

EU Agency for Criminal Justice Cooperation (Eurojust)

2013/0256(COD) - 17/07/2013 - Legislative proposal

PURPOSE: to establish a European Union Agency for Criminal Justice Cooperation (Eurojust).

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND:

Eurojust was set up by [Council Decision 2002/187/JHA](#) to reinforce the fight against serious organised crime in the European Union. Ever since, Eurojust has facilitated coordination and cooperation between national investigative and prosecutorial authorities in dealing with cases affecting various Member States.

These years have witnessed the continued growth of the organisation into what is now a central player in judicial cooperation in criminal matters.

In parallel, the fight against organised crime and the disruption of criminal organisations remain a daily challenge. Combatting them effectively therefore requires a coordinated pan-european response.

In this context, **Eurojust's role** in improving judicial cooperation and coordination between competent judicial authorities of Member States and assisting investigations involving third countries **remains crucial**.

Under the Lisbon Treaty, new possibilities to enhance Eurojust's efficiency in tackling these forms of criminality have been introduced. Article 85 of the Treaty on the Functioning of the EU (TFEU) explicitly recognises Eurojust's mission and provides for Eurojust's structure, operation, field of action and tasks to be determined by regulations adopted in accordance with the ordinary legislative procedure. It also requires that they determine arrangements for involving the European Parliament and national Parliaments in the evaluation of Eurojust's activities.

Against this background, it is proposed to repeal the Regulation establishing Eurojust by creating a new legal framework in view of the creation of an EU Agency for Criminal Justice Cooperation (Eurojust) which is the legal successor of Eurojust.

IMPACT ASSESSMENT: no formal impact assessment was undertaken. However, the Commission organised a consultative meeting with Member State experts, representatives of the Council Secretariat, the European Parliament and Eurojust to discuss issues related to a possible reform under Article 85 TFUE.

The issues included:

- strengthened governance,
- parliamentary involvement at European and national level,
- possible additional powers,
- links with the development of the [European Public Prosecutor's Office](#) (EPPO).

The meeting generally supported improving Eurojust's governance structure and efficiency.

LEGAL BASIS: Article 85 of the Treaty on the Functioning of the European Union.

CONTENT: this proposal aims to establish a European Union Agency for Criminal Justice Cooperation (Eurojust) and to repeal Decisions [2002/187/JHA](#), [2003/659/JHA](#) and [2009/426/JHA](#).

Objectives: the main objectives of the proposals are to:

- increase Eurojust's efficiency through providing it with a new governance structure;
- improve Eurojust's operational effectiveness through homogeneously defining the status and powers of National Members;
- provide for a **role for the European Parliament** and national Parliaments in the evaluation of Eurojust's activities in line with the Lisbon Treaty;
- bring Eurojust's legal framework in line with the Common Approach, whilst fully respecting its special role regarding the coordination of on-going criminal investigations;
- ensure that Eurojust can cooperate closely with the European Public Prosecutor's Office, once this is established.

Tasks and competences: the proposal defines the tasks and competences of the future European Agency. These are outlined in the Annex to the draft Regulation. It should be noted that Eurojust shall enjoy the most extensive legal capacity accorded to legal persons under their laws.

Organisation of Eurojust:

- **Eurojust's national members:** the reform maintains their link to their Member State of origin but at the same time explicitly lists the operational powers they shall all have. This will allow them to cooperate with each other and with national authorities in a more effective way.
- **Structure:** it has set up the new structure of Eurojust by respectively regulating the College, the Executive Board and the Administrative Director. Eurojust's governance is improved by clearly distinguishing between two compositions of the College, depending on whether it exercises operational or management functions. The former refer to the core business of Eurojust in supporting and coordinating national investigations. The latter are related for example to the adoption of the agency's work programme, annual budget or the Annual report. **A new organ, the Executive Board, is set up** to prepare the College's management decisions and to directly assume some administrative tasks. The Commission is represented in the College when it exercises its management functions and in the Executive Board. Finally, the appointment procedure, responsibilities and tasks of the Administrative Director are clearly spelled out. This introduces a **double degree of governance** as foreseen in the Common Approach whilst maintaining Eurojust's special nature and **safeguarding its independence**. It is also cost-effective, and contributes to Eurojust's efficiency, as national members will be assisted in budgetary and administrative matters, which will allow them to focus on their operational
- tasks.
- **Operational matters:** existing mechanisms for the operational effectiveness of Eurojust, including the On-call Coordination (OCC), the Eurojust National Coordination System (ENCS), the exchanges of information and follow-up to Eurojust's requests are maintained. The architecture of the Eurojust Case Management System also remains the same.

Processing of Information and protection of personal data: the proposal complements the existing provision on the data protection by Eurojust. It complements [Regulation 45/2001](#) as far as **operational**

personal data are concerned, respecting the specificity of judicial cooperation activities while taking into account the need for consistency and compatibility with the relevant data protection principles. Restrictions on the processing of personal data continue to be possible.

The proposal also aligns the provisions on the rights of the data subjects with Regulation 45/2001 and takes into account the standards of protection foreseen in the data protection reform package, adopted by the Commission in January 2012. Furthermore, it foresees an important change in the supervision mechanism. It establishes the responsibilities of the European Data Protection Supervisor (EDPS) as regards the monitoring of all personal data processing at Eurojust. The EDPS will take over the tasks of the Joint Supervisory Body established under the Eurojust Council Decision.

Relations with partners: the proposal reflects the importance of partnership and cooperation between Eurojust and other EU institutions, bodies and agencies in the fight against crime.

In particular, it focuses on:

- the relations with the Secretariats of the European Judicial Network, the Joint Investigation Teams Expert Network and the Genocide Network, which are hosted by Eurojust;
- specific provision on relations with the European Public Prosecutor's Office;
- the privileged relationship between the two agencies in order to increase their effectiveness in combating serious forms of international crime within their competence. This includes a mechanism for cross-checking of their respective information systems and the ensuing exchange of data;
- **links with third countries:** the Lisbon Treaty has changed the way in which the European Union conducts its external relations, and these changes also affect the agencies. As a consequence, agencies will no longer be able to negotiate international agreements themselves – such agreements will have to be established in accordance with Article 218 TFEU. However, Eurojust will be able to conclude working arrangements to enhance cooperation with competent authorities of third countries, including by exchanging information.

Financial provisions: provisions aim to modernise Eurojust's budget, its establishment and implementation, presentation of accounts and discharge provisions.

Staff: a number of provisions have been made as regards Eurojust staff. Eurojust's hybrid nature and the importance of the operational link between national desks and their Member States of origin explain that **salaries and emoluments of such staff are borne by the Member States.**

Eurojust's Administrative Director is still appointed by the College of Eurojust but on the basis of a shortlist drawn up by the Commission, following an open and transparent selection procedure. This respects the autonomy of the agency whilst guaranteeing a rigorous evaluation of candidates. A similar procedure is foreseen for dismissal of the Administrative Director.

Evaluation and Reporting: the proposal spells out the involvement of the European Parliament and national parliaments in the evaluation of Eurojust's activities. This is done in a cost-effective way, on the basis of Eurojust's Annual Report, whilst preserving Eurojust's operational independence. A periodic overall evaluation of Eurojust is also provided every five years.

BUDGETARY IMPLICATION: there are **no cost implications** of the governance reform ("management board" back to back with the College) and there are no new tasks foreseen for Eurojust in this proposal, other than supporting the European Public Prosecutor's Office, which will be done on a zero cost basis.