

CHECK AGAINST DELIEVERY

Speech

**Minister's appearance before the Justice
Committee**

**Oireachtas Resolutions on the Eurojust
Regulation opt in**

Wednesday 12 June 2019

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I wish to thank the Chair and members of the Committee for taking the time to consider this matter here today.

The issue to be discussed is whether Ireland should opt into the new Eurojust Regulation and thereby maintain its membership of Eurojust. It is my view that Ireland should and that the Oireachtas should approve the necessary Resolutions to enable this to occur. Furthermore, Members of the Committee need to be aware that a consequence of not opting into the Regulation will be that Ireland will have to withdraw from membership of Eurojust.

It may be helpful if I provide some background on this matter.

To begin, Eurojust is the EU's agency for Criminal Justice Cooperation. Its role is to provide assistance to Member States in criminal investigations involving two or more EU Member States. Eurojust's structure is centred around a college of prosecutors which is comprised of prosecutors from each of the Member States. These prosecutors are based in the Hague in the Netherlands and the college meets on a regular basis to discuss cases which fall within the remit of the agency. In Ireland's case, a prosecutor from the Office of the DPP provides representation on behalf of the State.

The College's primary role is in assisting in clearing difficulties and logjams that arise in multi-national criminal investigations and dealing with mutual legal assistance requests for evidence and surrenders under the European Arrest Warrant. The location of EU

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prosecutors under one roof at Eurojust facilitates the rapid exchange of information and addressing of issues of relevance. The agency has contributed greatly in this regard and membership is highly valued amongst EU States. The UK, for example, despite its position on Brexit, has opted into the new Regulation.

As I have said this is not about Ireland *joining* Eurojust but in fact, remaining a member, because Ireland is already a member of Eurojust and has been since the inception of the agency 17 years ago.

In order to clarify the position, Eurojust currently operates under the provisions of '**Council Decision of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime (2002/187/JHA)**', the original Eurojust Regulation. The *new* Regulation, under discussion today, retains many of the provisions and structures of its predecessor but also provides a framework for the modernisation of the agency. Because the new Regulation comes within Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU, there is a necessity for the Oireachtas to agree that Ireland should accept the measure.

The main features of the new Regulation are that, in Chapter II, Articles 6 to 18, it revises Eurojust's governance structure by establishing an Executive Board to deal with administrative matters. Therefore, Eurojust's College, which, as I have said, consists of prosecutors from all EU Member States, can focus

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more strongly on operational issues. The ever-increasing numbers of Eurojust cases require a more efficient way of case handling. The new Regulation will make Eurojust fit for this purpose.

The new Regulation does not replace the successful core concept of the College supporting the national authorities in their investigations and discovering links between cases. Rather, in Articles 2 to 5, it confirms the current proactive role of Eurojust in its operational, strategic and tactical work. In other words, the operational practices in place for the past 17 years and in which Ireland has played a part will not change. This work involves coordinating approaches into the most serious forms of criminality including murder, people trafficking, child sexual exploitation, drugs trafficking and terrorism. Chapter III, Articles 19 to 25, deal with operational matters and provide details of the operational structure of Eurojust, including a 24/7 on call service for Member States.

Of major significance, in Chapter IV, Articles 26 to 46, the new Regulation brings Eurojust in line with the data protection rules that the EU adopted last year (the GDPR and associated Law Enforcement Directive), and takes into account Eurojust's specific mandate to process data in the interest of fighting cross border crime. Eurojust's operations will also be subject to the scrutiny of the European Data Protection Supervisor (EDPS) as set out in Article 40.

In Chapter V, the Regulation addresses Eurojust cooperation agreements with third States and international organisations, both

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of which are subject to the afore mentioned data protection provisions.

Eurojust's operations and budget is also subject to the scrutiny of the EU Commission, the European Parliament and the Council of the European Union (the Member States). There is no expectation of a budgetary contribution required from Ireland in the context of the running of the agency. Ireland's national member is of course remunerated by the State in the same manner as any official of the State who is assigned to duties overseas. This small cost when measured against the services made available to Ireland through membership represents a small price to pay.

As Minister, I am also the Central Authority for the provision of international Mutual Legal Assistance to and from other states. In the last five years the volume of cases being dealt with has doubled and is set to increase by in excess of 50% per annum going forward. These statistics alone illustrate the increasingly transnational nature of serious crime. It is also relevant to point out that in the 4 years up to the end of 2018, the Irish desk at Eurojust has handled 804 cases with an Irish dimension. These have included cases involving serious international fraud, sexual offences and the trafficking of vulnerable young women into this State for the purposes of engaging them in prostitution.

Transnational problems require transnational approaches. As Minister I must ensure a comprehensive response to this issue and this State's continued membership of Eurojust plays an essential part in this response.

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Taking into account that the core function of Eurojust is to assist in criminal investigations, the fact that it has a proven track record in this area over 17 years and is subject to the most advanced data privacy protection regime in the world, there are few who would argue that it would not be desirable for Ireland to remain a member.

Furthermore, it seems to me that there is an issue of principle here. This cannot be just about what Ireland receives. This is about playing an active part in the EU and the welfare of its citizens. Notwithstanding the negative affect on criminal investigations in *this* state, our EU colleagues would see an Irish withdrawal from Eurojust as a negative development. I need not remind the Committee members that Ireland has relied heavily in recent times on the solidarity and support of other Member States. Membership of the Union brings with it a responsibility to act collectively to solve the problems and threats that the Union faces, and serious crime is certainly one of those threats. It would be unfortunate if Ireland was perceived as, on the one hand, seeking the support of the other Members, but on the other, not willing to play a part in the advancement and betterment of the European project.

As I said recently in a response to a PQ from Deputy Wallace on this matter, there are few who would argue that Ireland's membership of the European Union has not been of enormous benefit to Ireland's citizens, both economically and in terms of the progressive social development of this State. The freedoms enjoyed by EU citizens and the real and

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genuine protections afforded to their fundamental rights are the envy of many throughout the world. This commitment to protecting fundamental rights is not some empty aspiration but a reality backed up by formal structures such as the European Court of Justice and the European Parliament.

The freedom of movement of EU citizens is one very clear benefit of membership of this Union. Unfortunately, there are always those who will seek to exploit privileges such as freedom of movement for their own nefarious ends and much recent EU law in the criminal justice sphere has been aimed at trying to counter the abuse of these freedoms, while also protecting them. The European Arrest Warrant is one such example. Another example is that of Eurojust.

As Minister for Justice and Equality, I do not believe it would be desirable to lose membership of Eurojust. International serious crime is an issue which affects all member states and their citizens and it has countless victims. Coordination of measures to disrupt this activity, and ongoing communication between states in relation to such measures, is essential. Eurojust provides an efficient and effective way of ensuring this cooperation occurs and I can think of no rational coherent reason as to why Ireland should not be involved.

I therefore commend these motions.