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JAIEX 7
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EUROJUST 19
COEST 26

'I/A' ITEM NOTE

From: Presidency

To: Permanent Representatives Committee/Council

No. prev. doc.: 5822/19 + ADD 1

Subject: Council implementing decision approving the conclusion by Eurojust of the cooperation agreement between Eurojust and Georgia
- Adoption

1. Article 26a(2) of Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust, as amended by Council Decision 2009/426/JHA of 16 December 2008, provides that Eurojust may conclude agreements with third States. According to this provision, "*Such agreements may, in particular, concern the exchange of information, including personal data, and the secondment of liaison officers to Eurojust. 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*".
2. By letter dated 31 October 2017, the Vice-President of Eurojust announced Eurojust's plans to launch formal negotiations with the intention of concluding a cooperation agreement with Georgia (12746/18). Following the conclusion of these negotiations, the text of the draft agreement, as set out in Annex 3 to 12746/18, was approved by the College of Eurojust on 20 September 2018. Previously, on 19 April 2018, the Joint Supervisory Board of Eurojust had given a positive opinion concerning the provisions on data protection.

3. On 25 January 2019, Eurojust received a request from the Georgian authorities to make a few modifications to the draft cooperation agreement, further to recent changes within the organisation of the Government of Georgia. Eurojust indicated that these modifications were purely technical, that they did not affect the substance of the Agreement and that they were therefore acceptable to Eurojust. Following a silence procedure (5822/19), it was concluded that the cooperation agreement between Eurojust and Georgia, as modified and set out in the annex to 5822/19, was also acceptable to the Council (5822/19 ADD 1).
4. In the meantime, a draft Council implementing decision approving the conclusion by Eurojust of the above draft cooperation agreement between Eurojust and Georgia had been submitted to the Member States (12993/18). At the meeting of the JAIEX Working Party on 15 October 2018, this draft implementing decision was examined. No observations were made.
5. In line with the CJEU judgment in case C-540/13 ¹, the European Parliament was consulted on the draft Council implementing decision as revised by the legal-linguists (13483/18), accompanied by the draft cooperation agreement between Eurojust and Georgia as set out in the Annex to 5822/19. The European Parliament delivered its positive opinion on this decision on 14 February 2019.
6. In the light of the foregoing, and subject to confirmation by Coreper, the Council is invited to adopt the draft Council implementing decision approving the conclusion by Eurojust of the agreement on cooperation between Eurojust and Georgia, as set out in 13483/18.

¹ In its judgment of 16 April 2015 in Case C-540/13, the Court of Justice of the European Union ruled that the Council should have consulted the European Parliament before adopting Council Decision 2013/392/EU fixing the date of effect of the VIS Decision, as stipulated by Article 39(1) of the former Treaty on European Union. This obligation to consult the European Parliament applies even in cases where the relevant provision of the basic act - like Article 26a(2) of Council Decision 2002/187/JHA - does not explicitly provide so. In line with this judgment, the conclusion of Eurojust's Memorandum of Understanding with Union's bodies and agencies should be approved by adopting a Council Implementing Decision regarding which the European Parliament should be consulted on the basis of Article 39(1) of the former Treaty on European Union.