# The European Public Prosecutor's Office: How to Implement the Relations with Eurojust?

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## ABSTRACT

After giving an overview of the current and envisaged role of Eurojust, this article outlines the future relationship between Eurojust and the European Public Prosecutor's Office (EPPO). Here, the author identifies three levels of possible links between the two bodies: the institutional level, the operational level, and the administrative level for the sharing of services. They have a common denominator: the need to establish an intense reciprocal cooperation scheme, despite the diversity of the functions of the two bodies. If this strong cooperation is implemented in practice, it can become the driving force around which the entire European judicial area can be redesigned, in such a way that Eurojust will still continue to play a central role as regards judicial coordination and cooperation in criminal matters. Therefore, a non-antagonistic relationship with the European Public Prosecutor should be aimed for and pursued.

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# I. Innovations in the EU Area of Freedom, Security and Justice: Creation of the EPPO and Changes in the Eurojust Legal Framework

On 12 October 2017, the Justice and Home Affairs Council of the European Union adopted the Council Regulation on the establishment of the European Public Prosecutor's Office (EPPO) by means of enhanced cooperation promoted by 20 Member States. On 14 May 2018, the 21st Member State, the Netherlands, formally announced its intention to participate in the EPPO. Malta followed on 14 June 2018.

After more than 20 years, the project to create a supranational legal authority with the jurisdiction to investigate and prosecute financial criminal cases affecting the EU budget before national courts of the EU Member States participating in the EPPO has become a judicial reality.

The EPPO's creation marks fundamental changes in the EU's area of freedom, security and justice: specifying the new functions of the Office, and in fact, leading us into a new operational context that goes far beyond the concept of judicial cooperation, whether it is based on mutual criminal legal assistance or on the principle of mutual recognition. The phase for the "institutionalization" of the new *body* has already started.[1]

The creation of a new *entity* within the European area of freedom, security and justice will inevitably entail operational relations and dynamics with the pre-existing actors, in particular with Eurojust, the EU body established in 2002 to strengthen the judicial coordination and cooperation between the competent judicial authorities of the Member States in investigations of serious cross-border crime.[2]

An analysis of the possible relations between the EPPO and Eurojust calls for a concise exposition of the operational modules used by Eurojust to improve the effectiveness of judicial cooperation procedures in the European Union and the coordination of investigations into serious cases of organized crime.

## 1. Eurojust mission

Today, Eurojust has a distinct operational dimension, which separates it, in its normative statute and in its current practice, from the previous experience of the liaison magistrates (established since 1996) and the European Judicial Network (EJN, established in 1998). The distinctiveness of its mission is reflected in its structure: indeed, Eurojust is not a network branching out to the individual national authorities, but a central body with centralized headquarters (in The Hague), representing all 28 EU Member States. The rules on the "material competence" of Eurojust set a particularly wide range of crimes, and mirror the provisions governing Europol.

The activities of the 28 national members seconded by each Member State, whose tasks extend to managerial functions through the College, are the *core business* of Eurojust. From an operational point of view, the coordination meetings are the key tools. During these meetings, national judicial and police authorities can directly exchange information, elaborate joint investigative strategies, also with the support of appropriate analyses, and discuss relevant practical and legal issues, ranging from the prevention of *ne bis in idem* situations to the predetermination of the modalities of cross-border acquisition of evidence. The coordination efforts often support and ensure the simultaneous execution of investigative measures in several jurisdictions with different legal systems.

## 2. The reform of 2008

A reform to strengthen the new organization was launched when on 16 December 2008, the Council adopted Decision 2009/426/JHA with the aim of enhancing the body's structural and operational potential, increasing the powers of the national members[3] and of the College, furthering the exchange of information with national authorities, and improving the relations with the EJN and the other bodies competent in the field of cooperation. The attribution of powers conferred on the national member in his/her capacity as a national judicial authority, in accordance with his/her own national law and on the basis of the new Arts. 9 b), 9 c) and 9 d), is entirely innovative (except for the exercise of the right of derogation, where such attribution would conflict with the fundamental principles of the legal system of a Member State).[4]

Significant amendments were likewise made for the powers of the College in Art. 7, aimed at overcoming some functional difficulties occurring in practice.[5] The rules governing the information flow between the national member and the correspondent judicial authorities (Art. 13) are equally aimed at improving the functioning of supranational investigative coordination, since the availability of information on the existence of cross-border investigations or, more simply, of criminal facts involving two or more Member States (or third States), is an essential condition for Eurojust to carry out its mandate. The basic principle is that the competent judicial authorities of the Member States have to exchange with Eurojust any relevant information on cross-border crimes, as an essential requirement of the coordinating function, thus overcoming the sporadic and unstructured nature of the information flow.

The strengthening of cooperation with the contact points of the EJN and with the national correspondents, through the establishment of the Eurojust National Coordination System (Art. 12) is a closely related objective. The purpose of this rule was to connect the operations of the various actors responsible for judicial cooperation at the national level with one another and to set up a comprehensive system, connecting them with their respective national member of Eurojust.

## 3. The way ahead – the new Eurojust Regulation

### a) Legal basis in the Lisbon Treaty and Commission proposal

The Eurojust legal basis was included in the reshaping of the *freedom, security and justice area* launched by the Lisbon Treaty. While Art. 85 of the Treaty on the Functioning of the European Union (TFEU) confirms the centrality of the Agency in the judicial cooperation domain, enhancing its role as supranational coordinator, some important innovations can be noticed in paragraphs a) and b) of the second sub-paragraph of Art. 85 TFEU: empowering the body to commence investigations and preventing/solving jurisdictional conflicts. Both norms go beyond the mere role of Eurojust as a *mediator* established by the current legal framework, conferring binding powers vis-à-vis national authorities.

Taking a critical look at the implementation process of the Eurojust Decision of December 2008, it can easily be seen that the reform has had limited impact from a practical point of view and the results have not always been in line with the expectations, first because of some delays in the transposition at the national level, and second because of the different solutions adopted in Member States concerning the legal powers of its national members. Therefore, on 17 July 2013, the European Commission, without even waiting for the conclusions of the sixth evaluation round (dedicated to the functioning of Eurojust and the EJN), proposed a regulation for the reconfiguration of the Agency on the basis of Art. 85 TFEU.[6] The proposal was tabled together with the EPPO proposal.

The Commission's objectives for a further reform of Eurojust were:

- To increase its efficiency by providing it with a new governance structure encouraging the national members to become more involved in operational responsibility;
- To improve Eurojust's operational effectiveness by homogeneously defining the status and powers of national members (facilitated by the use of the regulatory instrument);
- To provide roles for the European Parliament and national parliaments in the evaluation of Eurojust's activities in line with the Lisbon Treaty;
- To bring Eurojust's legal framework in line with the common approach on the European Decentralized Agencies,[7] while fully respecting its special role in the coordination of on-going criminal investigations;
- To ensure that Eurojust can cooperate closely with the European Public Prosecutor's Office upon its establishment.

While several provisions of the previous Eurojust Decision remained unchanged, the proposal introduced some minor changes to the previous text, the relevance of which should not be underestimated: indeed, even merely re-proposed rules could have an impact on the overall functioning of the organization when inserted in a different legal context. In any case, the proposal remains completely silent as to the attribution of possible binding powers vis-à-vis national judicial authorities in relation to the initiation of criminal investigations and the resolution of conflicts of jurisdiction.

### b) The negotiations in the Council

The text of the proposal was not substantially amended during the negotiations which culminated in the agreement reached within the Council in March 2015, which did not include the parts concerning the relationship with the EPPO, whose regulation was not yet finalized, and the data protection regime.

Looking at the main changes proposed, it is clear that the so-called *ancillary jurisdiction* (specified in Art. 3 of the proposal on the Eurojust regulation) already provided for in the original Decision has been reinstated. According to this reinstatement, Eurojust may also assist in investigations and prosecutions at the request of a competent authority of a Member State for other types of offences than those listed in the separate Annex to the new draft regulation.

One of the most sensitive points in the negotiations was the issue of the powers of the national members, which the proposal for a regulation deals with in Art. 2(2). The aim was to achieve greater homogeneity between Member States. Two antagonistic interests have been manifested during the negotiations: some States tended to obtain greater flexibility and, therefore, also a possible enlargement of the judicial powers of their own member at the national level; other States looked upon this attribution unfavorably. As a result, some amendments were introduced in order to reach general agreement in the Council which foresaw, on the one hand, the possibility for Member States to grant their national members judicial powers in accordance with their national legislation, even in addition to those powers indicated in the Commission proposal. On the other hand, an exception clause has been reinstated whereby if the attribution of the powers (specified in paragraphs 2 and 3) to the national member is contrary to constitutional rules or to fundamental aspects of the criminal justice system in a Member State, relating to (i) the division of powers between police, prosecutors, and judges, (ii) the functional division of tasks between prosecutors, or (iii) the federal structure of the Member State concerned, the national member has the power to submit a proposal to the national authority responsible for implementing the measures in question.

As regards the power to perform judicial acts, in accordance with their national authorities, the final text contains useful specifications that go beyond the vagueness of the original wording and takes into account the adoption of the Directive on the European Investigation Order in criminal matters. National members will be able to issue and execute any request for mutual assistance or recognition; to order or request and carry out investigative measures in accordance with Directive 2014/41/EU; and to participate, where appropriate, in joint investigation teams and in their setting up.[8]

This is without prejudice to the possibility that, in urgent cases, when it is impossible to identify or contact the competent national authority in a timely manner, the national members may take the above measures in accordance with national law and inform the competent national authority thereof as soon as possible.

The text resulting from the negotiations also contains a more precise definition of the powers of the College, which has to focus mainly on operational issues and may intervene in administrative matters only to the extent necessary to ensure the functioning of the Agency.

### c) The legislation after the trilogue

It is worth recalling that a general approach was reached within the Council in March 2015 already. On 20 December 2017, the European Parliament adopted its report, which contains a number of amendments concerning the original proposal of the Commission. This was the starting point of the so-called *trilogue,* which involved the three competent institutions (the Council, the Commission, and the European Parliament) in defining a collaborative text.

The main changes in the final text[9] of the regulation concern the following points:

- The distinction between the operational and management functions of the College of national members;
- New regime on data protection rules adapted to the recent legal framework on data protection for EU institutions;
- The setting up of an executive board to assist the College in its management functions;
- New provisions on annual and multi-annual financial programming;
- The participation of the Commission in the College and in the executive board;
- Increased transparency through a joint evaluation of Eurojust's activities by the European Parliament and national parliaments.

# II. Relations Between the EPPO and Eurojust: From Possible Structural Derivation to Necessary Relations with a View to Cooperation

## 1. Differences between the EPPO and Eurojust

Despite the distinctive traits of both bodies that are evident especially in terms of function, the final changes made to the composition of the EPPO nevertheless indicate some similarities with Eurojust, which manifested themselves particularly in the collegial composition of the EPPO's central structure.

The distinctive features of Eurojust and the EPPO are apparent. The Union has pursued a different project with the creation of the EPPO. The latter is no longer a *coordinator* or *facilitator* of relations of criminal judicial cooperation, *but* a *real investigative body*, meant to operate on a wide territory, that almost covers the entire European judicial area. It could be argued, however, that, for crimes within the EPPO's jurisdiction, the ultimate responsibility for investigation will remain with the European Delegated Prosecutor (EDP), so that the EPPO will essentially supervise and ultimately coordinate investigations of a different operational unit working at the national level.

A further difference exists with respect to the salient points of the criminal investigation: the central structure of the EPPO will have binding powers in view of the prosecution – powers that are notoriously lacking at Eurojust with respect to the national judicial authorities.

Moreover, the requirement of the EPPO's independence, if entirely implemented, could completely emancipate the operational dynamics of the new body from those of Eurojust, whose national members are being subjected to a more or less strong relationship with their own national authorities (in some cases, this is reflected in the decisions expressed within the College).

In sum, profound differences between the two bodies can be discerned both on the organizational-structural and functional levels. Nevertheless, it is legitimate to envisage the activation and development of a number of mutual relations between the EPPO and Eurojust.

## 2. Links between the EPPO and Eurojust

In this respect, it is worth recalling that the Treaty of Lisbon referred to a European Prosecutor established "from Eurojust", without giving a clear explanation of the meaning of this phrase. The formula "from Eurojust" (Art. 86 TFEU) marked one of the most delicate points of the European legislator and for everyone who tries to construe the treaty: although the text was ambiguous, the reference to Eurojust was symptomatic of the possible origin and development of the EPPO from Eurojust.

This structural derivation was contradicted from the very beginning of the founding proposal, which marked a clear distance of the EPPO from Eurojust. Even the consistency with the Treaty provision could cast doubt. In the final Commission proposal for the EPPO Regulation,[10] in fact, the issue of its relations with Eurojust was resolved not in the sense of genetic-structural derivation, but in the operational-functional sense. This is confirmed in the final EPPO Regulation 2017/1939, recital *n. 10*:

"[…]this Regulation should establish a close relationship between them based on mutual cooperation." The concept of cooperation, with Eurojust as a service provider towards the EPPO, is repeated in recital *n. 69* stating:"[u]nder the principle of sincere cooperation, all national authorities and the relevant bodies of the Union, including Eurojust, Europol and OLAF, should actively support the investigations and prosecutions of the EPPO […]."

The relationship between the two bodies is further underlined in the field of cooperation with third countries. Recital *n. 102* states:

"the EPPO and Eurojust shall become partners and cooperate on the operational level in accordance with their respective mandates. […] Whenever the EPPO is requesting such cooperation of Eurojust, the EPPO should liaise with the Eurojust national member of the handling European Delegated Prosecutor's Member State. The operational cooperation may also involve third countries that have a cooperation agreement with Eurojust."

The importance of bilateral cooperation as a distinctive feature of both bodies is underlined in Art. 3 of the EPPO Regulation, which set the establishment of the new body:

"The EPPO shall cooperate with Eurojust and rely on its support in accordance with Article 100."

Art. 100 finally defines the relations with Eurojust.[11]

## 3. Concrete situations for interaction

In any attempt to identify all the possible links between Eurojust and the EPPO, which must ultimately be enshrined in a specific operational agreement, it should be emphasized that the collaboration between the two bodies will be a marking feature of their future co-existence, because they will need to maintain a constant dialogue and assist each other, despite having different functions and mandates. The reasons for identifying a variety of potential situations for interaction among the two bodies is a consequence of the EPPO's competences, which leaves room to maneuver for Eurojust's mission and action.

First, this might apply to investigations of PIF offences *strictu senso*, which fall under the EPPO's competence and which are often transnational in their nature. Given that the territorial competence of the new EU judicial body does not fully cover the territory of all EU countries, there is room for broad cooperation in investigations involving non-EPPO countries. Eurojust is made up of national representatives from all 28 EU Member States, plus liaison magistrates from Norway, Switzerland, the United States of America, and Montenegro, with whom Eurojust has concluded cooperation agreements and to whom it can provide support as far as investigations and prosecutions are concerned. As a result, Eurojust will be able to cooperate in transnational cases of PIF offences, which might affect the territory of States not participating in the EPPO.

Second, operational cooperation can be envisaged with respect to cases concerning offences which in principle are not covered by the competence of the EPPO, but can be committed alongside PIF offences ("any other criminal offence that is inextricably linked to criminal conduct that falls within the scope of paragraph 1 of Article 22 of EPPO Regulation"). The competence with regard to such criminal offences may only be exercised by the EPPO if the sanctions for the PIF offences are more severe than the maximum sanction for an "inextricably linked" offence.

Moreover, with regard to these cases attached to the EPPO's ancillary jurisdiction, it should be kept in mind that the criteria for the precise identification of such cases may not be very clear-cut, due to a margin of different interpretations of Art. 22, subparagraph 3 of the Regulation. This will make it necessary to establish reliable and shared interpretative parameters on the meaning of *other offences,* which are inextricably linked to offences affecting the financial interests of the EU and which could therefore also fall within the scope of Eurojust's competence.

Third, Eurojust may also have its own operational capacity in relation to VAT fraud cases that have caused a damage of less than €10 million and involve two or more Member States. In this context, the future working agreement of the EPPO with Eurojust must establish criteria that will make it possible to smoothly define the identification of such a threshold, e.g. whether the total damage resulting from the crime should be taken into account or only the percentage of VAT evaded that would have benefited the EU budget. It would also be useful to clarify whether presumptive criteria may be used to determine such damage.

Fourth, provided that the offences in question fall within Eurojust's mandate, Eurojust remains competent for offences for which the EPPO does not exercise its jurisdiction under Art. 25 of the EPPO Regulation, i.e. if the European Delegated Prosecutor has not opened an investigation and the Permanent Chamber has not in-

structed him to do so or, vice versa, if the EPPO, though materially competent, has not exercised its right of evocation under Art. 27 of the Regulation or has referred the case back to the national authorities for cases covered by Art. 34 of the Regulation.

## 4. Lines of future collaboration

In the following, I will sketch some lines along which the future mutual collaboration should be shaped.

The first one will be primarily of an *inter-institutional nature:* it is expected, in fact, that the representatives of the two bodies, the President of Eurojust and the European Chief Prosecutor, will have to meet regularly to discuss and deal with matters of common interest. A starting point in this regard is the definition of the EPPO's internal rules during its initialization. In this respect, the experience gained by Eurojust in the elaboration of its internal rules will be useful.[12] This cooperation will then result in the European Chief Prosecutor or his/her deputies being able to participate in the meetings of the College of Eurojust when it deals with matters of common interest.

A second step in the link will be *genuinely operational*. The development of *cooperative relations between Eurojust and the EPPO* may lead to the following:

(a) *Exchange of information*. Art. 100 para. 3 of the EPPO Regulation provides that the EPPO shall have indirect access to the information contained in the Eurojust Case Management System on the basis of a hit/no hit system. When data entered into the Case Management System by the EPPO correspond to data entered by Eurojust, then Eurojust, the EPPO, and the Member State of the European Union that has supplied the data to Eurojust shall be notified. The EPPO shall take appropriate measures to ensure that Eurojust, in turn, has access to the information contained in its Case Management System on the basis of a positive or negative feedback system.

(b) Facilitation of the EPPO's requests for *judicial cooperation*. Eurojust can support the EPPO when taking the required measures, in accordance with the mandate of the national members, and ultimately help facilitate transnational investigative coordination. In fact, when the crime affecting the financial interests of the Union is transnational, and evidence has to be gathered in another country not participating in the EPPO, Eurojust may be called upon to carry out its task of supporting the cooperation procedures of interest to the EPPO. Furthermore, in the same cases, it will be possible to ask Eurojust or its national members – and in conjunction with their national authorities – to take recourse to the power to carry out specific acts of judicial cooperation, or to transmit requests for mutual legal assistance, including those based on the principle of mutual recognition. Eventually, it is conceivable that the European Delegated Prosecutor might ask the judge to issue a European Arrest Warrant (cf. Art. 33 of the EPPO Regulation) to be executed in a State where the intervention of the national member of Eurojust could facilitate or support the enforcement.[13]

(c) Cooperation could also take the form of *joint participation in judicial cooperation instruments*, for example when the national member(s) and the European Public Prosecutor can be members of a joint investigation team.

Third, the collaborative relations between the two bodies may concern *administrative cooperation,* which is to be understood as *common service management*: the EPPO, on the basis of a specific agreement, can also count on the support of certain technical and administrative resources from Eurojust. The determination of the Grand Duchy of Luxembourg as the EPPO's seat may make such sharing more difficult. As regards information technology, the EPPO should be part of a mechanism for the exchange of data with Eurojust, based on the hit/no hit system.

# III. Concluding Remarks

The creation of the EPPO is a major innovation in the European Area of Freedom, Security and Justice. For the first time, an entity with clear judicial connotations and jurisdiction covering almost the entire territory of the Union has been created. This is a unique opportunity for a first implementation of a *federal Europe* in the field of criminal justice. It may trigger the redesign of a comprehensive architecture of the judicial area, since the political initiative (supported by some States and the President of the European Commission, *Jean-Claude Juncker*) to immediately extend the new body's powers to other "Euro-crimes", with particular regard to the crimes of international terrorism, has already been launched.[14]

The normative solution undoubtedly reflects originality, namely the creation of a mosaic of "unity of multiple parts" realized by the current collegial structure. This very creative solution, however, may be the weak point of the new Office. Will the collegial structure and the functioning of the chambers succeed in ensuring the operational efficiency otherwise inherent in a hierarchical structure with a clear chain of command?

It is wise to wait and observe the EPPO in action before making judgements and, above all, before investing it with new tasks for which it may not be equipped or its structure is not suitable. Of course, the new, unifying center will certainly be the driving force behind further changes in the European legal landscape, and this scenario is very interesting from the point of view of the analysis of legal systems and institutions. What will ultimately count will be the ability of the newly created body to provide answers to the judicial questions for which it has originally been set up – the ability to know how to protect the financial interests of the Union and its citizens.

In this sense, cooperation with Eurojust remains important, not only from an operational point of view, but also from a strategic one. It would be a mistake not to provide Eurojust with the necessary resources to ensure the efficient exercise of the functions that serve the judicial authorities of the Member States. Member States' authorities have shown that they make increasing use of Eurojust over the years.

Eurojust's more than fifteen-year existence can be considered a continuing success story. Statistical data confirms not only the steady increase in the number of cases handled but also their ever greater complexity as far as the number of Member States involved and the type of crimes for which Eurojust's support has been sought are concerned. Eurojust's operational development is attributable not only to the changing face of crime, which is increasingly cross-border and requires the intervention of *facilitators*, but also to its reputation *on the ground* and its capacity to build up trustworthy relationships with national judicial authorities.

In this respect, while the EPPO will take on the organizational dimension to reach its full operational impetus, there is still room to improve Eurojust's capabilities according to Art. 85 TFEU, especially in the field of counter-terrorism where a more comprehensive exchange of information is needed. Indeed, Eurojust can even play a major and proactive role by becoming the central hub at the EU level for gathering judicial information concerning the investigation and prosecution of terrorist crimes, in close cooperation with Europol, thus closing the current gaps in multilateral cooperation in this specific criminal area.

The most viable condition for the future of the European judicial area is therefore a strong, loyal, and wide-ranging synergy between the EPPO and Eurojust, with the knowledge that the activities of one agency will be able to increase the efficiency and legitimacy of the other, and vice versa. A competition, even if only imagined, would be detrimental to both of them and is therefore to be avoided. Strengthening Eurojust, its operational tasks, and its financial budget means ensuring the necessary conditions and the capacity of the Agency to provide appropriate answers to the growing demand for judicial services from the EU national

authorities. In this way, an adequate judicial response of the EU to the increasing challenges posed by terrorism and organized crime can be guaranteed.

1. See the article of Petar Rashkov, "EPPO Institutionalization during the Bulgarian Council Presidency", eucrim 2/2018 (https://doi.org/10.30709/eucrim-2018-009).↩
2. Eurojust was created by Council Decision 2002/187/JHA (O.J. L 63, 6.3.2002, 1), but had already been tested by way of the creation of a provisional Unit since 2000. According to one of the founding fathers of Eurojust, former Swedish judge and later member of the General Secretariat of the Council, Hans G. Nilsson, the creation of Eurojust had "been written in the stars" since the establishment of Europol. Indeed, on the day following the entry into force of the Maastricht Treaty on 2 November 1993, an initiative was taken, which in some respects anticipated its creation: the Belgian Minister of Justice proposed the adoption of a joint action to establish a "Centre for Information, Discussion and Exchange in the field of Judicial Cooperation" (CIREJUD). This proposal did not materialize, but formed the basis for the completion of an initiative for the creation of the European Network of Contact Points in 1998. The seed was sown: from that moment on, successive inter-institutional dynamics led to the establishment of the provisional formation of "Pro-Eurojust" in 2000.↩
3. In this regard, reference is made to the additional powers stipulated in Art. 6 (vi) and (vii), according to which, respectively, the national member may take special investigative measures or any other measure justified by the investigation or proceedings. It should also be noted that the exercise of these powers has a greater impact on the national authorities, which in any case have to provide an explanation when they refuse a request from a national member.↩
4. According to Art. 9 e) of the 2009 Eurojust Decision, where the attribution of such powers is contrary to constitutional rules or to fundamental aspects of a national criminal system, the national member must at least be competent to make proposals to his/her national authorities for the exercise of the powers referred to in Arts. 9(c) and 9(d).↩
5. In particular, in addition to its existing powers, the College may issue non-binding written opinions in cases in which two or more Member States fail to reach an agreement in the event of a conflict of jurisdiction or a joint refusal to undertake a criminal investigation. Another power is the possibility to issue decisions in cases of persistent refusal or difficulties in the execution of letters rogatory or of decisions based on the principle of mutual recognition. In this case, the activation of the College is subject to the condition that no agreement is reached between the competent national authorities or that the impasse could not be overcome through the involvement of the corresponding national members.↩
6. Cf. European Commission proposal of 17 July 2013 for a Regulation of the European Parliament and of the Council establishing a European Union Agency for Judicial Cooperation in Criminal Matters (Eurojust), COM(2013) 535 final.↩
7. It should be recalled that, following the Commission's Communication "European agencies – the way forward", COM(2008) 135 final, the European Parliament, the Council, and the Commission agreed to launch an inter-institutional dialogue to improve the coherence, efficiency, and work of decentralized agencies, which led to the creation of an inter-institutional working group in March 2009. The group discussed a number of key issues, including the role and place of the agencies in the EU's institutional landscape, their creation and structure and operation, as well as funding, budget, supervision, and management issues. This work led to the Joint Statement on EU Decentralised Agencies, endorsed by the European Parliament, the Council, and the Commission in July 2012, which will be taken into account on a case-by-case basis in the context of all decisions on EU Decentralised Agencies.↩
8. However, where the joint investigation team is financed by the Union budget, the national members of the Member States concerned shall always be invited to participate.↩
9. A crucial step was made on 20 June 2018: the EU ambassadors confirmed an agreement reached on 19 June 2018 between the Bulgarian Presidency of the Council and the European Parliament on rules amending the regulation of Eurojust. Formal adoption of the new regulation, however, is expected under the Austrian Presidency in the second half of 2018 after linguistic revision and formal adoption by the Council and the European Parliament.↩
10. Cf. COM(2013) 534 of 17 July 2013.↩
11. See also Art. 57 of the EPPO proposal, COM(2013) 534 final, and Art. 41 of the Eurojust proposal, COM (2013) 535 final.↩
12. See the rules of procedure for Eurojust approved by the Council on 13 June 2002.↩
13. In this context, it is certainly foreseeable that the European Delegated Prosecutor and the national members will be able to participate in coordination meetings and in all the operational modules that have emerged in the practice of Eurojust.↩
14. Cf. T. Wahl, eucrim 3/2017, p. 104.↩

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