

INFORMATION NOTE

establishing compliance with the principle of subsidiarity of 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

The requirements provided for in the Treaties concerning the subsidiarity scrutiny were judged as being fulfilled by the proposal, and the legal basis of the proposal (Article 85 TFEU) was judged as appropriate.

Establishing of a single and new legal framework for Eurojust, as a EU Agency being the legal successor of Eurojust unit, was welcomed.

It was thought that Eurojust should be perceived as global player in the international criminal justice and as “one-stop shop” between EU Member States and third countries within judicial cooperation and information exchange, in cases with connections beyond the EU borders.

It was duly noted that duplication of powers among the future European Prosecutor’s Office and Eurojust and a reduction in effectiveness of Eurojust as a consequence of a disproportionate transfer of resources [from Eurojust] to the future European Prosecutor’s Office should be avoided. The privileged relationship of cooperation between Eurojust and Europol was welcomed.

It was acknowledged that the proposal for a Regulation does not bring changes in the substance of the Eurojust tasks. It was noted that the reform aims at the Eurojust internal management. The clear separation between operational matters and administrative tasks was welcomed.

The greater involvement of the European Parliament and of the national parliaments in evaluating Eurojust activities was also welcomed. The proactive dimension of Eurojust mandate was supported and national parliaments were encouraged to consolidate it.

The national legislative framework concerning Eurojust was judged as an appropriate standard. A special emphasis was placed on the fact that the activity report of the Romanian desk at Eurojust is submitted also to the Parliament, besides the Prosecutor’s Office and the Superior Council of Magistracy, along with the fact the Romanian national member at Eurojust may be called for hearings by the legal affairs Committees and European affairs Committees of both Chambers.

Certain provisions of the proposal were judged as being liable to remove possible concerns towards compliance with the subsidiarity principle:

- from the point of view of the tasks performed by Eurojust, the legislative proposal provides only for supplementary functional competences (specific to judicial cooperation – Article 85(1)(b) and (c) [TFEU]) even if, according to Article 85 [TFEU], Eurojust may receive also main competences, concerning the initiation of criminal proceedings, regarding crimes affecting the Union's financial interests, as well;

- [the proposal] does not affect the judicial systems or administrative procedures of the Member States in what concerns the nomination of the national member or the internal organisation of the national desks at Eurojust;
- national authorities are informed with the investigations or prosecutions of which Eurojust has been informed, and which have repercussions at EU level or which might affect Member States other than those directly concerned;
- national members' competences were broadened, while the Executive Board has been given only the task of assisting the College, without being involved in operational matters of Eurojust.

In order to ensure a reasonable degree of flexibility in competences of Eurojust, other forms of serious crimes than those referred to in the list within the annex could be included, which would ensure consistency of the actions carried out by the agency and its effectiveness.

Both criteria of the subsidiarity test were judged as being fulfilled.