

**Opinion of the Joint Supervisory Body of Eurojust on the draft Agreement on Criminal Justice
Cooperation between Eurojust and the Kingdom of Denmark**

At its meeting on 28 March 2019 the Joint Supervisory Body of Eurojust (hereinafter JSB) considered the draft Agreement on Criminal Justice Cooperation between Eurojust and the Kingdom of Denmark (hereinafter Denmark), in order to give its opinion in accordance with Article 26a(2) of the Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime, as last amended by Council Decision 2009/426/JHA of 16 December 2008 on the strengthening of Eurojust.

The JSB takes note that as of 12 December 2019, Regulation (EU) 2018/1727 (hereinafter referred to as the "Eurojust Regulation") will apply and that, as a consequence both of the application of Protocol (no. 22) on the position of Denmark under which Denmark does not take part in the adoption of measures pursuant to Title V of Part Three of the TFEU and that such measures are not binding upon nor applicable in Denmark; and of the fact that Denmark has so far not exercised the option provided for in Part IV of the said Protocol which would allow it to fully participate in the new Eurojust Regulation, Denmark will no longer be part of Eurojust and will be regarded as a third country with respect to Eurojust.

The JSB notes however that, while being regarded as a third country with respect to Eurojust, Denmark is not just a third country where an adequate level of data protection should be considered as sufficient but it is still a Member State of the European Union and therefore it is appropriate to ensure the full application of Directive 2016/680 of the European Parliament and of the Council of 27 April 2016 to the Danish competent authorities with respect to the personal data exchange pursuant to this draft Agreement.

The JSB appreciates the fact that Eurojust, through its Data Protection Officer, has been in close contact with it during the process of discussions in preparation of the draft cooperation agreement.

After careful deliberation and discussion, the JSB concludes the following:

- Considering the draft agreement contains robust and detailed data protection provisions on the exchange of personal data offering legal certainty to data subjects whose data are being processed in this context;

- Considering the data protection provisions are fully in line with the new EU data protection legal framework, comprising the Police Directive (EU) 2016/680 and the Eurojust Regulation (EU) 2018/1727 and the Regulation (EU) 2018/1725;
- Considering that the Data Protection Officer has been actively involved in the drafting and negotiation process;
- Considering that Article 11 of the draft Agreement includes the provision that the protection of personal data processed by each of the Parties pursuant to this draft Agreement shall be ensured: a) as regards Denmark by the application of Directive (EU) 2016/680 without prejudice to the specific provisions of this draft Agreement and, b) as regards Eurojust, by the application of the Eurojust Regulation and Regulation (EU) 2018/1725;

The JSB therefore gives a positive opinion on the draft agreement.

Done at The Hague,
On 28 March 2019

Wilbert Tomesen
Chair of the Joint Supervisory Body of Eurojust