



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 24 October 2011

15962/11

**COPEN 288
EUROJUST 168
CATS 100**

COVER NOTE

from:	Aled Williams, President of Eurojust
to:	Ivan Bizjak, Director-General, Council of the European Union
Subject :	Memorandum of Understanding between the European Commission and Eurojust

Delegations will find attached the letter concerning the Memorandum of Understanding between the European Commission and Eurojust, sent by Mr Aled Williams, President of Eurojust.



EUROJUST
P.O. Box 16183
2500 BD The Hague
THE NETHERLANDS

Mr Ivan Bizjak
Director General
Council of the European Union
Justus Lipsius
Rue de la Loi 175
B-1048 Brussels
Belgium

The Hague, 19 October 2011

Memorandum of Understanding between the European Commission and Eurojust

Dear Mr Bizjak,

Dear Ivan

According to Article 11 of the Eurojust Council Decision *"for the purpose of enhancing cooperation between Eurojust and the Commission, Eurojust may agree on necessary practical arrangements with the Commission"*.

A Memorandum of Understanding with the Commission has been negotiated and its adoption will be considered by Eurojust on **25 October 2011**. The College of Commissioners will also need to consider and approve the text in the weeks to come.

I attach the draft Memorandum of Understanding between the European Commission and Eurojust to this letter for your information, and would be grateful for any comments you may wish to make.

Yours sincerely,

ALED WILLIAMS

President of Eurojust

Aled Williams - President of Eurojust and National Member for United Kingdom
Tel: +31 70 412 5100
Email: president@eurojust.europa.eu

Memorandum of understanding between the European Commission and Eurojust

The European Commission, (hereinafter referred to as the "Commission") represented for the purposes of signature of this Memorandum of Understanding by the Director-General Françoise Le Bail, (Directorate General for Justice)

and

Eurojust, represented for the purposes of signature of this Memorandum of Understanding by its President, Aled Williams

(hereinafter individually referred to as "the Party" and collectively as "the Parties")

Whereas:

- (1) The main objective of this Memorandum of Understanding (hereinafter referred to as the "Memorandum") is to further improve cooperation between the Parties and to establish mechanisms for efficient, regular and transparent contacts and exchange of information between them;
- (2) Article 11(1) of Council Decision 2002/187/JHA of 28 February 2002, as amended by Council Decision 2009/426/JHA of 16 December 2008, setting up Eurojust with a view to reinforcing the fight against serious crime (hereinafter referred to as the "Eurojust Decision") provides that "the Commission shall be fully associated with the work of Eurojust" and "shall participate in that work in the areas within its competence";
- (3) Article 11(3) of the Eurojust Decision provides that "For the purpose of enhancing cooperation between Eurojust and the Commission, Eurojust may agree on necessary practical arrangements with the Commission";
- (4) Article 32(3) of the Eurojust Decision provides that the Commission may seek Eurojust's opinion on all draft instruments prepared in the area of police and judicial cooperation in criminal matters (i.e., Part III, Title V, Chapters 4 and 5, of the Treaty on the Functioning of the European Union);
- (5) The Commission will not have access to operational data;
- (6) The Staff Regulations of Officials and the Conditions of Employment of other Servants of the European Economic Community laid down by Council Regulation (EEC, Euratom, ECSC) no 259/68 are applicable to Eurojust as laid down by Article 30(2) of the Council Decision 2002/187/JHA of 28 February 2002, as

EN

EN

amended by Council Decision 2009/426/JHA of 16 December 2009, setting up Eurojust with a view to reinforcing the fight against serious crime;

- (7) A separate Memorandum of Understanding dealing with the management of financial transfers between the Commission and Eurojust was concluded on 11 January 2010;
- (8) Nothing in this Memorandum will affect the separate Practical Agreement on arrangements of cooperation between Eurojust and OLAF (hereinafter referred to as the "Practical Agreement") concluded on 24 September 2008 in accordance with the legal framework governing OLAF and Eurojust;

Have agreed on the following:

Chapter 1

General principles of cooperation

Article 1 –Regular meetings

- 1) The following regular meetings will be held:
 - a) High level meetings between the representatives of the Commission and Eurojust to be called alternately by Commission and Eurojust at least every six months;
 - b) Regular management level meetings between representatives of the Commission, the Administrative Director and Heads of Unit of Eurojust concerned by the matter being discussed to be called by either Party;
 - c) Other relevant working meetings to be called by either party.
- 2) The agenda of the meetings should be set by the Party calling the meeting and communicated to the other Party as early as possible, preferably one week, before the date of the meeting.

EN

EN

Article 2 – Commission's participation at the meetings of the College of Eurojust

- 1) The Commission will be invited to College meetings, at least once a quarter, where non-operational strategic issues and documents, such as, for example, those listed in Article 5, are to be discussed or voted upon, or with a view to exchanging experience and advice and sharing information, other than operational information. The Commission will be invited to contribute to the agenda.
- 2) Eurojust will send the Commission the agenda of College meetings during which a decision is expected to be adopted on the items provided in paragraph 1.
- 3) Eurojust will seek to concentrate as many as possible agenda points relevant for the Commission within a single meeting.

Article 3 – Central coordination point

Without prejudice to the contacts between OLAF and Eurojust necessary to fulfil their respective mandates, as specified in Chapter 2 of the Practical Agreement, the Directorate General for Justice will be the central coordination point for the relations between the Commission and Eurojust. To this end the Directorate General for Justice will be the first and single entry point whenever Eurojust consults another Commission service and Eurojust will contact the Directorate General for Justice when consulted by another Commission service.

Chapter 2

Consultation and information

Article 4 – Information and consultation of Eurojust

- 1) The Commission may consult Eurojust on new legislative proposals, communications, implementation reports, green papers and other documents it intends to publish in the area of police and judicial cooperation in criminal matters (i.e. Part III, Title V, Chapters 4 and 5, of the Treaty on the Functioning of the European Union), which it deems relevant to the activities of Eurojust.
- 2) The Commission may invite Eurojust to expert's meetings in areas which it deems relevant to its activities.

EN

EN

Article 5— Information and consultation of the Commission

- 1) Without prejudice to Article 35 of the Eurojust decision, Eurojust will consult the relevant Commission services on strategic documents as early as possible before final decision by the College, in particular on the draft budget, Staff Policy Plan, Annual Work programme, Multi-Annual Strategic Programme and priorities of the external relations of Eurojust. The relevant documents will be provided to the Commission sufficiently ahead of the date of the final adoption by the College.
- 2) Eurojust will invite the Commission to make recommendations in the early phase of drafting of the Annual Reports of Eurojust in areas which Eurojust deems relevant to its activities.
- 3) Eurojust will promptly provide the Commission, upon request, with information, including in particular, if available, on statistical data, anonymised case illustrations and analysis of Eurojust activities, in order to allow the Commission to make recommendations, issue opinions, propose initiatives or comply with its functions.
- 4) Eurojust will invite the Commission to meetings in areas which Eurojust deems relevant to its activities.

Article 6 – Information on studies and external communications

- 1) The Parties will inform each other on studies or evaluations carried out or to be carried out which involve the activities of Eurojust. They will consult each other on the terms of reference of such studies and provide each other with a possibility to participate in the evaluation committee.
- 2) The Parties will ensure appropriate and timely coordination of external communication activities of shared relevance.

Article 7 – Exchange of administrative documents

- 1) The Parties will exchange all documents which are relevant for the exercise of the administrative activities of each other.
- 2) Eurojust will send the Commission, in particular, copies of :
 - a) its Annual Work Programme

EN

EN

- b) its Annual Report;
 - c) the Multi-Annual Staff Policy Plans;
 - d) the Business Continuity Plan;
 - e) the Multi Annual Strategic Programme
 - f) documents required for the establishment of the budget in accordance with Article 27 of the financial regulation applicable to Eurojust and with the Commission budgetary procedure as listed in Annex 2;
 - g) documents required for the year-end accounting closure in accordance with the Commission closure instructions as listed in Annex 2;
 - h) the provisional and final Annual Accounts.
- 3) The Commission will send Eurojust, in particular, copies of:
- a) The financial programming documents of the Directorate General for Justice
 - b) Any other key document that is deemed by the Commission to be of interest to Eurojust regarding administrative issues.

Chapter 3

Relations with other European institutions and bodies

Article 8 – Documents to be submitted by Eurojust

At the time Eurojust submits formal contributions, presentations, statements or similar documents intended for discussion to the European Parliament, to the Council, or the European External Action Service, it will submit the same to the Commission.

EN

EN

Article 9 – Information on Eurojust’s participation in meetings of other European institutions and bodies

Eurojust will inform the Commission when it intends to participate in meetings of the European Parliament, of the Council, or of the European External Action Service.

Chapter 4

External relations

Article 10 - Regular meetings between the competent units

- 1) Eurojust will keep the Commission informed of any substantial developments in the area of external relations.
- 2) The Parties will organise meetings as appropriate between the persons responsible for External Relations in the College and in the Commission.

Article 11 - Cooperation Agreements with third States and organisations

- 1) Representatives of Eurojust will regularly consult the Commission on external policy issues and will take into account the EU’s external policy when deciding on the list of third States and organisations with which Eurojust intends to conclude agreements in terms of Article 26a of the Eurojust decision.
- 2) Eurojust will inform the Commission when it intends to participate in formal meetings of international organisations or with representatives of third countries.

EN

EN

Chapter 5

Budget and finance

Article 12 - Management of financial transfers

All modalities concerning financial transfers from the Commission to Eurojust are laid down in the separate Memorandum of Understanding related to the management of financial transfers.

Chapter 6

Human resources

Article 13 – Information on staff development

- 1) Eurojust will inform by e-mail its counterparts in the Commission on their request of any changes regarding Eurojust management and middle management.
- 2) Eurojust and the Commission (Directorate General for Human Resources and Directorate General for Justice if necessary) will meet bilaterally twice a year to discuss staff policy issues and to establish a dialogue on HR strategic matters.

Article 14 - Participation of Directorate General for Justice in the selection board for Eurojust's Administrative Director

A representative of the Commission's Directorate General for Justice will be invited to participate in the selection board for the recruitment of the Eurojust's Administrative Director in accordance with Article 29(1) of the Eurojust Decision and the Rules of Procedure of Eurojust.

EN

EN

Article 15 - Participation of a representative of Directorate General for Justice in the Evaluation Committee of the probationary/annual performance appraisal of Eurojust's Administrative Director

A representative of Commission's Directorate General for Justice will be invited to participate as observer in the Evaluation Committee for the probationary/annual performance appraisal of Eurojust's Administrative Director.

Article 16 - Training

- 1) The Parties will invite each other to relevant activities they organise in the field of professional training, seminars and workshops that may be of common interest.
- 2) The Parties will mutually accept each other's staff members to participate in the professional trainings, seminars or workshops of common interest that they organise.

Chapter 7

Final provisions

Article 17 – Channels of communication

- 1) In accordance with Article 3, the Commission will indicate the contact persons responsible for central coordination. Each Party may also appoint contact points responsible for subjects specifically addressed in this Memorandum (Annex 1)
- 2) To ensure efficient communication, documents will preferably be transmitted by electronic means, unless other requirements for official or confidential documents apply.

Article 18 – Amendments

- 1) This Memorandum may be amended only by a written agreement concluded by the Parties. Amendments to this Memorandum will enter into force on the date on which they are signed by the last Party.

EN

EN

- 2) Any amendment to the list of documents referred to in Annex 2 will be done in common agreement of the Parties by exchange of e-mails or letters.
- 3) Each Party will keep the other party informed of any change of the contact persons listed in Annex 1 by e-mail.

Article 19 - Entry into force

The present Memorandum will come into force on the date on which it is signed by the last Party.

For the Commission, by delegation
Name: Françoise Le Bail
Function: Director-General, Directorate
General for Justice
Signature:

For Eurojust
Aled Williams
President of Eurojust
Signature:

Done in duplicate and in English

EN

EN

Annex 1: Channels of communication in accordance to Arts.3 and 17

	COM	
Central Coordination Point (Art.3)	DG JUSTICE DIRECTOR FOR CRIMINAL JUSTICE DG JUSTICE HoU in charge of Eurojust	
Specific subjects	COM	EUROJUST
Cooperation, consultation and information	DG JUSTICE DIRECTOR FOR CRIMINAL JUSTICE DG JUSTICE HoU in charge of Eurojust	PRESIDENT Chair, Brussels Team
External relations	DG JUSTICE DIRECTOR FOR CRIMINAL JUSTICE DG JUSTICE HoU in charge of Eurojust/external relations	PRESIDENT Chair, External Relations Team
Budget and Finance	DG JUSTICE DIRECTOR FOR CRIMINAL JUSTICE DG JUSTICE HoU in charge of Eurojust/ budget DG BUDGET HoU in charge of Eurojust	ADMINISTRATIVE DIRECTOR Head of Budget, Finance and Procurement
Human resources	DG JUSTICE DIRECTOR FOR CRIMINAL JUSTICE DG JUSTICE HoU in charge of Eurojust DG HUMAN RESOURCES HoU in charge of Eurojust	ADMINISTRATIVE DIRECTOR Head of Human Resources

EN

EN

Annex 2: List of documents to be submitted to the Commission by Eurojust as per Article 7(2)(f) and (g)

Article 7(2) (f)

The documents required for the establishment of the budget in accordance with Article 27 of the financial regulation applicable to Eurojust and with the Commission budgetary procedure are as follows:

- the provisional and final draft estimate of revenue and expenditure for the year N+1, including :
 - the establishment plan setting the number of permanent and temporary posts authorised within the limits of the budget appropriations, by grade and by category;
 - where there is an increase in the number of posts, a statement justifying the request for new posts;
 - a quarterly estimate of cash payments and receipts;
 - information on the achievement of all previously set of objectives for the various activities as well new objectives measured by indicators.
- a draft work programme;
- updated multi-annual staff policy plan, established in line with the guidelines set by the Commission;
- information on the number of officials, temporary and contract staff as defined in the Staff Regulations for year N-1 and N as well as an estimate for N+1;
- information on contributions in kind granted by host Member State to Eurojust;
- an estimate of the balance of the outturn account, which sets out all budget operations in terms of revenue and expenditure with an annex which will supplement and comment on the information given in that account ;
- the financial statement required within the Commission budgetary procedure including an estimate of the balance of the outturn account.

Article 7(2) (g)

The documents required for the year-end accounting closure in accordance with the Commission closure instructions are:

- provisional budget outturn
- confirmation of the open pre-financing balance
- transactions involving related parties that are outside the normal business of the Commission and offering favourable conditions (if any)

EN

EN