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NOTE

From:	General Secretariat of the Council
To:	Delegations
No. Cion doc.:	14458/21
Subject:	Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2018/1727 of the European Parliament and the Council and Council Decision 2005/671/JHA, as regards the digital information exchange in terrorism cases - Written comments / suggestions from Member States

At the COPEN meeting of Friday 14 January 2022, the Presidency invited delegations to submit written comments / drafting suggestions on the provisions of the draft Regulation (14458/21) that were discussed during the said meeting, namely:

– Article 1 (2) (article 20 §2a) ;

– Article 1 (4) (article 21a) and recitals 1-15 et 21 ;

– Article 1 (11) (annex III) and recital 12 ;

– Article 1 (7) (b) (article 27 §5) ;

– Article 1 (8) (a) (article 29 §1a) and recital 22.

The contributions received by Member States are set out in the Annex.

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AUSTRIA

Regarding the **budgetary implications** we would like to highlight that financing of the costs should rather be sought through budget transfer than through mobilizing amounts from the margin (cf point 12 of the Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources Interinstitutional Agreement of 16 December 2020 between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources).

Regarding the text of the Regulation:

Art. 21a para 1 we would prefer further clarification about the retroactive effect of the information obligation. Therefore, we would like to propose the amendment of Art. 80 of the Eurojust-Regulation on transitional arrangements by a new paragraph x [inserted after paragraph 7]:

‘(x) Article 21a paragraphs 1 and 3 shall not apply to criminal investigations where information is not available any more at national level and for which information was submitted in accordance with Council Decision 2005/671/JHA.’”

Art. 21a para 2 we wonder whether it would be better to make an exception (at least) for criminal investigations where a cross border dimension can be excluded. The second sentence in para 2 could read: “The obligation referred to in paragraph 1 shall not apply to criminal proceedings in respect of terrorist offences where a link to another Member State or a third country can be excluded/ that clearly affect only one Member State.”

Art. 21a para 3/Annex III: we understand the need to identify a perpetrator and to crosscheck identification data, such as fingerprints or facial images. However, it seems that this aim cannot be achieved because some Member States do not provide for processing of this kind of data by judicial authorities. Therefore, it seems questionable whether fingerprints or facial images should be processed by Eurojust at all. However, we stand ready to discuss alternatives in order to ensure proper identification and hence allowing efficient cross-checking.

Art. 21a para 4: we support the deletion of subparagraph 2.

FINLAND

Nous remercions la Présidence de l'occasion d'envoyer des observations écrites.

Please note that Finland has made a scrutiny reservation to the whole proposal because national consultations are still ongoing. In addition, consultations with the parliament are still ongoing. Therefore, the comments below are tentative and subject to possible subsequent changes.

1(2) -> Article 20(2a)

The new proposed para 2a mentions that "(t)he national correspondent for terrorism matters shall have access to all relevant information in accordance with Article 21a(1)". In this regard, we would like to point out that the relationship between the proposed new para 2a, para 3 of Article 21a and para d of Annex III should be clarified and further discussed. In other words, especially in relation to biometric data, such as photographs and fingerprints as included in Annex III, the aforementioned paragraphs and their relation to possible obligations nationally needs to be clarified. We would like to highlight the importance of taking into account national systems and their differences in Member States. It is extremely important to respect these differences and to take them into account as much as possible in the proposed regulation.

We interpret the Commission's proposal that the aim of it is not to change the current practice in force particularly taking into account Article 2(2) of Council Decision 2005/671/JHA. We believe this interpretation was confirmed by the Commission in the COPEN meeting 14 January. However, we think it should be clarified more precisely that the aim is in fact not to propose a change that would require Member States to change national systems in a way that would require judicial authorities to *have access to* the mentioned biometric data and/or national registers respectively, but rather that the mentioned data may be transmitted to Eurojust if possible, 1) only if the information is *available to judicial authorities,* e.g. if the information is transmitted to the national correspondent for terrorism matters by other authorities that have access to such data in accordance with national law, and 2) only if judicial authorities handle/process biometric data in accordance with national law. Moreover, it is important to uphold national discretion of competent authorities in accordance with national law regarding the need to transmit such information. Therefore, it needs to be considered that Article 20(2a) should be amended to include a precondition that relevant information as referred in Article 21a(3) of the proposal should only be available to national competent authorities if they have access to and are able to process such information in accordance with national law. Furthermore, Annex III should be amended accordingly with regards the phrase *where available*.

Furthermore, we noted with interest that some Member States pondered the deletion of biometric data from the proposed regulation. We think this idea should be further analysed and discussed. Moreover, we also consider it important to consult the EDPS in this regard.

1(4) -> Article 21a

Paragraph 1 and 5

As mentioned above, it is important to take into account national systems and their differences in Member States, especially the different roles of prosecutor's in the pre-trial phase. It is extremely important to respect these differences and to take them into account as much as possible in the proposed regulation, particularly regarding the availability of different information and/or accessibility to national registers.

Concerning information regarding concluded investigations, we think it should be clarified that this information may be informed if the information in question is available to judicial authorities. Moreover, information may be passed on if criminal investigations are *supervised by judicial authorities*, but it should be more clear when this information should be passed on, thus consideration of national competent authorities in accordance with national law in this sense, i.e. when is the right time from an investigative point of view to inform Eurojust, needs to be ensured. Recitals 10[1] and 15[2] are of key importance in this regard.

Paragraph 2

We would like to point out the relationship of para 2 to the proposed legal basis of the regulation (Article 85 TFEU). According to Article 85 TFEU Eurojust's mandate concerns serious crime *affecting two or more Member States* (…). It seems slightly unclear what is the aim of para 2 (of Article 21a) – with regards to *regardless whether there is a known link to another Member state or third country* – when taking into consideration Eurojust's mandate. We think maybe this should be further discussed in order to solve possible issues in this regard.

Paragraph 4

We think the obligation of para 4 – *to inform of changes* – should be further discussed, and we noted with interest the observations of other Member States regarding the deletion of the second subparagraph of para 4. We preliminarily think that the obligation of the second subparagraph of para 4 might be too burdensome, and therefore, it might be feasible – alternatively – to consider some changes in this regard, maybe to consider that the obligation to inform about any changes would concern only substantial changes. Recital 14[3] is important in this regard.

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1 The competent authorities need to know exactly what kind of information they have to transmit to Eurojust, at what stage of the national proceedings and in which cases, in order to provide such data. This is expected to increase the information Eurojust receives significantly.

2 Given the sensitive nature of judicial proceedings against suspects of terrorist offences, it is not always possible for the competent national authorities to share the information on terrorist offences at the earliest stage. Such derogations from the obligation to provide information should remain an exception.

3 In order to ensure the accuracy of the data in the European Judicial Counter-Terrorism Register, to identify cross-links early and to ensure time limits are respected, the competent national authorities should update the information provided regularly. Such updates should include new information relating to the person under investigation, judicial decisions such as pre-trial detention or opening of the court proceedings and judicial cooperation requests or identified links with other jurisdictions.

Paragraph 3 and Annex III

As already mentioned above, it is important to take into account national systems and their differences in Member States. It is extremely important to respect these differences and to take them into account as far as possible in the proposed regulation. Furthermore, we think that the relationship between the proposed new para 2a of Article 20, para 3 of Article 21a and para d of Annex III should be clarified, particularly regarding biometric data.

Para 3 of Article 21a states that information *shall include* information listed in Annex III (also biometric data) but according to subparagraph d of Annex III, biometric data would be included *where available* for the *national competent authorities*. First, it must be noted that in Finland, as in many other Member States, judicial authorities do not handle/process biometric data. Therefore, it is unclear what the phrase *where available* means. We think it is utmost important that the proposed regulation includes a so-called national restriction in this regard. However, we think this restriction, as it stands now in the text, should be clarified, i.e. that biometric data according to subparagraph d of Annex III may be transmitted to Eurojust according to Article 21a(1), but only if this information in accordance with national law is available to judicial authorities (such as prosecutors). Against this background, and as mentioned above, Article 20(2a) should be amended to include a precondition that relevant information as referred in Article 21a(3) of the proposal should only be available to national competent authorities if they have access to such information in accordance with national law. Furthermore, Annex III should be amended accordingly with regards the phrase *where available*. In other words, consideration shall be given to whether it is appropriate to regulate about the transmission of biometric data in the Annex, but whether the matter should be regulated at the Article level.

Moreover, it should be made more clear that para 2a of Article 20, para 3 of Article 21a and para d of Annex III does not pose an obligation for Member States to change national systems in relation to the availability of or accessibility to biometric data. In this regard the phrase of para 2a of Article 20 that states "Member States *shall designate a competent national authority …* [which] *shall have access to all relevant information in accordance with Article 21a(1)"* needs to be taken into account and it is important to take into account that it does not mean an obligation for Member States to change national systems in relation to the availability of or accessibility to biometric data.

Furthermore as mentioned already above, we noted with interest that some Member States pondered the deletion of biometric data from the proposed regulation. We think this idea should be further analysed and discussed. Moreover, we also consider it important to consult the EDPS in this regard. In addition, the use of Europol's hit-no-hit-system should be discussed more in detail, in particular the relationship between the use of the system and the avoidance of overlaps. Against this background, recital 3[4] is also important in the sense that it needs to be carefully analysed what information is truly required as well as what kind of information can be considered sufficient. Furthermore, recital 9[5] shall be taken into account in this regard, in particular the fact that sufficient information is characterised to be related to cross-checking *judicial proceeding* not necessarily in relation to the identification of persons. For example, in Finland (as in many other Member States) the identification of persons belongs to the police authorities.

1(7) -> Article 27 paragraph 5

We noted with interest that some Member States in the COPEN meeting were of the opinion that para 5, or at least its second subparagraph, should be deleted in relation to proceedings concluded under national law, also regarding acquittals. Like other Member States, we are preliminarily sceptical about the possibility to process this kind of information and it would be interesting to hear what the EDPS thinks about it.

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4 "Eurojust needs to receive sufficient information to identify links between cross-border investigations".

5 In order to enable Eurojust to identify cross-links between cross-border judicial proceedings against suspects of terrorist offences as well as cross-links between judicial proceedings against suspects of terrorist offences and information processed at Eurojust relating to other cases of serious crimes, it is essential that Eurojust receives sufficient information to enable Eurojust to cross-check this data.

1(8) - >Article 29 paragraph 1a

We noted with interest that some Member States in the COPEN meeting were sceptical regarding the storing of information in case of an acquittal. This question is also linked to Article 27. We think further discussion are necessary.

1(11) -> Annex III

In relation to Annex III, all the above mentioned needs to be taken into account and further discussions and reflections are necessary, particularly regarding subparagraphs a (acquitted person) and d (biometric data).

GERMANY

Germany

Following the Presidency's invitation to submit written comments on the Proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) 2018/1727 of the European Parliament and the Council and Council Decision 2005/671/JHA, as regards the digital information exchange in terrorism cases (Counter-Terrorism-Register [CTR] proposal – ST 14458/21), we would like to share our main points as addressed in the COPEN meeting on 14 January 2022.

Our concern regarding the legal basis of Article 85 TFEU for amending the Eurojust Regulation has already been addressed in the COPEN meeting on 14 January 2022.

Regarding the CTR proposal we suggest the following amendments:

1. **Article 1 (4) and (11) = Article 21a (3) in conjunction with Annex III letter (d) – Biometric data**

We are in favour of deleting Annex III letter (d):

> ***Article 1 (11) of the proposal***
> *(11) the following Annex III is added:*
> *Annex III:*
> *(…)* ~~*(d) information to identify the suspect, where available, for the national competent authorities:*~~
> ~~*– fingerprint data that have been collected in accordance with national law during criminal proceedings;*~~
> ~~*– photographs.*~~*"*

Reasoning:
As Commission rightly pointed out on page 15 of the Analytical Supporting Document – ST 14458/21 ADD 1 "a certain overlap with the data shared by national authorities with Europol seems unavoidable due to the diverse national systems (…)". As a consequence, the duplications must be clarified at the expense of resources and time. In regards of biometric data, we do not see the need for such a procedure. The existing Hit / No-Hit System and the possibilities provided by SIENA serve for a sufficient access to biometric data in question. In addition, these options are less intrusive in regards of fundamental rights of the person concerned.

2. **Article 1 (4), Article 21a (4) – Exchange of information on terrorism cases**

We suggest the deletion of sentence 2:

> ***Article 21a***
> ***Exchange of information on terrorism cases***
> *(…) (4) The competent national authorities shall inform their national member without delay about any relevant changes in the national proceedings.*
> ~~*Without prejudice to the first subparagraph, the national authorities shall review and provide an update on the information transmitted under paragraph 1 at least every three months*~~*.*

Reasoning:
The timeliness and accuracy of the data transmitted is sufficiently ensured under Article 21a (4) Subparagraph 1.

3. Article 1 (7) (b) and (8) (a) = Article 27 (5) and Article 29 (1a) – Processing and storage of data in cases of acquittal

The provisions allowing data processing and data storage in cases where the criminal proceedings ended in acquittal should be modified.

Article 1 (7) (b) of the proposal
Article 27 is amended as follows:
(…) (b) the following paragraph 5 is added:
"5. Where operational personal data is transmitted in accordance with Article 21a, Eurojust may process the operational personal data listed in Annex III of the following persons:
(a) (…)
(b) persons who have been convicted of such offence.
Eurojust may continue to process the operational personal data referred to in point (a) of the first subparagraph also after the proceedings have been concluded under the national law of the Member State concerned~~, even in case of an acquittal.~~ ***Sentence 2 does not apply if the defendant has been finally acquitted, or, if the proceedings have been finally concluded for the reason that the defendant did not commit, or did not unlawfully commit a criminal offence in respect of which Eurojust is competent.*** *~~Where the proceedings did not result in a conviction, processing of personal data may only take place in order to identify links with other ongoing or concluded investigations and prosecutions as referred to in Article 23(2), point (c).~~"*

Article 1 (8) (a) of the proposal
Article 29 is amended as follows:
(…) (b) 5 years after the date on which the judicial decision of the last of the Member States concerned by the investigation or prosecution became final~~, 3 years in case of an acquittal~~.
(c) the date on which Eurojust is informed about a decision referred to in Article 27(5), sentence 3, in which case the Member State concerned shall inform Eurojust without delay.

Reasoning:
With regard to the principle of necessity under data protection law, we question if the storage or processing of data in the case of an acquittal and if the proceedings have been finally concluded, that the defendant did not commit the crime or did not do so unlawfully, can be of added value. In this context it is also be noted that the provisions extend to all data from Annex III.

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ITALY

CTR Draft Regulation 14458/21 – Comments by Italy

– **article 1 (2) (article 20 §2a)**

2a We consider useful the provision introduced in § 2a of art. 20, the presence of a competent national authority in matters of terrorism being necessary. Especially in legal systems, such as the Italian one, in which the competence of the prosecutor's offices is divided throughout the national territory at the district and non-centralized level, it is essential to identify an authority able to communicate quickly and promptly with Eurojust. In Italy, the National Anti-Mafia and Anti-Terrorism Directorate (DNAA) has offered an important contribution since the birth of the European Anti-Terrorism Register and it can be said that the Italian model has aspects of particular functionality: the transmission of information from the District Prosecutors to the DNAA, for the subsequent transfer of the same to Eurojust takes place regularly and demonstrates the convinced adherence of the Prosecutor's Offices to the principles of sharing information.

– **article 1 (4) (article 21a) and recitals 1 to 15 et 21**

1. We believe it is important, as regards the phase in which to proceed with the provision of information, that this corresponds to the phase of criminal investigations: the timing of sharing must be identified according to timeliness criteria, that is, referred to the beginning of the criminal investigations. However, the CTR system is currently built on the basis of judicial investigations, which however in the individual States are differently declined and can provide for the intervention of the judicial authority only after the start of the investigative phase, which could only be the prerogative of the police force, with a negative impact on the effectiveness of coordination and action. To remedy these misalignments between systems, it could be a) specifying that investigations for the purposes of the CTR must also be understood as those carried out without the intervention of judicial authorities or b) providing for a harmonization of communications between Europol and Eurojust, establishing the principle by which whenever Europol receives notification of terrorism investigations, it should in turn exchange with Eurojust through the system already provided for in our regulations (HIT / no HIT system).

2. In relation to paragraph 2, we believe that the prerequisite for the transfer of the data should only be that of the existence of a fact of terrorism, regardless of the cross-border links of the crimes for which one proceeds. Therefore, in the event of investigations for the crimes referred to in Directive (EU) 2017/541, the obligation set out in paragraph 1 should exist even if the cross-border links are not immediately clear: this is because, on the one hand, terrorism has mainly cross-border nature, on the other hand, because a possible cross-border links development could emerge precisely thanks to the sharing of information with Eurojust.

3. As for the information to be transmitted, we believe that it must be as extensive and detailed as possible: the current system that today allows the transmission of data relating to the name, surname, terrorist group to which it belongs, any *aliases* and a few other information is not suitable for allowing a secure identification of the subjects involved. We believe it is also useful to be able to enter, as the system already provides today, the data of the proceedings against unknown persons, indicating the name of the victim. The indication of legal persons as perpetrators could be useful for terrorist financing offenses.

4.With regard to paragraph 4, we consider it important to promptly notify any changes relating to the national procedure while, in the absence of such changes, the three-month deadline set out in the second part of the same paragraph may be considered too burdensome for the Member States.

5. Finally, we believe that in order not to compromise the effectiveness of the exchange of information, the provision referred to in paragraph 5 should be considered as an exception and not as a rule; from this point of view, in order to guarantee full mutual trust between States, the security of information and communication channels must be guaranteed.

– **article 1 (11) (annex III) and recital 12**

We reiterate the considerations expressed under art. 21a paragraph 3, underlining that biometric data must be communicated, obviously only if available, with a view to full cooperation aimed at identifying the perpetrators of very serious crimes in a safe and as timely manner as possible.

– **article 1 (7) (b) (article 27 §5)**

– **article 1 (8) (a) (article 29 §1a) and recital 22**

With reference to the issues related to the processing and storage of data, it should be noted that in the event of an acquittal, the processing of personal data can only take place to allow cross-checking of information and establishing cross-links pursuant to art. 23, paragraph 2, letter c). We therefore consider the three-year term for the conservation of the acquittal measures to be too low and could be equated with that of the other measures.

LITHUANIA

Lithuania welcomes the legislative initiative on the digital information exchange in terrorism cases and following the COPEN meeting of 14 January provides written comments on the provisions of the draft Regulation (14458/21).

Following the consultations with Eurojust national desk we agree with the problem areas identified:

1) Article 1(7) amends Article 27 of the Eurojust Regulation to allow for the continued handling and processing of data about previous investigations including those which ended in an acquittal or which were concluded in another way (other than sentencing). This provision is of questionable character due to the lack of legal basis to process personal data of the aquitted person whereas no legal procedures are carried out against him/her. The European Data Protection Supervisor shall be consulted and the applicable data protection rules should be clarified.

2) The implementation of the new tasks and functions introduced in the proposal should be backed by financial resources therefore we support the necessity to assess estimated financial impact of the proposal on Member States. The uncertainty concerning financial needs and sources of funding at the national level should be clarified.

NETHERLANDS

See comments below, inserted in the document and marked with yellow:

– *Article 1*

Amendments to Regulation (EU) 2018/1727

Regulation (EU) 2017/1727 is amended as follows:

(4) the following Article 21a is inserted:

"*Article 21a*

Exchange of information on terrorism cases

1. The competent national authorities shall, **as a rule,** inform their national members of any ongoing or concluded criminal investigations supervised by judicial authorities, prosecutions, court proceedings and court decisions on terrorist offences as soon as judicial authorities are involved, **notwithstanding the circumstances referred to in paragraph 5**.

2. Terrorist offences for the purpose of this Article are offences referred to in Directive (EU) 2017/541 of the European Parliament and of the Council*. The obligation referred to in paragraph 1 shall apply to all terrorist offences **that fall under Eurojust's mandate in article 3 of this Regulation. Member States may provide information on other terrorist cases if they consider involving Eurojust for that purpose useful**. ~~regardless whether there is a known link to another Member State or third country, unless the case, due to its specific circumstances, clearly affects only one Member State.~~

3. The information transmitted in accordance with paragraph 1 shall include the operational personal data and non-personal data listed in Annex III.

4. The competent national authorities shall inform their national member without delay about any relevant changes in the national proceedings.

~~Without prejudice to the first subparagraph, the national authorities shall review and provide an update on the information transmitted under paragraph 1 at least every three months.~~**5.** Paragraph 1 shall not apply where the sharing of information would jeopardise current investigations or the safety of an individual, or when it would be contrary to essential interests of the security of the Member State concerned **or the case, due to its specific circumstances, clearly affects only one Member State.**

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* Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA (OJ L 88, 31.3.2017, p. 6).";

Article 25

Access to the case management system at national level

(7) Article 27 is amended as follows:

(a) paragraph 4 is replaced by the following:

"4. Eurojust may process special categories of operational personal data in accordance with Article 76 of Regulation (EU) 2018/1725. Where such other data refer to witnesses or victims within the meaning of paragraph 2 of this Article, the decision to process them shall be taken by the national members concerned.";

(b) the following paragraph 5 is added:

"5. Where operational personal data is transmitted in accordance with Article 21a, Eurojust may process the operational personal data listed in Annex III of the following persons:

(a) persons to whom, in accordance with the national law of the Member State concerned, there are serious grounds for believing that they have committed or are about to commit a criminal offence in respect of which Eurojust is competent;

[(b) persons who have been convicted of such offence.] Not in favour, pending opinion EDPS

Eurojust may continue to process the operational personal data referred to in point (a) of the first subparagraph also after the proceedings have been concluded under the national law of the Member State concerned, even in case of an acquittal. [Where the proceedings did not result in a conviction, processing of personal data may only take place in order to identify links with other ongoing or concluded investigations and prosecutions as referred to in Article 23(2), point (c).”]; See previous comment

(8) Article 29 is amended as follows:

(a) the following paragraph 1a is inserted:

"1a. Eurojust shall not store operational personal data transmitted in accordance with Article 21a beyond the first applicable date among the following dates:

(a) the date on which prosecution is barred under the statute of limitations of all the Member States concerned by the investigation and prosecutions;

(b) [5] years after the date on which the judicial decision of the last of the Member States concerned by the investigation or prosecution became final, [3 years in case of an acquittal].”; See previous comment

(11) the following Annex III is added:

"Annex III:

(a) information to identify the suspect, accused, convicted or acquitted person:

– surname (family name);

first names (given name, alias);

date of birth;

place of birth (town and country);

nationality or nationalities;

identification document,

gender;

(b) information on the terrorist offence:

legal qualification of the offence under national law;

applicable form of serious crime from the list referred to in Annex I;

affiliation with terrorist group;

type of terrorism, such as jihadist, separatist, left-wing, right-wing;

brief summary of the case;

(c) information on the national proceedings:

status of the national proceedings;

responsible public prosecutor's office;

case number;

date of opening formal judicial proceedings;

links with other relevant cases;

~~d) information to identify the suspect, where available, for the national competent authorities: fingerprint data that have been collected in accordance with national law during criminal proceedings;~~

photographs."

SWEDEN

We would like to thank the Presidency for the opportunity to send written comments on the articles of the CTR proposal discussed at the first COPEN-meeting on January 14. We would like to point out that our comments in this document are preliminary and that we still have a general scrutiny reservation regarding the whole proposal due to still ongoing internal procedures. Further comments may therefore be provided in the further ahead.

Article 1 (4) (article 21a) and recitals 1 to 15 and 21 and Article 1 (11) (annex III) and recital 12

The fight against terrorism is a question of high priority for the Swedish government. Swedish authorities are active participants in different international forums on counterterrorism. This includes cooperation and exchange of information with Europol.

Counterterrorism is built on trust and information dealt with in investigations on terrorism is often highly sensitive. It's therefore of utmost importance that the information national authorities exchange with Eurojust in such cases can be protected and dealt with securely. Also, the national competent authority must be the one to decide which information it can exchange with Eurojust and at what time. It could be considered if this should be spelled out more clearly in the regulation.

The information the national authorities are proposed to exchange with Eurojust in accordance with Article 21 a.3 and annex III regards exchange of sensitive personal data, information that is also to a certain extent exchanged with Europol. We find that more consideration is needed in order to clarify which information Member States already exchange with Europol and if potential overlaps are needed and justified. We believe that we should avoid creating overlaps with information shared with Europol unless a clear need to exchange information both with Eurojust and Europol can be established.

The Swedish legislator has not seen any need to give the Swedish prosecutors the right to process biometric data such as fingerprints. All handling of biometric data is instead done by the police. The same assessments seems to have been made by many other national legislators in the EU. Since many judicial authorities lack access to biometric data, the need to develop an it-system within Eurojust to process such data can be questioned. In addition, processing of biometric data is very costly. Therefore, we also question if it could be justified from a financial point of view to develop a system within Eurojust that could process fingerprints when such information rarely will be transmitted to Eurojust. We see a need for further discussions of this question and for the Commission to expand on the extra costs for including processing of fingerprints in the system.