

Parliament of Romania
Chamber of Deputies
President

Ref. No: 1/4485/VZ

Date: 23/12/2013

Opinion

on the Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Criminal Justice Cooperation (Eurojust) COM (2013) 535

Having regard to the Treaty of Lisbon, in particular Articles 5 and 12 of the Treaty on European Union and Protocols 1 and 2 thereto,

Having regard to the Constitution of Romania, as republished, in particular Article 148 thereof,

Having regard to Decision No 11/2011 of the Chamber of Deputies,

Taking into account the draft opinion adopted by the Committee on Defence, Public Order and National Security at its meeting of 1 October 2013,

Taking into account the draft opinion presented by the Committee on Human Rights, Religious Affairs and Minorities at its meeting of 7 November 2013,

Taking into consideration the final draft opinion adopted by the Committee on European Affairs at its meeting of 11 December 2013,

Having regard to the approval given by the Permanent Office of the Chamber of Deputies on 16 December 2013,

The Chamber of Deputies, acting in accordance with Article 40 of Decision No 11 of the Chamber of Deputies of 19 April 2011, hereby adopts this Opinion:

The Chamber of Deputies

1. Notes the decision of the Committee on Defence, Public Order and National Security to support the proposed Regulation and recommend that the Romanian delegation to the Council of the European Union adopt a favourable position;
2. Notes the opinion of Committee on Human Rights, Religious Affairs and Minorities which welcomes the proposal and regards it as realistic;
3. Notes the favourable preliminary position of the Romanian Government, including the opinion presented by the Ministry of Justice, supporting the adoption of this Regulation, only on the basis of a detailed analysis which will produce comments and suggestions to be submitted by the Romanian delegation to the Council of the European Union;
4. Recognises that Eurojust has substantial merits in facilitating coordination and cooperation between national investigative and prosecutorial authorities, and that it has helped

to build mutual trust and to bridge the EU's wide variety of legal systems and traditions;

5. Agrees that Eurojust must be seen as a global actor in the field of international criminal justice and a 'one-stop shop' between Member States and third countries in judicial cooperation and the exchange of information in cases with connections beyond the borders of the EU, and that the liaison magistrates and contact points have been confirmed as valuable bridges in third countries;

6. Notes that an EU regulatory act is essential for bringing secondary law into line with primary law, considering that Eurojust was originally established under the former pillar III as the European Union's 'judicial cooperation unit' (where the primary role was played by the Member States, through their national representatives, not by the EU institutions), and was to become the European Union Agency for Criminal Justice Cooperation;

7. Notes that the proposed Regulation aims, at the same time, to strengthen and enhance the efficiency of Eurojust, both in operational and in administrative terms;

8. Considers, nevertheless, that it would have been appropriate to draw up the proposal after completion of the sixth round of peer reviews of the implementation by Member States of decisions regarding Eurojust and the European Judicial Network, which would have allowed for taking into consideration also the conclusions of those assessment reports;

9. Notes that, whilst maintaining those elements that have proved efficient in the management and operation of Eurojust, the new Regulation streamlines Eurojust's functioning and structure in line with the Lisbon Treaty;

10. Welcomes in particular those changes to the governance of Eurojust which enhance democratic control and the involvement of the European Parliament and the national Parliaments in evaluating Eurojust's activities, while maintaining its operational autonomy;

11. Notes that the need for a new governance system for Eurojust also arises from differences in the national law of EU Member States, which in some Member States, including Romania, gives national members a status which enables them to successfully fulfil their mission, while in other Member States national members are granted only limited powers;

12. Agrees that one of the main changes, namely the one referring to the management of Eurojust, establishing a new structure comprising the College, the Executive Board and the Administrative Director, drawing a clear distinction between operational and management powers, and laying down a uniform status and detailed outlines of the operational powers of national members, can contribute to achieving the objective of enhancing the Agency's effectiveness;

13. Notes that the provisions aimed at creating robust links and synergies between the European Public Prosecutor's Office and Eurojust, through effective cooperation and the exchange of information, expertise and resources, have been included both in the Regulation on the European Public Prosecutor's Office and in that on Eurojust;

14. Points out, nevertheless, that there is a risk of a duplication of tasks and a reduction in the effectiveness of Eurojust, if resources are transferred to the future Prosecutor's Office in an unbalanced manner, and considers that, in the event of overlapping jurisdiction in hybrid cases, Eurojust can provide assistance in resolving conflicts of jurisdiction;

15. Notes that, as regards the tasks of Eurojust, the proposed legislative act grants Eurojust only complementary functional powers, specific to judicial cooperation, even though under Article 85 TFEU the Agency may also be granted primary powers, referring to the initiation of criminal investigations or at least proposing the initiation of prosecutions, including in relation to offences against the financial interests of the European Union;

16. Considers that Eurojust's operational tasks must fully reflect the new conceptual approach of Article 85 TFEU, by means of detailed provisions on the procedure under which Eurojust can initiate criminal investigations, and on resolution of conflicts of jurisdiction;

17. Points out that, if the European Public Prosecutor's Office is established on the basis of enhanced cooperation, it will cause a deficit in the Agency's jurisdiction in the case of the Member States which do not participate in that cooperation, since Eurojust, in contrast to the European Public Prosecutor's Office, does not have jurisdiction to carry out criminal investigations or initiate criminal proceedings in cases of fraud;

18. Considers that the proposal to establish the College of Eurojust with two compositions, one comprising only the national members, for operational judicial cooperation activities, and one which also includes representatives of the European Commission, for Eurojust's management activities, is not a solution to achieve the objective of enabling national members to focus exclusively on operational judicial cooperation activities and be relieved of Eurojust's management tasks; The current proposal would ensure only a separation of the two functions of the College of Eurojust, without relieving national members of decisions on the management of Eurojust, and fulfilment of the operational tasks might be affected by the management tasks;

19. Considers that the proposed Regulation should lay down clearer provisions on relations with the European judicial networks, in particular relations with the European Judicial Network on criminal matters, and define the scope of the autonomy of the secretariats thereof within the Eurojust management system;

20. Considers that the future Regulation should be a genuine reform of Eurojust, not just a takeover, with some modifications, of a large part of the current Council Decision.

This Opinion is addressed to the Presidents of the European Parliament, the Council and the European Commission and to the Romanian Government.

President,
Valeriu Ștefan Zgonea