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THE EUROPEAN UNION**

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION on the strengthening of Eurojust and amending
Decision 2002/187/JHA setting up Eurojust with a view to reinforcing
the fight against serious crime

COUNCIL DECISION 2008/.../JHA

of

**on the strengthening of Eurojust and
amending Decision 2002/187/JHA setting up Eurojust
with a view to reinforcing the fight against serious crime**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 31(2) and 34(2)(c) thereof,

Having regard to the initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden,

Having regard to the Opinion of the European Parliament¹,

¹ Opinion delivered on 2 September 2008 (not yet published in the Official Journal).

Whereas:

- (1) Eurojust was set up by 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.
- (2) On the basis of an assessment of the experience gained by Eurojust, a further enhancement of its operational effectiveness is needed by taking account of that experience.
- (3) The time has come to ensure that Eurojust becomes more operational and that the status of national members is approximated.
- (4) In order to ensure continuous and effective contribution from the Member States to the achievement by Eurojust of its objectives, the national member should be required to have his regular place of work at the seat of Eurojust.
- (5) It is necessary to define a common basis of powers which every national member should have in his capacity as a competent national authority acting in accordance with national law. Some of these powers should be granted to the national member for urgent cases where it is not possible for him to identify or to contact the competent national authority in a timely manner. It is understood that these powers will not have to be exercised in so far as it is possible to identify and to contact the competent authority.
- (6) This Decision does not affect the manner in which the Member States organise their internal judicial system or administrative procedures for the designation of the national member and the setting up of the internal working of the national desks at Eurojust.

¹ OJ L 63, 6.3.2002, p. 1.

- (7) 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.
- (8) Member States should ensure that competent national authorities respond without undue delay to requests made under this Decision, even if competent national authorities refuse to comply with requests made by the national member.
- (9) The role of the College should be enhanced in cases of conflict of jurisdiction and in cases of recurrent refusals or difficulties concerning the execution of requests for, and decisions on, judicial cooperation, including regarding instruments giving effect to the principle of mutual recognition.
- (10) 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 of the European Judicial Network, as well as representatives in the Networks for Joint Investigation Teams, War Crimes, Asset Recovery and Corruption.

- (11) The Eurojust national coordination system should ensure that the Case Management System receives information related to the Member State concerned in an efficient and reliable manner. However, the Eurojust national coordination system should not have to be responsible for actually transmitting information to Eurojust. Member States should decide on the best channel to be used for the transmission of information to Eurojust.
- (12) In order to enable the Eurojust national coordination system to fulfil its tasks, a connection to the Case Management System should be ensured. The connection to the Case Management System should be made taking due account of national information technology systems. Access to the Case Management System at national level should be based on the central role played by the national member who is responsible for the opening and management of temporary work files.
- (13) Council Framework Decision 2008/.../JHA of ... on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters^{*1} is applicable to the processing by the Member States of the personal data transferred between the Member States and Eurojust. The relevant set of data protection provisions of Decision 2002/187/JHA will not be affected by Framework Decision 2008/.../JHA^{**} and contains specific provisions on the protection of personal data regulating these matters in more detail because of the particular nature, functions and competences of Eurojust.

* OJ: insert number, date and publication references of Framework Decision set out in 9260/08.

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** OJ: insert number of Framework Decision set out in 9260/08.

- (14) Eurojust should be authorised to process certain personal data on persons who, under the national legislation of the Member States concerned, are suspected of having committed or having taken part in a criminal offence in respect of which Eurojust is competent, or who have been convicted of such an offence. The list of such personal data should include telephone numbers, e-mail addresses, vehicle registration data, DNA profiles established from the non-coding part of DNA, photographs and fingerprints. The list should also include traffic data and location data and the related data necessary to identify the subscriber or user of a publicly available electronic communications service; this should not include data revealing the content of the communication. It is not intended that Eurojust carry out an automated comparison of DNA profiles or fingerprints.
- (15) Eurojust should be given the opportunity to extend the deadlines for storage of personal data in order to achieve its objectives. Such decisions should be taken following careful consideration of particular needs. 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 Decision.
- (16) The Rules on the Joint Supervisory Body should facilitate its functioning.
- (17) With a view to increasing the operational effectiveness of Eurojust, transmission of information to Eurojust should be improved by providing clear and limited obligations for national authorities.
- (18) Eurojust should implement priorities set by the Council, in particular those set on the basis of the Organised Crime Threat Assessment (OCTA), as referred to in the Hague Programme¹.

¹ OJ C 53, 3.3.2005, p. 1.

- (19) Eurojust is to maintain privileged relations with the European Judicial Network based on consultation and complementarity. This Decision 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.
- (20) Nothing in this Decision should be construed to affect the autonomy of the secretariats of the networks mentioned in this Decision when they discharge their function as Eurojust staff in accordance with the Staff Regulations of Officials of the European Communities laid down by Regulation (EEC, Euratom, ECSC) No 259/68¹.
- (21) It is also necessary to strengthen Eurojust's capacity to work with external partners, such as third States, the European Police Office (Europol), the European Anti-Fraud Office (OLAF), the Council's Joint Situation Centre and the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex).
- (22) Provision should be made for Eurojust to post liaison magistrates to third States 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 Union².
- (23) This Decision allows the principle of public access to official documents to be taken into account,

¹ OJ L 56, 4.3.1968, p. 1.

² OJ L 105, 27.4.1996, p. 1.

HAS DECIDED AS FOLLOWS:

Article 1

Amendments to Decision 2002/187/JHA

Decision 2002/187/JHA is hereby amended as follows:

1) Article 2 shall be replaced by the following:

"Article 2

Composition of Eurojust

1. Eurojust shall have one national member seconded by each Member State in accordance with its legal system, who is a prosecutor, judge or police officer of equivalent competence.
2. Member States shall ensure continuous and effective contribution to the achievement by Eurojust of its objectives under Article 3. To fulfil those objectives:
 - (a) the national member shall be required to have his regular place of work at the seat of Eurojust;
 - (b) each national member shall be assisted by one deputy and by another person as an assistant. The deputy and the assistant may have their regular place of work at Eurojust. 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.

3. The national member shall have a position which grants him the powers referred to in this Decision in order to be able to fulfil his tasks.
4. National members, deputies and assistants shall be subject to the national law of their Member State as regards their status.
5. The deputy shall fulfil the criteria provided for in paragraph 1 and 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 fulfils the criteria provided for in paragraph 1.
6. Eurojust shall be linked to a Eurojust national coordination system in accordance with Article 12.
7. Eurojust shall have the possibility of posting liaison magistrates in third States in accordance with this Decision.
8. Eurojust shall, in accordance with this Decision, have a Secretariat headed by an Administrative Director.";

2) Article 3 shall be amended as follows:

- (a) in point (b) of paragraph 1, the words "international mutual legal assistance and the implementation of extradition requests" shall be replaced by "requests for, and decisions on, judicial cooperation, including regarding instruments giving effect to the principle of mutual recognition;"
- (b) in paragraph 2, the words "Article 27(3)" shall be replaced by "Article 26a(2)";

3) Article 4(1) shall be amended as follows:

(a) point (a) shall be replaced by the following:

"(a) the types of crime and the offences in respect of which Europol is at all times competent to act;"¹;

(b) point (b) shall be deleted;

(c) in point (c), the words "in points (a) and (b)" shall be replaced by "in point (a)";

4) the following Article shall be inserted:

"Article 5a

On-Call Coordination

1. In order to fulfil its tasks in urgent cases, Eurojust shall put in place an On-Call Coordination (OCC) able to receive and process at all times requests referred to it. The OCC shall be contactable, through a single OCC contact point at Eurojust, on a 24 hour/7 day basis.
2. The OCC shall rely on one representative (OCC representative) per Member State who may be either the national member, his deputy, or an assistant entitled to replace the national member. The OCC representative shall be able to act on a 24 hour/7 day basis.

¹ At the time of adoption of this Decision, the competence of Europol is set out in Article 2(1) of the Convention of 26 July 1995 on the establishment of a European Police Office (Europol Convention) (OJ C 316, 27.11.1995, p. 2), as amended by the 2003 Protocol (OJ C 2, 6.1.2004, p. 1), and in the Annex thereto. However, once the Council Decision establishing the European Police Office (Europol) enters into force, the competence of Eurojust will be as set out in Article 4(1) of that Decision and in the Annex thereto.

3. When in urgent cases a request for, or a decision on, judicial cooperation, including regarding instruments giving effect to the principle of mutual recognition, needs to be executed in one or more Member States, the requesting or issuing competent authority may forward it to the OCC. The OCC contact point shall immediately forward it to the OCC representative of the Member State from which the request originates and, if explicitly requested by the transmitting or issuing authority, to the OCC representatives of the Member States on the territory of which the request should be executed. These OCC representatives shall act without delay, in relation to the execution of the request in their Member State, through the exercise of tasks or powers available to them and referred to in Article 6 and Articles 9a to 9f.";

5) Article 6 shall be amended as follows:

(a) the existing paragraph shall become paragraph 1;

(b) point (a) of paragraph 1 shall be replaced by the following:

"(a) may ask the competent authorities of the Member States concerned, giving its reasons, to:

(i) undertake an investigation or prosecution of specific acts;

(ii) accept that one of them may be in a better position to undertake an investigation or to prosecute specific acts;

(iii) coordinate between the competent authorities of the Member States concerned;

(iv) set up a joint investigation team in keeping with the relevant cooperation instruments;

- (v) provide it with any information that is necessary for it to carry out its tasks;
- (vi) take special investigative measures;
- (vii) take any other measure justified for the investigation or prosecution;"

(c) point (g) of paragraph 1 shall be deleted;

(d) the following paragraph shall be added:

"2. The Member States shall ensure that competent national authorities respond without undue delay to requests made under this Article.";

6) Article 7 shall be amended as follows:

(a) the existing paragraph shall become paragraph 1;

(b) the following paragraphs shall be added:

"2. Where two or more national members can not agree on how to resolve a case of conflict of jurisdiction as regards the undertaking of investigations or prosecution pursuant to Article 6 and in particular Article 6(1)(c), the College shall be asked to issue a written non-binding opinion on the case, provided the matter could not be resolved through mutual agreement between the competent national authorities concerned. The opinion of the College shall be promptly forwarded to the Member States concerned. This paragraph is without prejudice to paragraph 1(a)(ii).

3. Notwithstanding the provisions contained in any instruments adopted by the European Union regarding judicial cooperation, a competent authority may report to Eurojust recurrent refusals or difficulties concerning the execution of requests for, and decisions on, judicial cooperation, including regarding instruments giving effect to the principle of mutual recognition, and request the College to issue a written non-binding opinion on the matter, provided it could not be resolved through mutual agreement between the competent national authorities or through the involvement of the national members concerned. The opinion of the College shall be promptly forwarded to the Member States concerned.";

7) Articles 8 and 9 shall be replaced by the following:

"Article 8

Follow up to requests and opinions of Eurojust

If the competent authorities of the Member States concerned decide not to comply with a request referred to in Article 6(1)(a) or Article 7(1)(a) or decide not to follow a written opinion referred to in Article 7(2) and (3), 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 9

National members

1. The length of a national member's term of office shall be at least four years. The Member State of origin may renew the term of office. The national member shall not be removed before the end of a term without informing the Council before the removal and indicating to it the reason therefor. Where a national member is President or Vice-President of Eurojust, his term of office as a member shall at least be such that he can fulfil his function as President or Vice-President for the full elected term.
2. All information exchanged between Eurojust and Member States shall be directed through the national member.
3. In order to meet Eurojust's objectives, the national member shall have at least equivalent access to, or at least be able to obtain the information contained in, the following types of registers of his Member State as would be available to him in his role as a prosecutor, judge or police officer, whichever is applicable, at national level:
 - (a) criminal records;
 - (b) registers of arrested persons;
 - (c) investigation registers;
 - (d) DNA registers;
 - (e) other registers of his Member State where he deems this information necessary for him to be able to fulfil his tasks.

4. A national member may contact the competent authorities of his Member State directly.";

8) the following Articles shall be inserted:

"Article 9a

Powers of the national member granted to him at national level

1. When a national member exercises the powers referred to in Articles 9b, 9c and 9d, he does so in his capacity as a competent national authority acting in accordance with national law and subject to the conditions laid down in this Article and Articles 9b to 9e. In the performance of his tasks the national member shall, where appropriate, make it known whenever he is acting in accordance with the powers granted to national members under this Article and Articles 9b, 9c and 9d.
2. Each Member State shall define the nature and extent of the powers it grants its national member as regards judicial cooperation in respect of that Member State. However, each Member State shall grant its national member at least the powers described in Article 9b and, subject to Article 9e, the powers described in Articles 9c and 9d, which would be available to him as a judge, prosecutor or police officer, whichever is applicable, at national level.

3. When appointing its national member and at any other time if appropriate, the Member State shall notify Eurojust and the General Secretariat of the Council of its decision regarding the implementation of paragraph 2 so that the latter can inform the other Member States. The Member States shall undertake to accept and recognise the prerogatives thus granted in so far as they are in conformity with international commitments.
4. Each Member State shall define the right for a national member to act in relation to foreign judicial authorities, in accordance with its international commitments.

Article 9b

Ordinary powers

1. National members, in their capacity as competent national authorities, shall be entitled to receive, transmit, facilitate, follow up and provide supplementary information in relation to the execution of requests for, and decisions on, judicial cooperation, including regarding instruments giving effect to the principle of mutual recognition. When powers referred to in this paragraph are exercised, the competent national authority shall be informed promptly.
2. In case of partial or inadequate execution of a request for judicial cooperation, national members, in their capacity as competent national authorities, shall be entitled to ask the competent national authority of their Member State for supplementary measures in order for the request to be fully executed.

Article 9c

Powers exercised in agreement with a competent national authority

1. National members may, in their capacity as competent national authorities, in agreement with a competent national authority, or at its request and on a case-by-case basis, exercise the following powers:
 - (a) issuing and completing requests for, and decisions on, judicial cooperation, including regarding instruments giving effect to the principle of mutual recognition;
 - (b) executing in their Member State requests for, and decisions on, judicial cooperation, including regarding instruments giving effect to the principle of mutual recognition;
 - (c) ordering in their Member State investigative measures considered necessary at a coordination meeting organised by Eurojust to provide assistance to competent national authorities concerned by a concrete investigation and to which competent national authorities concerned with the investigation are invited to participate;
 - (d) authorising and coordinating controlled deliveries in their Member State.
2. Powers referred to in this Article shall, in principle, be exercised by a competent national authority.

Article 9d

Powers exercised in urgent cases

In their capacity as competent national authorities, national members shall, in urgent cases and in so far as it is not possible for them to identify or to contact the competent national authority in a timely manner, be entitled:

- (a) to authorise and to coordinate controlled deliveries in their Member State;
- (b) to execute, in relation to their Member State a request for, or a decision on, judicial cooperation, including regarding instruments giving effect to the principle of mutual recognition.

As soon as the competent national authority is identified or contacted, it shall be informed of the exercise of powers referred to in this Article.

Article 9e

Requests from national members where powers cannot be exercised

1. The national member, in his capacity as a competent national authority, shall be at least competent to submit a proposal to the authority competent for the carrying out of powers referred to in Articles 9c and 9d when granting such powers to the national member is contrary to:
 - (a) constitutional rules,
or
 - (b) fundamental aspects of the 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.

2. Member States shall ensure that, in cases referred to in paragraph 1, the request issued by the national member be handled without undue delay by the competent national authority.

Article 9f

Participation of national members in joint investigation teams

National members shall be entitled to participate in joint investigation teams, including in their setting up, in accordance with Article 13 of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union or Council Framework Decision 2002/465/JHA of 13 June 2002 on joint investigation teams*, concerning their own Member State. However, Member States may make the participation of the national member subject to the agreement of the competent national authority.

National members, their deputies or their assistants, shall be invited to participate in any joint investigation team involving their Member State and for which Community funding is provided under the applicable financial instruments. Each Member State shall define whether the national member participates in the joint investigation team as a national competent authority or on behalf of Eurojust.

* OJ L 162, 20.6.2002, p. 1.";

9) Article 10 shall be amended as follows:

(a) in paragraph 2, the first sentence shall be replaced by the following:

"2. The Council shall, acting by qualified majority, approve Eurojust's Rules of Procedure on a proposal from the College. The College shall adopt its proposal by a two-thirds majority after consulting the Joint Supervisory Board provided for in Article 23 as regards the provisions on the processing of personal data.";

(b) in paragraph 3, the words "in accordance with Article 7(a)" shall be replaced by "in accordance with Article 7(1)(a), (2) and (3)";

10) Article 12 shall be replaced by the following:

"Article 12

Eurojust national coordination system

1. Each Member State shall designate one or more national correspondents for Eurojust.

2. Each Member State shall, before ...⁺, 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 and up to three other contact points of the European Judicial Network;

⁺ Two years after the date of taking effect of this Decision.

- (d) national members or contact points of 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 crimes*, 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, crime ** and by Council Decision 2008/.../JHA of ... on a contact-point network against corruption***⁺⁺.
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.
 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 16 receives information related to the Member State concerned in an efficient and reliable manner;
 - (b) assisting in determining whether a case should be dealt with with the assistance of Eurojust or of the European Judicial Network;

⁺⁺ OJ: insert number and date of Decision referred to in 11231/1/07.

- (c) assisting the national member to identify relevant authorities for the execution of requests for, and decisions on, judicial cooperation, including regarding instruments giving effect to the principle of mutual recognition;
 - (d) maintaining close relations with the Europol National Unit.
6. In order to meet the objectives referred to in paragraph 5, persons referred to in paragraph 1 and paragraph 2(a), (b) and (c) shall, and persons referred to in paragraph 2(d) may, be connected to the Case Management System in accordance with this Article and Articles 16, 16a, 16b and 18 as well as with the Rules of Procedure of Eurojust. The connection to the Case Management System shall be at the charge of the general budget of the European Union.
7. Nothing in this Article shall be construed to affect direct contacts between competent judicial authorities as provided for in instruments on judicial cooperation, such as Article 6 of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union. Relations between the national member and national correspondents shall not preclude direct contacts between the national member and his competent authorities.

* OJ L 167, 26.6.2002, p. 1.

** OJ L 332, 18.12.2007, p. 103.

*** OJ L ...⁺.";

⁺ OJ: insert publication references of Decision referred to in 11231/1/07.

11) Article 13 shall be replaced by the following:

"Article 13

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 4 and 5 as well as with the rules on data protection set out in this Decision. This shall at least include the information referred to in paragraphs 5, 6 and 7.
2. The transmission of information to Eurojust shall be interpreted as a request for the assistance of Eurojust in the case concerned only if so specified by a competent authority.
3. The national members of Eurojust shall be empowered to 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 national members shall be promptly informed of a case which concerns them.
4. 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*.

5. Member States shall ensure that national members are informed of the setting up of a joint investigation team, whether it is set up under Article 13 of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union or under Framework Decision 2002/465/JHA, and of the results of the work of such teams.
6. Member States shall ensure that their national member is informed without undue delay of any case in which at least three Member States are directly involved and for which requests for or decisions on judicial cooperation, including regarding instruments giving effect to the principle of mutual recognition, have been transmitted to at least two Member States 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 exploitation of children and child pornography;
 - (iii) drug trafficking;
 - (iv) trafficking in firearms, their parts and components and ammunition;
 - (v) corruption;
 - (vi) fraud affecting the financial interests of the European Communities;
 - (vii) counterfeiting of the euro;

(viii) money laundering;

(ix) attacks against information systems;

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.

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

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

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

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

8. 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.

9. 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.
10. Information transmitted to Eurojust pursuant to paragraphs 5, 6 and 7 shall at least include, where available, the types of information contained in the list provided for in the Annex.
11. Information referred to in this Article shall be transmitted to Eurojust in a structured way.
12. By ...*, the Commission shall establish, on the basis of information transmitted by Eurojust, a report on the implementation of this Article, accompanied by any proposal it may deem appropriate, including with a view to considering an amendment of paragraphs 5, 6 and 7 and the Annex.

* OJ L 253, 29.9.2005, p. 22.";

12) the following Article shall be inserted:

"Article 13a

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.

* Five years after the date of taking effect of this Decision.

2. Furthermore, where a competent national authority requests Eurojust to provide it with information, Eurojust shall transmit it in the timeframe requested by that authority.";
- 13) Article 14 shall be amended as follows:
 - (a) in paragraph 3, the words "in accordance with Articles 13 and 26" shall be replaced by "in accordance with Articles 13, 26 and 26a";
 - (b) paragraph 4 shall be deleted;
 - 14) Article 15(1) shall be amended as follows:
 - (a) in the introductory phrase the words "are the subject of a criminal investigation or prosecution for one or more of the types of crime and the offences defined in Article 4" shall be replaced by "are suspected of having committed or having taken part in a criminal offence in respect of which Eurojust is competent or who have been convicted of such an offence";
 - (b) the following points shall be added:
 - "(l) telephone numbers, e-mail addresses and data referred to in Article 2(2)(a) of Directive 2006/24/EC of the European Parliament and of the Council of 15 March 2006 on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks^{*} ;

- (m) vehicle registration data;
- (n) DNA profiles established from the non-coding part of DNA, photographs and fingerprints.

* OJ L 105, 13.4.2006, p. 54.";

15) Article 16 shall be replaced by the following:

"Article 16

Case Management System, index and temporary work files

1. In accordance with this Decision, Eurojust shall establish a Case Management System composed of temporary work files and of an index which contain personal and non-personal data.
2. The Case Management System shall be intended 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 ongoing investigations and prosecutions;
 - (c) facilitate the monitoring of lawfulness and compliance with the provisions of this Decision concerning the processing of personal data.

3. The Case Management System, in so far as this is in conformity with rules on data protection contained in this Decision, may be linked to the secure telecommunications connection referred to in Article 9 of Council Decision 2008/.../JHA of ... on the European Judicial Network*⁺.
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 Article 15(1)(a) to (i), (k) and (m) and in Article 15(2).
5. In the performance of their duties in accordance with this Decision, the national members of Eurojust may process data on the individual cases on which they are working in a temporary work file. They shall allow the Data Protection Officer to have access to the 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.
6. For the processing of case related personal data, Eurojust may not establish any automated data file other than the Case Management System.

* OJ L ...⁺⁺.";

⁺ OJ: insert number and date of Decision referred to in 14914/08.

⁺⁺ OJ: insert publication references of Decision referred to in 14914/08.

16) the following Articles shall be inserted:

"Article 16a

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 in so far as this transmission is in accordance with this Decision or with instruments referred to in Article 13(4). The national member shall be responsible for the management of the temporary work files which he has opened.
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, where necessary to enable Eurojust to carry out its tasks, to other national members or to authorised Eurojust staff.
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.

Article 16b

Access to the Case Management System at national level

1. Persons referred to in Article 12(2) in so far as they are connected to the Case Management System in accordance with Article 12(6) 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 or managed by the national member of their Member State;

- (c) temporary work files opened or managed 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 or manages 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 Member State to persons referred to in Article 12(2) in so far as they are connected to the Case Management System in accordance with Article 12(6).
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 12(2) in so far as they are connected to the Case Management System in accordance with Article 12(6). Member States shall notify Eurojust and the General Secretariat of the Council of their decision regarding the implementation of this paragraph so that the latter can inform the other Member States.

However, persons referred to in Article 12(2), in so far as they are connected to the Case Management System in accordance with Article 12(6), 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 in accordance with paragraph 2 of this Article.

4. By ...*, Eurojust shall report to the Council and the Commission on the implementation of paragraph 3. Each Member State shall consider, on the basis of that report, the opportunity to review the extent of access provided in accordance with paragraph 3.";

* Four years after the date of taking effect of this Decision.

- 17) Article 17 shall be amended as follows:
- (a) in paragraph 1, the words "take instructions from no-one" shall be replaced by "act independently";
 - (b) in paragraphs 3 and 4, the words "the Officer" shall be replaced by "the Data Protection Officer";
- 18) Article 18 shall be replaced by the following:
- "Article 18*
Authorised access to personal data
- Only national members, their deputies and their assistants referred to in Article 2(2), persons referred to in Article 12(2) in so far as they are connected to the Case Management System in accordance with Article 12(6) and authorised Eurojust staff may, for the purpose of achieving Eurojust's objectives and within the limits provided for in Articles 16, 16a and 16b, have access to personal data processed by Eurojust.";
- 19) in Article 19(4)(b), the words "which Eurojust is assisting" shall be deleted;
- 20) Article 21 shall be amended as follows:
- (a) paragraph 2 shall be amended as follows:
 - (i) in the introductory phrase the words "the first applicable date among the following dates" shall be inserted after the word "beyond";

(ii) the following point shall be inserted:

"(aa) the date on which the person was acquitted and the decision became final;"

(iii) point (b) shall be replaced by the following:

"(b) three years after the date on which the judicial decision of the last of the Member States concerned by the investigation or prosecutions became final;"

(iv) in point (c), the words ", unless there is an obligation to provide Eurojust with this information in accordance with Article 13(6) and (7) or with instruments referred to in Article 13(4)" shall be added after the word "prosecutions";

(v) the following point shall be added:

"(d) three years after the date on which data were transmitted in accordance with Article 13(6) and (7) or with the instruments referred to in Article 13(4)."

(b) paragraph 3 shall be amended as follows:

(i) in points (a) and (b) the words "in paragraph 2" shall be replaced by "in paragraph 2(a), (b), (c) and (d)";

- (ii) in point (b) the following sentence shall be added:

"However, once prosecution is statute barred in all Member States concerned as referred to in paragraph 2(a), data may only be stored if they are necessary in order for Eurojust to provide assistance in accordance with this Decision.";

- 21) Article 23 shall be amended as follows:

- (a) paragraph 1 shall be amended as follows:

- (i) in the first subparagraph, the words "in Articles 14 to 22" shall be replaced by "in Articles 14 to 22, 26, 26a and 27" ;
- (ii) the second subparagraph shall be replaced by the following:

"The Joint Supervisory Body shall meet at least once in each half year. It shall also meet within the three months following the lodging of an appeal referred to in Article 19(8) or within three months following the date when a case was referred to it in accordance with Article 20(2). The Joint Supervisory Body may also be convened by its chairman when at least two Member States so request.";

- (iii) in the third subparagraph, second sentence, the words "eighteen months" shall be replaced by "three years";

(b) paragraph 3 shall be replaced by the following:

"3. A judge appointed by a Member State shall become a permanent member after being elected by the plenary meeting of the persons appointed by the Member States in accordance with paragraph 1, and shall remain a permanent member for three years. Elections shall be held yearly for one permanent member of the Joint Supervisory Body by means of secret ballot. The Joint Supervisory Body shall be chaired by the member who is in his third year of mandate after elections. Permanent members may be re-elected. Appointees wishing to be elected shall present their candidacy in writing to the Secretariat of the Joint Supervisory Body ten days before the meeting in which the election is to take place.";

(c) the following paragraph shall be inserted:

"4a. The Joint Supervisory Body shall adopt in its rules of procedure measures necessary to implement paragraphs 3 and 4.";

(d) in paragraph 10, the following sentence shall be added:

"The Secretariat of the Joint Supervisory Body may rely upon the expertise of the secretariat established by Decision 2000/641/JHA*."

* Council Decision 2000/641/JHA of 17 October 2000 establishing a secretariat for the joint supervisory data-protection bodies set up by the Convention on the Establishment of a European Police Office (Europol Convention), the Convention on the Use of Information Technology for Customs Purposes and the Convention implementing the Schengen Agreement on the gradual abolition of checks at the common borders (Schengen Convention) (OJ L 271, 24.10.2000, p. 1).";

22) Article 25 shall be amended as follows:

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

"1. The national members, their deputies and their assistants referred to in Article 2(2), Eurojust staff, national correspondents and the Data Protection Officer shall be bound by an obligation of confidentiality, without prejudice to Article 2(4).";

(b) in paragraph 4, the words "Article 9(1)" shall be replaced by "Article 2(4)".

23) the following Article shall be inserted:

"Article 25a

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 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. Where plenary meetings are held at the premises of the Council in Brussels, the costs may only cover travel expenses and costs for interpretation. Where plenary meetings are held in the Member State holding the Presidency of the Council, the costs may only cover part of the overall costs of the meeting;
- (c) European Judicial Network contact points may be invited on a case-by-case basis to attend Eurojust meetings.
2. Without prejudice to Article 4(1), 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/.../JHA* may request that Eurojust provide a secretariat to the network. If such request is made, paragraph 2 shall apply.";

* OJ: insert number of Decision set in 11231/1/07.

24) Article 26 shall be replaced by the following:

"Article 26

Relations with Community or Union related institutions, bodies and agencies

1. Insofar as is relevant for the performance of its tasks, Eurojust may establish and maintain cooperative relations with the institutions, bodies and agencies set up by, or on the basis of, the Treaties establishing the European Communities or the Treaty on European Union. Eurojust shall establish and maintain cooperative relations with at least:
 - (a) Europol;
 - (b) OLAF;
 - (c) the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex);
 - (d) the Council, in particular its Joint Situation Centre.

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

2. Eurojust may conclude agreements or working arrangements with the entities referred to in paragraph 1. Such agreements or working arrangements may, in particular, concern the exchange of information, including personal data, and the secondment of liaison officers to Eurojust. Such agreements or working arrangements may only be concluded after consultation by Eurojust with the Joint Supervisory Body concerning the provisions on data protection and after the approval by the Council, acting by qualified majority. Eurojust shall inform the Council of any plans it has for entering into any such negotiations and the Council may draw any conclusions it deems appropriate.
3. Prior to the entry into force of an agreement or arrangement as referred to in paragraph 2, Eurojust may directly receive and use information, including personal data, from the entities referred to in paragraph 1, in so far as this is necessary for the legitimate performance of its tasks, and it may directly transmit information, including personal data, to such entities, in so far as this is necessary for the legitimate performance of the recipient's tasks and in accordance with the rules on data protection provided in this Decision.
4. OLAF may contribute to Eurojust's work to coordinate investigations and prosecution procedures regarding the protection of the financial interests of the European Communities, either on the initiative of Eurojust or at the request of OLAF where the competent national authorities concerned do not oppose such participation.

5. For purposes of the receipt and transmission of information between Eurojust and OLAF, and without prejudice to Article 9, 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 (EC) No 1073/1999 and Council Regulation (Euratom) No 1074/1999 of 25 May 1999 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.

* OJ L 136, 31.5.1999, p. 8.";

- 25) the following Article shall be inserted:

"Article 26a

Relations with third States and organisations

1. In so far as is required for the performance of its tasks, Eurojust may establish and maintain cooperative relations with the following entities:
 - (a) third States;

- (b) organisations such as:
 - (i) international organisations and their subordinate bodies governed by public law;
 - (ii) other bodies governed by public law which are based on an agreement between two or more States; and
 - (iii) the International Criminal Police Organisation (Interpol).
- 2. Eurojust may conclude agreements with the entities referred to in paragraph 1. Such agreements may, in particular, concern the exchange of information, including personal data, and the secondment of liaison officers or liaison magistrates to Eurojust. Such agreements may only be concluded after consultation by Eurojust with the Joint Supervisory Body concerning the provisions on data protection and after the approval by the Council, acting by qualified majority. Eurojust shall inform the Council of any plans it has for entering into any such negotiations and the Council may draw any conclusions it deems appropriate.
- 3. Agreements referred to in paragraph 2 containing provisions on the exchange of personal data may only be concluded if the entity concerned is subject to the Council of Europe Convention of 28 January 1981 or after an assessment confirming the existence of an adequate level of data protection ensured by that entity.
- 4. Agreements referred to in paragraph 2 shall include provisions on the monitoring of their implementation, including implementation of the rules on data protection.

5. Prior to the entry into force of the agreements referred to in paragraph 2, Eurojust may directly receive information, including personal data in so far as this is necessary for the legitimate performance of its tasks.
6. Prior to the entry into force of the agreements referred to in paragraph 2, Eurojust may under the conditions laid down in Article 27(1), directly transmit information, except for personal data, to these entities, in so far as this is necessary for the legitimate performance of the recipient's tasks.
7. Eurojust may, under the conditions laid down in Article 27(1), transmit personal data to the entities referred to in paragraph 1, where:
 - (a) this is necessary in individual cases for the purposes of preventing or combating criminal offences for which Eurojust is competent, and
 - (b) Eurojust has concluded an agreement as referred to in paragraph 2 with the entity concerned which has entered into force and which permits the transmission of such data.
8. Any subsequent failure, or substantial likelihood of failure, on the part of the entities referred to in paragraph 1 to meet the conditions referred to in paragraph 3, shall immediately be communicated by Eurojust to the Joint Supervisory Body and the Member States concerned. The Joint Supervisory Body may prevent the further exchange of personal data with the relevant entities until it is satisfied that adequate remedies have been provided.

9. However, even if the conditions referred to in paragraph 7 are not fulfilled, a national member may, acting in his capacity as a competent national authority and in conformity with the provisions of his own national law, by way of exception and with the sole aim of taking urgent measures to counter imminent serious danger threatening a person or public security, carry out an exchange of information involving personal data. The national member shall be responsible for the legality of authorising the communication. The national member shall keep a record of communications of data and of the grounds for such communications. The communication of data shall be authorised only if the recipient gives an undertaking that the data will be used only for the purpose for which they were communicated.

26) Article 27 shall be replaced by the following:

"Article 27

Transmission of data

1. Before Eurojust exchanges any information with the entities referred to in Article 26a, the national member of the Member State which submitted the information shall give his consent to the transfer of that information. In appropriate cases the national member shall consult the competent authorities of the Member States.
2. Eurojust shall be responsible for the legality of the transmission of data. Eurojust shall keep a record of all transmissions of data under Articles 26 and 26a and of the grounds for such transmissions. Data shall only be transmitted if the recipient gives an undertaking that the data will be used only for the purpose for which they were transmitted.";

27) the following Articles shall be inserted:

"Article 27a

Liaison magistrates posted to third States

1. For the purpose of facilitating judicial cooperation with third States in cases in which Eurojust is providing assistance in accordance with this Decision, the College may post liaison magistrates to a third State, subject to an agreement as referred to in Article 26a with that third State. Before negotiations are entered into with a third State, the Council, acting by qualified majority, shall give its approval. Eurojust shall inform the Council of any plans it has for entering into any such negotiations and the Council may draw any conclusions it deems appropriate.
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 Member State.
3. Where the liaison magistrate posted by Eurojust is selected among national members, deputies or assistants:
 - (i) he shall be replaced in his function as a national member, deputy or assistant, by the Member State;
 - (ii) he ceases to be entitled to exercise the powers granted to him in accordance with Articles 9a to 9e.

4. Without prejudice to Article 110 of the Staff Regulations of Officials of the European Communities laid down by Regulation (EEC, Euratom, ECSC) No 259/68*, the College shall draw up rules on the posting of liaison magistrates 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 the subject of supervision by the Joint Supervisory Body. 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 27b

Requests for judicial cooperation to and from third States

1. Eurojust may, with the agreement of the Member States concerned, coordinate the execution of requests for judicial cooperation issued by a third State where these requests are part of the same investigation and require execution in at least two Member States. Requests referred to in this paragraph may also be transmitted to Eurojust by a competent national authority.

2. In case of urgency and in accordance with Article 5a, the OCC may receive and process requests referred to in paragraph 1 of this Article and issued by a third State which has concluded a cooperation agreement with Eurojust.
3. Without prejudice to Article 3(2), where requests for judicial cooperation, which relate to the same investigation and require execution in a third State, are made, Eurojust may also, with the agreement of the Member States concerned, facilitate judicial cooperation with that third State.
4. Requests referred to in paragraphs 1, 2 and 3 may be transmitted through Eurojust if it is in conformity with the instruments applicable to the relationship between that third State and the European Union or the Member States concerned.

Article 27c

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. In the case of non-contractual liability, Eurojust shall, independently of any liability under Article 24, make good any damage caused through the fault of the College or the staff of Eurojust in the performance of their duties in so far as it may be imputed to them and regardless of the different procedures for claiming damages which exist under the law of the Member States.

3. Paragraph 2 shall also apply to damage caused through the fault of a national member, a deputy or an assistant in the performance of his duties. However, when he is acting on the basis of the powers granted to him pursuant to Articles 9a to 9e, his Member State of origin shall reimburse Eurojust the sums which Eurojust has paid to make good such damage.
4. The injured party shall have the right to demand that Eurojust refrain from taking, or cease, any action.
5. 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 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters**.

* OJ L 56, 4.3.1968, p. 1.

** OJ L 12, 16.1.2001, p. 1.";

- 28) in the second sentence of Article 28(2), the words "acting by qualified majority," shall be inserted after "the Council";

29) Article 29 shall be amended as follows:

(a) in paragraph 1:

(i) the words "unanimously" shall be replaced by "by two-thirds majority";

(ii) the following sentence shall be added:

"The Commission shall be entitled to participate in the selection process and to sit on the selection board";

(b) in paragraph 2, the second sentence shall be replaced by the following:

"It may be extended once without a need for a call for applications, provided that the College so decides by a three-fourths majority and appoints the Administrative Director with the same majority.";

(c) in paragraph 5, the following sentence shall be added:

"To that end, he shall be responsible for establishing and implementing, in cooperation with the College, an effective monitoring and evaluation procedure relating to the performance of Eurojust's administration in terms of achieving its objectives. The Administrative Director shall report regularly to the College on the results of that monitoring.";

30) Article 30 shall be amended as follows:

(a) in paragraph 2:

(i) in the fourth sentence, the words "who may also assist the national member" shall be added;

(ii) the last sentence shall be replaced by the following:

"The College shall adopt the necessary implementing arrangements for seconded national experts.";

(b) in paragraph 3, the words "without prejudice to Article 25a(1)(c) and (2)" shall be added;

31) Article 32 shall be amended as follows:

(a) the title shall be replaced by the following:

"Informing the European Parliament, the Council and the Commission";

(b) the following paragraph shall be added:

"3. The Commission or the Council may seek Eurojust's opinion on all draft instruments prepared under Title VI of the Treaty.";

32) Article 33 shall be replaced by the following:

"Article 33

Finance

1. The salaries and emoluments of the national members, deputies and assistants referred to in Article 2(2) shall be borne by their Member State of origin.
2. 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 within the meaning of Article 41(3) of the Treaty.";

33) Article 35(1) shall be amended as follows:

- (a) the words "31 March" shall be replaced by "10 February";
- (b) the following sentence shall be added:

"The European Judicial Network and networks referred to in Article 25a(2) shall be informed on the parts related to the activities of their secretariats in due time before the forwarding of the estimate to the Commission.";

34) Article 36 shall be amended as follows:

- (a) in paragraph 2, the first sentence shall be replaced by the following:

"2. By 1 March at the latest following each financial year, the accounting officer of Eurojust shall communicate the provisional accounts to the Commission's accounting officer and the Court of Auditors together with a report on the budgetary and financial management for that financial year.";

(b) paragraph 3 shall be replaced by the following:

"3. Eurojust shall send the report on the budgetary and financial management for the financial year to the European Parliament and the Council by 31 March of the following year.";

(c) in paragraph 10, the words "30 April" shall be replaced by "15 May";

35) the following Article shall be inserted:

"Article 39a

EU classified information

Eurojust shall apply the security principles and minimum standards set out in Council Decision 2001/264/EC of 19 March 2001 adopting the Council's security regulations* in the management of EU classified information.

* OJ L 101, 11.4.2001, p. 1.";

36) Article 41 shall be replaced by the following:

"Article 41

Reporting

1. Member States shall notify Eurojust and the General Secretariat of the Council of the designation of national members, deputies, assistants as well as persons referred to in Article 12(1) and (2) and of any change to this designation. The General Secretariat of the Council shall keep an updated list of these persons and shall make their names and contact details available to all Member States and to the Commission.
2. The definitive appointment of a national member can not take effect before the day on which the General Secretariat of the Council receives the official notifications referred to in paragraph 1 and Article 9a(3).";

37) the following Article shall be inserted:

"Article 41a

Evaluation

1. Before ...* and every five years thereafter, the College shall commission an independent external evaluation of the implementation of this Decision as well as of the activities carried out by Eurojust.

* Five years after the date of taking effect of this Decision.

2. Each evaluation shall assess the impact of this Decision, Eurojust's performance in terms of achieving the objectives referred to in this Decision as well as the effectiveness and efficiency of Eurojust. The College shall issue specific terms of reference in consultation with the Commission.
 3. The evaluation report shall include the evaluation findings and recommendations. This report shall be forwarded to the European Parliament, the Council and the Commission and shall be made public.";
- 38) the Annex whose text appears in the Annex to this Decision shall be added.

Article 2

Transposition

1. If necessary the Member States shall bring their national law into conformity with this Decision at the earliest opportunity and in any case no later than**.
2. The Commission shall at regular intervals examine the implementation by the Member States of Decision 2002/187/JHA as amended and shall submit a report thereon to the European Parliament and to the Council together with, if appropriate, necessary proposals to improve judicial cooperation and the functioning of Eurojust. This shall in particular apply to Eurojust's capacities to support Member States in fighting terrorism.

** Two years after the date of taking effect of this Decision.

Article 3
Taking of effect

This Decision shall take effect on the day of its publication in the *Official Journal of the European Union*.

Done at Brussels,

For the Council
The President

ANNEX

"ANNEX

List referred to in Article 13(10) setting out
the minimum types of information to be transmitted, where available,
to Eurojust pursuant to Article 13(5), (6) and (7)

1. For situations referred to in Article 13(5):
 - (a) participating Member States,
 - (b) type of offences concerned,
 - (c) date of the agreement setting up the team,
 - (d) planned duration of the team, including modification of this duration,
 - (e) details of the leader of the team for each participating Member State,
 - (f) short summary of the results of the joint investigation teams.

2. For situations referred to in Article 13(6):
 - (a) data which identify the person, group or entity that is the object of a criminal investigation or prosecution,

- (b) Member States concerned,
- (c) the offence concerned and its circumstances,
- (d) data related to the requests for, or decisions on, judicial cooperation including regarding instruments giving effect to the principle of mutual recognition, which are issued, including:
 - (i) date of the request,
 - (ii) requesting or issuing authority,
 - (iii) requested or executing authority,
 - (iv) type of request (measures requested),
 - (v) whether or not the request has been executed, and if not on what grounds.

3. For situations referred to in Article 13(7)(a):

- (a) Member States and competent authorities concerned,
- (b) data which identify the person, group or entity that is the object of a criminal investigation or prosecution,
- (c) the offence concerned and its circumstances.

4. For situations referred to in Article 13(7)(b):
- (a) Member States and competent authorities concerned,
 - (b) data which identify the person, group or entity that is the object of a criminal investigation or prosecution,
 - (c) type of delivery,
 - (d) type of offence in connection with which the controlled delivery is carried out.
5. For situations referred to in Article 13(7)(c):
- (a) requesting or issuing State,
 - (b) requested or executing State,
 - (c) description of the difficulties."
-