



Committee on Legal Affairs

2013/0256(COD)

11.10.2017

OPINION

of the Committee on Legal Affairs

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a regulation of the European Parliament and of the Council
on the European Union Agency for Criminal Justice Cooperation (Eurojust)
(COM(2013)0535 – C7-0240/2013 – 2013/0256(COD))

Rapporteur: António Marinho e Pinto

PA_Legam

SHORT JUSTIFICATION

European integration in political and economic matters calls for full integration in the area of the judiciary and justice in general.

Political bodies should not interfere with the work of the judicial authorities, hence why your Rapporteur considers that the European Commission should not be involved in Eurojust's decision-making process.

Crime, particularly of an economic nature, is an obstacle to economic and social development given that it breaches the laws of social coexistence and distorts market rules. It must be effectively combated by means of appropriate legislation and courts that act swiftly and impartially.

The general focus of the European Commission (EC) proposal is that the European Public Prosecutor's Office (EPPO) is not a Eurojust member and that it can only attend meetings as an observer, 'without the right to vote', in accordance with Article 12(2) and Article 16(7).

However, in accordance with Article 86(1) TFEU, the EPPO should come 'from Eurojust', and therefore, in order to maintain that link and ensure that an effective stop is put to cross-border crime, the EPPO should be a member of Eurojust.

Article 41(2) of the proposal provides that 'Eurojust shall treat any request for support emanating from the European Public Prosecutor's Office without undue delay, and shall deal with such requests, where appropriate, as if they had been received from a national authority competent for judicial cooperation'. Nevertheless, Eurojust and the EPPO should cooperate more closely.

Annex 1 to the proposal lists the forms of serious crime that fall within Eurojust's jurisdiction. They include 'crime against the financial interests of the Union'.

However, Article 3(1) of the proposal states that Eurojust's competence 'shall not include the crimes for which the European Public Prosecutor's Office is competent'.

Those crimes are described in Article 86 TFEU precisely as 'offences against the Union's financial interests', which increases the probability of a possible conflict of jurisdiction between the bodies.

The Commission considers that in cases concerning both the Union's financial interests and those of the Member States, in accordance with Article 13 of the proposal for a Council Regulation on the establishment of the European Public Prosecutor's Office (COM (2013) 534), such crimes can be referred back to the national authorities.

In such cases, Eurojust can act as coordinator, as it is also competent for crimes which may concern the Union's financial interests.

This explanation offered by the Commission, however, does not hold water, as:

- (a) the establishment of the EPPO is still under discussion and it is not likely that the solution in Article 13 will be kept in the final version;
- (b) in any case, the EPPO will only be active in a limited number of Member States (with closer cooperation);
- (c) that procedure may be too slow to be effective.

Although the proposal reaffirms ‘the full autonomy and independence of Eurojust’ (see Recital 30), the Commission would like to make Eurojust an EU agency, subject to the common approach of the agencies agreed on by Parliament, the Council and the Commission in 2012.

That vision includes, for example, the participation of two Commission representatives in Eurojust’s administrative acts, ‘management tasks’ (see Article 10(1)(b) and Article 16(4)).

According to the Commission opinion, however, those tasks also include electing Eurojust’s Presidents and Vice-Presidents (Article 14(1)(k), which, clearly, involves more than just administrative tasks.

Article 17(2) provides that the Administrative Director shall be appointed by the College of Eurojust from a list of candidates proposed by the Commission, thus restricting the College’s choice.

The proposal makes no mention of the resolution of conflicts of jurisdiction, which is one of Eurojust’s main tasks pursuant to Article 85(1)(c) TFEU.

The proposal fails to mention how it fits in with Council Framework Decision 2009/948/JHA, which is intended to improve judicial cooperation with a view to preventing two or more Member States from opening criminal proceedings simultaneously or in parallel against the same person, on the basis of the same facts.

That Decision provides that the Member States can exchange information and directly consult each other on criminal proceedings. Where there is no agreement, the situation will be referred to Eurojust, when appropriate, provided that the matter falls within its jurisdiction.

The Eurojust proposal does not change or revoke the framework decision, nor does the Commission proposal also refer to the judicial review of Eurojust’s decisions as regards conflicts of jurisdiction.

AMENDMENTS

The Committee on Legal Affairs calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a regulation Recital 4

Text proposed by the Commission

(4) *Since* the European Public Prosecutor's Office *should be established from Eurojust, this Regulation includes the provisions necessary to regulate the relations between Eurojust and the* European Public Prosecutor's Office.

Amendment

(4) *Considering that the European Public Prosecutor’s Office is established by enhanced cooperation, the Regulation implementing enhanced cooperation on the establishment of the European Public Prosecutor’s Office is binding in its entirety and only directly applicable to Member States which participate in enhanced cooperation. Therefore, for*

those Member States not participating in the European Public Prosecutor's Office, Eurojust remains fully competent for forms of crime listed in Annex I to this Regulation.

Amendment 2

Proposal for a regulation Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) The evaluation of Council Decision 2002/187/JHA and the activities carried out by Eurojust (final report of 30 June 2015) should also be taken into account.

Amendment 3

Proposal for a Regulation Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) Eurojust's mission of easing the way for cooperation between the judicial authorities is carried out in the context of other legal instruments, such as Council Framework Decision 2009/948/JHA ^{1a}, the provisions of which should be brought into line with this Regulation.

^{1a} Council Framework Decision 2009/948/JHA of 30 November 2009 on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings

Amendment 4

Proposal for a regulation Recital 8

Text proposed by the Commission

(8) This Regulation respects the fundamental rights and **observes** the principles recognised in particular by the Charter of Fundamental Rights of the European Union.

Amendment

(8) This Regulation **fully** respects the fundamental rights and **freedoms and fully safeguards** the principles recognised in particular by the Charter of Fundamental Rights of the European Union.

Amendment 5

Proposal for a regulation
Recital 9

Text proposed by the Commission

(9) The forms of serious crime affecting two or more Member States for which Eurojust is competent should be laid down. In addition, cases which do not involve two or more Member States, but which require a prosecution on common bases, should be defined. Such cases should include investigations and prosecutions affecting only one Member State and a third State, as well as cases affecting only one Member State and the Union.

Amendment

(9) The forms of serious crime affecting two or more Member States for which Eurojust is competent should be **clearly** laid down. In addition, cases which do not involve two or more Member States, but which require a prosecution on common bases, should be defined. Such cases should include investigations and prosecutions affecting only one Member State and a third State, as well as cases affecting only one Member State and the Union.

Amendment 6

Proposal for a regulation
Recital 10

Text proposed by the Commission

(10) When exercising its operational functions in relation to concrete criminal cases, at the request of competent authorities of Member States or on its own initiative, Eurojust should act either through one or more of the national members or as a College.

Amendment

(10) When exercising its operational functions in relation to concrete criminal cases, at the request of competent authorities of Member States or on its own initiative, Eurojust should act either through one or more of the national members or as a College. **Likewise, at the request of a Member State's competent authority or the Commission, Eurojust should be able to assist with investigations only involving one Member State but with**

consequences throughout the Union.

Amendment 7

Proposal for a regulation

Recital 11

Text proposed by the Commission

(11) To ensure Eurojust can appropriately support and coordinate cross-border investigations, it is necessary that all national members have the same operational powers in order to cooperate between themselves and with national authorities in a more effective way. National members should be granted those powers that allow Eurojust to appropriately achieve its mission. These powers should include accessing relevant information in national public registers, issuing and executing mutual assistance and recognition requests, directly contacting and exchanging information with competent authorities, participating in joint investigation teams and, in agreement with the competent national authority or in case of urgency, ordering investigative measures and controlled deliveries.

Amendment

(11) To ensure Eurojust can appropriately support and coordinate cross-border investigations, it is necessary that all national members have the same operational powers in order to cooperate between themselves and with national authorities in a more ***coherent and*** effective way. National members should be granted those powers that allow Eurojust to appropriately achieve its mission. These powers should include accessing relevant information in national public registers, issuing and executing mutual assistance and recognition requests, directly contacting and exchanging information with competent authorities, participating in joint investigation teams and, in agreement with the competent national authority or in case of urgency, ordering investigative measures and controlled deliveries.

Amendment 8

Proposal for a regulation

Recital 12

Text proposed by the Commission

(12) It is necessary to provide Eurojust with an administrative and management structure that allows it to perform its tasks more effectively and respects the principles applicable to Union agencies whilst maintaining Eurojust's special characteristics and safeguarding its independence in the exercise of its operational functions. To this end, the functions of the national members, the

Amendment

(12) It is necessary to provide Eurojust with an administrative and management structure that allows it to perform its tasks more effectively and ***fully*** respects the principles applicable to Union agencies, ***as well as the fundamental rights and freedoms***, whilst maintaining Eurojust's special characteristics and safeguarding its independence in the exercise of its operational functions. To this end, the

College and the Administrative Director should be clarified and an Executive Board established.

functions of the national members, the College and the Administrative Director should be clarified and an Executive Board established.

Amendment 9

Proposal for a regulation

Recital 17

Text proposed by the Commission

(17) The setting up of an On-Call Coordination (OCC) within Eurojust is necessary to make Eurojust available around the clock and to enable it to intervene in urgent cases. ***It should be the responsibility of*** each Member State ***to*** ensure that their representatives in the OCC are able to act on a 24-hour/7-day basis.

Amendment

(17) The setting up of an On-Call Coordination (OCC) within Eurojust is necessary to make Eurojust ***efficient and*** available around the clock and to enable it to intervene in urgent cases. Each Member State ***should*** ensure that their representatives in the OCC are able to act on a 24-hour/7-day basis.

Amendment 10

Proposal for a regulation

Recital 21

Text proposed by the Commission

(21) When Eurojust transfers personal data to an authority of a third country or to an international organisation or Interpol by virtue of an international agreement concluded pursuant to Article 218 of the Treaty the adequate safeguards adduced with respect to the protection of privacy and fundamental rights and freedoms ***of individuals*** have to ensure that the data protection provisions of this Regulation are complied with.

Amendment

(21) When Eurojust transfers personal data to an authority of a third country or to an international organisation or Interpol by virtue of an international agreement concluded pursuant to Article 218 of the Treaty the adequate safeguards adduced with respect to the protection of privacy and fundamental rights and freedoms have to ensure that the data protection provisions of this Regulation are ***fully*** complied with.

Amendment 11

Proposal for a regulation

Recital 23

Text proposed by the Commission

(23) Eurojust should be given the opportunity to extend the deadlines for storage of personal data, subject to observance of the purpose limitation principle applicable to processing of personal data in the context of all activities of Eurojust, in order to achieve its objectives. Such decisions should be taken following careful consideration of all interests at stake, ***including those*** of the data subjects. Any extension of deadlines for processing personal data, where prosecution is statute barred in all Member States concerned, should be decided only where there is a specific need to provide assistance under this Regulation.

Amendment

(23) Eurojust should be given the opportunity to extend the deadlines for storage of personal data, subject to observance of the purpose limitation principle applicable to processing of personal data in the context of all activities of Eurojust, in order to achieve its objectives. Such decisions should be taken following careful ***and objective*** consideration of ***the cases concerned, of*** all interests at stake, ***and equally of the interests*** of the data subjects. Any extension of deadlines for processing personal data, where prosecution is statute barred in all Member States concerned, should be ***the subject of a formal and reasoned decision, and*** decided only where there is a specific ***and clearly justifiable*** need to provide assistance under this Regulation.

Amendment 12

**Proposal for a regulation
Recital 25**

Text proposed by the Commission

(25) Eurojust should ***maintain cooperative relations*** with other Union bodies and agencies, with the European Public Prosecutor's Office, with the competent authorities of third countries as well as with international organisations, to the extent required for the accomplishment of its tasks.

Amendment

(25) Eurojust should ***cooperate*** with other Union bodies and agencies, with the European Public Prosecutor's Office, with the competent authorities of third countries as well as with international organisations, to the extent required for the accomplishment of its tasks.

Amendment 13

**Proposal for a Regulation
Recital 25 a (new)**

Text proposed by the Commission

Amendment

(25a) The European Public Prosecutor should have the right to participate in all Eurojust meetings provided that matters which the Prosecutor considers relevant to the functioning of the European Public Prosecutor's Office are discussed.

Justification

A recital which expressly reflects the contents of Article 12(3) and Article 16(7) of the proposal is needed.

Amendment 14

Proposal for a regulation

Recital 26

Text proposed by the Commission

Amendment

(26) To enhance operational cooperation between Eurojust and Europol, and particularly to establish links between data already in the possession of either body, Eurojust should enable Europol to have access ***to and*** be able to ***search against*** data available at Eurojust.

(26) To enhance operational cooperation between Eurojust and Europol, and particularly to establish links between data already in the possession of either body, Eurojust should enable Europol to have access, ***on the basis of a hit/no-hit system, to data available at Eurojust. Eurojust and Europol should be able to conclude a working arrangement ensuring, in a reciprocal manner within their respective mandates, access to, and the possibility of searching, all information that has been provided for the purpose of cross-checking in accordance with specific safeguards and data protection guarantees provided for in this Regulation. Any access to data available at Eurojust should, by technical means, be limited to information falling within the respective mandates of those Union bodies.***

Justification

Recital 26 of this Regulation should be aligned with Recital 28 of Regulation (EU) 2016/794.

Amendment 15

Proposal for a regulation Recital 27

Text proposed by the Commission

(27) Eurojust should be able to exchange personal data with other Union bodies to the extent necessary for the accomplishment of its tasks.

Amendment

(27) Eurojust should be able to exchange personal data with other Union bodies to the extent necessary for the accomplishment of its tasks ***with full respect for the protection of privacy and fundamental rights and freedoms.***

Amendment 16

Proposal for a Regulation Recital 31

Text proposed by the Commission

(31) In order to increase the transparency and democratic oversight of Eurojust it is necessary to provide mechanisms for the involvement of the European Parliament ***and national Parliaments*** in the evaluation of Eurojust's activities. ***This*** should not hinder the principles of independence as regards action taken in specific operational cases or the obligations of discretion and confidentiality.

Amendment

(31) In order to increase the transparency and democratic oversight of Eurojust it is necessary to provide mechanisms for the involvement of the European Parliament in the evaluation of Eurojust's activities, ***particularly with regard to the transmission of Eurojust's Annual Report. Similar proceedings should be arranged for national Parliaments. However, those mechanisms*** should not hinder the principles of independence as regards action taken in specific operational cases or the obligations of discretion and confidentiality.

Amendment 17

Proposal for a Regulation Article 2 – paragraph 1

Text proposed by the Commission

1. Eurojust shall support and strengthen coordination and cooperation

Amendment

1. Eurojust shall support and strengthen coordination and cooperation

between national investigating and prosecuting authorities in relation to serious crime affecting two or more Member States, or requiring a prosecution on common bases, on the basis of operations conducted and information supplied by the Member States' authorities and by Europol.

between national investigating and prosecuting authorities in relation to serious crime ***which Eurojust is competent to deal with in accordance with Article 3(1) and*** affecting two or more Member States, or requiring a prosecution on common bases, on the basis of operations conducted and information supplied by the Member States' authorities, ***by the European Public Prosecutor's Office*** and by Europol.

See the amendment to Article 2(3)

Amendment 18

Proposal for a Regulation Article 2 – paragraph 3

Text proposed by the Commission

3. Eurojust shall exercise its tasks at the request of the competent authorities of the Member States or on its own initiative.

Amendment

3. Eurojust shall exercise its tasks at the request of the competent authorities of the Member States ***or of the European Public Prosecutor's Office*** or on its own initiative.

See the amendment to Article 2(1)

Amendment 19

Proposal for a Regulation Article 3 – paragraph 1

Text proposed by the Commission

1. Eurojust's competence shall cover the forms of crime listed in Annex 1. ***However, its competence shall not include*** the crimes for which the European Public Prosecutor's Office is competent.

Amendment

1. ***Until the date when the European Public Prosecutor's Office has assumed its investigative and prosecutorial tasks conferred on it in accordance with Article [75] of Regulation [implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office],*** Eurojust's competence shall cover the forms of crime

listed in Annex 1. *From the date when the European Public Prosecutor's Office assumes its tasks and with regard to the forms of crime for which the latter exercises its competence, Eurojust shall only exercise its competences within its respective mandate avoiding any overlap with action taken by the European Public Prosecutor's Office.*

However, Eurojust shall exercise its competences in cases involving Member States which do not participate in enhanced cooperation on the establishment of the European Public Prosecutor's Office at the request of those Member States or at the request of the European Public Prosecutor's Office. The practical details on the exercise of competence in accordance with this paragraph shall be regulated by a working arrangement referred to in Article 38(2a).

The reference to 'crime against financial interests of the Union' in Annex 1 to this Regulation shall be interpreted in accordance with this paragraph.

See the amendment to Article 3(4)

Amendment 20

Proposal for a regulation

Article 3 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

- 1a. Eurojust shall remain competent:**
- (a) for offences laid down in Directive [(EU) 2017/... on the Fight against Fraud to the Union's Financial Interests by means of Criminal Law ('the PIF Directive')] insofar as the European Public Prosecutor's Office is not competent or does not exercise its competence;**
 - (b) in cases regarding offences laid**

down in the PIF Directive, for requests from Member States which are not participating in the European Public Prosecutor's Office;

(c) in cases involving both participating Member States and Member States which are not participating in the European Public Prosecutor's Office, for requests from those Member States which are not participating in the European Public Prosecutor's Office and for requests from the European Public Prosecutor's Office itself.

Justification

Since Eurojust will have a residual competence for PIF offences which results from the enhanced cooperation on the EPPO and the text of that draft Regulation, it is crucial to be clear about the nature of Eurojust's residual competence.

Amendment 21

Proposal for a regulation

Article 3 – paragraph 2 – introductory part

Text proposed by the Commission

2. Eurojust's competence shall cover ***related*** criminal offences. The following offences shall be regarded as related criminal offences:

Amendment

2. Eurojust's competence shall cover criminal offences ***related to the criminal offences laid down in Annex 1***. The following offences shall be regarded as related criminal offences:

Amendment 22

Proposal for a Regulation

Article 3 – paragraph 4

Text proposed by the Commission

4. At the request either of a Member State's competent authority or of the Commission, Eurojust may assist investigations and prosecutions affecting only that Member State and the Union.

Amendment

4. At the request either of a Member State's competent authority, ***of the European Public Prosecutor's Office*** or of the Commission, Eurojust may assist investigations and prosecutions affecting

only that Member State and the Union.

See the amendment to Article 3(1)

Amendment 23

Proposal for a Regulation

Article 4 – paragraph 1 – point a

Text proposed by the Commission

(a) Inform the competent authorities of the Member States of investigations and prosecutions of which it has been informed and which have repercussions at Union level or which might affect Member States other than those directly concerned;

Amendment

(a) Inform the competent authorities of the Member States **and the European Public Prosecutor's Office** of investigations and prosecutions of which it has been informed and which have repercussions at Union level or which might affect Member States other than those directly concerned;

Amendment 24

Proposal for a regulation

Article 4 – paragraph 1 – point b

Text proposed by the Commission

(b) ***assist the competent authorities of the Member States in ensuring the best possible coordination of investigations and prosecutions;***

Amendment

(b) ***ensure the best possible coordination of investigations and prosecutions conducted by the competent authorities of the Member States;***

Amendment 25

Proposal for a regulation

Article 4 – paragraph 1 – point c

Text proposed by the Commission

(c) ***give assistance in order to*** improve cooperation between the competent authorities of the Member States, in particular on the basis of Europol's analyses;

Amendment

(c) improve cooperation between the competent authorities of the Member States, in particular on the basis of Europol's analyses;

Amendment 26

Proposal for a Regulation

Article 4 – paragraph 1 – point e a (new)

Text proposed by the Commission

Amendment

(ea) assist the European Public Prosecutor’s Office, pursuant to Article 41.

Justification

Given that the EPPO was established ‘from Eurojust’ (see Article 86 TFEU), one of the main features of Eurojust is assisting the EPPO.

Amendment 27

Proposal for a regulation

Article 4 – paragraph 1 – point e b (new)

Text proposed by the Commission

Amendment

(eb) cooperate and consult, when need be, with the Union agencies and bodies established in the area of Freedom, Security and Justice regulated under Title V of the TFEU;

Amendment 28

Proposal for a regulation

Article 4 – paragraph 1 – point e c (new)

Text proposed by the Commission

Amendment

(ec) support, and where appropriate participate in, the Union centres of specialised expertise developed by Europol and other Union bodies.

Amendment 29

Proposal for a Regulation

Article 4 – paragraph 4

Text proposed by the Commission

4. Where two or more Member States cannot agree on which of them should undertake an investigation or prosecution following a request made under point (b) of paragraph 2, Eurojust shall **issue a written opinion** on the case. The **opinion** shall be promptly forwarded to the Member States concerned.

Amendment

4. Where two or more Member States cannot agree on which of them should undertake an investigation or prosecution following a request made under point (b) of paragraph 2, Eurojust shall **take a decision** on the case. The **decision** shall be promptly forwarded to the Member States concerned.

(See the amendment to Article 4(5) and (5)(a))

Justification

As Article 85(1)(c) TFEU clearly establishes Eurojust's competence to resolve conflicts of jurisdiction, Eurojust should be able to take decisions, not issue opinions, and those decisions may be binding on the Member States.

Amendment 30

Proposal for a Regulation

Article 4 – paragraph 5

Text proposed by the Commission

5. On request of a competent authority Eurojust shall **issue a written opinion** on recurrent refusals or difficulties concerning the execution of requests for, and decisions on, judicial cooperation, including those based on instruments giving effect to the principle of mutual recognition, provided it could not be resolved through mutual agreement between the competent national authorities or through the involvement of the national members concerned. The **opinion** shall be promptly forwarded to the Member States concerned.

Amendment

5. On request of a competent authority **or on its own initiative**, Eurojust shall **take a decision** on recurrent refusals or difficulties concerning the execution of requests for, and decisions on, judicial cooperation, including those based on instruments giving effect to the principle of mutual recognition, provided it could not be resolved through mutual agreement between the competent national authorities or through the involvement of the national members concerned. The **decision** shall be promptly forwarded to the Member States concerned.

(See the amendment to Article 4(4) and (5)(a))

Justification

As Article 85(1)(c) TFEU clearly establishes Eurojust's competence to resolve conflicts of jurisdiction, Eurojust should be able to take decisions, not issue opinions, and those decisions may be binding on the Member States.

Amendment 31

Proposal for a regulation
Article 5 – paragraph 2 a

Text proposed by the Commission

Amendment

2a. Without prejudice to paragraph 2, the College shall focus on operational issues and any other issues that are directly linked to operational matters. It shall only be involved in administrative matters to the extent necessary to ensure that its operational tasks are fulfilled.

Amendment 32

Proposal for a regulation
Article 8 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) contact directly and exchange information with any national competent authority of the Member State;

(b) contact directly and exchange information with any national competent authority of the Member State **or with any Union agency or competent body;**

Amendment 33

Proposal for a regulation
Article 8 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) order investigative measures;

(a) order **or request and execute** investigative measures, **as provided for in Directive 2014/41/EU of the European Parliament and of the Council^{1a}**

Amendment 34

Proposal for a Regulation Article 10 – paragraph 1

Text proposed by the Commission

1. The College shall be composed of:
- (a) *all the national members when the College exercises its operational functions under Article 4;*
- (b) *all the national members and two representatives of the Commission when the College exercises its management functions under Article 14.*

Amendment

1. The College shall be composed of all the national members.

Justification

This amendment is intended to reduce the risk of any interference from the Commission.

Amendment 35

Proposal for a Regulation Article 10 – paragraph 4

Text proposed by the Commission

4. The College may invite any person whose opinion may be of interest to attend its meetings as an observer.

Amendment

4. ***Without prejudice to the provisions in Article 39(1)(c),*** the College may invite any person whose opinion may be of interest to attend its meetings as an observer.

Justification

This amendment is intended to preserve the role of the contact points of the European

Judicial Network, which is referred to in Article 39(1)(c) of the proposal.

Amendment 36

Proposal for a Regulation

Article 14 – paragraph 1 – point k

Text proposed by the Commission

Amendment

(k) elect the President and Vice-Presidents in accordance with Article 11; **deleted**

(See the amendment to Article 11)

Justification

To preserve Eurojust's autonomy and independence, no Commission representative shall be able to participate in the election of the President and Vice-Presidents.

Amendment 37

Proposal for a Regulation

Article 15 – paragraph 1

Text proposed by the Commission

Amendment

1. By [30 November each year] the College shall adopt a programming document containing multi-annual and annual programming, based on a draft put forward by the Administrative Director, **taking into account** the opinion of the Commission. It shall forward it to the European Parliament, the Council and the Commission. The programming document shall become definitive after final adoption of the general budget and if necessary shall be adjusted accordingly.

1. By [30 November each year] the College shall adopt a programming document containing multi-annual and annual programming, based on a draft put forward by the Administrative Director, **after requesting** the opinion of the Commission. It shall forward it to the European Parliament, the Council and the Commission. The programming document shall become definitive after final adoption of the general budget and if necessary shall be adjusted accordingly.

Justification

This amendment is intended to reduce the risk of any interference from the Commission.

Amendment 38

Proposal for a regulation

Article 15 – paragraph 2

Text proposed by the Commission

2. The annual work programme shall comprise detailed objectives and expected results including performance indicators. It shall also contain a description of the actions to be financed and an indication of the financial and human resources allocated to each action, in accordance with the principles of activity-based budgeting and management. The annual work programme shall be coherent with the multi-annual work programme referred to in paragraph 4. It shall clearly indicate which tasks have been added, changed or deleted in comparison with the previous financial year.

Amendment

2. The annual work programme shall comprise detailed objectives and expected results including performance indicators. It shall also contain a **clear** description of the actions to be financed and an indication of the financial and human resources allocated to each action, in accordance with the principles of activity-based budgeting and management. The annual work programme shall be coherent with the multi-annual work programme referred to in paragraph 4. It shall clearly indicate which tasks have been added, changed or deleted in comparison with the previous financial year.

Amendment 39

Proposal for a Regulation

Article 17 – paragraph 7

Text proposed by the Commission

7. The Administrative Director may be removed from the office only upon a decision of the College ***acting on a proposal from the Commission.***

Amendment

7. The Administrative Director may be removed from the office only upon a decision of the College.

Justification

This amendment is intended to reduce the risk of any interference from the Commission.

Amendment 40

Proposal for a regulation

Article 19 – paragraph 3

Text proposed by the Commission

3. The On-Call Coordination representatives shall act without delay, in relation to the execution of the request in their Member State.

Amendment

3. The On-Call Coordination representatives shall act **efficiently**, without delay, in relation to the execution of the request in their Member State.

Amendment 41

Proposal for a regulation

Article 21 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. For the purposes of paragraph 3 to 6 the competent authorities of the Member States shall exchange the information referred to therein at the latest within 14 days.

Amendment 42

Proposal for a regulation

Article 22 – paragraph 1

Text proposed by the Commission

Amendment

1. Eurojust shall provide competent national authorities with information on the results of the processing of information, including the existence of links with cases already stored in the Case Management System. This information may include personal data.

1. Eurojust shall provide **without undue delay** competent national authorities with information on the results of the processing of information, including the existence of links with cases already stored in the Case Management System. This information may include personal data.

Amendment 43

Proposal for a regulation

Article 27 – paragraph 2

Text proposed by the Commission

Amendment

2. Eurojust may process only the personal data listed in point 2 of Annex 2, on persons who, under the national

2. Eurojust may process only the personal data listed in point 2 of Annex 2, 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 of the types of crime and the offences referred to in Article 3, or persons under the age of 18. The processing of such personal data may only take place if it is strictly necessary for the achievement of the expressly stated task of Eurojust, within the framework of its competence and in order to carry out its operational functions.

legislation of the Member States concerned, are regarded as witnesses or victims in a criminal investigation or prosecution regarding one or more of the types of crime and the offences referred to in Article 3, or persons under the age of 18. The processing of such personal data may only take place if it is strictly necessary for the achievement of the expressly stated task of Eurojust, within the framework of its competence and in order to carry out its operational functions. ***The protection of privacy, as well as the fundamental rights and freedoms shall be fully respected.***

Amendment 44

Proposal for a regulation

Article 28 – paragraph 1 – introductory part

Text proposed by the Commission

1. Personal data processed by Eurojust may not be stored beyond the first applicable among the following dates:

Amendment

1. ***Personal data processed by Eurojust shall be stored by Eurojust only for as long as is necessary and in proportion to the purpose for which the data are being processed.*** Personal data processed by Eurojust may not be stored beyond the first applicable among the following dates:

Amendment 45

Proposal for a regulation

Article 36 – paragraph 1

Text proposed by the Commission

1. Where a complaint introduced by a data subject pursuant to Article 32(2) of Regulation (EC) No 45/2001 relates to a decision as referred to in Article 32 or 33, the European Data Protection Supervisor shall consult the national supervisory bodies or the competent judicial body in the Member State which was the source of the data or the Member State directly

Amendment

1. ***Any data subject shall have the right to lodge a complaint with the European Data Protection Supervisor if he or she considers that the processing by Eurojust of personal data relating to him or her does not comply with the provisions of this Regulation.*** Where a complaint introduced by a data subject pursuant to Article 32(2) of Regulation (EC) No

concerned. The decision of the European Data Protection Supervisor, which may extend to a refusal to communicate any information, shall be taken in close cooperation with the national supervisory body or competent judicial body.

45/2001 relates to a decision as referred to in Article 32 or 33, the European Data Protection Supervisor shall consult the national supervisory bodies or the competent judicial body in the Member State which was the source of the data or the Member State directly concerned. The decision of the European Data Protection Supervisor, which may extend to a refusal to communicate any information, shall be taken in close cooperation with the national supervisory body or competent judicial body.

Amendment 46

Proposal for a regulation

Article 38 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. For the purposes set out in paragraphs 1 and 2, Eurojust may conclude working arrangements with entities referred to in paragraph 1. Those working arrangements shall not form the basis for allowing the exchange of personal data and shall not bind the Union or its Member States.

Amendment 47

Proposal for a regulation

Article 38 – paragraph 4 – point a

Text proposed by the Commission

Amendment

a) the authorisation can be assumed as the Member State has not expressly limited the possibility of onward transfers; or

deleted

Amendment 48

Proposal for a Regulation

Article 39 – paragraph 1 – point c

Text proposed by the Commission

(c) European Judicial Network contact points may be invited on a case-by-case basis to attend Eurojust meetings.

Amendment

(c) European Judicial Network contact points may be invited on a case-by-case basis to attend Eurojust meetings, ***without the right to vote.***

Justification

This amendment is intended to clarify the role of the European Judicial Network contact points.

Amendment 49

Proposal for a regulation

Article 40 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Eurojust and Europol may conclude a working arrangement ensuring, in a reciprocal manner and within their respective mandates, access to, and the possibility of searching, all information that has been provided for the performance of its tasks in accordance with Articles 2 and 4 of this Regulation. This shall be without prejudice to the right of Member States, Union bodies, third countries and international organisations to indicate restrictions on access to, and the use of, such data, and shall be in accordance with the data protection guarantees provided for in this Regulation.

Amendment 50

Proposal for a Regulation

Article 41 – paragraph 2

Text proposed by the Commission

2. Eurojust shall treat any request for support emanating from the European Public Prosecutor's Office without undue delay, and shall deal with such requests, ***where appropriate***, as if they had been received from a national authority competent for judicial cooperation.

Amendment

2. Eurojust shall treat any request for support emanating from the European Public Prosecutor's Office without undue delay, and shall deal with such requests as if they had been received from a national authority competent for judicial cooperation.

Amendment 51

Proposal for a regulation

Article 42 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Frontex shall contribute to Eurojust's work including by transmitting information processed in accordance with its mandate and tasks under Regulation (EU) 2016/1624^{1a}.

^{1a} Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC (OJ L 251, 16.9.2016, p. 1).

Amendment 52

Proposal for a Regulation

Article 55 a (new)

Text proposed by the Commission

Amendment

Article 55a

Opinions on proposed legislative acts
The Commission and the Member States concerned may request Eurojust's opinion on all the proposed legislative acts referred to in Article 76 TFEU.

Justification

This amendment incorporates the provision of Article 32(3) of Council Decision 2002/187/JHA, in accordance with the 2008 amendment, which, inexplicably, is not included in this Commission proposal.

Amendment 53

Proposal for a regulation
Article 55 – paragraph 1

Text proposed by the Commission

1. Eurojust shall transmit its Annual Report to the European Parliament, which may present observations and conclusions.

Amendment

1. Eurojust shall transmit its Annual Report to the European Parliament **and the national parliaments**, which may present observations and conclusions.

Amendment 54

Proposal for a regulation
Article 55 – paragraph 2

Text proposed by the Commission

2. ***The*** President of the College shall ***appear before the European Parliament, at their request, to discuss matters relating to Eurojust, and in particular to present its Annual Reports, taking into account the obligations of discretion and confidentiality. Discussions shall not refer directly or indirectly to concrete actions in relation with specific operational cases.***

Amendment

2. ***Before taking office, a newly appointed*** President of the College shall ***be invited to make a statement before the competent committee or committees of the European Parliament and answer questions put by its or their members.***

During his or her term of office, he or she shall appear before the European Parliament, at their request, to discuss matters relating to Eurojust, and in particular to present its Annual Reports, taking into account the obligations of

discretion and confidentiality. Discussions shall not refer directly or indirectly to concrete actions in relation with specific operational cases.

Amendment 55

Proposal for a regulation

Article 55 – paragraph 3 – introductory part

Text proposed by the Commission

3. In addition to the other obligations of information and consultation set out in this regulation, Eurojust shall transmit to the European Parliament for information:

Amendment

3. In addition to the other obligations of information and consultation set out in this regulation, Eurojust shall transmit to the European Parliament ***and the national parliaments*** for information:

Amendment 56

Proposal for a regulation

Article 55 – paragraph 4

Text proposed by the Commission

4. Eurojust shall transmit its Annual Report to the national Parliaments. Eurojust shall also transmit to the national Parliaments the documents referred to in paragraph 3.

Amendment

deleted

Amendment 57

Proposal for a regulation

Article 59 – paragraph 4

Text proposed by the Commission

4. The obligation of confidentiality shall apply to all information received by Eurojust, unless that information has already been made public or is accessible to the public.

Amendment

4. The obligation of confidentiality shall apply to all information received or ***forwarded*** by Eurojust, unless that information has already been made public or is accessible to the public.

Amendment 58

Proposal for a Regulation Article 67 – title

Text proposed by the Commission

Amendment

Repeal

Repeals and amendments

(See the amendment to Article 67(3)(a) and (3)(b))

Amendment 59

Proposal for a Regulation Article 67 – paragraph 2 a (new)

Present text

Amendment

‘3. ***In the course of*** the direct consultations, competent authorities ***involved in those consultations*** shall ***whenever reasonably possible reply to requests for*** information ***emanating*** from other competent authorities ***that are*** involved in ***those*** consultations. ***However, when a competent authority is requested by another competent authority to provide specific information which could harm essential national security interests or could jeopardise the safety of individuals, it shall not be required to provide that information.***’

2a. Article 10(3) in Framework Decision 2009/948/JHA is replaced by the following:

‘3. ***During*** the direct consultations, ***the*** competent authorities ***concerned*** shall ***respond to the*** information ***requests*** from other competent authorities, ***also*** involved in ***the*** consultations.’

(See the amendment to Article 67)

Justification

The amendment to Council Framework Decision 2009/948/JHA of 30 November 2009 on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings complements the amendments to Articles 21 and 23 of this proposal and is intended to remove exceptions, which could be harmful to the exchange of useful information.

Amendment 60

Proposal for a Regulation

Article 67 – paragraph 2 b (new)

Present text

‘2. *Where* it has not been possible to *reach consensus* in accordance with Article 10, the matter shall, *where appropriate*, be *referred* to Eurojust by *any competent authority of* the Member States *involved, if* Eurojust is competent *to act under* Article 4(1) of the Eurojust *Decision.*’

Amendment

2b. Article 12(2) in Framework Decision 2009/948/JHA is replaced by the following:

‘2. *Whenever* it has not been possible to *come to an agreement*, in accordance with Article 10, the matter shall be *submitted* to Eurojust by the Member States *concerned, through the respective national members, where* Eurojust is competent, *in accordance with* Article 3 of the Eurojust *Regulation.*’

(See the amendment to Article 67)

Justification

This amendment to Council Framework Decision 2009/948/JHA of 30 November 2009 on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings complements the amendments to Article 4(4) and (5) of this proposal and is intended to make it obligatory for a conflict of jurisdiction to be referred to Eurojust, in accordance with Article 85(1)(c) TFEU and more in line with the role of the national members.

Amendment 61

Proposal for a regulation

Annex I – paragraph 1 – indent 11

Text proposed by the Commission

– organised robbery;

Amendment

– organised ***theft or*** robbery;

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	EU Agency for Criminal Justice Cooperation (Eurojust)		
References	COM(2013)0535 – C7-0240/2013 – 2013/0256(COD)		
Committee responsible Date announced in plenary	LIBE 10.9.2013		
Opinion by Date announced in plenary	JURI 10.9.2013		
Rapporteur Date appointed	António Marinho e Pinto 3.9.2014		
Discussed in committee	11.11.2014	12.7.2017	7.9.2017
Date adopted	10.10.2017		
Result of final vote	+: 19 -: 2 0: 1		
Members present for the final vote	Joëlle Bergeron, Marie-Christine Boutonnet, Jean-Marie Cavada, Kostas Chrysogonos, Mady Delvaux, Lidia Joanna Geringer de Oedenberg, Sylvia-Yvonne Kaufmann, Gilles Lebreton, António Marinho e Pinto, Julia Reda, Evelyn Regner, Pavel Svoboda, József Szájer, Axel Voss, Tadeusz Zwiefka		
Substitutes present for the final vote	Luis de Grandes Pascual, Pascal Durand, Angel Dzhambazki, Jytte Guteland, Heidi Hautala, Stefano Maullu, Angelika Niebler		
Substitutes under Rule 200(2) present for the final vote	Karoline Graswander-Hainz		

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

19	+
ALDE	Jean-Marie Cavada, Antonio Marinho e Pinto
EFDD	Joëlle Bergeron,
GUE/NGL	Kostas Chrysogonos
PPE	Stefano Maullu, Angelika Niebler, Pavel Svoboda, József Szájer, Axel Voss, Tadeusz Zwiefka, Luis de Grandes Pascual
S&D	Mady Delvaux, Lidia Joanna Geringer de Oedenberg, Karoline Graswander-Hainz, Jytte Guteland, Sylvia-Yvonne Kaufmann, Evelyn Regner
VERTS/ALE	Durand Pascal, Julia Reda

2	-
ENF	Marie-Christine Boutonnet, Gilles Lebreton

1	0
ECR	Angel Dzhambazki

Key to symbols:

+ : in favour

- : against

0 : abstention