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COVER NOTE

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To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

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Subject:	Recommendation for a COUNCIL DECISION authorising the opening of negotiations for agreements between the Union and Bolivia, Canada, Chile, Costa Rica, Ecuador, Panama, Peru and the United Arab Emirates on cooperation between the European Union Agency for Criminal Justice Cooperation (Eurojust) and the competent authorities for judicial cooperation in criminal matters of those third States

Delegations will find attached document COM(2026) 459 final.

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Brussels, 10.9.2026
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Recommendation for a

COUNCIL DECISION

authorising the opening of negotiations for agreements between the Union and Bolivia, Canada, Chile, Costa Rica, Ecuador, Panama, Peru and the United Arab Emirates on cooperation between the European Union Agency for Criminal Justice Cooperation (Eurojust) and the competent authorities for judicial cooperation in criminal matters of those third States

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE RECOMMENDATION

• Reasons for and objectives of the recommendation

In a globalised world where serious crime and terrorism are increasingly transnational and polyvalent, law enforcement and judicial authorities should be fully equipped to cooperate with external partners to ensure the security of their citizens. Consequently, Eurojust's role as a facilitator of judicial cooperation with third countries should be further developed as such cooperation is essential to gathering evidence for successful prosecutions and bringing members of criminal networks to justice. Towards this end, the Commission is currently revising Eurojust's mandate to further enhance its role and support to national competent authorities in facilitating judicial cooperation with third countries.

The importance of information exchange and close collaboration with international partners has been consistently emphasized in the various strategies and action plans adopted by the European Commission in recent years. For instance, *the EU Strategy to Tackle Organised Crime (2021-2025)*¹ highlights the increasing complexity of new criminal groups and their transnational, network-based structures. The *ProtectEU Internal Security Strategy*² presented on 1 April 2025, aims to unify existing security frameworks while further strengthening Eurojust's capacity to combat serious cross-border crime and expanding its operational toolkit.

To carry out these tasks effectively, Eurojust's cooperation with countries outside the European Union should be further strengthened through the conclusion of international agreements that enhance judicial collaboration with the Agency. These agreements make a particularly significant contribution to combating transnational crime, as they allow for the fast exchange of personal data and the secondment of a Liaison Prosecutor from the partner country to Eurojust. Such measures provide Eurojust with essential tools to intensify operational cooperation, such as joint investigation teams, with its international partners. Eurojust has 12 cooperation agreements in place which allow for systematic exchanges of personal data, with Montenegro, Ukraine, Moldova, Liechtenstein, Switzerland, North Macedonia, the USA, Iceland, Norway, Georgia, Albania and Serbia. Under Article 80(5) of Regulation 2018/1727³ (the Eurojust Regulation) these cooperation agreements remain valid.

Since the entry into application of the Eurojust Regulation on 12 December 2019 and pursuant to the Treaty, the Commission has been responsible, on behalf of the Union, for negotiating international agreements with third countries on cooperation with Eurojust. While Eurojust can independently establish and maintain cooperative relations with external partners through working arrangements, in line with Chapter V of the Regulation, these arrangements alone do not provide a legal basis for the exchange of operational personal data. They allow Eurojust to initiate institutional contacts with the competent authorities of partner countries but are insufficient on their own to enable effective judicial cooperation.

¹ Commission Communication – EU Strategy to tackle Organised Crime 2021–2025 (COM(2021) 170 final).

² Commission Communication on ProtectEU: a European Internal Security Strategy (Com(2025) 148 final).

³ Regulation (EU) 2018/1727 of 14 November 2018, OJ L 295, p. 138, 21.11.2018. See 12 cooperation agreements, <https://www.eurojust.europa.eu/states-and-partners/third-countries/agreements-cooperation>.

This is why, on 1 March 2021, the Council authorised the Commission to negotiate international agreements with 13 third States (*Algeria, Argentina, Armenia, Bosnia and Herzegovina, Brazil, Colombia, Egypt, Israel, Jordan, Lebanon, Morocco, Tunisia, and Turkey*) on judicial cooperation between Eurojust and the competent authorities of those States. Since then, the European Union has concluded agreements with Armenia⁴, Bosnia and Herzegovina⁵, as well as with Lebanon⁶. Furthermore, negotiations are closed with Algeria, the text having been agreed in the Council at technical level in March 2026. The Commission has finalised negotiations with Colombia in June 2026. Provisions covering cooperation between the competent authorities of the United Kingdom and Eurojust are part of the Trade and Cooperation Agreement (TCA)⁷.

Taking into account the political strategies, the operational needs of judicial authorities across the European Union and the potential benefits of closer cooperation globally, the Commission considers it necessary to request an authorisation to negotiate international agreements with further third countries in order to strengthen Eurojust's cooperation with their competent authorities in investigating and prosecuting serious cross-border crimes. The reasons why the Commission is proposing the eight countries (Bolivia, Canada, Chile, Costa Rica, Ecuador, Panama, Peru and the United Arab Emirates (UAE)) is due to its assessment of the priority countries according to the following criteria:

One essential criterion is Eurojust's **operational need** as set out in its Strategy on Cooperation with International Partners 2024–2027⁸. In that Strategy, submitted to the Commission for review pursuant to Article 52(1) of the Eurojust Regulation, Eurojust identified a particular operational need for cooperation with Bolivia, Ecuador, Mexico, Nigeria, Peru and UAE. Canada, Panama and the UAE had already been identified in the previous Eurojust Strategy (2020–2024) and their operational relevance has been reiterated in the latest Strategy. Further Eurojust assessments have indicated an operational need to strengthen cooperation with additional countries, including Chile and Costa Rica. For these two countries, Eurojust has identified an exponential growth in the number of requests for judicial coordination and cooperation, increasing from 5 in 2024 to 27 in 2025. The number of complex cases (i.e. those that require several coordination meetings or the setting up of joint investigation teams) has also increased in a similar manner, from zero in 2023 to six in 2025.

Another criterion is the **interest of the third country** in concluding such agreements. In this regard, recent interactions at senior level show a particularly strong interest in negotiating an agreement on cooperation with Eurojust by Canada, Chile, Costa Rica, Ecuador, Panama, Peru and the United Arab Emirates.

An essential **strategic** criterion is to enhance cooperation with those third countries that may have a significant impact on European **security**. This may result from geographical or strategic considerations, as in the case of Latin American countries, to address shared security

⁴ Signed on 5 April 2024, the Council has adopted its Conclusion Decision on 10 October 2024, JO L 31.10.204 [EUR-Lex - 22024A02737 - EN - EUR-Lex](#).

⁵ Signed on 28 October 2024, the Council has adopted its Conclusion Decision on 14 April 2025, OJ L, 7.5.2025 https://eur-lex.europa.eu/eli/agree_internation/2025/867/oj/eng.

⁶ Signed on 2 December 2025, the Council has adopted its Conclusion Decision on 4 June 2026, OJ L 3.7.2026 <http://data.europa.eu/eli/dec/2026/1522/oj>.

⁷ Trade and Cooperation Agreement (TCA) between the European Union and the European Atomic Energy Community and the United Kingdom of Great Britain and Northern Ireland, OJ L149, 30.4.2021, [https://eur-lex.europa.eu/eli/agree_internation/2021/689\(1\)/oj](https://eur-lex.europa.eu/eli/agree_internation/2021/689(1)/oj)

⁸ <https://www.eurojust.europa.eu/states-and-partners/third-countries/strategy-cooperation-international-partners>.

threats, notably in the fields of organized crime, drug trafficking, and cybercrime, as the Commission outlined in its Internal Security Strategy “ProtectEU”⁹. Operational usefulness can also arise from mutual interest, particularly where effective cooperation is already in place. For example, Canada receives a high volume of requests from Member States for judicial assistance, reflecting its importance as a partner in handling cross-border cases.

Latin America represents the largest part of the countries proposed. This is consistent not only with the EU Internal Security Strategy “ProtectEU”, but also with the priority indicated by Eurojust itself (in its International Strategy) and through the signature of various Working Arrangements with in particular Latin American countries¹⁰, including with all six Latin American countries covered by this Recommendation. Furthermore, Eurojust has signed a Working Arrangement with the regional network, the Ibero-American Association of Public Prosecutors (AIAMP), representing 22 Ibero-American Public Ministries, and a Memorandum of Understanding with the Ibero-American Network of international legal cooperation (IberRed), granting access to the Iber@ Secure Communication System. Through these efforts, the European Union’s Agency aims to support combatting the international drug trade originating in South America, which increasingly affects the European Union’s security.¹¹

Another important factor is whether there is sufficient **regulatory convergence** with the third country to enable operational cooperation with European Union agencies. This concerns, in particular, adherence to the rule of law, fundamental rights (including the prohibition of the death penalty), and data protection standards. Among the countries of highest operational relevance or interest for cooperation with Eurojust, priority should be given to those demonstrating a high degree of convergence or those in the process of aligning their standards with the European Union (in particular with the Law Enforcement Directive¹²) include Canada, Chile, Costa Rica, Panama and Peru.

Finally, a key factor is to ensure **consistency** in the relations of Justice and Home Affairs (JHA) agencies and bodies with third countries, particularly among Europol, the European Public Prosecutor’s Office (EPPO) and Eurojust. To this extent the Commission in its *ProtectEU Internal Security Strategy*¹³ highlights the action that it will negotiate in view of “conclud(ing) international agreements between the EU and priority third countries on cooperation with Europol and Eurojust”. The Council in 2023 had authorised the Commission to negotiate international agreements on law enforcement cooperation between Europol and *Bolivia, Ecuador, Mexico, Peru and Brazil*, countries which are not covered by the Council Decision of 2021, authorising to negotiate agreements on cooperation with Eurojust. The European Union has signed international agreements on cooperation between Europol and the police authorities of Ecuador¹⁴ and Brazil, which is in the process of being concluded. It is a logical next step to grant the Commission authorisation to negotiate agreements with Bolivia, Canada, Chile, Costa Rica, Panama, Peru and the United Arab Emirates on cooperation with Eurojust, thereby further streamlining and enhancing enforcement and judicial cooperation alike.

⁹ See above, Fn.2.

¹⁰ <https://www.eurojust.europa.eu/states-and-partners/third-countries/working-arrangements>.

¹¹ See in this context the Justice and Home Affairs (JHA) Council Conclusion, 12/13 June 2024. Also, Venice Declaration of G7 Ministers Meeting on Justice, 9-10 May 2024.

¹² Directive (EU) 2023/977 on the exchange of information between the law enforcement authorities of Member States and repealing Council Framework Decision 2006/960/JHA, OJ L 134, 22.5.2023 <http://data.europa.eu/eli/dir/2023/977/oj>.

¹³ See above, Fn. 2.

¹⁴ Signed on 23 September 2025, the Council has adopted its Conclusion Decision on 30 March 2026, OJ L, 828, 15.4.2026: <http://data.europa.eu/eli/dec/2026/828/oj>.

Applying these criteria, the Commission therefore recommends that the Council authorises the opening of negotiations with the following eight third States:

Bolivia

Enhancing cooperation between Eurojust and Bolivia is strategically important in particular in relation to drug production and trafficking. As the world's third-largest cocaine producer, Bolivia is used as a critical transit point and gateway for narcotics smuggling into Europe, facilitating the operations of organised crime networks.

Recent developments demonstrate Bolivia's strong commitment to strengthening ties with Eurojust at both strategic and operational levels. Bolivia has appointed a Eurojust contact point and has participated in several operational and strategic meetings, and study visits to Eurojust. Bolivia has been prioritised in the Eurojust Strategy on Cooperation with International Partners 2024–2027, reflecting shared interests in combating drug-related crime. Existing frameworks, such as the Working Arrangement between Bolivia and Eurojust of 2024, provide a solid basis for judicial collaboration. Additionally, Bolivia has appointed a dedicated Eurojust contact point, further improving the efficiency of judicial cooperation requests.

The country also actively participates in the mechanism for reinforced cooperation supported by Eurojust and EL PAcCTO programme¹⁵. This tool provides a framework for regular cooperation with those Latin American countries that have signed a working arrangement or other cooperation instrument with Eurojust. The mechanism features both a European component led by Eurojust and an intra-Latin American component led by EL PAcCTO and the prosecution offices of the signatory countries.

All this underlines Bolivia's readiness to engage in international justice initiatives and ensures that operational cooperation can comply with EU standards.

Bolivia is also actively involved in regional judicial networks, including IberRed and the Ibero-American Association of Public Prosecutors' Offices (AIAMP), which strengthens the foundation for cooperation. Eurojust has established instruments for collaboration with these networks, further cementing Bolivia's status as a strategically important partner.

Canada

Strengthening cooperation between Eurojust and Canada is of significant strategic and operational relevance, particularly in the areas of drug trafficking, fraud, money laundering, and cybercrime. Canada and the European Union have been increasingly affected by sophisticated cyber-enabled crimes that are committed by organised crime groups operating across regions. Canada is identified as a priority partner in Eurojust's Strategy on Cooperation with International Partners 2024–2027, reflecting strong mutual interests in deepening judicial collaboration.

Canada is a like-minded partner with a high degree of regulatory convergence in key areas, including the rule of law, fundamental rights, and data protection safeguards. Existing cooperation is already robust: Canada ranks among the top ten third countries in terms of judicial cooperation requests from European Union Member States. This high level of

¹⁵ EL PAcCTO is the Europe-Latin America Programme of Assistance against Transnational Organised Crime.

operational engagement highlights the need to expedite the obtaining of evidence and facilitate the potential posting of a Liaison Prosecutor at Eurojust.

Canadian authorities have appointed a Eurojust contact point and regularly participated in operational meetings organised in Eurojust-supported investigations and prosecutions of serious and organised crime involving Member States and Canada.

Chile

Enhancing cooperation between Eurojust and Chile carries notable strategic and operational importance, as Chile is increasingly affected by drug trafficking linked to organised crime groups operating in the European Union. Judicial cooperation with Chile is also essential for tackling organised property crime, cybercrime, and money laundering.

Chile has appointed a Eurojust contact point and has participated in several operational and strategic meetings, and study visits to Eurojust. Chile is designated as a priority partner in Eurojust's Strategy on Cooperation with International Partners 2024–2027. A major step forward was taken in July 2024, when the Prosecutor General's Office of Chile and Eurojust signed a Working Arrangement. This arrangement formalises the use of Eurojust contact points and ensures closer, more efficient communication to expedite judicial cooperation requests in both directions. Since then, operational and strategic cooperation has been enhanced and the number of requests for assistance involving Chile and European Union Member States has increased exponentially. Chile has become the Latin American coordinator for 2026 for the mechanism for reinforced cooperation supported by Eurojust and EL PAcCTO programme.

Chile is actively engaged in several regional judicial networks, including IberRed and the Ibero-American Association of Public Prosecutors' Offices (AIAMP). Eurojust has established cooperation instruments with both networks. This multilevel engagement further strengthens the foundation for deepened cooperation with Chile. It has strong interest in aligning standards with the European Union, e.g. aligning data protection legislation with the Law Enforcement Directive (with the help of EL PAcCTO).

Costa Rica

Strengthening cooperation between Eurojust and Costa Rica is of growing operational relevance, particularly given Costa Rica's increasing exposure to drug trafficking and organised crime, driven in part by the diversification of trafficking routes to the EU and a broader rise in organised criminal activity. In addition, the country, along with Panama, is becoming a hub for private companies offering digital services and therefore constitutes a key partner for Eurojust in relation to digital evidence.

Costa Rica has appointed a Eurojust contact point and has participated in several operational and strategic meetings, and study visits to Eurojust. Costa Rica has demonstrated strong interest in deepening cooperation with Eurojust and the European Union more broadly. A Working Arrangement between Costa Rica and Eurojust is already in place since 2024, and recent high-level exchanges underline this commitment as well as the participation in the mechanism for reinforced cooperation¹⁶. The Prosecutor General has been an active partner in promoting closer judicial cooperation.

¹⁶ See above in the part on Bolivia.

Costa Rica has also expressed interest in receiving technical assistance from the European Union to align judicial and data protection standards, further underscoring its readiness to strengthen collaboration in criminal justice matters.

Ecuador

Strengthening cooperation between Eurojust and Ecuador is crucial due to Ecuador's role as a significant production and transit hub for cocaine, impacting the European market and regional security. Notably, in 2022, Ecuador emerged as the leading origin for cocaine shipments to Europe, making it vital for strategic collaboration in addressing organized crime and firearms trafficking.

Considering its operational relevance, Ecuador has been designated as a priority country in Eurojust's Strategy on Cooperation with International Partners for 2024–2027. This designation underscores Ecuador's growing interest in bolstering judicial cooperation with the European Union. In July 2024, Ecuador joined the Latin American countries which signed a Working Arrangement with Eurojust and has joined the mechanism for reinforced cooperation. Ecuador has appointed a Eurojust contact point and has participated in several operational and strategic meetings, and study visits to Eurojust. Recent engagements, such as high-level discussions reflect Ecuador's proactive approach to strengthen existing ties. In particular, Eurojust and the Specialised Prosecution Services against organised crime (UNIDOT and FEDOTI¹⁷) and money laundering are strengthening their operational and strategic cooperation, including in the context of enhanced security measures in Ecuadorian ports to combat organised crime and drug trafficking.

Ecuador has also expressed interest in aligning its standards with those of the European Union, particularly in the area of data protection. An international agreement on cooperation with Europol, recently entered into force, including comprehensive data protection provisions, further demonstrates this commitment.

Panama

Judicial cooperation with Panama is of considerable operational relevance, particularly in relation to drug trafficking, cybercrime, property crime, fraud, and money laundering. Panama is frequently used by organised crime groups for the registration and operation of shell companies involved in money laundering, and it serves as a key transit point for drugs transported from South America to Europe.

Panama has appointed a Eurojust contact point and has participated in several operational and strategic meetings and study visits to Eurojust. Eurojust has supported multiple investigations and prosecutions by European Union Member States involving Panama, with Panamanian authorities liaising closely with national authorities through Eurojust and actively participating in coordination meetings.

In addition, Panama and Eurojust are closely collaborating to address challenges and exchange best practices in the context of e-evidence and private companies offering digital services. Operationally, the number of cases involving Panama has increased five-fold in the

¹⁷ A UNIDOT prosecution refers to legal proceedings brought by Ecuador's National Specialized Unit for Investigation against Transnational Organized Crime (Spanish: *Unidad Nacional de Investigación contra la Delincuencia Organizada Transnacional*; **FEDOTI** is the Specialized Prosecutor's Office for Transnational and International Organized Crime.

last two years, but a further increase requires the possibility of systematic exchanges of personal data.

Panama is designated as a priority partner under the Eurojust Strategy on Cooperation with International Partners 2024–2027. In 2024, the Attorney General’s Office of Panama and Eurojust signed a Working Arrangement, formalising the use of Eurojust contact points and ensuring closer communication to expedite judicial cooperation requests in both directions.

Panama is also part of several regional judicial networks, notably IberRed and the Ibero-American Association of Public Prosecutors’ Offices (AIAMP), with which Eurojust has established cooperation instruments. The EPPO signed a Memorandum of Understanding with AIAMP and a working arrangement with the Office of the Prosecutor General of the Nation, further reinforcing Panama’s importance as a regional cooperation partner. Panama has interest in aligning standards with the European Union, e.g. on data protection.

Peru

Judicial cooperation with Peru is highly relevant. As the world’s second-largest cocaine producer and a key source of drugs trafficked into the European Union, cooperation efforts focus primarily on combating drug trafficking, while also addressing property crime, money laundering, and cybercrime. Peru is included as a priority partner in the Eurojust Strategy on Cooperation with International Partners 2024–2027.

Peru has demonstrated strong interest in cooperating with Eurojust. In 2024, the Attorney General’s Office of Peru and Eurojust signed a Working Arrangement, and recent high-level exchanges underline its commitment to enhancing cooperation. Peru has appointed a Eurojust contact point and participated in strategic and operational meetings and study visits to Eurojust. The competent authorities are also actively participating in the mechanism for reinforced cooperation, leading to dozens of active investigations being supported by Eurojust in 2025 at the request of the Peruvian authorities.

Despite changes in the government since then, Peru is also engaged in a dialogue for an international agreement on the cooperation with Europol and has requested technical assistance from the Commission to align its law enforcement standards with European Union data protection requirements.

Peru is also actively involved in regional judicial networks, notably IberRed and the Ibero-American Association of Public Prosecutors’ Offices (AIAMP), with which Eurojust has established instruments of cooperation.

United Arab Emirates (UAE)

Judicial cooperation with the United Arab Emirates (UAE) relates mainly to fraud, especially VAT fraud, drug trafficking, money laundering, property crime and cybercrime. A considerable number of organised crime groups targeting the European Union appear to be based in the UAE, often serving as a base for the remote leadership or operations of these networks, including drug trafficking, money laundering and underground banking.

According to Eurojust’s Strategy on Cooperation with International Partners 2024–2027, the country holds very high operational relevance in the fight against organised crime. UAE authorities have participated in several operational and strategic meetings, and study visits to Eurojust. The UAE has appointed a Eurojust contact point and has shown strong commitment

to cooperation with Eurojust, as demonstrated by its engagement during the Team Europe mission in April 2025, participation in a joint Expert Workshop in July 2025, where concrete steps have been agreed upon to further deepen cooperation. A Working Arrangement with Eurojust, including the posting of a Resident Contact Point in The Hague, is in preparation. These initiatives highlight the country's dedication to act as a reliable partner in combating transnational crime alongside the European Union.

- **Consistency with existing policy provisions in the policy area**

The present Recommendation is consistent with existing Union policy in the area of judicial cooperation between Eurojust and third countries.

Progress has been made to improve the exchange of information and cooperation among Member States as well as between Union agencies and third countries. Regulation (EU) 2023/2131 amending Regulation (EU) 2018/1727 and Council Decision 2005/671/JHA, as regards the digital information exchange in terrorism cases¹⁸, strengthens the framework for cooperation with third countries on the side of Eurojust by providing for a legal basis for the secondment of a third country liaison prosecutor to Eurojust and the cooperation with Eurojust.

Also, Regulation (EU) 2022/838 amending Regulation (EU) 2018/1727, as regards the collection, preservation and analysis of evidence relating to genocide, crimes against humanity and war crimes at Eurojust,¹⁹ has a strong nexus to third countries. Both legislative acts underline the importance of close cooperation with third countries to investigate and prosecute serious crimes.

- **Consistency with other Union policies**

Apart from the above mentioned *EU Strategy to Tackle Organised Crime (2021-2025)* and the *ProtectEU Internal Security Strategy*²⁰ similar references to the importance of Eurojust and its vital role in cross border judicial cooperation are included in other thematic policy documents as well, such as the *EU Strategy on Combatting Trafficking in Human Beings*²¹; the *Counter-Terrorism Agenda for the EU*²² and the *EU Agenda and Action Plan on Drugs*.²³

In line with these strategic documents, international cooperation has also been enhanced in the area of law enforcement. Based on the authorisation by the Council²⁴, the Commission has negotiated Agreements on the exchange of personal data with the European Union Agency for Law Enforcement Cooperation (Europol).

¹⁸ Regulation (EU) 2023/2131 of the European Parliament and of the Council of 4 October 2023 amending Regulation (EU) 2018/1727 of the European Parliament and of the Council and Council Decision 2005/671/JHA, as regards digital information exchange in terrorism cases. OJ L, 2023/2131, 11.10.2023, <http://data.europa.eu/eli/reg/2023/2131/oj>.

¹⁹ Regulation (EU) 2022/838 of the European Parliament and of the Council of 30 May 2022 amending Regulation (EU) 2018/1727 as regards the preservation, analysis and storage at Eurojust of evidence relating to genocide, crimes against humanity, war crimes and related criminal offences.

²⁰ See Fn. 1 and 2.

²¹ Commission Communication – EU Strategy on Combatting Trafficking in Human Beings 2021–2025 (COM (2021) 171 final).

²² Commission Communication - ProtectEU: Agenda to Prevent and Counter Terrorism, 26.2.2026 (COM(2026) 101 final).

²³ Commission Communication – EU Agenda and Action Plan on Drugs 2021–2025 (COM(2020)606 final).

²⁴ Council Decision 7047/20, 23 April 2020, and Council Document CM 2178/20, 13 May 2020.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Substantive legal basis

Regulation (EU) 2018/1727 on the European Union Agency for Criminal Justice Cooperation (Eurojust) sets out a legal framework for Eurojust, in particular its objectives, tasks, scope of competence, data protection provisions and ways to cooperate with external partners.

The objective of this Recommendation is to obtain from the Council the authorisation for the Commission to negotiate the future agreements on behalf of the Union. Given that the main objective of the agreements is to strengthen judicial cooperation between Eurojust and the competent authorities of respective third countries in combating serious crime by exchanging personal data, the substantive legal bases for the Council to authorise the opening of negotiations are Articles 16(2) and 85.

• Procedural legal basis

Article 218(3) TFEU provides that, where the agreement envisaged does not relate exclusively or principally to the common foreign and security policy, the Commission shall submit recommendations to the Council. The Council shall adopt a decision authorising the opening of the negotiations and nominating the Union negotiator or the head of the Union's negotiating team.

Article 218(4) TFEU provides that the Council may address negotiating directives to the negotiator and designate a special committee to consult the negotiator.

The Commission recommends to open negotiations for Agreements between the European Union and Bolivia, Canada, Chile, Costa Rica, Ecuador, Panama, Peru and the United Arab Emirates on cooperation between the European Union Agency for Criminal Justice Cooperation (Eurojust) and the authorities of those third States competent for judicial cooperation in criminal matters. The Commission is to be nominated as negotiator.

The procedural legal basis for the proposed decision to authorise opening of negotiations of the envisaged agreements is Article 218(3) and (4) TFEU.

• Choice of negotiator

Given that the agreements envisaged exclusively cover matters other than the common foreign and security policy, the Commission should be nominated as the negotiator pursuant to Article 218(3) TFEU.

• Union competence

The Union has competence to determine Eurojust's structure, operation, field of action and tasks as well as to provide for safeguards concerning personal data protection, regarding the judicial cooperation with third countries.

The Eurojust Regulation lays down specific rules regarding transfers of personal data by Eurojust outside of the European Union. Article 56(2) thereof lists situations where Eurojust can lawfully transfer personal data to the judicial authorities of third countries. It follows from the provision that for structural transfers of personal data by Eurojust to the respective third country the conclusion of respective binding international agreements between the European Union and the third country, adducing adequate safeguards with respect to the protection of privacy and other fundamental rights and freedoms of individuals, is required. In accordance

with Article 3(2) TFEU, the future agreements thus fall within the exclusive external competence of the Union.

- **Subsidiarity (for non-exclusive competence)**

N/A

- **Proportionality**

The Union's objectives with regard to this recommendation for a Council decision as set out above can only be achieved by entering into binding international agreements providing for the necessary cooperation measures, while ensuring appropriate protection of fundamental rights. As enshrined in the Eurojust Regulation (EU) 2018/1727, also the provisions of the future agreements will be limited to what is necessary to achieve its main objectives. Unilateral action of the Member States towards the third countries does not represent an alternative, as Eurojust has a unique role. Unilateral action would also not provide a sufficient basis for judicial cooperation between Eurojust and third countries and would not ensure the necessary protection of fundamental rights.

- **Choice of the instrument**

This recommendation for a Council decision is submitted in accordance with Article 218(3) and (4) TFEU, which envisage the adoption by the Council of a decision authorising the opening of negotiations and nominating the Union negotiator. The Council may also address negotiating directives to the negotiator. There exists no other legal instrument that could be used in order to achieve the objective expressed in this recommendation.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

N/A

- **Stakeholder consultations**

N/A

- **Collection and use of expertise**

The collection of expertise drew upon the operational input received from Eurojust.

- **Impact assessment**

N/A

- **Regulatory fitness and simplification**

N/A

- **Fundamental rights**

The agreements should respect the fundamental rights and observe the principles recognised by the Charter in particular the right to private and family life, recognised in Article 7 of the Charter, the right to the protection of personal data, recognised in Article 8 of the Charter and the right to an effective remedy and fair trial recognised in Article 47 of the Charter.

Furthermore, any exchange of information which leads to inhuman and degrading treatment and punishment, and if applicable related to a death penalty, is prohibited.

The exchange of personal data and its processing by the authorities of a third country concerns the fundamental rights to privacy and data protection. In that regard, the agreements will ensure the application of adequate safeguards to the personal data transferred under the agreements, in line with Union law.

In particular the exercise of certain individual rights can only be delayed, limited or refused to the extent that it is necessary and proportionate, taking into account the fundamental rights and interests of the data subject, on important public interest grounds, in particular to prevent harm, to an ongoing criminal investigation or prosecution.

Furthermore, the agreements will guarantee that the exchange of personal data between Eurojust and the third countries is consistent with both the principle of non-discrimination and Article 52(1) of the Charter of Fundamental Rights of the European Union²⁵, which ensure that interferences with fundamental rights guaranteed under the Charter are limited to what is necessary to genuinely meet the objectives of general interest pursued, subject to the principle of proportionality.

4. BUDGETARY IMPLICATIONS

There are no budgetary implications for the Union budget.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

There will be regularly reporting and information to the Council and the European Parliament.

- **Explanatory documents (for directives)**

N/A

- **Detailed explanation of the specific provisions of the recommendation**

This recommendation gives the authorisation to the Commission to negotiate. It also establishes negotiating guidelines.

²⁵ Charter of Fundamental Rights of the European Union, *OJ C 202*, 7.6.2016, http://data.europa.eu/eli/treaty/char_2016/oj.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 16(2) and 85, in conjunction with Article 218(3) and (4) thereof,

Having regard to the recommendation from the European Commission,

Whereas:

- (1) Regulation (EU) 2018/1727 of the European Parliament and of the Council¹ was adopted on 14 November 2019 and is applicable as of 12 December 2019.
- (2) Pursuant to Article 52 of Regulation (EU) 2018/1727, Eurojust may establish and maintain cooperation with authorities of third countries and international organisations. To that end, Eurojust is to prepare a cooperation strategy every four years in consultation with the Commission, which specifies the third countries and international organisations with which there is an operational need for cooperation. Accordingly, in consultation with the Commission, Eurojust prepared such a cooperation strategy for the period 2024-2027.
- (3) Regulation (EU) 2018/1727, in particular Article 56 thereof, sets out the general principles for the transfer of personal data from the European Union Agency for Criminal Justice Cooperation (Eurojust) to third countries and international organisations. Eurojust may transfer personal data to a third country on the basis of an international agreement concluded between the Union and that third country pursuant to Article 218 of the Treaty on the Functioning of the European Union that provides for adequate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals.
- (4) Negotiations should be opened with a view to concluding such agreements between the Union and Bolivia, Canada, Chile, Costa Rica, Ecuador, Panama, Peru and the United Arab Emirates. The selection of those countries is based on an assessment of operational needs identified e.g. in the Eurojust's Strategy on cooperation with international partners 2024-2027, the need to ensure consistency with cooperation with other Justice and Home Affairs agencies and bodies like Europol, and the

¹ Regulation (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation (Eurojust), and replacing and repealing Council Decision 2002/187/JHA (OJ L 295, 21.11.2018, p. 138, <http://data.europa.eu/eli/reg/2018/1727/oj>).

strategic interests related to the European Union's security, particularly in the fields of organised crime and drug trafficking.

- (5) The agreements with those countries should provide a legal basis for the systematic exchange of personal data and the secondment of Liaison Prosecutors, tools which are not available through the Eurojust's own working arrangements.
- (6) The Commission should, where necessary, consult the European Data Protection Supervisor (EDPS), including during the negotiation of the agreements, and, in any event, it should consult the EDPS before the agreements are concluded.
- (7) The agreements should respect the fundamental rights and observe the principles recognised by the Charter of Fundamental Rights of the European Union, in particular the right to private and family life, recognised in Article 7 of the Charter, the right to the protection of personal data, recognised in Article 8 of the Charter and the right to an effective remedy and fair trial recognised in Article 47 of the Charter. Furthermore, any exchange of information which leads to inhuman and degrading treatment and punishment, and if applicable related to a death penalty, is prohibited. The agreements should be applied in accordance with those rights and principles.
- (8) The agreements should not affect, and should be without prejudice to, the transfer of personal data or other forms of cooperation between the authorities responsible for safeguarding national security.
- (9) Ireland is bound by Regulation (EU) 2018/1727 and therefore takes part in the adoption of this Decision.
- (10) In accordance with Articles 1 and 2 of 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 Decision and is not bound by it or subject to its application.
- (11) The EDPS has been consulted on this Decision and the Annex thereto and issued an opinion on (date),

HAS ADOPTED THIS DECISION:

Article 1

The opening of negotiations for international agreements between the Union and Bolivia, Canada, Chile, Costa Rica, Ecuador, Panama, Peru and the United Arab Emirates on cooperation between the European Union Agency for Criminal Justice Cooperation (Eurojust) and the competent authorities for judicial cooperation in criminal matters of those third States is hereby authorised.

Article 2

The Commission is hereby nominated as the Union negotiator.

Article 3

The negotiating directives set out in the Annex to this Decision are hereby addressed to the Commission.

Article 4

The negotiations shall be conducted in consultation with the [preparatory body of the Council], which is hereby designated as the special committee provided for in Article 218(4) TFEU.

Article 5

This Decision is addressed to the Commission.

Done at Brussels,

*For the Council
The President*