Additional rules defining some specific aspects of the application of the rules on the processing and protection of personal data at Eurojust to non-case-related operations

(Adopted by the College of Eurojust on 27 June 2006)

The College of Eurojust,

Having regard to the Council Decision of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime (hereafter referred to as the Eurojust Decision),

Having regard to the rules on the processing and protection of personal data (hereafter referred as the DP rules), adopted by the College of Eurojust on 21 October 2004, and in particular Article 43 thereof,

Whereas:

(1) The application of the DP rules raises some specific procedural and organisational questions regarding the processing of non-case-related data.

(2) In contrast with Article 21 of the DP rules for case-related data, these rules do not contain defined procedures for the exercise of the rights of the data subjects mentioned in article 9 of these rules for non-case-related operations.

(3) Article 43 of the DP rules allows Eurojust to develop further rules regarding the processing of personal data in non-case-related operations where necessary.

4) The rules of procedure on the processing and protection of non-case-related personal data must be consistent with the principles and rules applicable to all European institutions and bodies insofar as such processing is carried out in the exercise of activities all or part of which fall within the scope of Community Law.

HAS DECIDED AS FOLLOWS:

SECTION 1
General provisions

Article 1
Subject matter and scope

1. Without prejudice to any further rules that Eurojust might consider necessary to develop in the future, these additional rules aim at defining some specific aspects
of the application of the Eurojust DP rules for non-case-related operations, in line with Article 43 of those rules.

2. “Non-case-related data” as referred in Article 3 of the DP rules is defined, in the light of the declaration of the College of 27 January 2005,¹ as covering the personal data of Eurojust postholders as well as purely administrative information held by Eurojust.

Article 2
Definitions

For the purpose of these additional rules and without prejudice to the definitions provided by in the DP rules:

1. ‘controller’ means the National Members, the Administrative Director, the Head of Unit or Service any other organisational entity at Eurojust which alone or jointly with others determines the purposes and means of the processing of personal data, as identified in the notification to be sent to the Data Protection Officer (hereafter referred to as the DPO) in accordance with Article 34 of the DP rules;

2. ‘Eurojust postholders’ means National members and assistants, including deputies, Eurojust staff, interims, stagiares and any other person working for Eurojust.

SECTION 2
The Data Protection Officer

Article 3
Specific tasks, duties and powers of the Data Protection Officer in the field of non-case-related operations

Without prejudice to the provisions contained in the Eurojust Decision and the DP rules and to the external control powers of the Joint Supervisory Body of Eurojust, the Data Protection Officer shall have the following specific tasks, duties and powers regarding non-case-related processing operations:

1. The Data Protection Officer may make recommendations for the practical improvement of data protection to the Administrative Director of Eurojust and advise him/her and the controller concerned on matters concerning the application of data protection provisions to non-case-related operations. He/she may propose to the College and Administrative Director administrative measures and issue general recommendations on the appropriate application of the DP relevant rules.

¹ Decision of the College of Eurojust to adopt a declaration regarding the rules of procedure on the processing and protection of personal data at Eurojust, adopted on 27 January 2005.
2. Furthermore he or she may, on his or her own initiative or at the request of the College of Eurojust, the Administrative Director, the controller, the Staff Committee concerned or any individual Eurojust postholder, investigate matters and occurrences directly relating to his or her tasks and which come to his or her notice, and report back to the person who commissioned the investigation and/or to the controller.

2. The Data Protection Officer may be consulted by the College of Eurojust, the Administrative Director, the controller concerned, by the Staff Committee or by any individual postholder of Eurojust, without going through the official channels, on any matter concerning the interpretation or application of the DP relevant provisions.

3. No one shall suffer prejudice on account of a matter brought to the attention of the Data Protection Officer or JSB alleging that a breach of the relevant DP provisions has taken place.

4. In performing his or her tasks and duties the DPO:
   a) shall have access at all times to the data forming the subject-matter of processing operations and to all offices, data-processing installations and data carriers;
   b) may request legal opinions from the Legal Service of Eurojust and technical advise where required to other relevant Eurojust units or services.

5. In addition to other tasks to be fulfilled, the DPO shall:
   a) respond to requests from the JSB and, within the sphere of his/her competence, cooperate with the JSB at the latter's request or on his/her own initiative;
   b) grant access to the register referred to in article 35 of the DP rules to any person in accordance with the procedure defined in article 6 of these rules;
   c) ensure that the rights and freedoms of the data subjects are unlikely to be adversely affected by the processing operations;
   d) where relevant, cooperate in the discharge of his/her functions with the Data Protection Officers of other European institutions and bodies, in particular by exchanging experience and best practices;
   e) on request of the president of the College or the administrative director represent Eurojust in all data protection related issues.

6. The DPO shall inform the JSB of the following processing operations likely to present specific risks:
   a) processing of data relating to health and to offences, criminal convictions or security measures;
   b) processing operations intended to evaluate personal aspects relating to the data subject, including his or her ability, efficiency and conduct;
   c) processing operations allowing linkages not provided for pursuant to national or Community legislation between data processed for different purposes;
d) processing operations for the purpose of excluding individuals from a right, benefit or contract.

7. The Data Protection Officer and his or her staff shall be required not to divulge information or documents which they obtain in the course of their duties.

SECTION 3

Rights and obligations of actors in the field of data protection

Article 4

Controllers
1. The controllers are responsible for ensuring that all processing operations under their control comply with the DP rules applicable to Eurojust.
2. In particular, the controllers shall:
   (a) in accordance to article 34 of the DP rules, give prior notice to the DPO of any processing operation or set of such operations intended to serve a single purpose or several related purposes, as well as of any substantial change of an existing processing operation.
   (b) assist the DPO and the JSB in performing their respective duties, in particular by giving information in reply to their requests within 30 days, at the latest;
   (c) implement appropriate technical and organisational measures and give adequate instructions to their staff to ensure both the confidentiality of the processing and a level of security appropriate to the risks represented by the processing;
   (d) where appropriate, consult the DPO on the conformity of processing operations with the applicable DP provisions, and in particular when they have reason to believe that certain processing operations are incompatible with the DP rules. They may also consult the DPO and/or the Security Unit and Security of Information (Infosec) Officer on issues relating to the confidentiality of the processing operations and on the security measures taken pursuant to Article 22 of the Eurojust Decision and article 7 of the DP rules.

Article 5

Eurojust postholders

All Eurojust postholders shall contribute to the application of the DP relevant provisions as well as the security and confidentiality rules for the processing of personal data as provided for in Article 22 of the Eurojust Decision and Articles 7 and 10 of the DP rules.

SECTION 4

Register of notified processing operations
Article 6
Access to the Register of notified operations

1. Appropriate measures shall be taken by the DPO to ensure that any person has access to the Register of notified operations referred to in Article 35 of the DP rules and, if requested, to a copy of the information which is available in it. In particular, the DPO shall provide information and assistance to interested persons on how and where applications for access to the Register can be made.

2. Except where on-line access is granted, applications for access to the Register are made in any written form, including electronically.

3. If an application is not sufficiently precise, the DPO shall ask the applicant to clarify the application and shall assist the applicant in doing so.

SECTION 5
Procedure for data subjects to exercise their rights

Article 7
Internal procedure to be followed concerning the exercise of the rights of the data subjects enumerated in Article 9 of the DP rules regarding non-case-related operations

1. Individuals wishing to exercise their rights to access, correction, blocking and deletion regarding non-case-related operations may address their requests directly to the controller or to the Data Protection Officer, who shall transmit the request to the controller. If necessary the Data Protection Officer shall assist the data subject in identifying the data controller concerned and shall make available specific forms that can be used by the individuals to make their requests.

2. Requests for the exercise of rights shall be dealt with by the controller of the data concerned with the request, who shall provide a copy of the request to the Data Protection Officer for its registration and to the Administrative Director, who bears the final responsibility regarding the outcome given to the request as Head of the Administration.

3. The controller concerned with the request shall carry out the necessary checks and inform the Data Protection Officer and report to the Administrative Director on the outcome of these checks.

4. The Administrative Director shall seek the advice of the Data Protection Officer regarding the specific case. The Administrative Director shall, on the basis of the information provided by the controller and the Data Protection Officer, take a decision regarding the specific case.

5. The Data Protection Officer shall communicate the final decision taken by the Administrative Director to the data subject and shall inform the data subject of the possibility to appeal to the Joint Supervisory Body if he or she is not satisfied with
the reply given by Eurojust. This communication to the data subject does not affect his/her obligations under article 17.4 of the Eurojust Decision.

6. The request shall be dealt with in full within three months of receipt. The data subject may refer the matter to the Joint Supervisory Body if there has not been a response to his or her request within this time limit.

**Article 8**

**Specific provisions**

1. Where the data subject requests to exercise his/her right of access he/she shall have the right to obtain the following information, either by consulting these data on the spot, or by receiving a copy:
   a) confirmation as to whether or not data related to him or her are being processed;
   b) information at least as to the purposes of the processing operation, the category of data concerned, and the recipients or categories of recipients to whom the data are disclosed;
   c) communication of the data undergoing processing and any available information as to their source;
   d) knowledge of the logic involved in any automated decision process concerning him or her.

2. Each data subject’s request for the rectification of inaccurate or incomplete personal data shall specify the data concerned as well as the rectification to be made. It shall be dealt with by Eurojust without delay.

3. Eurojust shall treat any request for the blocking of data without delay. The request shall specify the data concerned as well as the reasons for blocking them. Eurojust shall inform the data subject who made the request before the data are unblocked.

4. The data subject shall have the right to obtain the blocking of data where:
   a) their accuracy is contested by the data subject, for a period enabling Eurojust to verify the accuracy, including the completeness, of the data; or
   b) Eurojust no longer needs them for the accomplishment of its tasks but they have to be maintained for purposes of proof; or
   c) the processing is unlawful and the data subject opposes their deletion and demands their blocking instead.

5. The data subject may request to delete data without delay in case of unlawful processing, particularly where the provisions of Articles 5, 6, 30, 31 and 32 of the DP rules have been infringed. The request shall specify the data concerned and shall provide the reasons or evidence of the unlawfulness of the processing. In automated filing systems, erasure shall in principle be ensured by all appropriate technical
measures, excluding the possibility of further processing of the erased data. If erasure is not possible for technical reasons, the Administrative Director, after consultation of the DPO and of the interested person, shall instruct the controller to proceed to the immediate blocking of such data.

6. The Administrative Director of Eurojust shall ensure that, in the cases where Eurojust corrects, blocks or erases personal data following a request, any suppliers and addresses of these data are informed of the changes performed on the personal data.

SECTION 6
INVESTIGATION PROCEDURE

Article 9
Practical modalities for investigative procedures of the Data Protection Officer concerning the functions described in Article 12 of the DP rules and in Article 3 of these additional rules regarding non-case-related data

1. Without prejudice to the external control powers of the JSB, claims on an alleged breach of the DP rules or requests for an investigation shall be addressed by the College of Eurojust, the Administrative Director, the controller, the Staff Committee or any individual Eurojust postholder, to the DPO in writing by using a specific form made available by him/her. In the case of obvious misuse of the right to request an investigation, for example where the same individual has made an identical request only recently, the DPO is not obliged to report back to the requester.

2. Within 15 days upon receipt, the DPO shall send acknowledgement of receipt to the person who commissioned the investigation or filed the claim on an alleged breach of DP and verify whether the request is to be treated as confidential. The DPO shall inform the Administrative Director of the fact that a request for investigation is lodged.

3. The DPO shall request from the controller who is responsible for the data processing operation in question a written statement on the issue. The controller shall provide his/her response to the DPO within 15 days. The DPO may wish to receive complementary information from other parties, such as the Security Office and Security of Information (Infosec) Officer of Eurojust. If appropriate, he/she may request an opinion on the issue from the Legal Service. The DPO shall be provided with the information or opinion within 30 days.

4. The DPO shall report back to the person who made the request or filed the claim on an alleged breach no later than three months following its receipt.

5. If the Data Protection Officer finds that in his/her views, the non-case-related processing operations investigated have not complied with the applicable DP rules, he/she shall ensure that the Administrative Director is informed to enable him/her to take the necessary measures within the administration, in addition to the procedure defined in article 17.4 of the Eurojust Decision.
Article 10
Effect
These rules shall be notified to the Joint Supervisory Body and shall be internally published at Eurojust. They take effect on the day following that of its publication.

Done at The Hague on date.

For the College of Eurojust
The President

Michael G Kennedy