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2019/0224 (NLE)

Proposal for a

COUNCIL IMPLEMENTING DECISION

on a mechanism for compensating the Member State whose national member is elected President of Eurojust

EXPLANATORY MEMORANDUM

Pursuant to Article 12 of Regulation (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation (Eurojust), and replacing and repealing Council Decision 2002/187/JHA[1] ('Eurojust Regulation'), the Council shall, acting on a proposal by the Commission and by means of implementing acts, determine a mechanism for compensation to be made available to a Member State whose national member is elected President of Eurojust by 12 December 2019. In accordance with Article 11(7) of the Eurojust Regulation, a Member State may, when its national member is elected President, second another suitably qualified person to reinforce the national desk for the duration of the former's mandate as President.

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The Eurojust Regulation was adopted on 14 November 2018. In accordance with Article 12(1) and (2) thereof, the Commission should propose a mechanism for the determination of compensation, which is to be made available to a Member State, if the national member of that Member State has been elected President of Eurojust. In accordance with the Regulation, the Member State concerned has to request the compensation from the College of Eurojust, and provide justification for the need to reinforce its national desk on grounds of an increased workload.

The aim of the compensation mechanism is to support the Member State concerned, when its national member is elected President and the relevant national desk needs reinforcement in order to fulfil its tasks.

• Consistency with existing policy provisions in the policy area

Article 85 on the Treaty on the functioning of the European Union (TFEU) provides for Eurojust to be governed by a regulation, adopted in accordance with the ordinary legislative procedure. One of the aims of the Eurojust Regulation is to strengthen the operational functions of Eurojust by reducing the administrative workload of national members. The role of the President will involve more management and administrative tasks, thus it will be challenging for him or her to focus entirely on operational issues. For this reason, the possibility for the Member State concerned was introduced to second another suitably qualified person to Eurojust, for whom this Member State should be compensated in accordance with the relevant rules.

With this proposal, the Commission implements its legal obligation under Article 12(1) of the Eurojust Regulation. The proposal is therefore consistent with the existing policy provisions in this area.

• Consistency with other Union policies

This proposal is consistent with the Union policies and legislative work aiming at implementing an area of freedom, security and justice, as set under the Title V of TFEU, including the principle of mutual recognition. This principle is the core principle in the field of judicial cooperation in criminal matters.

[1] OJ L 295, 21.11.2018, p. 138.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

The proposal is based on Article 12 of the Eurojust Regulation.

• Subsidiarity (for non-exclusive competence)

In accordance with Article 12 of Eurojust Regulation, the Commission is legally required to submit a proposal for the determination of the compensation mechanism. This proposal is essential to ensure that the Member State, whose national member is elected President, can request such compensation, in the cases determined by the Eurojust Regulation.

• Proportionality

This proposal is limited to what is necessary in order to attain the proposed objective, and is therefore compliant with the principle of proportionality. This proposal is directly linked to the implementation of the Eurojust Regulation.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

This proposal concerns an obligation on the Commission pursuant to Article 12 of the Eurojust Regulation. Given the substance matter, the Commission did not see a need for an ex-post evaluation, stakeholder consultation or impact assessment.

4. BUDGETARY IMPLICATIONS

In accordance with Article 12(4) of the Eurojust Regulation, the costs of the compensation mechanism shall be borne by Eurojust's budget.

5. OTHER ELEMENTS

• Implementation plans and monitoring, evaluation and reporting arrangements

Given the nature of this measure, there is no need for implementation.

• Detailed explanation of the specific provisions of the proposal

Article 1 sets out the general framework for the compensation mechanism and concerns the application for compensation and the period within which this application can be transmitted to Eurojust.

Article 2 provides further details on the decision making by the College.

Article 3 refers to the calculation of the amount of compensation which can be reimbursed.

Article 4 regulates the entry into force of the Council implementing decision.

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Proposal for a

COUNCIL IMPLEMENTING DECISION

on a mechanism for compensating the Member State whose national member is elected President of Eurojust

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation (Eurojust), and replacing and repealing Council Decision 2002/187/JHA[2], and in particular Article 12 thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) The national member elected President of Eurojust will have additional functions as President in accordance with Regulation (EU) 2018/1727 and Eurojust's rules of procedure.

(2) Carrying out the functions of President will influence the workload of the deputy and Assistant from the Member State, whose national member was elected President, and the Member State concerned may choose to second another suitably qualified person to reinforce the national desk for the duration of the President's term in office.

(3) Article 11(7) of Regulation (EU) 2018/1727 provides that in those cases where an additional person is seconded, the Member State concerned is entitled to apply for compensation.

(4) A mechanism for compensation should ensure the equality of treatment regarding the actual reimbursement of living costs and other associated expenses between a national member elected President and an additional person seconded by the Member State concerned,

HAS ADOPTED THIS DECISION:

Article 1

1. A Member State, whose national member has been elected President of Eurojust and which has seconded another person to its national desk for this reason, entitled under Article 11(7) of Regulation (EU) 2018/1727 to apply for compensation to the College of Eurojust, shall include in its application the following information:

   (a) the decision of the Member State concerned on the secondment of that person;

[2] OJ L 295, 21.11.2018, p. 138.

(b) justification for the need to reinforce its national desk on grounds of an increased workload;

(c) details on the national monthly gross salary of the seconded person;

(d) details on any living costs and other associated expenses provided to the seconded person under national law;

(e) details on the account to which the compensation should be transferred.

2. The Member State concerned shall send the application for compensation to the College of Eurojust within 6 months of the secondment of the person.

Article 2

1. The College of Eurojust shall decide on granting the compensation within reasonable time.

2. The Member State concerned is entitled to compensation for as long as its national member is President and for the duration of the secondment of the person concerned.

Article 3

1. In accordance with Article 12(3) of Regulation (EU) 2018/1727 Eurojust shall reimburse the Member State concerned as follows:

(a) 50 % of the national monthly gross salary of the seconded person; and

(b) living costs and other associated expenses which are actually incurred by the Member State concerned with respect to the seconded person.

2. The expenses referred to in point b) of paragraph 1, shall be reimbursed only if the seconded person is entitled under national law to any type of allowances or of payments corresponding to expenses, which are comparable in their nature to those provided for in Annex VII to the Staff Regulations of Officials of the European Union ('Staff Regulations')[3], such as: family allowances, expatriation allowance, reimbursement of expenses linked to taking-up duties, including installation allowance, resettlement allowance, travel expenses, removal expenses, daily subsistence allowance.

3. Eurojust shall reimburse the Member State concerned according to the conditions and financial limits applicable in that Member State. They shall in any case not exceed the maximum amounts of the allowances or of the payments corresponding to expenses, provided for in Annex VII to the Staff Regulations.

[3] Laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68 of 29 February 1968 (OJ L 56, 4.3.1968).

Article 4

This Decision shall enter into force on the date of its adoption.

Done at Brussels,

For the Council
The President