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## COVER NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Eurojust Written Recommendations on Jurisdiction - Follow-up at the national level

Delegations will find attached the leaflet 'Jurisdiction requests in a nutshell', which is also available on Eurojust's website.

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# EUROJUST WRITTEN REQUESTS ON JURISDICTION IN A NUTSHELL

## What is a Eurojust written request on jurisdiction?

Eurojust written requests (or recommendations) are issued by National Members to assist national authorities when jurisdictional issues arise between two or more Member States. They are based on Article 4(2)(b) of the Eurojust Regulation and fall within the autonomous initiative powers of Eurojust.

They usually take the form of 'joint requests', i.e. requests issued jointly by two or more National Members involved in a case (and, sometimes, by Liaison Prosecutors). With a joint request, the National Members ask their respective competent authorities to accept that one of them is in a better position to undertake an investigation or prosecute specific acts. The conclusion included in the joint request is based on an in-depth assessment of the legal and factual circumstances of the case and is developed in accordance with the [Eurojust Guidelines on Jurisdiction](#).

National authorities can therefore rely upon a commonly held opinion of Eurojust supported by a reasoned legal assessment. They may refuse to comply with such requests only if doing so would harm essential national security interests, jeopardise the success of an ongoing investigation or jeopardise the safety of an individual.

Eurojust written requests may concern cases where:

- ▶ there are parallel proceedings ongoing in different Member States concerning the same facts and the same suspects, so that their continuation could lead to an infringement of the *ne bis in idem* principle (conflict of jurisdiction in a strict sense);
- ▶ or the offences and suspects investigated in two or more countries are not identical but closely connected and mutually dependent, and a possible concentration of the proceedings in one country would be more effective in the interest of justice.

They are either issued at the request of national authorities or upon autonomous initiative of the National Members involved, in particular when:

- ▶ a document setting out the reasons supporting the decision on which country is best placed to prosecute is considered helpful or even needed at the national level;
- ▶ the national authorities request the opinion of Eurojust;
- ▶ the national authorities cannot come to an agreement on jurisdictional issues.



## What was the outcome of the analysis of Eurojust written requests issued between 2016 and 2019?

The analysis of Eurojust written requests, issued between 2016 and 2019, on which State is best placed to prosecute shows that they are an effective tool to address jurisdictional issues in transnational criminal proceedings, especially to:

- ▶ prevent duplication of efforts or risks of infringing the *ne bis in idem* principle;
- ▶ ensure a more effective prosecutorial strategy.

In all cases, except one, the national authorities transferred / accepted the transfer of the case fully in line with the solution suggested by Eurojust. In most cases, the Eurojust request was mentioned in the national decision to transfer the case that, later, was rarely challenged by the parties. When this happened, the challenge was often dismissed as unfounded by the competent national courts, who were able to rely on the arguments and legal assessment included in the Eurojust request.

Following the issuing of a written request, Eurojust continues to assist national authorities in facilitating the execution of the transfer of proceedings in line with its recommendations, e.g. by addressing issues regarding the translation of the case file or delays in its concrete transmission, or by receiving a formal reply of acceptance of the transfer.