooperation both on strategic and operational level which resulted in a very active exchange of information about their activities on operational work and in a more intensive cooperation.

Encourages Eurojust and Europol to continue to seek complementarity between their work in support to national authorities.

16. Appreciates that OLAF is a privileged partner of Eurojust in the fight against fraud, corruption and other crimes affecting the financial interests of the European Union.

Encourages Eurojust and OLAF to continue to work together within their respective mandates on relevant cases in this field.

17. Commends Eurojust's proactive efforts to improve coordination and cooperation with third States and to strengthen its relationship with other JHA Agencies.

In this respect takes note of:

- the finalisation of negotiations on a cooperation agreement with Ukraine and Montenegro,
- the finalisation of negotiations of a Memorandum of Understanding with the European Union Intellectual Property Office (EUIPO)
- the appointment of a Liaison Magistrate for Switzerland at Eurojust and
- the expanding judicial contact point network in third States.

Invites Eurojust to analyse the effectiveness and the conditions for sending Eurojust liaison magistrates to relevant third countries.

⁴ Consultative Forum of Prosecutors General and Directors of Public Prosecutions of the Member States of the European Union.

18. Ask Eurojust to continue to explore the operational needs for initiating negotiations on cooperation agreements with other third States, linked with the Council's agenda. Calls for the necessity of the effective implementation of the cooperation agreements concluded with third states.

On internal management

19. Welcomes Eurojust's independent external evaluation of its activities and the implementation of the Eurojust Decision⁵ and notes with satisfaction that the College of Eurojust adopted an internal action plan for the implementation of the recommendations of the EY Final Report⁶, which complements the action plan in place for the sixth Round of Mutual Evaluations. Confirms that the planned follow-up by Eurojust will have a strong impact on further improvement of Eurojust's activities.

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20. Acknowledges Eurojust's wish to dispose of appropriate resources so as to be able to undertake any new task in an efficient and effective manner, within the ceiling of heading 3 of the Multiannual Financial Framework.
21. Reiterates its call for the Member States who have not yet fully implemented the Council Decision on the strengthening of Eurojust, amending the Decision of 28 February 2002 setting up Eurojust, to do so without delay, in particular as regards the establishment of ENCSCs.
22. Invites Eurojust to report in its next Annual report on the implementation of these Conclusions.

⁵ According to the Article 41a of the Eurojust Council Decision the College commissioned following a procurement procedure an independent external evaluation to EY (formerly Ernst & Young).

⁶ The EY Final Report of the Evaluation of the Eurojust Council Decision and the activities carried out by Eurojust.