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European Union

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL IMPLEMENTING DECISION approving the conclusion by Eurojust of the Agreement on Criminal Justice Cooperation between Eurojust and the Kingdom of Denmark

COUNCIL IMPLEMENTING DECISION (EU) 2019/...

of ...

**approving the conclusion by Eurojust
of the Agreement on Criminal Justice Cooperation
between Eurojust and the Kingdom of Denmark**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime¹, and in particular Article 26a(2) thereof,

Having regard to the opinion of the European Parliament²,

¹ OJ L 63, 6.3.2002, p. 1.

² Opinion of ... (not yet published in the Official Journal).

Whereas:

- (1) In accordance with Decision 2002/187/JHA, Eurojust may conclude agreements with third States and organisations. Such agreements may, in particular, concern the exchange of information, including personal data, and the secondment of liaison officers or liaison magistrates to Eurojust. Such agreements may only be concluded after consultation by Eurojust with the Joint Supervisory Body concerning the provisions on data protection and after approval by the Council.
- (2) In accordance with Decision 2002/187/JHA, agreements with third States and organisations containing provisions on the exchange of personal data may only be concluded if the entity concerned is subject to the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data signed in Strasbourg on 28 January 1981, together with subsequent amendments thereto, or after an assessment confirming the existence of an adequate level of data protection ensured by that entity.

- (3) Denmark is bound by and subject to the application of Decision 2002/187/JHA. However, pursuant to Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, Denmark is not bound by or subject to the application of Regulation (EU) 2018/1727 of the European Parliament and of the Council¹ which will apply from 12 December 2019. Therefore, Denmark will be regarded as a third State with respect to Eurojust as from that date.
- (4) Given the interest of Eurojust and Denmark in establishing close and dynamic cooperation in order to meet the present and future challenges posed by serious crime, particularly organised crime and terrorism, and to facilitate the coordination of investigations and prosecutions covering the territory of Denmark and one or more of the other Member States, and thus to avoid an operational gap as of 12 December 2019, Eurojust has negotiated an Agreement on Criminal Justice Cooperation between Eurojust and the Kingdom of Denmark (the ‘Agreement’).

¹ Regulation (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation (Eurojust), and replacing and repealing Council Decision 2002/187/JHA (OJ L 295, 21.11.2018, p. 138).

- (5) The Agreement contains provisions on the exchange of personal data. Without prejudice to those provisions, Denmark will apply Directive (EU) 2016/680 of the European Parliament and of the Council¹, with respect to the personal data exchanged pursuant to the Agreement. The Joint Supervisory Body gave a positive opinion on the provisions of the Agreement concerning data protection on 28 March 2019.

¹ Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).

- (6) The Agreement provides for the exchange of information and participation of the Representative to Eurojust in certain operational and strategic meetings. As Denmark is affected by strategic and operational issues discussed in the College of Eurojust which affect all Member States, the Agreement provides for a wider participation of the Representative to Eurojust in meetings of the College of Eurojust than that provided for liaison magistrates of third States. For the same reasons, it is appropriate that the national Parliament of Denmark is informed on Eurojust's annual report, as well as on the results of studies and strategic projects commissioned by Eurojust, its strategic programming documents and working arrangements concluded with third parties in the same way as the national Parliaments of the other Member States. Furthermore, given the specific situation of Denmark, being both an European Union Member State and a Schengen Area Country, a number of other specific provisions were included in the Agreement. Those provisions relate to the jurisdiction of the Court of Justice of the European Union, the role of the European Data Protection Supervisor, an appropriate contribution by Denmark to Eurojust's budget and Denmark's required continued membership of the Schengen area.

- (7) The Agreement was approved by the College of Eurojust on 21 March 2019.
- (8) The conclusion, by Eurojust, of the Agreement should be approved.
- (9) Denmark is bound by and subject to the application of Decision 2002/187/JHA and is therefore taking part in the adoption and application of this Decision, which implements Decision 2002/187/JHA.
- (10) The United Kingdom and Ireland are bound by and subject to the application of Decision 2002/187/JHA and are therefore taking part in the adoption and application of this Decision, which implements Decision 2002/187/JHA,

HAS ADOPTED THIS DECISION:

Article 1

The conclusion by Eurojust of the Agreement on Criminal Justice Cooperation between Eurojust and the Kingdom of Denmark is hereby approved.

Article 2

This Decision shall enter into force on the date of its notification.

Article 3

This Decision is addressed to Eurojust.

Done at ...,

For the Council

The President
