



Council of the  
European Union

Brussels, 28 January 2021  
(OR. en)

5719/21

JAI 77  
ASIM 7  
MIGR 22  
CATS 6  
COPEN 45  
COSI 17  
CRIMORG 7  
ENFOPOL 33

#### COVER NOTE

---

From: General Secretariat of the Council  
To: Delegations

---

Subject: Eurojust meeting (12.11.2020) on Migrant Smuggling

- Conclusions of the Chair

---

Delegations will find attached the Conclusions of the Chair of the *Eurojust meeting on Migrant Smuggling* which took place on 12 November 2020.

---

Encl.: Eurojust meeting on migrant smuggling – Conclusions of the Chair



**Eurojust meeting on migrant smuggling**

Eurojust, 12 November 2020

Conclusions of the Chair

## Introduction

The Eurojust meeting on Migrant Smuggling (“the meeting”) was organised by Eurojust on 12 November 2020. Due to the current COVID-19 pandemic situation in Europe, the meeting took place in a virtual format, which shortened his original duration of two days to one.

The meeting was attended by practitioners (Prosecutors and investigative Judges) from the Member States and Norway, Eurojust Liaison Prosecutors from North Macedonia, Norway, Switzerland, Serbia and Ukraine, as well as representatives from the European Migrant Smuggling Centre (EMSC) at Europol and the European Commission.

The meeting was the fourth in a series, the previous being in February 2016, June 2017 and May 2018. The aim of such meetings is to bring practitioners together to exchange experience and best practice as well as explore avenues to disrupt and dismantle organised crime group (OCGs) involved in migrant smuggling by the analysis of new trends in this crime type.

The objective of this meeting was particularly to bring together, for the first time, the members of the **Focus Group of practitioners** in EU Member States dealing with Migrant Smuggling cases (“the FG”). The meeting intended to provide a platform to exchange views among practitioners using an interactive and practice-oriented approach to enhance cooperation among members of different judicial authorities. Emphasis was put on the discussions between the members of the FG on current and future trends, developments and challenges in the fight against migrant smuggling.

## Conclusions of the Chair

- The **Report on national legislation and Eurojust casework analysis on sham marriages**<sup>1</sup>, that was presented during the meeting, analyses the legislation of EU Member States on the matter. Digging into Eurojust's casework, it presents challenges in international judicial cooperation, provides best practices and suggests remedial actions. During the meeting, the high number of reactions from the participants after the presentation of the report shows the importance of this *modus operandi*, that the European Commission recently qualified as the third way of smuggling into the European Union<sup>2</sup>.
- When examining the **trends in migrant smuggling**, it can be concluded that COVID-19 has not stopped this criminal activity. On the contrary, in 2020 the Atlantic Route has been intensively revived. This proves the highly flexible and adaptive nature of the OCGs to exploit the smuggling routes. In addition, there are clear indications that the three main smuggling routes are fully operational, with some variations in the *modus operandi*. In 2020, the Central Mediterranean Route is the most exploited one.

<sup>1</sup> [Report on national legislation and Eurojust casework analysis on sham marriages | Eurojust | European Union Agency for Criminal Justice Cooperation \(europa.eu\)](#)

<sup>2</sup> Communication from the Commission: Commission Guidance on the implementation of EU rules on definition and prevention of the facilitation of unauthorised entry, transit and residence (2020/C 323/01, of 1.10.2020).

- In this scenario, the **cooperation between Eurojust and Europol's European Migrant Smuggling Centre** is of the greatest value for the support to the national authorities, thanks to the combined and complementary support to both judicial and law-enforcement authorities. Eurojust and the EMSC presented **the joint document** describing how both agencies cooperate in the field of migrant smuggling, both at operational and strategic levels.
- The **Spanish experience** shared during the meeting confirms the **reactivation of the Atlantic route**. It further confirms that this criminal activity puts the lives of the migrants in a great danger, sometimes fatal.
- The **Italian case *Glauco*** is a milestone in Eurojust's casework and an example of best practices in the cooperation with North African countries. This case also confirms the **need of specialisation in the field of migrant smuggling** and how -when this is the case- extraordinary solutions, with the support of the international institutional stakeholders can be found and result in yielding exceptional results. In this regard, at the request of the participants, Eurojust will prepare a proposal together with Europol to the Focus Group on how to implement UN sanctions.
- From the operational point of view, practitioners are encouraged to set up **Joint Investigation Teams**, as the most efficient tool in a cross-national investigation. In this regard, Eurojust may assist the national authorities in the elaboration of the JIT agreement - applying its specific Model Agreement for migrant smuggling- , JIT funding and legal assistance in any judicial cooperation questions that may raise in the setting up and conduct of the JIT.
- Experience shows that it is possible in some cases to find a proper balance between the use of **witness statements from migrants taken at disembarkation-hot spots**- and the protection of the procedural rights, as the Italian Prosecution experience showed.
- Regarding the newly established **Focus Group**, the meeting confirmed the need for this practitioner's forum to **exchange best practices**. Eurojust supports this initiative as a better way to assist judicial authorities. Focus Group members are invited to be even more active and to use this discussion forum at its best. Aware that this requires big efforts, for the moment, Eurojust understands the need to continue to provide support to the Focus Group. At the same time, Eurojust wishes to draw the attention to the participants - and especially to the European Commission - that the regular functioning of this Focus Group would require additional resources.
- With the aim of structuring the discussions, the Focus Group is furthermore invited to concentrate its discussions on a consecutive series of topics, to be identified by the practitioners as the most interesting ones, through a survey.