Ms Viviane Reding  
Vice-President of the European Commission  
Commissioner for Justice, Fundamental Rights and Citizenship  
Rue de la Loi 200  
B-1049 Brussels  

The Hague, 17 December 2010  

Consultation on Data Protection after Commission Communication (2010) 609/3  

Dear Ms Reding,  

On 23 April 2010 I wrote to you about Eurojust’s vision concerning data protection after the Lisbon Treaty. In the meantime you have issued a communication on this important topic, and called all stakeholders to comment on its proposals before 15 January 2011. This is Eurojust’s response to that invitation.  

Eurojust has considered the Commission’s Communication with great interest and welcomes your wish to take a comprehensive and coherent approach to data protection within the EU. I would like to underline, however, that such an approach does not necessarily require the existence of one overarching instrument which exhaustively regulates data processing in all fields. The same objective could be achieved if the general instrument only defined the principles applying to all sectors, while specific provisions were still to apply to certain fields of activities, such as the area of police and judicial cooperation in criminal matters. In fact, given the specificity and sensitivity of the processing operations in this area, in our view detailed tailor-made provisions would provide a higher level of protection than general ones. We are therefore particularly pleased to see that the Communication acknowledges, in respect of Declaration 21 to the Lisbon Treaty, that specific rules for the police and judicial sector are not excluded.  

In your Communication you refer to the possible effect that limitations to the scope of application of Framework Decision 2008/977/JHA might have for the rights of individuals. In that respect I would like to recall that the relevant JLS services of the Commission supported the exclusion of Eurojust, Europol and others from the scope of application of the Framework Decision on Data Protection in the field of police and justice co-operation during negotiations on the instrument. This was because existing specific rules provided a more complete data protection regime with a higher level of protection. Furthermore, I would like to emphasize that the rights of individuals are very comprehensively regulated in the Eurojust Rules and that our Joint Supervisory Body (JSB) pays very close attention to their correct application. Extensive information on how to exercise these rights is available on the JSB website.
(http://www.eurojust.europa.eu/jsb.htm) and a leaflet on the rights of individuals will shortly be available online in all EU languages.

I particularly welcome your intention to launch a consultation regarding the current systems of supervision. It would be important, before taking any decision on this delicate question, to take full account of the very effective work which the JSB of Eurojust is doing, especially in the area of inspections and controls. Our JSB monitors all processing operations carried out at Eurojust. The processing of both case-related and administrative and staff data have been subject to its regular inspections. The reports of these JSB inspections, including detailed findings and practical recommendations, are a very valuable tool for Eurojust as they allow us to continuously measure our progress and ensure further improvements. Moreover, the high level of expertise required to deal with the specificities of data protection in the field of international judicial cooperation in criminal matters should not be underestimated. We are convinced that the invaluable expertise acquired by the JSB constitutes a very strong argument for its continuance.

I would also like to emphasise that the data processed by Eurojust comes from the national authorities of Member States and, after the involvement of Eurojust, goes back to those same authorities for use in investigation or prosecution. Eurojust therefore believes that the involvement of the Data Protection Authorities of the Member States, through the system of national appointees to the JSB, is crucial. This is particularly so if any decisions as to the rights of individuals (for instance, correction or deletion of data) need to be implemented at national level.

I hope these comments are of interest. Eurojust, and in particular our Data Protection Officer (Ms Diana Alonso Blas +31 70 412 5510), remains at your disposal, and would be very glad to contribute to further discussions regarding the future of data protection in the European Union.

Yours sincerely,

ALED WILLIAMS
PRESIDENT OF EUROJUST