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REPORT

on the initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden with a view to adopting a Council Decision on the strengthening of Eurojust and amending Decision 2002/187/JHA
(5613/2008 – C6-0076/2008 – 2008/0804(CNS))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Renate Weber

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. In the case of amending acts, passages in an existing provision that the Commission has left unchanged, but that Parliament wishes to amend, are highlighted in **bold**. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...]. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). Suggested corrections of this kind are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden with a view to adopting a Council Decision on the strengthening of Eurojust and amending Decision 2002/187/JHA (5613/2008 – C6-0076/2008 – 2008/0804(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden (5613/2008),
 - having regard to Article 34(2)(b) of the EU Treaty,
 - having regard to Article 39(1) of the EU Treaty, pursuant to which the Council consulted Parliament (C6-0076/2008),
 - having regard to Rules 93 and 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A6-0293/2008),
1. Approves the initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden as amended;
 2. Calls on the Council to amend the text accordingly;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Calls on the Council to consult Parliament again if it intends to amend the initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden substantially;

5. Calls on the Council and the Commission, following the entry into force of the Treaty of Lisbon, to give priority to any future proposal to amend the Decision in accordance with Declaration No 50 concerning Article 10 of the Protocol on transitional provisions to be annexed to the Treaty on European Union, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community;
6. Is determined to examine any such future proposal by urgent procedure in accordance with the procedure referred to in paragraph 5 and in close cooperation with national parliaments;
7. Instructs its President to forward its position to the Council and Commission, and the governments of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden.

Amendment 1

Initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden – amending act
Recital 5 a (new)

*Text proposed by the Kingdom of Belgium,
the Czech Republic, the Republic of
Estonia, the Kingdom of Spain, the
French Republic, the Italian Republic, the
Grand Duchy of Luxembourg, the Kingdom
of the Netherlands, the Republic of Austria,
the Republic of Poland, the Portuguese
Republic, the Republic of Slovenia, the
Slovak Republic and the Kingdom of
Sweden*

Amendment

(5a) In the light of Article 86 of the Treaty on the Functioning of the European Union, it is necessary to draw up a Green Paper on the establishment of a European Public Prosecutor's Office.

Amendment 2

Initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the

Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden – amending act
Recital 5 b (new)

*Text proposed by the Kingdom of Belgium,
the Czech Republic, the Republic of
Estonia, the Kingdom of Spain, the
French Republic, the Italian Republic, the
Grand Duchy of Luxembourg, the Kingdom
of the Netherlands, the Republic of Austria,
the Republic of Poland, the Portuguese
Republic, the Republic of Slovenia, the
Slovak Republic and the Kingdom of
Sweden*

Amendment

(5b) The rights of the defendants and victims need to be taken into account in determining which Member State is best placed to prosecute or take other law enforcement action.

Amendment 3

Initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden – amending act
Recital 8 d (new)

*Text proposed by the Kingdom of Belgium,
the Czech Republic, the Republic of
Estonia, the Kingdom of Spain, the
French Republic, the Italian Republic, the
Grand Duchy of Luxembourg, the Kingdom
of the Netherlands, the Republic of Austria,
the Republic of Poland, the Portuguese
Republic, the Republic of Slovenia, the
Slovak Republic and the Kingdom of
Sweden*

Amendment

(8d) Adequate procedural safeguards, including during the investigations, are a necessary condition for the mutual

recognition of judicial decisions in criminal matters. In particular, the adoption of a framework decision on procedural rights as soon as possible in order to lay down certain minimum rules on the availability of legal assistance to individuals in the Member States.

Amendment 4

Initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden – amending act

Recital 8 b (new)

Text proposed by the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden

Amendment

(8b) It is also necessary for the Council to adopt as soon as possible a framework decision on the protection of personal data processed within the framework of police and judicial cooperation in criminal matters, providing for an adequate level of data protection. The Member States must ensure a level of protection of personal data in their national law at least equal to that provided under the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data of 28 January 1981 and its Additional Protocol of 8 November 2001 and, in so doing, shall take account of Recommendation No R (87) 15 of 17 September 1987 of the Committee of Ministers of the Council of

Europe to the Member States regulating the use of personal data in the police sector, as well as ensure the protection of data which are not processed automatically.

Amendment 5

**Initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden – amending act
Recital 8 a (new)**

Text proposed by the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden

Amendment

(8a) It is important to ensure appropriate protection of personal data for all types of personal data filing systems used by Eurojust. In this respect, the Rules of Procedure on the processing and protection of personal data at Eurojust¹ should also apply to structured manual files, that is to say, to case-related files that are compiled manually by national members or assistants and are organised in a logical way.

¹ OJ C 68, 19.3.2005, p. 1.

Justification

In order to ensure appropriate level of data protection not only for automated files but also for manually collected ones, it is important to clarify the meaning of structured manual files.

Amendment 6

Initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden – amending act
Recital 8 b (new)

*Text proposed by the Kingdom of Belgium,
the Czech Republic, the Republic of
Estonia, the Kingdom of Spain, the
French Republic, the Italian Republic, the
Grand Duchy of Luxembourg, the Kingdom
of the Netherlands, the Republic of Austria,
the Republic of Poland, the Portuguese
Republic, the Republic of Slovenia, the
Slovak Republic and the Kingdom of
Sweden*

Amendment

***(8b) When processing e-mail traffic
related data in accordance with Article
14(1), Eurojust should ensure that the
content and titles of e-mails are not
disclosed.***

Justification

It is not acceptable to process content of e-mails or titles of e-mails (which refer to content of e-mails).

Amendment 7

Initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden – amending act

Recital 8 e (new)

Text proposed by the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden

Amendment

(8e) Persons who have been the subject of a criminal investigation based on a Eurojust request but have not been prosecuted should be informed about that investigation no later than one year after the decision not to prosecute has been taken.

Amendment 8

Initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden – amending act
Recital 8 d (new)

*Text proposed by the Kingdom of Belgium,
the Czech Republic, the Republic of
Estonia, the Kingdom of Spain, the
French Republic, the Italian Republic, the
Grand Duchy of Luxembourg, the Kingdom
of the Netherlands, the Republic of Austria,
the Republic of Poland, the Portuguese
Republic, the Republic of Slovenia, the
Slovak Republic and the Kingdom of
Sweden*

Amendment

***(8d) The Member States shall provide a
judicial remedy where the investigation
was carried out at the request of Eurojust
on the basis of manifestly insufficient
grounds.***

Amendment 9

Initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden – amending act

Article 1 – point 3

Decision 2002/187/JHA

Article 5a – paragraph 1

*Text proposed by the Kingdom of Belgium,
the Czech Republic, the Republic of
Estonia, the Kingdom of Spain, the
French Republic, the Italian Republic, the
Grand Duchy of Luxembourg, the Kingdom
of the Netherlands, the Republic of Austria,
the Republic of Poland, the Portuguese
Republic, the Republic of Slovenia, the
Slovak Republic and the Kingdom of
Sweden*

Amendment

1. In order to fulfil its tasks on an emergency basis, Eurojust shall set up an "Emergency Coordination Cell" (ECC).

1. In order to fulfil its tasks on an emergency basis, Eurojust shall set up an "Emergency Coordination Cell" (ECC), ***which shall be contactable via a single contact point.***

Amendment 10

Initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden – amending act

Article 1 – point 3

Decision 2002/187/JHA

Article 5a – paragraph 2

*Text proposed by the Kingdom of Belgium,
the Czech Republic, the Republic of
Estonia, the Kingdom of Spain, the
French Republic, the Italian Republic, the
Grand Duchy of Luxembourg, the Kingdom
of the Netherlands, the Republic of Austria,
the Republic of Poland, the Portuguese
Republic, the Republic of Slovenia, the
Slovak Republic and the Kingdom of
Sweden*

Amendment

2. The ECC shall be composed of one representative per Member State, who may be either the national member, his or her deputy, or an assistant entitled to replace the national member. The ***ECC*** shall be ***contactable and*** able to act on ***an around***

2. The ECC shall be composed of one representative per Member State, who may be either the national member, his or her deputy, or an assistant entitled to replace the national member. The ***representative*** shall be able to act on ***a 24 hours/7 days***

the clock basis.

basis.

Amendment 11

Initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden – amending act

Article 1 – point 3

Decision 2002/187/JHA

Article 5a – paragraph 3

Text proposed by the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden

Amendment

3. When in urgent cases a request for judicial cooperation needs to be executed in several Member States, the competent authority may forward it to the ECC through the representative of its Member State in the ECC. The representative of the Member State concerned in the ECC shall transmit the request to the competent authorities of the relevant Member States for execution. Where **no** competent national authority **has been identified or** it is not possible to identify **it** in a timely manner, the member of the ECC shall have the power to execute the request himself.

3. When in urgent cases a request for judicial cooperation needs to be executed in several Member States, the competent authority may forward it to the ECC through the representative of its Member State in the ECC. The representative of the Member State concerned in the ECC shall transmit the request to the competent authorities of the relevant Member States for execution. Where is not possible to identify **a** competent national authority in a timely manner, the member of the ECC shall have the power to execute the request himself. ***In such a case, the ECC member concerned shall inform the College in writing without delay of the steps taken and the reasons for the failure to identify a competent national authority in a timely manner.***

Amendment 12

Initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the

Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden – amending act

Article 1 – point 4

Decision 2002/187/JHA

Article 6 – paragraph 1 – point a – subpoint vi

*Text proposed by the Kingdom of Belgium,
the Czech Republic, the Republic of
Estonia, the Kingdom of Spain, the
French Republic, the Italian Republic, the
Grand Duchy of Luxembourg, the Kingdom
of the Netherlands, the Republic of Austria,
the Republic of Poland, the Portuguese
Republic, the Republic of Slovenia, the
Slovak Republic and the Kingdom of
Sweden*

Amendment

(vi) take special investigative measures; **deleted**

Justification

Unless it is clearly and in a limitative manner what are those “special investigative measures” the wording of point (vi) is too vague and may allow abusive interpretation. In principle, all legal investigative methods are provided for by point (i).

Amendment 13

Initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden – amending act

Article 1 – point 4

Decision 2002/187/JHA

Article 6 – paragraph 1 – point a – subpoint vii

*Text proposed by the Kingdom of Belgium,
the Czech Republic, the Republic of
Estonia, the Kingdom of Spain, the
French Republic, the Italian Republic, the
Grand Duchy of Luxembourg, the Kingdom
of the Netherlands, the Republic of Austria,
the Republic of Poland, the Portuguese
Republic, the Republic of Slovenia, the
Slovak Republic and the Kingdom of
Sweden*

Amendment

**(vii) take any other measure justified for
the investigation or prosecution;** **deleted**

Justification

It is not clear what “other measure justified for investigation” can be beyond those provided for by point (i). The wording of point (vii) is too vague and easily to be abused when implemented.

Amendment 14

Initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden – amending act

Article 1 – point 6

Decision 2002/187/JHA

Article 8

*Text proposed by the Kingdom of Belgium,
the Czech Republic, the Republic of
Estonia, the Kingdom of Spain, the
French Republic, the Italian Republic, the
Grand Duchy of Luxembourg, the Kingdom
of the Netherlands, the Republic of Austria,
the Republic of Poland, the Portuguese
Republic, the Republic of Slovenia, the
Slovak Republic and the Kingdom of
Sweden*

Amendment

If the competent authorities of the Member States concerned decide not to comply with a request referred to in Articles 6(1)(a), 6(1)(g), 7(1)(a), 7(2) and 7(3), they shall

I. If the competent authorities of the Member States concerned decide not to comply with a request referred to in Articles 6(1)(a), 6(1)(g), 7(1)(a), 7(2) and

inform Eurojust of their decision and of the reasons for it.

7(3), they shall inform Eurojust of their decision and of the reasons for it.

2. The Member States shall ensure that a decision of the national competent authority may be judicially reviewed before it is communicated to Eurojust.

Amendment 15

Initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden – amending act

Article 1 – point 7 – point (c)

Decision 2002/187/JHA

Article 9 – paragraph 4

Text proposed by the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden

Amendment

4. In order to meet Eurojust's objectives, the national member shall have full access to:

(a) the information contained in the following registers:

- (i) **national** criminal records;
- (ii) registers of arrested persons;
- (iii) investigation registers;
- (iv) DNA registers;
- (b)** registers, **other than those in (a), of** his Member State containing information that is necessary for him to be able to fulfil his tasks

4. In order to meet Eurojust's objectives, the national member shall have full access to ***or at least be able to obtain***

the information contained in the following ***types of national*** registers ***when they exist in his or her Member State:***

- (i) criminal records;
- (ii) registers of arrested persons;
- (iii) investigation registers;
- (iv) DNA registers;
- (v) other** registers of his ***or her*** Member State containing information that is necessary for him ***or her*** to be able to fulfil his ***or her*** tasks.

Justification

It is important to clarify that the national member can access only registers of his or her Member State and it is not possible to access registers of other Member States.

Amendment 16

Initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden – amending act

Article 1 – point 8

Decision 2002/187/JHA

Article 9a – paragraph 3

*Text proposed by the Kingdom of Belgium,
the Czech Republic, the Republic of
Estonia, the Kingdom of Spain, the
French Republic, the Italian Republic, the
Grand Duchy of Luxembourg, the Kingdom
of the Netherlands, the Republic of Austria,
the Republic of Poland, the Portuguese
Republic, the Republic of Slovenia, the
Slovak Republic and the Kingdom of
Sweden*

Amendment

3. National members may, in urgent cases and where **no** competent national authority **has been identified or it is not possible to identify it** in a timely manner, be able to authorise and coordinate controlled deliveries.

3. National members may, in urgent cases and where it is not possible to identify **a** competent national authority in a timely manner, be able to authorise and coordinate controlled deliveries. ***In such a case the national member concerned shall inform the College in writing without delay of the steps taken and the reasons for the failure to identify the competent national authority in a timely manner.***

Amendment 17

Initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden – amending act

Article 1 – point 11 – subpoint -a (new)

Decision 2002/187/JHA

Article 13, paragraph 1

*Text proposed by the Kingdom of Belgium,
the Czech Republic, the Republic of
Estonia, the Kingdom of Spain, the
French Republic, the Italian Republic, the
Grand Duchy of Luxembourg, the Kingdom
of the Netherlands, the Republic of Austria,
the Republic of Poland, the Portuguese
Republic, the Republic of Slovenia, the
Slovak Republic and the Kingdom of
Sweden*

Amendment

(-a) paragraph 1 shall be replaced by the following:

1. The competent authorities of the Member States may exchange with Eurojust any information necessary for the performance of its tasks in accordance with *Articles 4 and 5 in accordance with the rules on data protection set out in this Decision.*

Amendment 18

Initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden – amending act

Article 1 – point 11 – subpoint (b)

Decision 2002/187/JHA

Article 13, paragraph 5

Text proposed by the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden

Amendment

5. Member States shall ensure that their national member is informed in a timely manner, at an early stage, and as soon as the information is available of ***all criminal investigations*** concerning three or more States, ***two or more of which are Member States, that fall within the remit of Eurojust and insofar as necessary for the performance of Eurojust's functions, in particular where parallel letters rogatory are needed in several States or where there is a need for coordination by Eurojust or in cases of positive or negative conflicts of jurisdiction. The Member States shall ensure that the obligation to report is supervised at national level.***

5. Member States shall ensure that their national member is informed in a timely manner, at an early stage, and as soon as the information is available of ***any case directly*** concerning three or more ***Member States and for which requests for or decisions on judicial cooperation, including regarding instruments giving effect to the principle of mutual recognition, have been transmitted to at least two Member States.***

Amendment 19

Initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden – amending act

Article 1 – point 11 – subpoint (b)

Decision 2002/187/JHA

Article 13, paragraph 6

*Text proposed by the Kingdom of Belgium,
the Czech Republic, the Republic of
Estonia, the Kingdom of Spain, the
French Republic, the Italian Republic, the
Grand Duchy of Luxembourg, the Kingdom
of the Netherlands, the Republic of Austria,
the Republic of Poland, the Portuguese
Republic, the Republic of Slovenia, the
Slovak Republic and the Kingdom of
Sweden*

Amendment

6. As a first step, Member States shall implement paragraph 5 with regard to cases relating to the following offences:

- (a) trafficking in drugs;
- (b) trafficking in human beings and arms;
- (c) trafficking in nuclear waste;
- (d) trafficking in works of art;
- (e) trading in endangered species;
- (f) trading in human organs;
- (g) money laundering;
- (h) fraud, including fraud against the Community's financial interests;
- (i) counterfeiting, including of the euro;
- (j) terrorism, including financing of terrorism;
- (k) environmental crime;
- (l) other forms of **organised crime**.

6. As a first step, Member States shall implement paragraph 5 with regard to cases relating to the following offences:

- (a) trafficking in drugs;
- (aa) sexual exploitation of children and child pornography;**
- (b) trafficking in human beings and arms;
- (c) trafficking in nuclear waste;
- (d) trafficking in works of art;
- (e) trading in endangered species;
- (f) trading in human organs;
- (g) money laundering;
- (h) fraud, including fraud against the Community's financial interests;
- (i) counterfeiting, including of the euro;
- (j) terrorism, including financing of terrorism;
- (k) environmental crime;
- (l) other forms of **offences where there are**

factual indications that a criminal organisation is involved.

Amendment 20

Initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden – amending act

Article 1 – point 11 – subpoint (b)

Decision 2002/187/JHA

Article 13, paragraph 8

Text proposed by the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden

Amendment

8. Member States shall ensure that their national member is also informed of:

(a) all requests for judicial cooperation regarding instruments adopted under Title VI of the Treaty, including instruments giving effect to the principle of mutual recognition, sent by their competent authorities in cases involving at least three States, two or more of which are Member States;

(b) all controlled deliveries and undercover investigations affecting at least three States, at least two of which are Member States;

(c) **all** refusals of requests for judicial cooperation **regarding instruments adopted under Title VI of the Treaty**, including instruments giving effect to the principle of mutual recognition;

(d) all requests for mutual legal assistance emanating from a non-

8. Member States shall ensure that their national member is also informed of:

(a) cases where conflicts of jurisdiction have arisen or are likely to arise;

(b) all controlled deliveries and undercover investigations affecting at least three States, at least two of which are Member States;

(c) **repeated difficulties or** refusals **regarding the execution** of requests for, **and decisions on**, judicial cooperation, including instruments giving effect to the principle of mutual recognition;

Member State where it appears that these requests are part of an investigation involving other requests sent by that non-Member State to, at least, two other Member States.

Amendment 21

Initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden – amending act

Article 1 – point 11 – subpoint (b)

Decision 2002/187/JHA

Article 13, paragraph 9

*Text proposed by the Kingdom of Belgium,
the Czech Republic, the Republic of
Estonia, the Kingdom of Spain, the
French Republic, the Italian Republic, the
Grand Duchy of Luxembourg, the Kingdom
of the Netherlands, the Republic of Austria,
the Republic of Poland, the Portuguese
Republic, the Republic of Slovenia, the
Slovak Republic and the Kingdom of
Sweden*

Amendment

9. In addition, competent authorities shall provide the latter with any other information which the latter deems necessary to fulfil its tasks. *deleted*

Amendment 22

Initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden – amending act

Article 1 – point 11 – subpoint (b)

Decision 2002/187/JHA

Article 13, paragraph 11 a (new)

*Text proposed by the Kingdom of Belgium,
the Czech Republic, the Republic of
Estonia, the Kingdom of Spain, the
French Republic, the Italian Republic, the
Grand Duchy of Luxembourg, the Kingdom
of the Netherlands, the Republic of Austria,
the Republic of Poland, the Portuguese
Republic, the Republic of Slovenia, the
Slovak Republic and the Kingdom of
Sweden*

Amendment

11a. By ...^{*}, the Commission shall establish, on the basis of information transmitted by Eurojust, a report on the implementation of this Article, accompanied where appropriate by any proposal, including proposals considering the addition of offences other than the ones referred to in paragraph 6.

**** Three years after the entry into force of this Decision.***

Amendment 23

Initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden – amending act

Article 1 – point 13

Decision 2002/187/JHA

Article 14, paragraph 4 and Article 16, paragraph 1

*Text proposed by the Kingdom of Belgium,
the Czech Republic, the Republic of
Estonia, the Kingdom of Spain, the
French Republic, the Italian Republic, the
Grand Duchy of Luxembourg, the Kingdom
of the Netherlands, the Republic of Austria,
the Republic of Poland, the Portuguese
Republic, the Republic of Slovenia, the
Slovak Republic and the Kingdom of
Sweden*

Amendment

13) in Articles 14(4) and 16(1), the words "an index of" shall be replaced by "a Case Management System containing *deleted*

Justification

There is a huge confusion which needs to be clarified between INDEX and CMS. This is not a matter of mere terminology but of content. INDEX has been replaced by CASE MANAGEMENT SYSTEM and the wording of the Decision must go back to INDEX.

Amendment 24

Initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden – amending act

Article 1 – point 14

Decision 2002/187/JHA

Article 15, paragraph 4 and Article 16, paragraphs 1 and 2

*Text proposed by the Kingdom of Belgium,
the Czech Republic, the Republic of
Estonia, the Kingdom of Spain, the
French Republic, the Italian Republic, the
Grand Duchy of Luxembourg, the Kingdom
of the Netherlands, the Republic of Austria,
the Republic of Poland, the Portuguese
Republic, the Republic of Slovenia, the
Slovak Republic and the Kingdom of
Sweden*

Amendment

14) in Articles 15(4), 16(1) and 16(2), the word "index" shall be replaced by "Case Management System" and the words "an index" in Article 16(1) by "a Case Management System"; *deleted*

Justification

There is a huge confusion which needs to be clarified between INDEX and CMS. This is not a matter of mere terminology but of content. INDEX has been replaced by CASE MANAGEMENT SYSTEM and the wording of the Decision must go back to INDEX.

Amendment 25

Initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden – amending act

Article 1 – point 15 – point (a) – subpoint (i)

Decision 2002/187/JHA

Article 15 – paragraph 1 – introductory part

*Text proposed by the Kingdom of Belgium,
the Czech Republic, the Republic of
Estonia, the Kingdom of Spain, the
French Republic, the Italian Republic, the
Grand Duchy of Luxembourg, the Kingdom
of the Netherlands, the Republic of Austria,
the Republic of Poland, the Portuguese
Republic, the Republic of Slovenia, the
Slovak Republic and the Kingdom of
Sweden*

Amendment

1. When processing data in accordance with Article 14(1), Eurojust may process personal data on persons who, under the national legislation of the Member States concerned, are the subject of a criminal investigation or prosecution for one or more of the types of crime and the offences defined in Article 4, **such as**:

1. When processing data in accordance with Article 14(1), Eurojust may process **only the following** personal data on persons who, under the national legislation of the Member States concerned, are the subject of a criminal investigation or prosecution for one or more of the types of crime and the offences defined in Article 4:

Justification

The aim of the Amendment is to clarify that only this personal data referred to in the first paragraph of this Article could be processed only on persons who are the subject of criminal investigation. The deletion of “only” as in the Council’s amendment may lead to confusion on both the data and the persons referred to (i.e. witnesses or victims).

Amendment 26

Initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden – amending act

Article 1 – point 15 – point (a) – subpoint (ii)

Decision 2002/187/JHA

Article 15 – paragraph 1 – point 1

*Text proposed by the Kingdom of Belgium,
the Czech Republic, the Republic of
Estonia, the Kingdom of Spain, the
French Republic, the Italian Republic, the
Grand Duchy of Luxembourg, the Kingdom
of the Netherlands, the Republic of Austria,
the Republic of Poland, the Portuguese
Republic, the Republic of Slovenia, the
Slovak Republic and the Kingdom of
Sweden*

Amendment

(l) telephone numbers, vehicle registration data, e-mail accounts, phone and e-mail traffic related data, DNA records and photographs.

(l) DNA identification patterns, i.e. a letter or a number code which represents a set of identification characteristics of the non-coding part of an analysed human DNA sample, i.e. the particular chemical form of the various DNA locations (loci);

(la) photographs;

(lb) telephone numbers;

(lc) telephone and e-mail traffic related data excluding the transmission of content data;

(ld) e-mail accounts;

(le) vehicle registration data.

Amendment 27

Initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden – amending act

Article 1 – point 15 – point (b)

Decision 2002/187/JHA

Article 15 – paragraph 2

*Text proposed by the Kingdom of Belgium,
the Czech Republic, the Republic of
Estonia, the Kingdom of Spain, the
French Republic, the Italian Republic, the
Grand Duchy of Luxembourg, the Kingdom
of the Netherlands, the Republic of Austria,
the Republic of Poland, the Portuguese
Republic, the Republic of Slovenia, the
Slovak Republic and the Kingdom of
Sweden*

Amendment

(b) in paragraph 2, the word "only" shall be deleted; *deleted*

Justification

The aim of the Amendment (maintenance of the word `only`) is to clarify that only this personal data referred to in the second paragraph of this Article could be processed only on persons who are witnesses or victims in a criminal investigation or a prosecution. No other data could be processed.

Amendment 28

Initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden – amending act

Article 1 – point 17 a (new)

Decision 2002/187/JHA

Article 23 – paragraph 12

*Text proposed by the Kingdom of Belgium,
the Czech Republic, the Republic of
Estonia, the Kingdom of Spain, the
French Republic, the Italian Republic, the
Grand Duchy of Luxembourg, the Kingdom
of the Netherlands, the Republic of Austria,
the Republic of Poland, the Portuguese
Republic, the Republic of Slovenia, the
Slovak Republic and the Kingdom of
Sweden*

Amendment

**17a) Article 23(12) shall be replaced by
the following:**

**"12. The Joint Supervisory Body shall
submit an annual report to the European
Parliament and the Council."**

Justification

The European Parliament must be involved in exercising its role as a supervisor even before this will be mandatory under the Lisbon Treaty. Nothing in the current community legislation opposes to such power.

Amendment 29

Initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden – amending act

Article 1 – point 18 – point (a)

Decision 2002/187/JHA

Article 26 – paragraph 1a

*Text proposed by the Kingdom of Belgium,
the Czech Republic, the Republic of
Estonia, the Kingdom of Spain, the
French Republic, the Italian Republic, the
Grand Duchy of Luxembourg, the Kingdom
of the Netherlands, the Republic of Austria,
the Republic of Poland, the Portuguese
Republic, the Republic of Slovenia, the
Slovak Republic and the Kingdom of
Sweden*

Amendment

1a. Member States shall ensure that the

1a. Member States shall ensure that the

College may actually be able to open a Europol Analytical Work File and that it may participate in its functioning.

College may actually be able to open a Europol Analytical Work File, *as referred to in Article 10 of the Convention based on Article K.3 of the Treaty on European Union on the establishment of a European Police Office (Europol Convention)*¹ and that it may participate in its functioning.

¹ OJ C 316, 27.11.1955, p. 2. Convention as last amended by Protocol of 27 November (OJ C 2, 6.1.2004, p. 3)

Justification

There is not any reference in the Eurojust Decision what is meant by Analytical Work File. In order to clarify it, it is proposed to insert a reference to the Europol Convention. The reference shall be replaced by the reference to the Council Decision on establishing the European Police Office as soon as it is adopted by the Council.

Amendment 30

Initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden – amending act

Article 1 – point 18 – subpoint b

Decision 2002/187/JHA

Article 26 – paragraph 2 – point b

Text proposed by the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden

Amendment

(b) without prejudice to Article 13 of this Decision and in accordance with **Article 4(4)** of Decision .../.../JHA, the contact points of the European Judicial Network shall, on a case-by-case basis, inform Eurojust on cases **involving two Member**

(b) without prejudice to Article 13 of this Decision and in accordance with **Article 4** of Decision .../.../JHA, the contact points of the European Judicial Network shall, on a case-by-case basis, inform **their national member of Eurojust of all other cases with**

States and entering the field of competence of Eurojust:

– in cases where conflicts of jurisdiction are likely to arise,

or

– in cases of a refusal of a request for judicial cooperation regarding instruments adopted under Title VI of the Treaty, including instruments giving effect to the principle of mutual recognition.

The contact points of the European Judicial Network shall, also on a case-by-case basis, inform Eurojust on all cases entering the field of competence of Eurojust and involving at least three Member States.

National members shall, on a case-by-case basis, inform European Judicial Network *contact points* on all cases with which the network is deemed to be in a better position to deal;

which Eurojust is deemed to be in a better position to deal.

National members shall, on a case-by-case basis, inform *their respective national correspondents of the* European Judicial Network of all cases with which the Network is deemed to be in a better position to deal.

Amendment 31

Initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden – amending act

Article 1 – point 19 a (new)

Decision 2002/187/JHA

Article 27 – paragraph 4

*Text proposed by the Kingdom of Belgium,
the Czech Republic, the Republic of
Estonia, the Kingdom of Spain, the
French Republic, the Italian Republic, the
Grand Duchy of Luxembourg, the Kingdom
of the Netherlands, the Republic of Austria,
the Republic of Poland, the Portuguese
Republic, the Republic of Slovenia, the
Slovak Republic and the Kingdom of
Sweden*

Amendment

19a) Article 27(4) shall be replaced by the following:

"Without prejudice to paragraph 3, the transmission of personal data by Eurojust to the entities referred to in paragraph 1(b) and to the authorities referred to in paragraph 1(c) of third States which are not subject to the Council of Europe Convention of 28 January 1981 may be effected only when an adequate level of data protection is ensured which is assessed in accordance with Article 28(3) of Rules of Procedure on the processing and protection of personal data at Eurojust."

Justification

It is important to clarify how adequacy of data protection level could be assessed and not to leave to third parties and organisations to decide upon that on a case-by-base basis. In this respect a reference to Eurojust Rules of procedure on the processing and protection of personal data should be made.

Amendment 32

Initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden – amending act

Article 1 – point 19 b (new)

Decision 2002/187/JHA

Article 27 – paragraph 5 a (new)

*Text proposed by the Kingdom of Belgium,
the Czech Republic, the Republic of
Estonia, the Kingdom of Spain, the
French Republic, the Italian Republic, the
Grand Duchy of Luxembourg, the Kingdom
of the Netherlands, the Republic of Austria,
the Republic of Poland, the Portuguese
Republic, the Republic of Slovenia, the
Slovak Republic and the Kingdom of
Sweden*

Amendment

***19b) in Article 27 the following paragraph
shall be inserted after paragraph 5:***

***"5a. Once every two years the Joint
Supervisory Body, together with the
respective third State or entity referred to
in paragraph 1(b) and (c), shall evaluate
the implementation of the provisions of
the relevant cooperation agreement
relating to the protection of the data
exchanged. The report on this evaluation
shall be sent to the European Parliament,
the Council and the Commission."***

Justification

Despite the fact that there are data protection provisions included in cooperation agreements with partners, it is not yet clear what happens afterwards to the information transmitted to partners (international organisations and bodies and third countries). Therefore, the aim of the Amendment is to ensure that once in two years evaluation is done. This is the minimum that Eurojust can do to ensure that its own standards on data protection would be respected by its partners.

Amendment 33

Initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden – amending act

Article 1 – point 22 – indent 1 a (new)

Decision 2002/187/JHA

Article 32 – paragraph 1 – subparagraph 1

*Text proposed by the Kingdom of Belgium,
the Czech Republic, the Republic of
Estonia, the Kingdom of Spain, the
French Republic, the Italian Republic, the
Grand Duchy of Luxembourg, the Kingdom
of the Netherlands, the Republic of Austria,
the Republic of Poland, the Portuguese
Republic, the Republic of Slovenia, the
Slovak Republic and the Kingdom of
Sweden*

Amendment

*– the first subparagraph of paragraph 1
shall be replaced by the following:*

**"The President, on behalf of the College,
shall report every year to the European
Parliament and the Council in writing
[...] on the activities and management,
including budgetary management, of
Eurojust."**

Justification

It is important to give possibility to MEPs to debate on activities of Eurojust, including putting questions to the President of Eurojust. Therefore, it should be pointed out that the Eurojust report should be presented to the European Parliament (not only sent in writing).

Amendment 34

Initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden – amending act

Article 1 – point 22 – indent 1 b (new)

Decision 2002/187/JHA

Article 32 – paragraph 1 – subparagraph 2

*Text proposed by the Kingdom of Belgium,
the Czech Republic, the Republic of
Estonia, the Kingdom of Spain, the
French Republic, the Italian Republic, the
Grand Duchy of Luxembourg, the Kingdom
of the Netherlands, the Republic of Austria,
the Republic of Poland, the Portuguese
Republic, the Republic of Slovenia, the
Slovak Republic and the Kingdom of
Sweden*

Amendment

***– the second subparagraph of paragraph
1 shall be replaced by the following:***

***"To that end, the College shall prepare
an annual report on the activities of
Eurojust and on any criminal policy
problems within the Union highlighted
as a result of Eurojust's activities. In
that report, Eurojust shall also include
analyses of situations when national
members have used their powers as
referred to in Article 5a(3) and in Article
9a(3). The report may also make
proposals for the improvement of
judicial cooperation in criminal
matters."***

Justification

The task of Eurojust is to coordinate cooperation of national competent authorities. Only in urgent cases it is acceptable that national members of Eurojust exercise their judicial powers. Therefore, it is important to reflect the data in annual report how often and why national members have used their judicial power (why they could not identify competent national authority in timely manner).

Amendment 35

Initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden – amending act

Article 1 – point 22 – indent 1 c (new)

Decision 2002/187/JHA

Article 32 – paragraph 2

*Text proposed by the Kingdom of Belgium,
the Czech Republic, the Republic of
Estonia, the Kingdom of Spain, the
French Republic, the Italian Republic, the
Grand Duchy of Luxembourg, the Kingdom
of the Netherlands, the Republic of Austria,
the Republic of Poland, the Portuguese
Republic, the Republic of Slovenia, the
Slovak Republic and the Kingdom of
Sweden*

Amendment

***– paragraph 2 shall be replaced by the
following:***

***"2. Each year the representative of the
Joint Supervisory Body shall report to the
European Parliament on its activities
[...]."***

Justification

Activities of Eurojust imply a big amount of data processed. Therefore, it is of utmost importance to ensure that personal data is protected. The Joint Supervisory Body is a body which is responsible for ensuring that the processing of personal data is carried out in accordance with Eurojust data protection rules. In order to guarantee effective democratic control, the European Parliament should be fully informed about activities of the Joint Supervisory Body.

Amendment 36

Initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden – amending act

Article 1 – point 26

Decision 2002/187/JHA

Article 42 – paragraph 2

*Text proposed by the Kingdom of Belgium,
the Czech Republic, the Republic of
Estonia, the Kingdom of Spain, the
French Republic, the Italian Republic, the
Grand Duchy of Luxembourg, the Kingdom
of the Netherlands, the Republic of Austria,
the Republic of Poland, the Portuguese
Republic, the Republic of Slovenia, the
Slovak Republic and the Kingdom of
Sweden*

Amendment

2. The Commission shall at regular intervals examine the implementation by the Member States of this Decision and shall submit a report thereon to the Council together with, if appropriate, necessary proposals to improve judicial cooperation and the functioning of Eurojust. This shall in particular apply to Eurojust's capacities to support Member States in fighting terrorism

2. The Commission shall at regular intervals examine the implementation by the Member States of this Decision and shall submit a report thereon to ***the European Parliament and*** the Council together with, if appropriate, necessary proposals to improve judicial cooperation and the functioning of Eurojust. This shall in particular apply to Eurojust's capacities to support Member States in fighting terrorism

Justification

Even if the European Parliament is only consulted (at the moment before the entry into force of Lisbon Treaty), it is important to provide the Parliament with information in order to enable it to effectively supervise democratic control over EU institutions and bodies.

EXPLANATORY STATEMENT

After 5 years of being in operation, Eurojust has proven its necessity in the field of judicial cooperation on criminal matters. However, taking into account increase of mobility, globalisation effects on cross-border crimes, as well as changes in the way judicial cooperation is taking place, it is the moment where there is a need to modify Eurojust Decision which was adopted in 2002.

In this regard 14 Member States have come with an initiative for amending the Eurojust Decision of 28 February 2002. The main objective of the proposal is to reinforce the role and capacities of Eurojust. It should be emphasized that the proposal broadly reflects (or formalises) current practices already existing at Eurojust.

I Main points of the proposal:

1. Establishment of emergency cell for coordination

The role of Eurojust as a coordination unit demands availability for 24/7. In order to meet this requirement, it is proposed to establish an emergency unit which should be available on permanent basis. The main task of this cell is to mobilise members of Eurojust at all times.

2. Increase of tasks of Eurojust acting as a College

It is proposed to extend formal intervention of College to various deadlock situations in which the national authorities concerned or the national members cannot reach agreement.

3. Creation of common basis of equivalent judicial powers for national members.

This is one of the most important issues in the proposal. It is crucial for efficient operation of Eurojust to have minimum common basis of equivalent judicial powers for all national members when they are acting as a national authority of its Member State.

4. Establishment of Eurojust national coordination system

It is proposed to set up Eurojust national coordination system in each Member State in order to create a link at national level between Eurojust, the European Judicial Network and various European networks active in this field. Timely and structured information is crucial for efficient work of Eurojust. Therefore, another task of Eurojust national coordination system is to make it easier at national level to supply Eurojust with information on criminal investigations.

5. Reinforcement of transmission of information

As it was mentioned in the previous point, timely and structured information is basis for efficient operation of Eurojust. Current situation does not oblige national authorities to transmit information to Eurojust on their own initiative. Therefore, now it is proposed to have a general obligation to pass information to Eurojust which is necessary for the performance of Eurojust's functions. Requirement is inserted in the proposal to have procedures at national level to supervise compliance with this obligation.

6. Relations with European Judicial Network.

It is proposed to maintain the two structures and to improve their relationship based on the

principle of cooperation and complementarity. The proposal reinforces EJM's budgetary position, it contains also obligation to exchange information. Moreover, creation of Eurojust national coordination system would facilitate collaboration and direct the national authorities towards either Eurojust or the EJM depending on the specific characteristics of the respective case.

7. Clarifies and reinforces Eurojust relations with other partners

The proposal strengthens relations with Europol and the EJM and creates links with other European agencies and international agencies, such as FRONTEX, SitCEN, Interpol and World Customs Organisation.

8. Cooperation with third countries

The proposal reinforces the role of Eurojust towards third countries by introducing a new element, that is to say, the possibility for Eurojust to second liaison magistrates to countries with which it is developing specific cooperation. Another new element is the possibility for Eurojust to execute requests received from third countries directly. However, this is possible only if relevant international rules provide for that. Currently there is no such a possibility.

II Rapporteur's position

The rapporteur supports the necessity and the aim of the proposal to reinforce the role and capacities of Eurojust. However, there are several issues that should be thoroughly examined and addressed in order to properly balance the powers of Eurojust and of the national members in one hand, and the right to defence and to a fair trial of the defendants in the other hand.

According to the rapporteur, it is of utmost importance to ensure an adequate level of personal data protection in activities of Eurojust. The rapporteur is aware of a strong data protection system established at Eurojust. However, Eurojust in its operation deals with great amount of personal data. Therefore reinforced attention should be paid to issues of data protection. Several amendments propose additional safeguards to data protection at Eurojust. It is important to maintain closed lists of data (on persons who are the subjects of a criminal investigation) and data which should be allowed being processed by Eurojust. Furthermore, the rapporteur is concerned about data transmitted to third countries and international organisations. Despite the fact that data can be transmitted only on the basis of agreements signed by both parties which are checked by data protection specialists, it is not known what is happening in reality with this data when they are transmitted and if relevant agreements are really or adequately implemented. Therefore, the rapporteur proposes to introduce an evaluation mechanism.

The rapporteur supports creation of common basis of equivalent judicial powers for national members. However, it should be emphasized that the basic role of the Eurojust is to coordinate judicial cooperation. Therefore, there are several amendments introduced which deal with situations when national members have used their judicial powers in urgent cases. In order not to make abuse of their powers, it is proposed to introduce a system of after-reporting where it should be explained why a national member could not identify a competent national authority in timely manner. This data should be also included in annual reports of Eurojust.

Moreover, according to the rapporteur, it is not possible that a national member in general cannot identify a competent authority. Therefore, this ground for giving national members competence to act in urgent cases should be deleted.

Several amendments are proposed to increase a level of protection of procedural rights, such as right to defence, right to be informed and right to judicial redress.

The rapporteur is also concerned with the fact that there is no reference to the European Parliament in the Council's amendments, although in the future, as the Lisbon Treaty specifically refers to in Article 69h, the Parliament will have co-decision powers on this matter and will play an important supervisory role on Eurojust activity. Therefore, the rapporteur considers that even at this stage, before the entry into force of the Lisbon Treaty, the role of the European Parliament should be increased in controlling activities of Eurojust. Therefore, it is important that information on operation of Eurojust is not only sent to the European Parliament, but there is a representative coming in person, thus allowing Members of the European Parliament to ask questions and to have a debate. Moreover, the European Parliament should be more involved in data protection issues and should receive reports prepared by the Joint Supervisory Body of Eurojust.

PROCEDURE

Title	Strengthening of Eurojust and amendment of Decision 2002/187/JHA		
References	05613/2008 – C6-0076/2008 – 2008/0804(CNS)		
Date of consulting Parliament	18.2.2008		
Committee responsible Date announced in plenary	LIBE 21.2.2008		
Rapporteur(s) Date appointed	Renate Weber 27.2.2008		
Discussed in committee	27.2.2008	8.4.2008	24.6.2008
Date adopted	24.6.2008		
Result of final vote	+: 34	–: 0	0: 9
Members present for the final vote	Alexander Alvaro, Emine Bozkurt, Mihael Brejc, Kathalijne Maria Buitenweg, Michael Cashman, Giusto Catania, Jean-Marie Cavada, Carlos Coelho, Esther De Lange, Panayiotis Demetriou, Gérard Deprez, Agustín Díaz de Mera García Consuegra, Armando França, Urszula Gacek, Kinga Gál, Patrick Gaubert, Roland Gewalt, Jeanine Hennis-Plasschaert, Livia Járóka, Ewa Klamt, Magda Kósáné Kovács, Stavros Lambrinidis, Henrik Lax, Roselyne Lefrançois, Baroness Sarah Ludford, Claude Moraes, Javier Moreno Sánchez, Rareş-Lucian Niculescu, Martine Roure, Inger Segelström, Vladimir Urutchev, Ioannis Varvitsiotis, Manfred Weber, Renate Weber, Tatjana Ždanoka		
Substitute(s) present for the final vote	Edit Bauer, Evelyne Gebhardt, Ignasi Guardans Cambó, Sophia in 't Veld, Ona Juknevičienė, Sylvia-Yvonne Kaufmann, Nicolae Vlad Popa, Johannes Voggenhuber		