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NOTE

from:	Presidency
to:	CATS
Subject:	Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Criminal Justice Cooperation (Eurojust)

Background

The Commission's proposal for a Regulation on the European Union Agency for Criminal Justice cooperation (Eurojust) was published as part of a package with the proposal for a Regulation on the establishment of the European Public Prosecutor's Office (EPPO) on 17 July 2013. The proposal provides a single, revised legal framework for Eurojust which is the legal successor of Eurojust as established by Council Decision 2002/187/JHA. Whilst maintaining those elements that have proved efficient in the management and operation of Eurojust, the Regulation aims to modernise its legal framework and streamline its functioning and structure in line with the Lisbon Treaty.

The COPEN Working Party began its first examination of the proposal under the Lithuanian Presidency and is continuing this examination under the Hellenic Presidency. To date, COPEN has examined the first four Chapters of the proposal; Objectives and Tasks, Structure and Organisation, Operational Matters and Processing of Information.

Powers of National Members

The draft Regulation introduces changes from the current regime in terms of the powers of National Members. The proposal foresees an alignment of the national members' powers that, irrespective of the original status and capacity held in the national system, shall be the same for all national members (Article 8 on powers and Article 9 on access to national registers).

As a result, the key changes introduced are as follows;

- The current system put in place by Articles 9a, 9b, 9c, 9d and 9e of the Eurojust Decision is replaced by one single article (and Article 9 as to access to national registers) and it is no longer up to each Member State to define the nature and extent of the powers granted to its national member.
- The “national safeguard clause” of Article 9e of the Eurojust Decision is abolished.
- In principle, there is no longer differentiation between acts conducted and powers exercised by national members acting as Eurojust or as national authorities in accordance with national law.
- All national members are directly granted significant powers (e.g. issue and execute requests themselves) that under the Eurojust Decision can be exercised only in agreement with the competent national authority.
- In urgent cases, all national members shall also be able to order investigative measures, which is currently not the case under Article 9d of the Eurojust Decision.

Discussions at the COPEN Working Party revealed that Member States had particular views on the nature and extent of powers of National Members as proposed in the Regulation. As a result, CATS is invited to consider the matter further and delegations are invited to reflect on the appropriate types of operational functions and powers that National Members should have at Eurojust.

Questions for Consideration:

- Do delegations consider that the changes to the powers of the National Members are too ambitious, too modest or a well balanced solution?
- Is the new system of powers granted to national members workable in practice? What are the practical and legal consequences of such powers in the national legal systems?
- Do delegates consider that Member States should be able to grant additional powers to national members in accordance with their national law?
- Do Member States consider that the 'national safeguard clause' under Article 9e of the Eurojust Decision should be maintained in this Regulation? If so, how could this be achieved?
