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Delegations will find attached the EUROJUST Annual Report 2017.



Annual Report 2017

Table of contents

Foreword

Executive Summary

Eurojust at a glance

Chapter 1 Eurojust at work
1.1 Eurojust level I and II meetings
1.2 Coordination meetings
1.3 Coordination centres
1.4 Eurojust and joint investigation teams

Chapter 2 Eurojust casework
Introduction
2.1 Terrorism
2.2 Cybercrime
2.3 Migrant smuggling
2.4 THB

Chapter 3 Challenges and best practice
Introduction
3.1 Encryption
3.2 Data retention
3.3 European Arrest Warrant
3.4 European Investigation Order
3.5 Joint recommendations

Focus of the Year: Evaluation of JITs

Chapter 4 Eurojust cooperation with third States

Spotlight on the Liaison Prosecutor for Norway

Chapter 5 Eurojust and practitioner networks
5.1 EJN
5.2 JITs Network
5.3 Genocide Network
5.4 EJCN
5.5 Consultative Forum

Chapter 6 Staff and budget

Chapter 7 Organisational developments and key challenges

Charts

Casework 2002 – 2017
Bilateral/multilateral cases 2013 - 2017
Bilateral/multilateral cases
Requesting/requested Member States
Coordination meetings
Third States, cooperation partners and international organisations involved in coordination meetings
Coordination centres
JITs supported by Eurojust, including the main crime types
Country participation in JITs
Article 13 cases
Eurojust casework in crime areas-
Cases by Liaison Prosecutors 2013 - 2017
Top ten third States involved in Eurojust casework
Third States, cooperation partners and international organisations involved in Eurojust casework
EAW cases

Acronyms and abbreviations

CJEU Court of Justice of the European Union
CJM Cybercrime Judicial Monitor
CMS Case Management System
EAW European Arrest Warrant
EC3 European Cybercrime Centre
ECTC European Counter Terrorism Centre
EIO European Investigation Order
EJCN European Judicial Cybercrime Network
EJN European Judicial Network
EJTN European Judicial Training Network
EMPACT European Multidisciplinary Platform against Criminal Threats
ENCS Eurojust National Coordination System
EPPO European Public Prosecutor's Office
FTF Foreign terrorist fighters
JIT Joint investigation team
LoR Letter of Request
MLA Mutual legal assistance
OCC On-Call coordination
OCG Organised crime group
PIF Protection of the financial interests of the European Union
TCM Terrorism Convictions Monitor
THB Trafficking in human beings

Eurojust Council Decision

The Eurojust Council Decision of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime, as last amended by Council Decision 2009/426/JHA of 16 December 2008 on the strengthening of Eurojust, will be referred to in this report as the 'Eurojust Council Decision'. A **consolidated version** of the Eurojust Council Decision has been prepared by the Council General Secretariat for information purposes only.

The statistics on Eurojust cases included in this report were produced on the basis of data contained in the Eurojust Case Management System. The numbers were extracted on 3 and 31 January 2018 and reflect the data available at that moment. Due to the ongoing nature of cases, possible discrepancies with previously reported numbers may exist.

Eurojust's publications and infographics are available on [our website](#).

Foreword

In a complex world with increasing security threats and evolving political and legislative landscapes, the need for unity has never been so urgent. More and more, Eurojust has focused its work towards contributing to that unity by building and consolidating strong partnerships with all Member States and EU institutions, bodies and agencies to ensure security and justice for our fellow European citizens.

Year 2017 was a year of significant achievements and changes at Eurojust.

We welcomed the election of new College Presidency members and the appointment of a new Administrative Director. The implementation of a new organisational structure for the Administration and simplification of the College's substructures and decision-making processes completed an institutional reform designed to make Eurojust a more solid, efficient and sustainable organisation. An organisation better equipped to fulfil its mission to serve as the European home to the thousands of national prosecutors and law enforcement officials who – every day, everywhere in Europe – work hard to fight all forms of criminality, especially in our priority crime areas: terrorism, cybercrime, migrant smuggling and trafficking in human beings.

Eurojust's new premises hosted a record-breaking 4 400 judicial and police authorities who sought our support to overcome the legal and practical problems affecting their investigations and prosecutions, and to negotiate and agree with their foreign counterparts on how to jointly dismantle criminal networks. Eurojust worked with these thousands of national prosecutors and law enforcement officials in more than 2 600 criminal investigations and prosecutions, most of them of a highly complex nature, the largest number of cases ever registered at Eurojust. More than 8 000 practitioners visited our premises to seek answers, best practice and inspiration in the field of judicial cooperation. They all came to Eurojust to ensure that justice and security are brought to our citizens.

While many things changed in 2017, Eurojust's core values remained the same. Eurojust's past, present and future achievements are firmly based on the notions of trust, cooperation and partnership.

Indeed, partnership with national authorities and practitioners is the pillar of our work. Eurojust enhanced its relationship with the EJCJN, and proudly continued to host, and support the work of, the Secretariats of the EJCJN, the largest network of judicial contact points in the world, the JITs Network, a unique structure that provides legal, financial and logistical support to cross-border JIT investigations, and the Genocide Network, a unique forum that connects national authorities, practitioners, NGOs and policymakers involved in investigating and prosecuting core international crimes. In addition, Eurojust maintained its long-standing partnership with the Consultative Forum.

As crime does not know borders, cooperation with third States remains an essential component of Eurojust's work. Since its establishment, Eurojust has been building a network of judicial contacts points in third States, which now includes 42 countries and is expected to further expand in the coming months. In addition, Eurojust has the privilege to host in its premises the Liaison Prosecutors for Montenegro, Norway, Switzerland and the USA. They are a vital part of

Eurojust's extended family and an effective tool for helping national authorities improve judicial cooperation with their counterparts outside the EU's borders.

But, in the end, our work and achievements are only possible with the continuing trust of Member States, EU institutions and EU citizens. We treasure this trust and are fully committed to showing that it is justified and deserved, day after day.

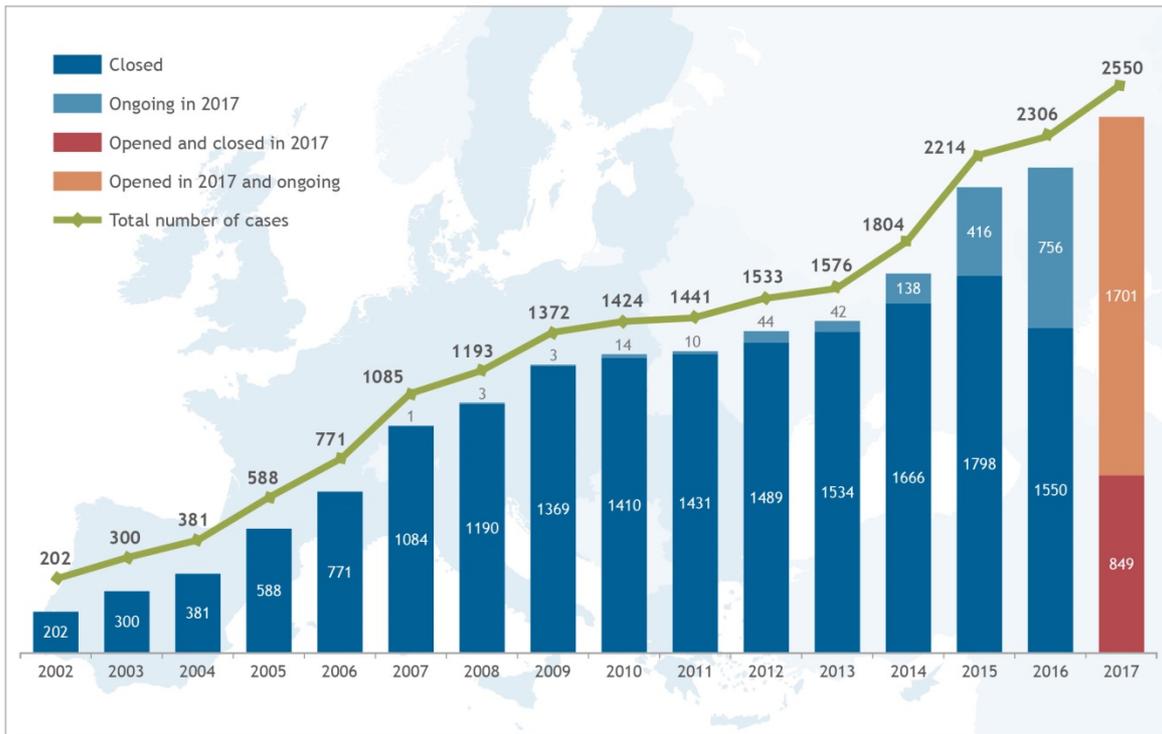
Ladislav HAMRAN

President

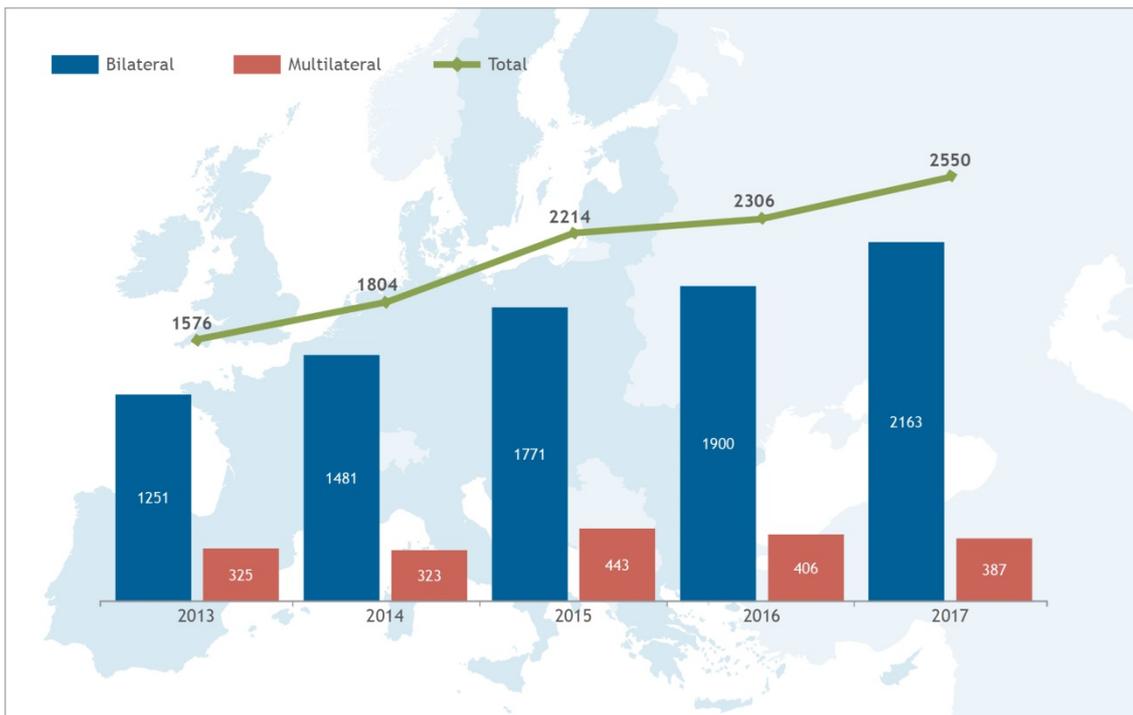
Executive summary

- The **number of cases** for which Member States requested Eurojust's assistance increased by 10.6 per cent, from 2 306 in 2016 to 2 550. **Third States** were involved in 258 cases.
- Eurojust organised 302 **coordination meetings**, a 25 per cent increase over 2016. **Third States** were involved in 61 and **Europol** in 108 coordination meetings.
- Eurojust organised 17 **coordination centres** with the participation of **third States** in 5 and Europol in 7 coordination centres.
- Eurojust supported 200 **JITs**, a 35 per cent increase over 2016, 87 of which were newly established, with an increased involvement of **third States** in 21 JITs, 11 of which were newly established. **JITs** increased in terrorism cases, as well as in fraud and THB cases.
- Eurojust provided **financial support** to 128 **JITs**, a 42 per cent increase over 2016; 9 third States participated in JITs that received funding.
- Eurojust assisted in the **execution of EAWs** on 320 occasions and issued 9 **joint recommendations**.
- Eurojust addressed legal and practical difficulties in the fields of encryption, data retention and the EAW. In 2017, Eurojust had its first experience in advising national authorities on the EIO.
- The Focus of the Year is on Eurojust's experience in JITs; its findings are reflected in the Eurojust-JITs Network *Second JIT Evaluation Report*.
- Eurojust also **published**:
 - *Terrorism Convictions Monitors*
 - *Fifth Foreign Terrorist Fighters report*
 - *CBRN-E Handbook*
 - *Cybercrime Judicial Monitor*
 - *Joint Eurojust-Europol paper on common challenges in combating cybercrime*
 - *Final Evaluation Report of the Eurojust Action Plan against THB 2012-2016*
 - *Data retention report*
 - *Report on the EAW and prison conditions*
 - *Report on Eurojust's casework on the EAW (2014-2016)*
 - *Case law by the CJEU on the EAW*
 - *Briefing note on the Petruhhin Judgment*
 - *Report on casework on prevention and resolution of conflicts of jurisdiction*
 - *The principle of ne bis in idem in the case law of the CJEU*
 - *Eurojust-EJN note on 'corresponding provisions' and the applicable legal regime in delayed transposition of the EIO Directive*
- Eurojust hosts four **Liaison Prosecutors**, from Norway, the USA, Switzerland and Montenegro. The **number of cases** registered by Liaison Prosecutors at Eurojust was 148. This issue contains an interview with the Norwegian Liaison Prosecutor.
- **Cooperation agreements** with Montenegro and Ukraine entered into force. Eurojust signed a Memorandum of Understanding with eu-LISA and a Letter of Understanding with the EEAS. Eurojust's **network of judicial contact points in third States** totals 42.
- Eurojust worked closely with the three networks hosted at Eurojust, the EJN, the JITs Network and the Genocide Network. Eurojust organised two meetings of the EJCN and one Consultative Forum meeting.
- On 24 March, Eurojust took possession of its new premises, and on 3 July, moved into the building.
- **Eurojust's budget** was EUR 48 689 237. Budget implementation was 99.97 per cent.
- Insight is given into Eurojust's organisational developments and key challenges. The College also adopted the Multi-Annual Strategy 2019-2021.

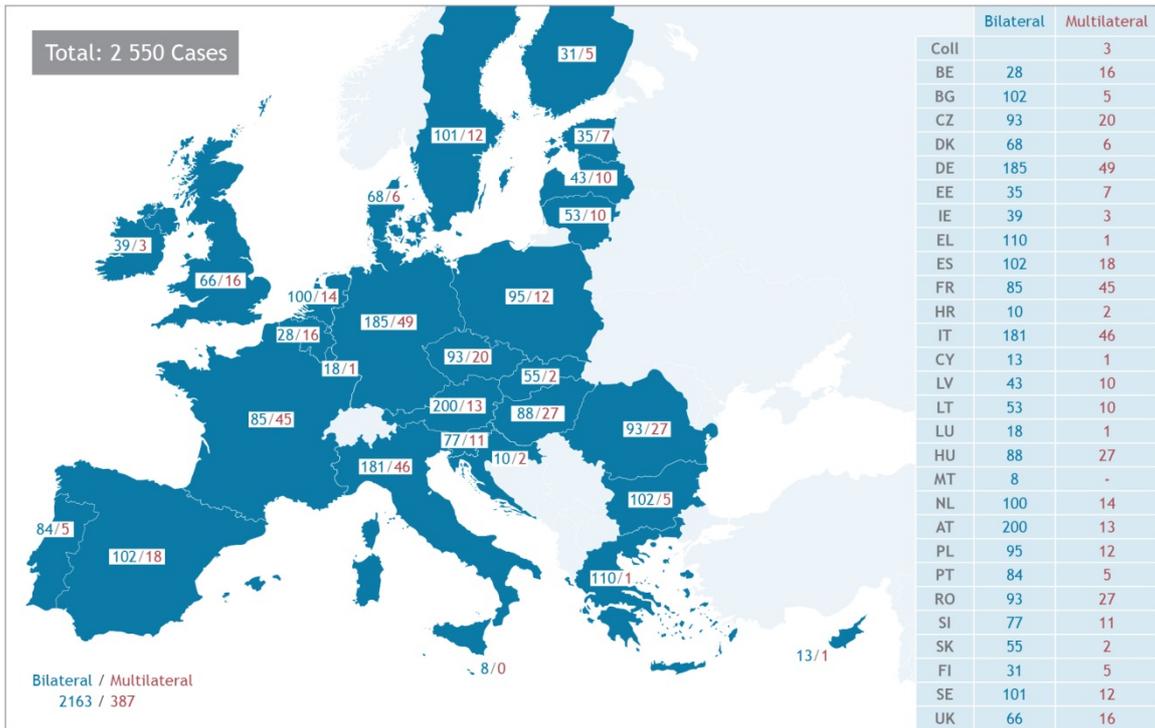
Casework 2002 - 2017



Bilateral/multilateral cases 2013 - 2017



Bilateral/multilateral cases



Requesting/requested Member States

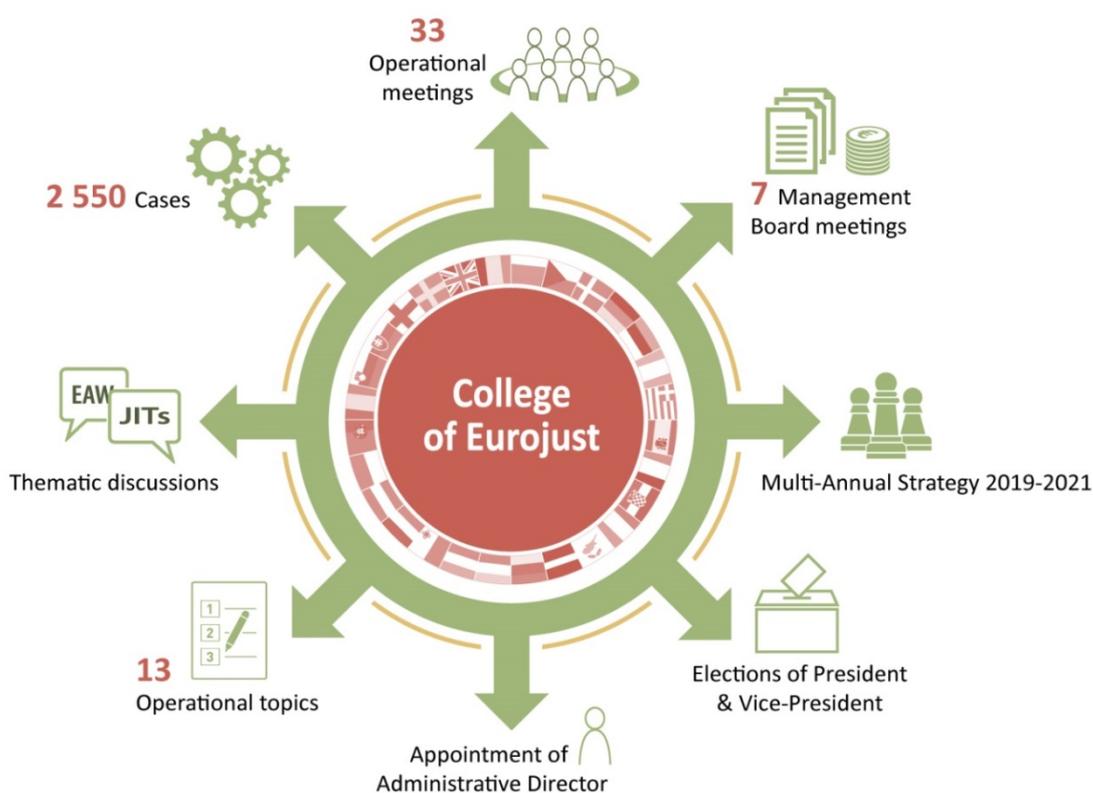


Eurojust at a glance

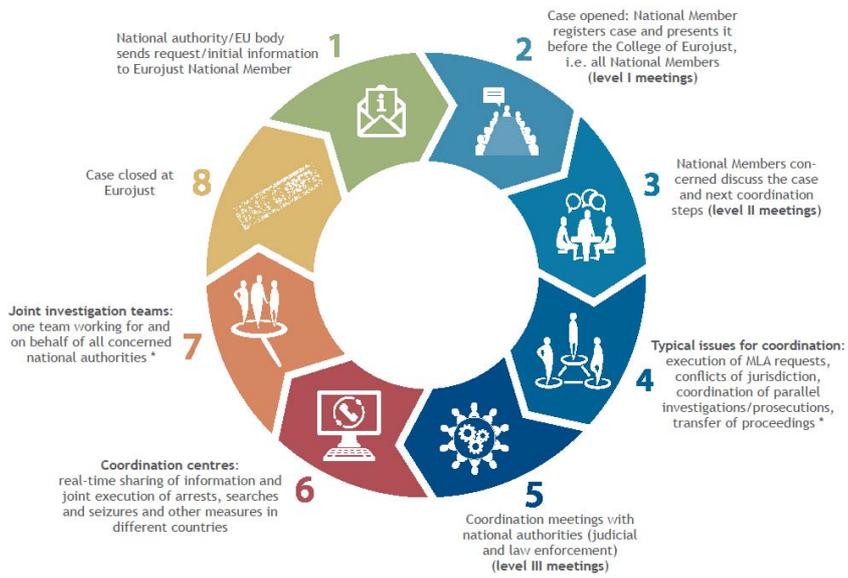
What? Eurojust is the European Union's Judicial Cooperation Unit, established in 2002 to stimulate and improve the coordination of investigations and prosecutions and the cooperation between the competent authorities in the Member States in relation to serious cross-border crime, particularly when it is organised. At the request of a Member State, Eurojust may also assist investigations and prosecutions concerning a particular Member State and a non-Member State if a cooperation agreement between Eurojust and the non-Member State has been concluded or an essential interest in providing such assistance is present. At the request of a Member State or the Commission, Eurojust may also assist investigations and prosecutions concerning only that Member State and the Community.

Who? The College of Eurojust is composed of 28 National Members, who are prosecutors and judges seconded by each Member State. National Members are based at Eurojust in The Hague. Most National Members are assisted by a Deputy and/or Assistant(s). In addition, Liaison Prosecutors from Norway, Switzerland, the USA and Montenegro are currently posted at Eurojust. The Eurojust Administration supports the College in its operational work and when functioning as Management Board of Eurojust.

How? Eurojust's key roles and powers include responding to requests for assistance from the competent national authorities of the Member States. In return, Eurojust can request Member States to undertake the investigation or prosecution of specific acts. National Members carry out Eurojust's mandate to coordinate the work of the national authorities at every stage of criminal investigation and prosecution. Eurojust manages its meetings on casework on three levels.



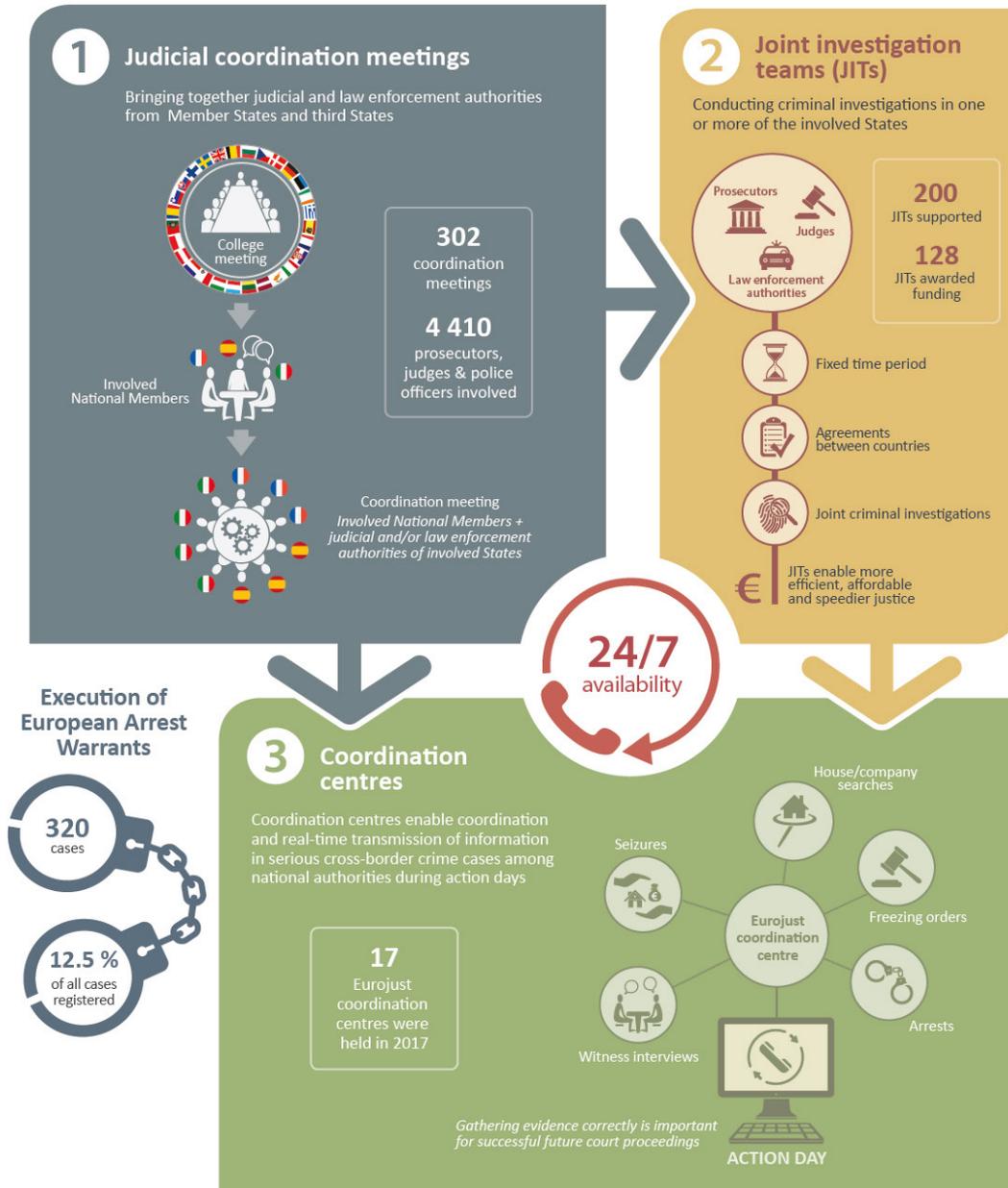
Eurojust case cycle



* May also occur at different stages of the cycle

EUROJUST AT WORK IN 2017

Eurojust's core business is to assist EU Member States' competent authorities in dealing with serious cross-border organised crime



Chapter 1 Eurojust at work

1.1 Eurojust level I and II meetings

Upon the proposal of a National Member, the College decides during its operational meetings – the so-called level I meetings – on the registration and closing of cases.

When a case is registered at Eurojust, the representatives of the National Desks concerned generally meet to discuss the judicial cooperation and coordination needs of the case. The direct interactions and discussions are also referred to as level II meetings. They can include, if involved, the Liaison Prosecutors hosted at Eurojust and the administrative staff supporting the case. Meetings can be organised at short notice, as the participants are literally working ‘under the same roof’. The flexibility and informality are of great value in urgent situations requiring a quick response.

2550 cases registered and dealt with at Level II meetings

In some cases, a level II meeting alone is sufficient to address the needs of the case. For example, the 2017 *Eurojust Report on EAW Casework (2014-2016)* describes how the *swift* exchange of additional information in some EAW cases via the Eurojust National Desks was crucial in helping to clarify matters concerning competing EAWs (*see* p. 14 of the report), or even just to take preparatory steps. In level II meetings, Eurojust can, for example, clarify national legislation and procedures, assist in determining which jurisdiction is best placed to investigate, or facilitate the execution of MLA requests or the initiation of proceedings. Further, Eurojust can also issue opinions on concurrent EAWs and joint recommendations on conflicts of jurisdiction.

Level II meetings are preconditions for organising level III meetings, known as coordination meetings (*see* Section 1.2). If a National Desk intends to organise a coordination meeting, the level II meeting is used to assess the need, purpose and objectives of the coordination meeting, as well as to agree on modalities, external participation, confidentiality and disclosure obligations, related security issues and need for videoconferencing. Further, participants may assess the need for analysis and possible contribution from Europol or the setting up and functioning of a JIT. Coordination meetings are an expensive tool, and level II meetings ensure that these meetings take place only if they bring added value in resolving outstanding issues of judicial cooperation.

In addition, level II meetings can be instrumental when preparing a ‘joint action day’ with the synchronised execution of judicial cooperation measures coordinated via the activation of a coordination centre (*see* Section 1.3). On these occasions, preparatory steps are taken to ensure that the measures requested (e.g. EAWs, searches and seizures, etc.) fulfil all legal requirements, so that the simultaneous actions in the different Member States will not be jeopardised. For example, in several cases, Eurojust helped to double-check or complete – at the last-minute – certain information from the EAWs, such as personal data of the suspects, spelling of names, charges not quoted in the EAW, and the place and time that an offence occurred. In many cases, Eurojust also provided urgent translations.

On-Call Coordination (OCC) Eurojust National Desks are available 24 hours per day, seven days per week. In the event of urgent requests and in accordance with Article 5a of the Eurojust Council Decision, the OCC may receive and process requests for assistance from national authorities outside regular office hours. In 2011, a call management system that forwards calls to the OCC representative of the National Desk concerned was instituted, allowing callers to converse in their own language. Appropriate action can be taken by the OCC representative, such as contacting the OCC representative of another National Desk.

On-Call Coordination in a murder case

A person was shot at a highway rest stop in southern Hungary in December 2017. The unknown perpetrator at large was identified at the crime scene by the Hungarian authorities, along with his vehicle with German registration, soon after the offence was committed. The Hungarian National Desk was contacted by the competent Hungarian prosecutor on the same day, requesting the facilitation of an issued EIO. OCC was immediately activated between the Hungarian and German National Desks and the relevant national authorities so that the EIO was swiftly transmitted to the competent prosecution office in Germany, which granted authorisation for the searches of the suspect’s German residence, as well as the right to secure any evidence found during the searches.

However, the house search revealed that the suspect in Germany subsequently lent his car to a relative resident in Austria.

This sudden change in the person sought shifted the activities of cooperation and coordination from the German Desk to the Austrian Desk at Eurojust. Consequently, the request for execution of the EIO in Germany was withdrawn and replaced by an EAW issued against the real suspect still at large, as well as a new EIO. These were transmitted after working hours, first as drafts to the Austrian National Desk and then uploaded into the SIS in the evening hours, allowing a prompt reaction from the Austrian authorities. The coordinated effort ultimately led to the arrest of the suspect in Austria. In addition, his house and car were searched and all evidence, including the gun, were successfully secured.

The urgency of the case triggered the use of OCC between the involved Eurojust National Desks and the competent national authorities, creating a channel for real-time information exchange, and the smooth transmission of judicial cooperation instruments, which eventually resulted in the arrest of the suspect less than 24 hours after the offence was committed.

Eurojust’s assistance within 24 hours in a tax fraud case

An OCG involved in the illegal trade of industrial mineral oil sold as diesel oil was under investigation by the Czech authorities. The OCG avoided paying VAT and excise duty by declaring the oil for export, transporting the oil from the Czech Republic to Austria, and then transferring the goods into different vehicles and returning them to the Czech Republic. Despite being almost identical in composition to diesel oil, mineral oil is not designed for vehicle engines, and the rate of taxation is different, as mineral oil is subject only to VAT. The OCG illegally profited by not paying excise duty, which is applied to diesel oil. The mineral oil was declared to be re-exported to another Member State and thus exempted from VAT in the Czech Republic.

Surveillance on Austrian territory was required to prove that the goods were returned to Czech territory. An LoR requesting authorisation of cross-border surveillance was issued by the Czech prosecutor. At the same time, the Czech police conducted surveillance on Austrian territory. To continue doing so, authorisation by the Austrian authorities was needed within 24 hours (deadline based on a bilateral MLA treaty between the Czech Republic and Austria).

As the deadline for providing the translation of the LoR was rapidly approaching, Czech authorities contacted the Czech Desk for assistance with the execution of the LoR (to obtain the cross-border authorisation from Austria). The Czech Desk immediately contacted the Austrian Desk. A misunderstanding that occurred in the direct communication between the national authorities was resolved. The Austrian Desk contacted their national authorities, and explained the urgency of the matter, and steps to be taken. The Czech Desk, together with the Czech police, arranged the LoR's translation and forwarded it via the Austrian Desk to the competent Austrian authority on the same day.

Additionally, on that day, a supplementary LoR was issued by the Czech National Member with an updated request specifying surveillance methods. Further, following a request by the Austrian Desk, the Czech Desk clarified the exact amount of tax evaded by the OCG, which was essential for assessing whether the minimum threshold required by Austrian law for authorisation of the surveillance was met.

Thanks to this intervention, the requested surveillance was successfully conducted.

1.2 Coordination meetings

Coordination meetings are organised to facilitate and promote judicial cooperation and coordination in complex cross-border cases. Coordination meetings are attended by the competent judicial and law enforcement authorities of the Member States conducting investigations and prosecutions at national level. Simultaneous interpretation is provided, which allows direct communication between the participants on legal and practical issues. Representatives from third States, as well as officials from cooperation partners such as Europol and OLAF and international organisations such as INTERPOL, may be invited to participate. The use of videoconference facilities provided by Eurojust has also increased.

Coordination meetings are a frequently used operational tool. Eurojust organises on average at least one coordination meeting per working day, totalling 302 meetings in 2017, 24 of which were held outside Eurojust's premises, either in one of the Member States or in a third State (Switzerland). The cases addressed virtually all areas of serious organised cross-border crime, the most common of which are money laundering, fraud, THB and drug trafficking. These 302 coordination meetings related to 376 cases, meaning that in some instances one coordination meeting dealt with two or more linked cases. The number of coordination meetings increased by 25 per cent. This significant growth shows that investigators and prosecutors in the Member States are increasingly relying on Eurojust's support, particularly in complex cases. In planning for a coordination meeting, Eurojust, for example, can analyse the state of play of the investigations in all involved Member States and map the legal obstacles and issues of concern, including possible links with other countries. During the meeting, Eurojust moderates the discussions and offers its advice and expertise on the use of judicial cooperation instruments, on the suitability of setting up a JIT, and on a common approach.

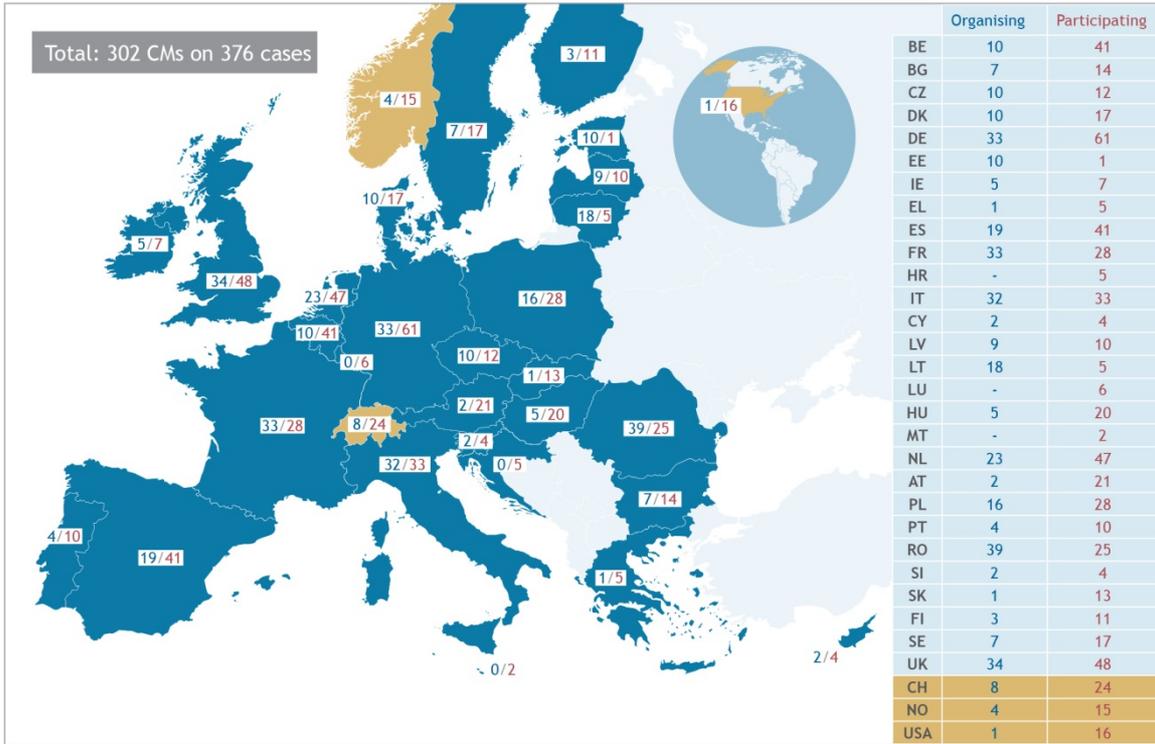
During a coordination meeting, concrete arrangements are discussed and agreed upon concerning, *inter alia*:

- exchange of information on the current status of judicial proceedings;
- exchange of evidence in the framework of MLA/EIOs;
- issuing and completing requests for, and decisions on, judicial cooperation, including mutual recognition instruments, such as EAWs, EIOs, freezing orders, etc.;
- prevention and/or settlement of conflicts of jurisdiction and related procedural steps, including the transfer of criminal proceedings;
- setting up and functioning of JITs; and
- agreeing on a common strategy and coordinated actions (e.g. simultaneous investigative measures in the States involved and related legal aspects).

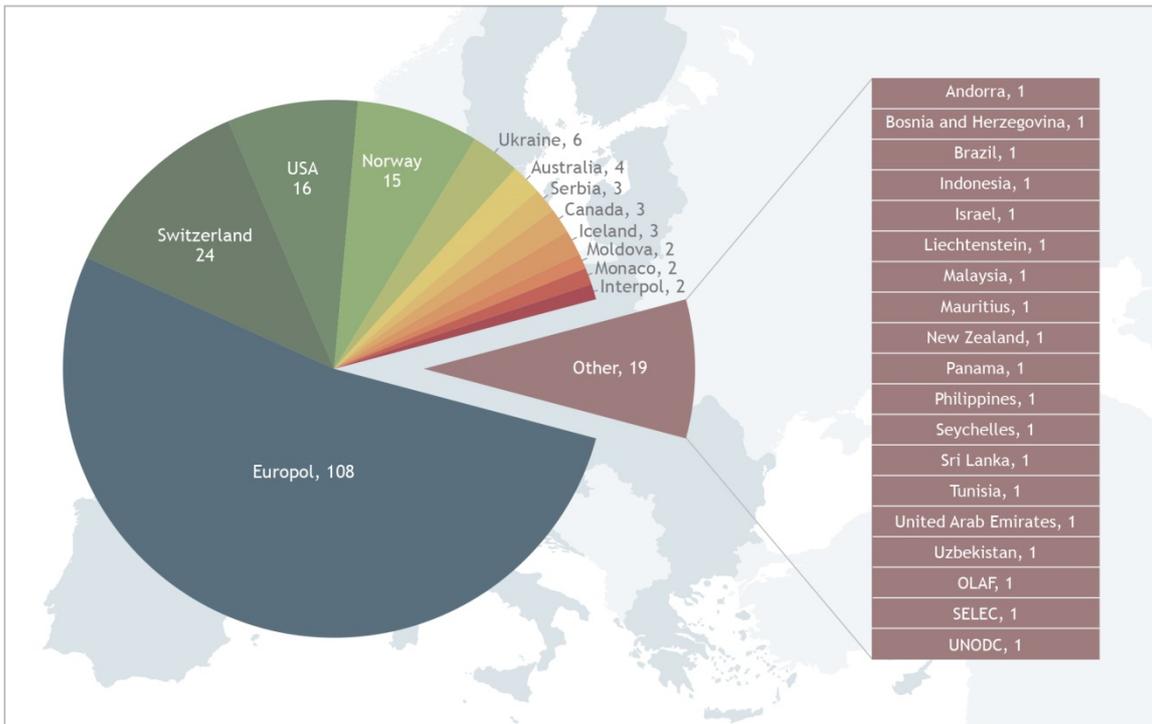
In April 2017, a coordination meeting was held at Eurojust regarding investigations into alleged criminal activities connected to the law firm Mossack Fonseca, also known as the 'Panama papers' case. This case clearly demonstrates the complex legal issues dealt with by Eurojust, including the large number of involved States, as well as the added value of coordination meetings, which foster mutual understanding, build trust, and are essential for continued cooperation.

Representatives of the competent investigating authorities of 14 Member States, Norway and the General Prosecutor of Panama, totalling 69 participants, met at Eurojust to exchange information on the various ongoing investigations. Eurojust successfully managed to bring all these participants together with the Panamanian authorities in a spirit of cooperation, which triggered follow-up at national level between several Member States and Panama. One important legal issue addressed concerned a ruling by the Panamanian Supreme Court that double criminality is an absolute condition for international cooperation. Since tax evasion is not a crime in Panama (only an administrative offence), and could therefore not serve as a predicate offence for money laundering in relation to Panama, the participants explored alternate crimes that could satisfy the dual criminality requirement, particularly the crimes that could serve as predicate offences for money laundering.

Coordination meetings



Third States, cooperation partners and international organisations involved in coordination meetings



1.3 Coordination centres

Eurojust experienced a substantial increase in the use of its coordination centres by practitioners in the Member States, from 10 coordination centres in 2016 to 17 in 2017. The new premises allows Eurojust to offer a strengthened technical capability to cope with the increasing demand. A dedicated operational room has been set up to ensure that participating authorities can easily maintain direct contact via Eurojust to exchange information during large-scale multilateral joint actions. Depending on the specific requirements of a case, external participants may also attend coordination centres at Eurojust.

Coordination centres offer excellent results. In one case, freezing orders in an amount exceeding EUR 3 million were issued on the spot during a coordination centre towards countries not initially foreseen to participate, as Eurojust could immediately involve the Eurojust National Desks concerned.

The number of organising countries more than doubled, and, for the first time, a coordination centre was organised to support coordinated actions on the initiative of the Swiss Liaison Prosecutor posted at Eurojust. Europol participated in seven coordination centres, five of which involved third States, including Iceland, Canada and San Marino. The most common crime types dealt with were drug-related crimes and financial crimes. Five of the coordination centres dealt with cases for which a JIT had been set up.

Eurojust assistance through a coordination centre in an excise fraud case

An OCG involved in transnational trafficking of alcohol products was targeted by the Italian authorities. The OCG was using a complex excise duty fraud strategy to avoid paying the tax to which the alcoholic beverages are subject. Different bonded warehouses within the European Union were used to fictitiously move the goods to non-EU countries for which the duty was suspended (false export). Instead, the goods were illegally sold in Italy and other Member States, generating huge profits for the OCG.

The case was referred to Eurojust by the competent Italian Prosecution Office, which requested assistance with the execution of several MLA requests to the involved Member States (12 in total) and Switzerland.

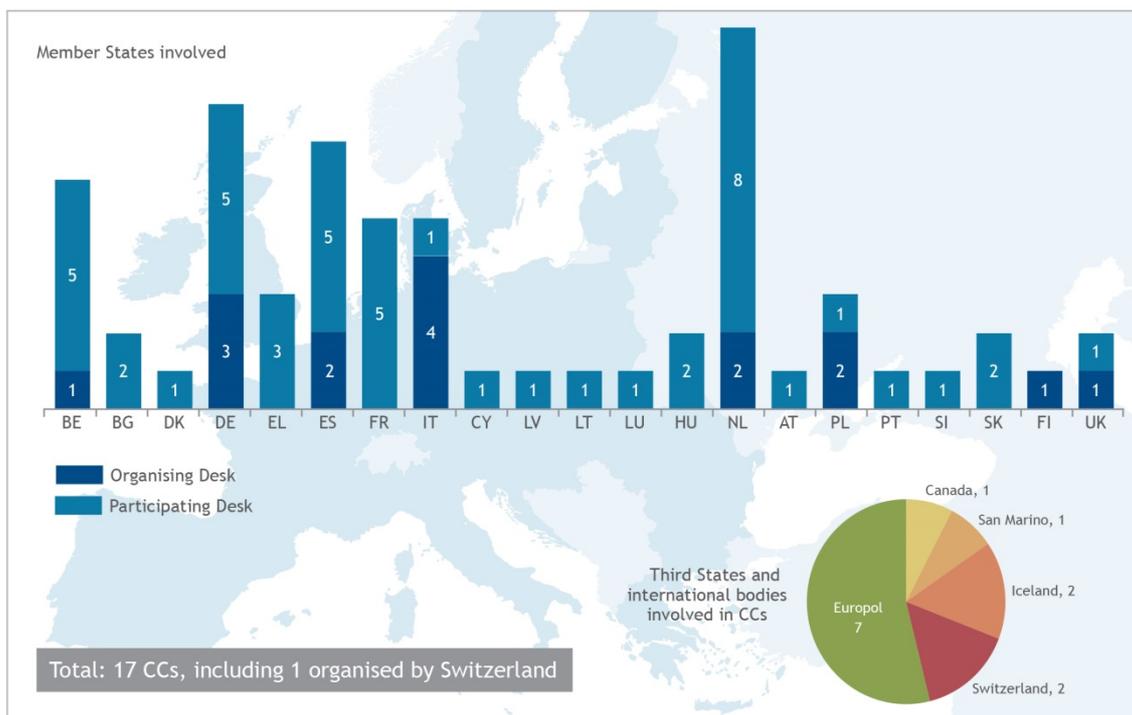
A level II meeting was held in June to present the latest results of the Italian investigation and its cross-border connections, as well as to identify the remaining requirements for the execution of the MLA requests during a joint action day. During the meeting, a decision was taken that the joint action would be supported by a Eurojust coordination centre. Representatives from the Italian national authorities and the involved Eurojust National Desks, as well as the Swiss Liaison Prosecutor, participated in the coordination centre. MLA requests were redrafted based on new information and search warrants were issued in real time, which was vital for the successful execution of the requested measures. As a result, several locations were searched and documentation and communication data seized. This action day assisted the Italian authorities in progressing with their investigation and in clarifying the activities of the OCG.

The case was ongoing in 2017.

Mr Wolfgang Merz, one of Germany’s external participants at the coordination centre in the VAT fraud case, Middleman/Vertigo V, commented on the success of the coordination centre at Eurojust:

‘We would like to thank Eurojust for its excellent cooperation and assistance with this coordination centre. We have had consistently positive experiences in working on this case with Eurojust and will return for other coordination centres. Although we do not have a complete overview yet, we can already say that the action day was very successful in securing extensive evidence, particularly related to our main suspect. We assume that our investigation will expand considerably, so we will probably approach Eurojust in the future.’

Coordination centres



1.4 Eurojust and joint investigation teams

Eurojust’s casework shows that JITs are progressively recognised as an effective cooperation tool in cross-border cases, with 200 JITs supported by Eurojust, representing an increase of 35 per cent in comparison to 2016 (with 148 supported JITs); 87 were newly established.

The number of newly established JITs involving third States has also increased significantly (11 in 2017 and 3 in 2016); 10 JITs established in previous years and involving third States were ongoing in 2017. At the 13th annual meeting of JITs experts, practitioners involved in JITs with third States reported that though the operation of such JITs may present specific features or deviate from usual EU practice, the tool is sufficiently flexible to allow practical adjustments and still function efficiently.

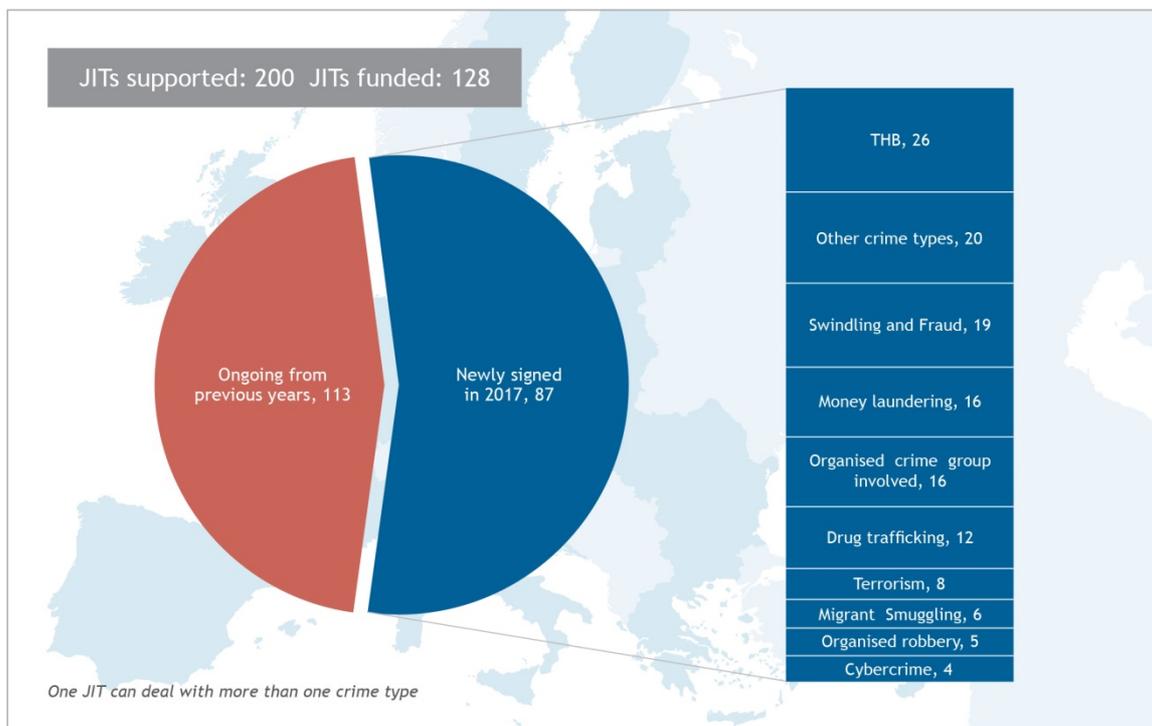
In relation to the crime types covered by the newly established JITs, a significant increase was noted in JITs in terrorism cases (8 in 2017 and 1 in 2016), swindling and fraud cases (19 in 2017 and 9 in 2016) and THB cases (26 in 2017 and 19 in 2016).

In a case of aggravated fraud and embezzlement (PIF offence), in which a JIT was established between Italy and Belgium in December 2016, Eurojust facilitated the extension of the JIT towards OLAF, as a participant. Eurojust proposed a simplified appendix to the JIT agreement on OLAF's participation, which was signed by the Director General of OLAF in February 2017.

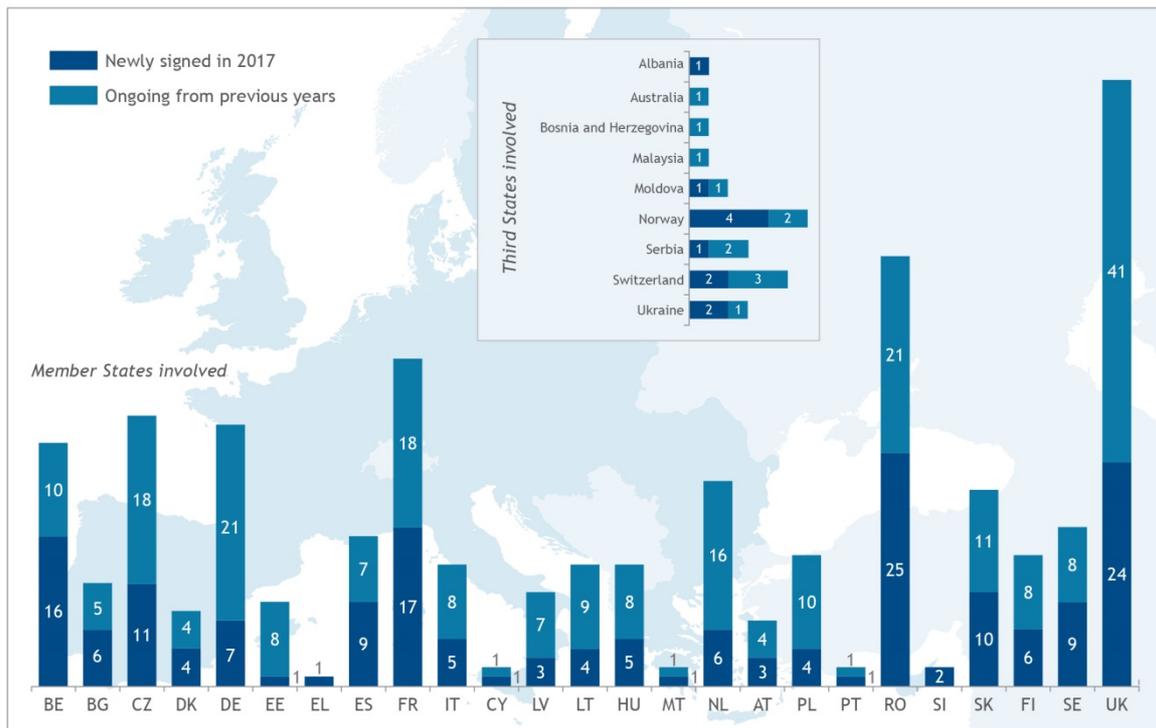
Eurojust supported the Member States in the setting up, running, financing and evaluating of JITs. The use of the Updated JITs Model Agreement (which takes into account the extension of JITs to third States) was promoted by Eurojust as a basis for negotiations and contributed to a swift setting up of JITs.

In 2017, Eurojust contributed to the JITs Network Secretariat's project on the evaluation of JITs. The main findings of Eurojust's experience with JITs can be found below under 'Focus of the Year: Evaluation of JITs'. In the framework of the project, JIT cases in which judicial follow-up took place resulted in effective convictions. Evidence obtained via a JIT was rarely challenged and in most of the analysed cases, was declared admissible.

JITs supported by Eurojust, including the main crime types



Country participation in JITs



Coordinating JITs

An OCG operating in the Sliven region of Bulgaria was dismantled following Eurojust's coordination of five investigations into THB for the purpose of sexual exploitation of Bulgarian women trafficked to the Netherlands and Belgium, as well as money laundering. Eurojust assisted in the coordination of two separate international operations, Palma and Leerdam, and the establishment of two JITs. The JITs received funding through Eurojust, amounting to approximately EUR 90 000.

Operation Palma was initiated by the Dutch authorities in 2013, investigating THB activities that took place between 2003 and 2010, as well as money laundering and other criminal offences linked to sexual exploitation. Operation Leerdam was initiated by the Bulgarian authorities in November 2015, when they requested the support of Eurojust in another ongoing Dutch investigation for trafficking of Bulgarian women to the Netherlands and Belgium.

Eurojust was instrumental in detecting links between the investigations conducted by the Bulgarian and Dutch authorities within the framework of Operations Palma and Leerdam, and another ongoing investigation being carried out in Belgium involving sexual exploitation of Bulgarian victims in Antwerp and Brussels.

After a coordination meeting at Eurojust, Bulgaria and the Netherlands set up a JIT for Operation Palma. Eurojust also organised a coordination meeting during which prosecutors, investigators and police officers from Belgium, Bulgaria and the Netherlands, in charge of the five linked investigations, gathered for the first time to discuss and agree on a coordinated approach to dismantle the OCG. The meeting was attended by twenty-five participants, including Europol officials. As a result of this coordination meeting, Belgium, Bulgaria and the Netherlands set up another JIT in Operation Leerdam to define and execute a common case strategy and to ensure that the actions in one case would not interfere with the investigations in the other case.

Within the framework of the Operation Leerdam JIT, investigative actions took place in Bulgaria, with the presence of members of the JIT from the Netherlands. Within the framework of the Operation Palma JIT, coordinated operations were conducted in Bulgaria, Germany and the Netherlands. For the first time, Eurojust facilitated the coordination between two separate JITs. Due to the active involvement of Eurojust, the links between all five national investigations carried out in Bulgaria, the Netherlands and Belgium were established, and proper planning of the investigative activities was performed, which resulted in a very successful coordinated operation, dismantling the OCG.

Eurojust's financial support to JIT operations

Financial support to a JIT is often the key to its success. The increase in the number of JITs is reflected in a 40.5 per cent growth in the number of applications for financial support received by Eurojust over the previous year. A total of 253 applications were received for calls 1-8 in 2017 (180 applications in 2016). The number of JITs that have been awarded funding increased by 42 per cent, totalling 128 JITs awarded funding (90 JITs awarded funding in 2016). The vast majority (85 per cent) of JITs supported in Eurojust casework also apply for and receive its financial support. The demand for JITs grants in support of the ongoing operational actions of Member States engaged in the investigation and prosecution of serious cross-border crimes has consistently increased since 2014. This trend reflects that JITs are progressively incorporated into the prosecutorial strategies of the Member States. In 2016, the JITs grant budget increased from EUR 500 000 to EUR 1 000 000. As a direct response to the growing demand from the Member States, additional credits were provided by the Commission in 2017 for JITs grants, resulting in Eurojust being able to support more JITs grant beneficiaries than in 2016 (total EUR 1.3 million; 128 grant awards). The following third States were involved in JITs for which applications for funding were submitted: Norway (7), Serbia (5), Switzerland (4), Moldova (4), Ukraine (4), Malaysia (3), Australia (3), Albania (2) and Bosnia and Herzegovina (1).

Eurojust prepared the launch of a new IT tool, leading to efficiency gains in the management of JITs grants. The JITs Portal, available from January 2018, will facilitate the secure online submission of applications by national authorities and improve the processing of data by Eurojust. To assist JIT practitioners in navigating the funding process, an infographic and a JITs funding guide are available.

Chapter 2 Eurojust casework

Introduction

Eurojust plays a vital role in facilitating multilateral judicial cooperation, coordination and exchange of information in cases involving serious cross-border crime. Eurojust's operational support includes analysing legal issues and practical difficulties stemming from its casework, developing best practice, cooperating with EU partners and third States, and working closely with specialised judicial expert networks.

The number of cases referred to Eurojust by national authorities for assistance increased from 2 306 cases in 2016 to 2 550 cases in 2017, a growth of 10.6 per cent. Main crime types dealt with are fraud, drug trafficking and money laundering. Eurojust also registered 13 operational topics, six of which were related to terrorism. These topics concern requests received from a national authority or a National Desk to gather background information or advice from all Member States which may be relevant or impact operational matters.

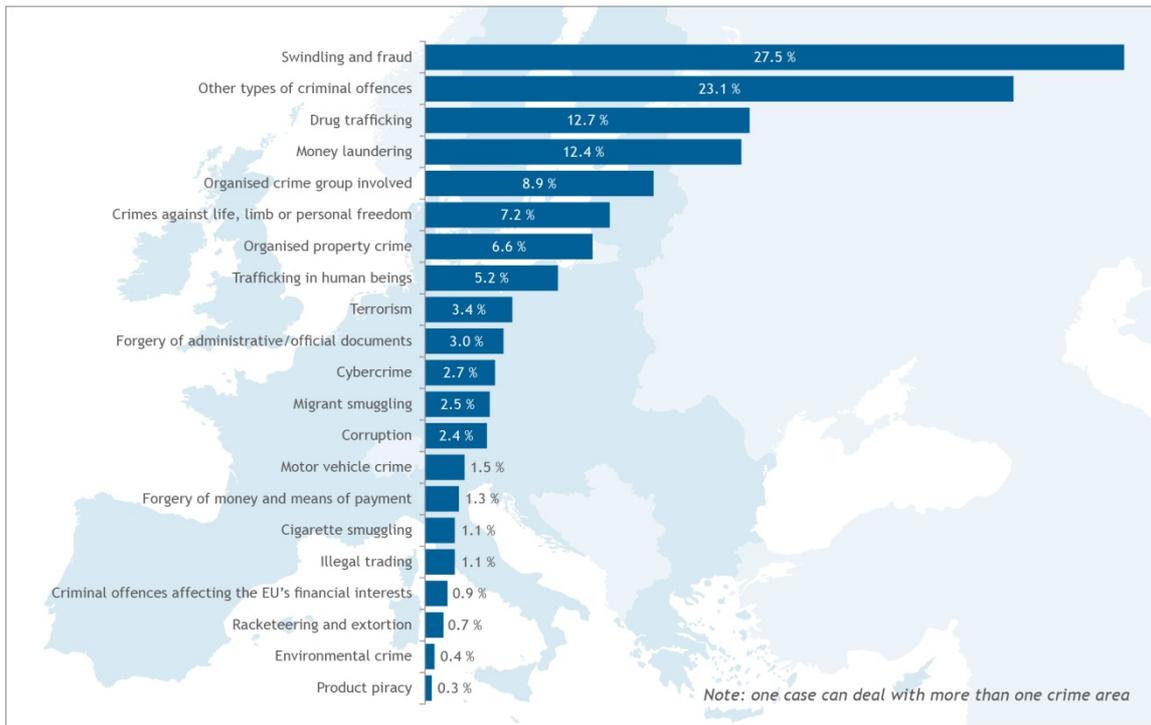


The increase in cases of serious organised crime highlights the need for an effective multi-agency approach to cross-border cases, particularly through information exchange and mutual involvement, as well as close cooperation with third States (*see* Chapter 4). The Liaison Prosecutors registered 148 cases. Eurojust continues to build bridges between Eurojust and the Europol Centres via its Seconded National Expert for Cybercrime posted at EC3 and the newly appointed representative to the ECTC. Eurojust contributed to the drafting of the SOCTA as well as the section entitled 'Convictions and Penalties' and the relevant statistical annex to the TE-SAT Report. Eurojust further continued its work in the framework of the Policy Cycle 2013-2017 and participated in EMPACT meetings to increase its judicial support to the related Operational Action Plans (OAPs). In the framework of the Policy Cycle 2018-2021, Eurojust participated in the drafting of the Multi-Annual Strategic Plans and OAPs for 2018.

Eurojust's operational focus is aligned with the priorities of the European Agendas on Security and on Migration. Eurojust contributes to the implementation of the EU Agendas and has stepped up its activities, particularly in fighting terrorism, cybercrime, migrant smuggling and THB.

Crime type	Cases			Coordination meetings			JITs		
	2015	2016	2017	2015	2016	2017	2015	2016	2017
Terrorism	41	67	87	15	18	14	3	4	12
Cybercrime	62	60	70	19	13	9	11	8	7
Migrant smuggling	60	65	64	20	12	15	9	11	14
THB	79	93	132	32	33	57	21	32	51
Fraud	647	654	700	76	44	75	34	35	45
Corruption	90	74	61	10	15	15	4	2	4
Drug trafficking	274	254	324	57	41	40	25	24	28
Mobile organised crime group	201	199	208	21	19	14	13	12	12
PIF crimes	69	41	61	11	11	14	5	5	6
Money laundering	283	295	315	55	67	85	30	35	45
Environmental crime	5	6	9	1	0	3	0	0	2

Eurojust casework in crime areas



Eurojust-OLAF leaflet is a practical document clarifying the complementary roles of Eurojust and OLAF, and encourages the national authorities to consider involving both bodies if appropriate. As no mechanism exists to direct national authorities to contact Eurojust following an OLAF recommendation for prosecution or judicial follow-up, the leaflet provides guidance to national authorities and practitioners working at Eurojust and OLAF on when the involvement of the other organisation is merited, particularly on the judicial follow-up of OLAF recommendations to national authorities.

2.1 Terrorism

Casework The number of terrorism cases referred to Eurojust by national authorities for assistance continued to increase – from 14 cases in 2014, 41 cases in 2015, 67 cases in 2016, to 87 cases in 2017. In addition, the Liaison Prosecutor for Switzerland registered one terrorism case. The most requesting Member States were Italy, Spain, Germany and France. The most requested Member States were Germany, France and Belgium.

Eurojust continued to assist in the investigations of recent terrorist attacks in Europe, such as those on the Thalys train, and in Paris, Brussels, Ansbach, Nice, Berlin, Stockholm, Barcelona and Turku, as well as other cases of cross-border terrorist activities, including recruitment, financing and propaganda for terrorist purposes. The increase in the number of cases is combined with an increased complexity of the issues addressed and the requirement for swift and efficient multilateral cooperation. These cases clearly demonstrate the growing need for a common and coordinated approach between judicial authorities. Member States progressively sought the assistance of Eurojust, for example in the exchange of information and evidence, in accelerating the execution of MLA and extradition requests, EAWs and EIOs, and setting up of JITs.

Eurojust organised 14 coordination meetings on terrorism cases. Two of those coordination meetings were attended by representatives of third States, namely Australia, Canada, Indonesia, Malaysia, New Zealand, the Philippines, Switzerland, Tunisia, Ukraine and the USA. Eurojust also organised one coordination centre targeting a transnational OCG involved in facilitation of migrant smuggling and forgery of administrative documents. Documents forged by this OCG had also been used by a sophisticated network, which was dismantled in 2014, for recruiting, facilitating and financing FTFs.

Further, Eurojust participated in an increasing number of JITs in terrorism cases (12 JITs, 8 of which were newly formed). JITs provide an efficient platform for direct exchange of information and evidence in bilateral and multilateral terrorism cases.

Third States participated in three of the JITs: one with Switzerland, one with Ukraine and one with Australia, Ukraine and Malaysia.

In 2017, the JIT set up between the Netherlands, Belgium, Ukraine, Australia and Malaysia in relation to the crash of Flight MH17 on 17 July 2014 reached a further important milestone. Eurojust hosted a coordination meeting during which, further to lengthy discussions among the competent authorities of these countries, possible next steps regarding a prosecution mechanism were considered. The involved countries have subsequently jointly decided that the prosecution of those responsible for downing MH17 will take place in the Netherlands and reaffirmed their continuing close cooperation. Eurojust remains a close partner in facilitating such cooperation.

Paris terrorist attacks

The extensive operational support that Eurojust can provide to the Member States in terrorism cases is best illustrated by the aftermath of the terrorist attacks in Paris and Saint-Denis on 13 November 2015.

The French Desk at Eurojust opened a case towards 13 Member States and the USA on 26 November 2015 and from then onwards played a facilitating role in the transmission and execution of numerous MLA requests. In December 2015, both Eurojust and Europol joined the JIT set up by France and Belgium shortly after the attacks. As the investigations in France and other Member States moved forward and the needs for coordination increased, the French Desk organised five coordination meetings between January 2016 and February 2017, one in Salzburg, two in Paris and two in The Hague.

By bringing together the judicial authorities and the investigators of all concerned Member States, coordination meetings are Eurojust's main operational tool for terrorism cases. In this case, the coordination supported by Eurojust was instrumental in highlighting some possible links between the investigations of the attacks in Paris and the Thalys attacks in August 2015. As a result, two suspects arrested in Austria and one suspect detained in Germany were successfully surrendered to the French authorities.

Berlin Christmas market terrorist attack

On 19 December 2016, a truck was deliberately driven into the Berlin Christmas market, leaving 12 people dead and more than 70 victims. One of the victims was the truck's original driver, who was found shot dead in the truck. The perpetrator was a Tunisian national, inspired by ISIL propaganda. Four days after the attack, he was killed in a shootout with police near Milan, Italy. The event was classified as a terrorist attack.

A case related to the German investigation into the attack, conducted by the Federal Public Prosecutor General's Office, was registered at Eurojust. The German National Desk was involved within hours after the attack and, particularly when the case further developed, Eurojust's involvement increased. A parallel case regarding the shootout with the Italian police was registered by the Italian National Desk. Eurojust was instrumental in facilitating a proper and timely exchange of information on the judicial level. In addition, Eurojust had access to its network of national correspondents for Eurojust for terrorism matters.

In March 2017, a coordination meeting was held at Eurojust, co-organised by the German and Italian Desks, and with the participation of investigating authorities from various Member States and third States. The objective of the meeting was to exchange information on the status of the victims and witnesses in different countries and the results of the investigations into the travel route of the attacker and his whereabouts in the period between 19 and 23 December 2016. The participants discussed their respective national investigations and agreed to continue their cooperation directly and via Eurojust.

Council Decision 2005/671/JHA The information on investigations, prosecutions and convictions for terrorist offences shared with Eurojust, in conformity with Council Decision 2005/671/JHA, increased significantly. Eurojust was informed about 394 investigations and prosecutions and 561 convictions or acquittals for terrorist offences. This information, together with information shared with Eurojust under Article 13 of the Eurojust Council Decision, allows Eurojust to detect possible links between different terrorism cases and between cases of terrorism and organised crime.

Cooperation with Europol Eurojust continued to strengthen its cooperation with Europol by involving it in a number of cases and by contributing to its counter-terrorism analysis projects, Hydra and Travellers. The synergies between Eurojust and Europol in the area of counter-terrorism were enhanced by the recruitment of a Seconded National Expert specialised in counter-terrorism to facilitate the exchange of information between Eurojust and the ECTC. The tasks include the promotion of the early judicial follow-up of the ECTC's activities and the use of Eurojust's coordination tools.

Foreign terrorist fighters Eurojust continued to focus its strategic work on the evolution of the criminal justice response to FTFs. In December, Eurojust delivered its fifth report, *Foreign Terrorist Fighters: Eurojust's views on the Phenomenon and the Criminal Justice Response* to the JHA Council. The report, classified as EU RESTRICTED, was shared with practitioners and policymakers at EU and national levels to raise awareness about challenges and best practice, and to help build solid prosecution cases. The report presents the recent experience of Eurojust in coordinating FTF investigations and prosecutions, and challenges and lessons learned from investigations and prosecutions reported to Eurojust. Further, the report highlights preliminary findings regarding the main issues in the use of battlefield information as evidence in criminal proceedings, stemming from the difficulty to gain access to it or to prove that it was lawfully obtained. It emphasizes that the information gathered on the battlefields in Syria and Iraq may be used in some jurisdictions for both terrorist offences and core international crimes, and draws attention to the possible links between these crimes. The report concludes that potential avenues for obtaining and sharing battlefield information to an evidentiary standard need to be further explored. In close cooperation with the national correspondents for Eurojust for terrorism matters and with the Genocide Network, Eurojust has started mapping best practice and challenges in the use of information collected by the military from armed conflict zones as evidence in terrorism and/or war crimes proceedings and/or as the basis for opening criminal investigations or prosecutions.

National correspondents for terrorism matters At the annual meeting of the national correspondents for Eurojust for terrorism matters, also attended by counter-terrorism experts from Norway, Switzerland and the USA, the EU Counter-Terrorism Coordinator, the Head of the ECTC and a representative from Frontex, discussions focused on exploring possibilities to enhance judicial responses and cooperation in the aftermath of terrorist attacks, sharing best practice in dealing with victims immediately after terrorist attacks and deradicalising terrorist suspects. Participants discussed challenges in the prosecution and conviction of FTFs for terrorist offences and/or war crimes, as well as challenges in collecting battlefield information that could be used as evidence in terrorism and/or war crimes proceedings.

Outreach The key importance of the judicial aspects of the fight against terrorism was highlighted by Eurojust, among others, at hearings at the LIBE Committee of the European Parliament, as well as during the visit to Eurojust of the TERR Committee of the European Parliament in December. The discussions focused on the added value of Eurojust in supporting ongoing investigations and prosecutions and in enhancing coordination and exchange of information. Eurojust expressed concerns about the recast of Regulation 45/2001, particularly the recent proposal to apply the regulation to operational data processed by Eurojust, and pleaded for a common regime applicable to Eurojust, Europol and the EPPO.

Enhancing the possibilities for judicial cooperation both at operational and strategic levels in the fight against terrorism is a major priority in Eurojust's relations with third States. To this end, and to reinforce mutual trust and explore future avenues for cooperation, Eurojust hosted a number of visits of counter-terrorism and judicial cooperation experts from third States, such as Tunisia, Taiwan and the League of Arab States.

Radicalisation In the area of radicalisation leading to violent extremism and terrorism, Eurojust continued to monitor and analyse terrorism-related convictions, including the use of alternatives to detention by courts in the Member States. Eurojust reported regularly in its monitors on the type of sentences imposed by judges in terrorism cases (custodial or non-custodial), and, if appropriate, on the obligations attached to ensure a balance between the reintegration and deradicalisation of convicts and public security.

The fifth Eurojust FTF report also presents experience and best practice in the area of criminal justice responses to radicalisation. Eurojust contributed to the discussions and activities of the newly established High Level Commission Expert Group on Radicalisation (HLCEG-R), particularly when identifying priorities and concrete proposals for action, at EU and Member State levels, in relation to prison and probation, rehabilitation and reintegration matters. At Eurojust's suggestion, one of the recommendations adopted by the HLCEG-R concerns the improved provision of information to Eurojust on investigations, prosecutions and convictions for terrorist offences to allow Eurojust to monitor the use of alternatives to prosecution and detention, as requested in the Council Conclusions of November 2015, and thus contribute to the development of criminal policy on FTFs and radicalisation.

Terrorism Convictions Monitor Eurojust published three TCMs in 2017, based on open source information and information provided by the national authorities in accordance with Council Decision 2005/671/JHA. The TCM provides an overview of terrorism-related convictions and acquittals throughout the European Union as well as legal updates on and judicial analysis of relevant judgements. The analytical chapters of the issues produced in 2017 include an analysis of judgements rendered by courts in Germany, Italy and the Netherlands. Two of the judgements concerned returnees from Syria and the other concerned a group prosecuted for endorsing and actively looking to recruit jihadist fighters. One issue includes a summary of Directive (EU) 2017/541, adopted in March, on combating terrorism. Another issue includes a selection of UN Security Council Resolutions on the fight against terrorism, which may have an impact on the EU's and Member States' legislation and policies.

Dismantling of a group engaged in ISIL propaganda

The Spanish authorities requested the urgent assistance of Eurojust in an investigation into a group allegedly engaged in the production of audiovisual material, to be distributed online, containing ISIL propaganda and advocating the commission of terrorist offences. The group, which was active in several Member States, was also suspected of engaging in recruitment and radicalisation activities.

To dismantle the group, the Spanish authorities planned a joint action day, to be coordinated by Eurojust. For this purpose, five days before the planned common action, the Investigative Judge in charge issued two EAWs and two LoRs requesting the execution of several searches and seizures of relevant items in Germany and the UK. The EAWs and the LoRs were to be executed in a simultaneous and coordinated manner during the joint action day.

In preparation for the joint action day, the National Desks of Spain, Germany and the UK were in constant contact with each other, facilitating the spontaneous exchange of information and the immediate transmission of copies of the LoRs and the EAWs. They exchanged information on the state of play of the translations of the LoRs and the EAWs and the insertion of the latter in the SIS, and liaised with SIRENE to prepare for the synchronised activation of the EAWs inserted in the SIS.

The National Desks advised their national authorities of the best way to proceed and provided additional information and clarification, when needed. Preliminary checks were conducted to establish the authorities in Germany and the UK competent for the execution of the EAWs and the searches even before the translations of the EAWs and the LoRs were available. Prior to the receipt of the English version of the EAW, the UK National Desk forwarded the Spanish version to the competent national authorities to speed up the certification of the EAW as a prerequisite for the arrest of the suspect in Birmingham. An issue arose in relation to the time of the searches, as German legislation bans night searches (i.e. searches before 03:00), so the requesting authority set the time for execution for 04:00.

The urgent translations of the EAWs and LoRs into German and English (within 24 hours) were transmitted to the competent German and UK authorities via the Eurojust National Desks. Within hours of receipt, the necessary legal and practical formalities in Germany and the UK were arranged to execute the requested measures, and, via the National Desks at Eurojust, possible future challenges owing to the lack of sufficient information on the alleged offence in the EAW were communicated to the Spanish authorities. In addition, the extension of the search warrant in the UK to include a vehicle not mentioned in the LoR was arranged. The Spanish National Member also worked closely with the liaison magistrate for Spain in London to assist the national authorities.

At 04:00 on 28 June, authorities in Germany, Spain and the UK launched a successful operation leading to the arrest of the six suspected members of the group. The operation was coordinated by Eurojust and supported by a Europol counter-terrorism specialist deployed to Spain. Spanish police officers were also deployed on the spot in Germany and the UK during the action day.

Eurojust continued to coordinate and facilitate cooperation between the national authorities after the action day. Shortly after the arrests, the Spanish authorities transmitted supplemental information to their German and UK colleagues to solve issues related to the lack of sufficient information in the initial EAWs (in accordance with the specialty principle requirements for the production of three video clips), and facilitated the surrender decisions by the executing authorities. The respective public prosecution offices were provided with the additional information necessary to enable the surrenders in conformity with Article 15(2) of the Framework Decision on the European arrest warrant. As a result, the person arrested in Germany was successfully surrendered to the Spanish authorities.

In addition, Eurojust facilitated the identification and selection of the relevant items seized in Germany during the action day, which could serve as evidence in the Spanish proceedings. The National Desks of Germany and Spain also provided some clarifications to the leading prosecutor in Germany, thus enabling authorisation to be obtained by the competent national court to transfer items seized during the searches. The seized items were delivered in accordance with Article 29 FD EAW.

Some months after the action day, Eurojust hosted a coordination meeting during which the participating national authorities from Germany, Spain and the UK provided feedback on the preparation and execution of the action day. They also discussed the state of play in ongoing proceedings and possibilities for future cooperation. During the coordination meeting, the UK authorities handed over to Spain the material seized during the action day. The person arrested in the UK was surrendered to Spain.

Eurojust's coordination and assistance was highly valued by the Spanish authorities, which believed that, without this assistance, conducting such a complex simultaneous multinational operation would have been impossible, especially given the extremely short preparation time. Eurojust's assistance was also crucial in the follow-up of the successful action day and the continued cooperation between the national authorities concerned.

[Eurojust CBRN-E Handbook](#)

Eurojust News issue #15

2.2 Cybercrime

Casework Cybercrime investigations inevitably require law enforcement and judicial authorities to cooperate and coordinate investigative actions with authorities in different jurisdictions. Eurojust supported 70 cases, held 9 coordination meetings and 1 coordination centre, and supported 7 JITs, 4 of which were newly established. The most requesting Member States were Romania, Germany and the Netherlands. The most requested Member States were the UK, France and Germany.

The NotPetya case highlighted the importance of an immediate coordinated response to large-scale cyberattacks and thus the added value of Eurojust's and Europol's early involvement.

On 27 June 2017, a massive cyberattack took place, affecting computer systems worldwide. Masquerading as ransomware, the malicious software that was used in the attack, dubbed NotPetya, spread through the compromised computer network of a Ukrainian vendor of accounting software. As a result of the attack, the IT systems of several companies were irreparably damaged. Victims included medium- and large-sized companies in several Member States and many countries around the world. Only rapid intervention by the IT departments of the affected companies, including partially or completely blocking network access, prevented the NotPetya malware from spreading further.

Within hours of the attack, French judicial authorities opened a criminal investigation and requested assistance from Eurojust. Parallel investigations were initiated in a number of countries around the world. To coordinate these efforts, an operational meeting at Europol was held in July, and a coordination meeting was held at Eurojust in September, involving 10 Member States and Ukraine. A JIT was established in December to ensure the timely collection of electronic evidence and the coordination of investigative efforts in the participating countries, bridging differences in legal frameworks.

Cooperation with Europol Eurojust cooperated closely with its main stakeholders, particularly through the secondment of Eurojust's National Expert on Cybercrime to EC3, promoting an early involvement of judicial authorities and facilitating the exchange of information, as well as supporting the Joint Cybercrime Action Task Force (J-CAT). Eurojust and Europol updated the joint paper on common challenges in combating cybercrime, which was published as EU doc. 7021/17.

Since 2016, Eurojust has been supporting the European Money Mule Action projects (EMPACT), called EMMA I, II and III. Each action consisted of an operational action week, followed by a week of media campaigning to raise awareness among the public about money muling. The focus of EMMA has shifted over the years from mere identification of money mules to identification of the criminal organisations recruiting the money mules, as well as prevention of financial losses, and freezing and seizing of the illegal profits. Eurojust assists in the coordination of investigations of the national authorities and provides advice on possible legal obstacles stemming from the cross-border investigations and the specifics of public-private cooperation with the banking sector. The results of these coordinated activities among all Member States, the European Banking Federation, Europol and Eurojust show that more can be achieved when money muling is tackled on an international level.

Cooperation with the EJCEN Eurojust supports the EJCEN (*see* Section 5.4), and cooperates closely with this network in developing a number of activities on encryption (*see* Section 3.1); data retention (*see* Section 3.2); Darknet investigations; and e-evidence.

Eurojust, with the assistance of the EJCEN, conducted two analyses in the area of cyber-enabled crime: one on the impact of the ECJ's ruling on data retention, and one on the Member States' possibilities for and experiences in conducting online investigations into Darknet criminality. The outcome of the preliminary analysis of the latter was used as input for the Darknet Conference, organised by Europol in October 2017, in the context of the Firearms OAP.

Eurojust experts and members of the EJCEN participated in meetings on e-evidence, organised by the Commission, providing input from Eurojust's casework and identifying best practice from the Member States.

The plenary meetings of the EJCEN at Eurojust provide a platform for sharing experience, expertise and best practice among key players in the fight against cybercrime, i.e. representatives from the national authorities, Eurojust National Desks, observers of EC3, the Council, the Commission and the Head of the Secretariat of the EJCEN. The Darkweb case, supported by Eurojust and EC3, was presented during the plenary meeting and illustrated the many technical and legal challenges in combating criminality on the Darkweb. The approach taken in the investigation was viewed by the EJCEN as best practice, and could serve as a prime example for future takedowns of similar illicit Darkweb marketplaces.

Cybercrime Judicial Monitor Eurojust published its third CJM, which is a reporting tool to support practitioners in the investigation and prosecution of cybercrime cases. It provides an overview of legislative developments and analyses of case law in the areas of cybercrime, cyber-enabled crime and e-evidence. It includes the outcome of the impact analysis of the ECJ's ruling on data retention. In several Member States, courts have already considered the validity of national data retention rules. So far, however, none of them have invalidated national data retention laws. The CJM also presents a preliminary analysis of Eurojust's review of the investigative possibilities available to law enforcement authorities, as well as the practical and legal challenges they face when conducting investigations on the Darkweb. Cross-border cooperation and coordination in these investigations are vital to their success, given the multiple jurisdictions involved. JITs are proving to bring particular added value to this domain.

Outreach Eurojust presented its work on cybercrime during several LIBE Committee hearings at the European Parliament. At the hearing on child sexual abuse and exploitation, Eurojust presented its casework analysis of online child sexual exploitation.

Operations against a Usenet criminal network

In cybercrime cases, timing is crucial. With the push of a button, data can be removed or transferred from one jurisdiction to another – not just within the European Union, but also to other parts of the world.

In October 2017, the German National Desk brought two related cases to Eurojust involving major alleged violations of German intellectual property law. Online piracy OCGs were suspected of managing Internet-based piracy portals offering thousands of licensed or copyrighted materials, such as films, software and TV shows.

While the advertising for this content was undisguised on the Surface Web (not Deep Web) under domains such as www.town.ag and www.usenetrevolution.info, this content was stored in the so-called Usenet. The leaders of the OCGs are suspected of having earned more than EUR 1 million by selling the matching membership access to Usenet. The damage caused by the copyright infringements is estimated at EUR 7.5 million.

The servers for all these activities were operated by different companies with subsidiaries in France, the Netherlands, San Marino and Canada. In addition, two of the 68 suspects were located in Switzerland, and one of the main suspects was located in Spain. A coordination centre was set up to support judicial cooperation with these countries, seize relevant data and execute other requests in an adequate and timely manner.

As two German Public Prosecution Offices were in charge and targets were located within and outside Germany, the coordination centre was mindful of the need to ensure proper synchronization between the various actions requested. Cooperation requests to France and the Netherlands were made through EIOs and to the other countries via LoRs. While most suspects were located in Germany, an EAW was also issued for the suspect in Spain.

Central to this case was the timing of cooperation related to the seizure of data. For the purpose of prosecution, a takeover of the Internet-based piracy portals was essential. At an early stage, the coordination centre was informed that the German authorities had indeed been able to seize passwords that gave direct access to most of the servers. Eurojust immediately contacted all relevant Member States and requested that they delay the operations targeting the relevant hosting companies.

The schedule of measures was modified repeatedly during the action day to accommodate constantly changing operational needs. Eurojust swiftly intervened throughout the action day to ensure optimal synchronization of the operations across the participating countries. Two people were arrested, 76 searches took place, and several websites, servers, computers and electronic evidence were seized.

This large amount of data was obtained by:

- accessing and downloading the data from the Internet servers using open laptops or passwords found during house searches of the suspects in Germany;
- seizing additional servers, which were presumed to be located in the hosting companies' premises in France and Canada; and
- confiscation of documents and extensive transaction information from companies in Spain and the Netherlands.

The impact of the measures stretched beyond the criminal networks in this case. During the action day, other Usenet piracy websites went offline. Similar OCGs most likely realised that an international judicial action had been undertaken and decided to shut down their servers preemptively to avoid prosecution.

2.3 Migrant smuggling

Casework The number of cases referred to Eurojust has increased from 32 cases in 2014 to 64 in 2017. Eurojust organised 15 coordination meetings, two coordination centres and 14 JITs, six of which were newly established, reaffirming the need to facilitate cooperation through judicial cooperation tools to tackle the phenomenon at international level. The most requesting Member States were Austria, Greece and Italy. The most requested Member States were Germany, Bulgaria and Italy.

The overall number of cases referred to Eurojust remains, however, relatively low compared to the magnitude of the ongoing migration crisis and the assumed number of facilitated migrations.

Eurojust continued its support to the competent judicial authorities of the hotspots via its National Desks, which was based on judicial information received from its dedicated judicial contact points in Italy and Greece.

Judicial authorities are promoting a regional judicial cooperation approach in the context of the North Sea Task Force. The latter was established in April 2016. It gathers judicial and law enforcement authorities from Belgium, France, the Netherlands and the UK, as well as Eurojust and Europol, to exchange information and enhance coordination of prosecutions.

One case illustrates the successful activities of the Task Force. The case concerned an OCG suspected of facilitating unlawful immigration from countries including Afghanistan, Pakistan and Vietnam into the European Union in breach of immigration law. The OCG was also suspected of money laundering. The OCG was believed to have transported migrants in specially adapted vehicles, passing through Bulgaria, Belgium, France and the Netherlands, with the final destination being the UK. Investigations into the OCG began in 2016 in the UK and the Netherlands, and links were detected to the other three Member States. One aspect of the case is that it brought together a number of countries located along part of the smuggling route: the destination country (UK), transit countries (Belgium, Bulgaria, Germany, France and the Netherlands) and countries in which the OCG found logistical support (notably France, where vehicles were adapted).

As highlighted by practitioners at the Eurojust meeting on migrant smuggling in June, the nature of migrant smuggling cases calls for closer cooperation between source, transit and destination countries, and thus, these cases are natural candidates for international judicial cooperation. The meeting concluded with an agreement on the necessity to dismantle and prosecute the entire OCG, as opposed to prosecuting the national segments in isolation. Early information exchange was identified as a best practice in this context. Enhancing cooperation with third States was also mentioned. In that respect, Eurojust casework indicates that cooperation took place on one occasion with Lebanon, the Libyan Arab Jamahiriya, Turkey and Switzerland, and twice with Serbia.

Sham marriages

Sham marriages appear to be increasingly used as a *modus operandi* to smuggle migrants into the European Union, with indications that OCGs are well aware of the differences in legislation in the Member States, and tend to choose those with a permissive legal framework.

In 2014 and 2015, Ireland faced a significant increase in asylum applications from non-EU nationals from the Indian sub-continent. In the same period, a significant increase in marriages between certain non-EU and EU nationals was observed, predominantly between males from the Indian sub-continent and females from Eastern Europe and Portugal. Investigations into this phenomenon showed that the asylum applicants used this process to establish a status in Ireland despite the vast majority of those males having a previous immigration status and history in the UK. For the women concerned, the motivation appeared to be merely financial gain.

In 2016, the Irish National Desk opened a case to seek judicial cooperation from Latvia with the objective of bringing possible organisers and recruiters of Latvian brides to justice. The key targets of the Irish investigation were a Pakistani male national resident in Ireland and a Latvian female also resident in Ireland. The female suspect travelled to Latvia on a regular basis and was believed to be the organiser and recruiter of numerous marriages of convenience involving Latvian women.

At the first coordination meeting in February 2016, the Latvian authorities confirmed that in their own investigation, the main suspect was another Pakistani national who headed a network involved in at least 60 marriages of convenience. The suspects were connected and the *modus operandi* used was confirmed by both Latvian and Irish authorities.

The second coordination meeting was held in February 2017 to solve the main challenges in the case, particularly the legal characterisation of the offences and the issue of dual criminality.

Marriages of convenience are not criminalised under Irish law, leaving only ancillary offences such as conspiracy to defraud, deception or providing false documents as a basis for pressing criminal charges. Penalties for such crimes tend to be minimal.

In Latvia, the criminal offence of marriage of convenience had been introduced in the Criminal Code in 2013, but prosecutions still proved challenging, due to the limited case law available and the significant variations in penalties imposed. In addition, jurisdiction issues arose if part of the crime was not committed on Latvian territory and if the case only concerned an attempt.

The Irish key target had been detained in Ireland for breach of immigration law, and the Irish authorities suggested the surrender of the suspect to Latvia to face charges of marriage of convenience. Both a deportation order and a surrender based on an EAW were considered. As a deportation is not destination-specific, this measure carried a risk of the suspect not travelling to Latvia, which would defeat the purpose of the investigation against him. Surrender following an EAW from Latvia required a corresponding offence in Ireland. The list of offences in the 2002 EAW Framework Decision was considered and the meeting participants agreed that a decision was to be made after the Latvian prosecutorial strategy was defined. To ensure prosecution of the Irish main suspect, the participants considered a trial in absentia in Latvia as a third option. The Irish authorities offered to facilitate such an option and to provide evidence for that purpose. Ultimately, the Irish key target became subject to a deportation order following the revocation of his immigration status.

In response to the phenomenon, the Irish authorities started tackling the matter at inception, mainly raising awareness of staff involved in processing marriages. This disruptive strategy, put in place in conjunction with Eurojust and a number of Member States, yielded results, as the number of marriage applications dropped significantly since 2015.

The members of the operation are cooperating with the other Member States, with the support of Eurojust and Europol, in exposing sham marriages, and a pan-European investigation is ongoing. In addition, the Irish investigation developed and focuses also on marriages that took place in 2012 and 2013.

Thematic Group on migrant smuggling The Thematic Group continued its activities to support prosecution offices affected by migrant smuggling. Analyses of national jurisprudence of Italian, Spanish and French cases were published. These analyses highlight country-specific obstacles and the solutions found to overcome them. For example, the analysis of Italian jurisprudence outlines solutions to assert Italian jurisdiction on the high seas, while the analysis of French jurisprudence tends to indicate the prevalence of fraudulent ID documents and the response of the legislators to increase penalties in this respect.

Cooperation with Europol Eurojust has a contact point to Analysis Project Checkpoint, Eurojust's operational interface with the law enforcement sector and, particularly, Europol, to discuss cases of common interest. In addition, Eurojust is exploring the possibilities for further developing close operational relations with the Europol-based European Migrant Smuggling Centre (EMSC).

Outreach Eurojust maintains close cooperation with EU institutions and other stakeholders active in the fight against migrant smuggling. The exchange of information with relevant partners, such as Common Security and Defence Policy (CSDP) missions and operations, was enhanced, and further opportunities were explored to foster information exchange with the Immigration Liaison Officers in the context of the revision process of Council Regulation (EC) No 377/2004. Further, Eurojust contributed to the midterm review of the European Agenda on Migration and outlined, *inter alia*, that the national law enforcement bodies need to be encouraged to adapt their prosecutorial strategies to target the masterminds of the OCG. In this regard, Eurojust's judicial cooperation tools can provide vital assistance.

Exchange of strategic information with EUNAVFOR MED continued throughout the year. Eurojust and FRONTEX are currently engaged in assessing new cooperation opportunities. Under FRONTEX's new legal framework, FRONTEX and Eurojust can exchange personal data for the purpose of criminal investigations.

2.4 THB

Casework Eurojust registered 132 cases, a significant increase compared to 93 cases in 2016, and held 57 coordination meetings compared to 33 in 2016. The most requesting Member States were Romania, the UK and Bulgaria. The most requested Member States were Romania, Germany and the UK.

The use of JITs also increased: 26 JITs were newly established, totaling 51 active JITs. Thirty-nine JITs received funding from Eurojust. The JITs included third States such as Norway, Switzerland and Bosnia and Herzegovina. THB crimes are often committed by OCGs, sometimes in conjunction with money laundering and crimes against life, limb or personal freedom. The continuous emphasis put on THB, in the form of the Strategic Project, the Eurojust Action Plan against THB and the recommendations given in the Final Evaluation Report, is likely to have contributed to this increase in operational support.

Final Evaluation Report In January, Eurojust published its *Final Evaluation Report on the Implementation of the Eurojust Action Plan against THB 2012-2016*. It reviews Eurojust's casework in the fight against THB during the period 1 January 2012–31 December 2016, and focuses on the work completed during the two years of the Action Plan (2014-2016). The Report showed that the most common type of exploitation of THB victims is sexual exploitation, with the second most common form being labour exploitation. Investigations into this crime type are complex; well-organised crime groups and vulnerable victims are often involved.

The report outlined some of the challenges encountered in investigations and prosecutions:

- gathering and admissibility of evidence;
- identification and location of victims;
- reliability of victim statements;
- issues related to conflicts of jurisdiction;
- execution of EAWs;
- use of cross-border special investigative techniques;
- uncovering and confiscating the profits generated by THB;
- proving money laundering by OCGs involved in THB; and
- differences in substantive and procedural laws of Member States.

The report also highlighted some best practice: (i) Eurojust provides the national authorities with a platform to clarify issues and find a common understanding of the way to proceed by organising and assisting in coordination meetings; (ii) Eurojust can help solve jurisdictional issues; (iii) a multidisciplinary approach involving NGOs, tax departments, immigration services and law enforcement agencies is beneficial; (iv) building victims' confidence is important; and (v) the establishment of a JIT can help to solve problems relating to evidence.

Outreach Due to the complexity of this crime type, a multi-agency approach is needed. Eurojust continued its commitment to its partnership with other EU institutions and JHA agencies to streamline actions and optimise resources in the fight against THB. In March, the EU Anti-Trafficking Coordinator met the President of Eurojust to discuss the latest developments and future work in THB. Eurojust also presented and discussed the report within the group of THB Contact Points from the JHA Agencies, chaired by the Commission. Eurojust provided input on the draft Communication from the Commission to the European Parliament and the Council, reporting on the follow-up to the *EU Strategy towards the eradication of trafficking in human beings* and identifying further concrete actions. One area of focus of the Communication is disrupting the business model on which THB depends, for example by intensifying investigations and prosecutions and facilitating proactive financial and intelligence-led investigations, asset recovery, freezing and confiscation of profits, as well as by closer cooperation.

Further, Eurojust shared its expertise and best practice with the UNODC: it participated in its Expert Group Meetings on International Legal Cooperation in Trafficking in Persons Cases and provided input to the UNODC's draft *Handbook on Investigating and Prosecuting Trafficking in Human Beings Worldwide*.

JIT in a THB for sexual exploitation case

The case concerns THB from Slovakia to the UK for the purpose of sexual exploitation. In this case, trafficking is connected to other forms of criminal activity: the crimes investigated in the UK included not only THB but also rape, facilitation of migrant smuggling into the UK, document fraud and other associated crimes. In Slovakia, the investigations related to extortion, obstruction of justice and attempted obstruction of justice.

The need to set up a JIT was identified through bilateral contacts on police level. Eurojust facilitated communication between the national authorities during the preparation and setting up of the JIT, and assisted in the drafting of the JIT agreement and its subsequent amendments. In addition, due to the differences in the legal systems, the Slovak authorities required a justification for the UK JIT leader being a police officer rather than a prosecutor. Eurojust clarified the issue by explaining the separation of functions between prosecuting and investigating authorities in England and Wales; they work closely together throughout the life cycle of a criminal case, but their roles are clearly delineated. In the UK system, a prosecutor cannot order a police officer to act, nor seek to control or lead the investigation. Therefore, the UK JIT leader must be a police officer. Further, Eurojust assisted in finding a legal solution that included a translator to the JIT.

The JIT agreement was signed in September 2013, with Eurojust as a participant. Eurojust also provided financial support to the JIT. In the operational phase of the JIT, Eurojust was involved in the discussions and provided input on the legal character of 'slavery and trafficking prevention orders' issued in the UK according to the Modern Slavery Act. According to UK law, breach of such an order would be an extraditable offence in the UK, carrying a punishment of up to five years' imprisonment, and an EAW could be issued. However, no mutual recognition instrument would enable Slovakia to take over such an order. Since the court orders were issued on the basis of national law, which does not transpose Council Framework Decision 2008/947/JHA of 27 November 2008 on the application of the mutual recognition principle, Slovak police can only provide information on police level to inform the UK authorities of a possible violation of these orders within the territory of the Slovak Republic.

Typical to THB offences, vulnerable victims need protection. Provisions to this effect were included in the JIT agreement. The JIT ensured the presence of Slovak victims at the UK trials, facilitated the Slovak officers' testimonies in the UK trials, and supported the continued swift exchange of information.

After the conclusion of the investigation, 10 people were convicted in the UK for the criminal offence of THB and 'other associated offences' (i.e. sham marriages).

The information gathered via the JIT enabled the initiation of the criminal procedure in Slovakia. The investigations resulted in the conviction of three persons for extortion and obstruction of justice.

Eurojust's assistance in setting up a JIT and preparing a joint action day in a THB and money laundering case

In April 2016, the Romanian authorities opened an investigation into an international OCG accused of committing THB for sexual exploitation, pimping and money laundering. Women victims, who showed greater vulnerability due to age, physical or mental disability, or lack of financial resources, working alternatives or family ties, were forced into prostitution in Belgium, the Czech Republic, Germany, Spain, Switzerland and the UK by members of the OCG. The investigation revealed that a substantial amount of money was obtained from the described criminal activities, with the banking transactions managed by the OCG amounting to more than EUR 5 million.

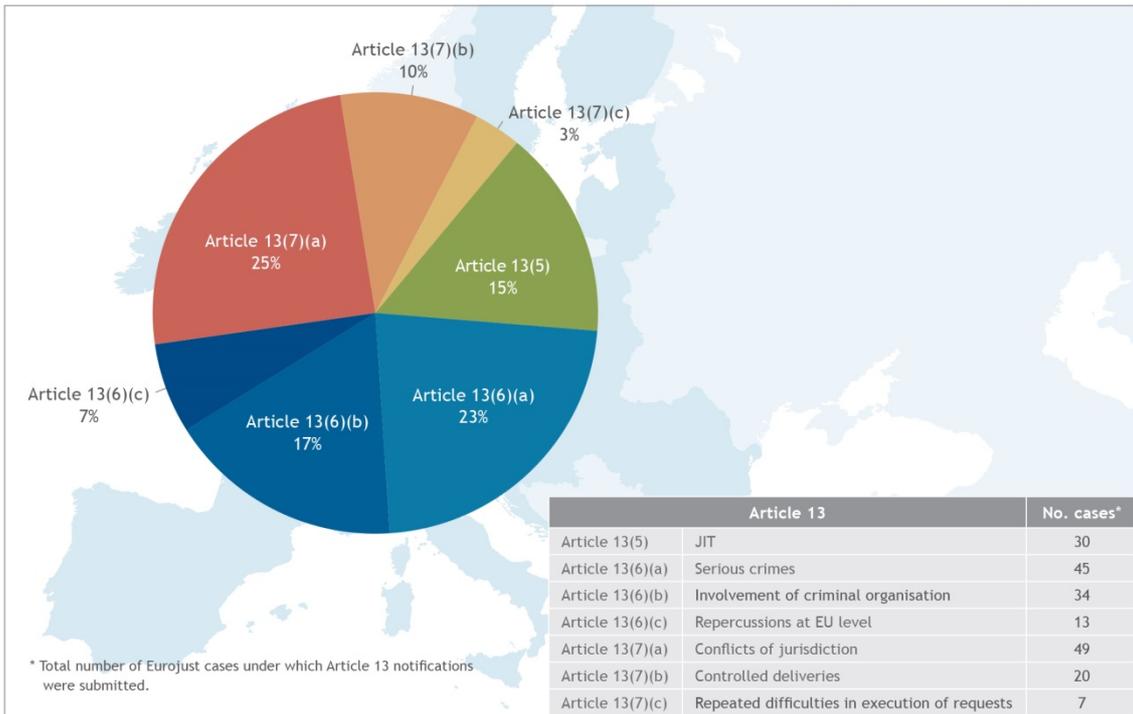
In September 2016, the case was referred to Eurojust to support cooperation with the national authorities of the Member and third States involved, particularly in the setting up of a JIT and preparation of a joint action day. At the first coordination meeting, in February 2017, the setting up of a JIT was agreed. The JIT agreement was signed in March between Belgium, Romania and the UK, with the participation of the respective National Members. In parallel, Eurojust received, transmitted and facilitated the execution of MLA requests with the Czech Republic, Germany and Switzerland, countries not party to the JIT.

The second coordination meeting in May was used to plan and prepare the joint action day. Further, participants in that meeting, with the support of Eurojust, agreed on the best venue to prosecute. During the joint action day in June, 71 house searches were carried out in Romania and 20 house searches in Belgium, the Czech Republic, Switzerland and the UK. Large amounts of currency, jewellery, firearms, drugs and electronic equipment were seized. On the same day, 39 suspects were detained in Romania and three in the UK, and 40 witnesses were interrogated. In addition, freezing measures on assets amounting to more than EUR 2 million were ordered in Romania. Eurojust provided advice to the national authorities during the joint action day.

In this case, Eurojust also provided financial and logistical support to the JIT. Europol contributed to the exchange of information among the involved countries and provided operational support by organising an operational meeting and cross-matching the incoming information.

Eurojust monitored the flow of notifications under Article 13(5) to (7) of the Eurojust Council Decision, which obliges the Member States to share certain information with Eurojust.

Article 13 cases



Roadshows and marketing seminars

Eurojust organised, in cooperation with the respective national authorities, three marketing seminars (in Finland (May), Sweden (September), and Portugal (November)), and seven roadshows (in Bulgaria, France, Lithuania, Hungary, Romania and Finland), to promote the tasks, work and added value of Eurojust in operational matters and the recognition of Eurojust as the centre of judicial and legal expertise in the European Union. These seminars are attended by prosecutors, judges and/or law enforcement authorities.

Outreach strategy

In December, the College approved the outreach strategy of Eurojust in the Member States to further increase the awareness of national authorities of the services and operational added value of Eurojust. The strategy refers to the usefulness of the regular visits of National Members to national authorities to discuss case-related matters and/or mutually update each other on policies and development. It also highlights the practical knowledge acquired by practitioners attending study visits to Eurojust, particularly those conducted in cooperation with the EJTJN. Additionally, the strategy foresees a new way of promoting Eurojust (replacing marketing seminars and roadshows) through 'national workshops', organised by the National Desks in the Member States to explain Eurojust's services and supporting role to national authorities and promote its tasks, responsibilities and added value.

EJTJN Exchange Programme

In the framework of the EJTJN Exchange Programme, 20 prosecutors/judges from 11 Member States (BG, CZ, DE, ES, IT, LT, HU, AT, PL, PT, SI) participated in long-term traineeships (lasting three or four months) at the Eurojust National Desks, supporting their operational work. Also, 26 prosecutors/judges from 16 Member States attended a one-week study visit to Eurojust in September.

Chapter 3 Challenges and best practice

Introduction

Through its operational and strategic work, Eurojust contributes to the identification of challenges and best practice in different areas of judicial cooperation in criminal matters.

In 2017, Eurojust specifically addressed legal and practical difficulties in the fields of encryption, data retention and the EAW. Since the transposition deadline for the EIO on 22 May 2017, Eurojust has been assisting the national authorities with the application of the EIO and providing legal advice in operational cases when encountering difficulties. Eurojust will continue to monitor and analyse potential problems that may arise.

3.1 Encryption

Eurojust organised a workshop in June, together with the Commission and the EJCEN, to gather information on the impact of encryption on criminal investigations and to explore practical solutions to identified issues. The workshop focused on assessing the legal framework in Member States, as well as legal procedures, obstacles and best practice. It covered the following topics: (a) the impact of encryption on the daily practice of criminal investigations and prosecutions, (b) decryption key management and provision of clear text data, (c) breaking of encryption, and (d) circumvention of encryption.

Participants underlined that encryption is increasingly impeding effective criminal investigations as more and more evidence from criminal activities is moving from traditional evidence such as paper files to data in electronic form. The challenges encryption poses relate to both online and offline processing and storage of data. Dealing with encryption issues in criminal investigations raises legal and technical questions.

In relation to decryption key management and provision of clear text data, a distinction was made between mandatory and voluntary cooperation of a suspect or a third party. Participants indicated that existing disclosure obligations in the legislation of some Member States and the voluntary agreements in other Member States may currently not be working optimally. In addition, participants underlined that the introduction of an obligation for a suspect to disclose a decryption key or clear text data would raise concerns with regard to the right to non-self-incrimination. In the professional view of the participants, a decryption key lawfully obtained in the course of an investigation could, in principle, be used for further investigations.

Participants concluded that encryption poses an immediate challenge to effective and efficient criminal investigations and prosecutions. In considering approaches to deal with this challenge, participants agreed that a balance should be found between the interests of the investigation (necessitating effective access to data) and the protection of fundamental rights.

The outcome of this workshop was integrated in the Commission's 11th progress report, *Towards an effective and genuine Security Union*.

3.2 Data retention

Eurojust swiftly made a first assessment of the impact on judicial cooperation in criminal matters within the European Union of the judgement of the CJEU in Joined Cases C-203/15 and C-698/15 (Tele2 and Watson). To that end, a detailed questionnaire was sent to the members of the EJC. The questionnaire dealt with national legislative provisions on data retention in view of the considerations of the CJEU in its rulings, specifically whether the legal framework provided for general/mass indiscriminate data retention, the scope of the safeguards relative both to mandatory data retention and subsequent access, and lastly, the possible impact of the judgement on the collection and admissibility of evidence domestically and on international judicial cooperation in general. The analysis reflected practitioners' views on the matter. Eurojust issued a report in June 2017 *inter alia* to the Commission and the Council (Council doc. 10098/17) and shared it with Europol. Eurojust will continue to monitor the developments within the European Union in relation to data retention for the purpose of criminal investigations, focusing on the implications in the context of judicial cooperation.

3.3 European Arrest Warrant

Eurojust supported national authorities with requests related to the application of the EAW, with 320 cases concerning the improvement of the execution of EAWs registered, amounting to 12.5 per cent of all cases. Greece made the greatest number of requests (44), followed by Poland (32), Bulgaria (27), Austria (27) and Sweden (23). The most often requested Member States were the UK (54), Spain (42), Italy (37), Romania (27) and France (23).

Article 16 of the Framework Decision on the EAW (FD EAW) provides that in the event of competing EAWs, the executing judicial authorities may request Eurojust to advise on the Member State to which the requested person is first to be surrendered. Following such requests from the UK (3), Belgium (2), France (1), the Netherlands (1) and Slovenia (1), eight cases of conflicting EAWs were opened at Eurojust.

Article 17(7) of the FD EAW provides that if, in exceptional circumstances, a Member State cannot observe the time limits stated in Article 17, it must inform Eurojust and give the reasons for the delay. In 2017, 38 such notifications of breaches were registered. Two of these cases were registered in the College because they required further support from the National Desks concerned, whereas the other 36 cases were forwarded to Eurojust for information only. These notifications continue to be concentrated in some Member States. To ensure the structured transmission to Eurojust of information on delays in the execution of EAWs, Eurojust prepared a fillable PDF form. This template, developed in consultation with national experts in the Member States, will be distributed to the national competent authorities in the first quarter of 2018.

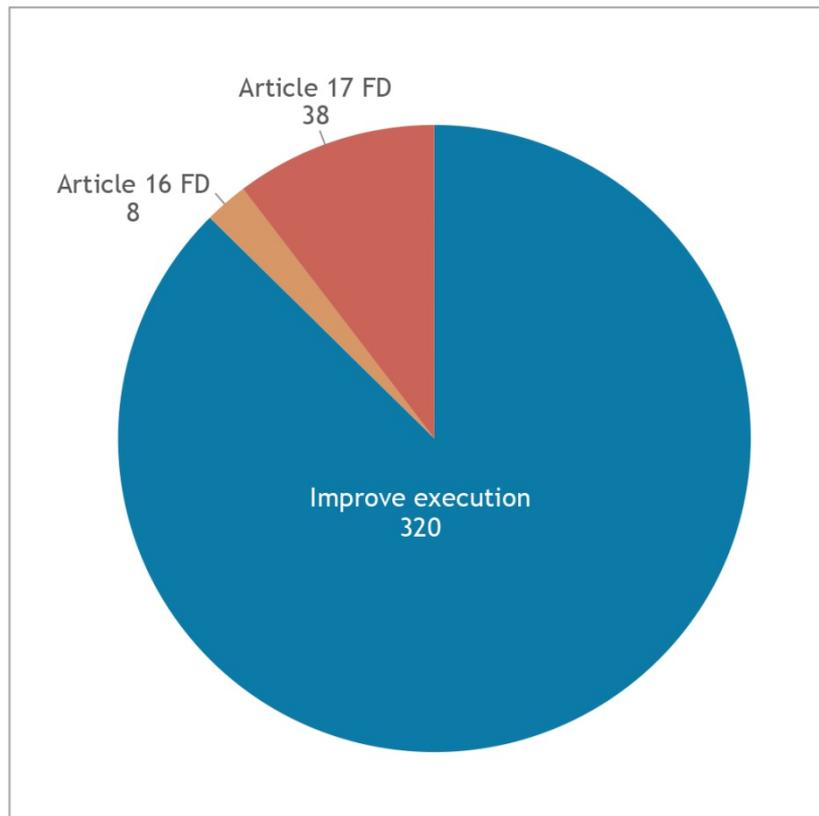
Since the *Aranyosi and Căldăraru* judgement of the CJEU of 5 April 2016, Eurojust has noted an increase in the number of EAW cases in which judicial authorities experienced difficulties with the execution of EAWs due to allegedly inadequate prison conditions in the issuing Member States. In February, the College held a thematic discussion, *EAW and prison conditions*, to exchange experience and best practice. During the discussion, participants also referred to the abovementioned judgement and its impact on national cases, and examined prospects for further Eurojust support to national practitioners. In addition, in November, Eurojust hosted an expert meeting, *Creating a tool to assess detention conditions*, which was organised by FRA. National experts from 12 Member States, as well as representatives from FRA, the Commission, the EJM Secretariat and Eurojust, discussed the development of possible tools to assess detention conditions. The outcome of the discussion will be reflected in a FRA report.

Report on Eurojust's casework in the field of the EAW (2014-2016) provides practitioners with insight into the main problems identified in EAW casework. These problems include legal and practical obstacles in surrender procedures and explanations as to how Eurojust tried, whenever possible, to overcome them. The report addresses, *inter alia*, the following issues: requests for information; transmission of EAWs; competing EAWs; time limits; postponement of surrender and problems related to the actual surrender; prosecution for other offences; assistance provided in complex multilateral cases; and, finally, the impact of *Aranyosi and Căldăraru* and *Petruhhin* case law in Eurojust casework.

Case Law by the Court of Justice of the European Union on the EAW is a regularly updated Eurojust product that provides EU practitioners with an overview of summaries of CJEU judgements in relation to Framework Decision 2002/584/JHA of 13 June 2002 on the European Arrest Warrant and surrender procedures between Member States. These summaries are grouped per topic and include brief background information on the case, the questions raised to the CJEU and the CJEU's legal reasoning.

Eurojust also produced a *Briefing Note on the Petruhhin Judgment (Case C-182/15) and the Role of Eurojust*, published as Council doc. 15786/17 LIMITE. The purpose of this note is to inform the practitioners of the Member States of the consequences of the *Petruhhin* judgement and of the role that Eurojust can play in this regard. The briefing note summarises the judgement, mentions some of the main questions raised by the application of this judgement, and finally discusses Eurojust's possible role in this context.

EAW cases



MLA in intellectual property crime cases

In October, Eurojust hosted the meeting of the European Intellectual Property Prosecutors Network (EIPPN), co-organised by the European Union Intellectual Property Office (EUIPO) and Eurojust. The objective of the meeting was to increase cooperation and interaction among the EIPPN members, as well as between the EIPPN and other entities and networks across Europe active in the area of intellectual property rights (IPR).

The meeting served as a platform for Member States' and third States' practitioners investigating and prosecuting intellectual property crimes (IPC). The practitioners provided insight into their organisational structures and presented cases highlighting the jurisdictional and practical challenges and obstacles encountered when investigating and prosecuting such crimes.

The preliminary results of an EUIPO study conducted by Copenhagen University on 'legislative measures related to online infringements of intellectual property rights' were presented. The main challenges identified are the diversity of the Member States' national legislation and the rapid adaptation of criminal behaviour to technological developments.

The needs for criminal asset tracing and enhanced international cooperation were expressed. Eurojust has experience in facilitating the execution of freezing orders and asset recovery procedures as well as in promoting the added value of JITs. Practitioners were encouraged to involve Eurojust in complex cross-border IPC cases and to consider establishing JITs.

A coordinated approach is the key to successful prosecution of IPC cases, and therefore cooperation with Eurojust, the EJM and the EJCNC is recommended. Moreover, IPC and cybercrime are often connected, as goods are often sold online. Close links between the EIPPN and the EJCNC are hence beneficial for the sharing of knowledge and expertise.

3.4 European Investigation Order

On the basis of the Directive of 3 April 2014 regarding the European Investigation Order in criminal matters (EIO Directive), Member States were required to take the necessary measures to comply with this instrument by 22 May 2017. However, the majority of Member States did not have their national implementation law in place by this deadline. This situation raised issues concerning the interpretation of Article 34 of the EIO Directive and, particularly, the applicable legal basis in cases involving a Member State that has not yet implemented the EIO Directive. In June, Eurojust, jointly with the EJM, published a *Note on the meaning of 'corresponding provisions' and the applicable legal regime in case of delayed transposition of the EIO Directive* (Annex II of Council doc. 9936/17). The note addresses two important issues relating to Article 34 of the EIO Directive, both of which have a clear impact on the daily work of practitioners: (1) the applicable legal regime in the event of delayed transposition of the EIO Directive; and (2) the measures falling within or outside the concept of 'corresponding provisions' of Article 34 of the EIO Directive.

In line with Article 3(1)(b) of the Eurojust Council Decision, Eurojust supported national authorities with requests relating to the application of the EIO Directive. The experience that Eurojust has gained relates to the first months of the application of the EIO Directive, and is shaped by the lack of national implementation in some Member States. Eurojust has provided support and advice in all four stages of the life cycle of an EIO: (i) drafting phase, (ii) transmission to the competent executing authority, (iii) facilitation of communication during recognition phase, and (iv) assistance in overcoming difficulties in the execution phase. For example, draft EIOs were often prepared before a coordination centre or action day so that the National Members could check if the draft EIOs complied with specific requirements of the executing Member State's legal framework.

Eurojust's involvement has also frequently been sought to speed up the execution of EIOs. While national authorities have generally been quite positive about the EIO, the single standardised format and the deadlines, in some cases, issues were raised that required Eurojust's support. Eurojust can play an important role in providing national authorities with expertise and technical support to find the best possible solutions, while fully respecting the EU legal framework and the legal requirements of the jurisdictions involved.

Eurojust envisages organising a meeting on the application of the EIO towards the end of 2018.

EIOs in an armed robbery case

A gang of Italian and Albanian nationals was suspected of committing several heavily armed robberies in Italy, mostly against cash-in-transit armoured vehicles and banks. The investigation in Italy was launched after the robbery of an armoured van near Salerno in February 2017. The ensuing investigation enabled the identification of the members of the OCG operating in Italy and of its *modus operandi*. Additionally, telephone interceptions revealed that the same OCG planned a major robbery in Germany. Consequently, an investigation on the German side started to monitor the movements of the OCG members located in Germany.

During two coordination meetings, in July and September, the involved judicial and law enforcement authorities exchanged the results of their investigations and agreed on a common investigative strategy to collect evidence and at the same time to protect the public against another armed action by the OCG.

Several issues were identified with reference to MLA requirements, procedures and competent authorities, which could have caused delays and obstacles. Some of the problems were resolved by introducing EIOs in Germany and Italy.

EIOs were issued by the prosecutor in charge of the investigation in Italy and forwarded via Eurojust to the competent authorities in Germany. EIOs followed a single standardised format, facilitating the identification and translation of the required information. Therefore, the EIOs were prepared, delivered and executed on very short notice, allowing for several searches and seizures to be conducted simultaneously.

During the coordination meetings, Eurojust assisted with the preparation of the contents of the EIOs and provided advice. Eurojust played a significant role in coordinating the exchange of operational information collected through the EIOs and in agreeing on the timing of the operation to ensure that the interests of each party, in safeguarding the acquisition and preservation of evidence in the Italian investigation, were met. Constant communication between the German and Italian Desks allowed a regular follow-up on the investigative activities.

On 9 October, judicial and law enforcement authorities in Germany and Italy launched a joint operation against the OCG, during which 19 people (out of 22) were arrested and more than 30 premises were searched.

The case was ongoing in 2017.

Mr Gianpaolo Nuzzo, Italian Public Prosecutor, said:

'The role of Eurojust was crucial to the success of this case (19 of 22 suspects were arrested), with two coordination meetings organised and a protocol created for the smooth flow of information with Germany. Equally important was the role of Eurojust in overcoming the differences in the Italian and German approaches to stopping the OCG, with a middle ground found between the risk to public security in Germany and the need to gather sufficient evidence in Italy.'

EUROPEAN INVESTIGATION ORDER

KEY FEATURES

- ▶ EU Directive on the EIO (2014/41) of 3 April 2014
- ▶ Mutual recognition of judicial decisions
- ▶ Replaces Letters of Request for investigative measures
- ▶ Deadline for transposition: 22 May 2017
- ▶ Obtains evidence located in another EU Member State
- ▶ Simplifies and accelerates cross-border criminal investigations



LIFE CYCLE OF AN EIO



- 1- **DRAFTING** of EIO by judicial authority in Member State A
- 2- **TRANSMISSION** of EIO to judicial authority in Member State B
- 3- **RECOGNITION** of EIO in Member State B
- 4- **EXECUTION** of EIO in Member State B

EUROJUST IDENTIFIES CHALLENGES AND BEST PRACTICE IN EIO CASES

ADVANTAGES OF THE EIO

- ✔ Creates a single comprehensive instrument with a large scope
- ✔ Sets strict deadlines for gathering the evidence requested
- ✔ Limits the reasons for refusing such requests
- ✔ Reduces paperwork by introducing a single standard form
- ✔ Protects the fundamental rights of the defence

EU MEMBER STATES TAKING PART IN THE EIO *



* As of 20 March 2018. For status of EIO implementation, see [EJN website](#).

3.5 Joint recommendations

In the cases supported by Eurojust, issues are settled between national authorities during level II or coordination meetings and consensus is reached through dialogue and building of mutual trust. The National Members assist their national authorities and frequently give recommendations for specific cases, based on Article 6 of the Eurojust Council Decision. In some cases, the National Members involved provide a written request or recommendation to the national authorities. In addition to requests issued by only one National Member, nine joint recommendations were issued in 2017, produced jointly by two or three National Members from nine different Member States (Belgium, Bulgaria, Germany, Ireland, Spain, Italy, the Netherlands, Portugal and Romania) as a conclusion to a legal opinion on the matter. In these joint recommendations, the National Members involved request their respective competent national authorities to perform one of the actions listed in Article 6 of the Eurojust Council Decision. They did, for example, recommend that one of them may be in a better position to prosecute specific acts, to take a special investigative measure, such as a controlled delivery, or to take any other measure justified for the investigation or prosecution. This relatively new practice, in place since 2016, has been positively received by the national authorities, which can now rely upon a more solid, reasoned and commonly agreed opinion from Eurojust. The practice enhances the added value of Eurojust's advisory role, providing a European perspective and solution to complex cross-border cases.

The majority of joint recommendations concerned jurisdictional issues, including decisions on which jurisdiction is better placed to prosecute. For the assessment of these cases, Eurojust used its *Guidelines for deciding 'which jurisdiction should prosecute?'*, revised in 2016 and recently translated into all EU languages, and its overview of CJEU case law based on the principle of *ne bis in idem*.

Report on Eurojust's Casework in the field of Prevention and Resolution of Conflicts of Jurisdiction, published in 2017, is an update of the 2015 report, and takes into account developments in this area from 2009 to 2017. The Report addresses Eurojust's casework from four different angles: the identification and coordination of parallel proceedings, jurisdictional issues and decisions on which jurisdiction should prosecute, the transfer of proceedings, and issues related to the application of the *ne bis in idem* principle.

The principle of ne bis in idem in criminal matters in the case law of the CJEU, updated in September 2017, provides an overview of CJEU case law regarding the *ne bis in idem* principle in criminal matters. It explains how this case law has helped to shape the scope and main features of the *ne bis in idem* principle at EU level. It is a supplementary tool for practitioners, providing guidance on the application of the *ne bis in idem* principle in a transnational context. The overview is updated regularly.

Joint recommendation on conflicts of jurisdiction

The case concerns an OCG trafficking drugs as well as committing related crimes, such as money laundering. It was operating in Germany, Spain, France and Italy, and possibly other Member States.

The investigations revealed that the OCG was importing drugs, mainly hashish, from outside the European Union into Spain. The drugs were then smuggled into and sold in other Member States, and transported in a number of ways, including concealed in boats with double hulls and also via normal post.

When the German prosecutor brought the case to Eurojust, it had been pending for some years without sufficient coordination. A JIT between Germany, Spain and France was set up for one year. Eurojust provided assistance with the drafting of the agreement.

During the last phases of the investigations and after the conclusion of the JIT, a need arose to urgently agree upon which jurisdiction – Germany or Spain – should prosecute the suspects who were investigated in more than one country, both to serve the best interest of justice and to avoid a possible *ne bis in idem* situation.

In a coordination meeting, participants were able to get a clear picture. Three of the suspects were investigated in Germany and Spain. From the information available, the investigations largely concerned the same material acts. Moreover, as the three suspects and their criminal activities were closely interconnected, investigators concluded that all three suspects and all the events investigated should be prosecuted in the same jurisdiction.

On the basis of detailed discussions and the emerging facts, the German and Spanish National Members issued a joint recommendation under Article 6(1)(a)(ii) of the Council Decision on Eurojust with an opinion as to why Germany was in a better position to prosecute these specific acts for the three suspects.

A number of factors were considered, including: (i) the more extensive German investigation; (ii) the nationality, location and prospects for surrender of the suspects; (iii) the roles of the suspects in the criminal organisation; (iv) the amount of relevant evidence gathered and readily available in Germany; and (v) the more advanced stage of the proceedings in Germany. In addition, the Spanish authorities were requested to swiftly transfer their proceedings and facilitate the execution of the related EAWs, and the German authorities were requested to swiftly accept the transfer of proceedings.

The charges against the one suspect under proceedings in both Spain and Italy did not concern the same material acts that constituted the same criminal conduct. Thus, Spain and Italy continued with their parallel proceedings without jeopardising each other's results.

FOCUS OF THE YEAR

Evaluation of JITs

Eurojust and the JITs Network published a second report on the evaluation of JITs

The project on the evaluation of JITs was initiated in 2013 with the following objectives:

- to assist practitioners in evaluating the performance of the JIT in terms of results achieved, added value and possible shortcomings to improve future cooperation; and
- to enhance practitioners' knowledge about JITs by facilitating the identification of the main legal and practical challenges experienced and solutions found.

By evaluating JITs, valuable information is provided to practitioners and stakeholders to assess the relevance and effectiveness of this tool in the fight against serious cross-border crime and terrorism.

In December 2015, a first JITs evaluation report was published for practitioners, based on the self-assessment of 42 JITs.

Second JIT evaluation report

Since the first report, 32 new evaluations were received by the JITs Network Secretariat. The second report updates the analysis made in the first report and integrates the findings of these new evaluations.

This new phase of the project was conducted in cooperation with Eurojust and, therefore, includes findings derived from its experience. Based on an analysis of JITs cases closed between 2014 and 2016, the College held a thematic discussion on JITs, the outcome of which is reflected in the report.

This approach offers a complementary perspective to the evaluation of JITs by national authorities at each stage of the life cycle of the JIT.

Findings from Eurojust's experience with JITs

Setting-up phase

In the setting-up phase, Eurojust assists national authorities in identifying suitable cases for a JIT, clarifying legal and formal requirements, and discussing and drafting the JIT agreement.

In practice, Eurojust's involvement is largely based on informal contacts with the national authorities. For example, to streamline the process, one Eurojust National Desk developed a template to be filled in by the requesting national authority, including information on the investigation that would be necessary in subsequent steps (e.g. case summary, identified connections in other Member States, existence of parallel investigations, etc.).

A key issue during the setting-up phase is the identification of linked parallel investigations pending in other Member States. Eurojust supports the national authorities in swiftly identifying ongoing parallel investigations, including by cooperating with or requesting the support of Europol liaison bureaux and analytical projects.

In Eurojust's experience, while criteria for suggesting the establishment of a JIT may vary from one Member State to another, the following aspects are taken into consideration:

- existence and stage of investigations in the involved countries;
- number of potential JIT partners (e.g. JITs involving a limited number of/multiple partners);
- urgency of actions;
- estimated required timeframe to finalise the JIT agreement (particularly for multilateral JITs and/or JITs with Member States requiring domestic authorisation); and
- available resources in the involved Member States.

As reported in several cases, if an investigation has not yet started in one of the involved Member States, Eurojust can play a decisive role in supporting the initiation of investigations at national level, e.g. by facilitating the initial transmission of necessary information and evidence.

Based on Eurojust's experience, several obstacles or impediments to the establishment of JITs were identified:

- 'fear of the unknown' or assumption that JITs are only suitable in high-profile cases;
- differences in operational priorities;
- lack of ongoing investigations or different stages of investigations in the countries concerned;
- parallel investigations conducted by several judicial authorities within the same State; and
- impact of domestic authorisation processes.

The advisory role of central authorities and/or JIT experts may contribute to streamlining the setting-up process. In this context, the added value of the National Member being empowered to sign the JIT agreement on behalf of the national authorities, as stipulated in the legislation of several Member States, was acknowledged.

Eurojust's support in drafting the JIT agreement is often instrumental in its successful establishment. Eurojust promotes the use of the Updated Model Agreement (which takes into account the extension of JITs to third States), contributing to simplifying discussions. Eurojust's involvement also facilitates the drafting and negotiation of the JIT agreement in a common working language. Whenever possible, translations of the JIT agreement (if needed) are produced only after the content is agreed upon.

In recent years, Eurojust's experience in JITs with third States has increased. In practice, the involvement of third States in JITs could require addressing specific issues (e.g. guarantees on the non-imposition of the death penalty, data protection, confidentiality, identification of the legal basis). The possibility of involving representatives of third States in coordination meetings greatly facilitates the setting up of JITs between EU and non-EU States. In addition, the presence of the Swiss and Norwegian Liaison Prosecutors at Eurojust has led to the successful establishment and development of JITs with Switzerland and Norway.

Operational phase

Since JITs allow direct interaction between national authorities, further support from Eurojust may not be requested after the signature of the agreement, although Eurojust often supports discussions and agreements on operational objectives, communication and coordination methods within the team, as well as issues related to admissibility of evidence and jurisdiction.

Coordination meetings can also facilitate cooperation with States not participating in the JIT. One best practice emphasized in this respect was to use the framework of a coordination meeting to combine a meeting between JIT partners with discussions involving Member States and third States from which cooperation would be requested via MLA. In several cases, a meeting at Europol on the day preceding a Eurojust coordination meeting was held to foster the exchange of information at law enforcement level.

A need for coordination often arises in the final stage of the operational phase, when involved authorities seek specialised advice on legal issues (transfer of proceedings, EAWs and conflict of jurisdiction), compare investigative results and/or agree on final plans, such as simultaneous operations. In addition, Eurojust National Desks facilitate the extension(s) or amendment(s) of JIT agreements, provide assistance concerning JITs funding, and help coordinate the execution of LoRs towards States that are not JIT members, or the use of other judicial cooperation instruments (EAWs, EIOs).

Joint action days can be supported by setting up coordination centres at Eurojust to facilitate cooperation during simultaneous operations and to ensure appropriate follow-up (such as temporary surrender, asset freezing and transfer of proceedings). In 2017, five coordination centres dealt with cases for which a JIT had been established.

National authorities frequently anticipate and back up costs of cross-border activities as part of their operational planning. Eurojust's financial support is a key factor in the use of JITs among Member States.

Closure phase

Eurojust's support may be requested after the conclusion of the JIT if cooperation needs remain, including during the prosecution and trial phases. In such circumstances, the Eurojust case often remains open after the conclusion of the JIT, and support is provided on an as-needed basis.

After the expiry of a JIT, Eurojust also provides support, particularly for the evaluation of the JIT, by organising and/or financing a JIT evaluation meeting.

JIT enabled reconstruction of OCG behind a trafficking network

Eurojust's Annual Report 2015 presented a case example concerning a UK investigation into the illegal entry of Albanian nationals into the UK through other Member States. A JIT between Belgium, the Czech Republic, Germany and the UK revealed the profits generated by an OCG through smuggling incidents, victimising over 100 people. Supported by a Eurojust coordination centre, eight suspects were arrested during a joint action day in November 2015.

Belgium had been chosen as the prosecuting jurisdiction, and thus the Czech and UK criminal proceedings were transferred to Belgium in 2016. Conducting trials in Belgium meant that more targets could have been prosecuted than if the proceedings had taken place in all involved countries. Particularly from a UK perspective, evidence standards would not have allowed charges to be brought against all suspects eventually prosecuted in Belgium. Twenty-eight persons were tried, and convictions were handed down in January 2017. While the prison sentences of the 15 drivers ranged from 6 to 14 months, another 7 people who also acted as facilitators were sentenced to imprisonment ranging from dismissal of criminal charges to 28 months' imprisonment. Higher sentences, up to 5 years' imprisonment, were imposed on the co-organisers of the smuggling activities. The two leaders were sentenced to 8-year terms. Members at all levels of the OCG faced additional fines of up to EUR 672 000 and confiscation of assets of up to EUR 197 000.

A coordination meeting was held at Eurojust in March 2017 to discuss the outcome of the Belgian court proceedings and sentencing-related issues concerning some of the accused who were convicted in absentia, as well as handling of confiscation and asset recovery issues. An evaluation of the JIT was also conducted, during which both lessons learned and best practice were analysed. The JIT could have profited from a single point of communication having access, for example, through a secure network, as this access would have facilitated the consultation of large files. An important lesson learned was that while the criminal proceedings in Belgium were still ongoing, the JIT agreement was allowed to lapse in December 2016. As cooperation needs still existed, i.e. concerning confiscation and asset recovery issues, the authorities involved may have profited from continued, easy information exchange within the framework of the JIT agreement. As a positive feature of the JIT cooperation, the parties recognised that this JIT enabled the national authorities to reconstruct a large part of the OCG's criminal activities. By using data available in all JIT Member States, linking more transports of migrants to the trafficking network than could have been done by each JIT party separately was possible.

Chapter 4 Eurojust cooperation with third States

Cooperation agreements

The entry into force of the cooperation agreement with Montenegro on 3 June and the cooperation agreement with Ukraine on 2 September brought the number of agreements with third States to nine. The formal negotiations to conclude a cooperation agreement with Albania, which were launched in 2016, were completed, and by the end of the year, the agreement was awaiting the approval of the Council. In October, the College decided to launch formal negotiations, with the intention of establishing a cooperation agreement with Georgia, and informed the Council of its plans to enter into such negotiations.

To explore possibilities for enhanced cooperation with the Western Balkans, Eurojust delegations visited the national judicial and data protection authorities in Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Serbia, Albania and Montenegro. Contacts were also maintained with other third States with which Eurojust seeks intensified cooperation, including Brazil, Colombia, Israel, Mexico, Tunisia and Turkey.

Eurojust's casework involving third States

Eurojust provided support in 258 cases that involved 48 third States. As in previous years, these cases mainly dealt with fraud and money laundering. Increasingly, third States were involved in drug trafficking cases. Representatives of third States were present at 61 coordination meetings. Switzerland, the USA and Norway, permanently represented at Eurojust, participated in the largest number of coordination meetings. Canada, Iceland, San Marino and Switzerland also took part in coordination centres. Third States were involved in 21 JITs supported by Eurojust, 11 of which were newly established.

Cooperation with third States in a bribery case

The case concerns bribery of high-ranking officials in Uzbekistan. Non-Uzbek companies were using bribes to acquire state-owned licences needed to access the Uzbek telecommunications market. Large sums of money were transferred to bank accounts of offshore companies owned and controlled by Uzbek citizens. The offshore companies were controlled by the main high-ranking suspect in Uzbekistan. The money was subsequently transferred to different foreign bank accounts controlled by the main suspect and used to purchase real estate and luxury items.

Investigations were taking place in a number of countries, including Sweden, the Netherlands, Switzerland and the USA, into bribery of companies and/or related offences, such as money laundering and forgery of documents. Other countries, including Belgium, France and Norway, were also cooperating with the investigations.

A Eurojust case was opened by the Swedish National Desk in January 2013. Since then, four coordination meetings were held at Eurojust. First, the focus was on the sharing of information on the state of play of the ongoing investigations and on the legal issues in obtaining evidence abroad. At the fourth coordination meeting in May 2017, parties discussed the charges brought against the companies in some countries, issues related to the confiscation and restitution of assets, and a possible *ne bis in idem* situation. During the meeting in May, eight countries participated; most of them had opened their own investigations. This meeting provided the first opportunity to meet representatives from Uzbekistan and, together with them and all other countries involved, asset sharing was discussed. Progress would not have been possible without the coordination of the different investigations by Eurojust.

Eurojust, through the organisation of these coordination meetings, established a platform for exchanging information and enhancing trust and mutual understanding, resulting in more effective bilateral contacts outside Eurojust. Approximately EUR 1 billion 250 million in assets from 12 countries was frozen.

Liaison Prosecutors at Eurojust

Third States that have entered into a cooperation agreement with Eurojust may second a Liaison Prosecutor to Eurojust. Liaison Prosecutors for Norway, Switzerland and the USA have been seconded to Eurojust over the past several years, and a Liaison Prosecutor representing Montenegro was seconded to Eurojust in December. Liaison Prosecutors at Eurojust registered a total of 148 cases.

The Liaison Prosecutor for Norway registered 78 cases, mainly concerning drug trafficking, crimes against life, limb or personal freedom, THB and fraud, and organised 4 coordination meetings. Norway was involved in 40 cases and participated in 15 coordination meetings as a requested State.

The Liaison Prosecutor for Switzerland registered 70 cases, mainly dealing with fraud, drug trafficking, crimes against life, limb or personal freedom and THB, and organised 8 coordination meetings and 1 coordination centre. In addition, Switzerland was involved in 114 cases and participated in 24 coordination meetings as a requested State.

The Liaison Prosecutor for the USA organised 1 coordination meeting in a case concerning maritime piracy. The USA was involved in 35 cases and participated in 16 coordination meetings as a requested State.

As the Liaison Prosecutor for Montenegro commenced her activities in December, no cases were registered by Montenegro by the end of the year. However, Montenegro was involved in 4 Eurojust cases as a requested State.

FIFA case

In December 2010, the Fédération Internationale de Football Association (FIFA) designated the host countries for the World Cups 2018 and 2022 through a multiple-round ballot. Hosts for 2026 and 2030 have not yet been selected. In parallel with this process, media rights for certain countries for the FIFA World Cups have been granted until 2030.

After irregularities were discovered concerning the award of some of those World Cup media rights, the Office of the Attorney General of Switzerland opened a criminal case in March 2017 against the former Secretary General of FIFA and the Chief Executive Officer of BEIN MEDIA GROUP LLC on suspicion of bribery. In addition, the former Secretary General of FIFA is suspected of criminal mismanagement, fraud and forgery of documents.

A coordination meeting was organised in September 2017 by the Swiss Liaison Prosecutor, and delegations from Greece, Spain, France and Italy were invited. Prosecutors from the Office of the Attorney General of Switzerland gave a presentation on the state of play of the Swiss investigation and discussed the way forward.

Two specific points were discussed in detail: (i) the timing and coordination of the actions; and (ii) the extreme sensitivity of the case and possible actions to be taken, if required. Intense media attention was expected. The detailed discussion and preparation during the coordination meeting resulted in a reliable risk assessment and a clear commitment by all partners to ensure a well-prepared and successful action day in the following month, with a coordination centre at Eurojust to coordinate the simultaneous actions. The operational constraints of two different scenarios discussed during the coordination meeting were explored by the concerned countries prior to the action day, which led to the scenario adopted on the day before the action day, demonstrating the flexibility of the coordination centre in adapting to the new judicial strategy.

During the action day, representatives of the National Desks from the participating countries were present in the coordination centre. Multiple properties were searched in Greece, Spain, France and Italy, assets were seized in Italy and the interview of one suspect was conducted in Switzerland.

Eurojust played a key role in supporting the coordination of the international joint operations and ensuring the timely transmission and execution of LoRs as well as the swift exchange among all judicial and law enforcement authorities involved of live operational information collected on the ground. The coordination during the actions enabled valuable evidence to be preserved and avoided jeopardising the investigations.

At this stage, neither suspect has been placed on remand and the presumption of innocence continues to apply.

Eurojust contact points in third States

To enhance and facilitate cooperation between the judicial authorities of the Member States and third States, Eurojust continuously works to extend its worldwide network of judicial contact points in third States. One new contact point was established in Niger, totaling 42 third States that now have Eurojust contact points in place. Eurojust is actively working towards enhancing cooperation with the countries of the Middle Eastern and North African (MENA) region and invites them to also appoint a specific contact point for Eurojust for counter-terrorism matters.

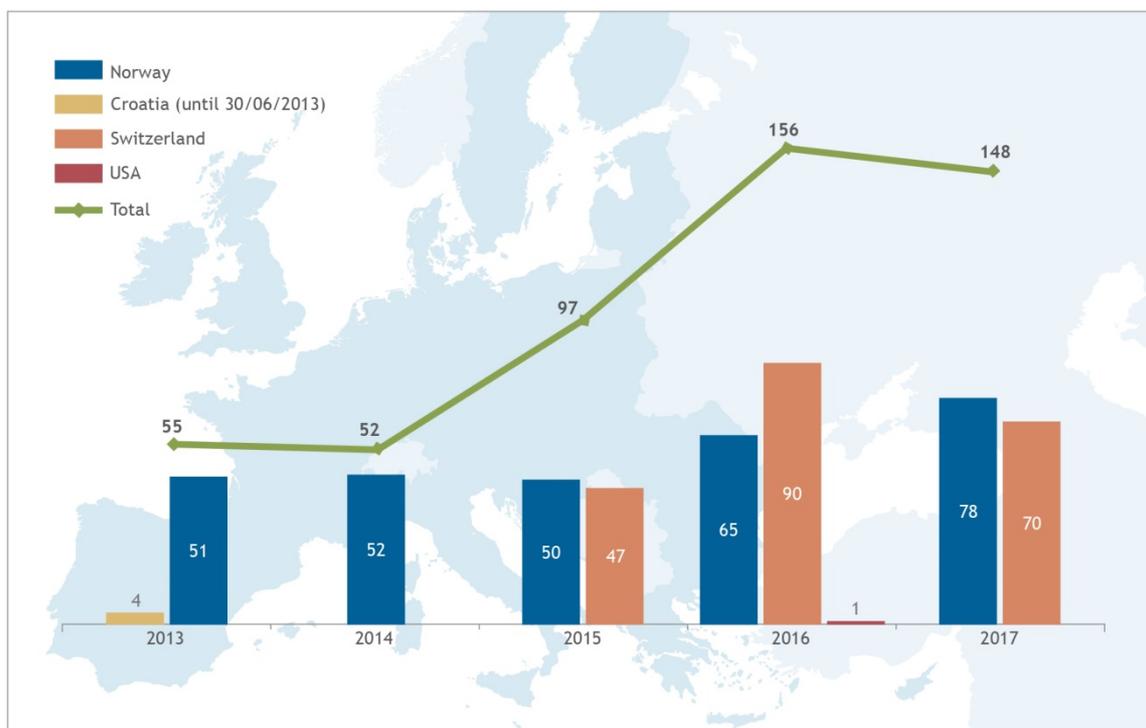
Eurojust Liaison Magistrates posted to third States

In 2017, the College adopted the Decision on implementing arrangements for Eurojust Liaison Magistrates posted to third States. The Decision implements Articles 26a and 27a of the Eurojust Council Decision, thereby providing the required legal framework for Eurojust to be able to post such Liaison Magistrates. It sets forth, among others, selection procedures and criteria for, and grading, duration of contract and tasks.

Letter of Understanding between Eurojust and the EEAS

In October, a Letter of Understanding on the Cooperation between Eurojust and the European External Action Service was signed. The letter provides the framework for the regular exchange of non-operational strategic information and experience, particularly in the areas of counter-terrorism, cybercrime, migrant smuggling and THB. The EEAS will support Eurojust in its engagement with third States and will draw from Eurojust's expertise.

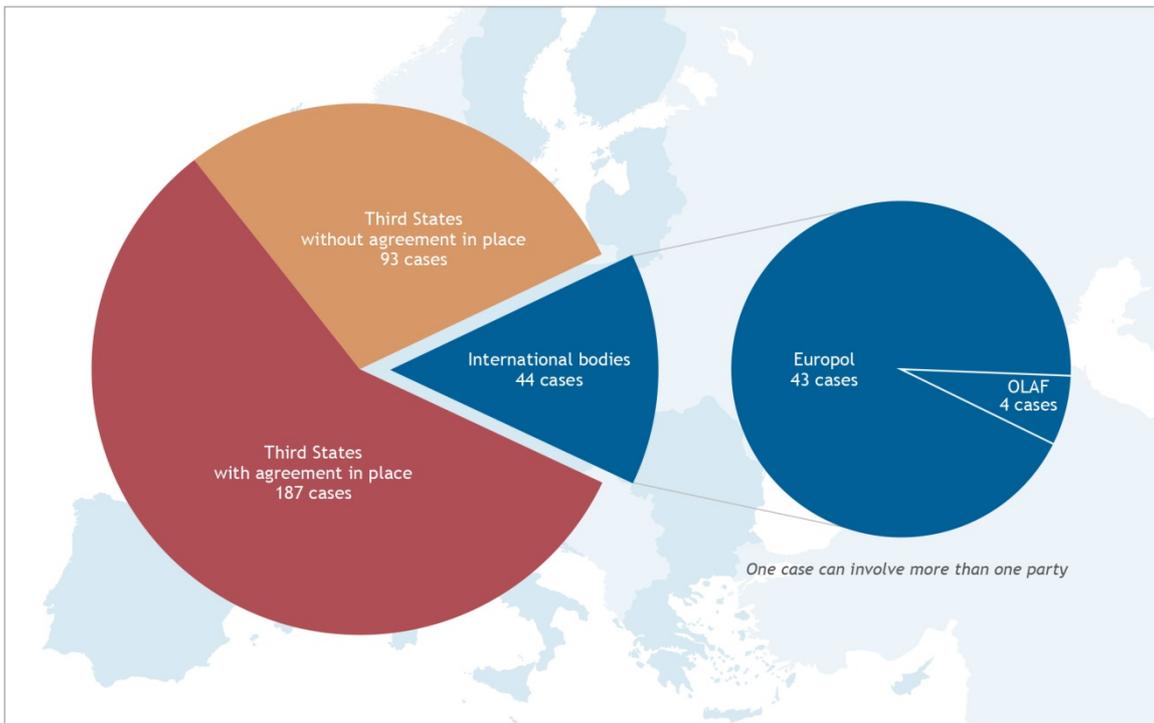
Cases by Liaison Prosecutors 2013 - 2017



Top ten third States involved in Eurojust casework



Third States, cooperation partners and international organisations involved in Eurojust casework



Spotlight on the Liaison Prosecutor for Norway

From north of the Arctic Circle to The Hague – my experiences

'I have been the Liaison Prosecutor for Norway at Eurojust since September 2016. Norway signed an agreement with Eurojust in 2005, the first third State to do so. Working at Eurojust is a pleasure because of fruitful discussions, engaged colleagues and lots of cooperation. I feel privileged to be a part of the Eurojust family.

Norwegian awareness of Eurojust has increased considerably, as reflected in the amount of cases: we opened 50 cases in 2015, 65 in 2016 and 78 in 2017. When I talk to Norwegian colleagues, I help them understand which cases can benefit from the assistance offered by Eurojust. As a third State representative, the Liaison Prosecutor for Norway can set up coordination meetings for its own cases. Norwegian authorities are also regularly invited to attend coordination meetings set up by the Eurojust National Desks. Norway has used JITs as a tool in 10 cases over the years, and has received funding from Eurojust. In 2017, for the first time, Norway also initiated two JIT agreements.

Norway is an EEC and Schengen country, and we have implemented the 2000 MLA Treaty, reflecting our close connection to the European Union and our ability to recognise requests from EU Member States. Norway has also signed a surrender agreement with the European Union, but it has not yet entered into force.

Norwegian case of online sexual abuse

On 10 August, my home authorities sent me an MLA request regarding the required investigative steps in Romania. The urgency in this case was due to allegedly ongoing online sexual abuse of children, committed by a parent. Establishing direct contact with the executing authorities in Romania and formulating a detailed plan for the initial phase of the investigation were important first steps.

The first coordination meeting was held within three weeks. Norway presented its findings and the Romanian delegation declared that they were highly motivated to start their own investigation of the suspect, who was living in Romania. A JIT was signed on 14 September and we had our second coordination meeting in Romania on 20 September. The suspect was arrested the next day and the child was taken into care. This great result was achieved only six weeks after receiving the MLA request at Eurojust. The swift and excellent cooperation between the Romanian and Norwegian Desks at Eurojust was crucial. The main goal was to assure the safety of the child. The next goal was to secure/obtain admissible evidence in both countries since two trials will take place: one trial in Norway with the buyer of the services, and one in Romania with the seller of the services.

One of the most important issues in the investigation was securing witness statements from the child victims. Norway has a new and unique model for hearings of children as victims/witnesses. The child, with parents or guardians, is invited to a safe facility (known as a "Children's House"). A specially trained investigator takes evidence in a neutral and transparent manner, with only the investigator and the child being present. The victim's lawyer and the defence lawyer are located in a separate room. The defence lawyer can address additional questions to the investigator during breaks, and the investigator can in turn ask the victim. The recorded video statement is then used as admissible evidence in court.'

Chapter 5 Eurojust and practitioner networks

The Secretariats of the European Judicial Network (EJN), the Network of National Experts on Joint Investigation Teams (JITs Network) and the Network for investigation and prosecution of genocide, crimes against humanity and war crimes (Genocide Network) are hosted by Eurojust, drawing on its resources. Their members are part of the Eurojust staff. The Secretariats offer services to the Networks and facilitate cooperation with the College and National Desks in their common fields of action. Eurojust also provides legal, administrative and financial support to the European Judicial Cybercrime Network (EJCN) and the Consultative Forum of Prosecutors General and Directors of Public Prosecutions of the Member States of the European Union (Consultative Forum).

5.1 EJN

The EJN is a network of national contact points appointed by the EU Member States to facilitate judicial cooperation in criminal matters. The EJN contact points assist practitioners with legal and practical advice and with establishing direct contacts between competent national authorities. The EJN Secretariat was set up in 2003 at Eurojust.

Meetings The EJN plenary meetings took place in Malta and Tallinn and had a special focus on the practical application of the EIO and the EAW. The EJN contact points discussed their first experiences in the Member States in using the EIO to obtain and exchange evidence. Regarding the EAW, the EJN contact points discussed the consequences of some recent CJEU judgements, e.g. on detention conditions. Conclusions of these meetings are available on the EJN website.

EJN regional meetings were organised by Germany, Latvia, the Netherlands, Poland, Slovenia and Finland. At these meetings, the EJN contact points had the opportunity to exchange experience in areas such as the EIO, access to a lawyer, and freezing and confiscation. EJN national meetings were organised by Belgium and Lithuania. These meetings were attended by the EJN contact points and high-ranking practitioners.

Cooperation with Eurojust The EJN and Eurojust worked together on the introduction of the EIO in the Member States. A *Note on the meaning of 'corresponding provisions' and the applicable legal regime in case of delayed transposition of the EIO Directive* was made available to practitioners and published as Annex II of Council doc. 9936/17. In collaboration with the Commission and the EJCN, guidelines were drafted on how to fill in the EIO and how to use it to obtain e-evidence.

The EJN and Eurojust continued to implement their action plans on the Sixth Round of Mutual Evaluations in the Member States and updated the joint paper, *Assistance in International Cooperation in Criminal Matters for Practitioners: EJN and Eurojust, 'What can we do for you?'*. This joint paper informs judicial practitioners in the Member States of the assistance that can be provided by the EJN and Eurojust. The paper also clarifies whether to address the EJN or Eurojust with a request for assistance.

EJN website The main project for the website this year was the development of a new version of the Judicial Library. This new version allows users to find documents, such as EU legal instruments, more easily. On 1 January, the EJN contact points' reporting tool was introduced. With this new tool, the EJN contact points have a user-friendly way to register their activities, number of cases, etc. A new EIO area was created to provide easy access to all the information about the EIO on the website. Another new feature provides the contact details of the members of the EJCEN to the EJN contact points in a restricted area of the EJN website.

5.2 JITs Network

The JITs Network is a network of national judicial and law enforcement contact points established to stimulate the use of JITs and foster the exchange of information and best practice. Its Secretariat was set up in 2011. Since 2013, the Secretariat manages the grants programme established by Eurojust to financially support JIT activities.

Annual meeting The 13th meeting of National Experts on JITs took place at Eurojust in May. Experts discussed, among other topics, the latest developments in JITs, including the first experiences with the USA and Switzerland.

Following discussions in parallel workshops, participants agreed on the need to modernise the framework of the JITs Network and asked the Secretariat to propose guidelines to supplement the Council document on the basis of which the Network still operates. JITs experts also considered possible avenues for improving the exchange of information between JIT partners and supported the idea of a collaborative operational environment, to be further explored in cooperation among the Network, Eurojust and Europol. The Council Conclusions are available on Eurojust's website.

Projects The Secretariat continued to support evaluation meetings and collect JIT evaluation forms completed by national authorities, in view of the publication of the second edition of the JIT evaluation report. The project was undertaken in cooperation with Eurojust, and includes developments related to Eurojust's experience in this field.

As a complement to the JIT evaluation project, a new project was initiated to collect and analyse JIT-related case law. The project is expected to increase knowledge among practitioners about legal issues and challenges encountered by national courts in relation to JITs, and enable them to anticipate and address these challenges domestically. The project should also contribute to improving understanding of national legal systems and encourage judges to engage more in the field. Information was collected in 2017, and the analysis will be conducted in 2018.

5.3 Genocide Network

The Genocide Network ensures close cooperation between the national authorities in investigating and prosecuting genocide, crimes against humanity and war crimes by exchanging operational information, best practice and experience. It is a network of practitioners composed of investigators, prosecutors and MLA officers. Its Secretariat was established in July 2011.

Meetings Two plenary meetings held at Eurojust focused, respectively, on the responses of EU agencies to the immigration flow and consequent identification of individuals as victims, witnesses and perpetrators of core international crimes, and on effective cooperation between Non-Governmental Organisations (NGOs) and national authorities. The second meeting addressed documentation methodologies, benefits and risk of collaboration and possibilities for supporting each other's work in advocacy, outreach and support of victims. The conclusions of the 22nd and 23rd meetings are available on Eurojust's website.

Second EU Day against Impunity The second EU Day against Impunity was organised in Brussels on 23 May by the Maltese Presidency, the Genocide Network, Eurojust and the Commission. The annual event's objective is to raise awareness of the most heinous crimes, to promote national investigations and prosecutions and to address the position and participation of victims in criminal proceedings. The outcome was published as Council doc. 9932/17.

Projects The Secretariat prepared three briefs for practitioners: (i) on the use of open source information (particularly from social media) for investigating and prosecuting war crimes relating to the conflict in Syria and Iraq and a corresponding case law compendium from domestic jurisdictions; (ii) on the jurisprudence of the European Court of Human Rights in relation to genocide, crimes against humanity and war crimes; and (iii) on the contextual overview of sexual and gender-based violence committed by ISIL as genocide, crimes against humanity and war crimes with a reference to existing international jurisprudence.

5.4 EJCEN

The EJCEN was established in 2016 to foster contacts between practitioners specialised in countering the challenges posed by cybercrime, cyber-enabled crime and investigations in cyberspace, and to increase efficiency of investigations and prosecutions of cases.

In line with the Council Conclusions of 9 June 2016, Eurojust supports the network and ensures close cooperation. Among others, Eurojust participates in the EJCEN Board, hosts the regular meetings of the Network, supports the exchange of information and consults the Network about the development of policy work and other stakeholder activities to ensure a strong interaction between Eurojust's expertise in international judicial cooperation and the operational and subject matter expertise of the EJCEN members.

Meetings Two plenary meetings took place at Eurojust. At the first meeting, the work programme 2017-2018 was adopted. Priorities defined therein are electronic evidence, encryption, data retention and emerging issues. In addition, at the first meeting, Operation Avalanche was presented. During the second meeting, relevant issues were discussed regarding virtual currencies and Darkweb investigations. Practical experiences were also exchanged, *in casu* through a presentation of the criminal investigation leading to the takedown of the Darkweb illicit marketplace Hansa Market on 20 July 2017.

Projects Eurojust and the EJCN co-organised and participated in a workshop on encryption (see Section 3.1). In addition, the EJCN contributed, through questionnaires, to the Eurojust reports on data retention and undercover online investigations (see Sections 2.2 and 3.2).

5.5 Consultative Forum

The Consultative Forum was established in 2010 to reinforce judicial cooperation and mutual trust among the Member States, and to provide the EU institutions with the judiciary's input for the development of the EU Area of Freedom, Security and Justice. In October, the College adopted a policy on practical arrangements for Eurojust support to the organisation of the meetings of the Consultative Forum, with the objective of consolidating current support practices and offering guidance to those involved in organising the meetings.

Joint meeting The 12th meeting of the Consultative Forum took place in October and was jointly convened by the Prosecutor General of Estonia and the Attorney General of Malta. The meeting focused on the use of digital tools in criminal proceedings, migrant smuggling and Eurojust's developments in key priority areas.

Use of digital tools in criminal proceedings In preparation for this discussion, the Member States were requested to indicate to what extent they currently allow the digital transmission of MLA requests and EIOs. The outcome of this questionnaire showed a diverse picture. The majority of the Member States accept requests by fax and/or e-mail, sometimes with additional requirements, such as an electronic signature, but in six Member States the original request must still be subsequently transmitted by post. Following an overview of the questionnaire's results, the Estonian authorities shared their experience with electronic signatures and digital information exchange in criminal proceedings, rendering investigations and prosecutions faster and more effective. While Member States have considerably progressed in this field, Forum members agreed on the need to extend this modernisation process to cross-border judicial cooperation.

Judicial response to migrant smuggling Forum members exchanged views on the outcome of the June 2017 Eurojust meeting on migrant smuggling, co-organised by the Maltese and Estonian Presidencies in cooperation with Eurojust, and endorsed its conclusions. The need to tailor the judicial response to the *modus operandi* of smuggling networks and to changing migratory routes was widely acknowledged. Enhancing cooperation with third States of origin and transit is considered essential, as is ensuring that information collected by EU actors operating in third States can be turned into admissible evidence when processed. National authorities were encouraged to refer more cases to Eurojust and to make full use of judicial cooperation instruments already available, including JITs.

Developments in key priority areas and institutional outlook Eurojust outlined the latest developments in priority crime areas: terrorism, cybercrime, THB and migrant smuggling. Particularly striking is the increased number of terrorism and THB cases for which Eurojust's support was requested. Participants were also informed of recent organisational developments, and were assured that Eurojust will continue to offer tailor-made, expert advice in complex cross-border crime cases.

The conclusions of the meeting are available on Eurojust's website.

Ms Lavly Perling, Prosecutor General of Estonia, and Dr Peter Grech, Attorney General of Malta, stated:

'This meeting is a good reflection of how the Consultative Forum brings together public prosecution services from the four corners of Europe: it is jointly convened by a North-Eastern and Southern Member State, while hosted by Eurojust in the West. When we unite forces across national borders, we can overcome legal boundaries to successful prosecutions and contribute to a safer Europe.'

Chapter 6 Staff and budget

Staff At the end of 2017, Eurojust had 332 post-holders, including 76 National Members, Deputies and Assistants, 202 Temporary Agents, 21 Contract Agents, 17 Seconded National Experts and 16 interns.

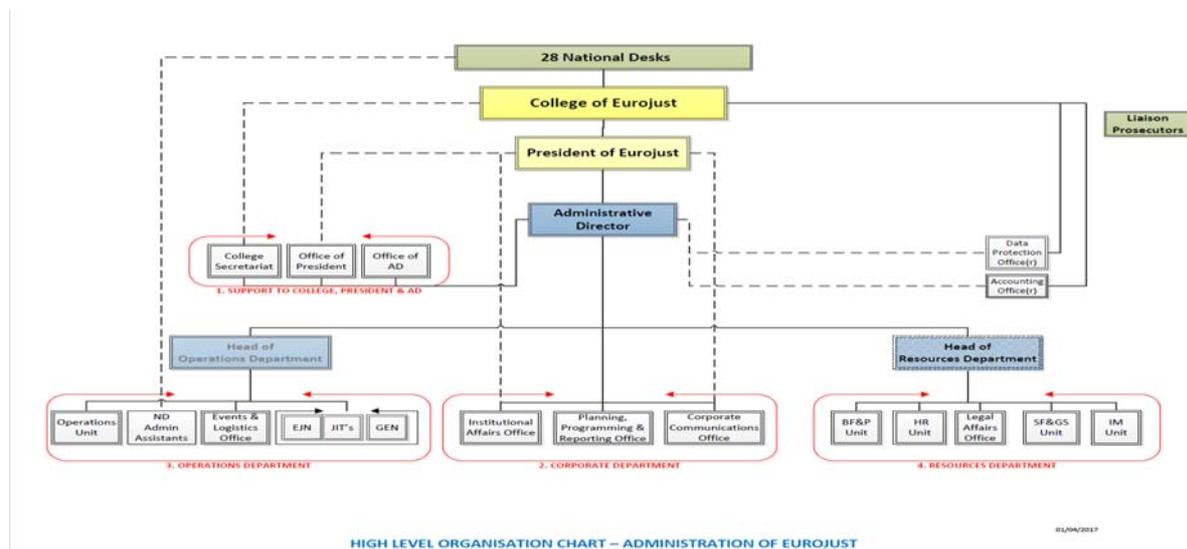
Eurojust had 208 Temporary Agent posts authorised in 2017. The Commission originally proposed a reduction of five posts in the 2017 establishment plan. However, the Budgetary Authority allocated 10 additional posts, bringing the number of authorised Temporary Agent posts to 208, a net increase of five posts compared to the 2016 establishment plan. The new posts, allocated to operational work, were all filled by the end of 2017.

Budget Eurojust's initial budget for 2017 was voted at EUR 48 379 237, including the ring-fenced amount of EUR 11 130 000 for the new premises building project. This budget was nine per cent lower than originally requested by Eurojust. Due to this budgetary constraint, and to ensure delivery of our demand-driven operational work and ability to meet our legal obligations, Eurojust de-prioritised non-case-related activities, including predominantly administrative/organisational ICT projects.

In the course of 2017, Eurojust faced a significant increase in the demand from Member States for JITs grant funding, and was successful in securing additional credits in the amount of EUR 310 000 from the Commission. As a consequence, Eurojust was able to adopt an amending budget of EUR 48 689 237 in September, and supported a greater number of JITs grant beneficiaries than in previous years.

With the postponement of the delivery of the new building and the resulting surplus from the new premises project, the budgetary pressure towards the end of the financial year was alleviated, and a budget execution rate of 99.97 per cent was achieved.

Consolidated Annual Activity Report The Administrative Director's *Consolidated Annual Activity Report* (CAAR) provides an overview of the achievements and implementation of the annual objectives and activities, as included in the Eurojust Work Programme. The CAAR details the utilisation of resources (staff and budget) and the implementation of internal controls and risk management. The CAAR and the Eurojust College Assessment of the CAAR will be submitted to the Budgetary Authority by 1 July 2018.



Chapter 7 Organisational developments and key challenges

A stringent budgetary climate and the continued pressure on Eurojust's limited resources have prompted Eurojust to further optimise its financial and human resources.

Reorganisation The implementation of a new organisational structure of the Administration was initiated in January. Three entities were established: the Operations Department, the Corporate Department and the Resources Department. The reorganisation has achieved the following goals: (i) enhanced support to the operational work of the College and the National Desks by shifting resources to operational work; (ii) implemented a more coherent concept of operational support to the National Desks by introducing interdisciplinary/cross-sectoral support to operational work; (iii) improved strategic development, planning and reporting; and (iv) enhanced corporate communication.

Prioritisation of policy work Building on the 2016 prioritisation of policy work, the exercise in 2017 was based on the assessment of project briefs, using Eurojust's casework as the main criterion for prioritisation. In September, the College adopted the priorities and related deliverables for 2018 and 2019, as well as a new prioritisation methodology in December. The guiding principles include:

- flexible approach to resource allocation;
- external consultation procedure to take into account the needs of practitioners and stakeholders; and

- evaluation procedure for deliverables.

College substructures The College decided to simplify its preparatory substructures to enhance its decision-making processes and effectiveness, thus improving efficiency and rationalising the use of resources. The new model ensures a coordinated corporate response to strategic matters and the retention of operational know-how and information. The implementation will commence in the second quarter of 2018.

Case Management System The current Eurojust CMS, established in 2004, is reaching the end of its technological lifespan. Therefore, Eurojust conducted a technical and functional assessment of the CMS in light of the current needs of the organisation. This high-level analysis of the existing functionalities and possible improvements will help an informed decision to be taken on the options for a redesign of the CMS. To improve operational support, Eurojust approved a set of measures for more harmonised data insertion across National Desks. These measures, together with an increased data quality review, will improve the quality of data to support operational work at Eurojust and in the Member States.

Eurojust is expected to play an increasingly important role in the wider policy area of security and justice.

New Eurojust Regulation The Regulation will streamline Eurojust's functioning and structure. An Executive Board, which will include a member of the Commission, will assist the College in its administrative tasks. From a data protection point of view, a switch will be made from the current supervision by the Joint Supervisory Body of Eurojust to the supervision by the European Data Protection Supervisor. The possible impact on the data protection regime in connection with the recast of Regulation 45/2001 may considerably influence the functioning of Eurojust. The Eurojust Regulation and recast of Regulation 45/2001 should lead to a result creating no obstacles to the daily operational work of Eurojust, offering legal certainty and ensuring a high level of data protection.

Cooperation with key partners Eurojust and the future EPPO will work closely together; a working arrangement should be concluded to regulate the practical details on their actions in the field of the protection of the EU's financial interests as well as on the support that Eurojust may provide to the EPPO. The Europol Regulation should result in an increased flow of operational information and reinforced cooperation, including the establishment of joint rules and conditions based on which applications for funding of JITs activities should be processed to ensure sound financial management and efficient support to national authorities. The Frontex Regulation will enhance cooperation, which will be regulated in a working arrangement.

EU data protection package The new DP package, applicable to the national authorities as of May 2018, will have a major impact on the way the Member States deal with personal data in the area of law enforcement as well as on Eurojust when it exchanges information with Member States.

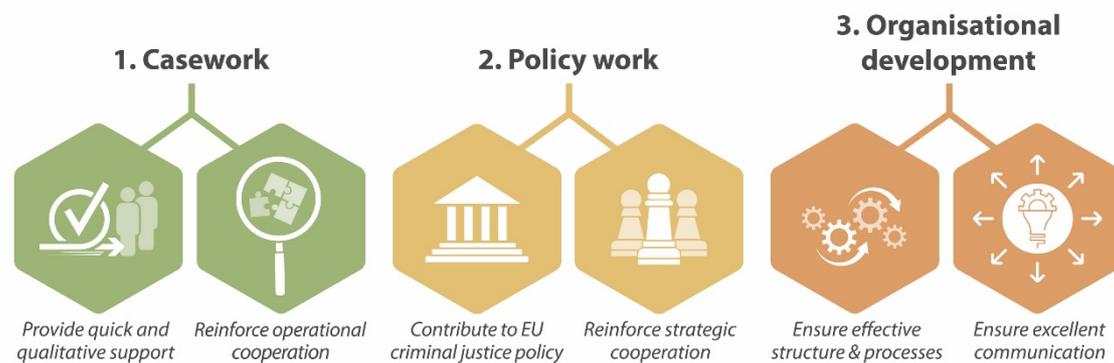
EU Strategy on Justice and Home Affairs EU Strategies and Action Plans contribute to setting the priorities of Eurojust and emphasize the necessity for:

- closer frontline judicial cooperation and coordination in combating serious cross-border crime;
- intensified information-sharing; and
- best possible use of judicial cooperation instruments to facilitate investigations and prosecutions, and ultimately convictions of criminals.

Developments in the area of judicial cooperation in criminal matters Eurojust remains a key facilitator in the application of instruments such as the EAW and the EIO, including tasks in the area of judicial cooperation in criminal matters, such as the draft Regulation on ECRIS-TCN and the draft Regulation on the mutual recognition of freezing and confiscation orders.

Cooperation with third States In line with Eurojust's strategic emphasis on strengthening its cooperation with third States, the number of third States posting a Liaison Prosecutor at Eurojust will continue to increase. In addition, Eurojust's future relationships with the UK and Denmark will change.

Multi-Annual Strategy 2019-2021



In May, Eurojust adopted its Multi-Annual Strategy (MAS) 2019-2021. The MAS emphasizes the need to deliver more and better results in the core operational activities of Eurojust by: (i) offering support to Member States (e.g. providing quick and qualitative support and reinforcing operational cooperation); (ii) providing advice based on operational experience (e.g. contributing to EU criminal justice policy and reinforcing strategic expertise); and (iii) improving organisational effectiveness (e.g. ensuring more effective structure, processes and communication). Additionally, Eurojust has reformulated its mission, 'Serving justice across borders for a safer Europe' and its vision, 'Eurojust is the EU leading partner in bringing criminals to justice and a key player in ensuring a more secure world'.