

Brussels, 17 October 2017
(OR. en)

13127/17

Interinstitutional File:
2013/0256 (COD)

LIMITE

EUROJUST 153
EPPO 40
CATS 103
COPEN 297
CSC 229
CODEC 1573

NOTE

From:	Presidency
To:	Permanent Representatives Committee
No. prev. doc.:	12677/17
Subject:	Proposal for a Regulation on the European Union Agency for Criminal Justice Cooperation (Eurojust) - Further mandate for negotiations with the European Parliament

On 17 July 2013 the Commission presented a proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Criminal Justice Cooperation.

The aim of the Commission's proposal is to increase Eurojust's efficiency by establishing a new governance model. It also aims to improve its operational effectiveness through homogeneously defining the powers and status of National Members.

In March 2015 the Council reached the General Approach on the text, as set out in document 6643/15. Due to the fact that the negotiations of the draft EPPO Regulation were not sufficiently advanced at that time, the EPPO-related provisions were not included on the understanding that the COPEN working party would return to the EPPO-related provisions and a further mandate for these provisions would be sought from COREPER at a later stage.

As the negotiations on the draft EPPO Regulation were close to finalisation, the Maltese Presidency considered that the time was ripe to return to the draft Eurojust Regulation with a view to stabilising the EPPO-related provisions. During the Maltese Presidency the negotiations at working party level started again and Member States have at working party level reached an agreement on the EPPO-related provisions (both relevant Articles and corresponding Recitals).

On the basis of a request by a majority of delegations and taking into account the adoption of the EU Data Protection reform package in 2016, the Presidency aligned the data protection regime in the draft Eurojust Regulation with the data protection regime of the EPPO Regulation and of the Directive on Data Protection in the area of Law Enforcement and Criminal Justice (Directive (EU) 2016/680).

The Presidency has continued to work on the data protection provisions in order to ensure the consistency of these provisions with the EPPO Regulation and the Directive on Data Protection in the area of Law Enforcement and Criminal Justice. Various redrafted versions of the text have been presented in order to find a balanced compromise proposal.

The constructive atmosphere during the working parties has made it possible to advance rapidly on the text of relevant Articles and corresponding Recitals.

As a result, the Presidency is now in the position to present the consolidated text of the draft Eurojust Regulation, as set out in the Annex of this document.

The Commission maintains its reservations on the following provisions: Articles 3(1a), 3(4), 5, 7(7), 10(1), 11a, 11(5), 17, 18(2), 18(4)(b), 21(5), 52(3), 58(2) and 67 and Recitals (3a), (6) and (15). It also holds a reservation on Chapter IV Processing of Personal Data.

On Article 60 and recital (32a) SE and FI, supported by NL, maintain their reservation. SE and FI entered a declaration to the minutes of the Council (doc. 17046/14).

COREPER is kindly invited to issue a further mandate on the following provisions as set out in the Annex, agreed at technical level:

- recitals (4), (5), (5a), (10), (20a), (20ab), (20ae), (20ag), (20ah), (20ai), (20as), (20au), (20aw), (20bc), (20bf), (20bg), (20bh), (20bl), (20bm), (20bn), (20bp), (20bq), (20ca), (20cf), (20ch), (20e), (20g), (20ha), 20 (hc), (20ib), (20ic), (20id), (21), (21a), (21b), (21g), (21h), (21i), (23), (25);
- Articles 3(1), 12(3), 16 (7), 16a(1), 24, 26a, 26b, 27, 27a, 27b, 27c, 27d, 27e, 27f, 28, 29, 29a, 29b, 29c, 29d, 29e, 29f, 29g, 30, 30a, 30b, 30c, 30d, 31, 31a, 31b, 31c, 31d, 31dd, 31e, 31f, 35, 35a, 36, 36a, 36b, 37, 38, 41, 44, 45, 45a, 45b, 45c, 49, 52(1), 56(1), 67(1), 68(3).

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
on the European Union Agency for Criminal Justice Cooperation (Eurojust)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 85 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Eurojust was set up by Council Decision 2002/187/JHA¹ as a body of the European Union with legal personality to stimulate and to improve coordination and cooperation between competent judicial authorities of the Member States, particularly in relation to serious organised crime. Council Decision 2003/659/JHA² and Council Decision 2009/426/JHA³ on the strengthening of Eurojust amended Eurojust's legal framework.

¹ OJ L 63, 6.3.2002, p. 1.

² OJ L 245, 29.9.2003, p. 44.

³ OJ L 138, 4.6.2009, p.14.

- (2) Article 85 of the Treaty provides for Eurojust to be governed by a regulation, adopted in accordance with the ordinary legislative procedure. It also requires determining arrangements for involving the European Parliament and national Parliaments in the evaluation of Eurojust's activities.
- (3) Article 85 of the Treaty also provides that Eurojust's mission shall be to 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.
- (3a) This Regulation aims to amend and expand the provisions of Decision 2002/187/JHA and 2009/426/JHA. Since the amendments to be made are of substantial number and nature, this Decision should in the interests of clarity be replaced in its entirety in relation to the Member States bound by this Regulation.
- (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.
- (5) Whilst the European Public Prosecutor's Office should have competence to investigate and prosecute crimes affecting the Union's financial interests, Eurojust should be able to support national authorities when they are investigating and prosecuting these forms of crime in accordance with the Regulation establishing the European Public Prosecutor's Office.
- (5a) Considering the creation of the European Public Prosecutor's Office, the division of competences between that Office and Eurojust with respect to crimes affecting the financial interests of the Union needs to be clearly established. Eurojust should be able to exercise its competence in such cases, where they involve both Member States participating in enhanced

cooperation on the establishment of the European Public Prosecutor's Office and Member States which do not. In such cases, Eurojust should act at the request of those non-participating Member States or at the request of the European Public Prosecutor's Office. Eurojust remains in any case competent for offences affecting the financial interests of the Union whenever the European Public Prosecutor's Office is not competent or, being competent, does not exercise its competence. The Member States which do not participate in enhanced cooperation on the establishment of the European Public Prosecutor's Office may continue to request Eurojust's support in all cases regarding offences affecting the financial interests of the Union.

- (6) In order for Eurojust to fulfil its mission and develop all its potential in the fight against serious cross-border crime, its operational functions should be strengthened by reducing the administrative workload of national members, and its European dimension enhanced through the Commission's participation in the Executive Board and the increased involvement of the European Parliament and national Parliaments in the evaluation of its activities.
- (7) Therefore, this Regulation should determine arrangements for parliamentary involvement, modernising its structure and simplifying Eurojust's current legal framework, whilst maintaining those elements that have proven to be efficient in its operation.
- (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.
- (9a) Prosecution on a common bases refers to cases of prosecutions and investigations which may affect only one Member State and a third country where an agreement has been concluded or where there may be a specific need for Eurojust's involvement. It may also refer to cases which affect one Member State and the Union.

- (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. By acting on its own initiative, Eurojust may take a more proactive role in co-ordinating cases such as supporting the national authorities in their investigations and prosecutions. This may include involving Member States who may not have initially been included in the case and discovering links between cases based on the information it receives from Europol, OLAF, the European Public Prosecutor's Office and national authorities. It also allows Eurojust to produce guidelines, policy documents and casework related analyses as part of its strategic work. When acting on its own initiative it should do so in accordance with this Regulation.
- (10a) At the request of a Member State's competent authority or the Commission, Eurojust may also assist investigations involving only that Member State but which have repercussions at Union level. Examples of cases which have repercussions at Union level include those where a member of an EU institution or body is involved. It also covers cases which involve a significant number of Member States and could potentially require a coordinated European response.
- (11) To ensure Eurojust can appropriately support and coordinate cross-border investigations, it is necessary that all national members have the same operational powers with respect to their Member State of origin 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 and directly contacting and exchanging information with competent authorities. National Members may, in accordance with their national law, retain the powers which are derived from their capacity as national authorities.

- (11a) In principle, the competent national authority should order investigative measures and controlled deliveries, issue and execute mutual assistance and recognition requests and participate in joint investigation teams. However, the national members may also exercise these powers in agreement with the competent national authority or in case of urgency. Since these powers are exercised in accordance with national law, the courts of Member States should be competent to review these measures, in accordance with the requirements and procedures laid down by national law.
- (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 College and the Administrative Director should be clarified and an Executive Board established.
- (13) Provisions should be laid down to clearly distinguish between the operational and the management functions of the College, reducing the administrative burden on national members to the minimum so that the focus is put on Eurojust's operational work. The management tasks of the College should include in particular the adoption of Eurojust's work programmes, budget, annual activity report, and working arrangements with partners. It should exercise the power of appointing authority towards the Administrative Director. The College should also adopt the Rules of Procedure of Eurojust. Since those rules may have an impact on the judicial activities of the Member States, it is of the utmost importance to confer on the Council implementing powers to approve those rules.
- (14) To improve Eurojust's governance and streamline procedures, an Executive Board should be established to assist the College in its management functions and to allow for streamlined decision-making on non-operational and strategic issues.
- (15) The Commission should be represented in the Executive Board, to ensure non-operational supervision and strategic guidance of Eurojust.

- (16) In order to ensure an efficient day-to-day administration of Eurojust, the Administrative Director should be its legal representative and manager, accountable to the College. The Administrative Director should prepare and implement the decisions of the College and the Executive Board.
- (16a) A President and two Vice-Presidents should be elected by the College from among the national members for a term of office of four years. When a national member is elected to one of these positions, the Member State concerned may second another suitably qualified person to the national desk and apply for compensation from the Eurojust budget.
- (16b) Suitably qualified persons are persons that have the necessary qualifications and experience to perform the tasks required to ensure that the national desk functions effectively. In this respect, they may have the status of the deputy or Assistant as set out in Article 7 or alternatively they may have a more administrative or technical function. Each Member State may decide on its own requirements in this regard.
- (16c) Since the determination of the compensation model has a budgetary impact this Regulation should confer on the Council implementing powers to determine that model.
- (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.

- (18) Eurojust national coordination systems should be set up in the Member States to coordinate the work carried out by the national correspondents for Eurojust, the national correspondent for Eurojust for terrorism matters, the national correspondent for the European Judicial Network and up to three other contact points, as well as representatives in the Network for Joint Investigation Teams and of the networks set up by Council Decision 2002/494/JHA of 13 June 2002 setting up a European network of contact points in respect of persons responsible for genocide, crimes against humanity and war crimes⁴, Council Decision 2007/845/JHA of 6 December 2007 concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to crime⁵ Council Decision 2008/852/JHA of 24 October 2008 on a contact-point network against corruption⁶ and, where applicable, any other relevant judicial authority.
- (19) For the purposes of stimulating and strengthening coordination and cooperation between national investigating and prosecuting authorities it is crucial that Eurojust receives relevant information from national authorities necessary for the performance of its tasks. To this end, national competent authorities should inform their national members of the setting up and results of joint investigation teams, of cases under the competence of Eurojust directly involving at least three Member States and for which requests or decisions on judicial cooperation have been transmitted to at least two Member States, as well as, under certain circumstances, information on conflicts of jurisdiction, controlled deliveries and repeated difficulties in judicial cooperation.
- (20a) Declaration No 21 on the protection of personal data in the fields of judicial cooperation in criminal matters and police cooperation annexed to the TEU and the TFEU, recognises the specificity of personal data processing in the field of judicial cooperation in criminal matters and the free movement of such data, therefore the data protection rules in the field of judicial cooperation in criminal matters based on Article 16 TFEU may prove to be necessary because of the specific nature of these fields.

⁴ OJ L 167, 26.6.2002, p.1.

⁵ OJ L 332, 18.12.2007, p.103.

⁶ OJ L 301, 12.11.2008, p.38.

- (20ab) The rules on the protection of personal data of this Regulation should be interpreted and applied in accordance with the interpretation and application of Directive (EU) 2016/680 of the European Parliament and of the Council⁷, which will apply to the processing of personal data by competent authorities of the Member States of the European Union for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties.
- (20ae) The protection of the rights and freedoms of data subjects requires a clear attribution of the responsibilities under this Regulation. In particular, Member States should be responsible for the accuracy of data, for keeping up to date the data they have transferred to Eurojust and which has been processed unaltered by Eurojust for the legality of such data transfers. Eurojust should be responsible for the accuracy of data and for keeping up to date the data provided by other data suppliers or resulting from Eurojust's own analyses or data collection. Eurojust should ensure that data are processed fairly and lawfully, and are collected and processed for a specific purpose. Eurojust should also ensure that the data are adequate, relevant, not excessive in relation to the purpose for which they are processed, stored no longer than is necessary for that purpose, and processed in a manner that ensures appropriate security of personal data and confidentiality of data processing.
- (20ag) The data protection provisions of this Regulation are without prejudice to the applicable. Rules on the admissibility of personal data as evidence in criminal pre-trial and court proceedings.
- (20ah) All personal data processed by Eurojust within the framework of its competence for the fulfilment of its tasks should be considered as processing of operational personal data.

⁷ Directive (EU) 2016/680 of the European parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA, OJ L 119, 4.5.2016, p.89.

- (20ai) As Eurojust also processes administrative personal data, unrelated to criminal investigations, the processing of such data should be subject to Regulation (EC) No 45/2001.
- (20as) The capacity to determine the purposes and the means of the processing of personal data may stem from different legal and/or factual circumstances, an explicit legal competence, when the law appoints the controller or confers a task or duty to collect and process certain data. Dependent on the activities which Eurojust is executing, whether processing the data on behalf of the Member States or executing its own autonomous obligations and tasks, Eurojust may be deemed either as controller, joint controller or processor in accordance with the specific provisions of the present Regulation.
- (20au) As far as possible, personal data should be distinguished according to their degree of accuracy and reliability. Facts should be distinguished from personal assessments, in order to ensure both the protection of individuals and the quality and reliability of the information processed by Eurojust. In the case of information obtained from publicly available sources, particularly sources on the internet, Eurojust should as far as possible assess the accuracy of such information and the reliability of its source with particular diligence in order to address the risks associated with the internet as regards the protection of personal data and privacy.
- (20aw) A large part of the operational personal data processed by Eurojust is submitted to Eurojust by the national competent authorities. The competent authorities of the Member States are responsible for ensuring the accuracy and the completeness of the personal data transmitted to Eurojust. However, Eurojust should take the necessary steps, where relevant and as far as possible, to verify the accuracy and the completeness of the data before making the data available to other recipients. Eurojust may seek to verify the data, for example, by consulting the authorities the data originates from or through the national members of the respective Member State, or using publicly available information.

- (20bc) Modalities should be provided for facilitating the exercise of the data subject's rights, including mechanisms to request and, if applicable, obtain, free of charge, in particular, access to and rectification or erasure of personal data and restriction of processing. Eurojust should be obliged to respond to requests of the data subject without undue delay, unless Eurojust applies limitations to data subject rights in accordance with this Regulation. Moreover, if requests are manifestly unfounded or excessive, such as where the data subject unreasonably and repetitiously requests information or where the data subject abuses his or her right to receive information, for example, by providing false or misleading information when making the request, Eurojust has the right to charge a reasonable fee or refuse to act on the request.
- (20bf) At least the following information should be made available to the data subject by Eurojust while processing personal data: contacts of the Data Protection Officer, the existence of the processing operation, the purposes of the processing, the right to lodge a complaint and the existence of the right to request from Eurojust access to and rectification or erasure of personal data or restriction of processing. This information can be provided to the data subject on the website of Eurojust. In addition, in specific cases and in order to enable the exercise of his or her rights, the data subject should be informed of the legal basis for the processing and of how long the data will be stored, in so far as such further information is necessary, taking into account the specific circumstances in which the data are processed, to guarantee fair processing in respect of the data subject.

- (20bg) Any data subject should have a right of access to personal data concerning him or her, a right to rectification if those data are inaccurate, and a right to erasure or restriction if those data are no longer required. The costs related to exercising the right of access to personal data should not represent a barrier to effectively exercising that right. The rights of the data subject and the exercise thereof should not affect the obligations incumbent upon Eurojust and should be subject to the restrictions laid down in this Regulation.
- (20bh) A natural person should have the right of access to data which has been collected concerning him or her, and to exercise this right easily and at reasonable intervals, in order to be aware of and verify the lawfulness of the processing. Every data subject should therefore have the right to know, and obtain communications about, the purposes for which the data are processed, the period during which the data are processed and the recipients of the data, including those in third countries. Where such communications include information as to the origin of the personal data, the information should not reveal the identity of natural persons, in particular confidential sources. For that right to be complied with, it is sufficient that the data subject be in possession of a full summary of those data in an intelligible form, that is to say a form which allows that data subject to become aware of those data and to verify that they are accurate and processed in accordance with this Regulation, so that it is possible for him or her to exercise the rights conferred on him or her by this Regulation. Such a summary could be provided in the form of a copy of the personal data undergoing processing.
- (20bl) Data subject has the right to have inaccurate personal data concerning him or her rectified, in particular where it relates to facts, and the right to erasure where the processing of such data infringes this Regulation. However, the right to rectification should not affect, for example, the content of a witness testimony or any personal data which must be maintained for the purposes of evidence. Instead of erasure of personal data Eurojust shall restrict processing where the accuracy of personal data is contested or when its accuracy or inaccuracy cannot be ascertained or where the personal data have to be maintained for purpose of evidence. In particular, instead of erasing personal data, processing should be restricted if in a specific case there are reasonable grounds to believe that erasure could affect the legitimate interests

of the data subject. In such a case, restricted data should be processed only for the purpose which prevented their erasure. Methods to restrict the processing of personal data could include, inter alia, moving the selected data to another processing system, for example for archiving purposes, or making the selected data unavailable. In automated filing systems the restriction of processing should in principle be ensured by technical means. The fact that the processing of personal data is restricted should be indicated in the system in such a manner that it is clear that the processing of the personal data is restricted. Such rectification or erasure of personal data or restriction of processing should be communicated to recipients to whom the data have been disclosed and to the competent authorities from which the inaccurate data originated.

- (20bm) Where operational personal data are transmitted or supplied to Eurojust by the Member State, the competent authority, national member as well as national correspondent has the right to request rectification or erasure of that operational personal data.
- (20bn) Where Eurojust denies a data subject his or her right to access to his or her personal data processed by Eurojust or rectification or erasure of personal data or restriction of processing, the data subject has the right to request that the European Data Protection Supervisor verify the lawfulness of the processing. The data subject should be informed of that right. Where the European Data Protection Supervisor acts on behalf of the data subject, the data subject should be informed by the European Data Protection Supervisor at least that all necessary verifications or reviews by him or her have taken place and inform the data subject of the right to seek a judicial remedy.
- (20bp) In order to demonstrate compliance with this Regulation, Eurojust or the authorized processor should maintain records regarding all categories of processing activities under its responsibility. Eurojust and each authorized processor should be obliged to cooperate with the European Data Protection Supervisor and make those records available to it on request, so that they might serve for monitoring those processing operations. Eurojust or authorized processor processing personal data in non-automated processing systems should have in place effective methods of demonstrating the lawfulness of the processing, of enabling self-monitoring and of ensuring data integrity and data security, such as logs or other forms of records.

- (20bq) A data protection impact assessment of the envisaged processing operations, especially when using new technologies should be carried out by Eurojust prior to the processing where the processing operations are likely to result in a high risk to the rights and freedoms of data subjects by virtue of their nature, scope or purposes. The impact assessment should include, in particular, the measures, safeguards and mechanisms envisaged to ensure the protection of operational personal data and to demonstrate compliance with this Regulation. Impact assessments should cover relevant systems and processes of processing operations, but not individual cases.
- (20ca) The Executive Board of Eurojust shall designate the Data Protection Officer who shall be a member of the existing staff. The person designated as Data Protection Officer of Eurojust should have undergone special training in data protection law and practice for acquiring expert knowledge in that field. The necessary level of expert knowledge should be determined, in particular, according to the data processing carried out and the protection required for the personal data processed by Eurojust.
- (20cf) Data subjects should be informed without undue delay where the personal data breach is likely to result in a high risk to their rights and freedoms, in order to allow them to take the necessary precautions. The communication should describe the nature of the personal data breach and include recommendations for the data subjects concerned to mitigate potential adverse effects.
- (20ch) To exercise the respective duties for granting the monitoring and ensuring the complete application of the data protection provisions of the present Regulation with regard to processing of operational personal data by Eurojust, European Data protection Supervisor is entitled to use the powers granted to him or her with the present Regulation for effective fulfillment of his or her duties, including warning Eurojust. Since European Data Protection Supervisor has the right to consult Eurojust concerning submitted requests, refer matters to Eurojust for solving emerged concerns in operational personal data processing, make proposals for improving the protection of the data subjects, order Eurojust to carry out

specific operations with regard to processing of operational personal data, he/she has to have the means to have the orders complied with and executed. Warning is oral or written reminder of the obligation to execute the orders or comply with the proposals of the European Data Protection Supervisor with the relevant warning of the means applied upon non-compliance or refusal.

- (20e) The duties and powers of the European Data Protection Supervisor such as the power to order Eurojust to carry out the rectification, restriction of processing or erasure of operational personal data which have been processed in breach of the data protection provisions contained in this Regulation, should not extend to the personal data contained in the national case files.
- (20 g) In order to facilitate the cooperation between the European Data Protection Supervisor and the national supervisory authorities, but without prejudice to the independence of the European Data Protection Supervisor and his or her responsibility for data protection supervision of Eurojust, they should regularly meet within the Cooperation Board. Cooperation Board is an advisory body which should deliver opinions, guidelines, recommendations and best practices on various issues requiring national involvement.
- (20ha) Eurojust is responsible for the accuracy of the data provided by or retrieved from third countries or international organisations as Eurojust is the first recipient on the territory of the Union. Eurojust should take measures to verify, as far as possible the accuracy of the data upon receiving the data or when making data available to other authorities.

- (20hc) Eurojust should be subject to the general rules on contractual and non-contractual liability applicable to Union institutions, agencies and bodies.
- (20ib) Eurojust should be able to exchange relevant personal data and maintain cooperative relations with other institutions, bodies, offices or agencies of the Union to the extent necessary for the accomplishment of its or their tasks.
- (20ic) To guarantee purpose limitation, it is important to ensure that personal data can be transferred by Eurojust to third countries and international organisations only if necessary for preventing and combating crime that falls within Eurojust's tasks. To this end, it is necessary to ensure that, when personal data are transferred, the recipient gives an undertaking that the data will be used by the recipient or transferred onward to a competent authority of a third country solely for the purpose for which they were originally transferred. Further onward transfer of the data should take place in compliance with this Regulation.
- (20id) All Member States of the European Union are affiliated to the International Criminal Police Organisation (Interpol). To fulfil its mission, Interpol receives, stores and circulates personal data to assist competent authorities in preventing and combating international crime. It is therefore appropriate to strengthen cooperation between the Union and Interpol by promoting an efficient exchange of personal data whilst ensuring respect for fundamental rights and freedoms regarding the automatic processing of personal data. Where operational personal data are transferred from the Eurojust to Interpol, and to countries which have delegated members to Interpol, this Regulation, in particular the provisions on international transfers, should apply. This Regulation should be without prejudice to the specific rules laid down in Council Common Position 2005/69/JHA⁸ and Council Decision 2007/533/JHA.

⁸ Council Common Position 2005/69/JHA of 24 January 2005 on exchanging certain data with Interpol (OJ L 27, 29.1.2005, p. 61).

- (21) When Eurojust transfers operational personal data to an authority of a third country or to an international organisation 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 should ensure that the data protection provisions of this Regulation are complied with.
- (21a) Eurojust should ensure that a transfer to a third country or to an international organization takes place only if necessary for the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security, and that the controller in the third country or international organisation is an authority competent within the meaning of this Regulation. A transfer should be carried out only by Eurojust acting as controller. Such a transfer may take place in cases where the Commission has decided that the third country or international organisation in question ensures an adequate level of protection, where appropriate safeguards have been provided, or where derogations for specific situations apply.
- (21b) Eurojust should be able to transfer personal data to an authority of a third country or an international organisation on the basis of a Commission decision finding that the country or international organisation in question ensures an adequate level of data protection (‘adequacy decision’), or, in the absence of an adequacy decision, an international agreement concluded by the Union pursuant to Article 218 TFEU, or a cooperation agreement allowing for the exchange of personal data concluded between Eurojust and the third country prior to the entry into force of this Regulation.
- (21g) Where the College identifies an operational need for cooperation with a third country or an international organisation, it should be able to suggest to the Council that the latter draw the attention of the Commission to the need for an adequacy decision or for a recommendation for the opening of negotiations on an international agreement as referred to above.

- (21h) Transfers not based on an adequacy decision should be allowed only where appropriate safeguards have been provided in a legally binding instrument which ensures the protection of personal data or where Eurojust has assessed all the circumstances surrounding the data transfer and, on the basis of that assessment, considers that appropriate safeguards with regard to the protection of personal data exist. Such legally binding instruments could, for example, be legally binding bilateral agreements which have been concluded by the Member States and implemented in their legal order and which could be enforced by their data subjects, ensuring compliance with data protection requirements and the rights of the data subjects, including the right to obtain effective administrative or judicial redress. Eurojust should be able to take into account cooperation agreements concluded between Eurojust and third countries which allow for the exchange of personal data when carrying out the assessment of all the circumstances surrounding the data transfer. Eurojust should be able to also take into account the fact that the transfer of personal data will be subject to confidentiality obligations and the principle of specificity, ensuring that the data will not be processed for other purposes than for the purposes of the transfer. In addition, Eurojust should take into account that the personal data will not be used to request, hand down or execute a death penalty or any form of cruel and inhuman treatment. While those conditions could be considered to be appropriate safeguards allowing the transfer of data, Eurojust should be able to require additional safeguards.
- (21i) Where no adequacy decision or appropriate safeguards exist, a transfer or a category of transfers could take place only in specific situations, if necessary to protect the vital interests of the data subject or another person, or to safeguard legitimate interests of the data subject where the law of the Member State transferring the personal data so provides; for the prevention of an immediate and serious threat to the public security of a Member State or a third country; in an individual case for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security; or in an individual case for the establishment, exercise or defence of legal claims. Those derogations should be interpreted restrictively and should not allow frequent, massive and structural transfers of personal data, or large-scale transfers of data, but should be limited to data strictly necessary. Such transfers should be documented and should be made available to the European Data Protection Supervisor on request in order to monitor the lawfulness of the transfer.

- (23) In exceptional cases, Eurojust should be able to extend the deadlines for storage of operational 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.
- (24) Eurojust should maintain privileged relations with the European Judicial Network based on consultation and complementarity. This Regulation should help clarify the respective roles of Eurojust and the European Judicial Network and their mutual relations, while maintaining the specificity of the European Judicial Network.
- (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.
- (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.
- (26a) Eurojust and Europol should ensure that necessary arrangements are established to optimise their operational cooperation, taking due account of their respective missions and mandates and of the interests of Member States. In particular, Europol and Eurojust should keep each other informed of any activity involving the financing of Joint Investigation Teams.
- (27) Eurojust should be able to exchange operational personal data with other Union bodies to the extent necessary for the accomplishment of its tasks.

- (28) Provision should be made for Eurojust to post liaison magistrates to third countries in order to achieve objectives similar to those assigned to liaison magistrates seconded by the Member States on the basis of Council Joint Action 96/277/JHA of 22 April 1996 concerning a framework for the exchange of liaison magistrates to improve judicial cooperation between the Member States of the European Union⁹.
- (29) Provision should be made for Eurojust to coordinate, with the agreement of the Member States concerned, the execution of requests for judicial cooperation issued by a third country and where these requests require execution in at least two Member States as part of the same investigation.
- (30) To guarantee the full autonomy and independence of Eurojust, it should be granted an autonomous budget, with revenue coming essentially from a contribution from the budget of the Union, except as regards the salaries and emoluments of the national members and assisting persons, which are borne by their Member State of origin. The Union budgetary procedure should be applicable as far as the Union contribution and other subsidies chargeable to the general budget of the Union are concerned. The auditing of accounts should be undertaken by the Court of Auditors.
- (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.
- (32) It is appropriate to evaluate regularly the application of this Regulation.

⁹ OJ L 105, 27.04.1996, p.1.

- (32a) Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents should apply to documents which relate to Eurojust's administrative tasks. Documents which relate to operational tasks should be excluded because of the inherent risk that the disclosure of the documents undermines ongoing investigations and court proceedings of Member States' judicial authorities.
- (32aa) Nothing in this Regulation is intended to restrict the right of public access to documents in so far it is guaranteed in the Union and in the Member States, in particular under Article 42 of the Charter and other relevant provisions.
- (33) Regulation (EU, EURATOM) No 966/2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002¹⁰ should apply to Eurojust.
- (34) Regulation (EC) No. 883/2013 of the European Parliament and of the Council concerning investigations conducted by the European Anti-Fraud Office (OLAF)¹¹ should apply to Eurojust.
- (35) The necessary provisions regarding accommodation for Eurojust in the Member State in which it has its headquarters, that is to say in the Netherlands, and the specific rules applicable to all Eurojust's staff and members of their families should be laid down in a headquarters agreement.
- (36) As Eurojust as set up by this Regulation replaces and succeeds Eurojust as established on the basis of Decision 2002/187/JHA, it should be the legal successor of Eurojust with respect to all its contractual obligations, including employment contracts, liabilities and properties acquired. International agreements concluded by Eurojust as established on the basis of that Decision should remain in force.

¹⁰ OJ L 298, 26.10.2012, p.1.

¹¹ OJ L 248, 18.9.2013, p. 1

- (37) Since the objective of this Regulation, namely the setting up of an entity responsible for supporting and strengthening coordination and cooperation between judicial authorities of the Member States in relation to serious crime affecting two or more Member States or requiring a prosecution on common bases, cannot be sufficiently achieved by the Member States and can, therefore, by reason of the scale and effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity, as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (38) In accordance with Articles 1,2 and 4a(1) of Protocol (No 21) on the position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol Ireland and the United Kingdom are not taking part in the adoption of this Regulation and are not bound by it or subject to its application.
- (39) In accordance with Articles 1 and 2 of the Protocol (No 22) on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.
- (39a) The European Data Protection Supervisor has been consulted and issued an opinion on 5 March 2014.
- (39b) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.

HAVE ADOPTED THIS REGULATION:

CHAPTER I

OBJECTIVE AND TASKS

Article 1

The European Union Agency for Criminal Justice Cooperation

1. The European Union Agency for Criminal Justice Cooperation (Eurojust) is hereby established.
2. Eurojust, as established by this Regulation, shall replace and succeed Eurojust as established by Council Decision 2002/187/JHA.
3. In each of the Member States, Eurojust shall have legal personality accorded to legal persons under their laws.

Article 1a

Definitions

For the purpose of this Regulation:

- a) 'international organisations' means an organisations and its subordinate bodies governed by public international law or any other body which is set up by, or on the basis of , an agreement between two or more countries;
- b) 'personal data' means any information relating to an identified or identifiable natural person ("data subject"); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;

- c) 'operational personal data' means all personal data processed by Eurojust for the purposes laid down in Article 2;
- d) 'administrative personal data' means all personal data processed by Eurojust apart from operational personal data;
- e) 'processing' means any operation or set of operations which is performed on personal data or sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;
- g) 'supervisory authority' means an independent public authority which is established by a Member State pursuant to Article 51 of Regulation (EU) 2016/679¹² of the European Parliament and of the Council or pursuant to Article 41 of Directive (EU) 2016/680;
- j) 'restriction of processing' means the marking of stored personal data with the aim of limiting their processing in the future;
- (k) 'profiling' means any form of automated processing of personal data consisting of the use of personal data to evaluate certain personal aspects relating to a natural person, in particular to analyse or predict aspects concerning that natural person's performance at work, economic situation, health, personal preferences, interests, reliability, behaviour, location or movements;
- (l) 'pseudonymisation' means the processing of personal data in such a manner that the personal data can no longer be attributed to a specific data subject without the use of additional information, provided that such additional information is kept separately and is subject to technical and organisational measures to ensure that the personal data are not attributed to an identified or identifiable natural person;

¹² Regulation (EU) 2016/679 of the European Parliament and the of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation, OJ L 119, 4.5.2016, p. 1).

- (m) ‘filing system’ means any structured set of personal data which are accessible according to specific criteria, whether centralised, decentralised or dispersed on a functional or geographical basis;
- (n) ‘controller’ means Eurojust or another competent authority which, alone or jointly with others, determines the purposes and means of the processing of personal data; where the purposes and means of such processing are determined by Union law or law of a Member State, the controller or the specific criteria for its nomination may be provided for by Union law or law of a Member State;
- (o) ‘processor’ means a natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller;
- (p) ‘recipient’ means a natural or legal person, public authority, agency or any other body to which the personal data are disclosed, whether a third party or not.
- (q) ‘personal data breach’ means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed;
- r) ‘genetic data’ means personal data relating to the inherited or acquired genetic characteristics of a natural person which give unique information about the physiology or the health of that natural person and which result, in particular, from an analysis of a biological sample from the natural person in question;
- s) ‘biometric data’ means personal data resulting from specific technical processing relating to the physical, physiological or behavioural characteristics of a natural person, which allow or confirm the unique identification of that natural person, such as facial images or dactyloscopic data;
- t) ‘data concerning health’ means personal data related to the physical or mental health of a natural person, including the provision of health care services, which reveal information about his or her health status;

Article 2

Tasks

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.
2. In the implementation of its tasks Eurojust shall:
 - a) take into account any request emanating from a competent authority of a Member State or any information provided by these authorities, by institutions and by any other body competent by virtue of provisions adopted within the framework of the Treaties or collected by Eurojust itself;
 - b) facilitate the execution of requests for, and decisions on, judicial cooperation, including those based on instruments giving effect to the principle of mutual recognition.
3. Eurojust shall exercise its tasks at the request of the competent authorities of the Member States or on its own initiative.

Article 3

Competence of Eurojust

1. Eurojust's competence shall cover the forms of crime listed in Annex 1. However, Eurojust shall not exercise its competence with regard to crimes for which the European Public Prosecutor's Office exercises its competence, except in cases also involving Member States which do not participate in enhanced cooperation on the establishment of that Office and at

the request of those Member States or at the request of the European Public Prosecutor's Office. To this end, Eurojust, the European Public Prosecutor's Office and the Member States concerned shall consult and cooperate with each other. 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).

- 1a For forms of crime other than those listed in Annex 1, Eurojust may also, in accordance with its tasks, assist in the investigations and prosecutions at the request of a competent authority of a Member State.
2. Eurojust's competence shall cover related criminal offences. The following offences shall be regarded as related criminal offences:
 - a) criminal offences committed in order to procure the means of perpetrating acts listed in Annex 1;
 - b) criminal offences committed in order to facilitate or carry out acts listed in Annex 1;
 - c) criminal offences committed to ensure the impunity of acts listed in Annex 1.
3. At the request of a Member State's competent authority, Eurojust may also assist investigations and prosecutions affecting only that Member State and a third country where a cooperation agreement or arrangement establishing cooperation pursuant to Article 43 has been concluded with that third country or where in a specific case there is an essential interest in providing such assistance.
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 but which have repercussions at Union level. When acting at the request of the Commission the assistance by Eurojust shall be subject to the prior consent of the competent authority of the Member State concerned.

Article 4
Operational functions of Eurojust

1. Eurojust shall:
 - 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;
 - b) assist the competent authorities of the Member States in ensuring the best possible coordination of investigations and prosecutions;
 - 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;
 - d) cooperate and consult with the European Judicial Network in criminal matters, including making use of and contributing to the improvement of the documentary database of that European Judicial Network;
 - e) provide operational, technical and financial support to Member States' cross-border operations and investigations, including joint investigation teams.

2. In the exercise of its tasks, Eurojust may ask the competent authorities of the Member States concerned, giving its reasons, to:
 - a) undertake an investigation or prosecution of specific acts;
 - b) accept that one of them may be in a better position to undertake an investigation or to prosecute specific acts;
 - c) coordinate between the competent authorities of the Member States concerned;
 - d) set up a joint investigation team in accordance with the relevant cooperation instruments;
 - e) provide it with any information that is necessary to carry out its tasks;
 - f) take special investigative measures;
 - g) take any other measure justified for the investigation or prosecution.
3. Eurojust may also:
 - a) provide Europol with opinions based on analyses carried out by Europol;
 - b) supply logistical support, including assistance for translation, interpretation and the organisation of coordination meetings.
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 (a) and (b) of paragraph 2, Eurojust shall issue a written opinion on the case. The non-binding opinion shall be promptly forwarded to the Member States concerned.
5. On request of a competent authority Eurojust shall issue a written opinion on repeated 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 non-binding opinion shall be promptly forwarded to the Member States concerned.

6. The competent national authorities shall respond without undue delay to Eurojust's requests and opinions. Where the competent authorities of the Member States concerned decide not to comply with a request referred to in Article 4(2) or decide not to follow a written opinion referred to in Article 4(4) or (5), they shall inform Eurojust without undue delay of their decision and of the reasons for it. Where it is not possible to give the reasons for refusing to comply with a request because to do so would harm essential national security interests or would jeopardise the safety of individuals, the competent authorities of the Member States may cite operational reasons.

Article 5

Exercise of operational and other functions

1. Eurojust shall act through one or more of the national members concerned when taking any of the actions referred to in Article 4(1) or (2). 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.
2. Eurojust shall act as a College:
 - a) when taking any of the actions referred to in Article 4(1) or (2):
 - (i) when so requested by one or more of the national members concerned by a case dealt with by Eurojust;
 - (ii) when the case involves investigations or prosecutions which have repercussions at Union level or which might affect Member States other than those directly concerned;
 - b) when taking any of the actions referred to in Article 4 (3), (4) or (5);
 - c) when a general question relating to the achievement of its operational objectives is involved;

- e) when adopting the annual budget of Eurojust;
- f) when adopting the annual and multiannual programme and the annual report on Eurojust's activities;
- g) when electing or dismissing the President and Vice- Presidents in accordance with Article 11;
- h) when appointing the Administrative Director and where relevant extending his or her term of office or removing him or her from office in accordance with Article 17;
- i) when adopting working arrangements concluded in accordance with Articles 38(2a) and 43;
- j) when adopting rules for the prevention and management of conflicts of interest in respect of the national members;
- k) when preparing strategic reports, policy papers, guidelines for the benefit of national authorities and opinions pertaining to the operational work of Eurojust.
- l) when appointing liaison magistrates in accordance with Article 46;
- m) when taking any other decision which is not expressly attributed to the Executive Board in this Regulation or which is not under the responsibility of the Administrative Director in accordance with Article 18;
- n) when otherwise provided for in this Regulation.

3. When it fulfils its tasks, Eurojust shall indicate whether it is acting through one or more of the national members or as a College.
4. The College may assign additional administrative tasks to the Administrative Director and the Executive Board beyond those provided for in Articles 16 and 18 in line with its operational requirements.
5. The College shall adopt the Rules of Procedure of Eurojust on the basis of a two-thirds majority of its members. In the event that agreement cannot be reached by two-thirds majority, the decision shall be taken by simple majority. The Rules of Procedure shall be approved by the Council by means of implementing acts.

CHAPTER II

STRUCTURE AND ORGANISATION OF EUROJUST

SECTION I

STRUCTURE

Article 6

Structure of Eurojust

The structure of Eurojust shall comprise:

- a) the national members;
- b) the College;
- c) the Executive Board;
- d) the Administrative Director

SECTION II

NATIONAL MEMBERS

Article 7

Status of national members

1. Eurojust shall have one national member seconded by each Member State in accordance with its legal system, who shall have his or her regular place of work at the seat of Eurojust.
2. Each national member shall be assisted by one deputy and by an Assistant. The deputy and the Assistant shall in principle have their regular place of work at the seat of Eurojust. The Member State may decide that the deputy and/or Assistant work in the Member State of origin and notify the College. If the operational needs of Eurojust so require, the College may request the Member State to justify its decision to base the deputy and Assistant in the Member State of origin. The Member State shall respond to the request of the College without undue delay.

- 2a. More deputies or Assistants may assist the national member and may, if necessary and with the agreement of the College, have their regular place of work at Eurojust. The Member State shall notify Eurojust and the Commission of the designation of national members, deputies and Assistants.
3. The national members and deputies shall have a status as a prosecutor, judge or police officers of equivalent competence. The national members shall at least have the powers referred to in this Regulation in order to be able to fulfil their tasks.
- 3a. The term of office of the national members and their deputies shall be four years, renewable.
4. The deputy shall be able to act on behalf of or to substitute the national member. An Assistant may also act on behalf of or substitute the national member if he or she has a status as referred to in paragraph 3.
5. Operational information exchanged between Eurojust and Member States shall be directed through the national members.
7. The salaries and emoluments of the national members, deputies and Assistants shall be borne by their Member State of origin without prejudice to Article 11a.
8. Where national members, deputies and Assistants act within the framework of Eurojust's tasks, the relevant expenditure related to these activities shall be regarded as operational expenditure.

Article 8

Powers of national members

1. The national members shall have the power to:
 - a) facilitate or otherwise support the issuing and execution of any mutual legal assistance or mutual recognition request;
 - b) contact directly and exchange information with any national competent authority of the Member State;
 - c) contact directly and exchange information with any competent international authority, in accordance with the international commitments of their Member State;
- 1a. Without prejudice to Paragraph 1, Member States may grant additional powers to the national members in accordance with national legislation. The Member State shall formally notify the Commission and the College of these powers.
2. In agreement with their competent national authority the national members may in accordance with national law;
 - a) issue and execute any mutual assistance or mutual recognition request;
 - b) order or request and execute investigative measures, as provided for in Directive 2014/41/EU of the European Parliament and of the Council of 3rd April 2014 regarding the European Investigation Order in criminal matters;

d) participate as necessary in joint investigation teams including in their setting up.
However, if the joint investigation team is funded by the Union budget the national members concerned will always be invited to participate.

3. In urgent cases and in so far as it is not possible to identify or to contact the competent national authority in a timely manner, the national members shall be competent to take the measures referred to in paragraph 2 in accordance with national law informing as soon as possible the national competent authority.

4. Where granting the powers referred to in paragraphs 2 and 3 to the national member is contrary to a Member State's

(a) constitutional rules,

or

(b) fundamental aspects of the national criminal justice system:

(i) regarding the division of powers between the police, prosecutors and judges,

(ii) regarding the functional division of tasks between prosecution authorities,

or

(iii) related to the federal structure of the Member State concerned,

the national member shall be competent to submit a proposal to the competent national authority responsible to carry out the measures referred to in paragraphs 2 and 3.

5. Member States shall ensure that, in cases referred to in paragraph 4, the request issued by the national member be handled without undue delay by the competent national authority.

Article 9

Access to national registers

The national members shall have access to, or at least be able to obtain the information contained in, the following types of registers of their Member State, in accordance with national law:

- a) criminal records;
- b) registers of arrested persons;
- c) investigation registers;
- d) DNA registers;
- e) other registers of public authorities of their Member States where such information is necessary to fulfil their tasks.

SECTION III

THE COLLEGE

Article 10

Composition of the College

- 1. The College shall be composed of all the national members.
- 2. The Administrative Director shall attend the meetings of the College when administrative issues are discussed, without the right to vote.
- 3. The College may invite any person whose opinion may be of interest to attend its meetings as an observer.
- 4. The members of the College may, subject to the provisions of its Rules of Procedure, be assisted by advisers or experts.

Article 11

The President and Vice-President of Eurojust

1. The College shall elect a President and two Vice-Presidents from among the national members by a two thirds majority of its members. In the event that a two thirds majority cannot be reached the election will take place in accordance with the Rules of Procedure of Eurojust.
- 1a. The President shall exercise his/her functions on behalf of the College under its authority. The President shall:
 - (i) represent Eurojust
 - (ii) call and preside over the meetings of the College and the Executive Board and keep the College informed of any matters that are of interest to it.
 - (iii) direct the work of the College and monitor the daily management ensured by the Administrative Director
 - (iv) undertake any other functions set out in the Rules of Procedure of Eurojust.

2. The Vice-Presidents shall perform functions listed under paragraph 1a which the President entrusts to them. They shall replace the President if he or she is prevented from attending to his or her duties. The President and Vice-Presidents shall be assisted in the performance of their specific duties by the administrative staff.
3. The term of office of the President and the Vice-Presidents shall be four years. They may be re-elected once.
- 3a. When a national member is elected President or Vice-President of Eurojust, his or her term of office shall be extended to ensure that he or she can fulfil his or her function as President or Vice-President.
4. If the President or Vice-President no longer fulfil the conditions required for the performance of their duties, he or she may be dismissed by the College acting on a proposal from one third of its members. The decision shall be adopted on the basis of a two-thirds majority of its members, not including the President or Vice-President concerned.
5. When a national member is elected President or Vice-President of Eurojust. The Member State concerned may second another suitably qualified person to reinforce the national desk for the duration of the former's appointment as President or Vice-President. A Member State who decides to second such a person shall be entitled to apply for compensation in accordance with Article 11a.

Article 11a

Compensation mechanism for election to the positions of President and Vice-President

1. Within one year after entry into force of this Regulation, the Council acting on a proposal by the Commission, shall by means of implementing acts determine a compensation model for the purpose of Article 11(5), to be made available to Member States whose national member is elected President or Vice-President.

2. The compensation shall be available to any Member State if;
 - (i) their national member has been elected as President or Vice-Presidentand,
 - (ii) they request compensation from the College and provide justification for the need to reinforce the national desk on the grounds of increased work load.
3. The compensation provided shall equate to 70% of the national salary of the seconded person. Living costs and other associated expenses shall be provided on a comparative basis to those provided to EU officials or other public servants seconded abroad.
4. The compensation mechanism shall be at the charge of the Eurojust budget.

Article 12

Meetings of the College

1. The President shall convene the meetings of the College.
2. The College shall hold at least one meeting per month. In addition, it shall meet on the initiative of the President or at the request of at least one third of its members.
3. Eurojust shall send the European Public Prosecutor's Office the agendas of College meetings whenever issues are discussed which are of relevance for the exercise of the tasks of the European Public Prosecutor's Office. Eurojust shall invite the Office to participate in such meetings, without the right to vote. In those cases the relevant documents supporting the agenda shall also be provided to it.

Article 13

Voting rules of the College

1. Unless stated otherwise, the College shall take its decisions by a majority of its members.
2. Each member shall have one vote. In the absence of a voting member, the deputy and Assistants shall be entitled to exercise the right to vote in accordance with Article 7(4).

SECTION IV

THE EXECUTIVE BOARD

Article 16

Functioning of the Executive Board

1. The College shall be assisted by an Executive Board. The Executive Board shall be responsible for taking key administrative decisions to ensure the functioning of Eurojust. It will also undertake the necessary preparatory work on other administrative matters for the College's approval in accordance with Article 5(2). It shall not be involved in the operational functions of Eurojust referred to in Articles 4 and 5.
- 1a. The Executive Board may consult the College when preparing the annual budget for Eurojust, the annual report and the annual and multi-annual work programmes and may obtain other non-operational information from the College, if necessary for it to be able to perform its tasks.
2. The Executive Board shall also:
 - a) approve Eurojust's annual and multi-annual work programme based on the draft prepared by the Administrative Director and forward to the College for adoption;
 - b) adopt an anti-fraud strategy for Eurojust based on a draft prepared by the Administrative Director;

- c) adopt appropriate implementing rules to the Staff Regulations and the Conditions of Employment of Other Servants in accordance with Article 110 of the Staff Regulations;
- d) ensure adequate follow-up to the findings and recommendations stemming from the internal or external audit reports, evaluations and investigations to the extent they are not linked with the operational work of the College including those of the European Data Protection Supervisor (EDPS) and the European Anti-fraud Office (OLAF);
- e) take all decisions on the establishment and, where necessary, the modification of Eurojust's internal administrative structures;
- aa) undertake any additional administrative tasks assigned to it by the College under Article 5(4);
- bb) prepare the annual budget of Eurojust for adoption by the College;
- cc) approve the annual report on Eurojust's activities and forward to the College for adoption.
- dd) adopt the financial rules applicable to Eurojust in accordance with Article 52;
- ee) appoint an Accounting Officer and a Data Protection Officer who shall be functionally independent in the performance of their duties;
- ff) adopt, in accordance with Article 110 of the Staff Regulations, a decision based on Article 2(1) of the Staff Regulations and on Article 6 of the Conditions of Employment of Other Servants delegating the relevant appointing authority powers to the Administrative Director and defining the conditions under which this delegation of powers can be suspended. The Administrative Director shall be authorised to sub-delegate these powers.

4. The Executive Board shall be composed of the President and Vice-Presidents of the College, one representative of the Commission and two other members of the College designated on a two year rotation system in accordance with the Rules of Procedure of the College. The Administrative Director shall attend the meetings of the Executive Board without the right to vote.
- 4a. The President of the College shall be the Chairperson of the Executive Board. The Executive Board shall take its decisions by a majority of its members. Each member shall have one vote. In the event of a tie vote, the President shall have the casting vote.
5. The term of office of members of the Executive Board shall end when their term as national members, President or Vice-President ends.
6. The Executive Board shall meet at least once a month. In addition, it shall meet on the initiative of its Chairperson or at the request of the Commission or of at least two of its other members.
7. Eurojust shall send the European Public Prosecutor's Office the agendas of the Executive Board meetings whenever issues are discussed which are of relevance for the exercise of the tasks of the European Public Prosecutor's Office.

Eurojust shall invite the Office to participate in such meetings, without the right to vote. In those cases the relevant documents supporting the agenda shall also be provided to it.

Article 16a

Annual and multi-annual programming

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

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.
3. The Executive Board shall amend the adopted annual work programme when a new task is given to Eurojust. Any substantial amendment to the annual work programme shall be adopted by the same procedure as the initial annual work programme. The Executive Board may delegate to the Administrative Director the power to make non-substantial amendments to the annual work programme, while keeping the Executive Board informed of any such amendment.
4. The multi-annual work programme shall set out overall strategic programming including objectives, expected results and performance indicators. It shall also set out resource programming including multi-annual budget and staff. The resource programming shall be updated annually. The strategic programming shall be updated where appropriate, and in particular to address the outcome of the evaluation referred to in Article 56.

SECTION V
THE ADMINISTRATIVE DIRECTOR

(…)

Article 17

Status of the Administrative Director

1. The Administrative Director shall be engaged as a temporary agent of Eurojust under Article 2(a) of the Conditions of Employment of Other Servants of the European Union.
2. The Administrative Director shall be appointed by the College from a list of candidates proposed by the Executive Board, following an open and transparent selection procedure in accordance with the Rules of Procedure of Eurojust. For the purpose of concluding the contract of the Administrative Director, Eurojust shall be represented by the President of the College.
3. The term of office of the Administrative Director shall be four years. By the end of this period, the Executive Board shall undertake an assessment which takes into account an evaluation of the performance of the Administrative Director.
4. The College, acting on a proposal from the Executive Board which takes into account the assessment referred to in paragraph 3, may extend once the term of office of the Administrative Director for no more than four years.
5. An Administrative Director whose term of office has been extended may not participate in another selection procedure for the same post at the end of the overall period.
6. The Administrative Director shall be accountable to the College.
7. The Administrative Director may be removed from the office only upon a decision of the College on the basis of a two-thirds majority of its members.

Article 18

Responsibilities of the Administrative Director

1. For administrative purposes, Eurojust shall be managed by its Administrative Director.
2. Without prejudice to the powers of the College or the Executive Board, the Administrative Director shall be independent in the performance of his or her duties and shall neither seek nor take instructions from any government or from any other body.
3. The Administrative Director shall be the legal representative of Eurojust.
4. The Administrative Director shall be responsible for the implementation of the administrative tasks assigned to Eurojust. In particular, the Administrative Director shall be responsible for:
 - a) the day-to-day administration of Eurojust and staff management;
 - b) implementing the decisions adopted by the College and the Executive Board;
 - c) preparing the annual and multi-annual work programme and submitting it to the Executive Board for approval;
 - d) implementing the annual and multi-annual work programme and reporting to the Executive Board on its implementation;
 - e) preparing the annual report on Eurojust's activities and presenting it to the Executive Board for approval;
 - f) preparing an action plan following-up on the conclusions of the internal or external audit reports, evaluations and investigations, including those of the European Data Protection Supervisor and OLAF and reporting on progress twice a year to the Executive Board, the College, the Commission and the European Data Protection Supervisor;
 - g) preparing an anti-fraud strategy for Eurojust and presenting it to the Executive Board for approval;

- h) preparing the draft financial rules applicable to Eurojust;
 - i) preparing Eurojust's draft statement of estimates of revenue and expenditure and implementing its budget;
 - j) exercising, with respect to the staff of the Agency, the powers conferred by the Staff Regulations¹³ on the Appointing Authority and by the Conditions of Employment of Other Servants¹⁴ on the Authority Empowered to conclude Contracts of Employment ("the appointing authority powers");
 - k) providing necessary administrative support to facilitate the operational work of Eurojust;
 - l) providing support to the President and Vice-Presidents in the carrying out of their duties.
5. The Council may invite the Administrative Director to report on the performance of his/her duties.

¹³ Council Regulation No 31 (EEC), 11 (EAEC) of 18 December 1961 laying down the Staff Regulations for Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community, OJ P 045, 14.6.1962, p. 1385, as amended, in particular, by Council Regulation 259/68, of 29 February 1968 (OJ L 56, 4.3.1968, p. 1), as itself subsequently amended.

¹⁴ Council Regulation No 31 (EEC), 11 (EAEC) of 18 December 1961 laying down the Staff Regulations for Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community, OJ P 045, 14.6.1962, p. 1385, as amended, in particular, by Council Regulation 259/68, of 29 February 1968 (OJ L 56, 4.3.1968, p. 1), as itself subsequently amended.

CHAPTER III

OPERATIONAL MATTERS

Article 19

On-call coordination (OCC)

1. In order to fulfil its tasks in urgent cases, Eurojust shall operate an On-Call Coordination able to receive and process at all times requests referred to it. The On-Call Coordination shall be contactable, on a 24 hour/7 day basis.
2. The On-Call Coordination shall rely on one representative (On-Call Coordination representative) per Member State who may be either the national member, his deputy, Assistant entitled to replace the national member or other authority designated for this purpose under national law. The On-Call Coordination representative shall be able to act on a 24 hour/7 day basis.
3. The On-Call Coordination representatives shall act without delay, in relation to the execution of the request in their Member State. National members who are representatives shall act through the exercise of the powers available to them in accordance with Article 8.

Article 20

Eurojust National Coordination System

1. Each Member State shall designate one or more national correspondents for Eurojust.
2. Each Member State shall set up a Eurojust national coordination system to ensure coordination of the work carried out by:
 - a) the national correspondents for Eurojust;
 - b) the national correspondent for Eurojust for terrorism matters;

- c) the national correspondent for the European Judicial Network in criminal matters and up to three other contact points of that European Judicial Network;
 - d) national members or contact points of the Network for Joint Investigation Teams and of the networks set up by Decision 2002/494/JHA, Decision 2007/845/JHA and by Decision 2008/852/JHA;
 - e) where applicable, any other relevant judicial authority.
3. The persons referred to in paragraphs 1 and 2 shall maintain their position and status under national law.
4. The national correspondents for Eurojust shall be responsible for the functioning of the Eurojust national coordination system. When several correspondents for Eurojust are designated, one of them shall be responsible for the functioning of the Eurojust national coordination system.
- 4(a). The Eurojust national member shall be informed of all meetings of the ENCS where casework related matters are discussed and may attend as necessary.
5. The Eurojust national coordination system shall facilitate, within the Member State, the carrying out of the tasks of Eurojust, in particular by:
- a) ensuring that the Case Management System referred to in Article 24 receives information related to the Member State concerned in an efficient and reliable manner;
 - b) assisting in determining whether a request should be handled with the assistance of Eurojust or of the European Judicial Network;
 - c) assisting the national member to identify relevant authorities for the execution of requests for, and decisions on, judicial cooperation, including those based on instruments giving effect to the principle of mutual recognition;
 - d) maintaining close relations with the Europol National Unit, other European Judicial Network contact points and other relevant competent national authorities.

6. In order to meet the objectives referred to in paragraph 5, persons referred to in paragraph 1 and in points (a), (b) and (c) of paragraph 2 shall, and persons or authorities referred to in points (d) and (e) of paragraph 2 may be connected to the Case Management System in accordance with this Article and with Articles 24, 25, 26 and 30. The connection to the Case Management System shall be at the charge of the general budget of the European Union.
7. The setting up of the Eurojust national coordination system and the designation of national correspondents shall not prevent direct contacts between the national member and the competent authorities of his Member State.

Article 21

Exchanges of information with the Member States and between national members

1. The competent authorities of the Member States shall exchange with Eurojust any information necessary for the performance of its tasks in accordance with Articles 2 and 4 as well as with the rules on data protection set out in this Regulation. This shall at least include the information referred to in paragraphs 4, 5 and 6.
2. The transmission of information to Eurojust shall only be interpreted as a request for the assistance of Eurojust in the case concerned if so specified by a competent authority.
3. The national members shall exchange any information necessary for the performance of the tasks of Eurojust, without prior authorisation, among themselves or with their Member State's competent authorities. In particular, the competent national authorities shall promptly inform their national members of a case which concerns them.
4. The national competent authorities shall inform their national members of the setting up of joint investigation teams and of the results of the work of such teams.

5. The national competent authorities shall inform their national members without undue delay of any case affecting at least three Member States directly for which requests for or decisions on judicial cooperation, including those based on instruments giving effect to the principle of mutual recognition, have been transmitted to at least two Member States and,
- (a) the offence involved is punishable in the requesting or issuing Member State by a custodial sentence or a detention order for a maximum period of at least five or six years to be decided by the Member State concerned, and is included in the following list:
- (i) trafficking in human beings;
 - (ii) sexual abuse and sexual exploitation including child pornography and solicitation of children for sexual purposes;
 - (iii) drug trafficking;
 - (iv) illicit trafficking in arms, ammunition and explosives;
 - (v) corruption;
 - (vi) crime against the financial interests of the Union;
 - (vii) forgery of money and means of payment
 - (viii) money laundering activities;
 - (ix) computer crime

or

(b) there are factual indications that a criminal organisation is involved.

or

(c) there are indications that the case may have a serious cross-border dimension or repercussions at European Union level or that it might affect Member States other than those directly involved.

6. The national competent authorities shall inform their national members of:

- a) cases where conflicts of jurisdiction have arisen or are likely to arise;
- b) controlled deliveries affecting at least three countries, at least two of which are Member States;
- c) repeated difficulties or refusals regarding the execution of requests for, and decisions on, judicial cooperation, including those based on instruments giving effect to the principle of mutual recognition.

7. National authorities shall not be obliged in a particular case to supply information if this would mean:

- a) harming essential national security interests; or
- b) jeopardising the safety of individuals.

8. This Article shall be without prejudice to conditions set in bilateral or multilateral agreements or arrangements between Member States and third countries including any conditions set by third countries concerning the use of information once supplied.

8a. This Article shall be without prejudice to other obligations regarding the transmission of information to Eurojust, including Council Decision 2005/671/JHA of 20 September 2005 on the exchange of information and cooperation concerning terrorist offences.¹⁵

¹⁵ OJ L 167, 26.6.2002 p.1.

9. Information referred to in this Article shall be provided in a structured way as established by Eurojust. The national authority shall not be obliged to provide this information when it has already been transmitted to Eurojust in accordance with other provisions of this Regulation.

Article 22

Information provided by Eurojust to competent national authorities

1. Eurojust shall provide competent national authorities with information and feedback 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.
2. Where a competent national authority requests Eurojust to provide it with information, Eurojust shall transmit it in the timeframe requested by that authority.

Article 24

Case Management System, index and temporary work files

1. Eurojust shall establish a Case Management System composed of temporary work files and of an index which contain personal data as referred to in Annex 2 and non-personal data.
2. The purpose of the Case Management System shall be to:
 - a) support the management and coordination of investigations and prosecutions for which Eurojust is providing assistance, in particular by the cross-referencing of information;

- b) facilitate access to information on on-going investigations and prosecutions;
 - c) facilitate the monitoring of lawfulness and compliance with the provisions of this Regulation concerning the processing of personal data.
3. The Case Management System may be linked to the secure telecommunications connection referred to in Article 9 of Decision 2008/976/JHA.
 4. The index shall contain references to temporary work files processed within the framework of Eurojust and may contain no personal data other than those referred to in points (1)(a) to (i), (k) and (m) and (2) of Annex 2.
 5. In the performance of their duties, the national members may process data on the individual cases on which they are working in a temporary work file. The Data Protection Officer shall be informed by the national member concerned of the opening of each new temporary work file that contains personal data. In the performance of their duties the national member shall allow the Data Protection Officer to have access to the temporary work file.
 6. For the processing of operational personal data, Eurojust may not establish any automated data file other than the Case Management System. The national member may, however, temporarily store and analyse personal data for the purpose of determining whether such data are relevant to Eurojust's tasks and can be included in the Case Management System. This data may be held for up to 3 months.

Functioning of temporary work files and the index

1. A temporary work file shall be opened by the national member concerned for every case with respect to which information is transmitted to him or her in so far as this transmission is in accordance with this Regulation. The national member shall be responsible for the management of the temporary work files opened by that national member.
2. The national member who has opened a temporary work file shall decide, on a case-by-case basis, whether to keep the temporary work file restricted or to give access to it or to parts of it, to other national members or to Eurojust staff or any other person working on behalf of Eurojust who has received the necessary authorisation from the Administrative Director.
3. The national member who has opened a temporary work file shall decide which information related to this temporary work file shall be introduced in the index.

Access to the Case Management System at national level

1. Persons referred to in Article 20(2), in so far as they are connected to the Case Management System, may only have access to:
 - a) the index, unless the national member who has decided to introduce the data in the index expressly denied such access;
 - b) temporary work files opened by the national member of their Member State;
 - c) temporary work files opened by national members of other Member States and to which the national member of their Member States has received access unless the national member who opened the temporary work file expressly denied such access.
2. The national member shall, within the limitations provided for in paragraph 1, decide on the extent of access to the temporary work files which is granted in his or her Member State to persons referred to in Article 20(2) in so far as they are connected to the Case Management System.
3. Each Member State shall decide, after consultation with its national member, on the extent of access to the index which is granted in that Member State to persons referred to in Article 20(2) in so far as they are connected to the Case Management System. Member States shall notify Eurojust and the Commission of their decision regarding the implementation of this paragraph. The Commission shall inform the other Member States thereof.
4. Persons which have been granted access in accordance with paragraph 2 shall at least have access to the index to the extent necessary to access the temporary work files to which they have been granted access.

Chapter IV

¹⁶Processing of Information

Article 26a

Principles relating to processing of personal data

1. Personal data shall be:
 - (a) processed lawfully and fairly ('lawfulness and fairness');
 - (b) collected for specified, explicit and legitimate purposes and not further processed in a manner incompatible with those purposes. Further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall not be considered incompatible with the initial purposes provided that Eurojust provides appropriate safeguards for the rights and freedoms of data subjects ("purpose limitations");
 - (c) adequate, relevant, and not excessive in relation to the purposes for which they are processed ("data minimisation");
 - (d) accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay ("accuracy");

¹⁶ CION has a reservation on Chapter IV and maintains that Regulation 45/2001 should apply to all data processed at Eurojust.

- (e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods in so far as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes provided that Eurojust provides appropriate safeguards for the rights and freedoms of data subjects, in particular by the implementation of the appropriate technical and organisational measures required by this Regulation ("storage limitation");
 - (f) processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures ("integrity and confidentiality").
- 1a. Eurojust shall be responsible for, and be able to demonstrate compliance with paragraph 1 ('accountability') when processing personal data wholly or partly by automated means and when processing other than by automated means personal data which form part of a filing system or are intended to form part of a filing system.
 - 2. Processing by Eurojust for any of the purposes set out in Article 27 of this Regulation other than that for which the operational personal data are collected shall be permitted in so far as:
 - (a) Eurojust is authorised to process such operational personal data for such a purpose in accordance with this Regulation; and
 - (b) processing is necessary and proportionate to that other purpose in accordance with Union law.

Article 26b

Processing personal data by Eurojust

1. This Regulation applies to all personal data including operational personal data processed by Eurojust. Additionally Regulation (EC) No 45/2001 of the European Parliament and of the Council applies to all administrative personal data processed by Eurojust.
2. Eurojust shall determine the time limits for the storage of administrative personal data in the data protection provisions of its rules of procedure.

Article 27

Processing of operational personal data

1. Insofar as it is necessary to perform its tasks, Eurojust may, within the framework of its competence and in order to carry out its operational functions, process by automated means or in structured manual files in accordance with this Regulation only the operational personal data listed in point 1 of Annex 2, on persons who, under the national law of the Member States concerned are persons with regard to whom there are serious grounds for believing that they have committed or are about to commit a criminal offence in respect of which Eurojust is competent or who have been convicted of such an offence.

2. Eurojust may process only the operational personal data listed in point 2 of Annex 2, on persons who, under the national law of the Member States concerned, are regarded as victims or other parties to a criminal offence, such as persons who might be called upon to testify 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 who can provide information on criminal offences, or contacts or associates of one of the persons referred to in paragraph 1. The processing of such operational personal data may only take place if it is necessary for the fulfillment of the tasks of Eurojust, within the framework of its competence and in order to carry out its operational functions.
3. In exceptional cases, Eurojust may also, for a limited period of time which shall not exceed the time needed for the conclusion of the case related to which the data are processed, process operational personal data other than those referred to in paragraphs 1 and 2 relating to the circumstances of an offence where they are immediately relevant to and included in on-going investigations which Eurojust is coordinating or helping to coordinate and when their processing is necessary for the purposes specified in paragraph 1. The Data Protection Officer referred to in Article 31 shall be informed immediately of recourse to this paragraph and of the specific circumstances which justify the necessity of the processing of such operational personal data. Where such other data refer to witnesses or victims within the meaning of paragraph 2, the decision to process them shall be taken jointly by the relevant national members.

4. Processing of operational personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade-union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation shall be allowed only where strictly necessary for Eurojust purposes laid down in Article 2, subject to appropriate safeguards for the rights and freedoms of the data subject and only if they supplement other operational personal data already processed by Eurojust. The Data Protection Officer shall be informed immediately of recourse to this paragraph. Such data may not be processed in the Index referred to in Article 24(4). Where such other data refer to witnesses or victims within the meaning of paragraph 3, the decision to process them shall be taken by the relevant national members.
- 4a. The data subject shall have the right not to be subject to a decision of Eurojust based solely on automated processing, including profiling, which produces legal effects concerning him or her or similarly significantly affects him or her.

Article 27a

Joint controllers

1. Where Eurojust together with one or more controllers jointly determine the purposes and means of processing, they shall be joint controllers. They shall, in a transparent manner, determine their respective responsibilities for compliance with their data protection obligations, in particular as regards the exercising of the rights of the data subjects and their respective duties to provide the information, by means of an arrangement between them unless, and in so far as, the respective responsibilities of the controllers are determined by Union law or the law of a Member State of the European Union to which the controllers are subject. The arrangement may designate a contact point for data subjects.

2. The arrangement referred to in paragraph 1 shall duly reflect the respective roles and relationship of the joint controllers vis-à-vis the data subjects. The essence of the arrangement shall be made available to the data subject.
3. Irrespective of the terms of the arrangement referred to in paragraph 1, the data subject may exercise his/her rights under this Regulation in respect, and against each, of the controllers.

Article 27b

Processor

1. Where processing is to be carried out on behalf of Eurojust, Eurojust shall use only processors providing sufficient guarantees to implement appropriate technical and organisational measures in such a manner that processing will meet the requirements of this Regulation and ensure the protection of the rights of the data subject.
2. The processor shall not engage another processor without prior specific or general written authorisation of Eurojust. In the case of general written authorisation, the processor shall inform Eurojust of any intended changes concerning the addition or replacement of other processors, thereby giving the controller the opportunity to object to such changes.
3. Processing by a processor shall be governed by a contract or other legal act under Union law, or the law of a Member State of the European Union, that is binding on the processor with regard to Eurojust and that sets out the subject matter and duration of the processing, the nature and purpose of the processing, the type of operational personal data and categories of data subjects and the obligations and rights of Eurojust. That contract or other legal act shall stipulate, in particular, that the processor:
 - (a) acts only on instructions from the controller;
 - (b) ensures that persons authorised to process the operational personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;

- (c) assists the controller by any appropriate means to ensure compliance with the provisions on the data subject's rights;
 - (d) at the choice of Eurojust, deletes or returns all the operational personal data to Eurojust after the end of the provision of services relating to processing, and deletes existing copies unless Union law or the law of a Member State of the European Union requires storage of the operational personal data;
 - (e) makes available to Eurojust all information necessary to demonstrate compliance with the obligations laid down in this Article;
 - (f) complies with the conditions referred to in paragraphs 2 and 3 for engaging another processor.
4. The contract or the other legal act referred to in paragraphs 3 shall be in writing, including in electronic form.
5. If a processor infringes this Regulation by determining the purposes and means of processing, the processor shall be considered to be a controller in respect of that processing.

Article 27c

Processing under the authority of Eurojust or processor

The processor and any person acting under the authority of Eurojust or of the processor, who has access to operational personal data, shall not process those data except on instructions from Eurojust, unless required to do so by Union law or the law of a Member State of the European Union.

Article 27d

Distinction between different categories of data subjects

Eurojust shall, where applicable and as far as possible, make a clear distinction between operational personal data of different categories of data subjects, such as:

- (a) persons with regard to whom there are serious grounds for believing that they have committed or are about to commit a criminal offence;
- (b) persons convicted of a criminal offence;
- (c) victims of a criminal offence or persons with regard to whom certain facts give rise to reasons for believing that they could be the victims of a criminal offence; and
- (d) other parties to a criminal offence, such as persons who might be called upon to testify in investigations in connection with criminal offences or subsequent criminal proceedings, persons who can provide information on criminal offences, or contacts or associates of one of the persons referred to in points (a) and (b).

Article 27e

Distinction between operational personal data and verification of quality of personal data

1. Eurojust shall distinguish, as far as possible, operational personal data based on facts from operational personal data based on personal assessments.
2. Eurojust shall take all reasonable steps to ensure that operational personal data which are inaccurate, incomplete or no longer up to date are not transmitted or made available. To that end, Eurojust shall, as far as practicable and where relevant, verify, for example by consulting with the competent authority the data originates from, the quality of operational personal data before they are transmitted or made available. As far as possible, in all transmissions of operational personal data, Eurojust shall add necessary information enabling the recipient to assess the degree of accuracy, completeness and reliability of operational personal data, and the extent to which they are up to date.

3. If it emerges that incorrect operational personal data have been transmitted or operational personal data have been unlawfully transmitted, the recipient shall be notified without delay. In such a case, the operational personal data shall be rectified or erased or processing shall be restricted in accordance with Article 29f.

Article 27f

Specific processing conditions

1. When required by this Regulation, Eurojust shall provide for specific conditions for processing and shall inform the recipient of such operational personal data of those conditions and the requirement to comply with them.
2. Eurojust shall comply with specific processing conditions for processing provided by a national authority in accordance with Article 9 (3) and (4) of Directive (EU) 2016/680.

Article 28

Time limits for the storage of operational personal data

1. Operational personal data processed by Eurojust shall be stored by Eurojust for only as long as is necessary for the performance of its tasks. In particular, without prejudice to paragraph 3, the personal data referred to in Article 27 may not be stored beyond the first applicable among the following dates:
 - a) the date on which prosecution is barred under the statute of limitations of all the Member States concerned by the investigation and prosecutions;
 - b) the date on which Eurojust is informed that the person has been acquitted and the judicial decision became final. When the judicial decision becomes final the Member State concerned shall inform Eurojust without delay;
 - c) three years after the date on which the judicial decision of the last of the Member States concerned by the investigation or prosecution became final;

- d) 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, unless there is an obligation to provide Eurojust with this information in accordance with Article 21(5) or (6);
 - e) three years after the date on which data were transmitted in accordance with Article 21(4), or (5).
2. Observance of the storage deadlines referred to paragraph 1 shall be reviewed constantly by appropriate automated processing particularly from the moment in which the case is closed by Eurojust. Nevertheless, a review of the need to store the data shall be carried out every three years after they were entered; such a review shall then apply to the case as a whole. If data concerning persons referred to in Article 27(4) are stored for a period exceeding five years, the European Data Protection Supervisor shall be informed accordingly.
 3. Before one of the storage deadlines referred to in paragraph 1 expires, Eurojust shall review the need for the continued storage of the personal data where and as long this is necessary to perform its tasks and it may decide by way of derogation to store those data until the following review. The reasons for the continued storage must be justified and recorded. If no decision is taken on the continued storage of personal data at the time of the review, those data shall be deleted automatically.
 4. Where, in accordance with paragraph 3, data have been stored beyond the dates referred to in paragraph 1, a review of the need to store those data shall take place every three years by the European Data Protection Supervisor.
 5. Once the deadline for storage of the last item of automated data from the file has elapsed, all documents in the file shall be destroyed with the exception of any original documents which Eurojust has received from national authorities and which need to be returned to their originator.

6. Where Eurojust has coordinated an investigation or prosecutions, the national members concerned shall inform the other national members concerned whenever they receive information that the case has been dismissed or all judicial decisions related to the case have become final.
7. Paragraph 5 of this Article shall not apply in cases where:
- (a) this would damage the interests of a data subject who requires protection. In such cases, the data shall be used only with the express and written consent of the data subject;
 - (b) the accuracy of the data is contested by the data subject, for a period enabling Member States or Eurojust, where appropriate, to verify the accuracy of the data;
 - (c) the data have to be maintained for purposes of proof or for the establishment, exercise or defence of legal claims; or
 - (d) the data subject opposes their erasure and requests the restriction of their use instead.
- (dd) the data is further needed for archiving purposes in the public interest or statistical purposes.

Article 29

Logging in respect of automated processing

1. Eurojust shall keep logs for any of the following processing operations in automated processing systems: collection, alteration, consultation, disclosure including transfers, combination and erasure of operational personal data used for operational purposes. The logs of consultation and disclosure shall make it possible to establish the justification for, and the date and time of, such operations, the identification of the person who consulted or disclosed operational personal data, and, as far as possible, the identity of the recipients of such operational personal data.

2. The logs shall be used solely for verification of the lawfulness of processing, self-monitoring, ensuring the integrity and security of the operational personal data, and for criminal proceedings. Such logs shall be deleted after three years, unless they are required for on-going control.
3. Eurojust shall make the logs available to the European Data Protection Supervisor on request.

Article 29a

Security of operational personal data

1. Eurojust and, insofar as it is concerned by data transmitted from Eurojust, each Member State, shall, taking into account the state of the art, costs of implementation and the nature, scope, context and purposes of the processing as well as risk of varying likelihood and severity for the rights and freedoms of natural persons, implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk, in particular as regards the processing of special categories of operational personal data referred to in Article 27(4).
2. Eurojust and each Member State shall implement appropriate technical and organisational measures as well as appropriate data protection policies with regard to data security and in particular measures designed to:
 - (a) deny unauthorised persons access to data processing equipment used for processing operational personal data (equipment access control);
 - (b) prevent the unauthorised reading, copying, modification or removal of data media (data media control);
 - (c) prevent the unauthorised input of data and the unauthorised inspection, modification or deletion of stored operational personal data (storage control) ;

- (d) prevent the use of automated data processing systems by unauthorised persons using data communication equipment (user control);
 - (e) ensure that persons authorised to use an automated data processing system only have access to the data covered by their access authorisation (data access control);
 - (f) ensure that it is possible to verify and establish to which bodies operational personal data are transmitted when data are communicated (communication control);
 - (g) ensure that it is subsequently possible to verify and establish which operational personal data have been input into automated data processing systems and when and by whom the data were input (input control);
 - (h) prevent unauthorised reading, copying, modification or deletion of operational personal data during transfers of operational personal data or during transportation of data media (transport control);
 - (i) ensure that installed systems may, in the event of interruption, be restored immediately (recovery);
 - (j) ensure that the functions of the system perform without fault, that the occurrence of faults in the functions is immediately reported (reliability) and that stored data cannot be corrupted by system malfunctions (integrity).
3. Eurojust and Member States shall define mechanisms to ensure that security needs are taken on board across information system boundaries.

Article 29b

Communication and modalities for exercising the rights of the data subject

1. Eurojust shall take reasonable steps to provide any information referred to in Article 29c. It shall make any communication with regard to Articles 27(4a), 29d, 29e, 29f, 29g and 31d relating to processing to the data subject in a concise, intelligible and easily accessible form, using clear and plain language. The information shall be provided by any appropriate means, including by electronic means. As a general rule, the controller shall provide the information in the same form as the request.
2. Eurojust shall facilitate the exercise of the rights of the data subject under Articles 29c, 29d, 29e, 29f and 29g.
3. Eurojust shall inform the data subject in writing about the follow up to his or her request without undue delay, and in any case at the latest after three months after receipt of the request by the data subject.
4. Eurojust shall provide for the information provided under Article 29c and any communication made or action taken pursuant to Articles 27(4a), 29d, 29e, 29f, 29g and 31d to be provided free of charge. Where requests from a data subject are manifestly unfounded or excessive, in particular because of their repetitive character, Eurojust may either:
 - (a) charge a reasonable fee, taking into account the administrative costs of providing the information or communication, or taking the action requested; or
 - (b) refuse to act on the request.

Eurojust shall bear the burden of demonstrating the manifestly unfounded or excessive character of the request.
5. Where Eurojust has reasonable doubts concerning the identity of the natural person making a request referred to in Article 29d or 29f, Eurojust may request the provision of additional information necessary to confirm the identity of the data subject.

Information to be made available or given to the data subject

1. Eurojust shall make available to the data subject at least the following information:
 - (a) the identity and the contact details of Eurojust;
 - (b) the contact details of the Data Protection Officer;
 - (c) the purposes of the processing for which the operational personal data are intended;
 - (d) the right to lodge a complaint with the European Data Protection Supervisor and its contact details;
 - (e) the existence of the right to request from Eurojust access to and rectification or erasure of operational personal data and restriction of processing of the operational personal data concerning the data subject.
2. In addition to the information referred to in paragraph 1, Eurojust shall give to the data subject, in specific cases, the following further information to enable the exercise of his or her rights:
 - (a) the legal basis for the processing;
 - (b) the period for which the operational personal data will be stored, or, where that is not possible, the criteria used to determine that period;
 - (c) where applicable, the categories of recipients of the operational personal data, including in third countries or international organisations;
 - (d) where necessary, further information, in particular where the operational personal data are collected without the knowledge of the data subject.

3. Eurojust may delay, restrict or omit the provision of the information to the data subject pursuant to paragraph 2 to the extent that, and for as long as, such a measure constitutes a necessary and proportionate measure in a democratic society with due regard for the fundamental rights and the legitimate interests of the natural person concerned, in order to:
- (a) avoid obstructing official or legal inquiries, investigations or procedures;
 - (b) avoid prejudicing the prevention, detection, investigation or prosecution of criminal offences or the execution of criminal penalties;
 - (c) protect public security of the Member States of the European Union;
 - (d) protect national security of the Member States of the European Union;
 - (e) protect the rights and freedoms of others.

Article 29d

Right of access by the data subject

1. The data subject shall have the right to obtain from Eurojust confirmation as to whether or not operational personal data concerning him or her are being processed, and, where that is the case, access to the operational personal data and the following information:
- (a) the purposes of and legal basis for the processing;
 - (b) the categories of operational personal data concerned;
 - (c) the recipients or categories of recipients to whom the operational personal data have been disclosed, in particular recipients in third countries or international organisations;
 - (d) where possible, the envisaged period for which the operational personal data will be stored, or, if not possible, the criteria used to determine that period;

- (e) the existence of the right to request from Eurojust rectification or erasure of operational personal data or restriction of processing of operational personal data concerning the data subject;
 - (f) the right to lodge a complaint with the European Data Protection Supervisor and the contact details of the European Data Protection Supervisor;
 - (g) communication of the operational personal data undergoing processing and of any available information as to their origin.
2. Any data subject wishing to exercise the right of access to operational personal data relating to him or her which are processed by Eurojust may make a request at reasonable intervals to that effect free of charge to the national supervisory authority in the Member State of their choice. That authority shall refer the request to Eurojust without delay and in any case within one month of receipt.
 3. The request shall be answered by Eurojust without undue delay and in any case within three months of its receipt by Eurojust.
 4. The competent authorities of the Member States concerned shall be consulted by Eurojust on a decision to be taken. A decision on access to data shall be conditional upon close cooperation between Eurojust and the Member States directly concerned by the communication of such data. In any case in which a Member State objects to Eurojust's proposed response, it shall notify Eurojust of the reasons for its objection. Eurojust shall comply with any such objection. The competent authorities shall subsequently be notified of the content of Eurojust's decision through the national members concerned.
 5. The national members concerned by the request shall deal with it and reach a decision on Eurojust's behalf. 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.

Limitations to the right of access

1. Eurojust may restrict, wholly or partly, the data subject's right of access to the extent that, and for as long as, such a partial or complete restriction constitutes a necessary and proportionate measure in a democratic society with due regard for the fundamental rights and legitimate interests of the natural person concerned, in order to:
 - (a) avoid obstructing official or legal inquiries, investigations or procedures;
 - (b) avoid prejudicing the prevention, detection, investigation or prosecution of criminal offences or the execution of criminal penalties;
 - (c) protect public security of the Member States of the European Union;
 - (d) protect national security of the Member States of the European Union;
 - (e) protect the rights and freedoms of others, in particular victims and witnesses.
2. In the cases referred to in paragraph 1, after consulting the competent authorities of the Member States concerned in accordance with to Article 29d(4), Eurojust shall inform the data subject without undue delay in writing of any refusal or restriction of access and of the reasons for the refusal or the restriction. Such information may be omitted where the provision thereof would undermine the purpose of paragraph 1.

Eurojust shall inform the data subject of the possibility of lodging a complaint with the European Data Protection Supervisor or seeking a judicial remedy in the Court of Justice of the European Union against the decision of Eurojust.
3. Eurojust shall document the factual or legal reasons on which the decision is based. That information shall be made available to the European Data Protection Supervisor on request.

Right to rectification or erasure of operational personal data and restriction of processing

1. The data subject shall have the right to obtain from Eurojust without undue delay the rectification of inaccurate operational personal data relating to him or her. Taking into account the purposes of the processing, the data subject shall have the right to have incomplete operational personal data completed, including by means of providing a supplementary statement.
2. Eurojust shall erase operational personal data without undue delay and the data subject shall have the right to obtain from Eurojust the erasure of operational personal data concerning him or her without undue delay where processing infringes Articles 26a, 27(1)-(4), or where operational personal data must be erased in order to comply with a legal obligation to which Eurojust is subject.
3. Instead of erasure, Eurojust shall restrict processing where:
 - (a) the accuracy of the operational personal data is contested by the data subject and their accuracy or inaccuracy cannot be ascertained; or
 - (b) the operational personal data must be maintained for the purposes of evidence.Where processing is restricted pursuant to point (a) of the first subparagraph, Eurojust shall inform the data subject before lifting the restriction of processing.
- 3a. Where processing has been restricted under paragraph 3, such operational personal data shall, with the exception of storage, only be processed for the protection of the rights of the data subject or another natural or legal person who is a party of the proceedings of Eurojust, or for the purposes laid down in point b) of paragraph 3.

4. Eurojust shall inform the data subject in writing of any refusal of rectification or erasure of operational personal data or restriction of processing and of the reasons for the refusal.

Eurojust may restrict, wholly or partly, the obligation to provide such information to the extent that such a restriction constitutes a necessary and proportionate measure in a democratic society with due regard for the fundamental rights and legitimate interests of the natural person concerned in order to:

- (a) avoid obstructing official or legal inquiries, investigations or procedures;
- (b) avoid prejudicing the prevention, detection, investigation or prosecution of criminal offences or the execution of criminal penalties;
- (c) protect public security of the Member States of the European Union;
- (d) protect national security of the Member States of the European Union;
- (e) protect the rights and freedoms of others.

Eurojust shall inform the data subject of the possibility of lodging a complaint with the European Data Protection Supervisor or of seeking a judicial remedy from the Court of Justice of the European Union against decision of Eurojust.

5. Eurojust shall communicate the rectification of inaccurate operational personal data to the competent authority from which the inaccurate personal data originate.
6. Eurojust shall, where operational personal data has been rectified or erased or processing has been restricted pursuant to paragraphs 1, 2 and 3, notify the recipients and inform them that they have to rectify or erase the operational personal data or restrict processing of the operational personal data under their responsibility.

Article 29g

Exercise of rights by the data subject and verification by the European Data Protection Supervisor

1. In the cases referred to in Articles 29c(3), 29e(2) and 29f, the rights of the data subject may also be exercised through the European Data Protection Supervisor.
2. Eurojust shall inform the data subject of the possibility of exercising his or her rights through the European Data Protection Supervisor pursuant to paragraph 1.
3. Where the right referred to in paragraph 1 is exercised, the European Data Protection Supervisor shall inform the data subject at least that all necessary verifications or a review by it have taken place. The European Data Protection Supervisor shall also inform the data subject of his or her right to seek a judicial remedy in the Court of Justice of the European Union against the European Data Protection Supervisor's decision.

Article 30

Authorised access to operational personal data within Eurojust

Only national members, their deputies, their Assistants and authorised seconded national experts, persons referred to in Article 20(2) in so far as they are connected to the Case Management System and authorised Eurojust staff may, for the purpose of achieving Eurojust's tasks and within the limits provided for in Articles 24, 25 and 26, have access to operational personal data processed by Eurojust.

Article 30a

Data protection by design and by default

1. Eurojust shall, taking into account the state of the art, the cost of implementation and the nature, scope, context and purposes of processing, as well as the risks of varying likelihood and severity for rights and freedoms of natural persons posed by the processing, both at the time of the determination of the means for processing and at the time of the processing itself, implement appropriate technical and organisational measures, such as pseudonymisation, which are designed to implement data protection principles, such as data minimisation, in an effective manner and to integrate the necessary safeguards into the processing, in order to meet the requirements of this Regulation and protect the rights of the data subjects.
2. Eurojust shall implement appropriate technical and organisational measures ensuring that, by default, only operational personal data which are adequate, relevant and not excessive in relation to the purpose of the processing are processed. That obligation applies to the amount of operational personal data collected, the extent of their processing, the period of their storage and their accessibility. In particular, such measures shall ensure that by default operational personal data are not made accessible without the individual's intervention to an indefinite number of natural persons.

Article 30b

Records of categories of processing activities

1. Eurojust shall maintain a record of all categories of processing activities under its responsibility. That record shall contain all of the following information:
 - (a) Eurojust contact details and the name and the contact details of the data protection officer;
 - (b) the purposes of the processing;
 - (c) the description of the categories of data subjects and of the categories of operational personal data;
 - (d) the categories of recipients to whom the operational personal data have been or will be disclosed including recipients in third countries or international organisation
 - (e) where applicable, the transfers of operational personal data to a third country or an international organisation, including the identification of that third country or international organisation;
 - (f) where possible, the envisaged time-limits for erasure of the different categories of data;
 - (g) where possible, a general description of the technical and organisational security measures referred to in Article 29a.
2. The records referred to in paragraph 1 shall be in writing, including in electronic form.
3. Eurojust shall make the record available to the European Data Protection Supervisor on request.

Article 30c

Data protection impact assessment

1. Where a type of processing, in particular, using new technologies, and taking into account the nature, scope, context and purposes of the processing is likely to result in a high risk to the rights and freedoms of natural persons, Eurojust shall carry out, prior to the processing, an assessment of the impact of the envisaged processing operations on the protection of operational personal data.
2. The assessment referred to in paragraph 1 shall contain at least a general description of the envisaged processing operations, an assessment of the risks to the rights and freedoms of data subjects, the measures envisaged to address those risks, safeguards, security measures and mechanisms to ensure the protection of operational personal data and to demonstrate compliance with this Regulation, taking into account the rights and legitimate interests of the data subjects and other persons concerned.

Article 30d

Prior consultation of the European Data Protection Supervisor

1. Eurojust shall consult the European Data Protection Supervisor prior to processing which will form part of a new filing system to be created, where:
 - (a) a data protection impact assessment as provided for in Article 30c indicates that the processing would result in a high risk in the absence of measures taken by the Eurojust to mitigate the risk; or
 - (b) the type of processing, in particular, where using new technologies, mechanisms or procedures, involves a high risk to the rights and freedoms of data subjects.

2. The European Data Protection Supervisor may establish a list of the processing operations which are subject to prior consultation pursuant to paragraph 1.
3. Eurojust shall provide the European Data Protection Supervisor with the data protection impact assessment pursuant to Article 30c and, on request, with any other information to allow the European Data Protection Supervisor to make an assessment of the compliance of the processing and in particular of the risks for the protection of operational personal data of the data subject and of the related safeguards.
4. Where the European Data Protection Supervisor is of the opinion that the intended processing referred to in paragraph 1 of this Article would infringe this Regulation, in particular where the Eurojust has insufficiently identified or mitigated the risk, the European Data Protection Supervisor shall provide, within a period of up to six weeks of receipt of the request for consultation, written advice to Eurojust according to his/her powers in accordance with Article 31e. That period may be extended by a month, taking into account the complexity of the intended processing. The European Data Protection Supervisor shall inform Eurojust of any such extension within one month of receipt of the request for consultation, together with the reasons for the delay.

Article 31

Designation of the Data Protection Officer

1. The Executive Board shall designate a Data Protection Officer. The Data Protection Officer shall be a member of staff specifically appointed for this purpose. In the performance of his or her duties, the Data Protection Officer shall act independently and may not receive any instructions.
2. The Data Protection Officer shall be selected on the basis of the Officer's professional qualities and, in particular, expert knowledge of data protection law and practice, and the ability to fulfil the tasks referred to in this Regulation, in particular those referred to in Article 31b.

3. The selection of the Data Protection Officer shall not be liable to result in a conflict of interests between the Officer's duty as Data Protection Officer and any other official duties, in particular in relation to the application of this Regulation.
4. The Data Protection Officer shall be appointed for a term of four years and shall be eligible for reappointment up to a maximum total term of eight years. The Officer may be dismissed from the post of Data Protection Officer by the Executive Board only with the agreement of the European Data Protection Supervisor, if the Officer no longer fulfils the conditions required for the performance of his or her duties.
5. Eurojust shall publish the contact details of the Data Protection Officer and communicate them to the European Data Protection Supervisor.

Article 31a

Position of the Data Protection Officer

1. Eurojust shall ensure that the Data Protection Officer is involved, properly and in a timely manner, in all issues which relate to the protection of personal data.
2. Eurojust shall support the Data Protection Officer in performing the tasks referred to in Article 31b by providing resources necessary to carry out those tasks and by providing access to personal data and processing operations, and to maintain his or her expert knowledge.
3. Eurojust shall ensure that the Data Protection Officer does not receive any instructions regarding the exercise of those tasks. The Officer shall not be dismissed or penalised by the Executive Board for performing his or her tasks. The Data Protection Officer shall directly report to the the College in relation with the operational personal data and to the Executive Board in relation with the administrative personal data.
4. Data subjects may contact the Data Protection Officer with regard to all issues related to processing of their personal data and to the exercise of their rights under this Regulation and under Regulation (EC) No 45/2001.

5. The Executive Board shall adopt implementing rules concerning the Data Protection Officer. Those implementing rules shall in particular concern the selection procedure for the position of the Data Protection Officer and the Officer's dismissal, tasks, duties and powers and safeguards for independence of the Data Protection Officer.
6. Eurojust shall provide the Data Protection Officer with the staff and resources necessary for him or her to carry out his or her duties.
7. The Data Protection Officer and his or her staff shall be bound by the obligation of confidentiality in accordance with Article 59.

Article 31b

Tasks of the Data Protection Officer

1. The Data Protection Officer shall in particular have the following tasks, regarding the processing of personal data:
 - a) ensuring, in an independent manner the compliance of Eurojust with the data protection provisions of this Regulation, of Regulation (EC) No 45/2001 and of the relevant data protection provisions in the internal rules of procedure; this includes monitoring compliance with this Regulation, with other Union or national data protection provisions and with the policies of Eurojust in relation to the protection of personal data, including the assignment of responsibilities, awareness-raising and training of staff involved in processing operations, and the related audits;
 - b) informing and advising Eurojust and the staff who carry out processing of their obligations pursuant to this Regulation and to other Union or national data protection provisions;
 - c) providing advice where requested as regards the data protection impact assessment and monitor its performance pursuant to Article 30c;
 - d) ensuring that a record of the transfer and receipt of personal data is kept in accordance with the provisions to be laid down in the rules of procedure of Eurojust;

- e) cooperating with the staff of Eurojust responsible for procedures, training and advice on data processing;
 - f) cooperating with the European Data Protection Supervisor;
 - g) ensuring that data subjects are informed of their rights under this Regulation;
 - h) acting as the contact point for the European Data Protection Supervisor; on issues relating to processing, including the prior consultation referred to in Article 30d, and to consult, where appropriate, with regard to any other matter.
 - i) preparing an annual report and communicate that report to the Executive Board, College and to the European Data Protection Supervisor.
- 2a. The Data Protection Officer shall carry out the functions provided for in Regulation (EU) No 45/2001 with regard to administrative personal data.
3. The Data Protection Officer and the staff members of Eurojust assisting the Data Protection Officer in the performance of duties shall have access to the personal data processed by Eurojust and to its premises to the extent necessary for the performance of their tasks.
4. If the Data Protection Officer considers that the provisions of Regulation (EC) No 45/2001 related to the processing of administrative personal data or the provisions of this Regulation related to the processing of operational personal data have not been complied with, the Officer shall inform the Executive Board, requesting it to resolve the non-compliance within a specified time. If the Executive Board does not resolve the non-compliance of the processing within the specified time, the Data Protection Officer shall refer the matter to the European Data Protection Supervisor.

Article 31c

Notification of a personal data breach to the European Data Protection Supervisor

1. In the case of a personal data breach, Eurojust shall notify without undue delay and, where feasible, not later than 72 hours after having become aware of it, the personal data breach to the European Data Protection Supervisor, unless the personal data breach is unlikely to result in a risk to the rights and freedoms of natural persons. Where the notification to the European Data Protection Supervisor is not made within 72 hours, it shall be accompanied by reasons for the delay.

The notification referred to in paragraph 1 shall at least:

- (a) describe the nature of the personal data breach including, where possible, the categories and approximate number of data subjects concerned and the categories and approximate number of personal data records concerned;
 - (b) communicate the name and contact details of the Data Protection Officer;
 - (c) describe the likely consequences of the personal data breach;
 - (d) describe the measures taken or proposed to be taken by Eurojust to address the personal data breach, including, where appropriate, measures to mitigate its possible adverse effects.
3. Where, and in so far as, it is not possible to provide the information referred to in paragraph 2 at the same time, the information may be provided in phases without undue further delay.
4. Eurojust shall document any personal data breaches referred to in paragraph 1, comprising the facts relating to the personal data breach, its effects and the remedial action taken. That documentation shall enable the European Data Protection Supervisor to verify compliance with this Article.

Article 31d

Communication of a personal data breach to the data subject

1. Where the personal data breach is likely to result in a high risk to the rights and freedoms of natural persons, Eurojust shall communicate the personal data breach to the data subject without undue delay.
2. The communication to the data subject referred to in paragraph 1 of this Article shall describe, in clear and plain language the nature of the personal data breach and shall contain at least the information and the recommendations provided for in points (b), (c) and (d) of Article 31c(2).

3. The communication to the data subject referred to in paragraph 1 shall not be required if any of the following conditions are met:
- (a) Eurojust has implemented appropriate technological and organisational protection measures, and that those measures were applied to the personal data affected by the personal data breach, in particular those that render the personal data unintelligible to any person who is not authorised to access it, such as encryption;
 - (b) Eurojust has taken subsequent measures which ensure that the high risk to the rights and freedoms of data subjects referred to in paragraph 1 is no longer likely to materialise;
 - (c) it would involve a disproportionate effort. In such a case, there shall instead be a public communication or a similar measure whereby the data subjects are informed in an equally effective manner.
4. If Eurojust has not already communicated the personal data breach to the data subject, the European Data Protection Supervisor, having considered the likelihood of the personal data breach resulting in a high risk, may require it to do so, or may decide that any of the conditions referred to in paragraph 3 are met.
5. The communication to the data subject referred to in paragraph 1 of this Article may be delayed, restricted or omitted subject to the conditions and on the grounds referred to in Article 29e(1).

Notification of a personal data breach to the authorities concerned

1. In the event of a personal data breach, Eurojust shall without undue delay notify the competent authorities of the Member States concerned, of that breach.
2. The notification referred to in paragraph 1 shall, as a minimum:
 - (a) describe the nature of the personal data breach including, where possible and appropriate, the categories and number of data subjects concerned and the categories and number of data records concerned;
 - (b) describe the likely consequences of the personal data breach;
 - (c) describe the measures proposed or taken by Eurojust to address the personal data breach; and
 - (d) where appropriate, recommend measures to mitigate the possible adverse effects of the personal data breach.

Article 31e

Supervision by the European Data Protection Supervisor

1. The European Data Protection Supervisor shall be responsible for monitoring and ensuring the application of the provisions of this Regulation relating to the protection of fundamental rights and freedoms of natural persons with regard to processing of operational personal data by Eurojust, and for advising Eurojust and data subjects on all matters concerning the processing of operational personal data. To this end, the Supervisor shall fulfil the duties set out in paragraph 2 of this Article, shall exercise the powers granted in paragraph 3 of this Article and shall cooperate with the national supervisory authorities in accordance with Article 35.
2. The European Data Protection Supervisor shall have the following duties under this Regulation:
 - (a) hear and investigate complaints, and inform the data subject of the outcome within a reasonable period;
 - (b) conduct inquiries either on his/her own initiative or on the basis of a complaint, and inform the data subjects of the outcome within a reasonable period;
 - (c) monitor and ensure the application of the provisions of this Regulation relating to the protection of natural persons with regard to the processing of operational personal data by Eurojust;
 - (d) advise Eurojust, either on his/her own initiative or in response to a consultation, on all matters concerning the processing of operational personal data, in particular before it draws up internal rules relating to the protection of fundamental rights and freedoms with regard to the processing of operational personal data;

3. The European Data Protection Supervisor may under this Regulation and taking into account the implications for investigations and prosecutions in the Member States:
- (a) give advice to data subjects in the exercise of their rights;
 - (b) refer the matter to Eurojust in the event of an alleged breach of the provisions governing the processing of operational personal data, and, where appropriate, make proposals for remedying that breach and for improving the protection of the data subjects;
 - (c) consult Eurojust when requests to exercise certain rights in relation to operational personal data have been refused in breach of Articles 27(4a), 29b, 29c, 29d, 29e, 29f and 29g.
 - (d) warn Eurojust;
 - (e) order Eurojust to carry out the rectification, restriction or erasure of operational personal data which have been processed by Eurojust in breach of the provisions governing the processing of operational personal data and the notification of such actions to third parties to whom such data have been disclosed, provided that this does not interfere with the tasks of Eurojust stipulated in Article 2 of this Regulation;
 - (h) refer the matter to the Court of Justice of the European Union under the conditions set out in the Treaty;
 - (i) intervene in actions brought before the Court of Justice of the European Union.
4. The European Data Protection Supervisor shall have access to the operational personal data processed by Eurojust and to its premises to the extent necessary for the performance of his/her tasks.

5. The European Data Protection Supervisor shall draw up an annual report on the supervisory activities on Eurojust. That report shall be part of the annual report of the European Data Protection Supervisor referred to in Article 48 of Regulation (EC) No 45/2001. The national supervisory authorities shall be invited to make observations on this report, before it becomes part of the annual report of the European Data Protection Supervisor referred to in Article 48 of Regulation (EC) No 45/2001. The European Data Protection Supervisor shall take utmost account of the observations made by national supervisory authorities and, in any case, shall refer to them in the annual report.
6. Eurojust shall, on request, cooperate with the European Data Protection Supervisor in the performance of his/her tasks.

Article 31f

Professional secrecy of the European Data Protection Supervisor

The European Data Protection Supervisor and staff shall, both during and after their term of office, be subject to a duty of professional secrecy with regard to any confidential information which has come to their knowledge in the course of the performance of official duties.

Article 35

Cooperation between the European Data Protection Supervisor and national data protection authorities

1. The European Data Protection Supervisor shall act in close cooperation with national supervisory authorities with respect to specific issues requiring national involvement, in particular if the European Data Protection Supervisor or a national supervisory authority finds major discrepancies between practices of the Member States or potentially unlawful transfers using Eurojust's communication channels, or in the context of questions raised by one or more national supervisory authorities on the implementation and interpretation of this Regulation.

2. In cases referred to under paragraph 1, the European Data Protection Supervisor and the national authorities competent for data protection supervision may, each acting within the scope of their respective competences, exchange relevant information and assist each other in carrying out audits and inspections, examine difficulties of interpretation or application of this Regulation, study problems related to the exercise of independent supervision or to the exercise of the rights of data subjects, draw up harmonised proposals for joint solutions to any problems, and promote awareness of data protection rights, as necessary.
- 2a. The European Data Protection Supervisor shall keep national supervisory authorities fully informed of all issues directly affecting or otherwise relevant to them. Upon request of one or more national supervisory authorities, the European Data Protection Supervisor shall inform them on specific issues.
- 2b. In cases relating to data originating from one or several Member States, including in cases referred to in Article 36(2), the European Data Protection Supervisor shall consult the national supervisory authorities concerned. The European Data Protection Supervisor shall not decide on further action to be taken before those national supervisory authorities have informed the European Data Protection Supervisor of their position, within a deadline specified by him/her which shall not be shorter than one month and not longer than three months. The European Data Protection Supervisor shall take utmost account of the position of the national supervisory authorities concerned. In cases where the European Data Protection Supervisor intends not to follow their position, he/she shall inform them, and provide a justification and submit the matter to the Cooperation Board referred to in Article 35a.

In cases which the European Data Protection Supervisor deems to be extremely urgent, he/she may decide to take immediate action. In such cases, the European Data Protection Supervisor shall immediately inform the national supervisory authorities concerned and justify the urgent nature of the situation as well as the action he/she has taken.

- 2c. National supervisory authorities shall keep the European Data Protection Supervisor informed of any actions they take with respect to the transfer, retrieval, or any other communication of operational personal data under this Regulation by the Member States.

Article 35a

Cooperation Board

1. The National Supervisory Authorities and the European Data Protection Supervisor shall meet for the purposes outlined in Article 35, as needed and at least once a year in a Cooperation Board which is hereby established. The costs and servicing of these meetings shall be for the account of the European Data Protection Supervisor. Rules of procedure of the Cooperation Board shall be adopted at the first meeting by simple majority. Further working methods shall be developed jointly as necessary.
2. The Cooperation Board shall be composed of a representative of a national supervisory authority of each Member State and of the European Data Protection Supervisor.
3. The Cooperation Board shall act independently when performing its tasks pursuant to paragraph 6 and shall neither seek nor take instructions from anybody.
4. The Cooperation Board shall examine cases submitted to it by the European Data Protection Supervisor in accordance with Article 35 (2b) and may request the European Data Protection Supervisor to reassess his position if appropriate. The Cooperation Board shall adopt such decisions on the basis of a two-thirds majority of its members.

5. The Cooperation Board shall have the following tasks:
- (a) discuss general policy and strategy on data protection supervision of Eurojust and the permissibility of the transfer, the retrieval and any communication to Eurojust of personal data by the Member States;
 - (b) examine difficulties of interpretation or application of this Regulation;
 - (c) study general problems relating to the exercise of independent supervision or the exercise of the rights of data subjects;
 - (d) discuss and draw up harmonised proposals for joint solutions on matters referred to in Article 35 (1);
 - (e) discuss cases submitted by any national supervisory authority; and
 - (f) promote awareness of data protection rights.
6. The European Data Protection Supervisor and the national supervisory authorities shall, each acting within the scope of their respective competences, take utmost account of the opinions, guidelines, recommendations and best practices agreed by the Cooperation Board.

Article 36

Right to lodge a complaint with the European Data Protection Supervisor with respect to operational personal data

- 1.bis Any data subject shall have the right to lodge a complaint with the European Data Protection Supervisor, if he/she considers that the processing by Eurojust of operational personal data relating to him/her does not comply with the provisions of this Regulation.
1. Where a complaint relates to a decision as referred to in Article 32 or 33, the European Data Protection Supervisor shall consult the national supervisory authorities or the competent judicial body of the Member State that provided the data or the Member State directly concerned. In adopting his or her decision, which may extend to a refusal to communicate any information, the European Data Protection Supervisor shall take into account the opinion of the national supervisory authority or the competent judicial body.

2. Where a complaint relates to the processing of data provided by a Member State to Eurojust, the European Data Protection Supervisor and the national supervisory authority of the member State that provided the data shall, each acting within the scope of their respective competences, ensure that the necessary checks on the lawfulness of the processing of the data have been carried out correctly.
3. Where a complaint relates to the processing of data provided to Eurojust by Union bodies, third countries or international organisations or of data retrieved by Eurojust from publicly available sources, the European Data Protection Supervisor shall ensure that Eurojust has correctly carried out the necessary checks on the lawfulness of the processing of the data.
4. The European Data Protection Supervisor shall inform the data subject of the progress and the outcome of the complaint, including of the possibility of a judicial remedy pursuant to Article 36a.

Article 36a

Right to judicial review against the European Data Protection Supervisor

Actions against the decisions of the European Data Protection Supervisor concerning operational personal data shall be brought before the Court of Justice of the European Union.

Article 36b

Responsibility in data protection matters

1. Eurojust shall process operational personal data in such a way that it can be established which authority provided the data or where the data has been retrieved from.
2. The responsibility for the accuracy of operational personal data shall lie with:
 - a) Eurojust for operational data submitted by a Member State and the Union institution, body, office or agency in case data provided were altered in the course of data processing by Eurojust;
 - aa) the Member State or the EU institution, office, body or agency which provided the data to Eurojust in case the data submitted is not altered in the course of data processing by Eurojust;

- b) Eurojust for operational personal data provided by third countries or international organisations, as well for operational personal data retrieved by Eurojust from publicly available sources.
- 3. The responsibility for compliance regarding the administrative personal data with Regulation (EC) No 45/2001 and for compliance regarding the operational personal data with this Regulation shall lie with Eurojust.

The responsibility for the legality of a operational personal data transfer shall lie with:

 - a) the Member State which provides the data to Eurojust;
 - b) Eurojust for the operational personal data provided by it to Member States, EU institutions, offices, bodies and agencies and third countries or organisations.
- 4. Subject to other provisions in this Regulation, Eurojust shall be responsible for all data processed by it. The security of such exchanges shall be ensured in accordance with Article 29a.

Article 37

Liability for unauthorised or incorrect processing of data

- 3. Eurojust shall be liable, in accordance with Article 340 of the Treaty, for any damage caused to an individual which results from unauthorised or incorrect processing of data carried out by it.
- 4. Complaints against Eurojust pursuant to the liability referred to in paragraph 3 shall be heard by the Court of Justice in accordance with Article 268 of the Treaty.
- 5. 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.

CHAPTER V

RELATIONS WITH PARTNERS

SECTION I

COMMON PROVISIONS

Article 38

Common provisions

1. In so far as necessary for the performance of its tasks, Eurojust may establish and maintain cooperative relations with Union bodies and agencies in accordance with the objectives of those bodies or agencies, the competent authorities of third countries and international organisations.
2. In so far as relevant to the performance of its tasks and subject to any restriction stipulated pursuant to Article 21(8) and Article 62, Eurojust may directly exchange all information, with the exception of personal data, with the entities referred to in paragraph 1.
- 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.
3. Eurojust may receive and process personal data received from the entities referred to in paragraph 1 in so far as necessary for the performance of its tasks and subject to the provisions of Section IV.
4. Personal data shall only be transferred by Eurojust to institutions, bodies, offices or agencies of the Union, third countries and international organisations if this is necessary for the performance of its tasks and in accordance with Articles 44 and 45. If the data to be transferred have been provided by a Member State, Eurojust shall obtain the consent of the relevant competent authority in that Member State, unless the Member State has granted its prior authorisation to such onward transfer, either in general terms or subject to specific conditions. Such consent may be withdrawn any moment.

5. Onward transfers to third parties of personal data received from Eurojust by Member States, Union bodies or agencies, third countries or international organisations shall be prohibited unless Eurojust has obtained prior consent from the Member State who provided the data and given its explicit consent after considering the circumstances of the case at hand and only for a specific purpose that is not incompatible with the purpose for which the data was transmitted.

SECTION II

RELATIONS WITH PARTNERS

Article 39

Cooperation with the European Judicial Network and other networks of the European Union involved in cooperation in criminal matters

1. Eurojust and the European Judicial Network in criminal matters shall maintain privileged relations with each other, based on consultation and complementarity, especially between the national member, the European Judicial Network contact points of the same Member State and the national correspondents for Eurojust and the European Judicial Network. In order to ensure efficient cooperation, the following measures shall be taken:
 - a) national members shall, on a case-by-case basis, inform the European Judicial Network contact points of all cases which they consider the Network to be in a better position to deal with;
 - b) the Secretariat of the European Judicial Network shall form part of the staff of Eurojust. It shall function as a separate unit. It may draw on the administrative resources of Eurojust which are necessary for the performance of the European Judicial Network's tasks, including for covering the costs of the plenary meetings of the Network;
 - c) European Judicial Network contact points may be invited on a case-by-case basis to attend Eurojust meetings;

- d) Eurojust and the European Judicial Network may make use of the ENCS when determining whether a request should be handled with the assistance of Eurojust or the European Judicial Network in accordance with Article 20(5)(b).
2. The Secretariat of the Network for Joint Investigation Teams and of the network set up by Decision 2002/494/JHA shall form part of the staff of Eurojust. These secretariats shall function as separate units. They may draw on the administrative resources of Eurojust which are necessary for the performance of their tasks. Coordination between the secretariats shall be ensured by Eurojust. This paragraph shall apply to the secretariat of any new network set up by a decision of the Council where that decision provides that the secretariat shall be provided by Eurojust.
3. The network set up by Decision 2008/852/JHA may request that Eurojust provide a secretariat to the network. If such request is made, paragraph 2 shall apply.

Article 40

Relations with Europol

1. Eurojust shall take all appropriate measures to enable Europol, within its mandate, to have indirect access on the basis of a hit/no hit system to information provided to Eurojust, without prejudice to any restrictions indicated by the providing Member States, Union bodies, third countries and international organisations. In case of a hit, Eurojust shall initiate the procedure by which the information that generated the hit may be shared, in accordance with the decision of the provider of the information to Eurojust.
2. Searches of information in accordance with paragraph 1 shall be made only for the purpose of identifying whether information available at Europol matches with information processed at Eurojust.
3. Eurojust shall allow searches in accordance with paragraph 1 only after obtaining from Europol information about which staff members have been designated as authorised to perform such searches.

4. If during Eurojust's information processing activities in respect of an individual investigation, Eurojust or a Member State identifies the necessity for coordination, cooperation or support in accordance with the mandate of Europol, Eurojust shall notify them thereof and shall initiate the procedure for sharing the information, in accordance with the decision of the Member State providing the information. In such a case Eurojust shall consult with Europol.
5. Europol shall respect any restriction to access or use, in general or specific terms, indicated by Member States, Union bodies or agencies, third countries or international organisations.

Article 41

Relations with the European Public Prosecutor's Office

1. Eurojust shall establish and maintain a close relationship with the European Public Prosecutor's Office based on mutual cooperation within their respective mandates and on the development of operational, administrative and management links between them as defined in this Article. To this end, the President of Eurojust and the European Chief Prosecutor shall meet on a regular basis to discuss issues of common interest.
2. Eurojust shall treat requests 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.
3. Whenever necessary, Eurojust shall make use of the Eurojust National Coordination Systems established in accordance with Article 20, as well as the relations it has established with third countries, including its liaison magistrates, in order to support the cooperation established in accordance with paragraph 1.

4. In operational matters, Eurojust may associate the European Public Prosecutor's Office with its activities concerning cross-border cases, including by:
 - a) sharing information, including personal data, on its cases in accordance with the relevant provisions in this Regulation;
 - b) inviting the European Public Prosecutor's Office to provide support in relevant cases.
5. Eurojust shall have indirect access on the basis of a hit/no-hit system to information in the case management system of the European Public Prosecutor's Office. Whenever a match is found between data entered into the case management system by the European Public Prosecutor's Office and data held by Eurojust, the fact that there is a match will be communicated to both Eurojust and the European Public Prosecutor's Office, as well as the Member State which provided the data to Eurojust. Eurojust shall take the appropriate measures to enable the European Public Prosecutor's Office to have indirect access to information in its case management system on the basis of a hit/no-hit system.
6. The European Public Prosecutor's Office may rely on the support and resources of the administration of Eurojust. To this end, Eurojust may provide services of common interest to the European Public Prosecutor's Office. The details shall be regulated by an arrangement.

Article 42

Relations with other Union bodies and agencies

1. Eurojust shall establish and maintain cooperative relations with the European Judicial Training Network.

2. OLAF shall contribute to Eurojust's coordination work regarding the protection of the financial interests of the Union, in accordance with its mandate under Regulation (EU, Euratom) of the European Parliament and of the Council No 883/2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999.
3. For purposes of the receipt and transmission of information between Eurojust and OLAF, and without prejudice to Article 8, 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 (EU, Euratom) of the European Parliament and of the Council No 883/2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF). The exchange of information between OLAF and national members shall be without prejudice to the information which must be given to other competent authorities under those Regulations.

SECTION III

INTERNATIONAL COOPERATION

Article 43

Relations with Union bodies, the authorities of third countries and international organisations

1. The working arrangements referred to in Article 38(2a) may include the secondment of liaison magistrates to Eurojust.
2. Eurojust may designate, in agreement with the competent authorities concerned, contact points in third countries in order to facilitate cooperation in line with Eurojust's operational needs.

Article 43a

Liaison magistrates posted to third countries

1. For the purpose of facilitating judicial cooperation with third countries in cases in which Eurojust is providing assistance in accordance with this Regulation, the College may post liaison magistrates to a third country subject to a working arrangement as referred to in Article 38(2a) with that third country.
- 1(a) The tasks of the liaison magistrates shall include any activity designed to encourage and accelerate all forms of judicial cooperation in criminal matters, in particular by establishing direct links with the competent authorities of the host State. The liaison magistrate may exchange operational personal data with the competent authorities of the State concerned in the performance of their tasks in accordance with Article 45.

2. The liaison magistrate referred to in paragraph 1 is required to have experience of working with Eurojust and adequate knowledge of judicial cooperation and how Eurojust operates. The posting of a liaison magistrate on behalf of Eurojust shall be subject to the prior consent of the magistrate and of his or her Member State.
3. Where the liaison magistrate posted by Eurojust is selected among national members, deputies or assistants:
 - a) he or she shall be replaced in his or her function as a national member, deputy or Assistant, by the Member State;
 - b) he or she ceases to be entitled to exercise the powers granted to him or her in accordance with Article 8.
4. Without prejudice to Article 110 of the Staff Regulations, the College shall draw up the terms and conditions of the posting of liaison magistrates, including the level of remuneration and adopt the necessary implementing arrangements in this respect in consultation with the Commission.
5. The activities of liaison magistrates posted by Eurojust shall be subject to the supervision of the European Data Protection Supervisor. The liaison magistrates shall report to the College, which shall inform the European Parliament and the Council in the annual report and in an appropriate manner of their activities. The liaison magistrates shall inform national members and national competent authorities of all cases concerning their Member State.

6. Competent authorities of the Member States and liaison magistrates referred to in paragraph 1 may contact each other directly. In such cases, the liaison magistrate shall inform the national member concerned of such contacts.
7. The liaison magistrates referred to in paragraph 1 shall be connected to the Case Management System.

Article 43b

Requests for judicial cooperation to and from third Countries

1. Eurojust may, with the agreement of the Member States concerned, coordinate the execution of requests for judicial cooperation issued by a third country where these requests require execution in at least two Member States as part of the same investigation. Such requests may also be transmitted to Eurojust by a competent national authority.
2. In case of urgency and in accordance with Article 19, the On-Call Coordination (OCC) may receive and transmit requests referred to in paragraph 1 of this Article and issued by a third country which has concluded a cooperation agreement or working arrangement with Eurojust
3. Without prejudice to Article 3(4), where requests for judicial cooperation, which relate to the same investigation and require execution in a third country, are made by a Member State concerned, Eurojust shall facilitate judicial cooperation with that third country.

SECTION IV

TRANSFERS OF PERSONAL DATA

Article 44

Transmission of operational personal data to institutions, bodies, offices and agencies of the Union

1. Subject to any further restrictions pursuant to this Regulation, in particular Article 21 (8), 27f, 38(4), 62 Eurojust shall only transmit operational personal data to another institution, body, office or agency of the Union if the data are necessary for the legitimate performance of tasks covered by the competence of the other institution, body, office or agency of the Union.
2. Where the operational personal data are transmitted following a request from the other institution, body, office or agency of the Union, both the controller and the recipient shall bear the responsibility for the legitimacy of this transfer.

Eurojust shall be required to verify the competence of the other institution, body, office or agency of the Union and to make a provisional evaluation of the necessity for the transmission of the operational personal data. If doubts arise as to this necessity, Eurojust shall seek further information from the recipient.

The other institution, body, office or agency of the Union shall ensure that the necessity for the transmission of the operational personal data can be subsequently verified.

3. The other institution, body, office or agency of the Union shall process the operational personal data only for the purposes for which they were transmitted.

General principles for transfers of operational personal data to third countries and international organisations

1. Eurojust may transfer operational personal data to a third country or international organisation, subject to compliance with the other provisions of this Regulation, only where the conditions laid down in this Article are met:
 - (a) the transfer is necessary for the performance of the tasks of Eurojust;
 - (b) the operational personal data are transferred to an authority in a third country or international organisation competent in law enforcement and criminal matters;
 - (c) where the operational personal data to be transferred in accordance with this Article have been transmitted or made available by a Member State of the European Union to Eurojust, the latter shall obtain prior authorisation for the transfer by the relevant competent authority of that Member State of the European Union in compliance with its national law, unless that Member State of the European Union has granted this authorisation to such transfer in general terms or subject to specific conditions;
 - (d) in the case of an onward transfer to another third country or international organisation by a third country or international organisation, Eurojust shall require the third country or international organisation to seek its prior authorisation for that onward transfer, which Eurojust may provide only with prior authorisation of the Member State the data originates from and after taking into due account all relevant factors, including the seriousness of the criminal offence, the purpose for which the operational personal data was originally transferred and the level of personal data protection in the third country or an international organisation to which operational personal data are onward transferred;

1bis. Subject to conditions in paragraph 1 of this Article, Eurojust may transfer operational personal data to a third country or international organisation only where one of the following applies:

- (a) the Commission has decided pursuant to Article 45a that the third country or international organisation in question ensures an adequate level of protection, or in the absence of such an adequacy decision, where appropriate safeguards are adduced or exist pursuant to Article 45b, or both in absence of an adequacy decision and of such appropriate safeguards, derogation for specific situations apply pursuant to Article 45c; or
- (b) on the basis of a cooperation agreement concluded before [...] ¹⁷ between Eurojust and that third country or international organisation in accordance with Article 27 of Decision 2002/187/JHA; or
- (c) on the basis of an international agreement concluded between the Union and the third country or international organisation pursuant to Article 218 of the Treaty adducing adequate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals.

- 1.a. The working arrangements referred to in Article 38(2a) may be used to set out the modalities to implement such agreements or adequacy decisions.

¹⁷ Date of application of this Regulation

2. Eurojust may in case of urgency transfer operational personal data without prior authorisation by a Member State of the European Union in accordance with point (c) of paragraph 1 only if the transfer of the operational personal data is necessary for the prevention of an immediate and serious threat to public security of a Member State of the European Union or a third country or to essential interests of a Member State of the European Union and the prior authorisation cannot be obtained in good time. The authority responsible for giving prior authorisation shall be informed without delay.
3. The transfer of operational personal data received from Eurojust to a third country or an international organisation by a Member State of the European Union, or institution, body, office or agency of the Union shall be prohibited. This shall not apply in cases where Eurojust has authorised such transfer, after taking into due account all relevant factors, including the seriousness of the criminal offence, the purpose for which the operational personal data was originally transmitted and the level of personal data protection in the third country or an international organisation to which operational personal data are transferred.
4. Articles 45a to 45c shall be applied in order to ensure that the level of protection of natural persons ensured by this Regulation and by Union law is not undermined.

Article 45a

Transfers on the basis of an adequacy decision

Eurojust may transfer operational personal data to a third country or an international organisation where the Commission has decided in accordance with Article 36 of Directive (EU) 2016/680 that the third country, a territory or one or more specified sectors within that third country, or the international organisation in question ensures an adequate level of protection.

Article 45b

Transfers subject to appropriate safeguards

1. In the absence of an adequacy decision, Eurojust may transfer operational personal data to a third country or an international organisation where:
 - (a) appropriate safeguards with regard to the protection of operational personal data are provided for in a legally binding instrument; or
 - (b) Eurojust has assessed all the circumstances surrounding the transfer of operational personal data and concludes that appropriate safeguards exist with regard to the protection of operational personal data.
2. Eurojust shall inform the European Data Protection Supervisor about categories of transfers under point (b) of paragraph 1.
3. When a transfer is based on point (b) of paragraph 1, such a transfer shall be documented and the documentation shall be made available to the European Data Protection Supervisor on request, including the date and time of the transfer, and information about the receiving competent authority, about the justification for the transfer and about the operational personal data transferred.

Article 45c

Derogations for specific situations

1. In the absence of an adequacy decision, or of appropriate safeguards pursuant to Article 45b, Eurojust may transfer operational personal data to a third country or an international organisation only on the condition that the transfer is necessary:
 - (a) in order to protect the vital interests of the data subject or another person;
 - (b) to safeguard legitimate interests of the data subject;

- (c) for the prevention of an immediate and serious threat to public security of a Member State of the European Union or a third country; or
 - (d) in individual cases for the performance of the tasks of Eurojust, unless Eurojust determines that fundamental rights and freedoms of the data subject concerned override the public interest in the transfer.
2. Where a transfer is based on paragraph 1, such a transfer shall be documented and the documentation shall be made available to the European Data Protection Supervisor on request, including the date and time of the transfer, and information about the receiving competent authority, about the justification for the transfer and about the operational personal data transferred.

CHAPTER VI

FINANCIAL PROVISIONS

Article 48

Budget

1. Estimates of all the revenue and expenditure of Eurojust shall be prepared for each financial year, corresponding to the calendar year, and shall be shown in Eurojust's budget.
2. Eurojust's budget shall be balanced in terms of revenue and of expenditure.
3. Without prejudice to other resources, Eurojust's revenue shall comprise:
 - a) a contribution from the Union entered in the general budget of the European Union;

- b) any voluntary financial contribution from the Member States;
 - c) charges for publications and any service provided by Eurojust;
 - d) ad-hoc grants.
4. The expenditure of Eurojust shall include staff remuneration, administrative and infrastructure expenses, operating costs including funding for Joint Investigation Teams.

Article 49

Establishment of the budget

1. Each year the Administrative Director shall draw up a draft statement of estimates of Eurojust's revenue and expenditure together, for the following financial year, including the establishment plan, and send it to the Executive Board. The European Judicial Network and other networks referred to in Article 39 shall be informed on the parts related to their activities in due time before forwarding the estimate to the Commission.
2. The Executive Board shall, on the basis of that draft, prepare a provisional draft estimate of Eurojust's revenue and expenditure for the following financial year which shall be forwarded to the College for adoption.
3. The provisional draft estimate of Eurojust's revenue and expenditure shall be sent to the European Commission by no later than 31 January each year. Eurojust shall send a final draft estimate, which shall include a draft establishment plan, to the Commission by 31 March.
4. The Commission shall send the statement of estimates to the European Parliament and the Council (the budgetary authority) together with the draft general budget of the European Union.

5. On the basis of the statement of estimates, the Commission shall enter in the draft general budget of the European Union the estimates it considers necessary for the establishment plan and the amount of the contribution to be charged to the general budget, which it shall place before the budgetary authority in accordance with Articles 313 and 314 of the Treaty.
6. The budgetary authority shall authorise the appropriations for the contribution from the European Union to Eurojust.
7. The budgetary authority shall adopt Eurojust's establishment plan. Eurojust's budget shall be adopted by the College. It shall become final following final adoption of the general budget of the European Union. Where necessary, it shall be adjusted by the College accordingly.
9. For any building project likely to have significant implications for the Eurojust's budget Article 88 of Regulation (EU) No 1271/2013 shall apply.

Article 50

Implementation of the budget

The Administrative Director shall act as the authorising officer of Eurojust and shall implement Eurojust's budget under his or her own responsibility and within the limits authorised in the budget.

Article 51

Presentation of accounts and discharge

1. By 1 March following each financial year, Eurojust's Accounting Officer shall send the provisional accounts to the Commission's Accounting Officer and the Court of Auditors.
2. Eurojust shall send the report on the budgetary and financial management to the European Parliament, the Council and the Court of Auditors, by 31 March of the following financial year.

3. By 31 March following each financial year, the Commission's Accounting Officer shall send Eurojust's provisional accounts consolidated with the Commission's accounts to the Court of Auditors.
4. In accordance with Article 148(1) of Regulation (EU, EURATOM) No 966/2012, the Court of Auditors shall, by 1 June of the following year at the latest, make its observations on the provisional accounts of Eurojust.
5. On receipt of the Court of Auditors' observations on Eurojust's provisional accounts pursuant to Article 148 of Regulation (EU, EURATOM) No 966/2012, the Administrative Director shall draw up Eurojust's final accounts under his or her own responsibility and submit them to the Executive Board for an opinion.
6. The Executive Board shall deliver an opinion on Eurojust's final accounts.
7. The Accounting Officer of Eurojust shall, by 1 July following each financial year, send the final accounts to the European Parliament, the Council, the Commission and the Court of Auditors, together with the Executive Board's opinion.
8. The final accounts of Eurojust shall be published in the Official Journal of the European Union by 15 November of the year following the respective financial year.
9. The Administrative Director shall send the Court of Auditors a reply to its observations by 30 September of the following year at the latest. The Administrative Director shall also send this reply to the Executive Board and to the Commission.
11. The Administrative Director shall submit to the European Parliament, at the latter's request, any information required for the smooth application of the discharge procedure for the financial year in question in accordance with Article 165(3) of Regulation (EU, EURATOM) N° 966/2012.
12. On a recommendation from the Council acting by a qualified majority, the European Parliament, shall, before 15 May of year N + 2, give a discharge to the Administrative Director in respect of the implementation of the budget for year N.

Financial Rules

1. The financial rules applicable to Eurojust shall be adopted by the Executive Board in accordance with Commission delegated No. 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation 966/2012 and after consultation with the Commission. They shall not depart from Regulation No. 1271/2013 unless such departure is specifically required for Eurojust's operation and the Commission has given its prior consent.
2. Eurojust may award grants related to the fulfillment of its tasks referred to under Article 4(1). Grants provided for tasks under 4(1)(e) may be awarded without a call for proposals to the Member States.
3. In respect of the financial support to joint investigation teams activities, Eurojust shall establish in cooperation with Europol the rules and conditions upon which the applications shall be processed.

CHAPTER VII

STAFF PROVISIONS

Article 53

General provisions

1. The Staff Regulations of the European Union and the Conditions of Employment of Other Servants of the European Union and the rules adopted by agreement between the institutions of the European Union for giving effect to those Staff Regulations and those Conditions of Employment of Other Servants shall apply to the staff of Eurojust.
2. Eurojust staff shall consist of staff recruited according to the rules and regulations applicable to officials and other servants of the European Union, taking into account all the criteria referred to in Article 27 of the Staff Regulations of Officials of the European Union laid down by Regulation (EEC, Euratom, ECSC) No 259/68, including their geographical distribution.

Article 54

Seconded national experts and other staff

1. Eurojust may make use, in addition to its own staff, of seconded national experts or other staff not employed by Eurojust.
2. The College shall adopt a decision laying down rules on the secondment of national experts to Eurojust.

CHAPTER VIII

EVALUATION AND REPORTING

Article 55

Involvement of the European Institutions and national Parliaments

1. Eurojust shall transmit its Annual Report to the European Parliament, the Council and national Parliaments, which may present observations and conclusions.
2. The President of the College shall appear before the European Parliament or the Council, 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.
3. In addition to the other obligations of information and consultation set out in this regulation, Eurojust shall transmit to the European Parliament and to national Parliaments in the respective official languages for information:
 - a) the results of studies and strategic projects elaborated or commissioned by Eurojust;
 - b) working arrangements concluded with third parties;
 - c) the annual report of the European Data Protection Supervisor.

Article 56

Evaluation and review

1. By 5 years after the date of application of this Regulation at the latest, and every 5 years thereafter, the Commission shall commission an evaluation of the implementation and impact of this Regulation, as well as the effectiveness and efficiency of Eurojust and its working practices. The College shall be involved in the evaluation.
2. The Commission shall forward the evaluation report together with its conclusions to the European Parliament and national Parliaments, the Council and the College. The findings of the evaluation shall be made public.

CHAPTER IX

GENERAL AND FINAL PROVISIONS

Article 57

Privileges and Immunities

The Protocol on the Privileges and Immunities of the European Union shall apply to Eurojust and its staff.

Article 58

Language arrangements

1. Regulation No 1¹⁸ shall apply to Eurojust.
- 1(a). The College shall decide by a two-thirds majority of its members on the internal language arrangements of Eurojust.
2. The translation services required for the functioning of Eurojust shall be provided by the Translation Centre of the bodies of the European Union unless the urgency of the matter requires another solution.

Article 59

Confidentiality

1. The national members, their deputies and their Assistants referred to in Article 7, Eurojust staff, national correspondents seconded national experts, the Data Protection Officer and the staff of the European Data Protection Supervisor shall be bound by an obligation of confidentiality with respect to any information which has come to their knowledge in the course of the performance of their tasks.

¹⁸ OJ L 17, 6.10.1958, p.385.

2. The obligation of confidentiality shall apply to all persons and to all bodies called upon to work with Eurojust.
3. The obligation of confidentiality shall also apply after leaving office or employment or after the termination of the activities of the persons referred to in paragraphs 1 and 2.
4. The obligation of confidentiality shall apply to all information received by Eurojust, unless that information has already lawfully been made public.

Article 59a

Conditions of confidentiality of national proceedings

1. Without prejudice to Article 21(3), where information is received or exchanged via Eurojust, the authority of the Member State who provided the information may, pursuant to its national law, stipulate conditions on the use by the receiving authority of that information in national proceedings.
2. The authority of the Member State who receives the information shall be bound by those conditions.

Article 60

Transparency

1. Regulation (EC) No 1049/2001 shall apply to documents which relate to Eurojust's administrative tasks.
2. The Executive Board shall, within six months of the date of its first meeting, prepare the detailed rules for applying Regulation (EC) No 1049/2001 for adoption by the College.

3. Decisions taken by Eurojust under Article 8 of Regulation (EC) No 1049/2001 may form the subject of a complaint to the Ombudsman or of an action before the Court of Justice of the European Union, under the conditions laid down in Articles 228 and 263 of the Treaty respectively.

Article 61

OLAF and the European Court of Auditors

1. In order to facilitate combating fraud, corruption and other unlawful activities under Regulation (EC) No 883/2013, within six months from the entry into force of this Regulation, Eurojust ~~it~~ shall accede to the Interinstitutional Agreement of 25 May 1999 concerning internal investigations by the European Anti-fraud Office (OLAF) and adopt the appropriate provisions applicable to all the national members, their deputies and Assistants, seconded national experts and Eurojust staff using the template set out in the Annex to that Agreement.
2. The European Court of Auditors shall have the power of audit, on the basis of documents and on the spot, over all grant beneficiaries, contractors and subcontractors who have received Union funds from Eurojust.
3. OLAF may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Regulation (EC) No 883/2013 and Council Regulation (Euratom, EC) No 2185/96¹⁹ with a view to establishing whether there have been any irregularities affecting the financial interests of the Union in connection with expenditure funded by Eurojust.
4. Without prejudice to paragraphs 1, 2 and 3, working arrangements with third countries, international organisations and Interpol, contracts, grant agreements and grant decisions of Eurojust shall contain provisions expressly empowering the European Court of Auditors and OLAF to conduct such audits and investigations, according to their respective competences.

¹⁹ OJ L 292, 15.11.1996, p. 2.

Article 62

Rules on the protection of sensitive non-classified and of classified information

1. Eurojust shall establish internal rules on the protection of sensitive non-classified information, including the creation and processing of such information at Eurojust.
2. Eurojust shall establish internal rules on the protection of the European Union classified information which shall be consistent with Council Decision 2013/488/EU in order to ensure an equivalent level of protection for such information.

Article 63

Administrative inquiries

The administrative activities of Eurojust shall be subject to the inquiries of the European Ombudsman in accordance with Article 228 of the Treaty.

Article 64

Liability other than liability for unauthorised or incorrect processing of data

1. Eurojust's contractual liability shall be governed by the law applicable to the contract in question.
2. The Court of Justice of the European Union shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by Eurojust.
3. In the case of non-contractual liability, Eurojust shall, in accordance with the general principles common to the laws of the Member States and independently of any liability under Article 37, make good any damage caused by the College or the staff of Eurojust in the performance of their duties.

4. Paragraph 3 shall also apply to damage caused through the fault of a national member, a deputy or an Assistant in the performance of their duties. However, when he or she is acting on the basis of the powers granted to him or her pursuant to Article 8, his or her Member State of origin shall reimburse Eurojust the sums which Eurojust has paid to make good such damage.
5. The Court of Justice of the European Union shall have jurisdiction in disputes over compensation for damages referred to in paragraph 3.
6. The national courts of the Member States competent to deal with disputes involving Eurojust's liability as referred to in this Article shall be determined by reference to Council Regulation (EC) No 44/2001²⁰.
7. The personal liability of its staff towards Eurojust shall be governed by the provisions laid down in the Staff Regulations or Conditions of Employment applicable to them.

Article 65

Headquarters Agreement and operating conditions

1. The seat of Eurojust shall be The Hague, The Netherlands.
2. The necessary arrangements concerning the accommodation to be provided for Eurojust in the Netherlands and the facilities to be made available by the Netherlands together with the specific rules applicable in the Netherlands to the Administrative Director, members of the College, Eurojust staff and members of their families shall be laid down in a Headquarters Agreement between Eurojust and the Netherlands concluded once the College's approval is obtained.

²⁰ OJ L 12, 16.1.2001, p. 1. Regulation (EC) No 44/2001 is replaced by Regulation (EU) No 1215/2012 from 10 January 2015.

Transitional arrangements

1. Eurojust shall be the general legal successor in respect of all contracts concluded by, liabilities incumbent on, and properties acquired by Eurojust as established by Council Decision 2002/187/JHA.
2. The national members of Eurojust who were seconded by each Member State under Decision 2002/187/JHA shall take the role of national members of Eurojust under Section II of this Regulation.
3. The President and Vice-Presidents of Eurojust at the time of the entry into force of this Regulation shall take the role of the President and Vice-Presidents of Eurojust under Article 11, until their term in accordance with Decision 2002/187/JHA expires. They may be re-elected once after the entry into force of this Regulation under Article 11(3) of this Regulation, irrespective of a previous re-election.
4. The Administrative Director who was lastly appointed under Article 29 of Decision 2002/187/JHA shall take the role of the Administrative Director under Article 17 until his or her term as decided under Decision 2002/187/JHA expires. The term of the Administrative Director may be extended once after the entry into force of this Regulation.
5. This Regulation shall not affect the legal force of agreements concluded by Eurojust as established by Decision 2002/187/JHA. In particular, all international agreements concluded by Eurojust which have entered into force before the entry into force of this Regulation shall remain legally valid.

6. The discharge procedure in respect of the budgets approved on the basis of Article 35 of Decision 2002/187/JHA shall be carried out in accordance with the rules established by Article 36 of Decision 2002/187/JHA.
7. The Regulation shall not affect labour contracts which have been concluded in accordance with Article 31 prior to the entry into force of this Regulation. The Data Protection Officer who was lastly appointed under Article 17 of Decision 2002/187/JHA shall take the role of the Data Protection Officer under Article 31.

Article 67

Replacement

1. Decisions 2002/187/JHA, 2003/659/JHA and 2009/426/JHA are hereby replaced for the Member States bound by this Regulation with effect from the date of application of this Regulation.
2. For the Member States bound by this Regulation, references to the Council Decisions referred to in paragraph 1 shall be construed as references to this Regulation.

Article 68

Entry into force

1. This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.
2. This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.
3. It shall apply from [...] ²¹.

²¹ 1 year after entry into force.

List of forms of serious crime which Eurojust is competent to deal with in accordance with Article 3(1):

- terrorism,
- organised crime,
- drug trafficking,
- money-laundering activities,
- crime connected with nuclear and radioactive substances,
- illegal immigrant smuggling,
- trafficking in human beings,
- motor vehicle crime,
- murder, grievous bodily injury,
- illicit trade in human organs and tissue,
- kidnapping, illegal restraint and hostage taking,
- racism and xenophobia,
- organised robbery and aggravated theft,
- illicit trafficking in cultural goods, including antiquities and works of art,
- swindling and fraud,
- crime against the financial interests of the Union,
- insider dealing and financial market manipulation,

- racketeering and extortion,
- counterfeiting and product piracy,
- forgery of administrative documents and trafficking therein,
- forgery of money and means of payment,
- computer crime,
- corruption,
- illicit trafficking in arms, ammunition and explosives,
- illicit trafficking in endangered animal species,
- illicit trafficking in endangered plant species and varieties,
- environmental crime, including ship source pollution,
- illicit trafficking in hormonal substances and other growth promoters,
- sexual abuse and sexual exploitation including child pornography and solicitation of children for sexual purposes,
- genocide, crimes against humanity and war crimes.
- unlawful seizure of aircraft/ships

Categories of operational personal data referred to in Article 27

1.
 - a) surname, maiden name, given names and any alias or assumed names;
 - b) date and place of birth;
 - c) nationality;
 - d) sex;
 - e) place of residence, profession and whereabouts of the person concerned;
 - f) social security numbers or other official numbers used in the Member States to identify individuals, driving licences, identification documents and passport data, customs and Tax Identification Numbers;
 - g) information concerning legal persons if it includes information relating to identified or identifiable individuals who are the subject of a judicial investigation or prosecution;
 - h) details of accounts held with banks or other financial institutions;
 - i) 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;
 - j) the facts pointing to an international extension of the case;
 - k) details relating to alleged membership of a criminal organisation;
 - l) telephone numbers, e-mail addresses, traffic data and location data, as well as any related data necessary to identify the subscriber or user;

- m) vehicle registration data;
 - n) DNA profiles established from the non-coding part of DNA, photographs and fingerprints.
- 2.
- a) surname, maiden name, given names and any alias or assumed names;
 - b) date and place of birth;
 - c) nationality;
 - d) sex;
 - e) place of residence, profession and whereabouts of the person concerned;
 - f) 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.
 - g) social security number or other official numbers used by the Member States to identify individuals, driving licences, identification documents and passport data, customs and Tax Identification Numbers;
 - h) details of accounts held with banks and other financial institutions;
 - i) telephone numbers, e-mail addresses, traffic data and location data, as well as any related data necessary to identify the subscriber or user;
 - j) vehicle registration data.
-