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COMMISSION STAFF WORKING DOCUMENT

Subsidiarity grid

Accompanying the document

**Proposal for a
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
on the European Union Agency for Criminal Justice Cooperation (Eurojust) and
repealing Regulation (EU) 2018/1727**

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1. Can the Union act? What is the legal basis and competence of the Unions' intended action?

1.1 Which article(s) of the Treaty are used to support the legislative proposal or policy initiative?

The legal basis of the initiative is Article 85 of the Treaty on the Functioning of the European Union (TFEU). Article 85(1) TFEU states that Eurojust's mission shall be to support and strengthen coordination and cooperation between national investigating and prosecuting authorities in relation to serious crime affecting two or more Member States or requiring a prosecution on common bases, based on operations conducted and information supplied by the Member States' authorities and by Europol.

1.2 Is the Union competence represented by this Treaty article exclusive, shared or supporting in nature?

In the area of freedom, security and justice, the Union's competence is shared (Article 4§2 (j) TFEU).

2. Subsidiarity Principle: Why should the EU act?

2.1 Does the proposal fulfil the procedural requirements of Protocol No. 2¹:

- Has there been a wide consultation before proposing the act?
- Is there a detailed statement with qualitative and, where possible, quantitative indicators allowing an appraisal of whether the action can best be achieved at Union level?

In the context of the evaluation of the Eurojust Regulation (EJR) and impact assessment, the Commission conducted numerous consultation activities, including public and targeted stakeholder consultations. The consultations were carried out as widely as possible to receive relevant input, evidence and explanations of the needs of different categories of stakeholders. The consultation strategy was designed to ensure that the supporting study captures the perspectives of a broad range of stakeholders, both internal and external to Eurojust. These included notably Eurojust staff, national desks, national authorities and practitioners, representatives of other EU agencies and bodies in the area of criminal justice, academics as well as representatives of international organisations.

- A Call for Evidence was launched by the Commission and made available on the "Have Your Say" website from 28 October 2025 until 3 December 2025, with 42 replies received.
- The Commission launched a public consultation in all 24 official EU languages. The consultation was questionnaire-based. The consultation period was twelve weeks (3 December 2025 to 24 February 2026) with 20 replies received.
- An Online survey was conducted until 4 March 2026, targeting a range of stakeholder types, including practitioners, the Eurojust administration and national desks, and public officials. Several non-EU and EU countries were represented. Practitioners from EU Member States accounted for nearly half of all responses (48%), making them the most prominent stakeholder group in this

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12016E/PRO/02&from=EN>

survey, followed by members of the Eurojust administration. 429 replies have been received.

- 115 Interviews with stakeholders have been carried out. These interviews covered representatives of the Eurojust administration, national desks and liaison prosecutors, EU agencies and bodies, EU and third country national-level stakeholders (authorities and practitioners), and international organisations. They include in-person consultation with Eurojust personnel during the site visit, as well as online interviews with a range of stakeholders.
- In addition, other consultations of experts and senior officials representing Member States have been carried out: technical workshops by Eurojust (*vision 2035*), two meetings of the Consultative forum of the Prosecutors General and Directors of Public Prosecutions of the EU Member States, working meeting with the Criminal Law Expert Group (composed of practitioners and academics), exchanges with experts and representatives of Member States during EU Council's meetings organised at technical and political levels (COPEN working parties and JHA Councils).

The Impact Assessment accompanying the proposal includes a detailed statement with qualitative and, where possible, quantitative indicators allowing an appraisal of whether the action can best be achieved at Union level (*see Chapter 3*).

2.2 Does the explanatory memorandum (and any impact assessment) accompanying the Commission's proposal contain an adequate justification regarding the conformity with the principle of subsidiarity?

Both documents accompanying the Commission's legislative initiative, contain an adequate justification that this legislative initiative aimed at revising the current Eurojust regulation complies with the principle of subsidiarity as enshrined in Article 5(3) TFEU.

2.3 Based on the answers to the questions below, can the objectives of the proposed action be achieved sufficiently by the Member States acting alone (necessity for EU action)?

Eurojust is an EU Agency which has been set up to support national prosecutorial and judicial authorities to cooperate in cross-border criminal cases. Given the very nature of Eurojust being an EU agency, a revision of its mandate and functioning cannot be achieved by Member States action alone. The issues addressed by the revision of Eurojust are inherently transnational, as serious and organised crime increasingly operates across borders, exploits differences between national legal systems, and affects all Member States. Individual national authorities, while retaining core criminal justice competences, are limited in their ability to ensure effective multilateral coordination, interoperable cooperation tools, and consistent information exchange across jurisdictions.

Without EU-level action, judicial cooperation would risk fragmentation, delays, inconsistencies in evidence handling, and weakened collective capacity to investigate and prosecute cross-border offences, thereby undermining the objectives of the Area of Freedom, Security and Justice under Article 67 TFEU. The growing complexity, scale, and technological sophistication of cross-border criminal activity also place increasing pressure on national authorities, many of which lack sufficient resources or operational capacities to manage multinational investigations alone. Although national, regional, and local authorities across the EU differ in their legal traditions and judicial structures, a strengthened Eurojust

mandate provides a neutral and overarching European framework capable of reconciling these differences while ensuring coherent, efficient, and effective judicial cooperation throughout the Union, thus enhancing the overall efficiency of the Union's justice and security architecture.

(a) Are there significant/appreciable transnational/cross-border aspects to the problems being tackled? Have these been quantified?

Eurojust's functions (coordination, cooperation facilitation, and operational support) are transnational by nature and cannot be performed effectively by any single Member State. Its Union-level structure allows it to take a neutral and overarching European view across jurisdictions, facilitate simultaneous multilateral cooperation, and ensure that no Member State is disadvantaged.

(b) Would national action or the absence of the EU level action conflict with core objectives of the Treaty² or significantly damage the interests of other Member States?

The objectives pursued by the revision of the mandate of Eurojust cannot be sufficiently achieved by Member States acting alone because serious cross-border crime inherently affects several jurisdictions simultaneously. If national authorities acted independently, this would risk fragmentation of judicial cooperation, inconsistencies in evidence handling, and delays in coordination, thereby undermining the objectives of the Treaties relating to the Area of Freedom, Security and Justice under Articles 67. The absence of EU-level action would also negatively affect other Member States by weakening the collective capacity to investigate and prosecute organised crime and other transnational offences.

(c) To what extent do Member States have the ability or possibility to enact appropriate measures?

While Member States retain important competences in criminal justice and judicial cooperation, their ability to enact appropriate measures individually is limited. National authorities cannot by themselves ensure uniform coordination mechanisms, interoperable judicial cooperation tools, or effective information exchange across the EU. Differences in legal systems, procedural rules, and operational capacities create structural obstacles that only an EU-level agency such as Eurojust can address through coordinated support, common operational frameworks, and centralised cooperation mechanisms.

(d) How does the problem and its causes (e.g. negative externalities, spill-over effects) vary across the national, regional and local levels of the EU?

The problem primarily manifests itself at the transnational level, as criminal networks operate across borders and exploit differences between national legal systems. At the national level, authorities may face difficulties in obtaining evidence, coordinating prosecutions, or executing judicial requests involving several Member States. At the regional and local levels, prosecutors and law enforcement authorities encounter operational burdens linked to increasingly complex cross-border investigations. Negative external factors and spill-over effects are significant because ineffective action in one Member State may compromise

² https://europa.eu/european-union/about-eu/eu-in-brief_en

investigations and prosecutions in others, thereby reducing the overall effectiveness of EU criminal justice cooperation.

(e) Is the problem widespread across the EU or limited to a few Member States?

The problem is widespread across the EU rather than confined to a limited number of Member States. Cross-border crime affects all Member States to varying degrees, irrespective of their geographic location or legal tradition. The increasing digitalisation of crime, mobility within the Schengen area, and the transnational nature of organised criminal networks mean that even offences originating in one Member State frequently produce effects across the Union. Consequently, all Member States have an interest in strengthening coordinated judicial cooperation at EU level.

(f) Are Member States overstretched in achieving the objectives of the planned measure?

Member States are increasingly overstretched in achieving the objectives of effective cross-border judicial cooperation on their own. The growing volume, complexity, and technological sophistication of cross-border criminal cases place substantial pressure on national judicial authorities, a trend confirmed by Europol's reports on organised crime. Individual Member States may lack sufficient resources, technical capacities, or access to timely information necessary to manage complex multinational investigations effectively. Strengthening the mandate of Eurojust helps alleviate these burdens by facilitating coordination, operational support, and information sharing at EU level.

(g) How do the views/preferred courses of action of national, regional and local authorities differ across the EU?

The views and preferred approaches of national, regional, and local authorities differ across the EU due to variations in legal traditions, administrative structures, prosecutorial systems, and operational capacities. Some Member States favour deeper EU-level integration and stronger coordination mechanisms, while others prioritise maintaining national procedural autonomy. Regional and local prosecutorial authorities may also differ in their operational needs and levels of experience with cross-border cooperation. An EU-level framework through Eurojust provides a common platform capable of reconciling these differences while ensuring coherent and effective judicial cooperation throughout the Union.

2.4 Based on the answer to the questions below, can the objectives of the proposed action be better achieved at Union level by reason of scale or effects of that action (EU added value)?

By pooling expertise and information, supporting Joint Investigation Teams, avoiding duplication and assisting less-resourced Member States, Eurojust creates economies of scale and strengthens the fight against serious transnational crime. Its work also supports the internal market by increasing legal certainty, reducing criminal loopholes across borders, and reinforcing trust for citizens and businesses operating within the EU. At the same time, Eurojust does not replace national authorities nor reduces Member States' competences but rather complements their work within national legal frameworks. The planned reform is also expected to improve legal clarity, particularly regarding governance, cooperation with partners, and data protection rules.

(a) Are there clear benefits from EU level action?

The EU level action regarding the judicial cooperation between competent national authorities provides clear benefits.

Eurojust represents a genuine EU-level added value: it creates efficiencies, pooling resources, information and expertise; enables and facilitates coherent, coordinated, cross-border action against serious crime; fosters mutual trust and legal cooperation; and by doing so, strengthens the rule-of-law foundations and trust that underpin the internal market and citizens' mobility.

Without Eurojust (or a similar EU-level mechanism), national efforts alone, even if bilateral cooperation exists and that European MLA tools (EAW, EIO, etc.) are very efficient, would struggle to respond effectively to the scale, complexity and transnational nature of serious organised crime, terrorism, human trafficking, money-laundering, cybercrime, etc. The speed, coordination, and institutional capacity that Eurojust provides are difficult to replicate through bilateral cooperation alone, especially across many Member States.

(b) Are there economies of scale? Can the objectives be met more efficiently at EU level (larger benefits per unit cost)? Will the functioning of the internal market be improved?

There are clear economies of scale and efficiency gains from having an executive agency like Eurojust at EU level rather than relying solely on individual national systems or bilateral cooperation. Eurojust clearly contributes to the following actions:

- Pooling information, expertise and resources by bringing together national practitioners from all Member States in one institution. Eurojust concentrates know-how, specialised skills and experience that no single national authority would have at scale. This reduces duplication and ensures that cross-border cases benefit from expert coordination and institutional memory rather than ad-hoc bilateral attempts.
- Faster and more efficient coordination for transnational crime, time and coordination matter. Eurojust's structure allows rapid convening of coordination meetings, setting up JITs, steering "coordination centres" for cross-border operations, and facilitating swift execution of EAWs, EIOs or freezing orders.
- Avoiding duplication and conflicting investigations. When several Member States would independently investigate overlapping cross-border crimes, Eurojust can help avoid multiple, overlapping, inefficient investigations which would waste public resources. Instead, it helps coordinate a single, coherent cross-border investigation or prosecution.
- Support for states with fewer resources. Indeed, for Member States with limited capacity, handling complex transnational crime can be resource-intensive: Eurojust provides operational, technical and financial support levelling the playing field and ensuring that all states, large or small, can effectively participate in cross-border crime prosecution.

In addition, Eurojust contributes to the functioning of the internal market and EU as a whole. By strengthening trust, ensuring consistent enforcement of criminal law, and reducing the risk of cross-border criminal exploitation of jurisdictional fragmentation, Eurojust helps underpin the internal market and general rule-of-law foundations that economic integration depends on. Eurojust plays a non negligible role in the following actions:

- The reduction of "safe havens" for criminals. Serious and cross-border crimes can undermine trust in the internal market, distort competition, damage legitimate

businesses, and discourage cross-border economic activity. By enabling efficient cross-border prosecution, Eurojust helps close loopholes that criminals could exploit across borders. This reinforces a level playing field for businesses across the EU.

- The building of confidence for individuals and businesses to operate across borders. A predictable, efficient and fair criminal-justice cooperation system strengthens trust for citizens, in terms of rights protection, for suspects and victims alike, but also for businesses and cross-border economic actors (it fosters cross-border trade and investment). This supports the deeper integration of the internal market.
- The facilitation of judicial cooperation for crimes affecting EU financial interests or cross-border economic crime. Some of the crimes Eurojust handles (e.g., money-laundering, fraud, drug trafficking, cybercrime) often have direct or indirect economic consequences (asset seizures, disrupted supply chains, reputational damage). Efficient cross-border prosecution helps preserve the integrity of the market and protect citizens/businesses from being victims.
- The facilitation of movement and social/economic integration. As noted in EU strategy on criminal justice, when judiciaries across Member States trust each other and share minimal common standards, “people are more likely to use their right to live, work or study in another EU country.” In that sense, a strong EU-level judicial cooperation mechanism supports the broader internal market not only in economic trade but also mobility and labour market integration.

(c) What are the benefits in replacing different national policies and rules with a more homogenous policy approach?

The Eurojust’s action does not replace different national authorities. It does not substitute the work of national judicial authorities: it enhances this work. EU-level action and the services provided by Eurojust support and reinforce the work of national judicial authorities (public prosecutors offices and, depending on national systems, investigation judges), helping them to prosecute cross-border crimes and to conduct related criminal proceedings, such as proceedings for asset recovery, more effectively.

(d) Do the benefits of EU-level action outweigh the loss of competence of the Member States and the local and regional authorities (beyond the costs and benefits of acting at national, regional and local levels)?

There is no loss of competence of the Member States or local authorities: they will retain all their powers, as Eurojust will support their actions within the framework of national procedures. Furthermore, each Member State will be represented twice within the agency: at the operational level through the national desks, and at the managerial level through the Management Board.

(e) Will there be improved legal clarity for those having to implement the legislation?

One of the objectives of the revision is precisely to clarify the agency’s governance system, and in particular the relationships between its decision-making bodies. Another focus of the reform is to improve relations between the agency and its European and other partners, which will also promote legal certainty. The legal framework applicable to data protection and processing will also be clarified.

3. Proportionality: How the EU should act

3.1 Does the explanatory memorandum (and any impact assessment) accompanying the Commission’s proposal contain an adequate justification regarding the proportionality of the proposal and a statement allowing appraisal of the compliance of the proposal with the principle of proportionality?

The assessment of measures and options followed a four-step process (construct baseline, compile wide range of alternative policy options, identify most viable, describe key aspects of retained ones). The choice of the preferred option is compliant with the principle of proportionality laid down in Article 5(4) TEU. In this regard, the EU action will not exceed what is necessary to achieve legitimate interests.

The rationale has been developed according to the degree of intensity of the measure and by topic (specific objective and area of intervention). The assessment of the measures and policy options is based on a mixed methods approach in which their effectiveness, efficiency and coherence are graded using a scoring system that reflects the available data and its acknowledged limitations. The measures selected for further analysis in the impact assessment were the most proportionate and feasible (legally and politically).

3.2 Based on the answers to the questions below and information available from any impact assessment, the explanatory memorandum or other sources, is the proposed action an appropriate way to achieve the intended objectives?

The initiative is justified at Union level because Member States cannot effectively address the growing complexity of serious cross-border crime on their own, making coordinated EU action through Eurojust indispensable. In line with Article 85 TFEU, a regulation is considered the most appropriate and coherent legal instrument to strengthen Eurojust’s structure, governance, operational tasks, and cooperation mechanisms, since non-legislative measures would not adequately resolve the identified shortcomings. While the regulation leaves limited room for national implementation, it still allows flexibility for Member States in areas such as the allocation of powers to National Members and the granting of additional competences under national law. Although the reform entails additional financial and administrative costs, these are viewed as proportionate and necessary given Eurojust’s expanding responsibilities, expected efficiency gains, and the broader objective of reducing the significant economic and social costs of crime across the EU.

(a) Is the initiative limited to those aspects that Member States cannot achieve satisfactorily on their own, and where the Union can do better?

Yes. The scale and effects of cross-border crime investigations make Union-level coordination indispensable. As the EU agency supporting and improving the coordination and cooperation between national investigating and prosecuting authorities, Eurojust is a strong expression of this. There is a need for EU action to step up the support to Member States in fighting serious and cross-border crime to keep pace with these threats. Indeed, Member States alone would not be able to effectively tackle the new operational issues and criminal threats identified in the evaluation study and the impact assessment.

(b) Is the form of Union action (choice of instrument) justified, as simple as possible, and coherent with the satisfactory achievement of, and ensuring compliance with the objectives pursued (e.g. choice between regulation, (framework) directive, recommendation, or alternative regulatory methods such as co-legislation, etc.)?

The choice of the instrument is guided by the legal basis, Article 85 TFEU stating that the European Parliament and the Council, by means of regulations adopted in accordance with the ordinary legislative procedure, shall determine Eurojust's structure, operation, field of action and tasks.

(c) Does the Union action leave as much scope for national decision as possible while achieving satisfactorily the objectives set? (e.g. is it possible to limit the European action to minimum standards or use a less stringent policy instrument or approach?)

One option discarded at an early stage was to adopt only non-legislative measures to address the identified problems. The effects of an absence of legislative measures have been considered in the baseline scenario described in the impact assessment. A legislative initiative (a regulation) is the only means to address the problems identified in the functioning and the governance of Eurojust as for the need to improve the tasks and operational competences of the agency.

(d) Does the initiative create financial or administrative cost for the Union, national governments, regional or local authorities, economic operators or citizens? Are these costs commensurate with the objective to be achieved?

Eurojust is a decentralised agency mainly financed by the EU budget. Possibilities for internal redeployment within Eurojust to cover part of the new tasks have been seriously explored and pursued to the extent feasible.

- The reform is expected to generate certain efficiency gains. In particular, relieving National Members from administrative burden and refocusing them on operational casework should allow National Desks to devote more resources to cases and requests from Member States, rather than supporting lengthy administrative discussions within the College.
- Enhanced cooperation with partners is also expected to reduce the number of FTEs currently devoted to follow-up activities linked to information exchange, thereby freeing additional operational capacity.
- Nevertheless, additional resources are required to fulfil the Agency's new tasks. The figures currently reflected in the draft Impact Assessment are already net of the estimated efficiency gains. These numbers are proportionate and correspond to the operational needs of the reformed agency.
- This should also be seen against the background of the current resource situation at Eurojust, where resources are already significantly stretched and several reprioritisation exercises have taken place in recent years. Eurojust has repeatedly indicated that, without reinforcements, it may soon be required to scale back certain core activities.

The preferred option is expected to enhance the ability of national judicial authorities to successfully prosecute cross-border organised crime, including large criminal enterprises, particularly those with a third country dimension. This improvement acts as a deterrent to future criminal activity, increases legal certainty, and reduces crime levels, thus ultimately benefiting citizens and businesses alike. Given the size of the cost of crime in the EU (approximately EUR 200 billion per annum), even a small contribution from the Agency to the reduction of crime is expected to be high in monetary terms. To illustrate this, should

the proposed improvements to Eurojust contribute to addressing a mere 0.05%, this would result overall in a EUR 100 million reduction to the cost of crime.

(e) While respecting the Union law, have special circumstances applying in individual Member States been taken into account?

The legislative tool will be a regulation, without margin for manoeuvre concerning its implementation (there is no transposition). Nevertheless, the implementation of some provisions will leave some flexibility to Member States.

For instance, despite the reinforcement of the eligibility criteria for appointing College's National Members, if, under national law, the powers of National Members are conferred upon another competent national authority, the National Member may request that authority to issue or execute the measure concerned. In addition, Member States will have the possibility to grant additional powers to National Members for the purpose of exercising their tasks (in this hypothesis these Member States shall notify it the Commission and the College).