

Joint Supervisory Body of Eurojust

**Opinion of the Joint Supervisory Body in respect of the draft Agreement
to be signed between Eurojust and the United States of America**

According to Article 27 par 3. of the COUNCIL DECISION of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime, 'Eurojust may conclude cooperation agreements, approved by the Council, with third States and the entities referred to in paragraph 1. Such agreements may, in particular, contain provisions concerning arrangements for the secondment of liaison officers or liaison magistrates to Eurojust. They may also contain provisions concerning the exchange of personal data. In that event the Joint Supervisory Body shall be consulted by Eurojust.'

Having regard to the above article Eurojust presented the final draft of the Agreement (hereafter Agreement) between Eurojust and the United States of America (hereafter US) to the Joint Supervisory Body at its meeting on 20 July 2006 for consultation.

The Joint Supervisory Body was pleased to receive the outline given on the current state of development regarding the negotiations between Eurojust and the US, and welcomed the information that the respective parties agreed the final text of the draft Agreement. The Joint Supervisory Body appreciates the fact that Eurojust - subject to the necessary approval from the Council - will be in a position to sign the Agreement. The signing will take place within the framework of a ministerial conference between the US and the EU in Washington in November 2006.

The Joint Supervisory Body had also considered the opinion of the Eurojust Data Protection Officer on the draft Agreement and discussed the points raised by her.

After careful deliberation and discussion, considering the importance of the US as a partner for Eurojust and the efforts made by Eurojust to agree a text that respects the existent data protection provisions, the Joint Supervisory Body is unanimously ready to give a positive opinion on the draft Agreement to be signed between Eurojust and the US as contained in the document of 10 August 2006.

However the Joint Supervisory Body draws the attention to Article 10 par (1) point d) of the draft Agreement, which details the limitation on use to protect personal and other data, which reads as follows:

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'The Parties may use any information obtained under this agreement: d) for any other purpose, if the information or evidence has been made public within the framework of proceedings for which they were transmitted, or in any of the situations described in subparagraphs (a), (b), and (c); ...and...'

The Joint Supervisory Body wishes to express its concern regarding the above article, insofar as the article refers to the fact that information or evidence has been made public regardless of whether the release of information occurs lawfully or unlawfully.

Done at The Hague,
15 August 2006



Antti Ruotsalainen
Chairman