



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 15 February 2002**

**6347/02**

**EUROJUST 2**

**"I/A" ITEM NOTE**

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From : General Secretariat  
To : COREPER/Council

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No. prev. doc. : 14766/1/01 EUROJUST 14 REV 1 + COR 1 (fr,en)

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Subject : Adoption in the official languages of a Council Decision setting up Eurojust with a view to reinforcing the fight against serious organised crime

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1. The Federal Republic of Germany presented on 12 May 2000 a proposal for a Council Decision on setting up the EUROJUST team<sup>1</sup>, whereas on 13 July 2000 the Portuguese Republic, the French Republic, the Kingdom of Sweden and the Kingdom of Belgium submitted a proposal for a Council Decision setting up Eurojust with a view to reinforcing the fight against serious organised crime<sup>2</sup>.
2. The European Parliament delivered its opinions on 17 May 2001<sup>3</sup> and on 29 November 2001<sup>4</sup>. These opinions were examined on several occasions by the Working Party and by the JHA Counsellors group.

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<sup>1</sup> OJ C 206 of 19.7.2000, p. 1.

<sup>2</sup> OJ C 243 of 24.8.2000, p. 15.

<sup>3</sup> PE 303.671

<sup>4</sup> PE 312.146

3. At its meeting on 27 September 2001, the Council agreed provisionally on the text of Articles 1 to 8, and at its meeting on 6 December 2001 the Council concluded that there was broad agreement on the text set out in document 14766/1/01 EUROJUST 14 REV 1 + COR 1 (fr,en) without prejudice to parliamentary scrutiny reservations entered by the Swedish and Danish delegations.
4. The parliamentary scrutiny reservation of the Danish delegation has now been lifted.
5. The language versions have undergone technical editing by the Legal/Linguist Experts (see doc. 5358/02 EUROJUST 1).
6. COREPER/Council is therefore invited to:
  - adopt the Draft Council Decision as set out in doc. 5358/02 EUROJUST 1 by unanimity, subject to Sweden having lifted its parliamentary reservation,
  - order its publication in the Official Journal of the European Communities, and
  - include the statements set out in the Annex in the minutes of the Council.

Draft Council statements(a) Re Article 3(3)

"The Council states that when Eurojust gives its support to investigations and prosecutions in accordance with Article 3(3) it attaches great importance to satisfactory co-operation between the competent authorities and the Commission in full accordance with their respective powers."

(b) Re Article 11(1)

"Eurojust's rules of procedure will lay down the arrangements for the Commission's participation in those of Eurojust's proceedings that come within its areas of competence."

(c) Re Article 13(2)

"The Council agrees to adopt, as a matter of urgency and in accordance with the principles laid down in Article 101(3) of the Schengen Convention, no later than 15 June 2002, arrangements whereby the national members of Eurojust will have access to certain data in the Schengen Information System, in particular those referred to in Articles 95 and 98 of the Schengen Convention."

(d) Re Article 24(3)

"The Council declares that where a claim has been made in relation to the processing of personal data by Eurojust, Eurojust and the Member State concerned shall examine the matter and ensure that no individual suffers loss because of the alleged lack of clarity of any responsibilities."

(e) Re Article 26(1)

"The Council invites Europol and the Provisional Judicial Cooperation Unit (pro-Eurojust) to take the necessary steps, in accordance with the Europol Convention, to prepare an agreement on co-operation with Eurojust including the exchange of personal data. The content of that agreement will be submitted to the Council for its approval when the Decision setting up Eurojust is adopted, but before its formal adoption and as soon as that is legally possible. The Council notes, however, that the question of relations between Europol and Eurojust will have to be examined further in order to determine what arrangements would take the best account of those aspects not yet covered by the Europol Convention, in particular:

- the exchange of analyses and information between Europol and Eurojust at the request of either;
- cooperation on the practical level in order to support joint investigation teams;
- coordination for initiatives to ask national authorities to carry out investigations and coordinate prosecutions, in accordance with the rules of procedure of the State requested and within the respective areas of competence of Europol and Eurojust."

(f) Re Article 30(1)

"The Council agrees that the authorising authority defined in Article 28(6) may, provided that investigative secrecy is respected, authorise Eurojust staff to give evidence at the request of the competent authority of a Member State."

(g) Re Article 34

"The Council agrees that the Eurojust budget shall be established in conformity with the financial perspective of the European Union for the period 2002 to 2006."

Statement by the Governments of the Member States,  
meeting within the Council, relating to Article 28(4)

"The Governments of the Member States, meeting within the Council, will ensure that any national member elected to any position within the framework of Eurojust can carry out his duties."

Statement by the German delegation  
re Article 13(2)

"The German delegation states that this provision should not be restricted to access by the national members of EUROJUST but that an overall package should be sought."

Commission statement  
re Articles 4(1)(b), second indent, and 26(3):

"The protection of the Community's financial interests is a responsibility shared between the Community and the Member States and it is important to stress in this connection that at Treaty level, Article 280 of the EC Treaty constitutes the specific legal basis for cooperation with the competent national authorities (Art. 280(3) EC) or taking the necessary measures for preventing and combating fraud and any other illegal activity affecting the Community's financial interests (Art. 280(4) EC). It is in this framework in particular that close and regular cooperation between the European Anti-Fraud Office (OLAF) and the national law-enforcement authorities, on the one hand, and between the Commission (OLAF) and Eurojust, on the other hand, should be guaranteed."