



Council of the  
European Union

Brussels, 25 May 2021  
(OR. en)

9094/21

JAI 619  
COPEN 242  
EUROJUST 59

**NOTE**

---

From: General Secretariat of the Council  
To: Delegations  
Subject: The Impact of COVID-19 on Judicial Cooperation in Criminal Matters -  
Report by Eurojust

---

Delegations will find attached the above-mentioned report by Eurojust, as it was published on 17 May 2021.

The report is also available on the website of Eurojust, [www.eurojust.europa.eu/public-register](http://www.eurojust.europa.eu/public-register).



# The Impact of COVID-19 on Judicial Cooperation in Criminal Matters

## Analysis of Eurojust Casework

May 2021

*Criminal justice across borders*

## Table of Contents

Executive summary .....	3
Introduction and methodology.....	5
1. European Arrest Warrant and extradition in relation to COVID-19 .....	6
1.1. European Arrest Warrant .....	6
1.1.1. Supplementary information under Article 15(2) of the EAW FWD.....	6
1.1.2. Time limits specified in Article 17 of the EAW FWD .....	7
1.1.3. Constraints concerning the time limits specified in Article 23 of the EAW FWD .....	7
1.2. Extradition .....	9
1.3. Summary of issues and challenges identified in relation to EAW/Extradition .....	10
1.4. The role of Eurojust and best practices identified in relation to EAW/Extradition casework.....	11
2. Impact of COVID-19 on the exchange of evidence and other investigative measures .....	12
2.1. European Investigation Order .....	12
2.1.1. Information needed before the issuing of a European Investigation Order .....	12
2.1.2. Transmission of European Investigation Orders and related documents and transfer of evidence .....	13
2.1.3. Hearing of persons, including hearing by videoconference .....	14
2.2. Mutual legal assistance requests .....	15
2.2.1. Transmission of mutual legal assistance requests and results of their execution .....	15
2.2.2. Hearing of persons, including hearing by videoconference .....	16
2.3. Joint investigation teams.....	16
2.4. Exchange of information – specific cases of Eurojust assistance .....	18
2.5. Summary of issues identified in relation to exchange of evidence and other investigative measures .....	18
2.6. The role of Eurojust and best practices identified in relation to exchange of evidence and other measures .....	19
3. COVID-19 as a crime opportunity, related asset recovery measures and the role of Eurojust .....	21
3.1. COVID-19 as a crime opportunity.....	21
3.1.1. Frauds related to demand for disinfection and protection items .....	21
3.1.2. Frauds related to COVID-19 state subsidies.....	21



**3.2. Asset recovery measures regarding COVID-19 crimes ..... 22**

**3.3. Summary of knowledge on COVID-19 as a crime opportunity and related asset recovery measures .....23**

**3.4. Role of Eurojust and best practices identified in relation to COVID-19 as a crime opportunity and related asset recovery measures ..... 23**

**Conclusions ..... 24**

## Executive summary

From the early stages of the coronavirus disease (COVID-19) pandemic, Eurojust’s casework showed that practitioners in the Member States were facing various difficulties in dealing with cases involving judicial cooperation in criminal matters. These issues were repercussions of the measures implemented by the Member States to combat the spread of COVID-19 and affected all instruments commonly applied in the field of judicial cooperation. Furthermore, the unprecedented social changes triggered by the pandemic created new opportunities for organised crime groups to gain illicit profit.

The aim of this report is to identify the specific difficulties in application of the most commonly used instruments of judicial cooperation that resulted from the pandemic. Moreover, it identifies the most frequently committed crimes that were directly linked to the pandemic. The report also describes the role of Eurojust in relation to these issues and provides summaries of best practices. This knowledge will benefit practitioners and policymakers should extraordinary measures be applied again.

This report complements the Joint Eurojust-EJN Compilation on the impact of COVID-19 on judicial cooperation in criminal matters (1). While this compilation focuses on the measures taken by the Member States to combat the spread of the virus and their impact on judicial cooperation in general terms, the report is based on the analysis of specific cases registered at Eurojust during the period from April 2020 to 30 June 2020.

The main conclusions arising from this analysis can be summarised as follows.

1. The European Arrest Warrant (EAW) mechanism remained functional, although pandemic measures such as closure of borders and compulsory quarantine, as well as a shortage of police staff, significantly affected the final stage of EAW proceedings: physical surrender of the requested person. The relevant legal rules stipulated in Article 23 of the European Arrest Warrant framework decision (EAW FWD) (2) were applied when postponement of surrender was necessary. The executing authorities sought Eurojust’s assistance with their requests for supplementary information (under Article 15(2) of the EAW FWD) more frequently than usual. Transmitting the relevant requests (in the context of both Article 23 and Article 15(2)) through Eurojust enabled practitioners to receive timely responses and move forward with EAW proceedings. Particularly in relation to the application of Article 23, the early involvement of Eurojust facilitated swift agreement on a new surrender date.
2. The Member States continued to execute instruments related to the exchange of evidence and implement investigative measures. However, in some instances the authorities prioritised and executed requests only in extraordinary cases and cases of serious crime.

(1) Council document WK 587/2021; the executive summary is available online (<https://www.eurojust.europa.eu/sites/default/files/2021-02/st06178.en21.pdf>).

(2) Council framework decision of 13 June 2002 on the European Arrest Warrant and the surrender procedures between Member States (2002/584/JHA).

This led to delays in the execution of European Investigation Orders and requests for mutual legal assistance, particularly in cases where the physical presence of a person was required (hearings of witnesses or suspects).

3. In the initial stages of the pandemic, Eurojust was frequently contacted by practitioners with requests for the transmission of a European Investigation Order<sup>(3)</sup>, a mutual legal assistance request and/or a freezing order<sup>(4)</sup>. The transmission of these requests via Eurojust was considered a reliable method that enabled instant feedback on delivery and possible later updates on execution. This increase in requests submitted via Eurojust resulted partly from the termination of standard mail and courier services in the Member States.
4. The situation calls for the establishment of a single electronic platform for the exchange of the most frequently used tools of judicial cooperation that does not depend on the transmission of hard copies. This ties in with the preparations for the implementation of the e-Evidence Digital Exchange System (e-EDES) as a part of the Digital Criminal Justice project launched by the European Commission.
5. The activities of joint investigation teams (JITs) were heavily impacted by travel limitations. In a number of cases, planned joint action days were postponed. Negotiations on new JITs were delayed and the JITs were set up later. Considering the sudden change in the circumstances for JIT cooperation, Eurojust amended its JITs funding programme and provided JIT members with a secure communication platform to hold their meetings online.
6. The pandemic was an opportunity for organised crime groups, which took advantage of the demand for specific items linked to new hygiene rules and perpetrated frauds related to state subsidies.
7. Eurojust remained fully operational despite the restrictions applied during the pandemic and has been actively providing its standard services to practitioners throughout the EU.

A detailed explanation of these conclusions, including specific examples relating to Eurojust cases and best practices for practitioners, can be found in this report.

---

[3] Under Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters.

[4] The instrument applied was Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence.

## Introduction and methodology

The global pandemic of the COVID-19 has had a far-reaching impact on administration of public matters in the worldwide community, cooperation among states in general, and also entailed serious repercussions for judicial cooperation in criminal matters.

The main goal of this report is to inform practitioners and policymakers about the overall impact that COVID-19 had on the application of commonly used instruments of judicial cooperation, the specific issues that were identified in this respect and the activities that Eurojust conducted in relation to these issues. Moreover, this report identifies challenges and best practices in the application of these instruments, and it also discusses crimes with a close link to the COVID-19 pandemic, which served as an opportunity for illicit activities.

The report is based on an analysis of cases from the initial stages of the pandemic, during the reference period of April 2020 to 30 June 2020.

During that period, 128 cases of varying complexity were marked in the Eurojust Case Management System as linked to the COVID-19 pandemic. The cases identified concerned either specific issues resulting from the COVID-19 pandemic in relation to tools of judicial cooperation or crimes that were specifically linked to the pandemic.

This report is divided into three chapters. The first chapter focuses on issues concerning the application of the European Arrest Warrant (EAW) <sup>(5)</sup> and standard extradition procedures with non-EU countries. The second chapter analyses the impact of COVID-19 on exchange of evidence and other investigative measures such as European Investigation Orders (EIOs) <sup>(6)</sup>, standard mutual legal assistance (MLA) requests, joint investigation teams (JITs) and exchange of information in a broad sense. The third chapter describes the knowledge gained by Eurojust from its casework on COVID-19 as an opportunity for organised crime groups and reports on related asset recovery measures.

This report complements the Joint Eurojust - EJN Compilation on the Impact of COVID-19 on judicial cooperation on criminal matters. This compilation combines responses from practitioners in the Member States to questionnaires launched by the Council of the European Union, Eurojust and the European Judicial Network on the measures taken at national level to combat the spread of COVID-19 and the impact that these measures have had on judicial cooperation instruments. The compilation has been regularly updated to reflect measures taken and lifted by the Member States and it has been circulated among practitioners.

---

<sup>(5)</sup> Council framework decision of 13 June 2002 on the European Arrest Warrant and the surrender procedures between Member States (2002/584/JHA).

<sup>(6)</sup> Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters (the EIO Directive).

# 1. European Arrest Warrant and extradition in relation to COVID-19

## 1.1. European Arrest Warrant

With regard to the EAW, the analysis of the relevant cases identified several categories of issues resulting from the COVID-19 pandemic and subsequent measures applied by the Member States to combat it. These issues can be divided into three main groups according to the provision of the European Arrest Warrant framework decision (EAW FWD) applied. In particular, these cases concerned the application of the Articles 15(2) and Articles 17 and 23 of the EAW FWD.

### 1.1.1. Supplementary information under Article 15(2) of the EAW FWD

In general, Eurojust’s casework in the field of the EAW involves a high number of cases in which the executing authority, in order to take a final decision on the EAW, requests supplementary information to be provided, making reference to Article 15(2) of the EAW FWD(?).

The measures related to the pandemic and overall uncertainty with regard to the functioning of the judicial systems of the Member States resulted in a more frequent need for executing authorities to contact issuing authorities to request such supplementary information. The requests from the executing authorities most often related to the details of the pandemic situation in the issuing state and its impact on the surrender procedure, as well as the measures that would be applied in the issuing state regarding possible quarantine and healthcare available for the requested person after surrender. In several instances, cases were brought to Eurojust as a result of a delay on the part of the issuing authority in providing a response to the request for supplementary information. In these requests, the executing authorities proposed conducting a hearing of the requested person based on an EIO instead of the surrender of the requested person based on an EAW, considering this a more convenient option in the pandemic situation. Although in some cases this proved to be a good solution, in one case the executing authority would not grant consent for a hearing based on an EIO in a situation in which the person in question was expected to enter into a plea bargaining procedure.

In the early stages of the pandemic, executing authorities often turned to Eurojust with their concerns about the functioning of the judicial systems of the Member States. These were cases in which they requested assistance in receiving responses to requests for supplementary information that were not directly linked to the pandemic situation in terms of their content (e.g. requests for clarification of crimes committed, specification of the decision that the EAW was based on, etc.).

---

(?) For overall details and figures regarding this issue please consult Report on Eurojust’s casework in the field of European Arrest Warrant (2014-2016) page 3 and onwards. [https://www.eurojust.europa.eu/sites/default/files/Publications/Reports/2017-05\\_Eurojust-EAW-Casework-2014-16\\_EN.pdf](https://www.eurojust.europa.eu/sites/default/files/Publications/Reports/2017-05_Eurojust-EAW-Casework-2014-16_EN.pdf). The updated version of this report is scheduled to be published by Eurojust in mid-2021.



### 1.1.2. Time limits specified in Article 17 of the EAW FWD

Article 17 of the EAW FWD stipulates time limits and procedures for the decision to execute an EAW. It specifies, as a matter of principle, that an EAW should be dealt with as a matter of urgency and expects executing authorities to take the final decision on execution within a rather short time limit (in cases where the requested person consents to their surrender, 10 days after consent has been given, or, in other cases, 60 days after the arrest of the requested person). Should the executing authority be unable to observe these time limits, this provision lays down a duty to inform the issuing authority, providing the reasons for the delay.

In the cases registered at Eurojust, executing authorities already aware of the obstacles existing as a result of the pandemic sought to inform issuing authorities that the deadlines stipulated in the EAW FWD would not be observed. In several cases, the executing authority explained that the workload of the judicial authority combined with the extraordinary situation had resulted in inability to take the final decision on the execution of the EAW. In one Member State, the measures implemented resulted in an extraordinary judicial break that affected standard domestic procedures and time limits. In all the cases affected by this, the executing authority informed the issuing authority about the inability to observe the standard time limits set forth in Article 17 of the EAW FWD, providing reasons for the delay. In addition, the executing authorities indicated that the end date of the application of the pandemic mitigation measures would be their expected date for making a decision on the EAW.

### 1.1.3. Constraints concerning the time limits specified in Article 23 of the EAW FWD

The EAW is in essence a tool that enables simplified procedures when surrendering and transferring requested persons for the purpose of conducting a criminal prosecution or executing a custodial sentence or detention order. Owing to the character of the EAW, the measures applied by the Member States in relation to the COVID-19 pandemic, such as lockdowns, curfews and closures of borders, seriously impacted the final stage of the EAW procedure: the physical transfer of the requested person to the country of the authority that issued the EAW.

In this regard, the scenario most frequently identified in the cases brought to Eurojust was a situation in which the executing authority had decided to recognise and execute the EAW but it was not possible to organise the transfer of the requested person to the issuing state.

Inability to transfer the requested person could be the result of several circumstances. The main reasons were the following: unavailability of flights due to a worldwide limitation of air traffic, shortage of police staff to organise the transfers and constraints arising from their duty to self-quarantine after returning from a transfer mission, and unavailability of detention and medical facilities where the requested persons could be quarantined and eventually cured after surrender.

In these situations, the issuing authorities generally requested the postponement of surrender with reference to the application of Article 23 of the EAW FWD. In principle, this article lays down time limits for surrender that must be followed and governs the rules that enable authorities to agree on a new

date should the standard time limits not be observed. However, uncertainties related to the pandemic situation did not allow national authorities to come to a swift agreement on a new date for surrender.

In the majority of cases, the request for the postponement of surrender was based either on Article 23(3) (force majeure) or on Article 23(4) (humanitarian reasons) of the EAW FWD. In some instances, the authority requesting the postponement of surrender referred to both these paragraphs. These requests that referred to both paragraphs of the EAW FWD highlighted the issue of the lack of an EU-wide interpretation of when they should be applied and what the relationship is between them.

In cases that entailed neighbouring countries, the authorities managed to agree on a new date through the negotiation procedure stipulated in Article 23(3) and organised the handover of the requested person at a land border crossing.

In addition, in some cases the authorities managed to organise the transport of several requested persons in a military aircraft chartered specifically for the purpose. This solution managed to eliminate the problem of unavailability of flights during the early stages of the pandemic.

Article 23(4) was applied by Member State authorities when the issues related to compulsory quarantine or concerns regarding the health of police officers and requested persons.

These cases typically entailed situations in which the requested person was already in quarantine in the executing state, or the issuing state had implemented a requirement for all persons arriving from abroad to be quarantined. In this case, the issuing state arranged for measures to be taken in the detention institution where the requested person would be held to enable them to follow stringent quarantine rules.

The pandemic-related uncertainties also raised the question of whether there can be repeated postponements of surrender when transfer cannot be arranged. During negotiations between the authorities involved in one case, reference was made to the judgment of the Court of Justice of the European Union in case C-640/15, *Tomas Vilkas* <sup>(9)</sup>, and its conclusion that Article 23 of the EAW FWD must be interpreted as meaning that, after expiry of the time limits laid down in Article 23, the designated authorities retain the obligation to agree on the a new surrender.

When negotiating a new date for surrender, in situations where it was not feasible to agree on any specific date, the authorities provisionally agreed on a day that was expected to be the end date of emergency measures or a date when the measures implemented would have expired (depending on the domestic laws of the Member States in question in this regard). The period of 10 days set forth in both paragraphs 3 and 4 of Article 23 would then start to run after this day would have expired.

In the majority of cases, Article 23 was applied only after the authorities had decided to recognise and execute the EAW. However, in one case the executing authority decided on the recognition and

---

<sup>(9)</sup> For more information, see the judgment (<http://curia.europa.eu/juris/liste.jsf?language=en&jur=C,T,F&num=C-640/15&td=ALL>).

execution of the EAW with postponement, as it was already aware of a known obstacle, namely lack of available flights between the countries involved. The decision on execution therefore specified a date until which surrender was to be postponed (2 months after the decision). In this decision, the executing authority referred directly to both paragraph 3 and paragraph 4 of Article 23. Subsequently, the requested person was released from detention.

This case posed a question recognised by several Member States: Does Article 23 provide an appropriate legal framework for keeping a requested person in detention for an indefinite period and in uncertain conditions when a date for surrender cannot be established? When making a request for the postponement of surrender, issuing authorities referred to the application of Article 12 of the EAW FWD, aiming to provide a legal basis and justification for the detention of the requested person. In some cases, the authorities of the executing state decided to release the requested person from detention where it was not possible to agree on a date for surrender. In one specific case, after the release of the requested person, the EAW was withdrawn by the issuing state. The authority deciding on the release of the requested person referred to Article 23(5) of the EAW FWD, arguing that any time limits specified therein had expired, since it was not possible to establish a surrender date. However, in all other similar cases, the requested person remained in detention until the final date for transfer was agreed among the authorities involved.

## 1.2. Extradition

Equivalent to the EAW mechanism, the standard extradition procedures<sup>(9)</sup> with third states encountered identical problematic situations stemming from COVID-19 related measures. In the majority of these cases, the practitioners requested the assistance of Eurojust when it became clear that the physical surrender of the requested person would not be possible, or when they needed a swift response to requests sent by them as part of the extradition procedure, either as requesting or requested authorities.

The inability to surrender the requested person on the originally agreed date resulted in a need to agree on a new one. In this situation, the authorities of the Member State that had granted extradition to a third state turned to Eurojust with a request to facilitate agreement on a new surrender date<sup>(10)</sup>.

Overall delays in the functioning of judicial authorities due to COVID-19 measures meant that requests for supplementary information<sup>(11)</sup> and general requests for updates on pending extradition procedures were not responded to. In one case, the Member State authority asked for assistance with a request for granting a transit of the requested person<sup>(12)</sup>. In these instances, Eurojust served as a transmission and

---

<sup>(9)</sup> In the cases analysed, either bilateral extradition treaties or the European Convention on Extradition (ETS.024) were applied.

<sup>(10)</sup> Mechanism similar to the rules specified in Article 18 of the European Convention on Extradition (ETS.024).

<sup>(11)</sup> E.g. Article 13 of the European Convention on Extradition (ETS.024) and similar provisions.

<sup>(12)</sup> Article 21 of the European Convention on Extradition (ETS.024).

communication channel. Through its network of third state contact points and the liaison prosecutors working at Eurojust, it facilitated communication between the Member State and non-EU country authorities involved.

### 1.3. Summary of issues and challenges identified in relation to EAW/Extradition

The analysis of the relevant casework showed that the COVID-19 pandemic, particularly in its initial stages, had a serious impact on the functioning of the EAW and extradition mechanisms. The measures applied to mitigate the pandemic directly affected the final stage of the EAW procedure: physical transfer of the requested person to the Member State that issued the EAW. Being aware of the impossibility of transfer, issuing and executing authorities commenced negotiations with the aim of finding a new surrender date, following the rules laid down in Article 23 of the EAW FWD. However, these negotiations were often cumbersome and highlighted the lack of a common EU interpretation of the applicability of Article 23(3) – postponed surrender due to force majeure – and Article 23(4) – postponed surrender on humanitarian grounds – as well as of what the relationship is between these two paragraphs.

Specifically, in their negotiations national authorities raised concerns about the meaning of the word ‘immediately’ in Article 23(3), considering the unpredictable pandemic situation and the resulting impossibility of identifying with certainty a new surrender date. Member State authorities questioned whether an agreement on a new surrender date as laid down in both paragraphs 3 and 4 of Article 23 should be reached immediately after the decision to postpone surrender was taken, or whether the new surrender date could be set later. The uncertainties resulting from pandemic mitigation measures gave rise to further questions about whether Article 23 provides an appropriate legal framework for keeping the requested person in detention in those circumstances and the related application of Article 23(5) (which states that the requested person is to be released from custody on the expiry of the 10-day period from the postponed surrender date).

The pandemic mitigation measures created uncertainty about whether issuing authorities would be able to provide the supplementary information needed for the recognition and execution of EAWs (Article 15(2) of the EAW FWD). In several instances, these measures caused delays in responding to requests for such information.

In the cases registered at Eurojust, the Member State authorities followed the process stipulated in Article 17 of the EAW FWD and informed their counterparts of their inability to observe the time limits set out therein.

Similar experiences were had in relation to the extradition mechanism between EU Member States and non-EU countries. The measures applied directly affected physical surrender of the requested person and resulted in a need for swift communication between the requested and requesting authorities.

#### 1.4. The role of Eurojust and best practices identified in relation to EAW/Extradition casework

Eurojust played a crucial role in supporting national authorities in their communication regarding the application of the articles of the EAW FWD discussed above and related provisions of the international treaties governing extradition.

In particular, the support provided by Eurojust entailed:

- transmitting urgent requests for postponement of surrender and trying to help authorities to reach an agreement on a possible new surrender date;
- exchanging information on current travel restrictions and extension of deadlines owing to a state of emergency, enabling national authorities to take the latest developments into account;
- inviting the issuing authority to provide information on the reasons for maintaining the requested person’s detention, in order to allow the executing authority to review the decision on detention;
- transmitting information on the granting of the issuing authority’s request;
- assisting in obtaining approval for transfers;
- clarifying the position of the judicial authorities on the repeated postponement of transfer and providing information on what the maximum period for an extension was, considering the uncertainty during the initial stages of the pandemic;
- facilitating the exchange of replies to requests for supplementary information.

Best practices identified in the course of the pandemic were as follows:

- transmission of all relevant requests (e.g. in relation to both Article 15(2) and Article 23 of the EAW FWD) via Eurojust;
- in the majority of cases related to the application of Article 23, the early involvement of Eurojust resulted in continuous and constructive communication through which all the issues raised by the authorities involved were clarified and agreement on a new surrender date was reached;
- in terms of physical surrender, travel restrictions can be circumvented by organising the transport of several requested persons in a military aircraft, or handover at a land border crossing in the case of neighbouring countries;
- depending on the nature of the domestic case, a hearing by videoconference based on an EIO may be a more convenient option than an EAW procedure.

## 2. Impact of COVID-19 on the exchange of evidence and other investigative measures

### 2.1. European Investigation Order

With the aim of providing support to EU practitioners in their everyday casework, Eurojust has been closely monitoring the application and functioning of the EIO since its application began in May 2017 <sup>(13)</sup>. To this end, Eurojust has published several documents that identify potential problems and challenges related to the functioning of this relatively new tool of judicial cooperation <sup>(14)</sup>.

In addition to these activities, Eurojust has also gathered specific knowledge concerning the functioning of the EIO in relation to the COVID-19 pandemic. The three main areas in which issues in this respect were identified in Eurojust’s casework are as follows: information needed before the issuing of an EIO, transmission of an EIO and information on the results of its execution, and hearing of persons, including by videoconference.

#### 2.1.1. Information needed before the issuing of a European Investigation Order

Abrupt changes in the everyday work of the judicial authorities, including termination of public services and limited office hours throughout the Member States due to COVID-19 measures, triggered doubts regarding the feasibility of executing EIOs. In brief, the issuing authorities were uncertain about whether it was worth issuing and sending an EIO, being aware of the obstacles and limitations that the executing authorities might face.

In order to clarify the situation and address these concerns, issuing authorities frequently turned to Eurojust with specific queries regarding the feasibility of EIO execution prior to issuing one. In most of these cases, their requests concerned clarification on whether it was possible for the executing authority to conduct witness hearings, including hearings by videoconference <sup>(15)</sup>. In several other cases, the issuing authorities asked for confirmation on which the correct executing authority was and whether it applied any specific COVID-19 measures that would directly affect EIO execution. These concerns were justified, especially in situations where the issuing authorities conducted an investigation with the suspect kept in detention. In those cases, they would have to adhere to strict time limits, which might not be possible under COVID-19 measures.

<sup>(13)</sup> The designated deadline for the Member States to take necessary measures to implement the EIO Directive in national law was 22 May 2017 (Article 36); however, not all of them managed to observe this deadline.

<sup>(14)</sup> Outcome report on the Eurojust meeting on the European Investigation Order at the Hague on 19–20 September 2018 ([https://www.eurojust.europa.eu/sites/default/files/Publications/Reports/2018-12\\_Outcome-Report\\_Eurojust-meeting-on-EIO-Sept2018\\_EN.pdf](https://www.eurojust.europa.eu/sites/default/files/Publications/Reports/2018-12_Outcome-Report_Eurojust-meeting-on-EIO-Sept2018_EN.pdf)); ‘Joint note of Eurojust and the European Judicial Network on the practical application of the European Investigation Order’ (<https://www.eurojust.europa.eu/joint-note-eurojust-and-ejn-practical-application-european-investigation-order-0>); *Report on Eurojust’s casework in the field of the European Investigation Order* ([https://www.eurojust.europa.eu/sites/default/files/2020-11/2020-11\\_EIO-Casework-Report\\_CORR.pdf](https://www.eurojust.europa.eu/sites/default/files/2020-11/2020-11_EIO-Casework-Report_CORR.pdf)).

<sup>(15)</sup> For more on the specific issues relating to these requests, please see Section 2.1.3.

In one case, the issuing authority turned to Eurojust with a request concerning data retention and the possible deletion of data due to the expiry of time limits. The issuing authority was concerned that COVID-19 measures would result in delays in execution causing data to be deleted and no longer available.

One particularly interesting request came from an issuing authority that approached Eurojust with a request for assistance with filling in an EIO form in order to facilitate the issuing process. This request was a result of a shortage of staff at the issuing authority and limited capacity overall at national level because of the COVID-19 pandemic.

### **2.1.2. Transmission of European Investigation Orders and related documents and transfer of evidence**

Once the EIO had been issued, translated (if requested), signed and prepared for sending to the executing authority, the issuing authority faced concerns regarding its delivery for COVID-19-related reasons. Issuing authorities had serious doubts related to restrictions on standard transmission channels (postal and courier services in the Member States). Postal services in some Member States had suspended shipping of items by registered mail, meaning that the issuing authority would have no proof of an EIO’s dispatch or its delivery. For this reason, in a number of cases issuing authorities turned to Eurojust with a request for the transmission of the EIO to the competent executing authority<sup>(16)</sup>. In the light of the COVID-19 crisis, transmission via Eurojust was considered a reliable approach resulting quick feedback from the executing authority, far preferable to uncertain shipping by post with delays and unsuccessful deliveries highly likely to occur.

This means of EIO transmission was used in particular in cases in which a suspect was being kept in detention in the issuing state. In addition to enabling reliable transmission of the EIO, the registration of the case at Eurojust highlighted the detention of the suspect to the executing authority and enabled regular updates on the execution of the EIO.

In addition to transmission of an EIO, executing judicial authorities turned to Eurojust with requests to facilitate the transmission of requests for supplementary information needed for decisions on the recognition and execution of EIOs<sup>(17)</sup>. As in the case of EIO transmission, this communication of supplementary requests via Eurojust enabled contact with the issuing authority and prevented further delays in execution.

After execution had been completed, executing authorities had to resolve the issue of the transfer of evidence – the results of EIO execution. Here, the same problem of unavailability of postal services for shipping of relevant documents and items occurred. In these cases, executing authorities requested the assistance of Eurojust with the transmission of evidence to the issuing authority. This was not always

<sup>(16)</sup> In this regard, please see recital 13 and Article 7 of the EIO Directive.

<sup>(17)</sup> The relevant issues on which executing authorities requested clarification are described in Chapter 4, page 21 and onwards, of the *Report on Eurojust’s casework in the field of the European Investigation Order* ([https://www.eurojust.europa.eu/sites/default/files/2020-11/2020-11\\_EIO-Casework-Report\\_CORR.pdf](https://www.eurojust.europa.eu/sites/default/files/2020-11/2020-11_EIO-Casework-Report_CORR.pdf)).

feasible owing to the character of the evidence gathered, and in one case the executing authority sent the results of the EIO execution via the police liaison officer seconded to the embassy of the issuing state.

From the very early stages of the pandemic, the judicial authorities of the Member States tried to identify the correct contact details and email addresses of their counterparts in the EU in order to send all relevant communications electronically. This was not always possible, since not all Member State judicial authorities publish the email addresses to which, for example, EIOs and other tools of judicial cooperation can be sent. This was often the reason that practitioners turned to Eurojust with a request for EIO transmission. In one case, with the aim of supporting the solely electronic transmission of EIOs, a Member State’s central judicial authority designated a special email address to be used exclusively for this purpose.

### **2.1.3. Hearing of persons, including hearing by videoconference**

As far as specific investigative measures requested in EIOs were concerned, the analysis of the cases found that the pandemic had the most severe impact on hearing of persons. The closure of internal borders between EU Member States, unavailability of air travel and resulting limitation on free movement meant that persons that would normally be interviewed in person were requested to be interviewed either by the executing authority or by videoconference. The higher number of EIO related cases revealed several repeatedly occurring problems.

In countries that implemented lockdowns and compulsory quarantine, the executing authorities faced the problem of how to actually physically approach or otherwise contact the person who was to be heard. When these people were in quarantine, it simply was not possible to conduct the hearing during the quarantine period, and EIO execution was delayed.

The closure of borders resulted in a common scenario in which the person in question (whether a witness or a suspect) was willing to travel to the country where they were supposed to be heard in person in a trial but, owing to travel constraints, simply could not do so. In this situation, the authorities issued an EIO requesting the person to be heard by videoconference<sup>(18)</sup>. In this regard, requests addressed to Eurojust concerned several areas discussed below.

First, the issuing authority needed to verify if it was actually feasible for the executing authority to organise such a hearing and under what conditions. In some Member States, it was possible to conduct hearing by videoconference only in very important and urgent cases. Once the feasibility of this measure was confirmed, Eurojust provided advice regarding which was the competent executing authority and on filling in the EIO (e.g. with regard to technical details relating to the connection, contact persons, an interpreter’s presence and a connection test, and stressing the importance and urgency when applicable).

---

<sup>(18)</sup> Article 24 of the EIO Directive.



After the EIO had been issued, Eurojust served as a transmission and communication channel for the EIO as well as for additional information needed for its execution. The assistance of Eurojust during the execution stage was crucial, since national authorities faced serious challenges arising from lack of staff and technical difficulties caused by the pandemic. The COVID-19-related measures applied often meant that trained administrative staff specialising in technical matters were not available on the dates requested by the issuing authorities and alternative videoconferencing platforms and related software were used instead of standard ones. In most cases, Eurojust’s assistance in communicating these issues to the authorities involved and helping them to find a solution resulted in successful EIO execution and hearing of the person in question. However, in several instances, it was not possible to organise and conduct the hearing by videoconference. In most cases, the main reasons for this were the unavailability of the person to be heard on the trial date as a result of pandemic mitigation measures and limited staff availability at the executing authority. At times, tight deadlines for execution also created an obstacle to hearings. People were requested in EIOs to be heard at the trial stage on dates specified by the issuing authority and, if there was a short time span between the issuing of the EIO and the trial date, it was often not feasible for the executing authority to adhere to the specific date and have the videoconference organised on time.

## 2.2. Mutual legal assistance requests

Within the European Union, the standard treaty-based MLA mechanism is applied for investigative measures that do not fall within the scope of an EIO<sup>(19)</sup>, as well as for all investigative measures in relation to Ireland and Denmark<sup>(20)</sup>. In addition, this mechanism is applied in investigations involving an EU Member State and a non-EU country.

In Eurojust cases related to COVID-19 pandemic, where MLA requests were exchanged, the experience was almost identical to similar cases in which an EIO was used.

The main issues identified can be divided into two groups: cases involving the transmission of MLA requests and the results of their execution and cases concerning the hearing of persons, including hearing by videoconference.

### 2.2.1. Transmission of mutual legal assistance requests and results of their execution

The problems concerning the transmission of MLA requests were similar to those identified and described in relation to the EIO mechanism. Practitioners in the Member States requested the assistance of Eurojust for the same reasons: doubts regarding the functioning of standard postal services and uncertainty about the correct requested authority.

In their requests for assistance concerning third states, practitioners turned to Eurojust because some postal services in EU Member States had completely terminated shipping of documents to certain

<sup>19</sup> Articles 1 and 3 and points 8 and 9 of Preamble of the EIO Directive.

<sup>20</sup> Recitals 44 and 45 of the EIO Directive Preamble.

countries as a result of COVID-19 measures. In this regard, the wide network of Eurojust third state contact points served as a great tool for practitioners and was the only sound alternative for swift and reliable transmission of MLA requests, particularly in urgent cases. The reduced functioning of Member State judicial systems affected the transmission of the results of the MLA request in one case. In this case, the authorities had decided to handle only serious and urgent cases. Although the MLA request had been executed, the transmission of its results – documents already gathered and prepared for delivery – was put on hold.

### 2.2.2. Hearing of persons, including hearing by videoconference

The measures related to the fight against the COVID-19 pandemic affected the possibility to conduct the hearing of a person in the requested state. Prior to sending out an MLA request, practitioners in Member States needed to clarify whether it was feasible to conduct a hearing in the country in question. In case the hearing was requested to be conducted by videoconference (typically within the frame of trial stage in the requesting state), it was not clear whether the COVID-19 measures would allow for it. The main problem was a need to have a person present in the court together with staff of the authority executing the MLA (a judge, an administrative staff). In some of these cases, the authorities of the requested state admitted that in the COVID-19 conditions such a measure would be extraordinarily challenging and only be possible in very important and urgent cases. Upon the advice of authorities of the requested state, these conditions must be clearly stated and explained in the MLA, if eventually issued.

It is noteworthy that such an exceptional approach was confirmed in one case when the hearing of a witness as well as searches of premises were requested. The authorities of the requested state postponed the execution of the search, stating that only urgent measures were being conducted due to COVID-19-related restrictions. In the same case, the requested hearing of a witness was conducted by telephone instead with the witness present at the requested authority. This alternative method of not requiring the presence of the witness was conducted upon a proposal of the requested authority and only after consent of the requesting authority was granted<sup>(21)</sup>. All communication regarding this substitute solution was made and agreed via Eurojust.

### 2.3. Joint investigation teams

Over the last decade, the joint investigation teams developed into a frequently used tool of judicial cooperation among states. Throughout this period, Eurojust has been providing significant support to JITs by assisting practitioners with the identification of suitable cases in which to set up a JIT, organising a coordination meeting to negotiate the set-up of a JIT, drafting the JIT agreement and providing further support during the entire operational life cycle of the JIT <sup>(22)</sup>. In addition, Eurojust provides funding for

<sup>(21)</sup> Since this was a standard MLA request, the rules specified in Article 25 of the EIO Directive were not applicable.

<sup>(22)</sup> For the specific role of Eurojust regarding support to JITs, please consult the Eurojust website (<https://www.eurojust.europa.eu/judicial-cooperation/eurojust-role-facilitating-judicial-cooperation-instruments/joint-investigation-teams>).

JIT activities under the aegis of a tailor-made grant programme <sup>(23)</sup>. Efficient cooperation between JIT parties requires frequent communication and regular meetings to agree on a common investigative strategy and plan a joint action day.

Measures related to COVID-19 significantly affected these aspects of JIT cooperation and resulted in delays in planning and executing JIT activities. In several cases supported by Eurojust prior to the outbreak of the pandemic, the JITs had planned to conduct their joint action days during March or April 2020. Unfortunately, restrictions on worldwide travel prevented the JIT members from travelling to the countries in question, resulting in delays to joint activities and the overall progress of the investigations. For the same reason, scheduled meetings of JIT members were cancelled or postponed during the early stages of the pandemic without new dates being set.

In this situation, JIT members turned to Eurojust with requests for solutions to enable them to hold their meetings online. In response, Eurojust reacted swiftly and organised meetings of JIT members in the form of Eurojust coordination meetings <sup>(24)</sup> via a secure communication platform. Particularly in the early stages of the pandemic, this enabled JIT members to agree on the necessary next steps in their investigations without face-to-face meetings. In the later stages of the pandemic (during May and June 2020), when some travel restrictions were lifted, some JITs executed postponed joint investigative activities. Eurojust supported these JITs by setting up a designated coordination centre <sup>(25)</sup>, again using a secure online communication platform.

As mentioned above, the JITs funding mechanism is a crucial product of Eurojust in the frame of JITs support. It enables JITs to have their activities partially refunded (travel and accommodation costs). In the early stages of the pandemic, scheduled JIT meetings could not be held and JITs were not able to take advantage of their successful applications and awarded grants. In reaction to these circumstances and to maintain support for JIT parties, Eurojust immediately amended the terms and conditions of its funding programme and implemented changes to the funding process <sup>(26)</sup>. The aim of these changes was to provide JIT members with flexibility in planning their common activities so that they could continue their investigations.

The COVID-19 pandemic also impacted national investigations in which cooperation through a JIT was under consideration and negotiation at the outbreak of the pandemic. In these cases, requests to set up a JIT had been sent and initial negotiations on the content of the JIT agreement had begun in March 2020. Unfortunately, due to delays in communication between JIT parties, it was possible to finalise the process of setting up these JITs only in the summer of 2020.

---

<sup>(23)</sup> For the terms and conditions of the JIT funding mechanism, please consult the Eurojust website (<https://www.eurojust.europa.eu/judicial-cooperation/eurojust-role-facilitating-judicial-cooperation-instruments/joint-investigation-teams/funding>).

<sup>(24)</sup> For details concerning coordination meetings, please see Section 2.4.

<sup>(25)</sup> For an explanation of and details on coordination centres, please consult the Eurojust website (<https://www.eurojust.europa.eu/judicial-cooperation/tasks-and-tools-eurojust/coordination-centres>).

<sup>(26)</sup> The details of the amendments to JIT funding can be found on the Eurojust website (<https://www.eurojust.europa.eu/judicial-cooperation/eurojust-role-facilitating-judicial-cooperation-instruments/joint-investigation-teams/funding>).

## 2.4. Exchange of information – specific cases of Eurojust assistance

One of Eurojust’s main activities in its mission to support and strengthen cooperation between Member States on prosecuting serious crime is to bring the respective authorities together and create an environment for the exchange of information related to their investigations. This is achieved through coordination meetings, which are normally held at Eurojust’s premises <sup>(27)</sup>. Requests to organise a coordination meeting were addressed to Eurojust even in the early stages of the pandemic, since the authorities of the Member States needed to proceed with their investigations, discover the status of linked investigations in other Member States and plan common investigative actions.

Unfortunately, the travel restrictions implemented throughout the EU made it very difficult for representatives of Member State authorities to travel to Eurojust’s premises in the Netherlands. For this reason, Eurojust swiftly offered authorities in the Member States the option of organising their meetings by videoconference, using a secure communication platform, with interpretation when needed. This allowed judicial and police authorities to reach their counterparts in other Member States and exchange relevant information on their cases despite the travel restrictions. In one case, Eurojust even organised a meeting of national authorities that was held at the border of the countries involved, thus minimising the impact of travel restrictions.

In cases that had been supported by Eurojust prior to the outbreak of the pandemic, and had reached the stage of a joint action day, authorities asked Eurojust to facilitate the coordination of the common investigation measures. In these cases, Eurojust organised coordination centres <sup>(28)</sup> using a secure communication platform.

In the period analysed in this report, Eurojust organised 74 coordination meetings (of which 73 were conducted by videoconference) and 7 coordination centres (all conducted by videoconference) <sup>(29)</sup>.

These activities and the support provided to practitioners demonstrate that Eurojust remained fully operational despite the crisis and concerns regarding the functioning of judicial authorities in the EU.

## 2.5. Summary of issues identified in relation to exchange of evidence and other investigative measures

During the initial stages of the pandemic, the work of judicial authorities was heavily affected by uncertainty about how mechanisms for cross-border exchange of evidence and requests for other cooperation measures would function. Practitioners asked for clarification on whether it would be feasible to issue an EIO or MLA request (both in general and in relation to specific measures) and how

---

<sup>(27)</sup> For an explanation of and details on coordination meetings, please consult the Eurojust website (<https://www.eurojust.europa.eu/judicial-cooperation/tasks-and-tools-eurojust/coordination-meetings>).

<sup>(28)</sup> For further details on coordination centres, please consult the Eurojust website (<https://www.eurojust.europa.eu/judicial-cooperation/tasks-and-tools-eurojust/coordination-centres>).

<sup>(29)</sup> These figures include cases in which no particular link to COVID-19 was identified but a request to organise a coordination meeting or coordination centre was received.

to have it delivered to the correct executing/requested authority. Once these matters were clarified, Eurojust served as a reliable means of transmission, particularly in cases where other means (e.g. postal services) were interrupted or unavailable. As far as requested measures were concerned, the hearing of persons – which usually requires the physical presence of the person – proved to be the most problematic. In most cases, an in-person hearing was successfully replaced with a hearing by videoconference or by telephone. It should be noted that these methods required additional efforts and resources on the part of the executing/requested authorities, which in some instances were willing to provide this assistance only in cases of extraordinary and serious crime. Overall delays in the execution of EIOs were experienced.

Cooperation and common investigation strategies within the joint investigation teams were delayed due to the inability of the JIT members to meet and attend planned common actions.

To the extent possible, physical meetings of practitioners were replaced by videoconferences, for which Eurojust provided a secure communication platform as well as remained fully operational in order to provide support to practitioners.

## **2.6. The role of Eurojust and best practices identified in relation to exchange of evidence and other measures**

The cases brought to Eurojust showed that the main activities regarding the exchange of evidence and other measures entailed:

- facilitating communication between the competent authorities of the Member States regarding whether an EIO or MLA request could be issued and sent;
- assisting with drafting and completing EIOs and MLA requests in view of limited capacity at national level;
- identifying the correct executing/requested authority, transmitting the EIO or MLA request, contacting the executing/requested authority and explaining the character of the case and its urgency (serving as a communication channel);
- clarifying questions about whether translation was necessary, whether the executing authority was willing to accept a scanned copy of the original request by email, etc.;
- advising on if the issuing authority should send an EIO or MLA request to the executing authority to request a hearing by videoconference;
- clarifying technical and practical questions in relation to the type of videoconference connection to use, the name and contact details of the contact point who would establish the connection and set up a technical test, etc.;



- informing issuing/requesting authorities that executing/requested authorities were ensuring that urgent matters were taken care of;
- speeding up the process of obtaining requested documents from executing authorities and forwarding them to issuing authorities;
- assisting in finding alternative solutions where hearings by videoconference were not possible (e.g. hearings by telephone, even where this is very rarely used in the executing Member State);
- organising coordination meetings and coordination centres at the request of practitioners (including JIT members) using a secure online communication platform;
- amending the terms and conditions of the JIT funding programme so that practitioners could use the grants awarded to them.

Best practices that practitioners can benefit from can be summarised as follows.

- Practitioners should contact Eurojust as soon as possible in urgent cases, already when considering the feasibility of issuing an EIO or MLA request due to COVID-19 restrictions. Eurojust can coordinate with liaison prosecutors and others to avoid any difficulties that could delay judicial assistance and to facilitate communication between competent authorities in Member States and non-EU countries.
- To have a suspect or a witness able to participate in the trial by videoconference instead of being there in person and/or to consider other investigative measures (e.g. hearing by telephone).
- Practitioners should clearly explain the urgency of the case in the EIO or MLA request, where applicable.
- Handing over documents to the liaison officer at the embassy of the issuing Member State in the executing Member State has occasionally been used as a method of delivery, and, in view of COVID-19-related restrictions on travel and postal services, this can facilitate the handover of the results of the execution of EIOs and MLA requests.

### **3. COVID-19 as a crime opportunity, related asset recovery measures and the role of Eurojust**

#### **3.1. COVID-19 as a crime opportunity**

The new rules and measures that were implemented by the Member States in order to combat the COVID-19 pandemic, as well as changes in the everyday behaviour of people, created new opportunities for organised crime groups to profit financially.

In this regard, the analysis of Eurojust’s casework found that the activities of organised crime groups were focused predominantly on frauds committed in two main areas: sales of disinfection and protection items (hand sanitising gel and protective face masks) and state subsidies linked to the COVID-19 pandemic.

In addition to these cases of fraud, one case of cyberattack on a medical facility involved in testing for COVID-19 was identified. In this case, suspects carried out a cyberattack on the computer system of a hospital and encrypted all its IT systems. As a consequence, the hospital had to be temporarily closed. In addition to putting patients at risk, substantial material damage was caused to the hospital.

##### **3.1.1. Frauds related to demand for disinfection and protection items**

New regulations on the application of stringent hygiene measures and requiring the compulsory wearing of protective face masks enacted by Member States created a high level of demand for disinfectant gels, protective medical masks and medical gloves. In this area, the two most frequent modi operandi applied by organised crime groups have been identified from the cases analysed.

First, websites for bogus businesses were created offering protective items for sale and delivery, or pharmaceutical companies were directly contacted by straw men acting on behalf of such bogus companies. In either case, a down payment was requested prior to shipping the items ordered. The customers sent payments to bank accounts controlled by the suspects.

The second modus operandi entailed stealing the identity of existing producers of protective items. The perpetrators contacted pharmacies, pretending to act on behalf of known and established producers, or created websites looking very similar to the websites of such producers, in order to swindle the victims. The victims then placed orders and sent payments to bank accounts controlled by the suspects.

##### **3.1.2. Frauds related to COVID-19 state subsidies**

Subsidies introduced in one Member State resulted in an attempt to redirect money intended to support and compensate people affected by the pandemic from its intended recipients to the bank accounts of suspects. The suspects created fraudulent websites mimicking the portals through which applicants could request funds from COVID-19 state subsidies. The main objective was to gain access to the log-in

details and credentials of the applicants. Subsequently, these stolen credentials would be used to redirect subsidy payments to the bank accounts of the suspects.

### 3.2. Asset recovery measures regarding COVID-19 crimes

The main goal of the fraudulent activities by organised crime groups described above was financial profit. The victims of these frauds transferred money to bank accounts with banks located both within and outside the EU. In most cases, the investigative authorities aimed to swiftly freeze fraudulently transferred money. For this purpose, respective freezing orders and certificates were issued <sup>(30)</sup>. Issues in relation to freezing of assets arose in cases in which the crimes committed were directly linked to the pandemic, as well as in other cases <sup>(31)</sup>.

Eurojust provided its assistance in relation to the recognition and execution of freezing orders in several areas. First, since asset freezing requires urgent action, issuing authorities turned to Eurojust with requests to swiftly transmit freezing orders and certificates to the competent executing authorities. In these cases, Eurojust was a reliable transmission channel for the same reasons as in relation to EIOs and MLA requests. Transmission via Eurojust was especially crucial in cases in which the issuing authority requested that a short deadline be adhered to. Measures implemented by Member States, such as work-from-home requirements, temporarily closed courts and suspension of deadlines, made it almost impossible for executing authorities to meet short deadlines. In the cases identified, transmission of freezing orders and certificates via Eurojust enabled swift delivery to the correct executing authority, timely recognition and execution, and freezing of the fraudulently transferred money.

A second significant group of cases demonstrates the valuable assistance provided by Eurojust during the recognition stage. The urgency of freezing requests and the speed of work required sometimes meant that the issuing authority did not provide a sufficient level of detail in the certificate. In these instances, Eurojust was requested to clarify details of the certificates with the issuing authorities and provide additional information needed for recognition.

In addition, Eurojust facilitated the translation of certificates that needed to be translated into the official language of the executing state <sup>(32)</sup>. This assistance was crucial for swift recognition and execution, since the pandemic mitigation measures often created delays in providing translation services.

---

<sup>(30)</sup> The instrument applied was Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence. Note that on 19 December 2020 this instrument was replaced by Regulation (EU) 2018/1805 of the European Parliament and of the Council of 14 November 2018 on the mutual recognition of freezing orders and confiscation orders.

<sup>(31)</sup> For a general overview of Eurojust’s casework in the field of asset recovery, please consult the *Report on Eurojust’s Casework on Asset Recovery* of February 2019 ([https://www.eurojust.europa.eu/sites/default/files/Publications/Reports/2019-02-12\\_EJ-Casework-Asset-Recovery\\_full-report\\_EN.pdf](https://www.eurojust.europa.eu/sites/default/files/Publications/Reports/2019-02-12_EJ-Casework-Asset-Recovery_full-report_EN.pdf)).

<sup>(32)</sup> Article 9(2) of Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence.



Less commonly, Eurojust provided assistance in relation to the duration of the freezing measures <sup>(33)</sup> when freezing orders had been recognised and executed prior to the outbreak of the pandemic. In one case, the national law of the Member State implementing Council Framework Decision 2003/577/JHA imposed a duty on the executing authority to contact the issuing authority every 6 months in order to confirm whether the reasons for the freezing measures were still valid and fully justified. Owing to COVID-19-related measures, the executing authority did not receive a response to a query in this regard and, as a result, the freezing measures could have been lifted. Eurojust facilitated the response of the issuing authority and the freezing measures were successfully maintained.

### **3.3. Summary of knowledge on COVID-19 as a crime opportunity and related asset recovery measures**

The new and unprecedented situation of the COVID-19 pandemic in the Member States immediately instigated activities by organised crime groups with the aim of gaining financial profit. The main activities of organised crime groups were frauds related to sales of protective items and to COVID-19 state subsidies. One cyberattack on a hospital involved in COVID-19 testing was identified. Typical fraud scenarios entailed fraudulent transfers of money to bank accounts controlled by suspects located abroad.

Member State authorities reacted by immediately commencing criminal investigations and issuing freezing orders and certificates under Framework Decision 2003/577/JHA. The main goal was to swiftly freeze identified accounts and secure the money for the purposes of criminal proceedings. The most frequent reason for practitioners contacting Eurojust was to request swift transmission of the freezing order and certificate and any further assistance needed for timely recognition and execution.

### **3.4. Role of Eurojust and best practices identified in relation to COVID-19 as a crime opportunity and related asset recovery measures**

In cases where COVID-19 served as an opportunity for organised crime, the relevant crime types and modus operandi were abstracted from the cases described above.

In this regard, Eurojust’s main role was to swiftly transmit EIOs, MLA requests and related additional documentation, and to communicate the results of the execution of cooperation requests. In several instances, Eurojust organised coordination meetings or a coordination centre at the request of practitioners. In this respect, the information provided in Sections 1.4 and 2.6 is relevant here as well.

---

<sup>(33)</sup> Article 6 of Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence.

As far as freezing of assets was concerned, Eurojust’s main roles were identifying the correct executing authority and transmitting freezing orders and certificates, and facilitating their translation as a matter of urgency.

## Conclusions

The COVID-19 pandemic impacted all aspects of life, and judicial cooperation in criminal matters was no exception. In particular, the pandemic affected the most frequently used instruments of judicial cooperation and posed significant challenges for practitioners in the Member States. The analysis of Eurojust’s casework in the context of the COVID-19 pandemic led to the following conclusions.

1. With regard to the application of EAWs, the measures applied had a considerable effect on the final stage of EAW proceedings: physical surrender of the requested person. In order to deal with the repercussions of the impossibility of surrender, the authorities applied the relevant rules set forth in Article 23 of the EAW FWD. However, it became clear that there was no common understanding on when these rules should be applied and what the relationship was between them. Despite preliminary difficulties, the EAW mechanism remained functional, and in a majority of cases the surrender of the requested person was eventually carried out after a new date had been agreed.
2. As far as requests for specific investigative measures (whether EIOs or MLA requests) were concerned, the Member States faced challenges when the physical presence of a person was needed, typically for the hearing of a witness or a suspect. Although execution of EIOs and MLA requests was still possible, in some instances the Member States were willing to do so only in urgent and extraordinary cases.
3. Requests for the transmission of an EIO, an MLA request and/or a freezing order were one of the types of requests for assistance most frequently addressed to Eurojust in the early stages of the pandemic. Practitioners needed a reliable transmission and communication channel in a situation in which standard postal services were either not available or unreliable.
4. In this regard, one way forward could be the establishment of a single electronic platform for the exchange of the most frequently applied instruments of judicial cooperation, with access for Eurojust. This solution would not depend on the transmission of hard copies. Sending hard copies using postal services may not be a reliable method of transmission and can result in delays or even failure of judicial cooperation as such. This ties in with the preparations for the implementation of the e-Evidence Digital Exchange System (e-EDES) as part of the Digital Criminal Justice project launched by the European Commission. Eurojust is closely involved in this project, providing its expertise and clarification regarding its need to be connected to the system. The cases analysed demonstrate that practitioners can only benefit from Eurojust having access to this electronic system and thus being able to properly fulfil its tasks.

5. The activities of JITs were limited, since it was much more difficult for JIT members to meet and plan common investigative actions. In several instances, planned joint action days were postponed.
6. The pandemic created new opportunities for organised crime groups to gain illegal financial profit by taking advantage of the demand for specific items linked to the pandemic and by perpetrating frauds relating to state subsidies. The actions of criminal groups were based on the immediate situations in the Member States, such as new markets for in-demand items and support programmes for small businesses. Since the pandemic situation is evolving (vaccination programmes, repeated lockdowns and new forms of state support), it can be anticipated that the focus of organised crime will shift. Frauds related to the distribution of vaccines and linked to procurement procedures in the area of EU funds for COVID-19 relief can be expected.
7. Despite the pandemic restrictions and the variety of measures implemented, which prevented the organisation of meetings, Eurojust remained fully operational. Eurojust’s services, such as coordination meetings and coordination centres, were maintained using a secure online communication platform when necessary. In addition, Eurojust remained active in providing other standard services to practitioners and supporting them throughout the pandemic.



Eurojust, Johan de Wittlaan 9, 2517 JR The Hague, The Netherlands  
www.eurojust.europa.eu • info@eurojust.europa.eu • +31 70 412 5000  
Twitter & LinkedIn: @Eurojust

Print: Catalogue number: QP-08-21-082-EN-C • ISBN: 978-92-9490-604-5 • DOI: 10.2812/661208  
PDF: Catalogue number: QP-08-21-082-EN-N • ISBN: 978-92-9490-603-8 • DOI: 10.2812/083631