



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 19 October 2001 (23.10)
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REV 1**

EUROJUST 12

NOTE

from : General Secretariat of the Council
to : Delegations

No. prev. doc. : 11685/4/01 EUROJUST 11 REV 4

Subject : Draft Council Decision setting up Eurojust

With a view to informing the European Parliament, delegations will find attached the text, drawn up by the Council General Secretariat, of the draft Council Decision setting up EUROJUST as it stands at the present time.

The work has taken account of the Opinion of the European Parliament (report of 27 April 2001 – A5-0153/2001) adopted on 17 May 2001.

COUNCIL DECISION 2000/ /JHA

of

setting up Eurojust

with a view to reinforcing the fight against serious organised crime

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to Title VI of the Treaty on European Union, and in particular Article 31 and Article 34(2)(c) thereof,

Having regard to the initiative of the Federal Republic of Germany, and also to that of the Portuguese Republic, the French Republic, the Kingdom of Sweden and the Kingdom of Belgium,

Having regard to the Opinion of the European Parliament,

Whereas ¹:

- (1) The conclusions of the European Council in Tampere on 15 and 16 October 1999, in particular paragraph 46 thereof, concern the setting up of a unit (Eurojust) composed of prosecutors, magistrates, or police officers of equivalent competence, to reinforce the fight against serious organised crime.
- (2) It is necessary and urgent to improve judicial cooperation between the Member States of the European Union further, in particular in combating forms of serious crime often perpetrated by transnational organisations.

¹ The preamble will have to be revised in the light of the outcome of the discussions.

- (3) The effective improvement of judicial cooperation between the Member States requires the immediate adoption of structural measures at European Union level to facilitate the coordination of action for investigations and prosecutions covering the territory of more than one Member State.
- (3a) In order to ensure harmonious cooperation in the various activities pursued by the Union and having regard to Article 29 and Article 36(2) TEU, the Commission should be fully involved in Eurojust's proceedings concerning general questions and questions coming within its purview.
- (4) It is desirable for Eurojust and Europol to establish and maintain close cooperation.
- (5) This Decision is without prejudice to existing conventions and agreements, in particular the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959, and also the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union adopted by the Council on 29 May 2000.
- (6) Whereas the competent authorities of the Member States should be able to exchange information with Eurojust.
- (7) Whereas in specific cases the competent authorities of the Member States should have a certain margin of appreciation in respect of the information to be submitted to Eurojust,

HAS DECIDED AS FOLLOWS:

Article 1
Establishment

The purpose of this Decision is to establish a unit, hereinafter referred to as Eurojust.

Article 2
Composition

1. Eurojust shall be composed of one national member seconded by each Member State in accordance with its legal system, being a prosecutor, judge or police officer of equivalent competence.
2. Each national member may be assisted by one person. If necessary and with the agreement of the College, several persons may assist the national member. One of these assistants may replace the national member.

Article 3

[...]

Article 4

Objectives

1. In the context of investigations and prosecutions, concerning two or more Member States, of criminal behaviour provided for in Article 5 in relation to serious crime, particularly when it is organised, the objectives of Eurojust shall be:
 - (a) to stimulate and improve the coordination, between the competent national authorities, of investigations and prosecutions in the Member States, taking into account any request emanating from a competent national authority and any information provided by any body competent by virtue of provisions adopted within the framework of the Treaties;
 - (b) to improve cooperation between the competent national authorities of the Member States, in particular by facilitating the execution of international mutual legal assistance and the implementation of extradition requests;
 - (c) to support otherwise the competent authorities of the Member States in order to render their investigations and prosecutions more effective.

2. In accordance with the rules laid down in this Decision and at the request of a Member State's competent authority, Eurojust may also assist investigations and prosecutions concerning only that Member State and a non-member State where an agreement establishing cooperation pursuant to Article 16b has been concluded with that State or where in a specific case there is an essential interest in providing the assistance of Eurojust.

3. In accordance with the rules laid down in this Decision and at the request either of a Member State's competent authority or of the Commission, Eurojust may also assist investigations and prosecutions concerning only that Member State and the Community.

Article 5

Competence

1. The general competence of Eurojust shall cover:
 - (a) the types of crime and the offences in respect of which Europol is at all times competent to act pursuant to Article 2 of the Europol Convention of 26 July 1995;
 - (b) the following types of crime:
 - computer crime;
 - fraud and corruption and any criminal offence affecting the European Communities' financial interests;
 - the laundering of the proceeds of crime;
 - environmental crime;
 - participation in a criminal organisation within the meaning of the Joint Action of 21 December 1998 (98/733/JHA);

- (c) other offences committed together with the offences referred to in this paragraph.
2. For types of offences other than those mentioned in paragraph 1, Eurojust may additionally, in accordance with the objectives laid down in Article 4, assist in investigations and prosecutions at the request of a competent national authority.

Article 6

Tasks of Eurojust

1. In order to accomplish its objectives, as referred to in Article 4, Eurojust shall fulfil its tasks:
- (a) through one or more of the national members concerned in accordance with Article 6a
 - or
 - (b) as a College in accordance with Article 6b:
 - (i) when so requested by one or more of the national members concerned by a case dealt with by Eurojust
 - or
 - (ii) when the case involves investigations or prosecutions which have repercussions at European Union level or which might affect Member States other than those directly concerned
 - or
 - (iii) when a general question relating to the achievement of its objectives is involved
 - or
 - (iv) when otherwise provided for in this Decision.
2. When it fulfils the tasks provided for in paragraph 1, Eurojust shall indicate whether it is acting through one or more of the national members within the meaning of Article 6a or as a College within the meaning of Article 6b.

Article 6a

Tasks of Eurojust acting through its national members

When acting through its national members concerned, Eurojust:

- (a) may ask the competent authorities of the Member States concerned to consider:
 - (i) undertaking an investigation or prosecuting specific acts;
 - (ii) accepting that one of them may be in a better position to undertake an investigation or to prosecute specific acts;
 - (iii) coordinating between the competent authorities of the Member States concerned;
 - (iv) setting up a joint investigation team in keeping with the relevant cooperation instruments;
 - (v) providing any information that is necessary for Eurojust to carry out its tasks;
- (b) shall ensure that the competent authorities of the Member States inform each other on investigations and prosecutions of which Eurojust has been informed and which affect Member States;
- (c) (...)
- (d) shall assist the competent authorities of the Member States, at their request, in ensuring the best possible coordination of investigations and prosecutions;
- (e) shall give assistance in order to improve cooperation between the competent national authorities;
- (f) shall cooperate and consult with the European Judicial Network, which shall include making use of and contributing to the improvement of its documentary database;
- (g) in the cases referred to Article 4(2) and (3) and with the agreement of the College, shall assist investigations and prosecutions concerning only one Member State;

- (h) in accordance with the objectives laid down in Article 4 and within the framework of Article 5(1), in order to improve cooperation and coordination between competent national authorities, may forward requests for judicial assistance when they:
- (i) are made by a Member State's competent national authority;
 - (ii) concern an investigation or prosecution conducted by that authority in a specific case; and
 - (iii) necessitate intervention by Eurojust with a view to coordinated action.

Article 6b

Tasks of Eurojust acting through the College

When acting as a College, Eurojust:

- (a) may in relation to offences referred to in Article 5(1) ask the competent authorities of the Member States concerned, giving its reasons:
 - (i) to undertake an investigation or to prosecute specific acts;
 - (ii) to accept that one of them may be in a better position to undertake an investigation or to prosecute specific acts;
 - (iii) to coordinate between the competent authorities of the Member States concerned;
 - (iv) to set up a joint investigation team in keeping with the relevant cooperation instruments;
 - (v) to provide any information that is necessary for Eurojust to carry out its tasks;

- (b) shall ensure that the competent authorities of the Member States inform each other of investigations and prosecutions of which Eurojust has been informed and which have repercussions at European Union level or which might affect Member States other than those directly concerned;
- (c) (...)
- (d) shall assist the competent authorities of the Member States, at their request, in ensuring the best possible coordination of investigations and prosecutions;
- (e) shall give assistance in order to improve cooperation between the competent national authorities, in particular on the basis of Europol's analysis;
- (f) shall cooperate and consult with the European Judicial Network, which shall include making use of and contributing to the improvement of its documentary database;
- (g) may assist Europol, in particular by providing it with opinions based on analyses carried out by Europol;
- (h) (...)
- (i) may supply logistical support in the cases referred to in points (a), (d) and (e) above. Such logistical support may include assistance for translation, interpretation and the organisation of coordination meetings.

Article 6c

Reasons

If the authorities of the competent Member State decide not to comply with a request as set out in Article 6b(a), they shall inform Eurojust of their decision and of the reasons for it unless, in the cases referred to in Article 6b(a)(i), (ii) and (v), they are unable to give their reasons because:

- (i) to do so would harm essential national security interests,
- or
- (ii) to do so would jeopardise the success of investigations under way or the safety of individuals.

Article 7

National members

1. National members shall be subject to the national law of their Member State of origin as regards their status. The length of a national member's term of office shall be determined by the Member State of origin; it must allow Eurojust to operate properly.
2. All information exchanged between Eurojust and Member States, including requests made within the framework of Article 6a(a), shall be directed through the national member.

3. Each Member State shall define the nature and extent of the judicial powers it grants its national member within its own territory. It shall also define the right for a national member to act in relation to foreign judicial authorities, in accordance with its international commitments. When appointing its national member and at any other time if appropriate, the Member State shall notify Eurojust and the Council General Secretariat of its decision so that the latter can inform the Member States. The other Member States shall undertake to accept and recognise the prerogatives thus conferred insofar as they are in conformity with international commitments.
4. In order to meet Eurojust's objectives, a national member shall be able to consult the information contained in the national criminal records or in any other register in the same way as stipulated by its national law in the case of a prosecutor, judge or police officer of equivalent competence.
5. A national member may contact the competent authorities of his Member State directly.
6. In the performance of his tasks a national member shall, where appropriate, make it known that he is acting in accordance with the judicial powers granted to him under paragraph 3.

Article 7a

College

1. The College shall consist of all the national members. Each national member shall have one vote.
2. After consulting the joint supervisory body provided for in Article 15a, the Council shall approve the rules of procedure of Eurojust on a proposal from the College that has previously been unanimously adopted by the latter.

3. When acting in accordance with Article 6b(a), the College shall take its decisions by a two-thirds majority. Other decisions of the College shall be taken in accordance with the provisions laid down in the rules of procedure.

Article 7b

Role of the Commission

1. The Commission shall be fully involved in the work of Eurojust, in accordance with Article 36(2) of the Treaty. It shall participate in that work in those areas within its competence.
2. As regards work carried out by Eurojust on the coordination of investigations and prosecutions, the Commission may be invited to provide its expertise.
3. For the purpose of enhancing cooperation between Eurojust and the Commission, Eurojust may agree on the necessary practical arrangements with the Commission.

Article 8

National correspondents

1. Each Member State may put in place or appoint one or more national correspondents. It shall be a matter of high priority to put in place or appoint such a correspondent for terrorism matters. Relations between the national correspondent and the competent national authorities shall be governed by national law. A national correspondent shall have his place of work in the Member State which appointed him.

2. Where a Member State appoints a national correspondent, he may be a contact point of the European Judicial Network.
3. Relations between the national member and the national correspondent shall not preclude direct relations between the national member and his competent national authorities.

Article 9

Exchanges of information with the Member States

1. The competent authorities of the Member States may exchange with Eurojust any information necessary for the performance of its tasks in accordance with Article 6.
2. [...] The national members of Eurojust shall be empowered to exchange any information necessary for the performance of its tasks, without prior authorisation, among themselves or with their Member State's competent authorities.

Article 9a

(...)

Article 10

Processing of personal data

1. In so far as it is necessary to achieve its objectives as set out in Article 4, Eurojust may, within the framework of its competence under Article 5 and in order to carry out its tasks under Articles 6, 6a and 6b, process personal data, by automated means or in structured manual files.
 2. Eurojust shall take the necessary measures to guarantee a level of protection for personal data at least equivalent to that resulting from the application of the principles of the Council of Europe Convention of 28 January 1981 and subsequent amendments thereto where they are in force in the Member States.
 3. Personal data processed by Eurojust shall be adequate, relevant and not excessive in relation to the purpose of the processing, and, taking into account the information provided by the competent national authorities or other partners in accordance with Article 16, accurate and up-to-date. Personal data processed by Eurojust shall be processed fairly and lawfully.
- 3a. (...)

4. In accordance with this Decision, Eurojust shall establish an index of data relating to investigations and may establish temporary work files which also contain personal data.

Article 10a

Restrictions on the processing of personal data

1. When processing data in accordance with Article 10(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 offences as defined in Article 5:
- (i) surname, maiden name, given names and any alias or assumed names;
 - (ii) date and place of birth;
 - (iii) nationality;
 - (iv) sex;
 - (v) place of residence, profession and whereabouts of the person concerned;
 - (vi) social security numbers, driving licences, identification documents and passport data;
 - (vii) information concerning legal persons if it includes information relating to identified or identifiable individuals;
 - (viii) bank accounts and accounts with other financial institutions;
 - (ix) description and nature of the alleged offences, the date on which they were committed, the criminal category of the offences and the progress of the investigations;
 - (x) [...] the facts pointing to an international extension of the case;
 - (xi) details relating to alleged membership of a criminal organisation.

2. When processing data in accordance with Article 10(1), Eurojust may process only the following personal data on persons who, under the national legislation of the Member States concerned, are regarded as witnesses or victims in a criminal investigation or prosecution regarding one or more offences as defined in Article 5:

- (i) surname, maiden name, given names and any alias or assumed names;
- (ii) date and place of birth;
- (iii) nationality;
- (iv) sex;
- (v) the place of residence, profession and whereabouts of the person concerned;
- (vi) the description and nature of the offences involving them, the date on which they were committed, the criminal category of the offences and the progress of the investigations.

3. However, in exceptional cases, Eurojust may also, for a limited period of time, process other personal data relating to the circumstances of an offence [...] where they are immediately relevant to and included in ongoing investigations which Eurojust is helping to coordinate, provided that the processing of such specific data is in accordance with Article 10.

The Data Protection Officer shall be informed immediately of recourse to this paragraph.

Where such other data refer to witnesses or victims within the meaning of paragraph 2, the decision to process them must be taken jointly by at least two national members.

4. Personal data, processed by automated or other means, revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, and data concerning health or sex life may be processed by Eurojust only when such data are [...] necessary for the national investigations concerned as well as for coordination within Eurojust.

The Data Protection Officer shall be informed immediately of recourse to this paragraph.

Such data may not be processed in the index under Article 10b of this Decision.

Where such other data refer to witnesses or victims within the meaning of paragraph 2, the decision to process them must be taken by the College.

Article 10b

Index of data relating to investigations

1. In order to achieve its objectives, Eurojust shall maintain an automated data file constituting an index of data relating to investigations in which non-personal data and data referred to in Article 10a (1) (i) to (vi), (viii), (ix) and (xi) and (2)(i) to (vi) may be stored. This index shall contain basic data intended to:
 - (i) support the management and coordination of investigations and prosecutions which Eurojust is assisting, in particular by cross-referencing of information;
 - (ii) facilitate access to information on ongoing investigations and prosecutions;
 - (iii) facilitate the monitoring of lawfulness and compliance with the provisions of this Decision concerning the processing of personal data.

2. The index shall contain references to temporary work files processed within the framework of Eurojust.
3. In the performance of their duties under Article 6a, the members of Eurojust may process data on the individual cases on which they are working in a work file. They must allow the Data Protection Officer and, if the College so decides, the other national members and employees authorised to access files to have access to the work file.

Article 10c

Data Protection Officer

1. Eurojust shall have a specially appointed Data Protection Officer, who shall be a member of the staff. Within that framework, he shall be under the direct authority of the College. In the performance of the duties referred to in this Article, he shall take instructions from no-one.
2. The Data Protection Officer shall in particular have the following tasks:
 - (i) ensuring, in an independent manner, lawfulness and compliance with the provisions of this Decision concerning the processing of personal data;
 - (ii) ensuring that a written record of the transmission and receipt of personal data is kept in accordance with the provisions to be laid down in the rules of procedure, under the security conditions set out in Article 15;
 - (iii) ensuring that data subjects are informed of their rights under this Decision at their request.
3. In the performance of his tasks, the Officer shall have access to all the data processed by Eurojust and to all Eurojust premises.

4.____ When he finds that any processing has not complied with this Decision, the Officer shall

- (i) inform the College;
- (ii) refer the matter to the joint supervisory body if the College has not taken action on the information referred to in (i).

Article 11

Access to personal data

1. [...]
2. Every individual shall be entitled to have access to personal data concerning him processed by Eurojust under the conditions laid down in this Article.
 - 2a. Any individual wishing to exercise his right to have access to data concerning him which are stored at Eurojust, or to have them checked in accordance with Article 12, may submit a request to that effect directly to Eurojust free of charge.

2b. The right of the individual to have access to data concerning him or to have them checked shall be exercised in accordance with the laws and procedures of the State, or the rules applicable to the international organisation which supplied the data in question.

3. Access to the data shall be denied if:

(a) such access may jeopardise one of Eurojust's activities;

(b) such access may jeopardise any national investigation which Eurojust is assisting;

(c) such access may jeopardise the rights and freedoms of third parties;

[(d)]

3a. The decision to grant this right of access must take due account of the status, with regard to the data stored by Eurojust, of those individuals submitting the request.

4. The national members concerned by the request shall deal with it and reach a decision on Eurojust's behalf. The request must be dealt with in full within three months of receipt. [...]. Where the members are not in agreement, they shall refer the matter to the College, which shall take its decision on the request by a two-thirds majority.

5. If access is denied or if no personal data concerning the applicant are processed by Eurojust, the latter shall notify the applicant that it has carried out checks, without giving any information which could reveal whether or not the applicant is known.

6. If the applicant is not satisfied with the reply given to the request, he may appeal against that decision before the Joint Supervisory Body. The Joint Supervisory Body referred to in Article 15a shall examine whether or not the decision taken by Eurojust is in conformity with this Decision.
7. The competent national law enforcement authorities concerned shall be consulted by Eurojust before a decision is taken. The national authorities shall be notified through the national members concerned.

Article 12

[...] Correction and deletion of personal data

1. In accordance with Article 11(2b), every individual shall be entitled to ask Eurojust to correct, block or delete data concerning him if they are incorrect or incomplete or if their input or storage contravenes the provisions of this Decision.
 - 1a. Eurojust shall notify the applicant if it corrects, blocks or deletes the data concerning him. If the applicant is not satisfied with Eurojust's reply, he may refer the matter to the Joint Supervisory Body.

2. At the request of a Member State's competent authorities, national member or national correspondent, if any, and under their responsibility, Eurojust shall [...] correct or delete personal data being processed by Eurojust that were transmitted or entered by that Member State, its national member or its national correspondent. The Member States' competent authorities and Eurojust, including the national member or national correspondent, if any, shall in this context ensure that the principles laid down in Article 10(2) and (3) and Article 10a(4) are complied with.
3. If it emerges that personal data processed by Eurojust are incorrect or incomplete or that their input or storage contravenes the provisions of this Decision, Eurojust shall [...] correct or delete such data.
4. In the cases referred to in paragraphs 2 and 3, all the suppliers and addressees of such data shall be notified immediately. In accordance with the rules applicable to them, the addressees, shall then [...] correct, block or delete those data in their own systems.

Article 13

Confidentiality

1. The national members and their assistants under Article 2(2), Eurojust staff and national correspondents, if any, and the Data Protection Officer shall be bound by an obligation of confidentiality, [...] without prejudice to Article 7(1).

2. The obligation of confidentiality shall apply to all persons and to all bodies called upon to work with Eurojust. It shall apply even after leaving office or employment or after the termination of activities.

Article 13a

Authorised access to data

[...] Only national members and their assistants under Article 2(2) and authorised Eurojust staff may, for the purpose of achieving Eurojust's objectives, have access to such data. [...].

Article 14

Time limits for the storage of personal data

1. Personal data processed by Eurojust shall be stored by Eurojust only for as long as is necessary for the achievement of its objectives.
2. Personal data processed by Eurojust in files may not be stored beyond:
 - (a) the date on which prosecution is barred under the statute of limitations of the Member State where the period of limitation is longest, insofar as two Member States are still concerned by the investigation and prosecutions;

- (b) the date on which the judicial decision of the last of the Member States concerned by the investigation or prosecutions which justified coordination by Eurojust became final;
 - (c) the date on which Eurojust and the Member States concerned mutually established or agreed that it was no longer necessary for Eurojust to coordinate the investigation and prosecutions.
3. (a) Observance of the storage periods referred to in paragraph 2 shall be constantly reviewed by appropriate automated processing.
- (b) When one of the deadlines referred to in paragraph 2 is reached, Eurojust shall review the need to store the data for longer within the meaning of paragraph 1.
- 3a. A review of the personal data processed and stored by Eurojust shall be carried out every three years after the review referred to in paragraph 3(b) or, in the event of non-application of paragraph 3(a), after they were entered.
4. During the review referred to in paragraph 3, Eurojust may decide on continued storage of data until the next review, if this is still necessary for the achievement of its objectives.
- 4a. Where a file exists containing non-automated, unstructured data, once the deadline for storage of the last item of automated data from the file has elapsed all the documents in the file shall be returned to the authority which supplied them and any copies shall be destroyed.

5. Where Eurojust has coordinated an investigation or prosecutions, the national members concerned shall inform Eurojust and the other Member States concerned of all the judicial decisions relating to the case which have become final in order, inter alia, that paragraph 2(b) may be applied.

Article 15

Data security

1. Eurojust and, in so far as it is concerned by data transmitted from Eurojust, each Member State, shall, as regards the processing of personal data within the framework of this Decision, protect personal data against accidental or unlawful destruction, accidental loss or unauthorised disclosure, alteration and access or any other unauthorised form of processing.
2. The rules of procedure shall contain the technical measures and the organisational arrangements needed to implement this Decision with regard to data security and in particular measures designed to:
 - (a) deny unauthorised persons access to data processing equipment used for processing personal data;
 - (b) prevent the unauthorised reading, copying, modification or removal of data media;
 - (c) prevent the unauthorised input of data and the unauthorised inspection, modification or deletion of stored personal data;

- (d) prevent the use of automated data processing systems by unauthorised persons using data communication equipment;
- (e) ensure that persons authorised to use an automated data processing system only have access to the data covered by their access authorisation;
- (f) ensure that it is possible to verify and establish to which bodies personal data may be transmitted using data communication equipment;
- (g) ensure that it is subsequently possible to verify and establish which personal data have been input into automated data processing systems and when and by whom the data were input;
- (h) prevent unauthorised reading, copying, modification or deletion of personal data during transfers of personal data or during transportation of data media.

[...]

Article 15a

Joint Supervisory Body

1. A Joint Supervisory Body shall be established to monitor independently and collectively the Eurojust activities referred to in Articles 10 to 15 in order to help ensure that the processing of personal data is carried out in accordance with this Decision. In order to fulfil these tasks, the Joint Supervisory Body shall be entitled to have full access to all files where such personal data are processed. Eurojust shall provide the Joint Supervisory Body with all information from such files that it requests and shall assist that body in its tasks by every other means.

The Joint Supervisory Body shall meet at least once in each half year. It may also be convened by its chairman when at least two Member States so request.

In order to set up the Joint Supervisory Body, each Member State, acting in accordance with its legal system, shall appoint a judge who is not a member of Eurojust or, if its constitutional system so requires a person holding an equivalent office giving him sufficient independence, for inclusion on the list of judges who may sit on the Joint Supervisory Body as members or ad hoc judges. Such appointments shall be for not less than 18 months. The removal of a person so appointed shall be governed by the principles and procedure for removal which apply to that person's office. The appointment shall be notified to both the Council General Secretariat and Eurojust.

2. The Joint Supervisory Body shall be composed of three permanent members and, as provided for in paragraph 4, ad hoc judges.
3. A judge appointed by a Member State shall become a permanent member one year before his Member State assumes the Presidency of the Council and shall remain a permanent member for 18 months.

The judge appointed by the Member State holding the Presidency of the Council of the European Union shall chair the Joint Supervisory Body.

4. One or more ad hoc judges shall also have seats, but only for the duration of the examination of an appeal concerning personal data from the Member State that has appointed them.
5. Each member and ad hoc judge shall be entitled to one vote. In the event of a tied vote, the chairman shall have the casting vote.

- 5a. The Joint Supervisory Body shall examine appeals in accordance with Article 11(6) and 12(1a) and carry out controls in accordance with Article 13(1). If the Joint Supervisory Body advises that a decision taken or the processing of data by Eurojust is not compatible with the rules set out in this Decision, the matter shall be referred to Eurojust, which shall accept the ruling.
6. Decisions of the Joint Supervisory Body shall be final and binding on Eurojust.
7. [...]
8. (...)
9. The persons appointed by the Member States in accordance with paragraph 1, presided over by the chairman of the Joint Supervisory Body, shall adopt rules of procedure [...].
10. Secretariat costs shall be borne by the Eurojust budget. The secretariat shall enjoy independence in the discharge of its function within the Eurojust secretariat.
11. The members of the Joint Supervisory Body shall be subject to the obligation of confidentiality provided for in Article 13.

Article 15b

Liability for unauthorised or incorrect data processing

1. Eurojust shall be liable, in accordance with the national law of the State where its headquarters are situated, for any damage caused to an individual which results from unauthorised or incorrect processing of data carried out by it.
2. Each Member State shall be liable, in accordance with its national law, for any damage caused to an individual which results from unauthorised or incorrect processing carried out by it of data which were communicated to Eurojust.

[...]

Article 16

Role of the Commission

(...)

Article 16a
Relations with partners

1. Eurojust shall establish and maintain close cooperation with Europol, in so far as is relevant for the performance of the tasks of Eurojust as set out in Article 6 and for achieving its objectives, taking account of the need to avoid duplication of efforts. The essential elements of cooperation shall be determined by an agreement to be approved by the Council, after consultation of the Joint Supervisory Body concerning the provisions on data protection.

2. Eurojust shall maintain privileged relations with the European Judicial Network based on consultation and complementarity, especially between the national member, the contact points of the same Member State and the national correspondent, if any. In order to ensure efficient cooperation the following measures shall be taken:
 - (a) Eurojust shall have access to centralised information from the European Judicial Network in accordance with Article 8 of the Joint Action of 29 June 1998 (98/428/JHA) and to the telecommunication network set up under Article 10 of that Joint Action.

- (b) By way of derogation from Article 9(3) of the Joint Action of 29 June 1998 (98/428/JHA), the Secretariat of the European Judicial Network shall form part of the Eurojust secretariat. It shall function as a separate unit and carry out its tasks with full autonomy. It shall be able to draw on those resources of Eurojust that are necessary for the performance of the Network's tasks. The rules applying to Eurojust staff shall apply to the staff of the Network's Secretariat where this is not incompatible with the operational autonomy of the Network's Secretariat.
- (c) The national members of Eurojust may attend meetings of the European Judicial Network at the invitation of the latter. European Judicial Network contact points may be invited on a case-by-case basis to attend Eurojust meetings.

3. (...)

4. Eurojust shall establish and maintain close cooperation with the European Anti-Fraud Office (OLAF). To that end, OLAF may contribute to Eurojust's work to coordinate investigations and prosecution procedures regarding the protection of the financial interests of the Communities, either on the initiative of Eurojust or at the request of the European Anti-Fraud Office where the competent national authorities concerned do not oppose such participation.

5. For the purposes of receipt and transmission of information between Eurojust and OLAF, and without prejudice to Article 7, Member States shall ensure that the national members of Eurojust shall be regarded as competent authorities of the Member States solely for the purposes of Regulation No 1073/99 and Regulation No 1074/99 of 25 May 1999.
6. Insofar as is required for the performance of its tasks, Eurojust may, with the approval of the Council and after consultation of the Joint Supervisory Body concerning the provisions on data protection, conclude agreements with non-member countries on cooperation between Eurojust and the competent national authorities of those countries. Such agreements may in particular contain provisions concerning the arrangements for the secondment of liaison officers or liaison magistrates to Eurojust. To resolve urgent matters, and without exchanging information concerning personal data except in the cases referred to in Article 16b(4), Eurojust may also cooperate with such authorities without an agreement.
7. Eurojust may, in order to accomplish its objectives, establish contacts and exchange experiences of a non-operational nature with other bodies, in particular international organisations.
8. Eurojust may, on a case-by-case basis, cooperate with liaison magistrates of the Member States, within the meaning of the Joint Action of 22 April 1996 (96/277/JHA).

Article 16b

Exchanges of information with partners

1. Eurojust may, in accordance with this Decision, exchange any information necessary for the performance of its tasks with:
 - (i) bodies competent by virtue of provisions adopted within the framework of the Treaties;
 - (ii) international organisations or bodies;
 - (iii) authorities of third countries that are competent for investigations and prosecutions.

2. Before exchanging any information with the entities referred to in paragraph 1(ii) and (iii), the national member of the Member State that submitted the information shall give his consent to the transfer of that information. In appropriate cases the national member shall consult the competent national authorities.

3. An information exchange such as is referred to in paragraph 1 may, when it concerns personal data, take place only when an agreement on the exchange of information has been concluded between Eurojust and its counterpart. Such an agreement may be concluded only if the counterpart ensures a standard of data protection equivalent to the standard laid down in Council of Europe Convention No 108 of 28 January 1981 and relevant provisions on confidentiality in the exchange and processing of information are laid down in the agreement. Any such agreement between Eurojust and its counterpart shall be approved by the Council after consultation of the Joint Supervisory Body concerning the provisions on data protection before it enters into force.

4. However, even in the absence of agreement on an exchange of information as referred to in paragraph 3, a national member may, by way of exception and with the sole aim of taking urgent measures to counter imminent serious danger threatening a person or public security, carry out an exchange of information as referred to in paragraph 1 involving personal data.

Article 17

Legal personality

Eurojust shall have legal personality.

Article 18

Organisation and operation

1. The College shall be responsible for the organisation and operation of Eurojust.
2. The College shall elect a President from among the national members and may, if it considers it necessary, elect at most two Vice-Presidents. The result of the election shall be submitted to the Council for its approval.

- 2a. The President shall exercise his duties on behalf of the College and under its authority. He shall direct its work and monitor, on its behalf, the daily management ensured by the Administrative Director. The rules of procedure shall specify the cases in which his decisions or actions shall require prior authorisation or a report to the College.
3. The term of office of the President shall be three years. He may be re-elected once. The term of office of any Vice-President(s) shall be governed by the rules of procedure.
4. Eurojust shall be assisted by a Secretariat headed by an Administrative Director.

Article 18a

Administrative Director

1. The Administrative Director of Eurojust shall be appointed unanimously by the College. The College shall set up a selection board which, following a call for applications, shall establish a list of candidates from among whom the College shall choose the Administrative Director.
2. The term of office of the Administrative Director shall be 5 years. This term of office shall be renewable.
3. The Administrative Director shall be subject to the rules and regulations applicable to the officials and other servants of the European Communities.
4. The Administrative Director shall work under the authority of the College and its President. He may be removed from office by the College by a two-thirds majority.

- 4a. The Administrative Director shall be responsible, under the supervision of the President, for the day-to-day administration of Eurojust and for staff management.

Article 18b

Staff

1. Eurojust staff shall be subject to the rules and regulations applicable to the officials and other servants of the European Communities, particularly as regards their recruitment and status.
(...)
2. Eurojust staff shall consist of staff recruited according to the rules and regulations referred to in paragraph 1, taking into account all the criteria mentioned in Article 27 of the Staff Regulations of Officials of the European Communities, including their geographical distribution. They shall have the status of permanent staff, temporary staff or local staff. At the request of the Administrative Director, and in agreement with the President on behalf of the College, Community officials may be seconded to Eurojust by the Community institutions as temporary staff. Member States may second national experts to Eurojust. For this last case, the College, in agreement with the Deputy Secretary-General of the Council and with the Commission, shall adopt the necessary implementing arrangements.

3. Under the authority of the College, the staff shall carry out its tasks bearing in mind the objectives and mandate of Eurojust, without seeking or accepting instructions from any government, authority, organisation or person extraneous to Eurojust.

Article 19

Languages

1. Eurojust shall be assisted by a team of interpreters and translators.
2. The annual report to the Council, referred to in the second subparagraph of Article 20(1), shall be drawn up in the official languages of the European Union institutions.

Article 20

Keeping the European Parliament and the Council informed

1. The President, on behalf of the College, shall report to the Council in writing every year on the activities and management, including budgetary management, of Eurojust.

To that end, the College shall prepare an annual report on the activities of Eurojust and on any criminal policy problems within the European Union highlighted as a result of Eurojust's activities. In this report, Eurojust may also draft proposals in order to improve judicial cooperation in criminal matters.

The President shall also submit any report or any other information on the operation of Eurojust that may be required of him by the Council.

2. Each year the Presidency of the Council shall forward a [...] report to the European Parliament on the work carried out by Eurojust.

Article 21

Finance

1. The salaries and emoluments of the national members and assisting persons as referred to in Article 2(2) shall be borne by their Member State of origin.
2. Expenditure relating to the operation of Eurojust other than that referred to in paragraph 1 shall be covered by Article 41(3) of the Treaty.
3. Where national members act within the framework of Eurojust's tasks, the relevant expenditure shall be regarded as operational expenditure within the meaning of Article 41(3) of the Treaty.
4. For expenditure not covered by paragraph 1, the budgetary procedure laid down in the Treaty establishing the European Community shall apply.

Article 21a

Budget

1. Forecasts shall be made of all Eurojust revenue and expenditure for each financial year; the financial year shall be the same as the calendar year. Revenue and expenditure shall be entered in the budget, which shall include the establishment plan which shall be submitted to the budget authority competent for the general budget of the European Communities. The establishment plan shall consist of posts of a [...] permanent or temporary nature and a reference to national experts seconded, and shall state the number, grade and category of the staff employed by Eurojust for the financial year in question.
2. Revenue and expenditure shall be balanced in the Eurojust budget.
3. Without prejudice to other resources, Eurojust revenue shall include a subsidy entered in the general budget of the European Communities.
4. Eurojust expenditure shall include inter alia expenditure relating to interpreters and translators, expenditure on security, administrative and infrastructure expenditure, operational and rental costs, travel expenses of members of Eurojust and its staff and costs arising from contracts with third parties.

Article 21b

Drawing up of the budget

1. Each year the Administrative Director shall draw up a preliminary draft Eurojust budget covering expenditure for the following financial year. He shall submit this preliminary draft to the College.
2. No later than 1 March each year, the College shall adopt the draft budget for the following year and shall submit it to the Commission.
3. On the basis of this draft budget, the Commission shall propose, within the framework of the budget procedure, the annual subsidy to be fixed for the Eurojust budget.
4. On the basis of the annual subsidy thus determined by the budget authority competent to adopt the general budget of the European Communities, the College shall adopt the Eurojust budget at the beginning of each financial year, and adjust it to the various contributions made to Eurojust and the funds coming from other sources.

Article 21c

Implementation of the budget and discharge

1. The Administrative Director shall, as authorising officer, implement the Eurojust budget. He shall report to the College on implementation of the budget.

No later than 31 March each year, the President, assisted by the Administrative Director, shall submit to the European Parliament, the Court of Auditors and the Commission detailed accounts of all revenue and expenditure for the previous financial year. The Court of Auditors shall examine them in accordance with Article 248 of the EC Treaty.

2. The [...] shall give a discharge to Eurojust for implementation of the budget before 30 April of year n+2.

Article 21d

Financial regulation applicable to the budget

The financial regulation applicable to the Eurojust budget shall be adopted unanimously by the College, having received the opinions of the Commission and of the Court of Auditors, in accordance with Article 142 of the Financial Regulation applicable to the general budget of the European Communities.

Article 21e

Audit

1. An audit of commitments and payments in respect of all expenditure and the supervision of the establishment and collection of all Eurojust revenue shall be carried out by a financial controller appointed by the College.
2. The College shall appoint an internal auditor who shall be responsible in particular for providing, in accordance with the relevant international standards, an assurance regarding the proper functioning of the systems and procedures for implementing the budget. The internal auditor may not be either the authorising officer or the accountant. The College may ask the Commission's internal auditor to carry out these duties.

3. The auditor shall report his findings and recommendations to the Commission and to Eurojust. Eurojust shall, in the light of the auditor's reports, take the necessary measures in response to these recommendations.

Article 22

Location

The headquarters of Eurojust shall be located in

Article 23

Entry into force

This Decision shall enter into force on the first day of the third month following that of its publication in the Official Journal of the European Communities.

Done at

For the Council
The President

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