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⁽¹⁾ Text with EEA relevance

I

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)

REGULATIONS

COMMISSION REGULATION (EC) No 456/2009**of 3 June 2009****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1580/2007 of 21 December 2007 laying down implementing rules for Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector ⁽²⁾, and in particular Article 138(1) thereof,

Whereas:

Regulation (EC) No 1580/2007 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XV, Part A thereto,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 138 of Regulation (EC) No 1580/2007 are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 4 June 2009.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 3 June 2009.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 350, 31.12.2007, p. 1.

ANNEX

Standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	IL	69,6
	MA	125,3
	TR	57,2
	ZZ	84,0
0707 00 05	MK	27,4
	TR	134,5
	ZZ	81,0
0709 90 70	TR	117,0
	ZZ	117,0
0805 50 10	AR	51,1
	TR	57,8
	ZA	57,9
	ZZ	55,6
0808 10 80	AR	80,0
	BR	72,8
	CL	71,8
	CN	90,3
	NZ	105,8
	US	119,3
	UY	71,7
	ZA	82,2
	ZZ	86,7
0809 10 00	TR	227,5
	ZZ	227,5

⁽¹⁾ Nomenclature of countries laid down by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 457/2009**of 3 June 2009****on the issue of licences for the import of garlic in the subperiod from 1 September to 30 November 2009**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1301/2006 of 31 August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences ⁽²⁾, and in particular Article 7(2) thereof,

Whereas:

- (1) Commission Regulation (EC) No 341/2007 ⁽³⁾ opens and provides for the administration of tariff quotas and introduces a system of import licences and certificates of origin for garlic and other agricultural products imported from third countries.
- (2) The quantities for which 'A' licence applications have been lodged by traditional importers and by new importers during the first five working days following

the 15th day of May 2009, pursuant to Article 10(1) of Regulation (EC) No 341/2007 exceed the quantities available for products originating in China and all third countries other than China.

- (3) Therefore, in accordance with Article 7(2) of Regulation (EC) No 1301/2006, it is now necessary to establish the extent to which the 'A' licence applications sent to the Commission by the end of May 2009 can be met in accordance with Article 12 of Regulation (EC) No 341/2007,

HAS ADOPTED THIS REGULATION:

Article 1

Applications for 'A' import licences lodged pursuant to Article 10(1) of Regulation (EC) No 341/2007 during the first five working days following the 15th day of May 2009 and sent to the Commission by the end of May 2009 shall be met at a percentage rate of the quantities applied for as set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 3 June 2009.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 238, 1.9.2006, p. 13.

⁽³⁾ OJ L 90, 30.3.2007, p. 12.

ANNEX

Origin	Order number	Allocation coefficient
Argentina		
— Traditional importers	09.4104	X
— New importers	09.4099	X
China		
— Traditional importers	09.4105	22,555813 %
— New importers	09.4100	0,413896 %
Other third countries		
— Traditional importers	09.4106	100 %
— New importers	09.4102	55,571395 %

'X: No quota for this origin for the subperiod in question.'

II

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

DECISIONS

COMMISSION

COMMISSION DECISION

of 26 May 2009

amending Decision 2008/855/EC as regards animal health control measures relating to classical swine fever in Germany

(notified under document number C(2009) 3965)

(Text with EEA relevance)

(2009/423/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market ⁽¹⁾, and in particular Article 9(4) thereof,

Having regard to Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market ⁽²⁾ and in particular Article 10(4) thereof,

Whereas:

(1) Commission Decision 2008/855/EC of 3 November 2008 concerning animal health control measures relating to classical swine fever in certain Member States ⁽³⁾ lays down certain control measures concerning classical swine fever in the Member States or regions thereof set out in the Annex to that Decision.

(2) Germany has informed the Commission about the recent developments with regard to that disease in feral pigs in certain areas of the federal state Rhineland-Palatinate.

(3) New cases of classical swine fever in feral pigs in the south of Rhineland-Palatinate have been reported. Accordingly, that area should be added to the list in the Annex to Decision 2008/855/EC and the measures provided for in that Decision should apply to it.

(4) For the sake of transparency of Community legislation, the entire part of the list set out in the Annex to Decision 2008/855/EC which concerns Germany should be replaced by the text in the Annex to this Decision.

(5) Decision 2008/855/EC should therefore be amended accordingly.

(6) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

In the Annex to Decision 2008/855/EC, point 1 of Part I is replaced by the text in the Annex to this Decision.

⁽¹⁾ OJ L 395, 30.12.1989, p. 13.

⁽²⁾ OJ L 224, 18.8.1990, p. 29.

⁽³⁾ OJ L 302, 13.11.2008, p. 19.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 26 May 2009.

For the Commission
Androulla VASSILIOU
Member of the Commission

ANNEX

1. Germany

A. In the federal state Rhineland-Palatinate:

- (a) in the Kreis Ahrweiler: the municipalities Adenau and Altenahr;
- (b) in the Landkreis Vulkaneifel: in the municipality Obere Kyll the localities Birgel, Esch, Feusdorf and Jünkerath, in the municipality Hillesheim the localities Berndorf, Dohm-Lammersdorf, Hillesheim, Kerpen, Nohn, Oberehe-Stroheich, Üxheim, Walsdorf and Wiesbaum, in the municipality Daun the locality Dreis-Brück, in the municipality Kelberg the localities Beinhausen, Bodenbach, Bongard, Borler, Boxberg, Brücktal, Drees, Gelenberg, Kelberg, Kirsbach, Neichen, Nitz, Reimerath and Welcherath.
- (c) the Kreise Altenkirchen and Neuwied.
- (d) in the Kreis Westerwald: the municipalities Bad Marienberg, Hachenburg, Ransbach-Baumbach, Rennerod, Selters, Wallmerod and Westerburg, the municipality Höhr-Grenzhausen north of the motorway A48, the municipality Montabaur north of the motorway A3 and the municipality Wirges north of the motorways A48 and A3.
- (e) in the Landkreis Südwestpfalz the municipalities Thaleischweiler-Fröschen, Waldfischbach-Burgalben and Wallhalben.
- (f) in the Kreis Kaiserslautern the municipalities Bruchmühlbach-Miesau in the south of the motorway A6, Kaiserslautern-Süd and Landstuhl.
- (g) the city of Kaiserslautern in the south of the motorway A6.

B. In the federal state North Rhine-Westfalia:

- (a) in the Kreis Euskirchen: the city Bad Münstereifel, in the city of Mechernich the localities Antweiler, Harzheim, Holzheim, Lessenich, Rißdorf, Wachendorf and Weiler am Berge, in the city of Euskirchen the localities of Billig, Euenheim, Euskirchen, Flammersheim, Kirchheim, Kuchenheim, Kreuzweingarten, Niederkastenholz, Palmersheim, Rheder, Roitzheim, Schweinheim and Stotzheim, in the municipality of Nettersheim the localities Boudersath, Buir, Engalgau, Frohngau, Holzmühlheim, Pesch, Tondorf und Roderath, in the municipality Dahlem the locality Dahlem and the municipality Blankenheim, except the locality Blankenheimer Wald.
- (b) in the Rhein-Sieg-Kreis: in the city of Meckenheim the localities Ersdorf and Altendorf, in the city of Rheinbach the localities Oberdrees, Niederdrees, Wormersdorf, Todenfeld, Hilberath, Merzbach, Irlenbusch, Queckenberg, Kleinschlehbach, Großschlehbach, Loch, Berscheidt, Eichen und Kurtenberg, in the municipality of Swisttal the localities Miel and Odendorf, the cities Bad Honnef, Königswinter, Hennef (Sieg), Sankt Augustin, Niederkassel, Troisdorf, Siegburg and Lohmar and the municipalities Neunkirchen-Seelscheid, Eitorf, Ruppichterath, Windeck and Much.
- (c) in the Kreis Siegen-Wittgenstein in the municipality Kreuztal the localities Krombach, Eichen, Fellinghausen, Osthelden, Junkernhees and Mittelhees, in the city Siegen the localities Sohlbach, Dillnhütten, Geisweid, Birlenbach, Trupbach, Seelbach, Achenbach, Lindenberg, Rosterberg, Rödingen, Obersdorf, Eisern and Eiserfeld, the municipalities Freudenberg, Neunkirchen and Burbach, in the municipality Wilnsdorf the localities Rinsdorf and Wilden.
- (d) in the Kreis Olpe in the city Drolshagen the localities Drolshagen, Lüdespert, Schlade, Hützemert, Feldmannshof, Gipperich, Benolpe, Wormberg, Gelsingen, Husten, Halbhusten, Iseringhausen, Brachtpe, Berlinghausen, Eichen, Heiderhof, Forth and Buchhagen, in the city of Olpe the localities Olpe, Rhode, Saßmicke, Dahl, Friedrichsthal, Thieringhausen, Günsen, Altenkleusheim, Rhonard, Stachelau, Lütringhausen and Rüblinghausen, the municipality Wenden.
- (e) in the Märkische Kreis the cities Halver, Kierspe and Meinerzhagen.
- (f) in the city Remscheid the localities Halle, Lusebusch, Hackenberg, Dörper Höhe, Niederlangenbach, Durchsholz, Nagelsberg, Kleebach, Niederfeldbach, Endringhausen, Lennep, Westerholt, Grenzwall, Birgden, Schneppendahl, Oberfeldbach, Hasenberg, Lüdorf, Engelsburg, Forsten, Oberlangenbach, Niederlangenbach, Karlsruhe, Sonnenschein, Buchholzen, Bornefeld and Bergisch Born.
- (g) in the cities Köln and Bonn the municipalities on the right side of the river Rhine.
- (h) the city Leverkusen.
- (i) the Rheinisch-Bergische Kreis.
- (j) the Oberbergische Kreis.

COMMISSION DECISION

of 28 May 2009

amending, for the purpose of adapting to technical progress, Annex I to Council Directive 76/769/EEC as regards restrictions on the marketing and use of lamp oils and grill lighter fluids

(notified under document number C(2009) 4020)

(Text with EEA relevance)

(2009/424/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 76/769/EEC of 27 July 1976 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the restrictions on the marketing and use of dangerous substances and preparations ⁽¹⁾, and in particular Article 2a thereof,

Whereas:

(1) Since 1 July 2000 Directive 76/769/EEC restricts the sale to consumers of coloured and scented oils presenting an aspiration hazard for use in decorative lamps and labelled with the risk phrase R65.

(2) Although Council Directive 67/548/EEC of 27 June 1967 on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances ⁽²⁾ and Directive 1999/45/EC of the European Parliament and of the Council of 31 May 1999 concerning the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations ⁽³⁾ provide that containers of grill lighter fluids and lamp oils, labelled with R65, have to be fitted with child-resistant fastening, accidents still occur as containers are either not closed properly, or the substance has been transferred from large original containers to smaller containers without child-resistant fastenings.

(3) According to data provided by national authorities, it has become apparent that the unscented and uncoloured lamp oils and grill lighter fluids, labelled R65, pose a risk to human health, and specifically to the health of young children, when ingested, causing breathing disturbances and disorders of the respiratory tract.

(4) It is therefore necessary to strengthen current provisions on lamp oils used in decorative lamps and to ensure that substances and mixtures sold as grill lighter fluids intended for supply to the general public are appropriately labelled.

(5) In order to minimise accidental ingestion by small children, packaging requirements should be introduced to make lamp oils and grill lighter fluids less likely to attract or arouse the curiosity of children and to avoid that these products are mistaken for drinks. The size of the container should also be limited to minimise accidents linked to the transfer from original containers to smaller containers without child-resistant fastenings or appropriate labelling.

(6) A European Standard for the design of safe decorative lamps was adopted in September 2002 in order to minimise the possibility of small children having access to the oils used in decorative oil lamps (EN 14059). This standard provides a presumption of conformity to Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety ⁽⁴⁾. Consumer protection has to be strengthened by requiring compliance with this standard.

(7) The restrictions on marketing and use laid down by this Decision take into account the current state of knowledge regarding safer alternatives. Member States should periodically report to the Commission on development of alternatives in order to facilitate a review by the European Chemicals Agency. The Agency should assess, on the basis of the effectiveness of the proposed measures to protect child safety, whether it is necessary to adopt additional measures and ban the use of grill lighter fluids and fuel for decorative lamps. For this purpose, the Agency will take into account the requirements of Annex XV to Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) ⁽⁵⁾.

(8) Directive 2008/112/EC of the European Parliament and of the Council of 16 December 2008 amending Council

⁽¹⁾ OJ L 262, 27.9.1976, p. 201.

⁽²⁾ OJ 196, 16.8.1967, p. 1.

⁽³⁾ OJ L 200, 30.7.1999, p. 1.

⁽⁴⁾ OJ L 11, 15.1.2002, p. 4.

⁽⁵⁾ OJ L 396, 30.12.2006, p. 1; corrected by OJ L 136, 29.5.2007, p. 3.

Directives 76/768/EEC, 88/378/EEC, 1999/13/EC and Directives 2000/53/EC, 2002/96/EC and 2004/42/EC of the European Parliament and of the Council in order to adapt them to Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures⁽¹⁾, imposes obligations on manufacturers of dangerous substances placed on the Community market by 1 December 2010. To facilitate implementation of the additional labelling and packaging provisions included in this Decision, the same date should be imposed on those placing lamp oils and grill lighters on the Community market. In addition, the new risk phrase (H304) required by Directive 2008/112/EC should be used.

(9) Regulation (EC) No 1907/2006 repeals and replaces Directive 76/769/EEC with effect from 1 June 2009. Annex XVII to that Regulation replaces Annex I to Directive 76/769/EEC. Any amendment to the restrictions adopted under Directive 76/769/EEC should therefore be incorporated in Annex XVII to Regulation (EC) No 1907/2006.

(10) Directive 76/769/EEC should therefore be amended accordingly.

(11) The measures provided for in this Decision are in accordance with the opinion of the Committee on the adaptation to technical progress of the Directives for the elimination of technical barriers to trade in dangerous substances and preparations,

HAS ADOPTED THIS DECISION:

Article 1

Annex I to Directive 76/769/EEC is amended in accordance with the text of the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 28 May 2009.

For the Commission

Günter VERHEUGEN

Vice-President

⁽¹⁾ OJ L 345, 23.12.2008, p. 68.

ANNEX

Point 3 of Annex I to Directive 76/769/EEC is replaced by the following:

- | | |
|---|---|
| <p>‘3. Liquid substances or mixtures, which are regarded as dangerous according to the definitions in Council Directive 67/548/EEC (*) and Directive 1999/45/EC of the European Parliament and of the Council (**).</p> | <ol style="list-style-type: none"> 1. Shall not be used in: <ul style="list-style-type: none"> — ornamental articles intended to produce light or colour effects by means of different phases, for example in ornamental lamps and ashtrays, — tricks and jokes, — games for one or more participants, or any article intended to be used as such, even with ornamental aspects. 2. Articles not complying with paragraph 1 shall not be placed on the market. 3. Shall not be placed on the market if they contain a colouring agent, unless required for fiscal reasons, or perfume, or both, if they: <ul style="list-style-type: none"> — can be used as fuel in decorative oil lamps for supply to the general public, and, — present an aspiration hazard and are labelled with R65 or H304. 4. Decorative oil lamps for supply to the general public shall not be placed on the market unless they conform to the European Standard on Decorative oil lamps (EN 14059) adopted by the European Committee for Standardisation (CEN). 5. Without prejudice to the implementation of other Community provisions relating to the classification, packaging and labelling of dangerous substances and mixtures, suppliers shall ensure, before the placing on the market, that the following requirements are met: <ol style="list-style-type: none"> (a) lamp oils, labelled with R65 or H304, intended for supply to the general public are visibly, legibly and indelibly marked as follows: <p>“Keep lamps filled with this liquid out of the reach of children”; and, by 1 December 2010, “Just a sip of lamp oil — or even sucking the wick of lamps — may lead to life-threatening lung damage”;</p> (b) grill lighter fluids, labelled with R65 or H304, intended for supply to the general public are legibly and indelibly marked by 1 December 2010 as follows: “Just a sip of grill lighter may lead to life-threatening lung damage”; (c) lamp oils and grill lighters, labelled with R65 or H304, intended for supply to the general public are packaged in black opaque containers not exceeding 1 litre by 1 December 2010. 6. No later than 1 June 2014, the Commission shall request the European Chemicals Agency to prepare a dossier, in accordance with Article 69 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council (***) (REACH), with a view to ban, if appropriate, grill lighter fluids and fuel for decorative lamps, labelled R65 or H304, intended for supply to the general public. 7. Natural or legal persons placing on the market for the first time lamp oils and grill lighter fluids, labelled with R65 or H304, shall by 1 December 2011, and annually thereafter, provide data on alternatives to lamp oils and grill lighter fluids labelled R65 or H304 to the competent authority in the Member State concerned. Member States shall make those data available to the Commission. |
|---|---|

(*) OJ 196, 16.8.1967, p. 1.

(**) OJ L 200, 30.7.1999, p. 1.

(***) OJ L 396, 30.12.2006, p. 1; corrected by OJ L 136, 29.5.2007, p. 3.’

COMMISSION DECISION

of 28 May 2009

amending Council Directive 76/769/EEC as regards restrictions on the marketing and use of organostannic compounds for the purpose of adapting its Annex I to technical progress

(notified under document number C(2009) 4084)

(Text with EEA relevance)

(2009/425/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Committee on Health and Environmental Risks (SCHER)
in its opinion of 30 November 2006 ⁽⁵⁾.

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 76/769/EEC of 27 July 1976 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the restrictions on the marketing and use of dangerous substances and preparations ⁽¹⁾, and in particular Article 2a thereof,

Whereas:

- (1) Tri-substituted organostannic compounds were previously widely used in antifouling paints on ships. However, such paints were found to pose risks for aquatic organisms through endocrine disruptive effects. The use of organostannic compounds, also known as organotin compounds, in antifouling paints was therefore restricted in Directive 76/769/EEC, and in Regulation (EC) No 782/2003 of the European Parliament and of the Council of 14 April 2003 on the prohibition of organotin compounds on ships ⁽²⁾. Furthermore, tri-substituted organostannic compounds may no longer be used as biocides under Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing of biocidal products on the market ⁽³⁾. However articles treated with such biocides may still be imported into the Community.
- (2) Di-substituted organostannic compounds, including in particular dibutyltin compounds (DBT) and dioctyltin compounds (DOT), are widely used in consumer articles where they function either as a stabilizer or as a catalyst.
- (3) The use of organostannic compounds in consumer articles has been found to pose a risk to human health, particularly for children. The specific risks to the health of children and adults from various consumer articles have been identified in a risk assessment ⁽⁴⁾, and have been confirmed by the Commission's Scientific

- (4) Although di-substituted and tri-substituted organostannic compounds have the same adverse health effect, namely immunotoxicity via the thymus gland, and act in a cumulative way, the potency of the tri-substituted compounds (such as TBT and TPT) is greater than that of the di-substituted compounds (DOT and DBT). Furthermore, tri-substituted organostannic compounds being emitted from articles for either consumer or professional use could have adverse effects on the environment — in particular on aquatic organisms. More severe restrictions should therefore be imposed on articles containing tri-substituted organostannic compounds.
- (5) Certain DBT compounds (dibutyltin dichloride, CAS: 683-18-1, and dibutyltin hydrogen borate, CAS: 75113-37-0) will soon be classified in the framework of Council Directive 67/548/EEC ⁽⁶⁾ as toxic to reproduction, category 2, and it will subsequently be prohibited to sell the substances and mixtures containing them to consumers ⁽⁷⁾. More severe restrictions should therefore be imposed on articles containing DBT compounds, allowing for continued use for an additional period of time only where no suitable alternatives are available such as catalysts in RTV-1 and RTV-2 sealants, paints and coatings, or PVC stabilisers in certain products (for example coated fabrics, PVC profiles) to allow the development of suitable alternatives, or where the articles concerned are already regulated by other more specific legislation.
- (6) Exposure to DOT compounds is highest from certain specific consumer articles such as printed textiles, gloves, footwear, wall and floor coverings, female hygiene products, nappies, and two-component silicone moulds.
- (7) Despite the availability of alternatives for most uses to be restricted, certain producers of articles containing DOT and DBT will need time to adapt, and an appropriate transition period should be therefore foreseen for these applications.

⁽¹⁾ OJ L 262, 27.9.1976, p. 201.⁽²⁾ OJ L 115, 9.5.2003, p. 1.⁽³⁾ OJ L 123, 24.4.1998, p. 1.⁽⁴⁾ Risk assessment studies on targeted consumer applications of certain organotin compounds. RPA study finalised in September 2005. http://ec.europa.eu/enterprise/chemicals/studies_en.htm⁽⁵⁾ http://ec.europa.eu/health/ph_risk/committees/04_scher/scher_opinions_en.htm⁽⁶⁾ OJ 196, 16.8.1967, p. 1.⁽⁷⁾ In accordance with entries 29, 30 and 31 of Directive 76/769/EEC.

- (8) Directive 76/769/EEC should therefore be amended accordingly.
- (9) This Decision is without prejudice to the Community legislation laying down minimum requirements for the protection of workers, such as Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work ⁽¹⁾ and individual Directives based thereon, in particular Directive 2004/37/EC of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (Sixth individual Directive within the meaning of Article 16(1) of Council Directive 89/391/EEC) (codified version) ⁽²⁾ and Council Directive 98/24/EC of 7 April 1998 on the protection of the health and safety of workers from the risks related to chemical agents at work (fourteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) ⁽³⁾.
- (10) The measures provided for in this Decision are in accordance with the opinion of the Committee on the

adaptation to technical progress of the Directives for the elimination of technical barriers to trade in dangerous substances and preparations,

HAS ADOPTED THIS DECISION:

Article 1

Annex I to Directive 76/769/EEC is amended in accordance with the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 28 May 2009.

For the Commission

Günter VERHEUGEN

Vice-President

⁽¹⁾ OJ L 183, 29.6.1989, p. 1.

⁽²⁾ OJ L 158, 30.4.2004, p. 50; corrected by OJ L 229, 29.6.2004, p. 23.

⁽³⁾ OJ L 131, 5.5.1998, p. 11.

ANNEX

The following paragraphs are added to Entry 21, 'Organostannic compounds', of Annex I to Directive 76/769/EEC:

4. Tri-substituted organostannic compounds

- (a) Tri-substituted organostannic compounds such as tributyltin (TBT) compounds and triphenyltin (TPT) compounds shall not be used after 1 July 2010 in articles where the concentration in the article, or part thereof, is greater than the equivalent of 0,1 % by weight of tin.
- (b) Articles not complying with paragraph 4(a) shall not be placed on the market after 1 July 2010, except for articles that were already in use in the Community before that date.

5. Dibutyltin (DBT) compounds

- (a) Dibutyltin (DBT) compounds shall not be used after 1 January 2012 in mixtures and articles for supply to the general public where the concentration in the mixture or the article, or part thereof, is greater than the equivalent of 0,1 % by weight of tin.
- (b) Articles and mixtures not complying with paragraph 5(a) shall not be placed on the market after 1 January 2012, except for articles that were already in use in the Community before that date.
- (c) By way of derogation, paragraphs 5(a) and (b) shall not apply until 1 January 2015 to the following articles and mixtures for supply to the general public:
 - one-component and two-component room temperature vulcanisation sealants (RTV-1 and RTV-2 sealants) and adhesives,
 - paints and coatings containing DBT compounds as catalysts when applied on articles,
 - soft polyvinyl chloride (PVC) profiles whether by themselves or coextruded with hard PVC,
 - fabrics coated with PVC containing DBT compounds as stabilisers when intended for outdoor applications,
 - outdoor rainwater pipes, gutters and fittings, as well as covering material for roofing and façades.
- (d) By way of derogation, paragraphs 5(a) and (b) shall not apply to materials and articles regulated under Regulation (EC) No 1935/2004 of the European Parliament and of the Council of 27 October 2004 on materials and articles intended to come into contact with food (*).

6. Dioctyltin (DOT) compounds

- (a) Dioctyltin (DOT) compounds shall not be used after 1 January 2012 in the following articles for supply to, or use by, the general public, where the concentration in the article, or part thereof, is greater than the equivalent of 0,1 % by weight of tin:
 - textile articles intended to come into contact with the skin,
 - gloves,
 - footwear or part of footwear intended to come into contact with the skin,
 - wall and floor coverings,
 - childcare articles,
 - female hygiene products,
 - nappies,
 - two-component room temperature vulcanisation moulding kits (RTV-2 moulding kits),
- (b) Articles not complying with paragraph 6(a) shall not be placed on the market after 1 January 2012, except for articles that were already in use in the Community before that date.

(*) OJ L 338, 13.11.2004, p. 4.

III

(Acts adopted under the EU Treaty)

ACTS ADOPTED UNDER TITLE VI OF THE EU TREATY

COUNCIL DECISION 2009/426/JHA

of 16 December 2008

on the strengthening of Eurojust and amending Decision 2002/187/JHA setting up Eurojust with a view to reinforcing the fight against serious crime

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 31(2) and 34(2)(c) thereof,

Having regard to the initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden,

Having regard to the Opinion of the European Parliament ⁽¹⁾,

Whereas:

(4) In order to ensure continuous and effective contribution from the Member States to the achievement by Eurojust of its objectives, the national member should be required to have his regular place of work at the seat of Eurojust.

(5) It is necessary to define a common basis of powers which every national member should have in his capacity as a competent national authority acting in accordance with national law. Some of these powers should be granted to the national member for urgent cases where it is not possible for him to identify or to contact the competent national authority in a timely manner. It is understood that these powers will not have to be exercised in so far as it is possible to identify and to contact the competent authority.

(6) This Decision does not affect the manner in which the Member States organise their internal judicial system or administrative procedures for the designation of the national member and the setting up of the internal working of the national desks at Eurojust.

(1) Eurojust was set up by Council Decision 2002/187/JHA ⁽²⁾ as a body of the European Union with legal personality to stimulate and to improve coordination and cooperation between competent judicial authorities of the Member States.

(2) On the basis of an assessment of the experience gained by Eurojust, a further enhancement of its operational effectiveness is needed by taking account of that experience.

(3) The time has come to ensure that Eurojust becomes more operational and that the status of national members is approximated.

(7) The setting up of an On-Call Coordination (OCC) within Eurojust is necessary to make Eurojust available around the clock and to enable it to intervene in urgent cases. It should be the responsibility of each Member State to ensure that their representatives in the OCC are able to act on a 24-hour/7-day basis.

(8) Member States should ensure that competent national authorities respond without undue delay to requests made under this Decision, even if competent national authorities refuse to comply with requests made by the national member.

(9) The role of the College should be enhanced in cases of conflict of jurisdiction and in cases of recurrent refusals or difficulties concerning the execution of requests for, and decisions on, judicial cooperation, including regarding instruments giving effect to the principle of mutual recognition.

⁽¹⁾ Opinion delivered on 2 September 2008 (not yet published in the Official Journal).

⁽²⁾ OJ L 63, 6.3.2002, p. 1.

- (10) Eurojust national coordination systems should be set up in the Member States to coordinate the work carried out by the national correspondents for Eurojust, the national correspondent for Eurojust for terrorism matters, the national correspondent for the European Judicial Network and up to three other contact points of the European Judicial Network, as well as representatives in the Networks for Joint Investigation Teams, War Crimes, Asset Recovery and Corruption.
- (11) The Eurojust national coordination system should ensure that the Case Management System receives information related to the Member State concerned in an efficient and reliable manner. However, the Eurojust national coordination system should not have to be responsible for actually transmitting information to Eurojust. Member States should decide on the best channel to be used for the transmission of information to Eurojust.
- (12) In order to enable the Eurojust national coordination system to fulfil its tasks, a connection to the Case Management System should be ensured. The connection to the Case Management System should be made taking due account of national information technology systems. Access to the Case Management System at national level should be based on the central role played by the national member who is responsible for the opening and management of temporary work files.
- (13) Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters⁽¹⁾ is applicable to the processing by the Member States of the personal data transferred between the Member States and Eurojust. The relevant set of data protection provisions of Decision 2002/187/JHA will not be affected by Framework Decision 2008/977/JHA and contains specific provisions on the protection of personal data regulating these matters in more detail because of the particular nature, functions and competences of Eurojust.
- (14) Eurojust should be authorised to process certain personal data on persons who, under the national legislation of the Member States concerned, are suspected of having committed or having taken part in a criminal offence in respect of which Eurojust is competent, or who have been convicted of such an offence. The list of such personal data should include telephone numbers, e-mail addresses, vehicle registration data, DNA profiles established from the non-coding part of DNA, photographs and fingerprints. The list should also include traffic data and location data and the related data necessary to identify the subscriber or user of a publicly available electronic communications service; this should not include data revealing the content of the communication. It is not intended that Eurojust carry out an automated comparison of DNA profiles or fingerprints.
- (15) Eurojust should be given the opportunity to extend the deadlines for storage of personal data in order to achieve its objectives. Such decisions should be taken following careful consideration of particular needs. Any extension of deadlines for processing personal data, where prosecution is statute barred in all Member States concerned, should be decided only where there is a specific need to provide assistance under this Decision.
- (16) The Rules on the Joint Supervisory Body should facilitate its functioning.
- (17) With a view to increasing the operational effectiveness of Eurojust, transmission of information to Eurojust should be improved by providing clear and limited obligations for national authorities.
- (18) Eurojust should implement priorities set by the Council, in particular those set on the basis of the Organised Crime Threat Assessment (OCTA), as referred to in the Hague Programme⁽²⁾.
- (19) Eurojust is to maintain privileged relations with the European Judicial Network based on consultation and complementarity. This Decision should help clarify the respective roles of Eurojust and the European Judicial Network and their mutual relations, while maintaining the specificity of the European Judicial Network.
- (20) Nothing in this Decision should be construed to affect the autonomy of the secretariats of the networks mentioned in this Decision when they discharge their function as Eurojust staff in accordance with the Staff Regulations of Officials of the European Communities laid down by Regulation (EEC, Euratom, ECSC) No 259/68 of the Council⁽³⁾.
- (21) It is also necessary to strengthen Eurojust's capacity to work with external partners, such as third States, the European Police Office (Europol), the European Anti-Fraud Office (OLAF), the Council's Joint Situation Centre and the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex).

⁽¹⁾ OJ L 350, 30.12.2008, p. 60.

⁽²⁾ OJ C 53, 3.3.2005, p. 1.

⁽³⁾ OJ L 56, 4.3.1968, p. 1.

- (22) Provision should be made for Eurojust to post liaison magistrates to third States in order to achieve objectives similar to those assigned to liaison magistrates seconded by the Member States on the basis of Council Joint Action 96/277/JHA of 22 April 1996 concerning a framework for the exchange of liaison magistrates to improve judicial cooperation between the Member States of the European Union ⁽¹⁾.
- (23) This Decision allows the principle of public access to official documents to be taken into account,

HAS DECIDED AS FOLLOWS:

Article 1

Amendments to Decision 2002/187/JHA

Decision 2002/187/JHA is hereby amended as follows:

1. Article 2 shall be replaced by the following:

'Article 2

Composition of Eurojust

1. Eurojust shall have one national member seconded by each Member State in accordance with its legal system, who is a prosecutor, judge or police officer of equivalent competence.

2. Member States shall ensure continuous and effective contribution to the achievement by Eurojust of its objectives under Article 3. To fulfil those objectives:

- (a) the national member shall be required to have his regular place of work at the seat of Eurojust;
- (b) each national member shall be assisted by one deputy and by another person as an assistant. The deputy and the assistant may have their regular place of work at Eurojust. More deputies or assistants may assist the national member and may, if necessary and with the

agreement of the College, have their regular place of work at Eurojust.

3. The national member shall have a position which grants him the powers referred to in this Decision in order to be able to fulfil his tasks.

4. National members, deputies and assistants shall be subject to the national law of their Member State as regards their status.

5. The deputy shall fulfil the criteria provided for in paragraph 1 and be able to act on behalf of or to substitute the national member. An assistant may also act on behalf of or substitute the national member if he fulfils the criteria provided for in paragraph 1.

6. Eurojust shall be linked to a Eurojust national coordination system in accordance with Article 12.

7. Eurojust shall have the possibility of posting liaison magistrates in third States in accordance with this Decision.

8. Eurojust shall, in accordance with this Decision, have a Secretariat headed by an Administrative Director.;

2. Article 3 shall be amended as follows:

(a) in paragraph 1(b), the words 'international mutual legal assistance and the implementation of extradition requests' shall be replaced by 'requests for, and decisions on, judicial cooperation, including regarding instruments giving effect to the principle of mutual recognition';;

(b) in paragraph 2, the words 'Article 27(3)' shall be replaced by 'Article 26a(2)';

3. Article 4(1) shall be amended as follows:

(a) point (a) shall be replaced by the following:

'(a) the types of crime and the offences in respect of which Europol is at all times competent to act;' ⁽²⁾;

⁽¹⁾ OJ L 105, 27.4.1996, p. 1.

⁽²⁾ At the time of adoption of this Decision, the competence of Europol is set out in Article 2(1) of the Convention of 26 July 1995 on the establishment of a European Police Office (Europol Convention) (OJ C 316, 27.11.1995, p. 2), as amended by the 2003 Protocol (OJ C 2, 6.1.2004, p. 1), and in the Annex thereto. However, once the Council Decision establishing the European Police Office (Europol) enters into force, the competence of Eurojust will be as set out in Article 4(1) of that Decision and in the Annex thereto.

(b) point (b) shall be deleted;

(c) in point (c), the words 'in points (a) and (b)' shall be replaced by 'in point (a)';

4. the following Article shall be inserted:

'Article 5a

On-Call Coordination

1. In order to fulfil its tasks in urgent cases, Eurojust shall put in place an On-Call Coordination (OCC) able to receive and process at all times requests referred to it. The OCC shall be contactable, through a single OCC contact point at Eurojust, on a 24-hour/7-day basis.

2. The OCC shall rely on one representative (OCC representative) per Member State who may be either the national member, his deputy, or an assistant entitled to replace the national member. The OCC representative shall be able to act on a 24-hour/7-day basis.

3. When in urgent cases a request for, or a decision on, judicial cooperation, including regarding instruments giving effect to the principle of mutual recognition, needs to be executed in one or more Member States, the requesting or issuing competent authority may forward it to the OCC. The OCC contact point shall immediately forward it to the OCC representative of the Member State from which the request originates and, if explicitly requested by the transmitting or issuing authority, to the OCC representatives of the Member States on the territory of which the request should be executed. These OCC representatives shall act without delay, in relation to the execution of the request in their Member State, through the exercise of tasks or powers available to them and referred to in Article 6 and Articles 9a to 9f.;

5. Article 6 shall be amended as follows:

(a) the existing paragraph shall become paragraph 1;

(b) paragraph 1(a) shall be replaced by the following:

'(a) may ask the competent authorities of the Member States concerned, giving its reasons, to:

(i) undertake an investigation or prosecution of specific acts;

(ii) accept that one of them may be in a better position to undertake an investigation or to prosecute specific acts;

(iii) coordinate between the competent authorities of the Member States concerned;

(iv) set up a joint investigation team in keeping with the relevant cooperation instruments;

(v) provide it with any information that is necessary for it to carry out its tasks;

(vi) take special investigative measures;

(vii) take any other measure justified for the investigation or prosecution.;

(c) paragraph 1(g) shall be deleted;

(d) the following paragraph shall be added:

'2. The Member States shall ensure that competent national authorities respond without undue delay to requests made under this Article.;

6. Article 7 shall be amended as follows:

(a) the existing paragraph shall become paragraph 1;

(b) the following paragraphs shall be added:

'2. Where two or more national members can not agree on how to resolve a case of conflict of jurisdiction as regards the undertaking of investigations or prosecution pursuant to Article 6 and in particular Article 6(1)(c), the College shall be asked to issue a written non-binding opinion on the case, provided the matter could not be resolved through mutual agreement between the competent national authorities concerned. The opinion of the College shall be promptly forwarded to the Member States concerned. This paragraph is without prejudice to paragraph 1(a)(ii).

3. Notwithstanding the provisions contained in any instruments adopted by the European Union regarding judicial cooperation, a competent authority may report to Eurojust recurrent refusals or difficulties concerning the execution of requests for, and decisions on, judicial cooperation, including regarding instruments giving effect to the principle of mutual recognition, and request the College to issue a written non-binding opinion on the matter, provided it could not be resolved through mutual agreement between the competent national authorities or through the involvement of the national members concerned. The opinion of the College shall be promptly forwarded to the Member States concerned.;

7. Articles 8 and 9 shall be replaced by the following:

'Article 8

Follow up to requests and opinions of Eurojust

If the competent authorities of the Member States concerned decide not to comply with a request referred to in Article 6(1)(a) or Article 7(1)(a) or decide not to follow a written opinion referred to in Article 7(2) and (3), they shall inform Eurojust without undue delay of their decision and of the reasons for it. Where it is not possible to give the reasons for refusing to comply with a request because to do so would harm essential national security interests or would jeopardise the safety of individuals, the competent authorities of the Member States may cite operational reasons.

Article 9

National members

1. The length of a national member's term of office shall be at least four years. The Member State of origin may renew the term of office. The national member shall not be removed before the end of a term without informing the Council before the removal and indicating to it the reason therefor. Where a national member is President or Vice-President of Eurojust, his term of office as a member shall at least be such that he can fulfil his function as President or Vice-President for the full elected term.

2. All information exchanged between Eurojust and Member States shall be directed through the national member.

3. In order to meet Eurojust's objectives, the national member shall have at least equivalent access to, or at least be able to obtain the information contained in, the following types of registers of his Member State as would be available to him in his role as a prosecutor, judge or police officer, whichever is applicable, at national level:

- (a) criminal records;
- (b) registers of arrested persons;
- (c) investigation registers;
- (d) DNA registers;
- (e) other registers of his Member State where he deems this information necessary for him to be able to fulfil his tasks.

4. A national member may contact the competent authorities of his Member State directly.;

8. the following Articles shall be inserted:

'Article 9a

Powers of the national member granted to him at national level

1. When a national member exercises the powers referred to in Articles 9b, 9c and 9d, he does so in his capacity as a competent national authority acting in accordance with national law and subject to the conditions laid down in this Article and Articles 9b to 9e. In the performance of his tasks the national member shall, where appropriate, make it known whenever he is acting in accordance with the powers granted to national members under this Article and Articles 9b, 9c and 9d.

2. Each Member State shall define the nature and extent of the powers it grants its national member as regards judicial cooperation in respect of that Member State. However, each Member State shall grant its national member at least the powers described in Article 9b and, subject to Article 9e, the powers described in Articles 9c and 9d, which would be available to him as a judge, prosecutor or police officer, whichever is applicable, at national level.

3. When appointing its national member and at any other time if appropriate, the Member State shall notify Eurojust and the General Secretariat of the Council of its decision regarding the implementation of paragraph 2 so that the latter can inform the other Member States. The Member States shall undertake to accept and recognise the prerogatives thus granted in so far as they are in conformity with international commitments.

4. Each Member State shall define the right for a national member to act in relation to foreign judicial authorities, in accordance with its international commitments.

*Article 9b***Ordinary powers**

1. National members, in their capacity as competent national authorities, shall be entitled to receive, transmit, facilitate, follow up and provide supplementary information in relation to the execution of requests for, and decisions on, judicial cooperation, including regarding instruments giving effect to the principle of mutual recognition. When powers referred to in this paragraph are exercised, the competent national authority shall be informed promptly.

2. In case of partial or inadequate execution of a request for judicial cooperation, national members, in their capacity as competent national authorities, shall be entitled to ask the competent national authority of their Member State for supplementary measures in order for the request to be fully executed.

*Article 9c***Powers exercised in agreement with a competent national authority**

1. National members may, in their capacity as competent national authorities, in agreement with a competent national authority, or at its request and on a case-by-case basis, exercise the following powers:

- (a) issuing and completing requests for, and decisions on, judicial cooperation, including regarding instruments giving effect to the principle of mutual recognition;
- (b) executing in their Member State requests for, and decisions on, judicial cooperation, including regarding instruments giving effect to the principle of mutual recognition;
- (c) ordering in their Member State investigative measures considered necessary at a coordination meeting organised by Eurojust to provide assistance to competent national authorities concerned by a concrete investigation and to which competent national authorities concerned with the investigation are invited to participate;
- (d) authorising and coordinating controlled deliveries in their Member State.

2. Powers referred to in this Article shall, in principle, be exercised by a competent national authority.

*Article 9d***Powers exercised in urgent cases**

In their capacity as competent national authorities, national members shall, in urgent cases and in so far as it is not possible for them to identify or to contact the competent national authority in a timely manner, be entitled:

- (a) to authorise and to coordinate controlled deliveries in their Member State;
- (b) to execute, in relation to their Member State a request for, or a decision on, judicial cooperation, including regarding instruments giving effect to the principle of mutual recognition.

As soon as the competent national authority is identified or contacted, it shall be informed of the exercise of powers referred to in this Article.

*Article 9e***Requests from national members where powers cannot be exercised**

1. The national member, in his capacity as a competent national authority, shall be at least competent to submit a proposal to the authority competent for the carrying out of powers referred to in Articles 9c and 9d when granting such powers to the national member is contrary to:

- (a) constitutional rules;

or

- (b) fundamental aspects of the criminal justice system:

- (i) regarding the division of powers between the police, prosecutors and judges;

- (ii) regarding the functional division of tasks between prosecution authorities;

or

- (iii) related to the federal structure of the Member State concerned.

2. Member States shall ensure that, in cases referred to in paragraph 1, the request issued by the national member be handled without undue delay by the competent national authority.

*Article 9f***Participation of national members in joint investigation teams**

National members shall be entitled to participate in joint investigation teams, including in their setting up, in accordance with Article 13 of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union or Council Framework Decision 2002/465/JHA of 13 June 2002 on joint investigation teams (*), concerning their own Member State. However, Member States may make the participation of the national member subject to the agreement of the competent national authority. National members, their deputies or their assistants, shall be invited to participate in any joint investigation team involving their Member State and for which Community funding is provided under the applicable financial instruments. Each Member State shall define whether the national member participates in the joint investigation team as a national competent authority or on behalf of Eurojust.

(*) OJ L 162, 20.6.2002, p. 1.;

9. Article 10 shall be amended as follows:

- (a) in paragraph 2, the first sentence shall be replaced by the following:

‘2. The Council shall, acting by qualified majority, approve Eurojust’s Rules of Procedure on a proposal from the College. The College shall adopt its proposal by a two-thirds majority after consulting the Joint Supervisory Board provided for in Article 23 as regards the provisions on the processing of personal data.’;

- (b) in paragraph 3, the words ‘in accordance with Article 7(a)’ shall be replaced by ‘in accordance with Article 7(1)(a), (2) and (3)’;

10. Article 12 shall be replaced by the following:

*‘Article 12***Eurojust national coordination system**

1. Each Member State shall designate one or more national correspondents for Eurojust.

2. Each Member State shall, before 4 June 2011, set up a Eurojust national coordination system to ensure coordination of the work carried out by:

- (a) the national correspondents for Eurojust;
- (b) the national correspondent for Eurojust for terrorism matters;
- (c) the national correspondent for the European Judicial Network and up to three other contact points of the European Judicial Network;
- (d) national members or contact points of the Network for Joint Investigation Teams and of the networks set up by Council Decision 2002/494/JHA of 13 June 2002 setting up a European network of contact points in respect of persons responsible for genocide, crimes against humanity and war crimes (*), Council Decision 2007/845/JHA of 6 December 2007 concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to, crime (**) and by Council Decision 2008/852/JHA of 24 October 2008 on a contact-point network against corruption (***).

3. The persons referred to in paragraphs 1 and 2 shall maintain their position and status under national law.

4. The national correspondents for Eurojust shall be responsible for the functioning of the Eurojust national coordination system. When several correspondents for Eurojust are designated, one of them shall be responsible for the functioning of the Eurojust national coordination system.

5. The Eurojust national coordination system shall facilitate, within the Member State, the carrying out of the tasks of Eurojust, in particular by:

- (a) ensuring that the Case Management System referred to in Article 16 receives information related to the Member State concerned in an efficient and reliable manner;
- (b) assisting in determining whether a case should be dealt with with the assistance of Eurojust or of the European Judicial Network;
- (c) assisting the national member to identify relevant authorities for the execution of requests for, and decisions on, judicial cooperation, including regarding instruments giving effect to the principle of mutual recognition;
- (d) maintaining close relations with the Europol National Unit.

6. In order to meet the objectives referred to in paragraph 5, persons referred to in paragraph 1 and paragraph 2(a), (b) and (c) shall, and persons referred to in paragraph 2(d) may, be connected to the Case Management System in accordance with this Article and Articles 16, 16a, 16b and 18 as well as with the Rules of Procedure of Eurojust. The connection to the Case Management System shall be at the charge of the general budget of the European Union.

7. Nothing in this Article shall be construed to affect direct contacts between competent judicial authorities as provided for in instruments on judicial cooperation, such as Article 6 of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union. Relations between the national member and national correspondents shall not preclude direct contacts between the national member and his competent authorities.

(*) OJ L 167, 26.6.2002, p. 1.

(**) OJ L 332, 18.12.2007, p. 103.

(***) OJ L 301, 12.11.2008, p. 38.;

11. Article 13 shall be replaced by the following:

'Article 13

Exchanges of information with the Member States and between national members

1. The competent authorities of the Member States shall exchange with Eurojust any information necessary for the performance of its tasks in accordance with Articles 4 and 5 as well as with the rules on data protection set out in this Decision. This shall at least include the information referred to in paragraphs 5, 6 and 7.

2. The transmission of information to Eurojust shall be interpreted as a request for the assistance of Eurojust in the case concerned only if so specified by a competent authority.

3. The national members of Eurojust shall be empowered to exchange any information necessary for the performance of the tasks of Eurojust, without prior authorisation, among themselves or with their Member State's competent authorities. In particular national members shall be promptly informed of a case which concerns them.

4. This Article shall be without prejudice to other obligations regarding the transmission of information to Eurojust, including Council Decision 2005/671/JHA of

20 September 2005 on the exchange of information and cooperation concerning terrorist offences (*).

5. Member States shall ensure that national members are informed of the setting up of a joint investigation team, whether it is set up under Article 13 of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union or under Framework Decision 2002/465/JHA, and of the results of the work of such teams.

6. Member States shall ensure that their national member is informed without undue delay of any case in which at least three Member States are directly involved and for which requests for or decisions on judicial cooperation, including regarding instruments giving effect to the principle of mutual recognition, have been transmitted to at least two Member States and

(a) the offence involved is punishable in the requesting or issuing Member State by a custodial sentence or a detention order for a maximum period of at least five or six years, to be decided by the Member State concerned, and is included in the following list:

- (i) trafficking in human beings;
- (ii) sexual exploitation of children and child pornography;
- (iii) drug trafficking;
- (iv) trafficking in firearms, their parts and components and ammunition;
- (v) corruption;
- (vi) fraud affecting the financial interests of the European Communities;
- (vii) counterfeiting of the euro;
- (viii) money laundering;
- (ix) attacks against information systems;

or

(b) there are factual indications that a criminal organisation is involved;

or

(c) there are indications that the case may have a serious cross-border dimension or repercussions at European Union level or that it might affect Member States other than those directly involved.

7. Member States shall ensure that their national member is informed of:

- (a) cases where conflicts of jurisdiction have arisen or are likely to arise;
- (b) controlled deliveries affecting at least three States, at least two of which are Member States;
- (c) repeated difficulties or refusals regarding the execution of requests for, and decisions on, judicial cooperation, including regarding instruments giving effect to the principle of mutual recognition.

8. National authorities shall not be obliged in a particular case to supply information if this would mean:

- (a) harming essential national security interests; or
- (b) jeopardising the safety of individuals.

9. This Article shall be without prejudice to conditions set in bilateral or multilateral agreements or arrangements between Member States and third countries including any conditions set by third countries concerning the use of information once supplied.

10. Information transmitted to Eurojust pursuant to paragraphs 5, 6 and 7 shall at least include, where available, the types of information contained in the list provided for in the Annex.

11. Information referred to in this Article shall be transmitted to Eurojust in a structured way.

12. By 4 June 2014 (*), the Commission shall establish, on the basis of information transmitted by Eurojust, a report on the implementation of this Article, accompanied by any proposal it may deem appropriate, including with a view to considering an amendment of paragraphs 5, 6 and 7 and the Annex.

12. the following Article shall be inserted:

'Article 13a

Information provided by Eurojust to competent national authorities

1. Eurojust shall provide competent national authorities with information and feedback on the results of the processing of information, including the existence of links with cases already stored in the Case Management System.

2. Furthermore, where a competent national authority requests Eurojust to provide it with information, Eurojust shall transmit it in the timeframe requested by that authority.;

13. Article 14 shall be amended as follows:

- (a) in paragraph 3, the words 'in accordance with Articles 13 and 26' shall be replaced by 'in accordance with Articles 13, 26 and 26a';
- (b) paragraph 4 shall be deleted;

14. Article 15(1) shall be amended as follows:

- (a) in the introductory phrase the words 'are the subject of a criminal investigation or prosecution for one or more of the types of crime and the offences defined in Article 4' shall be replaced by 'are suspected of having committed or having taken part in a criminal offence in respect of which Eurojust is competent or who have been convicted of such an offence';

(b) the following points shall be added:

- (l) telephone numbers, e-mail addresses and data referred to in Article 2(2)(a) of Directive 2006/24/EC of the European Parliament and of the Council of 15 March 2006 on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks (*);

(m) vehicle registration data;

(n) DNA profiles established from the non-coding part of DNA, photographs and fingerprints.

(*) OJ L 253, 29.9.2005, p. 22.;

(*) OJ L 105, 13.4.2006, p. 54.;

15. Article 16 shall be replaced by the following:

'Article 16

Case Management System, index and temporary work files

1. In accordance with this Decision, Eurojust shall establish a Case Management System composed of temporary work files and of an index which contain personal and non-personal data.

2. The Case Management System shall be intended to:

- (a) support the management and coordination of investigations and prosecutions for which Eurojust is providing assistance, in particular by the cross-referencing of information;
- (b) facilitate access to information on ongoing investigations and prosecutions;
- (c) facilitate the monitoring of lawfulness and compliance with the provisions of this Decision concerning the processing of personal data.

3. The Case Management System, in so far as this is in conformity with rules on data protection contained in this Decision, may be linked to the secure telecommunications connection referred to in Article 9 of Council Decision 2008/976/JHA of 16 December 2008 on the European Judicial Network (*).

4. The index shall contain references to temporary work files processed within the framework of Eurojust and may contain no personal data other than those referred to in Article 15(1)(a) to (i), (k) and (m) and in Article 15(2).

5. In the performance of their duties in accordance with this Decision, the national members of Eurojust may process data on the individual cases on which they are working in a temporary work file. They shall allow the Data Protection Officer to have access to the work file. The Data Protection Officer shall be informed by the national member concerned of the opening of each new temporary work file that contains personal data.

6. For the processing of case related personal data, Eurojust may not establish any automated data file other than the Case Management System.

16. the following Articles shall be inserted:

'Article 16a

Functioning of temporary work files and the index

1. A temporary work file shall be opened by the national member concerned for every case with respect to which information is transmitted to him in so far as this transmission is in accordance with this Decision or with instruments referred to in Article 13(4). The national member shall be responsible for the management of the temporary work files which he has opened.

2. The national member who has opened a temporary work file shall decide, on a case-by-case basis, whether to keep the temporary work file restricted or to give access to it or to parts of it, where necessary to enable Eurojust to carry out its tasks, to other national members or to authorised Eurojust staff.

3. The national member who has opened a temporary work file shall decide which information related to this temporary work file shall be introduced in the index.

Article 16b

Access to the Case Management System at national level

1. Persons referred to in Article 12(2) in so far as they are connected to the Case Management System in accordance with Article 12(6) may only have access to:

- (a) the index, unless the national member who has decided to introduce the data in the index expressly denied such access;
- (b) temporary work files opened or managed by the national member of their Member State;
- (c) temporary work files opened or managed by national members of other Member States and to which the national member of their Member States has received access unless the national member who opened or manages the temporary work file expressly denied such access.

2. The national member shall, within the limitations provided for in paragraph 1, decide on the extent of access to the temporary work files which is granted in his Member State to persons referred to in Article 12(2) in so far as they are connected to the Case Management System in accordance with Article 12(6).

(*) OJ L 348, 24.12.2008, p. 130.;

3. Each Member State shall decide, after consultation with its national member, on the extent of access to the index which is granted in that Member State to persons referred to in Article 12(2) in so far as they are connected to the Case Management System in accordance with Article 12(6). Member States shall notify Eurojust and the General Secretariat of the Council of their decision regarding the implementation of this paragraph so that the latter can inform the other Member States.

However, persons referred to in Article 12(2), in so far as they are connected to the Case Management System in accordance with Article 12(6), shall at least have access to the index to the extent necessary to access the temporary work files to which they have been granted access in accordance with paragraph 2 of this Article.

4. By 4 June 2013, Eurojust shall report to the Council and the Commission on the implementation of paragraph 3. Each Member State shall consider, on the basis of that report, the opportunity to review the extent of access provided in accordance with paragraph 3.;

17. Article 17 shall be amended as follows:

- (a) in paragraph 1, the words 'take instructions from no-one' shall be replaced by 'act independently';
- (b) in paragraphs 3 and 4, the words 'the Officer' shall be replaced by 'the Data Protection Officer';

18. Article 18 shall be replaced by the following:

'Article 18

Authorised access to personal data

Only national members, their deputies and their assistants referred to in Article 2(2), persons referred to in Article 12(2) in so far as they are connected to the Case Management System in accordance with Article 12(6) and authorised Eurojust staff may, for the purpose of achieving Eurojust's objectives and within the limits provided for in Articles 16, 16a and 16b, have access to personal data processed by Eurojust.;

19. in Article 19(4)(b), the words 'which Eurojust is assisting' shall be deleted;

20. Article 21 shall be amended as follows:

- (a) paragraph 2 shall be amended as follows:
 - (i) in the introductory phrase the words 'the first applicable date among the following dates' shall be inserted after the word 'beyond';
 - (ii) the following point shall be inserted:

'(aa) the date on which the person was acquitted and the decision became final;'

(iii) point (b) shall be replaced by the following:

'(b) three years after the date on which the judicial decision of the last of the Member States concerned by the investigation or prosecutions became final;'

(iv) in point (c), the words ' unless there is an obligation to provide Eurojust with this information in accordance with Article 13(6) and (7) or with instruments referred to in Article 13(4)' shall be added after the word 'prosecutions';

(v) the following point shall be added:

'(d) three years after the date on which data were transmitted in accordance with Article 13(6) and (7) or with the instruments referred to in Article 13(4).'

(b) paragraph 3 shall be amended as follows:

- (i) in points (a) and (b) the words 'in paragraph 2' shall be replaced by 'in paragraph 2(a), (b), (c) and (d)';
- (ii) in point (b) the following sentence shall be added:

'However, once prosecution is statute barred in all Member States concerned as referred to in paragraph 2(a), data may only be stored if they are necessary in order for Eurojust to provide assistance in accordance with this Decision.';

21. Article 23 shall be amended as follows:

(a) paragraph 1 shall be amended as follows:

- (i) in the first subparagraph, the words 'in Articles 14 to 22' shall be replaced by 'in Articles 14 to 22, 26, 26a and 27';
- (ii) the second subparagraph shall be replaced by the following:

'The Joint Supervisory Body shall meet at least once in each half year. It shall also meet within the three months following the lodging of an appeal referred to in Article 19(8) or within three months following the date when a case was referred to it in accordance with Article 20(2). The Joint Supervisory Body may also be convened by its chairman when at least two Member States so request.';

(iii) in the third subparagraph, second sentence, the words 'eighteen months' shall be replaced by 'three years';

(b) in paragraph 4, the words 'Article 9(1)' shall be replaced by 'Article 2(4)'.

(b) paragraph 3 shall be replaced by the following:

'3. A judge appointed by a Member State shall become a permanent member after being elected by the plenary meeting of the persons appointed by the Member States in accordance with paragraph 1, and shall remain a permanent member for three years. Elections shall be held yearly for one permanent member of the Joint Supervisory Body by means of secret ballot. The Joint Supervisory Body shall be chaired by the member who is in his third year of mandate after elections. Permanent members may be re-elected. Appointees wishing to be elected shall present their candidacy in writing to the Secretariat of the Joint Supervisory Body 10 days before the meeting in which the election is to take place.';

(c) the following paragraph shall be inserted:

'4a. The Joint Supervisory Body shall adopt in its rules of procedure measures necessary to implement paragraphs 3 and 4.';

(d) in paragraph 10, the following sentence shall be added:

'The Secretariat of the Joint Supervisory Body may rely upon the expertise of the secretariat established by Decision 2000/641/JHA (*).

(*) Council Decision 2000/641/JHA of 17 October 2000 establishing a secretariat for the joint supervisory data-protection bodies set up by the Convention on the Establishment of a European Police Office (Europol Convention), the Convention on the Use of Information Technology for Customs Purposes and the Convention implementing the Schengen Agreement on the gradual abolition of checks at the common borders (Schengen Convention) (OJ L 271, 24.10.2000, p. 1).';

22. Article 25 shall be amended as follows:

(a) paragraph 1 shall be replaced by the following:

'1. The national members, their deputies and their assistants referred to in Article 2(2), Eurojust staff, national correspondents and the Data Protection Officer shall be bound by an obligation of confidentiality, without prejudice to Article 2(4).';

23. the following Article shall be inserted:

'Article 25a

Cooperation with the European Judicial Network and other networks of the European Union involved in cooperation in criminal matters

1. Eurojust and the European Judicial Network shall maintain privileged relations with each other, based on consultation and complementarity, especially between the national member, the European Judicial Network contact points of the same Member State and the national correspondents for Eurojust and the European Judicial Network. In order to ensure efficient cooperation, the following measures shall be taken:

(a) national members shall, on a case-by-case basis, inform the European Judicial Network contact points of all cases which they consider the Network to be in a better position to deal with;

(b) the Secretariat of the European Judicial Network shall form part of the staff of Eurojust. It shall function as a separate unit. It may draw on the administrative resources of Eurojust which are necessary for the performance of the European Judicial Network's tasks, including for covering the costs of the plenary meetings of the Network. Where plenary meetings are held at the premises of the Council in Brussels, the costs may only cover travel expenses and costs for interpretation. Where plenary meetings are held in the Member State holding the Presidency of the Council, the costs may only cover part of the overall costs of the meeting;

(c) European Judicial Network contact points may be invited on a case-by-case basis to attend Eurojust meetings.

2. Without prejudice to Article 4(1), the Secretariat of the Network for Joint Investigation Teams and of the network set up by Decision 2002/494/JHA shall form part of the staff of Eurojust. These secretariats shall function as separate units. They may draw on the administrative resources of Eurojust which are necessary for the performance of their tasks. Coordination between the secretariats shall be ensured by Eurojust.

This paragraph shall apply to the secretariat of any new network set up by a decision of the Council where that decision provides that the secretariat shall be provided by Eurojust.

3. The network set up by Decision 2008/852/JHA may request that Eurojust provide a secretariat to the network. If such request is made, paragraph 2 shall apply.;

24. Article 26 shall be replaced by the following:

'Article 26

Relations with Community or Union related institutions, bodies and agencies

1. In so far as is relevant for the performance of its tasks, Eurojust may establish and maintain cooperative relations with the institutions, bodies and agencies set up by, or on the basis of, the Treaties establishing the European Communities or the Treaty on European Union. Eurojust shall establish and maintain cooperative relations with at least:

(a) Europol;

(b) OLAF;

(c) the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex);

(d) the Council, in particular its Joint Situation Centre.

Eurojust shall also establish and maintain cooperative relations with the European Judicial Training Network.

2. Eurojust may conclude agreements or working arrangements with the entities referred to in paragraph 1. Such agreements or working arrangements may, in particular, concern the exchange of information, including personal data, and the secondment of liaison officers to Eurojust. Such agreements or working arrangements may only be concluded after consultation by Eurojust with the Joint Supervisory Body concerning the provisions on data protection and after the approval by the Council, acting by qualified majority. Eurojust shall inform the Council of any plans it has for entering into any such negotiations and the Council may draw any conclusions it deems appropriate.

3. Prior to the entry into force of an agreement or arrangement as referred to in paragraph 2, Eurojust may directly receive and use information, including personal data, from the entities referred to in paragraph 1, in so far as this is necessary for the legitimate performance of its tasks, and it may directly transmit information,

including personal data, to such entities, in so far as this is necessary for the legitimate performance of the recipient's tasks and in accordance with the rules on data protection provided in this Decision.

4. OLAF may contribute to Eurojust's work to coordinate investigations and prosecution procedures regarding the protection of the financial interests of the European Communities, either on the initiative of Eurojust or at the request of OLAF where the competent national authorities concerned do not oppose such participation.

5. For purposes of the receipt and transmission of information between Eurojust and OLAF, and without prejudice to Article 9, Member States shall ensure that the national members of Eurojust shall be regarded as competent authorities of the Member States solely for the purposes of Regulation (EC) No 1073/1999 and Council Regulation (Euratom) No 1074/1999 of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF) (*). The exchange of information between OLAF and national members shall be without prejudice to the information which must be given to other competent authorities under those Regulations.

(*) OJ L 136, 31.5.1999, p. 8.;

25. the following Article shall be inserted:

'Article 26a

Relations with third States and organisations

1. In so far as is required for the performance of its tasks, Eurojust may establish and maintain cooperative relations with the following entities:

(a) third States;

(b) organisations such as:

(i) international organisations and their subordinate bodies governed by public law;

(ii) other bodies governed by public law which are based on an agreement between two or more States; and

(iii) the International Criminal Police Organisation (Interpol).

2. Eurojust may conclude agreements with the entities referred to in paragraph 1. Such agreements may, in particular, concern the exchange of information, including personal data, and the secondment of liaison officers or liaison magistrates to Eurojust. Such agreements may only be concluded after consultation by Eurojust with the Joint Supervisory Body concerning the provisions on data protection and after the approval by the Council, acting by qualified majority. Eurojust shall inform the Council of any plans it has for entering into any such negotiations and the Council may draw any conclusions it deems appropriate.

3. Agreements referred to in paragraph 2 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.

4. Agreements referred to in paragraph 2 shall include provisions on the monitoring of their implementation, including implementation of the rules on data protection.

5. Prior to the entry into force of the agreements referred to in paragraph 2, Eurojust may directly receive information, including personal data in so far as this is necessary for the legitimate performance of its tasks.

6. Prior to the entry into force of the agreements referred to in paragraph 2, Eurojust may under the conditions laid down in Article 27(1), directly transmit information, except for personal data, to these entities, in so far as this is necessary for the legitimate performance of the recipient's tasks.

7. Eurojust may, under the conditions laid down in Article 27(1), transmit personal data to the entities referred to in paragraph 1, where:

- (a) this is necessary in individual cases for the purposes of preventing or combating criminal offences for which Eurojust is competent; and
- (b) Eurojust has concluded an agreement as referred to in paragraph 2 with the entity concerned which has entered into force and which permits the transmission of such data.

8. Any subsequent failure, or substantial likelihood of failure, on the part of the entities referred to in paragraph 1 to meet the conditions referred to in paragraph 3, shall immediately be communicated by Eurojust to the Joint Supervisory Body and the Member States concerned. The Joint Supervisory Body may prevent the further exchange of personal data with the relevant entities until it is satisfied that adequate remedies have been provided.

9. However, even if the conditions referred to in paragraph 7 are not fulfilled, a national member may, acting in his capacity as a competent national authority and in conformity with the provisions of his own national law, by way of exception and with the sole aim of taking urgent measures to counter imminent serious danger threatening a person or public security, carry out an exchange of information involving personal data. The national member shall be responsible for the legality of authorising the communication. The national member shall keep a record of communications of data and of the grounds for such communications. The communication of data shall be authorised only if the recipient gives an undertaking that the data will be used only for the purpose for which they were communicated.'

26. Article 27 shall be replaced by the following:

'Article 27

Transmission of data

1. Before Eurojust exchanges any information with the entities referred to in Article 26a, the national member of the Member State which submitted the information shall give his consent to the transfer of that information. In appropriate cases the national member shall consult the competent authorities of the Member States.

2. Eurojust shall be responsible for the legality of the transmission of data. Eurojust shall keep a record of all transmissions of data under Articles 26 and 26a and of the grounds for such transmissions. Data shall only be transmitted if the recipient gives an undertaking that the data will be used only for the purpose for which they were transmitted.;

27. the following Articles shall be inserted:

'Article 27a

Liaison magistrates posted to third States

1. For the purpose of facilitating judicial cooperation with third States in cases in which Eurojust is providing assistance in accordance with this Decision, the College may post liaison magistrates to a third State, subject to an agreement as referred to in Article 26a with that third State. Before negotiations are entered into with a third State, the Council, acting by qualified majority, shall give its approval. Eurojust shall inform the Council of any plans it has for entering into any such negotiations and the Council may draw any conclusions it deems appropriate.

2. The liaison magistrate referred to in paragraph 1 is required to have experience of working with Eurojust and adequate knowledge of judicial cooperation and how Eurojust operates. The posting of a liaison magistrate on behalf of Eurojust shall be subject to the prior consent of the magistrate and of his Member State.

3. Where the liaison magistrate posted by Eurojust is selected among national members, deputies or assistants:

- (i) he shall be replaced in his function as a national member, deputy or assistant, by the Member State;
- (ii) he ceases to be entitled to exercise the powers granted to him in accordance with Articles 9a to 9e.

4. Without prejudice to Article 110 of the Staff Regulations of Officials of the European Communities laid down by Regulation (EEC, Euratom, ECSC) No 259/68 (*), the College shall draw up rules on the posting of liaison magistrates and adopt the necessary implementing arrangements in this respect in consultation with the Commission.

5. The activities of liaison magistrates posted by Eurojust shall be the subject of supervision by the Joint Supervisory Body. The liaison magistrates shall report to the College, which shall inform the European Parliament and the Council in the annual report and in an appropriate manner of their activities. The liaison magistrates shall inform national members and national competent authorities of all cases concerning their Member State.

6. Competent authorities of the Member States and liaison magistrates referred to in paragraph 1 may contact each other directly. In such cases, the liaison magistrate shall inform the national member concerned of such contacts.

7. The liaison magistrates referred to in paragraph 1 shall be connected to the Case Management System.

Article 27b

Requests for judicial cooperation to and from third States

1. Eurojust may, with the agreement of the Member States concerned, coordinate the execution of requests for judicial cooperation issued by a third State where these requests are part of the same investigation and require execution in at least two Member States. Requests referred to in this paragraph may also be transmitted to Eurojust by a competent national authority.

2. In case of urgency and in accordance with Article 5a, the OCC may receive and process requests referred to in paragraph 1 of this Article and issued by a third State which has concluded a cooperation agreement with Eurojust.

3. Without prejudice to Article 3(2), where requests for judicial cooperation, which relate to the same investigation

and require execution in a third State, are made, Eurojust may also, with the agreement of the Member States concerned, facilitate judicial cooperation with that third State.

4. Requests referred to in paragraphs 1, 2 and 3 may be transmitted through Eurojust if it is in conformity with the instruments applicable to the relationship between that third State and the European Union or the Member States concerned.

Article 27c

Liability other than liability for unauthorised or incorrect processing of data

1. Eurojust's contractual liability shall be governed by the law applicable to the contract in question.

2. In the case of non-contractual liability, Eurojust shall, independently of any liability under Article 24, make good any damage caused through the fault of the College or the staff of Eurojust in the performance of their duties in so far as it may be imputed to them and regardless of the different procedures for claiming damages which exist under the law of the Member States.

3. Paragraph 2 shall also apply to damage caused through the fault of a national member, a deputy or an assistant in the performance of his duties. However, when he is acting on the basis of the powers granted to him pursuant to Articles 9a to 9e, his Member State of origin shall reimburse Eurojust the sums which Eurojust has paid to make good such damage.

4. The injured party shall have the right to demand that Eurojust refrain from taking, or cease, any action.

5. The national courts of the Member States competent to deal with disputes involving Eurojust's liability as referred to in this Article shall be determined by reference to Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (**).

(*) OJ L 56, 4.3.1968, p. 1.

(**) OJ L 12, 16.1.2001, p. 1.;

28. in the second sentence of Article 28(2), the words 'acting by qualified majority,' shall be inserted after 'the Council';

29. Article 29 shall be amended as follows:

(a) in paragraph 1:

(i) the words 'unanimously' shall be replaced by 'by two-thirds majority';

(ii) the following sentence shall be added:

'The Commission shall be entitled to participate in the selection process and to sit on the selection board.';

(b) in paragraph 2, the second sentence shall be replaced by the following:

'It may be extended once without a need for a call for applications, provided that the College so decides by a three-fourths majority and appoints the Administrative Director with the same majority.';

(c) in paragraph 5, the following sentence shall be added:

'To that end, he shall be responsible for establishing and implementing, in cooperation with the College, an effective monitoring and evaluation procedure relating to the performance of Eurojust's administration in terms of achieving its objectives. The Administrative Director shall report regularly to the College on the results of that monitoring.';

30. Article 30 shall be amended as follows:

(a) in paragraph 2:

(i) in the fourth sentence, the words 'who may also assist the national member' shall be added;

(ii) the last sentence shall be replaced by the following:

'The College shall adopt the necessary implementing arrangements for seconded national experts.';

(b) in paragraph 3, the words 'without prejudice to Article 25a(1)(c) and (2)' shall be added;

31. Article 32 shall be amended as follows:

(a) the title shall be replaced by the following:

'Informing the European Parliament, the Council and the Commission';

(b) the following paragraph shall be added:

'3. The Commission or the Council may seek Eurojust's opinion on all draft instruments prepared under Title VI of the Treaty.';

32. Article 33 shall be replaced by the following:

'Article 33

Finance

1. The salaries and emoluments of the national members, deputies and assistants referred to in Article 2(2) shall be borne by their Member State of origin.

2. Where national members, deputies and assistants act within the framework of Eurojust's tasks, the relevant expenditure related to these activities shall be regarded as operational expenditure within the meaning of Article 41(3) of the Treaty.';

33. Article 35(1) shall be amended as follows:

(a) the words '31 March' shall be replaced by '10 February';

(b) the following sentence shall be added:

'The European Judicial Network and networks referred to in Article 25a(2) shall be informed on the parts related to the activities of their secretariats in due time before the forwarding of the estimate to the Commission.';

34. Article 36 shall be amended as follows:

(a) in paragraph 2, the first sentence shall be replaced by the following:

'2. By 1 March at the latest following each financial year, the accounting officer of Eurojust shall communicate the provisional accounts to the Commission's accounting officer and the Court of Auditors together with a report on the budgetary and financial management for that financial year.';

(b) paragraph 3 shall be replaced by the following:

‘3. Eurojust shall send the report on the budgetary and financial management for the financial year to the European Parliament and the Council by 31 March of the following year.’;

(c) in paragraph 10, the words ‘30 April’ shall be replaced by ‘15 May’;

35. the following Article shall be inserted:

‘Article 39a

EU classified information

Eurojust shall apply the security principles and minimum standards set out in Council Decision 2001/264/EC of 19 March 2001 adopting the Council’s security regulations (*) in the management of EU classified information.

(*) OJ L 101, 11.4.2001, p. 1.’;

36. Article 41 shall be replaced by the following:

‘Article 41

Reporting

1. Member States shall notify Eurojust and the General Secretariat of the Council of the designation of national members, deputies, assistants as well as persons referred to in Article 12(1) and (2) and of any change to this designation. The General Secretariat of the Council shall keep an updated list of these persons and shall make their names and contact details available to all Member States and to the Commission.

2. The definitive appointment of a national member can not take effect before the day on which the General Secretariat of the Council receives the official notifications referred to in paragraph 1 and Article 9a(3).’;

37. the following Article shall be inserted:

‘Article 41a

Evaluation

1. Before 4 June 2014 and every five years thereafter, the College shall commission an independent external

evaluation of the implementation of this Decision as well as of the activities carried out by Eurojust.

2. Each evaluation shall assess the impact of this Decision, Eurojust’s performance in terms of achieving the objectives referred to in this Decision as well as the effectiveness and efficiency of Eurojust. The College shall issue specific terms of reference in consultation with the Commission.

3. The evaluation report shall include the evaluation findings and recommendations. This report shall be forwarded to the European Parliament, the Council and the Commission and shall be made public.’;

38. the Annex whose text appears in the Annex to this Decision shall be added.

Article 2

Transposition

1. If necessary the Member States shall bring their national law into conformity with this Decision at the earliest opportunity and in any case no later than 4 June 2011.

2. The Commission shall at regular intervals examine the implementation by the Member States of Decision 2002/187/JHA as amended and shall submit a report thereon to the European Parliament and to the Council together with, if appropriate, necessary proposals to improve judicial cooperation and the functioning of Eurojust. This shall in particular apply to Eurojust’s capacities to support Member States in fighting terrorism.

Article 3

Taking of effect

This Decision shall take effect on the day of its publication in the *Official Journal of the European Union*.

Done at Brussels, 16 December 2008.

For the Council

The President

R. BACHELOT-NARQUIN

ANNEX

'ANNEX

List referred to in Article 13(10) setting out the minimum types of information to be transmitted, where available, to Eurojust pursuant to Article 13(5), (6) and (7)

1. For situations referred to in Article 13(5):
 - (a) participating Member States;
 - (b) type of offences concerned;
 - (c) date of the agreement setting up the team;
 - (d) planned duration of the team, including modification of this duration;
 - (e) details of the leader of the team for each participating Member State;
 - (f) short summary of the results of the joint investigation teams.
2. For situations referred to in Article 13(6):
 - (a) data which identify the person, group or entity that is the object of a criminal investigation or prosecution;
 - (b) Member States concerned;
 - (c) the offence concerned and its circumstances;
 - (d) data related to the requests for, or decisions on, judicial cooperation including regarding instruments giving effect to the principle of mutual recognition, which are issued, including:
 - (i) date of the request;
 - (ii) requesting or issuing authority;
 - (iii) requested or executing authority;
 - (iv) type of request (measures requested);
 - (v) whether or not the request has been executed, and if not on what grounds.
3. For situations referred to in Article 13(7)(a):
 - (a) Member States and competent authorities concerned;
 - (b) data which identify the person, group or entity that is the object of a criminal investigation or prosecution;
 - (c) the offence concerned and its circumstances.
4. For situations referred to in Article 13(7)(b):
 - (a) Member States and competent authorities concerned;
 - (b) data which identify the person, group or entity that is the object of a criminal investigation or prosecution;

(c) type of delivery;

(d) type of offence in connection with which the controlled delivery is carried out.

5. For situations referred to in Article 13(7)(c):

(a) requesting or issuing State;

(b) requested or executing State;

(c) description of the difficulties.'

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