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DRAFT REPORT

on the draft Council implementing decision approving the conclusion by Eurojust of the Agreement on Cooperation between Eurojust and Serbia (10334/2019 – C9-0041/2019 – 2019/0807(CNS))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Juan Fernando López Aguilar

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ■ symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the draft Council implementing decision approving the conclusion by Eurojust of the Agreement on Cooperation between Eurojust and Serbia (10334/2019 – C9-0041/2019 – 2019/0807(CNS))

(Consultation)

The European Parliament,

- having regard to the Council draft (10334/2019),
 - having regard to Article 39(1) of the Treaty on European Union, as amended by the Treaty of Amsterdam, and Article 9 of Protocol No 36 on transitional provisions, pursuant to which the Council consulted Parliament (C9-0041/2019),
 - having regard to Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime¹, and in particular Article 26a(2) thereof,
 - having regard to Rule 82 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A9-0000/2019),
1. Approves the Council draft;
 2. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 3. Asks the Council to consult Parliament again if it intends to substantially amend the text approved by Parliament;
 4. Instructs its President to forward its position to the Council and the Commission.

¹ OJ L 63, 6.3.2002, p. 1.

EXPLANATORY STATEMENT

The Eurojust-Serbia Cooperation agreement follows the model of similar agreements concluded by Eurojust in the past (for example, Eurojust-FYROM, Eurojust-US, Eurojust-Norway, Eurojust-Switzerland, Eurojust-Albania, and most recently Eurojust-Georgia). The purpose of such agreements is to foster cooperation as regards combating serious crime, especially organised crime and terrorism. They provide, inter alia, for liaison officers, contact points and exchange of information. Such cooperation agreements are based on Article 26a(2) of the Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime.

The mentioned agreement is in line with the 2018 European Commission's Western Balkans Strategy.¹ In that regard the Commission pointed out the fight against serious crime and terrorism by stating that “organised crime remains a very serious issue in the Western Balkans and Turkey. Important smuggling routes run through Turkey as well as the Western Balkans. Powerful criminal networks with an international reach continue to operate from and via these countries... The Western Balkans have taken important steps in recent years to modernise the legal and institutional framework regarding the fight against terrorism. Operational cooperation with EU Member States and EU agencies has continued to improve and intensify. All Western Balkans countries actively participate in the Western Balkans Counter Terrorism Initiative (WBCTi). Nevertheless, most countries still need to step up efforts to address the issue of returning foreign fighters and to prevent extremism and radicalisation, including in prisons.” In that regard other candidate countries in the region (Montenegro, North Macedonia and Albania) have already concluded similar agreements. The Commission also mentioned in its 2019 Report that “Serbia should increase its efforts in addressing the shortcomings, and in particular establish a convincing track record of investigation, prosecution, and convictions in organised crime cases”. In addition, Serbia is “the most requested country in the region, and overall, the second most requested third country in Eurojust's casework. Serbia was involved in 34 cases in 2018”.²

The European Commission also stated, in its Second Visa Suspension Mechanism Report, that “As regards organised crime, Serbian nationals continue to be reported as one of the most frequently reported nationalities for organised property crimes in the EU, particularly in Belgium, France, Germany and Italy. Serbian nationals have also continued to be one of the most frequently encountered victims of trafficking in human beings originating from the Western Balkans region. Organised crime groups comprised of Iranian nationals are involved in the trafficking of heroin along this route, as well as the Southern Caucasus route. There remain significant weapon stocks in Serbia, which is a risk in the framework of firearms trafficking.”³

Hence, such an agreement can foster greater cooperation in the fight against organised crime and is in the interest of Serbia and EU Member States, as organised crime is a transnational

¹ A credible enlargement perspective for and enhanced EU engagement with the Western Balkans, COM(2018) 65 final.

² Communication on EU Enlargement Policy, Serbia 2019 Report, Commission Staff Working Document (SWD(2019) 219 final).

³ COM(2018) 856 final.

problem. Such an agreement is also welcome in the area of judicial cooperation, in view of an already existing Europol-Serbia agreement and Cefpol-Serbia working arrangement as regards police cooperation.

In accordance with the current Eurojust Decision such cooperation agreements between Eurojust and third countries containing provisions on the exchange of personal data may only be concluded if the entity concerned is subject to the Council of Europe Convention of 28 January 1981 or after an assessment confirming the existence of an adequate level of data protection ensured by that entity. In that regard it has to be highlighted that Serbia ratified in 2005 the mentioned Convention as well as in 2008 its Additional protocol. On 28 March 2019, the Joint Supervisory Body of Eurojust gave a positive opinion on the provisions of the Agreement concerning data protection. It pointed out, inter alia, the adoption of new Serbian data protection legislation in 2018.⁴ Also the new Regulation (EU) 2018/1727 on Eurojust replacing and repealing Council Decision 2002/187/JHA provides for the possibility of agreements with third states whereby such agreements are a possible basis for the transfer of personal data provided general principles for transfers of operational personal data to third countries have to be respected (see in that regard Article 56 of the Regulation).

Consequently, based on all of the above considerations, the Rapporteur endorses the draft Council implementing decision as regards the draft Agreement on Cooperation between Eurojust and Serbia.

⁴ Zakon o zaštiti podataka o ličnosti (Sl. glasnik RS, br. 87/2018).