



Council of the
European Union

Brussels, 17 July 2017
(OR. en)

11115/17

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'I/A' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

No. prev. doc.: 6303/17, 6293/17, 7536/17

Subject: Draft Council Implementing Decision approving the conclusion by Eurojust of the Memorandum of Understanding between Eurojust and the European Agency for the Operational Management of large-scale IT systems in the Area of Freedom, Security and Justice (eu-LISA)
- Adoption by the Council

1. Article 26 of Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime¹, provides that Eurojust may conclude agreements or working arrangements with Union agencies. *"Such agreements or working arrangements may only be concluded after consultation by Eurojust with the Joint Supervisory Body concerning the provisions on data protection and after the approval by the Council, acting by qualified majority"*.

¹ OJ L 63, 6.3.2002, p. 1.

2. By letter dated 17 April 2015, the President of Eurojust informed the Council about Eurojust's intention to launch formal negotiations with a view to concluding a Memorandum of Understanding with the European Agency for the Operational Management of large-scale IT systems in the Area of Freedom, Security and Justice (eu-LISA) (doc. 9012/15).
3. By letter dated 8 February 2017 the President of Eurojust transmitted, in accordance with Article 26(2) of Council Decision 2002/187/JHA, the draft Memorandum of Understanding as endorsed by the College at its meeting on 4 October 2016, to the Council for approval, along with the opinion of the Joint Supervisory Body (JSB) of 13 October 2016 (doc. 6293/17).
4. On 8 March 2017 the draft Memorandum of Understanding as well as the draft Council Implementing Decision approving the conclusion of this Memorandum of Understanding as set out in the Annex to doc. 6303/17 were presented to CATS.
5. Following the approval by the CATS, the text of the draft Council Implementing Decision approving the conclusion of the above this Memorandum of Understanding has undergone lawyer-linguist revision. The revised version is set out in doc. 7536/17.
6. The European Parliament was consulted, pursuant to Article 39(1) of the ex-Treaty on European Union, which the Court of Justice has ruled on 16 April 2015² to be still applicable, in accordance with Article 9 of Protocol 36, when the Council adopts implementing measures on the basis of the *acquis* based on Title VI of the ex-TEU.³
7. The European Parliament delivered its positive opinion on 5 July 2017.
8. On this basis, the Permanent Representatives Committee is invited to submit the draft Council Implementing Decision approving the conclusion of the Memorandum of Understanding between eu-LISA and Eurojust, as set out in doc. 7536/17, to the Council, and to suggest that it adopts this Council Implementing Decision.

² See Judgments of the Court of 16 April 2015 in joint Cases C-317/13 and C-679/13 and in Case C-540/13 (ECLI:EU:C:2015:223 and ECLI:EU:C:2015:224).

³ For more information on this case, see 8541/15 and 9599/15.