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Proposal for a

COUNCIL DECISION

on the conclusion of an Agreement between the European Union and the People's Democratic Republic of Algeria on the cooperation between the European Union Agency for Criminal Justice Cooperation (Eurojust) and the authorities of the People's Democratic Republic of Algeria competent for judicial cooperation in criminal matters

EXPLANATORY MEMORANDUM

The present proposal concerns the conclusion of an Agreement between the European Union and Algeria on the cooperation between the European Agency for Criminal Justice Cooperation (Eurojust) and the authorities of Algeria competent for judicial cooperation in criminal matters (hereafter “the Agreement”).

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The European Union Agency for Criminal Justice Cooperation (Eurojust) coordinates investigations and prosecutions of serious cross-border crime in Europe and beyond. As the European Union’s (EU) hub for judicial cooperation in criminal matters, Eurojust supports national investigating and prosecuting authorities.

In a globalised world, the need for cooperation between judicial authorities involved in the investigation and prosecution of serious crimes does not stop at Union borders. With the increase of cross-border crime, it is crucial to obtain information from outside one’s jurisdiction. Therefore, Eurojust should be able to cooperate closely and exchange personal data with judicial authorities of selected third countries to the extent necessary for the accomplishment of its tasks within the framework of the requirements set out in Regulation (EU) 2018/1727¹ (hereafter “Eurojust Regulation”). At the same time, it is important to ensure that adequate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals are in place for the protection of personal data.

Eurojust can exchange operational personal data with third countries where one of the requirements set out in Article 56(2) points (a) to (c), of the Eurojust Regulation is met:

- The Commission has decided pursuant to Article 57 that the third country or international organisation in question ensures an adequate level of protection, or in the absence of such an adequacy decision, appropriate safeguards have been provided for or exist in accordance with Article 58(1), or in the absence of both an adequacy decision and of such appropriate safeguards, a derogation for specific situations applies pursuant to Article 59(1);
- a cooperation agreement allowing for the exchange of operational personal data has been concluded before 12 December 2019 between Eurojust and the third country or international organisation, in accordance with Article 26a of Decision 2002/187/JHA²; or
- an international agreement has been concluded between the Union and the third country or international organisation pursuant to Article 218 of the Treaty on the Functioning of the European Union (TFEU), that provides for adequate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals.

At present, Eurojust has cooperation agreements based on Article 26a of Decision

¹ 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, OJ L 295, p. 138, 21.11.2018.

² OJ L 063, 06/03/2002 P. 0001 – 0013.

2002/187/JHA, which allow for exchanges of personal data, in place with Montenegro, Ukraine, Moldova, Liechtenstein, Switzerland, North Macedonia, the USA, Iceland, Norway, Georgia, Albania and Serbia. Under Article 80(5) of the Eurojust Regulation these cooperation agreements remain valid.

Since the entry into application of the Eurojust Regulation on 12 December 2019 and pursuant to the Treaty, the Commission is responsible, on behalf of the Union, for negotiating international agreements with third countries for the cooperation and exchange of personal data with Eurojust. In so far as necessary for the performance of its tasks, in line with Chapter V of the Eurojust Regulation, Eurojust may establish and maintain cooperative relations with external partners through working arrangements. However, these cannot by themselves be a legal basis for the exchange of personal data.

The Agreement provides a legal basis for the exchange of personal data for judicial cooperation in criminal matters by ensuring for adequate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals.

In order to strengthen the judicial cooperation between Eurojust and selected third countries, the Commission adopted a Recommendation for a Council Decision authorising the opening of negotiations for Agreements between the European Union and Algeria, Armenia, Bosnia and Herzegovina, Egypt, Israel, Jordan, Lebanon, Morocco, Tunisia and Turkey on cooperation between the European Union Agency for Criminal Justice Cooperation (Eurojust) and the competent authorities for judicial cooperation in criminal matters of those third States.³

The Council granted that authorisation on 1 March 2021 and adopted a set of negotiating directives and appointed a special committee to assist the Council in this task.⁴

Several negotiation rounds and written exchanges took place between April 2022 and August 2025, when the negotiators reached an agreement at technical level on a text. This proposal was discussed with EU Member States in the Working Party on Judicial Cooperation in Criminal Matters (COPEN)s. Algeria had given its final agreement on 3 February 2026.

- **Consistency with existing policy provisions regarding judicial cooperation between Eurojust and third countries**

The Agreement was negotiated taking into account the comprehensive negotiating directives adopted by the Council together with the authorisation to negotiate on 1 March 2021. The present Agreement is also consistent with existing Union policy in the area of judicial cooperation.

³ Recommendation for a Council Decision authorising the opening of negotiations for Agreements between the European Union and Algeria, Armenia, Bosnia and Herzegovina, Egypt, Israel, Jordan, Lebanon, Morocco, Tunisia and Turkey on cooperation between the European Union Agency for Criminal Justice Cooperation (Eurojust) and the competent authorities for judicial cooperation in criminal matters of those third States, 19 November 2020, COM(2020) 743 final.

⁴ Council Decision authorising the opening of negotiations for Agreements between the European Union and Algeria, Argentina, Armenia, Bosnia and Herzegovina, Brazil, Colombia, Egypt, Israel, Jordan, Lebanon, Morocco, Tunisia and Turkey on cooperation between the European Union Agency for Criminal Justice Cooperation (Eurojust) and the competent authorities for judicial cooperation in criminal matters of those third States, see 6153/21 + ADD 1, Council Decision adopted by written procedure on 1 March 2021 (CM 1990/21).

In recent years, progress was made to improve the exchange of information cooperation among Member States as well as between Union agencies and third countries. Regulation (EU) 2023/2131 amending Regulation (EU) 2018/1727 and Council Decision 2005/671/JHA, as regards the digital information exchange in terrorism cases,⁵ strengthens the framework for cooperation with third countries on the side of Eurojust by providing for a solid legal basis for the secondment of a third country liaison prosecutor to Eurojust and the cooperation with Eurojust.

Also, Regulation (EU) 2022/838 amending Regulation (EU) 2018/1727, as regards the collection, preservation and analysis of evidence relating to genocide, crimes against humanity and war crimes at Eurojust,⁶ has a strong nexus to third countries. Both legislative acts underline the importance of close cooperation with third countries to investigate and prosecute serious crimes.

- **Consistency with other Union policies**

The proposal is also consistent with other Union policies.

Relations between the EU and Algeria are based on the Association Agreement, which entered into force in 2005. The Partnership Priorities adopted in 2017 guide the relationship for the period 2021-2027 including political dialogue, governance, rule of law and promotion of fundamental rights, as well as strategic and security dialogue.

Existing Commission strategic documents underpin the necessity of improving the efficiency and effectiveness of law enforcement and judicial cooperation in the European Union (EU), as well as of expanding the cooperation with third countries. These include, among others, the European Internal Security Strategy (ProtectEU)⁷, the Counter-Terrorism Agenda for the EU⁸, and the EU Strategy to tackle organised crime.⁹

In line with these strategic documents, international cooperation has also been enhanced in the area of law enforcement. Based on the authorisation by the Council¹⁰, the Commission has negotiated an Agreement with New Zealand on the exchange of personal data with the European Union Agency for Law Enforcement Cooperation (Europol).

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Substantive legal basis**

Article 16(2) and Article 85 TFEU provide for the competence of the Union to determine Eurojust's structure, operation, field of action and tasks.

⁵ Regulation (EU) 2023/2131 of the European Parliament and of the Council of 4 October 2023 amending Regulation (EU) 2018/1727 of the European Parliament and of the Council and Council Decision 2005/671/JHA, as regards digital information exchange in terrorism cases.

⁶ Regulation (EU) 2022/838 of the European Parliament and of the Council of 30 May 2022 amending Regulation (EU) 2018/1727 as regards the preservation, analysis and storage at Eurojust of evidence relating to genocide, crimes against humanity, war crimes and related criminal offences.

⁷ COM(2025) 148 final, 1.4.2025.

⁸ Commission Communication - Protect EU: Agenda to Prevent and Counter Terrorism, COM(2026) 101 final, 26.2.2026.

⁹ Commission Communication – EU Strategy to tackle Organised Crime 2021-2025, COM(2021) 170 final, 14.4.2021.

¹⁰ Council Decision 7047/20, 23 April 2020, and Council Document CM 2178/20, 13 May 2020.

The Agreement covers the cooperation between Eurojust and Algeria in criminal matters as well as establishing adequate safeguards with respect to the protection of privacy and other fundamental rights and freedoms of individuals for this cooperation. Given that the main objectives and components of the Agreement are the above two areas, the substantive legal bases are Article 16(2) and Article 85 TFEU.

Therefore, this proposal is based on Article 16(2) and Article 85 TFEU in conjunction with Article 218(6), point (a)(v) TFEU.

- **Procedural legal basis**

In accordance with Article 218(6) TFEU, where the agreement relates to matters outside of the common foreign and security policy (CFSP), the Council is to adopt a decision concluding the agreement on a proposal by the Commission as negotiator.

Given that Article 16(2) and 85 TFEU are the substantive legal bases, the Council is to adopt the decision concluding the agreement after obtaining the consent of the European Parliament, in accordance with Article 218(6), point (a), TFEU.

Therefore, the procedural legal basis for the proposed decision on concluding the agreement is Article 218(6), second subparagraph, point (a) TFEU.

- **Union competence**

The Union has competence to determine Eurojust's structure, operation, field of action and tasks as well as to provide for safeguards concerning personal data protection.

- **Subsidiarity (for non-exclusive competence)**

The Eurojust Regulation lays down specific rules regarding transfers of personal data by Eurojust outside of the EU. Article 56(2) thereof lists situations where Eurojust can lawfully transfer personal data to the judicial authorities of third countries. It follows from the provision that for structural transfers of personal data by Eurojust to Algeria the conclusion of a binding international agreement between the EU and Algeria, adducing adequate safeguards with respect to the protection of privacy and other fundamental rights and freedoms of individuals, is required. In accordance with Article 3(2) TFEU, the Agreement thus falls within the exclusive external competence of the Union. Therefore, this proposal is not subject to subsidiarity check.

- **Proportionality**

The Union's objectives with regard to this proposal as set out above can only be achieved by entering into a binding international agreement providing for the necessary cooperation measures, while ensuring appropriate protection of fundamental rights. The provisions of the agreement are limited to what is necessary to achieve its main objectives. Unilateral action of the Member States towards Algeria does not represent an alternative, as Eurojust has a unique role. Unilateral action would also not provide a sufficient basis for judicial cooperation between Eurojust and third countries and would not ensure the necessary protection of fundamental rights.

- **Choice of the instrument**

In accordance with Article 56 of Eurojust Regulation, in the absence of an adequacy finding Eurojust may engage in the structural transfer of operational personal data to a third country

only based on an international agreement pursuant to Article 218 TFEU that provides for adequate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals (Article 56(2)(c)). In accordance with Article 218(6) TFEU, the signing of such an agreement is authorised by a decision of the Council.

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

- **Ex-post evaluations/fitness checks of existing legislation**

Not applicable.

- **Stakeholder consultations**

Not applicable.

- **Collection and use of expertise**

In the process of the negotiation, the Commission did not use external expertise.

- **Impact assessment**

Not applicable.

- **Regulatory fitness and simplification**

Not applicable.

- **Fundamental rights**

The exchange of personal data and its processing by the authorities of a third country concerns the fundamental rights to privacy and data protection. In that regard, the Agreement ensures the application of adequate safeguards to the personal data transferred under the Agreement itself, in line with Union law.

In particular, Chapter II provides for the protection of personal data. On that basis, Articles 10 to 20 lay down provisions that provide for data protection principles, (including purpose limitation and data minimisation), safeguards for the processing of special categories of data, obligations applicable to controllers, (including on retention, keeping of records, data security and as regards onward transfers), enforceable individual rights, (including on access, rectification) and judicial redress and independent supervision, as on each side one or more independent public authority responsible for data protection (supervisory authority) shall oversee the implementation of the Agreement in order to protect the fundamental rights and freedoms of natural persons in relation to the processing of personal data.

In line with Union law, the exercise of certain individual rights can only be delayed, limited or refused to the extent that it is necessary and proportionate, taking into account the fundamental rights and interests of the data subject, on important public interest grounds, in particular to prevent harm, to an ongoing criminal investigation or prosecution.

Article 10(6) of the Agreement guarantees that no information exchanged under the agreement may be used in connection with death penalty or human rights violations at large.

In accordance with Article 31(3) of the Agreement, the Agreement shall not enter into application until both parties have notified each other of the fulfilment of the obligations

contained in the Agreement, including those related to the protection of personal data, and this notification has been accepted. In addition to that, and to further strengthen the safeguards for the protection of personal data, Article 34(4) of the Agreement states that a Party may postpone the transfer of personal data for as long as the other Party has not provided for in law and implemented the safeguards and obligations contained in Chapter II of the Agreement (Information exchange and data protection).

Furthermore, the Agreement guarantees that the exchange of personal data between Eurojust and Algeria is consistent with both the principle of non-discrimination and Article 52(1) of the Charter, which ensure that interferences with fundamental rights guaranteed under the Charter are limited to what is necessary to genuinely meet the objectives of general interest pursued, subject to the principle of proportionality.

4. BUDGETARY IMPLICATIONS

There are no budgetary implications for the Union budget.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

There is no need for an implementation plan, as the Agreement will enter into force on the first day of the second month following the month during which the European Union and Algeria have notified each other that the respective procedures have been completed.

With regard to monitoring, the European Union and Algeria shall jointly review the implementation of the Agreement one year after its entry into application, and at regular intervals thereafter, and additionally if requested by either Party and jointly decided.

- **Detailed explanation of the specific provisions of the proposal**

Article 1 includes the definitions of important terms of the Agreement.

Article 2 defines the objectives of the Agreement.

Article 3 defines the scope of the Agreement.

Article 4 establishes the obligation of Algeria to designate at least one contact point within its domestic competent authorities, who cannot be identical to the Liaison Prosecutor. A contact point shall be designated also for terrorism matters.

Article 5 provides for the secondment of the Liaison Prosecutor to Eurojust.

Article 6 provides for the conditions for the participation of the Liaison Prosecutor and representatives of Algeria in operational and strategic meetings at Eurojust.

Article 7 provides for the option of Eurojust to post a Liaison Magistrate to Algeria.

Article 8 provides that Eurojust may assist Algeria to establish Joint Investigation Teams and may be requested to provide financial or technical assistance.

Article 9 sets out the purposes of data processing under the Agreement.

Article 10 lists the general data protection principles applicable under the Agreement and enshrines the prohibition to use data transferred under the agreement in relation to death penalty or human rights violations.

Article 11 guarantees additional safeguards for the processing of special categories of personal data and different categories of data subjects.

Article 12 limits fully automated decision-making using personal data transferred under the Agreement.

Article 13 restricts the onward transfer of the personal data received.

Article 14 provides for the right of access, including to obtain confirmation on whether personal data relating to the data subject are processed under the Agreement as well as essential information on the processing.

Article 15 provides for the right to rectification, erasure, and restriction of processing, under certain conditions.

Article 16 provides for the notification of a personal data breach affecting personal data transferred under the Agreement, ensuring that the respective competent authorities notify each other as well as their respective supervisory authority of such breach without delay, and to take measures to mitigate its possible adverse effects.

Article 17 provides for the communication to the data subject of a personal data breach likely to have a serious effect upon his or her rights and freedoms.

Article 18 includes rules as regards storage, review, correction and deletion of personal data.

Article 19 requires the keeping of logs of the collection, alteration, access, disclosure including onward transfers, combination and erasure of personal data.

Article 20 includes obligations regarding data security, ensuring the implementation of technical and organizational measures to protect personal data exchanged under this Agreement.

Article 21 requires effective supervision and enforcement of compliance with the safeguards set out in the Agreement, ensuring that there is an independent public authority responsible for data protection (supervisory authority) to oversee matters affecting the privacy of individuals, including the domestic rules relevant under the Agreement to protect the fundamental rights and freedoms of natural persons in relation to the processing of personal data.

Article 22 provides for judicial remedy, ensuring that data subjects have the right to effective judicial redress for violations of the rights and safeguards recognized in the Agreement resulting from the processing of their personal data.

Article 23 provides for the publication of contact details and a document setting out safeguards applicable to personal data under the Agreement.

Article 24 provides for the confidentiality of information exchanged between the competent authorities of Algeria and Eurojust.

Article 25 provides that the exchange and protection of EU classified and sensitive non-classified information is regulated by a working arrangement on confidentiality concluded between Eurojust and the competent authorities of Algeria.

Article 26 provides for the responsibility of the competent authorities. E.g. the competent authorities shall be liable for any damage caused to an individual as a result of legal or factual errors in information exchanged.

Article 27 provides that, in principle, each Party shall bear its own expenses associated with the implementation of this Agreement.

Article 28 provides for the conclusion of a implementing working agreements between Eurojust and the Ministry of Justice of Algeria.

Article 29 provides for notifications of measures prior to the implementation of the Agreement.

Article 30 provides for the notification of the supervisory authority responsible for supervising and ensuring compliance with the implementation of the Agreement.

Article 31 provides for the entry into force and application of the Agreement.

Article 32 provides for the way amendments to the Agreement can be made.

Article 33 provides for review and evaluation of the Agreement.

Article 34 provides for a dispute settlement mechanism and the conditions for a suspension of the Agreement.

Article 35 provides for the conditions of the termination of the Agreement.

Article 36 provides for the way in which notifications under the Agreement are to be made.

Article 37 provides for the relation with other international instruments, ensuring that the Agreement will not prejudice or affect the legal provisions relating to judicial cooperation foreseen in any treaty, agreement, or arrangement between Algeria and any Member State of the European Union.

A final sentence refers to the authentic texts.

- **Text of the Agreement and notifications**

The text of the Agreement is submitted to the Council together with this proposal.

In accordance with the Treaties, it is for the Commission to proceed to make the notification provided for in Article 31(2) of the Agreement, in order to express the consent of the Union to be bound by the Agreement.

In accordance with the Treaties, it is also for the Commission make the notifications provided for in Article 31(3) of the Agreement.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 16(2) and Article 85 in conjunction with Article 218(6), second subparagraph, point (a)(v), and Article 218(7) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament¹,

Whereas:

- (1) Articles 47 and 52 of Regulation (EU) 2018/1727 of the European Parliament and of the Council² provide that Eurojust may establish and maintain cooperation with authorities of third countries based on a cooperation strategy.
- (2) Pursuant to Article 56(2)(c) of Regulation (EU) 2018/1727, Eurojust may transfer personal data to an authority of a third country, *inter alia* based on an international agreement between the Union and that third country pursuant to Article 218 of the Treaty on the Functioning of the European Union (TFEU), that provides for adequate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals.
- (3) In accordance with Council Decision (EU) [XXXX]³, the Agreement between the European Union and Algeria on the cooperation between the European Union Agency for Criminal Justice Cooperation (Eurojust) and the authorities of Algeria competent for judicial cooperation in criminal matters ('the Agreement') was signed on [XX.XX.XXXX], subject to its conclusion.
- (4) The Agreement enables the transfer of personal data between Eurojust and the competent authorities of Algeria, with a view to fighting serious crime and terrorism and protecting the security of the Union and its citizens.

¹ Consent of [XXX] (not yet published in the Official Journal).

² 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, (OJ L 295, p. 138, 21.11.2018).

³ Council Decision (EU) [XXXX] of XX.XX.XXXX on the signing of an agreement between the European Union, and the People's Democratic Republic of Algeria, on the cooperation between the European Union Agency for Criminal Justice Cooperation (Eurojust) and the authorities of the People's Democratic Republic of Algeria competent for judicial cooperation in criminal matters.

- (5) The Agreement ensures full respect of the Charter of Fundamental Rights of the European Union⁴, in particular the right to respect for private and family life, recognised in Article 7, the right to the protection of personal data, recognised in Article 8, and the right to an effective remedy and a fair trial, recognised by Article 47 of the Charter. In particular, the Agreement includes adequate safeguards for the protection of personal data transferred by Eurojust under the Agreement.
- (6) Pursuant to Article 218(7) TFEU, it is appropriate for the Council to authorise the Commission to approve on the Union's behalf the modifications of Annexes I, II and III, to the Agreement, to authorise the Commission to agree modalities for the continued use and storage of the information that has already been communicated between the Parties pursuant to the Agreement and to authorise the Commission to update the information about the addressee of notifications.
- (7) Ireland is bound by Regulation (EU) 2018/1727 and is therefore taking part in the adoption of this Decision.
- (8) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application.
- (9) The European Data Protection Supervisor delivered its Opinion [xxx] on [xx.xx.xxxx].
- (10) The Agreement should be approved.

HAS ADOPTED THIS DECISION:

Article 1

The Agreement between the European Union and Algeria on the cooperation between the European Union Agency for Criminal Justice Cooperation (Eurojust) and the authorities of Algeria competent for judicial cooperation in criminal matters ('the Agreement') is hereby approved.

Article 2

- 1. For the purposes of Article 32(2) of the Agreement, the position to be taken on behalf of the Union on the modifications of Annexes I, II and III to the Agreement shall be approved by the Commission after consultation with the Council.
- 2. For the purpose of Article 35(3) of the Agreement, the Commission shall be authorised to agree modalities for the continued use and storage of the information that has already been communicated between the Parties pursuant to the Agreement.
- 3. For the purpose of Article 36(2) of the Agreement, the Commission shall be authorised to update the information about the addressee of notifications after consultation with the Council.

⁴ OJ C 326, 26.10.2012, p. 391.

Article 3

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

Done at Brussels,

*For the Council
The President*