



**COUNCIL OF
THE EUROPEAN UNION**

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COVER NOTE

From: Michèle Coninx, President of Eurojust

date of receipt : 25 June 2013

To: H.E. Mr. Alan Shatter, Minister for Justice, Equality and Defence of the Republic of Ireland

Subject: Approval by the Council of the EU of the draft Memorandum of Understanding between Eurojust and INTERPOL

Delegations will find attached a letter concerning the approval by the Council of the draft Memorandum of Understanding between Eurojust and INTERPOL, sent by Ms Michèle Coninx, President of Eurojust.



**EUROJUST
P.O. Box 16183
2500 BD The Hague
THE NETHERLANDS**

To the attention of the President
of the Council of the European Union
H.E. Alan Shatter
Minister for Justice, Equality and Defence of Ireland

The Hague, 26 June 2013

Approval by the Council of the European Union of the draft Memorandum of Understanding between Eurojust and Interpol

Your Excellency,

On 20 January 2012, I informed the Council of the EU that Eurojust envisaged instituting formal negotiations aimed at the conclusion of a Memorandum of Understanding with INTERPOL. I am now pleased to inform you that the negotiations have been successfully concluded.

The draft Memorandum of Understanding attached to this letter was approved by the College of Eurojust by decision of 5 February 2013. The Joint Supervisory Body of Eurojust delivered its opinion on 20 June 2013 by welcoming the draft Memorandum of Understanding and stating that it is generally satisfied with its content provided that the following observation is taken into account: *"Article 4(2) of the draft Memorandum of Understanding implies the possibility for Eurojust and Interpol to exchange strategic information other than what is enumerated in this Article. It should in any case be stressed that any kind of information exchanged should in any cases comply with Article 4(4) of this Memorandum, meaning that in no case operational data or personal data could be part of such strategic information exchanged."*

Eurojust and INTERPOL have taken note of this observation which does not affect the content of the Memorandum of Understanding, and will take it into account when applying it.

In accordance with Article 26a(2) of the Eurojust Decision, the attached draft Memorandum of Understanding between Eurojust and INTERPOL requires approval by the Council of the EU.

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To this end, I would be most grateful if you could submit it for consideration at an upcoming meeting of the Council of the EU.

Yours faithfully,

A handwritten signature in black ink, consisting of a vertical line on the left and a horizontal line extending to the right, with a small crossbar at the top.

Michèle Coninx
President of Eurojust

Encl.: - Draft Memorandum of Understanding between Eurojust and Interpol
- Opinion of the Joint Supervisory Body of Eurojust

MEMORANDUM OF UNDERSTANDING
on cooperation between EUROJUST and the International Criminal Police Organisation
(ICPO-INTERPOL)

EUROJUST,

represented for the purposes of this Memorandum of Understanding by
Ms Michèle Coninx, President of the College

and

THE INTERNATIONAL CRIMINAL POLICE ORGANISATION (ICPO-INTERPOL),

represented for the purposes of this Memorandum of Understanding by
Mr Ronald K. Noble, Secretary General of INTERPOL,

hereinafter collectively referred to as the “Parties”, or individually as the “Party”.

Having regard to the Council Decision of 28 February 2002 setting up EUROJUST with a view to reinforcing the fight against serious crime, as last amended by Council Decision 2009/426/JHA of 16 December 2008 on the strengthening of EUROJUST (hereinafter referred to as the “EUROJUST Decision”);

Having regard to Article 26a(1)(b)(iii) of the EUROJUST Decision, which provides that EUROJUST may establish and maintain cooperative relations with INTERPOL;

Recognising that INTERPOL is an independent intergovernmental organisation responsible for ensuring the promotion of the widest possible mutual assistance between all criminal police authorities within the limits of the laws existing in the different countries and in the spirit of the Universal Declaration of Human Rights, and for the establishment and development of all institutions likely to contribute effectively to the prevention and suppression of ordinary law crimes in accordance with its Statute;

Having in mind that in accordance with Article 3 of the ICPO-INTERPOL Constitution, undertaking any intervention or activities of a political, military, religious or racial character is strictly forbidden;

Considering that INTERPOL is pursuing the goal of developing enhanced cooperation with other international and regional organisations; and

Recognising the common interest of both Parties to establish cooperative relations in order to improve the international response to serious crime;

HAVE AGREED AS FOLLOWS:

Article 1

Purpose

The purpose of this Memorandum of Understanding is to establish, define, encourage and improve cooperation between the Parties in the fight against serious crime, particularly when it is organised, in accordance with their respective legal frameworks.

Article 2

Contact points and representation at meetings

1. EUROJUST and INTERPOL shall each establish a contact point, whose task shall be to coordinate cooperation between the two organisations.
2. The contact points designated by the Parties shall consult each other on a regular basis, in particular regarding matters falling under Articles 3, 4 and 5 of this Memorandum of Understanding. Within its framework, insofar as practicable, the contact points will attend meetings, conferences as well as other events of mutual interest. Nothing shall prejudice the right of the Parties to nominate representatives to attend the said meetings in substitution of the designated contact points.

Article 3

Mutual consultation, exchange of general information and coordination

1. The Parties shall consult each other regularly on issues of common interest for the purpose of realising their objectives and coordinating their activities.
2. In particular, within the limits of their respective legal frameworks, the Parties shall inform each other about developments in fields and projects of mutual interest and exchange observations concerning such activities to enable them to promote effective cooperation.
3. The Parties shall coordinate their activities in multilateral fora, such as seminars and conferences.

Article 4

Exchange of strategic and technical information

1. The cooperation between the Parties shall be enhanced by the exchange of strategic and technical information.
2. Strategic information shall include, but not be limited to:
 - a. Information of a strategic nature, such as trends and challenges faced relating to serious crime;
 - b. Analysis of serious crime and new methods, including trends followed in committing serious crimes; and
 - c. Observations and general findings resulting from EUROJUST's activities that support the detection or prevention of serious crime.

3. Technical information shall include, but not be limited to:
 - a. Means of strengthening judicial and law enforcement structures and cooperation in the fields covered by this Memorandum of Understanding, including a more structured exchange of technical information and, if considered to be useful, setting up combined analysis; and
 - b. Training methods for concerned officials from both Parties.
4. Exchange of information or experience provided for in this Memorandum of Understanding shall not include the transmission of operational information, including data relating to an identified or identifiable person.
5. Information exchanged between the Parties shall be used exclusively for the purpose of the present Memorandum of Understanding in accordance with their respective, legal frameworks.

Article 5

Training and exchange of best practices

1. The Parties may prepare and implement joint training activities, including contributions to the development of courses, seminars, conferences, study visits, training tools and materials in areas of common interest.
2. The goals of joint trainings shall be to encourage and improve cross-border cooperation in the fight against serious crime, particularly when it is organised.
3. The Parties shall exchange expertise and best practices in areas of common interest.
4. The Parties shall combine their efforts to provide expertise and support to Joint Investigation Teams in accordance with their respective legal frameworks.

Article 6

Evaluation of the cooperation

At least once per year, the Parties shall report to each other on the state of implementation of this Memorandum of Understanding.

Article 7

Expenses

The Parties shall bear their own expenses that might arise in the course of implementation of the present Memorandum of Understanding, unless otherwise agreed on a case-by-case basis.

Article 8

Confidentiality

Each Party shall ensure that information received on the basis of this Memorandum of Understanding shall be subject to its confidentiality and security standards for the processing of information.

Article 9

Liability and compensation

1. If damage is caused to one Party by the other Party as a result of unauthorised or incorrect information processing under this Memorandum of Understanding, the Party causing the damage shall be liable for such damage in accordance with its legal framework.
2. In such cases, or in cases where both Parties are responsible for unauthorised or incorrect information processing, the Parties shall endeavour to find an equitable solution to the compensation of damages suffered.

Article 10

Settlement of disputes

All disputes that may emerge in connection with the interpretation or application of the present Memorandum of Understanding shall be settled by means of consultations and negotiations between representatives of the Parties.

Article 11

Amendments

This Memorandum of Understanding may be amended at any time by mutual consent. All such amendments shall be agreed upon in writing between the Parties.

Article 12

Termination

This Memorandum of Understanding may be terminated by either Party upon three months' written notice.

Article 13

Entry into force and signatures

This Memorandum of Understanding will enter into force on the first day of the month following signature by the last Party.

Done in....., xx xxxxx 2013

Done in....., xx xxxxx 2013

For EUROJUST,
The President of the College,

For INTERPOL,
The Secretary General,

Michèle Coninx

Ronald K. Noble

Opinion of the Joint Supervisory Body of Eurojust regarding the Memorandum of Understanding between Interpol and Eurojust

On the 10th June 2013 the Joint Supervisory Body was invited by Eurojust to give its views regarding the envisaged Memorandum of Understanding between Interpol and Eurojust in the light of Article 26a.2 of the Eurojust Decision. Following the request from the Eurojust presidency to issue an opinion in the shortest possible timeframe, the JSB considered this text during its meeting on the 20th June 2013.

The Joint Supervisory Body appreciates very much the opportunity to provide its views regarding this proposal.

The Joint Supervisory Body welcomes the draft Memorandum of Understanding between Eurojust and Interpol and is generally satisfied with its content but would like to make the following observation:

Article 4.2 of the Memorandum implies the possibility for Eurojust and Interpol to exchange strategic information other than what is enumerated in this Article. It should in any case be stressed that any kind of information exchanged should in any cases comply with Article 4.4. of this Memorandum, meaning that in no case operational data or personal data could be part of such strategic information exchanged.

The Joint Supervisory Body of Eurojust trusts that this observation will be taken on board by Eurojust and, provided this is the case, issues a positive opinion regarding this Memorandum of Understanding.

Done at The Hague,

20 June 2013



Lotty Prussen

Chair of the Joint Supervisory Body
