

(Acts adopted under Title VI of the Treaty on European Union)

## **RULES OF PROCEDURE OF EUROJUST <sup>(1)</sup>**

(2002/C 286/01)

### **PREAMBLE**

#### **TITLE I — ORGANISATION AND FUNCTIONING**

##### CHAPTER I — THE COLLEGE

- Article 1. Composition and operation of the College
- Article 2. Functions of the College
- Article 3. Election of the President and Vice-Presidents
- Article 4. Functions of the President
- Article 5. Functions of the Vice-Presidents
- Article 6. Committees
- Article 7. The function of Secretary of the College
- Article 8. Meetings of the College
- Article 9. Quorum and voting
- Article 10. Attendance at meetings
- Article 11. Minutes of the meetings

##### CHAPTER II — NATIONAL MEMBERS

- Article 12. Status of the national members
- Article 13. Information from the national members

#### **TITLE II — OPERATIONAL RULES**

- Article 14. Operational work
- Article 15. Operational work of the College [level I]
- Article 16. Operational work of the members [level II]
- Article 17. Special co-ordination meetings [level III]
- Article 18. Exercise of powers under Articles 6 and 7 of the Decision
- Article 19. Participation of other entities

#### **TITLE III — RELATIONS WITH THE INSTITUTIONS AND BODIES CREATED BY OR BASED ON THE TREATIES**

- Article 20. The European Parliament
- Article 21. The European Commission
- Article 22. The European Anti-Fraud Office (OLAF)
- Article 23. Europol

#### **TITLE IV — STAFF RULES**

- Article 24. The Administrative Director
- Article 25. The Eurojust staff

#### **TITLE V — PROVISIONS REGARDING THE TREATMENT OF PERSONAL DATA <sup>(2)</sup>**

- Article 26. Personal data

#### **TITLE VI — OTHER PROVISIONS**

- Article 27. Amendments to the Rules of Procedure
- Article 28. Entry into force

<sup>(1)</sup> Adopted unanimously by the College of Eurojust at its meeting on 30 May 2002 and approved by the Council on 13 June 2002.

<sup>(2)</sup> These provisions will be adopted at a later stage and submitted for approval by the Council (Article 10(2)).

THE COLLEGE OF EUROJUST,

*Article 3*

Having regard to the Council Decision 2002/187/JHA of 28 February 2002 <sup>(1)</sup>, hereinafter referred to as 'the Decision' whereby Eurojust was created with a view to reinforcing the fight against serious forms of crime, and in particular Article 10 of the Decision,

Noting that these Rules of Procedure will be supplemented with regard to the provisions concerning the processing of personal data when consultation with the Joint Supervisory Body has taken place.

ADOPTS THE FOLLOWING RULES OF PROCEDURE:

## TITLE I

### ORGANISATION AND FUNCTIONING

#### CHAPTER I

#### The College

##### *Article 1*

#### Composition and operation of the College

In accordance with Articles 10(1) and 28(1) of the Decision:

1. The College shall consist of all the national members. Each national member shall have one vote.
2. The College shall be responsible for the organisation and operation of Eurojust.

##### *Article 2*

#### Functions of the College

In performance of its functions as laid down in the Decision, the College, as the body responsible for the organisation and operation of Eurojust, shall:

1. Agree to the creation of ad-hoc committees in accordance with Article 6 of these Rules of Procedure and designate among the College its members.
2. Approve the call for applications for the post of Administrative Director and designate from among its members the selection board.
3. Appoint, by a two-thirds majority of the College, the financial controller of Eurojust.
4. Appoint, by a two-thirds majority of the College, the internal auditor of Eurojust.
5. Act as otherwise provided for in these rules of Procedure.

#### Election of the President and Vice-Presidents

1. The College shall elect a President and two Vice-presidents from among its members. The results of the election shall be submitted to the Council for approval.

2. The College shall elect the President by a two-thirds majority of the College issued in a secret ballot by the national members. National members wishing to be elected shall present their candidacy in writing to the College before the meeting in which the election is to take place.

3. If no member attains the required majority in the first round of voting, a second round of voting shall be held immediately to elect by a two-thirds majority of the College one of the two or, where an equal number of votes has been attained, several members who attained the greatest number of votes in the first round. If a two-thirds majority of the College is not attained, a third ballot shall take place immediately to elect by a simple majority one of the members who attained the greatest number of votes in the second round. If no member obtains a majority in the third round, the longest serving member of those members tied will be deemed elected.

4. The College may invite a person from the European Union institutions to attend the election as an observer.

5. Once the President has been elected, the College shall elect the Vice-Presidents, also by secret ballot. The two members obtaining the greatest number of votes shall be elected. The election of Vice-President shall otherwise be governed by the same rules as applicable to the election of the President.

6. The term of office of the President and the Vice-Presidents shall be three years; a member may be re-elected once to the same office. At the end of their terms, the College shall hold new elections in accordance with the procedure established in the previous paragraphs. In the meantime, the President and the Vice-Presidents shall continue to exercise the functions of President and Vice-President until the appointment of their successors and approval by the Council.

7. In the event that a national member holding office as President or Vice-President is replaced by a Member State during the exercise of their office or in the case of resignation or death of a President or Vice-Presidents elections will be held in accordance with the procedures established in paragraphs 2, 3 and 5.

##### *Article 4*

#### Functions of the President

1. The President shall exercise the functions expressly conferred upon him or her by the Decision and the present Rules of Procedure, on behalf of the College and under its authority.

<sup>(1)</sup> OJ L 63, 6.3.2002, p. 1.

2. The President shall represent Eurojust. He or she shall sign all official communications from Eurojust, when acting as a College, on behalf of the College. His or her powers to sign on behalf of the College in financial matters shall be governed by the Financial Regulation.

3. The President shall call and preside over the meetings of the College, determine the place, day and time of the meetings, draft the provisional agenda, commence and conclude the meetings, moderate the debates and oversee the execution of the decisions adopted. All important matters necessary for the organisation and operation of Eurojust shall be placed on the agenda of the College. The President and the Administrative Director shall ensure that the College is kept informed of all matters that may interest it.

4. The President shall direct the work of the College and monitor the daily management ensured by the Administrative Director.

5. In the absence of the President and the Vice-Presidents the longest serving Eurojust member shall fulfil the functions of the President.

#### *Article 5*

#### **Functions of the Vice-Presidents**

1. The Vice-Presidents shall substitute for the President in the order of longest serving Eurojust member in the event of vacancy, absence or sickness. The Vice-Presidents shall assist the President in the exercise of his or her functions.

2. The Vice-Presidents shall perform functions which the President entrusts to them. The President shall inform and, when the matter is important, consult the College on the distribution of functions among the Vice-Presidents.

3. The Vice-Presidents shall substitute for one another in the case of vacancy, absence or sickness.

#### *Article 6*

#### **Committees**

1. The College may set up ad-hoc committees and appoint their Chairpersons and members by a two-thirds majority of the College and designate their members for any matter relating to preparing decisions concerning the organisation and operation of Eurojust.

2. The Committees so established shall report on their work to the College.

3. The College may decide to delegate its powers to any such Committee except where the Decision provides expressly that a task shall be carried out by the College. In such a case, the decision to delegate shall specify with precision the tasks delegated and any reporting obligations to the College.

4. The Secretary of the College or the Administrative Director or any other person designated by him or her in consultation with the President shall act also as the secretary to such Committees, the meetings of which shall be convened by the Chairperson of the Committee at least two days before they are to be held.

#### *Article 7*

#### **The function of Secretary of the College**

1. The College may decide that it is necessary for it to have a specially selected Secretary from among the Eurojust staff. The Administrative Director and the President shall consult closely on the selection of the Secretary of the College. The Secretary will attend the meetings of the College. He or she will take the minutes of the meetings.

2. The Secretary will work in close consultation with the President of the College and under the authority of the Administrative Director.

3. The Secretary shall meet the requirements established by the College in accordance with the following criteria:

- (a) suitability to carry out the function;
- (b) administrative level set by the College;
- (c) availability to perform the function.

4. The Secretary shall assist the President in his or her bureaucratic tasks related to the College, and keep the record of the minutes of the meetings of the College and the ad-hoc committees.

#### *Article 8*

#### **Meetings of the College**

1. Each week, unless it is decided otherwise, the College shall hold at least one ordinary meeting.

2. Meetings of the College shall be held other than in public and the discussions shall be confidential.

3. When advisable, the President may call an extraordinary meeting either on his or her own initiative or at the request of one of the national members.

4. The President of the College shall prepare the provisional agenda for each meeting, which shall be sent by the Secretary to the other members of the College at least three days prior to the beginning of the meeting. When an extraordinary meeting is called, the agenda will be sent 24 hours in advance of the meeting.

5. The provisional agenda shall include the points which have been requested by any national member prior to the calling of the meeting as well as any point that the President or the Administrative Director deems appropriate.

6. At the beginning of each meeting, the College shall approve the agenda. Urgent matters not appearing on the provisional agenda may be included and submitted for discussion and voting if the College agrees but, if a matter arises for a decision requiring a vote, absent members shall be consulted, if possible, by any means by the President. If such a consultation has taken place, the absent member's opinion shall be taken into consideration.

7. The votes shall be taken by a show of hands or by a roll call if the voting by a show of hands is challenged. The decisions or agreements adopted by the College shall not record the breakdown of votes. The opinions expressed by the minority shall be included in the minutes of the meeting if so requested by any national member but they shall remain confidential.

8. The College shall decide whether or not to take up matters referred to it, while taking into account all circumstances. If, by two-thirds majority, the College decides not to deal with a case, it shall do so in consideration of relevant priorities established, and where difficulties of a practical nature arise, Eurojust may discuss these matters with the requesting Member States' competent authorities on how best to advance the matter.

#### Article 9

##### Quorum and voting

1. The President shall organise the work of the College in such a manner so as to enable all members of the College to be present, in particular when important decisions are to be taken. However, if it is not possible for all members to be present, two thirds of the members of the College shall constitute a quorum. In the absence of a quorum, the President shall continue the meeting without recording any formal decision. Provisional decisions shall be confirmed at the next meeting at which there is quorum.

2. The College may only proceed to vote on a matter when the President deems that the issue has been sufficiently considered.

3. Those decisions for which the Decision and these Rules of Procedure do not require unanimity or a majority of two thirds, shall be adopted by a simple majority of the College.

4. Without prejudice to Article 3, paragraph 5, any agreement under the decision requiring the approval of the Council shall be adopted by a two-thirds majority of the College.

#### Article 10

##### Attendance at meetings

1. Assistants to the national members may attend the meetings of the College. When they attend in substitution of a national member they shall participate as full voting members. The President or the College may decide to restrict meetings to voting members.

2. The President, having consulted the College, may permit persons particularly qualified on matters for discussion to speak on specific points on the agenda.

3. At the invitation of the President and under the conditions established by the Decision and the present Rules of Procedure, representatives of the Commission, including OLAF, Europol or other institutions and bodies and contact points of the European Judicial Network may attend meetings of the College. With regard to operational meetings, their participation will be governed by Articles 15 to 19 of these Rules of Procedure. Where the meetings do not concern operational matters, operational information shall not be exchanged in the meetings in which they participate. Without prejudice to the provisions of Article 19, no operational matters may be dealt with in such meetings.

#### Article 11

##### Minutes of the meetings

1. The Secretary of the College shall record the minutes of each meeting that is held. The minutes, to be finalised in principle within two days of the meeting, shall record at least the following information:

- names of persons attending,
- report on the debates,
- decisions adopted by the College.

2. A draft of the minutes shall be sent by the President to the national members to be approved by the College.

3. Once the College has approved the minutes, they shall be signed by the President and the Secretary and attached to the record kept by the Secretary.

#### CHAPTER II

##### National members

#### Article 12

##### Status of the national members

1. Each national member shall inform the President and each other of his or her term of office and any judicial powers granted to him or her within their territories under Article 9(3) of the Decision and of any change therein. In this regard, the President shall draft and periodically update a document detailing the term of office and judicial powers and the prerogatives that the Member States have granted their national members to act in relation to foreign judicial authorities. The President shall make this document available to the national members.

2. Where a national member has had contacts with authorities other than those of his or her State of origin, he or she shall so inform the national member of that State without delay and of the nature of his contacts.

*Article 13***Information from the national members**

1. The national members shall inform the College in general terms of any matter that is likely to be within the competence of Eurojust particularly when it may have repercussions at European Union level or may affect Member States other than those directly concerned.

2. If a dispute arises involving one or more national members in the exercise of their functions, the national members concerned may inform the President who may call an urgent meeting of the College to examine the issue.

**TITLE II****OPERATIONAL RULES***Article 14***Operational work**

Eurojust shall discharge its operational tasks in accordance with the following provisions.

*Article 15***Operational work of the College [level I]**

1. At the beginning of the meetings of the College, the President or any national member concerned may propose that a certain matter be taken up by the College pursuant to the provisions of Articles 5(1)(b) and 7 of the Decision. In this regard, the President or the national member concerned shall inform the College of the States concerned and justify the inclusion of the defined matter in one of the competencies listed in Article 4 of the Decision.

2. Eurojust shall record any matter referred to it.

3. The College shall decide whether or not to take up the matter.

4. The College shall analyse the status of its operational matters at least once a month. The national members involved in such matters shall report to the College regarding their status, and request that they be closed when appropriate.

5. Both when a matter is taken up as well as at any subsequent time, the College may decide, on the proposal of any of the national members concerned, to call a coordination meeting at the second operational level within Article 16 of the present rules. The outcome of such meetings shall be reported to the College in general terms.

*Article 16***Operational work of the members [level II]**

1. Operational meetings of the national members shall be convened, if necessary, when two or more national members

act in accordance with Article 5(1)(a) of the Decision or when the College decides to call a coordination meeting at the second level, according to Article 15(5) of the present Rules of Procedure.

2. Meetings may be attended by the national members concerned with the case, their assistants, where appropriate, as well as the Secretary of the College or any other person designated by the President and approved by the members concerned who has the requisite security clearance, who will record the minutes of the meeting. A national member interested in a case may assist with the consent of the national members concerned.

3. Matters requiring a decision by the College will be referred to it, in accordance with the Decision.

*Article 17***Special coordination meetings [level III]**

1. The College on the proposal of one or more national members concerned may decide to convene a special coordination meeting, which will be conducted in accordance with the following paragraph.

2. Meetings at this level may be attended by the national members concerned, their assistants, where appropriate, and the competent national authorities of the Member States concerned, as well as the Secretary of the College or any other person designated by the President after approval of the national members concerned, who shall record the minutes of the meeting.

*Article 18***Exercise of powers under Articles 6 and 7 of the Decision**

1. The President will ensure that procedures are in place to establish and maintain a register to record the exercise of powers under Articles 6 and Article 7 of the Decision.

2. When a national member exercises the power to make a request under Article 6(a) of the Decision he or she will do so in writing. He or she will also send a written copy of the request to the President and to the national member of every member State concerned.

3. When the College exercises the power under Article 7(a) of the Decision it will do so in writing. The President will also send a written copy of the request to the national member of every member state concerned.

4. The President will ensure that, following a request made by the College under Article 7(a), all responses made by competent authorities in Member States and sent to Eurojust under Article 8 of the Decision are retained in the Register.

5. All communications and transmissions of information between Eurojust and the competent authorities of the Member States shall be directed through the national member concerned.

*Article 19***Participation of other entities**

1. The participation of Europol in operational meetings shall be subject to the provisions of any agreement concluded pursuant to Article 26 of the Decision.
2. The participation of the contact points of the European Judicial Network and liaison magistrates in operational meetings at any level shall be at the invitation of the President having consulted the College at the instance of the members concerned. Contact points designated by the European Judicial Network shall be invited at regular intervals to the College to express their views, share experiences or discuss matters of common concern. The European Judicial Network shall express to the College its views on its administrative and budgetary needs.
3. The Commission in the circumstances referred to in Article 3(3) of the Decision may attend meetings at the invitation of the President with the approval of the national members concerned.
4. Representatives of third States in the circumstances referred to in Article 3(2) of the Decision may attend meetings at the invitation of the President with the approval of the national members concerned.
5. When operational meetings deal with cases the purpose of which is to coordinate investigations and prosecutions regarding the protection of the financial interests of the Community, the participation of OLAF shall, at the initiative of the national members concerned, be at the invitation of the President. OLAF's participation on its own request is regulated by Article 26(3) of the Decision.

**TITLE III****RELATIONS WITH THE INSTITUTIONS AND BODIES CREATED BY OR BASED ON THE TREATIES***Article 20***The European Parliament**

Eurojust shall maintain the necessary channels of communication with the European Parliament in accordance with the Decision.

*Article 21***The European Commission**

1. In accordance with the provisions of Article 11 of the Decision, Eurojust shall maintain regular relations with the Commission, in order to enable it to be associated with Eurojust's work in aspects related to general questions, and in particular budgetary matters, and questions coming within its competence under Article 36(2) of the Treaty on European Union. Having been invited by Eurojust, the Commission may present its views to the College on matters within its competence under the Treaty on European Communities.

2. Without prejudice to other practical arrangements made with the Commission and in order to allow the Commission to make recommendations, issue opinions or suggest initiatives to the Council that it deems appropriate to improve judicial cooperation in criminal matters among the Member States, the College will inform the Commission at regular intervals of the main problems concerning judicial cooperation in criminal matters that it has detected in the exercise of its functions.

3. In principle, the Commission will be invited by the College to regular meetings on a monthly basis with a view to exchanging experience, advice and sharing information other than operational information. During these meetings, an exchange of information on general matters and about the activities and projects of Eurojust and the Commission will be organised. Before each meeting and preferably one week before the meeting, Eurojust will propose an agenda to the Commission. The Commission will be invited to contribute to the agenda. The agenda will be adopted at the beginning of the meeting with any additional point which has been accepted. Where necessary the College will invite the Commission to exceptional meetings.

4. In the coordination of investigations and prosecutions, Eurojust shall in particular consider whether any issue arises relating to the competence of the Commission, and for which its expertise or an exchange of information could be requested by the College.

5. The Commission shall not have access to operational data.

*Article 22***The European Anti-Fraud Office (OLAF)**

In accordance with Article 26(3) of the Decision, which provides that Eurojust shall establish and maintain close cooperation with OLAF:

1. Other than those cases referred to in Article 19(5), when Eurojust takes the initiative to collaborate with OLAF on a case-by-case basis concerning the protection of the financial interests of the Community, it shall verify through the corresponding national members that the competent authorities of the Member States concerned do not oppose this collaboration.
2. Where OLAF requests to collaborate with Eurojust on a case-by-case basis concerning the protection of the financial interests of the Community, the College shall verify through the corresponding national members that the competent authorities of the Member States concerned do not oppose this collaboration.
3. A Memorandum of Understanding may be drawn up between Eurojust and the Commission (OLAF) on the further necessary practical arrangements, in accordance with Article 11(3) of the Decision, for cooperation between Eurojust and the Commission (OLAF). This Memorandum shall contain arrangements for the exchange of information with OLAF in appropriate cases in conformity with the Decision.

*Article 23***Europol**

Relations between Eurojust and Europol shall be governed by the provisions of an Agreement to be approved by the Council pursuant to Article 26 of the Decision.

**TITLE IV****STAFF RULES***Article 24***The Administrative Director**

1. The Administrative Director shall propose to the College all necessary measures for the organisation and operation of Eurojust.

2. A Selection Board comprising three national members, and, where appropriate and after a decision by the College, if he or she does not stand for re-election, the former Administrative Director or another person who may be a management consultant or another person with particular experience in selection of senior posts, shall select and interview candidates and present a list of candidates to the College with a recommendation of the candidate to be chosen. The Selection Board may propose to the College the manner in which to call for applications and decide the number of candidates to be interviewed following the call for applications.

3. The candidates shall have the academic qualifications, linguistic skills, legal, financial and management experience sufficient to carry out the function of Administrative Director. They shall be nationals of a Member State.

4. The College can remove the Administrative Director. Any member of Eurojust can initiate the removal procedure, stating the reasons for the measure. The President shall remit the removal proposal to the Administrative Director so that he or she can make representations to the President within a period of eight days. The President shall report to the College. The decision to remove an Administrative Director shall be by a two-thirds majority of the College.

*Article 25***Eurojust staff**

1. The College shall, on the proposal of the Administrative Director, adopt an establishment plan for the financial year in question.

2. Eurojust staff shall be recruited by the Administrative Director in accordance with the establishment plan or a specific decision by the College under Article 28 of the Decision.

3. Eurojust staff positions shall be evaluated and shall be subject to the approval of the College in the establishment plan according to the nature and importance of the mission and bearing in mind the knowledge and experience required.

4. The Administrative Director shall exercise over the staff the powers devolved to the Appointing Authority (AIPN). The College shall adopt appropriate rules for the implementation of this paragraph.

**TITLE V****PROVISIONS REGARDING THE TREATMENT OF PERSONAL DATA***Article 26***Personal data**

The present Rules of Procedure shall be supplemented by a separate decision on processing and protection of personal data, in accordance with the Article 10(2) of the Decision.

**TITLE VI****OTHER PROVISIONS***Article 27***Review of the rules of procedure**

Any amendment to the present Rules of Procedure shall follow the same procedures established for its approval in the Decision.

*Article 28***Entry into force**

The present Rules of Procedure shall enter into force the day following their definitive approval by the Council.