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NOTE

From:	Presidency
To:	Delegations
Subject:	Rules of procedure of Eurojust

Delegations will find attached a draft text of the new rules of procedure of Eurojust, which are to be adopted in accordance with Article 5(5) of Regulation (EU) 2018/1727 on Eurojust. This draft text has been submitted on an informal basis by Eurojust for consideration by the Council preparatory bodies: only on or after 12 December 2019, when Regulation (EU) 2018/1727 will start to apply, Eurojust can officially send the draft text of the rules of procedure to the Council.

Eurojust intends presenting this draft text at the meeting of the Friends of the Presidency (COPEN) that is scheduled for 4 September 2019.

Subsequently, and in order to allow Eurojust to adopt the new rules of procedure as soon as possible after 12 December 2019, the Presidency suggests examining the draft text in meetings of the Working Party and in CATS, with a view to reaching informal agreement in due time before 12 December 2019. This will allow Eurojust to formally submit the draft rules of procedure, as informally agreed by the Council preparatory bodies, on 12 December 2019. As soon as possible afterwards, Coreper/ Council can then approve the draft rules, and so pave the way for the College of Eurojust to adopt the rules. After such adoption, the rules will be published in the *Official Journal of the European Union*.

INFORMAL DRAFT

RULES OF PROCEDURE OF EUROJUST

THE COLLEGE OF EUROJUST,

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

Having regard to 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, hereinafter referred to as ‘the Eurojust Regulation’, and in particular Article 5(5) thereof,

Having regard to Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, hereinafter referred to as ‘Regulation 2018/1725’,

Considering the approval of the Council [quote]

HAS ADOPTED THESE RULES OF PROCEDURE:

CHAPTER I

THE COLLEGE

Article 1

The President and the Vice-Presidents of Eurojust

1. The President shall exercise his/her functions on behalf of the College. In addition to the functions foreseen in Article 11(2) of the Eurojust Regulation, the President shall:
 - (a) sign the official communications of the College, including on financial matters in accordance with the Eurojust Financial Rules;
 - (b) determine the place, day and time of the meetings of the College, draft the provisional agenda, commence and conclude the meetings, moderate the debates and oversee the implementation by the Administrative Director of the decisions adopted by the College;
 - (c) invite persons to attend the meetings of the College;
 - (d) prepare the work of the College when the latter is exercising its operational functions.
2. The Vice-Presidents shall exercise the functions set out in Article 11(2) of the Eurojust Regulation and paragraph 1 of this article which the President entrusts to them. They shall replace the President if he/she is prevented from attending to his/her duties in accordance with Article 11(3) of the Eurojust Regulation and Article 2(2) of these rules of procedure.

Article 2

Election of the President of Eurojust

1. In accordance with Article 11(1) of the Eurojust Regulation, the College shall elect a President from among the national members by a two-thirds majority of its members.

2. The President shall convene an election a month before the end of his/her mandate. If the office of the President falls vacant before the end of the stipulated term of office of four years, the Vice-President with the then longest period of service at Eurojust shall immediately convene a meeting of the College for the election of the President to be held within a month starting from the day when the position fell vacant. During the interim period, the then longest serving Vice-President, or the eldest in the event of equal length of service, shall replace the President.
3. The President or Vice-President, when convening the meeting for the election of the President, shall officially open the period for the presentation of candidacies. National members wishing to be elected shall present their candidacy in writing to the head of the Governance Secretariat, accompanied by a motivation letter, at least ten working days before the meeting in which the election is to take place and by 12:00 CET. The head of the Governance Secretariat shall inform the College, upon receipt of a candidacy, of the name of the candidate. After the deadline, the head of the Governance Secretariat shall distribute the motivation letters to the College. In the meeting of the College immediately prior to the meeting where the election will take place, the candidates shall present their candidacies to the College.
4. The election shall be held under the chairmanship of the President or a Vice-President if he/she is not a candidate for the election, or of the national member with the then longest period of service at Eurojust or the oldest of the national members in the event of equal length of service at Eurojust if they are not candidates for the election.
5. The election is attended by the Administrative Director and the head of the Governance Secretariat. Representatives of the European Parliament and the Council may attend as observers.
6. The chairperson shall verify the quorum at the beginning of the meeting. If a national member cannot attend the election, he/she can be represented or give a proxy in accordance with Article 6(3) and (4) of these rules of procedure.
7. The election shall take place by secret ballot. The Administrative Director shall call the members of the College or their representatives, one by one following the protocol order list of the Member States of the European Union (hereinafter referred to as the EU Protocol List'), to cast their votes. The representative of the European Commission will be the last to cast his/her vote. Once all members of the College or their representatives have cast a vote, the election officer will open the voting box and count the voting ballots.

8. In the first round, the candidate obtaining a two-thirds majority of the members of the College is deemed elected. If no candidate attains a two-thirds majority, a second round shall take place immediately between the two candidates who received the most votes in the first round. Where there is a tie among three or more candidates for the highest number of votes, all those candidates shall go to a second round. Where there is a tie among two or more candidates for the second highest number of votes, all those candidates and the candidate who received the highest number of votes shall go through to the second round.
9. In the second round, a candidate obtaining a two-thirds majority of the members of the College is deemed elected. If no candidate attains a two-thirds majority, a third round shall immediately take place following the same rules as in paragraph 8 of this article.
10. In the third round, a candidate obtaining a two-thirds majority of the members of the College is deemed elected. If no candidate attains a two-thirds majority, a new election process shall be launched immediately.
11. The Administrative Director shall announce the results of the election. The outcome of proceedings shall be signed by the chairperson, the Administrative Director, the head of the Governance Secretariat and the observers. The outcome of proceedings shall reflect the number of members of the College present or represented, the number of ballots, the number of valid, invalid and blank votes, the results of votes cast per round and per candidate in alphabetical order of their surnames, and the final result.
12. The results of the election of the President of Eurojust shall be communicated to the European Parliament, the Council, the European Commission and the Member States.

Article 3

Election of the Vice-Presidents of Eurojust

1. In accordance with Article 11(1) of the Eurojust Regulation, the College shall elect two Vice-Presidents from among the national members by a two-thirds majority of its members.
2. The President shall convene an election one month before the end of the mandate of a Vice-President. If the office of a Vice-President falls vacant before the end of the stipulated term of four years, the President shall immediately convene a meeting of the College for the election of a Vice-President to be held within one month starting from the day when the position fell vacant. The Vice-President shall not be replaced during the interim period.

3. The procedure for the election of the President in Article 2(3) to (12) of these rules of procedure shall apply *mutatis mutandis* to the election of the Vice-Presidents without prejudice to paragraph 4 of this article.
4. If no candidate attains a two-thirds majority of the members of the College in the second round, a third round shall immediately take place to elect by simple majority the candidate with the highest number of votes. In case of equality of votes in the third round, the candidate with the then longest period of service at Eurojust will be deemed elected. In case of discontinuous periods of service at Eurojust, the College shall only consider the period of service immediately prior to the election.

Article 4

Dismissal of the President and Vice-Presidents of Eurojust

1. In accordance with Article 11(6) of the Eurojust Regulation, if the President or Vice-President no longer fulfils the conditions required for the performance of his/her duties, he/she may be dismissed by the College acting on a proposal from one-third of its members. The decision shall be made by secret ballot. The decision shall be adopted on the basis of a two-thirds majority of the members of the College, excluding the President or Vice-President concerned.
2. The President or Vice-President concerned shall receive a copy of the ~~motivated~~ request for dismissal and appear in front of the College before it decides on dismissal.
3. If the College decides on the dismissal of the President or a Vice-President, an election shall be immediately convened in accordance with Articles 2 or 3 of these rules of procedure.
4. The European Parliament, the Council, the European Commission and the Member States shall be informed of the dismissal of a President or Vice-President of Eurojust.

Article 5

Meetings of the College

1. In accordance with Article 13(2) of the Eurojust Regulation, the College shall hold at least one meeting per month. The timing and location of the meetings of the College shall be the subject of a yearly decision of the College adopting a calendar of meetings. When circumstances so require, and provided that the majority of the members of the College do not object, the President may change the date or the starting time of the meetings notifying the College. The College shall hold additional meetings on the initiative of the President, at the request of the European Commission to discuss the administrative tasks of the College, or at the request of at least one-third of its members.
2. The meetings of the College shall take place at the seat of Eurojust. The College may exceptionally decide to hold a meeting at another location, if duly justified, upon the proposal of the President.
3. In the absence of the President and the Vice-Presidents, the national member with the then longest period of service at Eurojust shall chair the meetings of the College.
4. Meetings of the College shall not be public and the discussions shall remain confidential. The College may decide to meet in a session in which attendance may be restricted.
5. As regards attendance by non-members of the College at meetings of the College:
 - (a) the Administrative Director shall attend meetings of the College convened for exercising its management functions and may be invited by the President to attend meetings of the College in which operational matters are discussed, without the right to vote in each case;
 - (b) the President may invite any person whose opinion may be of interest, and in particular liaison prosecutors from third countries posted at Eurojust, to attend the meetings of the College as observers;
 - (c) the President shall assess the agenda of the meetings of the College with the purpose of identifying issues that are of relevance for the exercise of the tasks of the European Public Prosecutor's Office. The President shall invite a representative of the European Public Prosecutor's Office to attend those meetings without the right to vote. The President shall provide the representative of the European Public Prosecutor's Office with the relevant documents supporting the agenda;

- (d) the members of the College may be assisted by advisers or experts. A member of the College requesting assistance by advisers or experts shall inform the President of the names of the advisers or experts at least ten working days before the meeting of the College takes place specifying the agenda item in respect of which they are to be invited. The President shall inform the members of the College in writing and decide whether to issue an invitation considering any objections raised.
6. The President shall prepare the provisional agenda for each meeting of the College. The provisional agenda shall include the points requested by members of the College and the points that the President, the Executive Board or the Administrative Director deem appropriate.
 7. The provisional agenda shall be sent by the Governance Secretariat together with the relevant documents to the members of the College at least five working days prior to the meeting. When an additional meeting is called, the provisional agenda may be sent twenty-four hours before the meeting. Only points for which the relevant documents have been provided shall be included in the provisional agenda for decision. The President may include indicative time limits for the discussion of each agenda point and restrict the number of interventions and the speaking time.
 8. At the beginning of each meeting, the College shall approve the agenda. Urgent matters and items not appearing on the provisional agenda may be discussed and decided upon with the agreement of the members of the College. The College may also decide on the use of written procedures or preparatory consultation procedures under Articles 7 and 8 of these rules of procedure.
 9. The President shall inform the College of any matters that are of interest to it in accordance with Article 11(2)(b) of the Eurojust Regulation. Information may be distributed to the members of the College by the Governance Secretariat in writing. At the request of a member of the College, an information point shall be included in the agenda of the College for its consideration.
 10. The members of the College may ask questions of general interest to the Administrative Director in his/her area of responsibility. The Administrative Director will provide a response in the first possible meeting of the College after the receipt of the question(s).

Article 6

Quorum and voting

1. Two-thirds of the members of the College are required to be present to constitute a quorum. In the absence of a national member, the presence of his/her deputy or of an assistant having the status referred to in Article 7(4) of the Eurojust Regulation shall be taken into account for the determination of the quorum.
2. Where the required quorum cannot be reached, the President shall continue the meeting without recording any formal decision. The relevant agenda items may be considered at the next College meeting or by written procedure in accordance with Article 7 of these rules of procedure.
3. A national member who cannot attend a College meeting and is not represented by a deputy or an assistant having the status referred to in Article 7(4) of the Eurojust Regulation may give a proxy vote to another national member to vote on his/her behalf. A maximum of one proxy vote may be received per national member.
4. A national member using a vote by proxy shall communicate to the Governance Secretariat in writing the identity of the proxy holder, the items of the agenda for which the proxy is valid and any possible restrictions placed on the proxy vote. The proxy vote is only valid for the meeting for which it has been given.
5. The College may decide on a matter when the President deems that the issue has been sufficiently discussed.
6. In accordance with Article 14(1) of the Eurojust Regulation, unless stated otherwise, and where a consensus cannot be reached, the College shall take its decisions by a majority of its members.
7. Consensus is reached where no member of the College expressly opposes. The College may only proceed to vote when the President records a lack of consensus. The majority of the members of the College is determined on the basis of the composition of the College as provided for under Article 10(1) of the Eurojust Regulation.
8. In accordance with 14(2) of the Eurojust Regulation, each member of the College shall have one vote. In the absence of a voting member, the deputy shall be entitled to exercise the right to vote subject to the conditions set out in Article 7(7) of the Eurojust Regulation. In the absence of the deputy, the assistant shall also be entitled to exercise the right to vote subject to the conditions set out in Article 7(7) of the Eurojust Regulation.

9. Unless otherwise provided for in these rules of procedure, votes shall be taken by a show of hands or by a roll call if voting by a show of hands is challenged. On a proposal by the President or at the request of one-third of the members of the College, the College may decide to vote by secret ballot. The President shall record the distribution of votes cast. A minority opinion expressed shall be included in the minutes of the meeting if so requested by the respective member of the College.

Article 7

Written procedure

1. In case of urgency, when a decision cannot be postponed and is required before the College can be convened, the President can call for a written procedure. Written procedures may also be used for matters already considered by the College in accordance with Articles 5(8) and 6(2) of these rules of procedure.
2. The President shall give the members of the College at least three working days for replies from the date upon which the draft decision was electronically sent. In exceptional cases, the President may decide on a shorter duration.
3. A proposal for a decision to be taken by written procedure shall not be subject to amendments, and it shall be approved or rejected in its entirety. In case no reply has been received within the set period, the respective member of the College is deemed to have abstained from voting.
4. A decision is adopted when at least two-thirds of the members of the College have replied in writing and the required voting majority has been obtained.
5. In cases where the required quorum or voting majority are not reached, the President may re-launch the written procedure or bring the matter to the next meeting of the College.
6. The President shall establish that the written procedure has been completed. A notification to that effect shall be sent to the members of the College.

Article 8

Preparatory consultation procedure

1. The President, when considering it appropriate in preparation of a discussion in the College, may initiate a preparatory consultation procedure using electronic means. The members of the College shall be provided with the necessary information.
2. Preparatory consultation procedures shall last for a period of seven working days, unless otherwise decided by the President on grounds of urgency. After the deadline, a revised document reflecting the comments made by the members of the College shall be issued by the initiator of the proposal for the consideration of the College.

Article 9

Working groups

1. The College may set up working groups to provide the College with advice and expertise.
2. The mandate, composition and practical functioning of these working groups will be determined by an implementing decision of the College.

CHAPTER II

THE EXECUTIVE BOARD

Article 10

Composition of the Executive Board

1. In accordance with Article 16(4) of the Eurojust Regulation, two members of the College other than the President or the Vice-Presidents shall be designated as members of the Executive Board on a two-year rotation system.
2. The rotation order in which the two members of the College shall be called upon to be members of the Executive Board shall be based on the EU Protocol List. The College shall draw lots to determine the Member State that will be the starting point for the rotation system within that list.
3. The representative of the first designated Member State and the one immediately following it on the EU Protocol List will be members of the Executive Board for a two-year period.
4. At the end of that two-year period, the national members from the next two Member States according to the EU Protocol List shall be appointed members of the Executive Board for the next two-year period except where such national member exercises the function of President or Vice-President in which case the national member of the next Member State on the EU Protocol List shall be designated.
5. Where the term of office of a member of the College ends before completing a two-year period within the Executive Board, the newly appointed national member of the same Member State or his/her deputy shall be designated member of the Executive Board until a new national member is appointed or for the remainder of that two-year period.
6. No national member shall serve two consecutive mandates as member of the Executive Board except in his/her function as President or Vice-President.

Article 11

Functioning of the Executive Board

1. The President chairs the Executive Board in accordance with Article 16(5) of the Eurojust Regulation. In case of absence or unavailability of the President, the Executive Board shall be chaired by the then longest serving Vice-President, or the eldest in the event of equal length of service. In the event of absence or unavailability of the Vice-Presidents, the Executive Board shall be chaired by the then longest serving national member in the Executive Board. Without prejudice to the practical arrangements of the European Commission in respect of its representative, the members of the Executive Board shall attend the meetings personally and cannot be represented. Exceptionally, the members of the Executive Board can attend a meeting of the Executive Board via videoconference.
2. In accordance with Article 16(7) of the Eurojust Regulation, the Executive Board shall meet at least once a month. Additional meetings may be organised at the initiative of the chairperson or at the request of the European Commission or of at least two of its other members. The timing and location of the meetings of the Executive Board shall be subject of a yearly decision adopting a calendar of meetings.
3. In accordance with Article 16(4) of the Eurojust Regulation, the Administrative Director shall attend the meetings of the Executive Board without the right to vote. The President may invite any person whose opinion may be of interest or other members of the administration to attend the meetings of the Executive Board as observers.
4. The President shall send to a representative of the European Public Prosecutor's Office the agenda of the Executive Board meetings and consult with him/her on the need to participate in those meetings. The President shall invite a representative of the European Public Prosecutor's Office to participate in Executive Board meetings, without the right to vote, whenever issues are discussed which are of relevance for the functioning of the European Public Prosecutor's Office, in accordance with Article 16(8) of the Eurojust Regulation.
5. The presence, including via videoconference, of at least three members of the Executive Board shall constitute a quorum. In the absence of a quorum, the President shall terminate the meeting and convene another meeting within five working days with no specific quorum requirements.
6. The President shall prepare the provisional agenda of the Executive Board in consultation with its members and the Administrative Director. The provisional agenda shall be provided to the participants at least five working days before the meeting takes place accompanied by the relevant documents. The Executive Board shall adopt the agenda at the start of its meeting. Urgent matters and items not appearing on the provisional agenda may be discussed and decided upon with the agreement of the members of the Executive Board.

7. In case of urgency, when a decision cannot be postponed and it is required before the Executive Board can be convened, the President may call for a written procedure. The President shall give the members of the Executive Board at least three working days for replies from the date upon which the draft decision was electronically sent. In exceptional cases, the President may decide on a shorter deadline for such replies. A decision is adopted where a majority of the members of the Executive Board have replied in writing.
8. In accordance with Article 16(5) of the Eurojust Regulation, the Executive Board shall take its decisions by a majority of its members and votes shall be cast by a show of hands. Each member shall have one vote. In the event of a tied vote, the President shall have a casting vote.
9. In accordance with Article 16(2) of the Eurojust Regulation, the Executive Board may consult the College when carrying out its tasks. The President shall prepare at least quarterly reports to the College on the activities and decisions of the Executive Board.
10. The attendance at Executive Board meetings by representatives of the European Commission and the European Public Prosecutor's Office shall be at no cost for Eurojust.

CHAPTER III

OTHER PROVISIONS RELATED TO THE COLLEGE AND THE EXECUTIVE BOARD

Article 12

Declarations of interest, conflicts of interest, duty of information and resolution of disagreements

1. All members of the College, deputies and assistants having the status referred to in Article 7(4) and (7) of the Eurojust Regulation shall, upon taking up their duties, complete a declaration of interests in the format provided for in the Code of Ethics to be adopted by an implementing decision of the College. Any changes to the items listed in those declarations of interest shall be completed at the earliest opportunity and, at the latest, within one month after such change in order to ensure that the declarations remain updated. The processing of personal data in the declaration of interest forms shall be done in accordance with Regulation 2018/1725 and the data protection provisions of the Eurojust Regulation.

2. Without prejudice to applicable national law, all members of the College, deputies and assistants shall immediately inform the President of any actual or perceived conflict of interest arising in the exercise of their operational or management functions. The deputies and assistants shall do so through their respective national members. In operational matters, the national members shall, in addition and prior to informing the President, immediately inform the other national members that are or might be affected by any such conflicts of interest in a given case.
3. All members of the College, deputies and assistants shall avoid any situation which may give rise to a conflict of personal interest or which may be perceived as such. They shall not be involved in dealing with an operational case in which a conflict of interest or the perception of a conflict of interest exists. They shall not act or express themselves, through whatever medium, in a manner which adversely affects the public perception of their impartiality.
4. All members of the College, deputies and assistants shall inform the President about any matter that might adversely affect the reputation or interests of Eurojust. The deputies and assistants shall do so through their respective national members.
5. The President shall consider the further steps to be adopted in any of the cases mentioned in paragraphs 1 to 4 of this article in accordance with the Code of Ethics mentioned in paragraph 1 of this article.
6. If a disagreement arises between two or more members of the College in the exercise of their functions, the person(s) concerned may inform the President who may call ~~an urgent~~ a meeting of the College to examine the issue.

Article 13

The Governance Secretariat

1. The College and the Executive Board shall be assisted by a Governance Secretariat working in consultation with the President.
2. The Governance Secretariat shall, *inter alia*, attend the meetings of the College and the Executive Board, take and keep the minutes and prepare summaries of the outcome of those meetings, and keep records of the activities of the College and the Executive Board.

Article 14

Minutes of the meetings of the College and the Executive Board

1. The minutes of the meetings of the College and the Executive Board shall contain, at least, the names of persons attending, a report on the debates and the decisions adopted.
2. The draft minutes of the meetings of the College and the Executive Board shall be sent by the President to the members of the College and the members of the Executive Board respectively for adoption. Once adopted, the minutes shall be signed by the President and the head of the Governance Secretariat and attached to a record kept by the Governance Secretariat. The minutes of the meetings of the Executive Board shall be distributed to the College for information.
3. The Governance Secretariat shall draft a summary of the outcome of the meetings of the Executive Board to be approved by the President and to be published in accordance with Article 74(4) of the Eurojust Regulation.

CHAPTER IV

THE ADMINISTRATIVE DIRECTOR

Article 15

The Administrative Director

1. In accordance with Article 17(2) of the Eurojust Regulation, the Administrative Director shall be appointed by the College from a list of candidates proposed by the Executive Board, following an open and transparent selection procedure.
2. The Executive Board shall propose to the College the establishment of a selection board for the procedure of the appointment of the Administrative Director. The selection board shall be composed of two national members and a representative of the European Commission.
3. Where appropriate and after a decision by the College, a person with relevant experience in the selection of senior management posts may participate in the Selection Board without voting rights.

4. The Executive Board shall propose to the College the manner in which to launch a call for applications and may decide upon the number of candidates to be interviewed following the call for applications.
5. The selection board shall interview the candidates and inform the Executive Board of the results of its deliberations. The Executive Board shall present to the College a list of candidates with a recommendation of the candidate to be chosen.
6. The College shall appoint the Administrative Director by a majority of its members, where a consensus cannot be reached. The decision shall be made by secret ballot.
7. The Executive Board shall adopt implementing rules on the procedures for the selection and appointment, contract renewal, termination of the contract, probationary period and annual performance appraisal of the Administrative Director.

CHAPTER V

FINAL PROVISIONS

Article 16

Transitional arrangements for the election of two national members for the first two-year period following the establishment of the Executive Board

1. For the first two-year period immediately following the establishment of the Executive Board, the College shall elect two national members, other than the President or Vice-Presidents, as members of the Executive Board.
2. The two candidates obtaining the greatest number of votes shall be deemed elected. In case of equality of votes between candidates coming second, the candidate with the then longest period of service at Eurojust shall be deemed elected. In case of discontinuous periods of service at Eurojust, the College shall only consider the period of service immediately prior to that election.
3. The drawing of lots referred to in Article 10(2) of these rules of procedure shall take place immediately after the two national members referred to therein have been elected. The national members representing the two designated Member States shall take their functions as members of the Executive Board at the end of the mandate of the two elected national members, except where they have in the meantime been elected President or Vice-President, in which case the national member of the next Member State on the EU Protocol List shall be designated.

Article 17

Personal data

The present rules of procedure shall be supplemented by separate rules of procedure on the processing and protection of personal data.

Article 18

Amendment of these rules of procedure

1. The College may amend these rules of procedure following the same procedure for their adoption upon a proposal of the Executive Board or of one-third of the members of the College.
2. Any amendment of these rules of procedure shall be on the basis of a two-thirds majority of its members. In the event that agreement cannot be reached by a two-thirds majority, the decision shall be taken by simple majority during the next meeting of the College.

Article 19

Publication and entry into force

The rules of procedure of Eurojust shall enter into force on the day following its date of publication in the Official Journal of the European Union.

Done at The Hague on *[insert date]*

On behalf of the College of Eurojust,

LADISLAV HAMRAN
President of Eurojust