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I am very pleased to present the Eurojust Annual Report for 2004.

This is our third Annual Report. It has been prepared in accordance with Article 32(1) of the Eurojust Decision which requires that the President, on behalf of the College, "shall report to the Council in writing every year on the activities and management, including budgetary management, of Eurojust."

I am very pleased to report that the number of cases referred to the College in 2004 increased by more than 27% over the figure for 2003, which reflects the continued trend of growth in our casework. There was a 50% increase in 2003 over the number of cases referred in 2002. During 2004 there was a significant and impressive increase of almost 40% in the number of multilateral cases referred to the College, as well as an increase in the number of cases of seriousness and gravity.

It is significant that more cases were referred to Eurojust for assistance at an early stage of international investigations. When this happens Eurojust can save resources and add real value for those fighting international crime. We are pleased but still not satisfied with these increases and improvements. We are confident that more cases could be referred to Eurojust, as the College still does not feel that Eurojust’s capacity to deal with casework is being fully exploited. Many significant multilateral cases which are being dealt with by authorities in the Member States are not being referred to Eurojust. We feel that, in many of these cases, Eurojust’s contribution would often be very beneficial. Promulgating the message that Eurojust has the capacity to add value in the fight against organised cross-border crime remains a key part of our work.

Our 2003 Annual Report expressed disappointment that the Dutch authorities had not finished our conference rooms by the end of that year, which consequently restricted our capacity. Work on our larger conference room was completed at the end of February and a second specialist conference room was completed in December. We are very proud of these facilities, which will undoubtedly assist us in achieving our assigned objectives.

We were able to hold a number of fruitful strategic meetings on significant casework topics, including new spheres of serious organised crime investigations and prosecutions. The topics covered included terrorist activity; the trafficking of human beings; controlled deliveries and covert surveillance in cross-border drug trafficking cases; relations with Liaison Magistrates; and VAT carousel fraud. We have been able to repeat the success of our meetings with terrorist experts and to build networks of specialist investigators and prosecutors across Europe.

In addition to these strategic meetings, we held our annual seminar for practitioners on 25 and 26 October in Prague, addressing practical issues related to the European Arrest Warrant.
also held a total of 52 meetings to facilitate co-operation and to co-ordinate action in specific cases. A more detailed analysis of these case referrals and the strategic meetings is contained in the Casework chapter of this report.

Eurojust has continued to develop links with a number of bodies. In June Europol’s Director, Jürgen Storbeck, and I signed a formal agreement between Eurojust and Europol following its approval by the Council earlier in the year. Our relationship with Europol continues to strengthen. In November, together with Europol, we were delighted to facilitate the establishment of the first Joint Investigation Team formed by investigators and prosecutors from The Netherlands and the UK, who are working together on a drug trafficking case.

We completed negotiations with Norway to put in place our first formal agreement with a state outside the European Union. The agreement was approved by the Council early in 2005. The negotiations with Romania are well advanced and we hope that our second agreement will be formally concluded in the first half of 2005. Our network of contact points continues to grow. Several states in the Western Balkans have appointed contact points and so has Ukraine. National Members are regularly in touch with our Russian contact point with positive results following his visit to us in March 2004. There have been preliminary negotiations with the Israeli Ministry of Justice, which we hope will lead them toward nominating a contact point early in 2005.

One of the most significant achievements during 2004 was that members of the College, working with the Data Protection Officer, drafted, and the College unanimously agreed, our Rules of Procedure on the Processing and Protection of Personal Data. After approval by the independent Eurojust Joint Supervisory Body for Data Protection, the rules were submitted in October and approved by the Council in early 2005.

Some Member States – and not only those acceding to the Union in May 2004 – still have to change their legislation and so have not met the deadline for implementation of the Eurojust Decision. It is extremely important for all National Members to have access to all information indispensable for the exercise of their duties. Some National Members have had very few cases referred to them by their national competent authorities; we feel this is often due to the absence of implementing legislation.

There is a need for clarity and certainty about the competence of all National Members and this competence must be clearly defined and understood in their domestic law. Several National Members are still without this clarity and certainty and so their authority to act in their home states is restricted.
The College is very happy that Eurojust features strongly in The Hague Programme, which was agreed at the European Council in November 2004 and builds on the Council’s conclusions made at Tampere in 1999. We are pleased that The Hague Programme refers frequently to Eurojust, confirming our role as a leading player in EU Justice and Home Affairs matters. The programme is ambitious and we will do all we can to live up to these expectations.

During 2004 we said farewell to three National Members, each of whom had been part of the College since the formation of Provisional Eurojust on 1 March 2001. We were very sorry to say farewell to a Vice-President of the College and the National Member for France, Olivier de Baynast, who was appointed Procureur General of Amiens in September. The National Members for Ireland and Finland, Micheál Mooney and Tuomas Oja, also left us in the summer and returned to work in their home countries. We wish Olivier, Micheál and Tuomas well in their new roles and we welcome their replacements into the College: François Falletti (France), Jarlath Spellman (Ireland) and Maarit Loimukoski (Finland).

In May the enlargement of the European Union brought great change to all EU organisations. Eurojust was no exception. We are pleased that our extensive preparatory work produced good results. The enlarged College met for the first time on Tuesday, 4 May. All ten Accession States had appointed their National Members and each of the 25 Member States was represented. More important, nine of the new members have been able to attend meetings regularly since then. Only Malta has not been represented frequently. We are sure this difficulty will be resolved in 2005. A 66% increase in size is bound to change any organisation. Even for a youthful organisation like ours, the change has been invigorating and refreshing. Our new National Members have brought a focus, commitment and enthusiasm which I am sure will serve us well as we continue to develop Eurojust’s role.

I indicated in the foreword to the Annual Report for 2003 that there was still much work to be done and that remains the case. But significant progress has been made and we have made a number of notable achievements during 2004. We believe we have laid the foundation to provide effective support and facilities to the practitioners dealing with serious cross-border crime.

One of the most significant achievements in building our infrastructure during the year was that, following the E-POC I Project, we installed our new electronic Case Management System (CMS), which is now in use. This system met the Eurojust Decision’s requirement for us to maintain an automated data index. We also began installation of a vitally important secure network for internal communication. We began work through our E-POC II Project on a feasibility study for potential solutions to allow our National Members to transmit and receive secure communications.
with our national competent authorities and other partners The E-POC II feasibility study has a completion deadline in December 2005 and it will include a feature enabling the European Judicial Network to have a Virtual Private Network (VPN).

In 2004 we consolidated the progress made during our first twelve months in The Hague. Eurojust’s infrastructure and staff have been expanded to give our organisation the capacity to develop our effectiveness and work across the European Union and beyond. At the beginning of January 2004 Eurojust was comprised of 15 National Members and Assistants, an Administrative Director and 29 administrative staff members. By the end of December the organisation had grown to 25 National Members and their Assistants, supported by 63 administrative staff members. The past year saw a number of appointments to fill positions identified in the Eurojust establishment plan. These posts include almost all the key posts within the Eurojust administration: the heads of Legal Service, Human Resources, Budget and Finance and Information Management (IM).

The first independent enquiry and report conducted into the operation and work of Eurojust took place in the first half of 2004. The United Kingdom’s House of Lords sub-Committee F responsible for EU Justice and Home Affairs issues conducted a detailed enquiry into Eurojust. Members of the enquiry team gathered evidence in the early months of the year and, while visiting our premises in May, took formal evidence from the College. We were very pleased that the report concluded that Eurojust had made an excellent start.

There is still much to do. We must continue to build our profile across the enlarged EU and to develop investigators’ and prosecutors’ trust and confidence in Eurojust to ensure they will consult us and refer issues to Eurojust without hesitation.

I encourage recipients of this report to ensure it is read by all in their jurisdictions who have an interest in the fight against serious cross-border crime.

MICHAEL G. KENNEDY
President of the College
February 2005
1 THE STRUCTURE AND DEVELOPMENT OF EUROJUST

Eurojust is composed of 25 National Members, one seconded from each Member State in accordance with its legal system, and qualified as a judge, prosecutor or police officer of similar competence.

Several Member States have appointed Assistants to help their National Members. Twelve Assistants are based in The Hague with their National Members while four Member States have appointed Assistants who are based in their home countries. Those Assistants who are not based in The Hague visit our premises to substitute or deputise for their National Members when they are required to do so. The amount of work of some of the National Members and their Assistants has increased to such an extent that several have requested another Assistant.

EU Enlargement Brings a New Working Structure for Eurojust

In 2002 we established four committees to ensure that the wide range of topics to be handled by the National Members could be divided amongst the National Members of the College and so handled more effectively in smaller groups. However, the Casework, Policy/Strategy, Communications and Evaluation Committees continued their work in 2004.

Over the past two years this structure of four committees has served us well and achieved a considerable amount. This was particularly true in 2004 when the Casework Committee took on the responsibility for an increased number of casework meetings and seminars on various types of organised crime and which are referred to in detail later in this report. The Policy/Strategy Committee was also responsible for a number of significant developments during the year. All these developments were important to us but the most challenging, and hence the most pleasing, was the preparation and unanimous agreement of our Rules of Procedure on the Processing and Protection of Personal Data. Other very important work included the finalisation of the agreements with Europol and Norway, and the work to endeavour to improve our relations with OLAF. The Communications and Evaluation Committees were less active for a variety of reasons, ranging from the appointment of a permanent member of staff as the Press Officer in 2003, to the changing backcloth of the College.

EU enlargement and the growth of our administrative staff had a significant impact. We had to find more efficient and effective ways of working in the changed environment. It became clear that the enlarged College of 25 National Members and Eurojust were not best and most effectively served by four committees. It was important to harness and blend the capacities and skills of all the National Members, the new with the more experienced, allowing each of them and
their Assistants to contribute to the functioning, the operational business and the management of Eurojust.

At our planning event in October we resolved to move to a more flexible and practical arrangement. We agreed to divide initial responsibility for our work by forming 21 teams, whose members are drawn from amongst all the National Members and Assistants permanently based in The Hague. Most of the teams specialise in certain types of crime, whereas some teams have administrative or strategic responsibilities.

Each team is comprised of several National Members and Assistants, one of whom acts as chair and takes the lead in that particular area of work. This method of operation allows us to draw on the individual experience and expertise of the National Members and their Assistants and derive support from staff in the Eurojust administration. The teams can deal with initial reactions, consider material and issues, make recommendations and prepare briefings for meetings of the College. Members of these teams can also represent the College in appropriate fora dealing with the subjects for which they are taking a leading responsibility.

In this way the College can better deal with complex topics, thus avoiding the cumbersome process of referring all matters to the 25 National Members for discussion and decision on a proposed course of action. This strategy is vital when dealing with the ever widening range of subjects, both in casework and strategic matters, and for legislative proposals which were being referred to the College for opinion from Member States and from EU partners but particularly from EU organisations and bodies. Details of the names of the teams and membership are contained in the annexes to this report.

**Data Protection, the E-POC Project and the Eurojust Case Management System (CMS)**

We mentioned in the Annual Report for 2003 that Eurojust had started work on a computer-based case filing system. Since the main activity of Eurojust is casework, this project was given high priority. The aim of the system is to provide an overview of the nature and extent of the cross-border crimes and investigations referred to Eurojust and compile this and other casework information in an easily accessible database. This work continued in 2004.

During 2004 Eurojust also continued its involvement in an EU project known as E-POC (European Pool against Organised Crime), which is funded by the Grotius II penal programme. The project is led by Italy and supported by the French, Slovenian and Romanian Ministries
of Justice. The main objectives are the delivery of a feasibility study to design a software system to support Eurojust’s tasks to exchange information and to develop appropriate software.

During the development of the project in 2004 it became clear that it would be possible to develop a prototype case management system on the basis of the E-POC Project which would meet the requirements that Eurojust had laid down for its case filing system. As a result, an agreement was reached with the Italian Ministry of Justice to further develop the prototype to produce the first version of Eurojust’s Case Management System (CMS). At the same time, Eurojust was able to formulate a regime for data protection in Eurojust, including data protection in connection with casework, and received the approval of the Joint Supervisory Body for both the data protection regime and the new Case Management System.

This work was undertaken and completed in September 2004. Following training of National Members, Assistants and appropriate staff, the system became operational on 15 October 2004. Three hundred seventy cases were registered on the system prior to the launch date and a further 150 cases were registered by users after this date.

In the meantime, work has commenced on the E-POC II Project, with Eurojust as a formal partner. This project will further enhance the functional capacity of Eurojust’s CMS, particularly in relation to communications and the introduction of Eurojust’s data protection rules.
Eurojust is seen as a major part of the infrastructure of the European Union in the area of freedom, security and justice. We were pleased to see this position reflected in key initiatives such as The Hague Programme. The creation of the EU area of freedom, security and justice requires Member States to implement in national legislation the decisions and agreements reached at EU meetings of Ministers of Justice and Home Affairs. A review of current state implementation in Member States reveals some significant achievements but also reveals that some important instruments are not yet fully implemented in all Member States. We set out below the state of play of implementation for some of the key instruments.

**Implementation of the Eurojust Decision**

We reported last year that several Member States had not put in place legislation to implement the Eurojust Decision in their countries. We are disappointed to report that this is still the case in Greece and Spain. Luxembourg and Italy implemented the Decision in February 2005. Nine of the Member States who joined the EU on 1 May 2004 have changed their legislation to implement the Decision. Cyprus was able to implement the Decision without making any legislative changes. A failure to legislate frequently means that the competent domestic authorities do not have a formal legal basis on which they can refer cases to their Eurojust National Member for assistance and, second, that the Eurojust National Member is not empowered to act in the way envisaged when Eurojust was created. If even one National Member is not empowered to act as envisaged in the Decision, this situation poses a problem, not only for the individual National Member, but for the whole unit whose work with that person will be restricted and at a lower level than the Decision intended. Any chain is only as strong as its weakest link.

**Implementation of the Key JHA Instruments**

The European Arrest Warrant (EAW) was implemented in 24 of the 25 Member States during 2004. This is an impressive achievement. Although the EAW was not operating in all EU states, at the end of the year only Italy had not implemented the new instrument. Eurojust held a seminar in Prague in October for practitioners dealing with the EAW. Delegates at the seminar identified a number of blockages and issues which are set out in Annex II to this report in connection with the practical implementation of the EAW.

It is unfortunate that we must repeat the point we made in the Eurojust Annual Reports for 2002 and 2003 that a large number of countries have not implemented the EU Mutual Legal
Assistance Convention of 2000 and the Protocol to the Convention. As we prepare this report only Denmark, Estonia, Finland, Hungary, Latvia, Lithuania, Portugal, Spain and The Netherlands have implemented the Convention. At the end of 2004 only Spain, The Netherlands, Latvia and Lithuania had confirmed implementation of the Protocol. The absence of implementation is a continuing disappointment and seriously undermines effective mutual legal assistance and international co-operation in the EU in the fight against serious cross-border crime.

The Framework Decision on creating Joint Investigation Teams was implemented at the end of 2004 in all Member States except Greece, Italy, Latvia and Luxembourg. The implementation deadlines set by the Council had been 1 January 2003 for the 15 Member States and June 2004 for the ten Accession States.

By the end of 2004 the Decision of 19 December 2002 to implement specific measures for police and judicial co-operation to combat terrorism was fully implemented in all Member States. However, the Framework Decision of 13 June 2002 on combating terrorism had not been implemented in Cyprus, Ireland, Latvia, Lithuania and Malta.

The Framework Decision of 26 June 2001 on money laundering, the identification, tracing, freezing and confiscation of instrumentalities and proceeds of crime had a deadline for implementation of 31 December 2002 (June 2004 for the Accession States). At the end of 2004 Greece, Luxembourg, Malta and Sweden had not fully implemented the Decision.

The European Judicial Network (EJN)

The excellent co-operation between Eurojust and the EJN continued in 2004. The Secretary to the EJN meets regularly with the College and several Deputies and Assistants to Eurojust National Members are EJN contact points. The EJN contact points provide vital additional practical insights and contribute to Eurojust’s experience, especially when issues and problems arise which might require formal recommendations to be made to improve mutual legal assistance. During 2004 the successful Irish and Dutch EU Presidency meetings of the EJN were attended by several Eurojust National Members as speakers, members of workshops and contributors.

The Dutch Presidency meeting of the EJN took place in The Hague and Eurojust was pleased to host part of the meeting at its premises. This provided many EJN contact points with their first opportunity to visit Eurojust, and to meet their National Members and view the impressive meeting and conference facilities which were completed during the year.
The EJN Secretariat is integrated and works closely with Eurojust administration. Structures and procedures have been further developed that ensure compliance with the requirements of the Eurojust Decision and allow the EJN to receive funding from Eurojust’s budget and so to function effectively.

The improvement of its information tools was one of the main achievements of the EJN Secretariat in 2004. The Atlas website has been completely revised to make it more user-friendly and to include information from the ten new Member States. After the final validation this revised website will go "live" early in 2005. The website will include new features and will be able to host new tools, including a web-based information system on the EAW and a tool, called "Compendium", to help users to draft letters of request.

The long-awaited updating of another EJN information tool, the "Fiches Belges", was initiated in 2004 and the action plan for the extension of the EU judicial "Atlas" to the new Member States has for the most part been completed.

All other steps necessary to integrate the new Member States into the EJN information system were achieved on time. National correspondents for the EJN information tools from the new Member States have been identified and participate in the EJN projects related to the development, improvement and updating of the information tools.

Europol

The relationship between Eurojust and Europol has developed greatly during 2004. The lengthy negotiations which produced the Europol/Eurojust Agreement were concluded and the Agreement was approved by the Council in spring of 2004. On 9 June 2004 the Agreement was formally signed by the President of the College and the Director of Europol. The bond between the two organisations has grown from strength to strength during the past year.

The first request by Eurojust to Europol to open an analytical work file was made in 2003 and this request was put into effect in 2004. This is a clear demonstration of the willingness of both organisations to work more closely together at a practical level.
Eurojust has always said that this Agreement was a first step in building a much stronger future agreement. Regular meetings and a joint approach in the fight against organised crime featured more in our work together in the past year. Many National Members have taken advantage of the proximity to Europol to develop a joint approach to issues with their national police counterparts at Europol. Some are working to produce jointly prepared leaflets publicising their work. Others have developed a joint approach to information sharing and links back to their competent authorities in the Member States and others are looking at joint marketing opportunities. The UK desk at Eurojust has signed a Memorandum of Understanding with the UK desk at Europol. The objective is to avoid duplication of work and enhance intelligence gathering as well as to offer clarity to the relationship not only for the benefit of those working in The Hague but also to offer better understanding to those working on international police and judicial/prosecutorial issues in the domestic environment.

Because of the structure of their legal systems and the different responsibilities and independence of police and judiciary, some National Members still find constraints on the development of close relations with their counterparts at Europol. We remain sure that closer co-operation between both organisations at all levels offers the best chance of success in the fight against cross-border crime in Europe. Such co-operation also offers the best return on the investment in Europol and Eurojust made by EU Member States. EU citizens are entitled to expect that the experience and capacities of both Europol and Eurojust are used together to ensure success in the creation of an area of freedom, security and justice.

On another note, now that relations between Eurojust and Europol are developing and information is being exchanged, it has become clear that some Member States do not supply Europol with much, or much good quality, information. This is disappointing and will undermine the effectiveness not only of Europol but also ultimately of the capacity of Eurojust and Europol to work together and to combat serious cross-border crime.

**Joint Investigation Teams (JITs)**

The concept of JITs was formulated in the EU Convention on Mutual Legal Assistance of 2000. However, implementation of the Convention was slow in the Member States. The JIT provisions were extracted from the Convention and formed a special framework decision with the aim of accelerating the capacity for competent authorities to create a JIT. Although the framework decision was agreed in 2002, it is disappointing that the first JIT was formed only in November 2004 when The Netherlands and the UK formed a team to deal with a drug trafficking network.
Eurojust and Europol are also linked to that initiative. With Europol we will continue to support this JIT and use the experience gained to pass on the good practice and other lessons learned as this new concept is developed and becomes operational. It is crucial that others embarking on such projects can receive the best advice and support possible.

The potential advantages of JITs are well known; they provide a structure for investigators and prosecutors from Member States to work together and enable evidence to be gathered within a legal framework.

There are a number of problems which have prevented the formation of more JITs. These frequently relate to the absence of legislation in those states which want to set up a JIT, and so highlight a problem we have emphasised many times that commitments made when agreeing EU legal initiatives must be ratified and legislation implemented on a national level. But there are other difficult issues. These can be related to the complexity of the agreement which should be finalised or to the costs of establishing a JIT. Eurojust has a role in providing practical advice and in promulgating good practice and the ability to convene meetings quickly to resolve problems. Eurojust can also draw jointly on the capability to work with and use Europol’s analytical data. Eurojust’s involvement in the development of JITs will enable us to develop criteria for joint teams to be set up and a package or manual to assist those who are setting up a JIT for the first time.

Some countries have worked closely together on cases or issues of mutual interest in circumstances which are similar to a JIT without a formal agreement made under the Framework Decision being deemed necessary. The long-standing arrangements between France and Spain in dealing with ETA terrorism are a good example.

The key factor for JITs to be established is that Member States must legislate to ensure that the legal basis exists for their competent authorities to form JITs. We hope that the coming years and the experience gained by those forming the first JITs will be beneficial. We are confident that Eurojust and Europol can help to create an environment where JITs are recognised as a natural method of dealing with organised criminal networks which operate across a number of the EU’s jurisdictions.

**Relationship with OLAF (European Anti-Fraud Office)**

On 14 April 2003 Eurojust and OLAF signed a Memorandum of Understanding (MoU) with the aim of bringing a more integrated approach to the different but sometimes overlapping
responsibilities of both organisations in dealing with EU budgetary fraud. Unfortunately, little progress seemed to follow the signature of the MoU, so the College and the Director of OLAF met in October 2003 and agreed to set up a working group. The working group, comprised of two members of the College and two members of OLAF’s magistrates’ unit, drafted practical guidelines to provide a clear and consistent implementation of the MoU on the following issues:

- Appointment of general points of contact (Eurojust National Member/OLAF magistrate) for both organisations
- Promotion of better knowledge of both organisations through training and familiarisation exchanges or by arrangements to "shadow" individual National Members/magistrates
- Joint participation in seminars and conferences
- Selection of case-related information to transfer to each other and its follow-up, according to OLAF’s own data protection regulations.

These guidelines were approved by the College of Eurojust in May 2004 and then forwarded to OLAF for further approval. We are disappointed that this initiative has not progressed further.

However, there has been some co-operation and an OLAF representative was a speaker at the Eurojust strategic meeting on fraud issues held in December 2004. We hope that other practical steps will follow in 2005.

Our relationship with OLAF remains one of the few disappointing aspects of Eurojust’s performance in 2004. We have made some progress but we have not developed the close working relationship we would have wished with an organisation which should be one of our close collaborators. In 2005, under the new team structure introduced at Eurojust, a special team was formed dedicated to working with OLAF. We hope this team will help to encourage better co-operation. We feel that both sides need to work harder to develop a more practical joint approach to the fight against fraud in the community budget.

**Liaison Magistrates**

A number of Member States have appointed Liaison Magistrates to work in other EU countries on a bilateral basis to support better mutual legal assistance. Most work in the area of criminal mutual legal assistance but some also offer assistance with civil law.
In June 2004 Eurojust hosted a meeting of all EU Liaison Magistrates. The event was successful and helped to build relations among the Liaison Magistrates themselves and between them and Eurojust. There is a potential for overlapping of work and duplication of effort which all those present agreed should be avoided. The meeting provided an opportunity to identify at first hand a number of practical problems encountered by practitioners and to cement relations with Eurojust National Members who were not familiar with Liaison Magistrates from other states who were working in their own countries. Those attending asked Eurojust to host a similar meeting annually.

EU Counter-Terrorism Co-ordinator

In 2004 the European Council appointed Mr Gijs de Vries as the European Union’s counter-terrorism co-ordinator. We were very pleased to learn of the decision to create this new post. Terrorist activity presents huge challenges to the Member States, all of whom have given tackling it a high priority. The appointment of an interlocutor for the different competent authorities dealing with terrorism in the Member States and within the European institutions is a significant step. As he is also to act as an official EU link at a high level with third states, and to report directly to the Council, this should bring undoubted benefits and better co-ordination of effort to this difficult task.

Mr de Vries first visited Eurojust very soon after he was appointed. He visited us again and addressed our strategic meeting on terrorism in June. There he had the opportunity to meet and discuss issues with investigators and prosecutors responsible for dealing with terrorism from across the EU. We will do all we can to support Mr de Vries in his important work.

The International Association of Prosecutors (IAP)

The International Association of Prosecutors (IAP) has secured a reputation for excellence in the setting, upholding and promulgating of the highest standards of professionalism in the work of the prosecutor. In their earlier posts, some members of the College have been individual members of the IAP. In 2004 Eurojust was delighted to be accepted as an institutional member of the IAP. At the Annual General Meeting of the Association in September 2004 Eurojust was honoured when the President of the College was nominated and elected to be a member of the IAP’s executive committee. Michael Kennedy joins François Falletti, the recently appointed Eurojust National Member for France, who has served on the IAP executive committee for several years.
The European Constitution

Eurojust welcomes the agreement of the new Constitution for the European Union which took place in 2004. More specifically we were delighted to see that in the section of the Constitution dealing with Justice and Home Affairs Eurojust has been given a prominent role and is seen as a key partner in creating and sustaining the EU area of freedom, security and justice.

The Constitution creates a number of possibilities for the future development of Eurojust, including giving Eurojust responsibility for initiating investigations and prosecutions and resolving conflicts of jurisdiction. We are pleased with the confidence expressed in Eurojust by the architects of the Constitution and, if it should come to pass in the future, we look forward to seeing a European Public Prosecutor being created from Eurojust.
Comments on Casework Statistics

In our Annual Report for 2003 we indicated a hope that our IM Case Management System would enable us to make in-depth statistical reflections on the cases handled by the College in 2004. However, as we were only able to start using the system in mid-October 2004, we have had to revise that ambition. Nevertheless, we hope that the following observations will help to illustrate the effectiveness of Eurojust’s work in the fight against serious cross-border organised crime.

In 2004 Eurojust dealt with 381 cases. This represents an increase of 27% over the cases handled in 2003 (see figure 1). This increase is due partly to the enlargement of the European Union but also reflects an improvement in co-operation with national authorities, many of whom are now more comfortable working with Eurojust and more confident in our abilities to secure meaningful co-operation and co-ordination of cross-border investigation and prosecution activity.

The figure of 381 cases should not be taken as the full extent of involvement of National Members and their Assistants in judicial co-operation in the European Union. This figure represents only the cases registered at Eurojust. Many minor issues and questions are referred to National Members by investigators and prosecutors from their home countries. These probably amount to several hundred in a full year and are resolved quickly and not registered. There are significant variations in the number of cases referred by the Member States and in those countries whose assistance is requested (see figures 2 and 3). One would expect the more populous Member States to make the most referrals and it is notable that Germany, Italy, the UK and France have made many referrals. But the size of population is only one factor influencing the numbers of cases sent to Eurojust. The level of implementation of the Eurojust Decision in the Member States can also be an important factor. For example Portugal and Sweden, two countries which have implemented the Decision in national legislation, have a large number of case referrals proportional to their relatively small populations. The countries requested to provide assistance are less affected by population. Spain was again the country most requested to give assistance. Some Member States, such as The Netherlands, made relatively few requests for assistance and yet were frequently asked to provide help by other Member States.

The 10 National Members from the new Member States are in a similar position to that of the first 15 National Members when Eurojust started its activity as a provisional unit in 2001. The Eurojust Decision has not yet been implemented in all of the new Member States. This situation helps explain why only six of the new Member States have asked Eurojust to assist in cases. However, the new National Members are working to improve the knowledge of Eurojust in their own countries and so to encourage the referral of more cases to the College.
We feel that two facts illustrate the improvement of co-operation with national authorities and highlight the increasing trust between Eurojust and national authorities. First, the number of terrorist cases has approximately doubled; and, second, the total number of multilateral cases involving more than three countries has more than doubled (see figure 4). These two trends may also be illustrated by data regarding co-ordination meetings (see figure 5).

Our Annual Report for 2003 set out Eurojust’s activities, and stated in particular that the activities of the National Members cannot be accurately demonstrated by blunt figures such as involvement in a case simply as a requesting or requested country. On the other hand we feel that the number of co-ordination meetings held is a good indicator of the way a country is developing its activity and engagement with Eurojust.

The number of co-ordination meetings increased significantly from 26 in 2003 to 52 in 2004. Forty of these meetings were hosted by Eurojust or with a contribution of facilities and resources from Eurojust. Twenty-three of these meetings involved more than three countries.

It is undoubtedly true that from March 2004 the completion and subsequent availability of our impressive new conference facilities has proved to be a key factor in encouraging requests for Eurojust to host co-ordination meetings at its premises.

The types of crimes dealt with during co-ordination meetings were focussed on the following forms of organised crime: terrorism, drug trafficking, fraud (including fraud against the financial interests of the Community), trafficking in human beings and illegal immigrant smuggling.

The main types of crime dealt with by Eurojust in 2004 did not change greatly from the previous year. Referrals to Eurojust of some types of crime, such as trafficking in human beings, have increased over the number of such cases referred in 2003 - 13 cases referred in 2003 and 19 in 2004 (see figure 6).

Eurojust is pleased to be able to show its progress, which is reflected in the casework statistics recorded in 2004. However, we still consider that the competent authorities in the Member States and, in particular, some Member States such as The Netherlands, could make more and better use of Eurojust. There is more to be done to develop and improve co-operation, and in particular co-ordination, among Member States when dealing with serious cross-border crime investigations and prosecutions. Eurojust still has additional capacity to handle more complex and heavier cases.
Terrorism Team

In the wake of the dreadful Madrid bombings on 11 March 2004, the College responded to the increasing demand for specialist work to facilitate and deal effectively with requests for assistance by creating a team of several National Members, each with expertise in this field, to take the lead for the College in terrorism matters. The Terrorism Team was a forerunner of the team structure we established in a number of areas of work at the end of 2004.

The main aims of the Terrorism Team were to ensure terrorism co-ordination meetings are well prepared and organised; to enhance the exchange of information related to terrorism via regular contacts with nominated correspondents on terrorism; and to establish a general database of legal documents related to terrorism. The team also designed a "scoreboard", addressing five separate objectives. Each issue had a clear description, well defined responsibility, a deadline, and requirements for follow-up and debriefing to the College.

The five issues are:

- **Judicial co-operation**: to organise and prepare all strategic meetings on terrorism and to support operational co-ordination meetings on terrorism cases;

- **Improvement of the interaction between counterparts dealing with terrorism issues**: to establish regular contacts with national correspondents for terrorism, with magistrates, judges and prosecutors specialising in terrorism or in charge of important terrorist cases, with Europol, the EU counter-terrorism co-ordinator, the intelligence services and other interested agencies;

- **Legal database**: to keep updated an overview of the available national, European and international legal documents and instruments related to terrorism;

- **Initiation of judicial database on terrorism**: to initiate a feasibility study based on data collated during co-ordination meetings held at Eurojust and received from the national correspondents for terrorism; and

- **Financing of terrorism**: to obtain verification of the practical use and added value of existing EU or UN instruments in this area.

Since its inception the Terrorism Team has held regular meetings, which eventually led to the strategic meeting on terrorism held in June 2004 and several other separate multilateral
co-ordination meetings. The team members also take the lead in participation in conferences and seminars on terrorism on behalf of the College.

Strategic Meetings

After the first of our excellent new seminar and conference rooms was completed in March 2004, the College decided to hold a number of strategic meetings on a variety of serious organised types of crime. The College was keen to build up networks of investigators and prosecutors who specialise in specific types of organised cross-border crime. This had worked well in the field of terrorism and we were eager to spread the experience into other significant areas of organised crime. Building the trust and confidence of such specialists is an important part of ensuring better and speedier co-operation and co-ordination. The better such specialists know their counterparts and collaborators in other jurisdictions the more likely they are to work effectively with them in important criminal cases.

The meetings provide a forum for practitioners in each field to meet and discuss practical issues and problems arising from current investigations and prosecutions. Additionally the meetings enable Eurojust to update practitioners on relevant activities and casework at Eurojust. The meetings also provide the framework for a number of bilateral and multilateral co-ordination meetings on specific current operational cases.

Five meetings were arranged from June through to the end of the year. These meetings, when added to all the other casework and related tasks dealt with by National Members, made for a very active period with much organisational effort to ensure success.

A short report on each of the meetings is set out below:

Terrorism

The role and tasks of national correspondents for terrorism and of relevant judicial authorities were discussed extensively in the morning session on 23 June and in a networking meeting for participants interested and not engaged in operational meetings on 24 June.

The point of departure for the discussions was Council Decision 2003/48/JHA on the implementation of specific measures for police and judicial co-operation to combat terrorism, laying down in Article 3 the obligation for Member States to ensure that information in this field is communicated to Eurojust.
To facilitate the work on the implementation in the Member States of this provision, Eurojust had prepared a set of guidelines for information submitted by national correspondents for terrorism and national specialised authorities to National Members of Eurojust, suggesting practical principles for the exchange of information.

From the discussion on this question it emerged that the national correspondents and national authorities are well aware that the national correspondents and national authorities must work together with the National Member of Eurojust to set up as soon as possible the practical arrangement for this communication of information, ensuring the proper implementation of the Council Decision. At the present time very few countries have established such an arrangement.

The guidelines were widely accepted as a good tool and basis for the national discussions on this matter. The guidelines can be found at Annex III of this report.

Other questions discussed were:

- The legal barriers in Member States to the communication of information to Eurojust.
- The type of information Eurojust should receive: judicial information or intelligence, and what data is relevant to the tasks of Eurojust.
- What amount of information should Eurojust receive: all the information/limited to summaries/phased information?
- At what time or stage should the information be sent to Eurojust: early in investigation/after delay in special cases?
- What data security/data protection should be required of Eurojust in respect of information communicated?
- What should the tasks of Eurojust be:
  - Establishing contacts between competent authorities
  - Speeding up requests for mutual legal assistance
  - Facilitating the execution of mutual legal assistance
  - Co-ordinating investigations
Creating systems to deal with the information – establishing a database
Providing feedback to countries providing information
Establishing close co-operation with Europol
Suggesting legislation to Council of Ministers

Eurojust will arrange for a follow-up meeting in the spring of 2005 to ensure the implementation of the Council Decision and an effective exchange of information between national authorities, national correspondents and Eurojust National Members.

** Trafficking in Human Beings (THB) **

The THB meeting for 2004, now an annual event on the Eurojust calendar, took place in September. It focussed not only on THB but also on facilitating illegal immigration (people smuggling) due to the obvious links between these crimes. Priorities set out at the meeting were to enhance co-ordination of cross-border cases and to identify and resolve barriers and blockages to co-operation and to facilitate the setting up of Joint Investigation Teams (JITs) in such cases. Another objective was to develop co-operation and a strong working relationship with Europol to benefit practitioners, including assistance with the formation of JITs and witness protection.

A presentation of answers to a questionnaire circulated by Eurojust provided an overview of the ability throughout Member States to use covert investigative methods in these cases. There were also presentations on witness protection and the return of witnesses, the use of victims as witnesses in prosecutions and on diverse evidence-gathering difficulties specific to THB cases. These provoked interest and provided the impetus for discussion on the part of participants about practical co-operation in operational cases.

The interventions showed a good awareness amongst all participants of the importance of early cross-border co-operation between prosecutors (and not only police authorities), of the need for awareness of the trial phase even during early stages of an investigation, of the importance of co-operation between prosecutors and non-governmental organisations (NGOs) both in “source” and “destination” countries, of the importance of the provision of temporary residence permits and of support for THB victims as well as of the potential for conflict with other national priorities such as the impetus to remove illegal immigrants. The interventions also showed the importance of obtaining evidence from victims, which often highlighted cultural, linguistic and other associated difficulties. Interventions also contrasted an intelligence-led approach with a
victim-led approach in THB investigations. Many jurisdictions cannot do without evidence from the victim and one intervention suggested that a combined approach was the way forward. Other interventions and presentations highlighted jurisdiction issues, in particular where offences were partly committed in one jurisdiction and partly in another, and the need to show links and involvement in a group or criminal organisation.

A presentation was made during the meeting regarding the newly established CARIN Network launched to bring together the national agencies dealing with criminal and civil asset restraint and forfeiture. The initiative is supported by Europol and seeks to achieve more effective international action to confiscate the proceeds of crime. The network will share information on national legislation relating to confiscation of criminal proceeds and best practice. Eurojust is also involved in the CARIN Network and will assist by referral of cases to Eurojust National Members.

**European Arrest Warrant (EAW)**

The EAW was the topic for Eurojust’s annual practitioners’ meeting which took place in Prague, the Czech Republic, in October 2004. It was the first meeting held by Eurojust in one of the "new" member states. We hope it helped to demonstrate our willingness to reach out and engage fully with the investigating and prosecuting authorities in the Member States who had so recently joined the EU. The meeting was timely and particularly interesting because, during the time the meeting was being held, the Czech Republic was about to implement the EAW into national legislation.

A full account of the outcome of the meeting and criteria devised as a result are set out as Annex II to this report.

**Drug Trafficking**

The first Eurojust strategic meeting on drug trafficking was held on 10 and 11 November 2004. Approximately 70 expert investigators and prosecutors attended, representing all the Member States except Malta. Delegates also attended from Romania, Europol, Interpol and the United States Drug Enforcement Administration (DEA). The purpose of the meeting was to focus on problems and obstacles which prosecutors and investigators encounter in their daily work and for international bodies, such as Eurojust and Europol, to offer the tools to resolve the problems.
On the second day, delegates were offered conference rooms with translation facilities, which provided an opportunity to meet and discuss individual cases on a bilateral or multilateral basis.

The strategic discussions focussed on the legal and judicial problems encountered when arranging special techniques to combat international drug trafficking. During the plenary session on the first day, the seminar heard speakers from the Member States and from Europol, Interpol and the United States of America DEA, all of whom gave presentations on the subject of controlled deliveries and other tools to combat organised crime. The presentations were followed by case presentations from Slovenia, Italy, France, the UK, Spain, The Netherlands and Greece. During the afternoon, there were workshops on three different topics: controlled deliveries, telephone interception and co-ordination and legal obstacles, all chaired by Eurojust National Members. The workshops were much appreciated by delegates. The conclusions and recommendations from the seminar can be summarised as follows: the need for earlier involvement of Eurojust, the need for earlier co-operation between Europol and Eurojust and the need for earlier co-ordination of ongoing investigations in different countries. There is also a need for more consistency in legislation in the Member States to ensure controlled deliveries and other special measures to combat drug trafficking. It was suggested that such consistency might be achieved by means of a framework decision dealing with special investigative techniques.

**VAT Fraud**

The growing volume of VAT fraud cases and their Europe-wide impact had become a matter of specific concern for Eurojust. Cases related to VAT fraud, tax fraud and other types of fraud make up the largest category of cases referred to Eurojust. However, while VAT fraud has become one of the most serious types of cross-border organised crimes, judicial authorities often lack appropriate knowledge to effectively tackle it. Moreover, numerous barriers still hinder mutual legal assistance and co-operation.

In December 2004 Eurojust organised a strategic meeting on the specific issue of VAT "carousel" fraud in order to debate these problems not only with directly involved judicial authorities but also with administrative bodies, notably tax and customs authorities, who have a leading role in this field. The main aims of this meeting were to provide the experienced and the less experienced judicial authorities with extensive information about the methods of operation of VAT "carousel" fraud and to encourage closer co-operation with competent administrative bodies.
The meeting was attended by nearly 80 participants from all the 25 EU Member States. Romania, Norway and Switzerland were also represented. Most of the delegations were composed of both judicial and administrative authorities, reflecting the specific purpose of the meeting. The meeting programme comprised two different but complementary sessions. The morning session aimed to outline general problems and an afternoon session was devoted to casework presentations. Speakers came from both judicial and administrative authorities. A representative from the Luxembourg Revenue Administration was the keynote speaker in the morning; others were from OLAF and Europol and, for the first time at Eurojust, a speaker was invited from a private sector financial company, KPMG.

Participants had the opportunity to share their experiences and to enlarge their knowledge not only about the complex schemes of this type of fraud but on how best to combat them.

The strategic meeting reached the following main conclusions:

- Revenue losses are very high. There is an urgent need to deal more effectively with this type of fraud which, after drug trafficking, has become one of the most favoured crimes for cross-border criminal organisations;

- Judicial input at the earliest possible stage is potentially powerful and necessary for effective longer term results. To that end, there is also an urgent need to facilitate co-operation between judicial and administrative authorities, both at national and transnational levels, and to adapt criminal procedures to the challenging patterns of this type of fraud;

- "Traditional" investigating and evidence-gathering procedures, for example, should be reviewed; some common law systems can offer extremely useful examples of good practice; and

- Eurojust should be able to take concrete initiatives and to become more proactive against VAT fraud; in this context, the creation of Joint Investigation Teams and of permanent networks of co-operation between judicial and administrative authorities are strongly recommended.
Casework Illustrations

To show the type of work Eurojust deals with, we have set out below details of some of the cases handled by the College in 2004. The examples include a wide range of Member States and many different types of criminality.

Terrorism

During the morning rush hour on 11 March 2004 Madrid was the scene of one of the most devastating terrorist attacks ever experienced in Europe. Ten bombs exploded inside four trains in the city. There were a large number of casualties: 191 dead and over 1,800 injured. Extensive damage was caused to Madrid’s railway infrastructure. The bombs were hidden in school bags and placed under seats. Two bombs did not explode and examination of these showed that mobile phones were used to detonate the explosives. A senior judge from the Spanish Audiencia Nacional was appointed to work with the police to deal with the case.

Detailed investigations revealed that a group of mainly Moroccan nationals, resident in Spain, were responsible for the attacks. Some Spanish nationals had provided the explosives. Nine of the perpetrators committed suicide when the police were about to arrest them. A number of other suspects were not arrested. Some had links both within and outside the EU. Investigations into funding of the attacks are continuing. The Spanish judicial authorities asked Eurojust to facilitate the sharing of information with other EU states with linked investigations and to discuss and avoid possible jurisdictional conflicts. Eurojust hosted a co-ordination meeting on 24 June 2004 which was attended by judicial and police authorities from Spain, Italy, Belgium, the UK and France.

This meeting provided a forum for the exchange of relevant information and the building of good early bilateral co-operation between the police and judicial authorities in some of the countries involved. Arrangements were made for the speedy execution of letters of request. As the French authorities had started an investigation because a French national had suffered injuries, they were able help the Spanish investigators by using their own investigation to assist with further requests. They were also able to consider co-ordination with their Spanish counterparts and to deal with conflict of jurisdiction issues. The Italian authorities also had an ongoing investigation following the arrest of another alleged organiser with connections to Belgium and France. They were able to discuss jurisdiction issues and also to seek to resolve potential extradition issues.
**Drug Trafficking**

In this case Austrian police were observing a criminal organisation involved in drug trafficking in Vienna. One courier was known and there were indications that a German citizen was the organiser with Dutch and Austrian distributors. The Austrian police planned a controlled delivery to identify the other persons involved. The case was referred to Eurojust via the Austrian desk at Europol to clarify the legal requirements for a controlled delivery from Amsterdam to Vienna through Germany.

At Eurojust Austrian, German and Dutch colleagues discussed the issues and arranged to ensure that requirements were met so the controlled delivery could take place. Eurojust transferred this information to the authorities in Austria and the court issued requests for mutual legal assistance. The controlled delivery took place and several people were arrested, members of the criminal group identified and large amounts of cannabis and cocaine were seized.

This case demonstrates the benefit of early referral to Eurojust for assistance to resolve judicial problems and to develop a successful co-operative joint approach by police and judicial law enforcement authorities.

**Terrorism**

This case is an important example of a constructive co-operation between Eurojust and Europol at an early stage of play. The main question was how Eurojust could help to co-ordinate judicial action with Europol intelligence for an operation in Austria against a group of Islamic terrorists, using outcomes from specific analytical work files to prepare potential proceedings.

Following the Eurojust strategic meeting on terrorism in June 2004 Eurojust’s Austrian National Member arranged a meeting between the Austrian terrorism correspondent and Europol’s counter-terrorism experts and those dealing with an analytical work file (AWF) on Islamic terrorism at Europol.

At this meeting it was agreed that an analyst and an expert from Europol would take part in an operation in Vienna. During two days, several house searches, arrests, witness hearings and seizures of evidence and material took place. The outcome was positive and activities that aimed to prepare potential terrorists and provide resources for terrorist operations were dismantled. A good deal of useful information was gathered, used and compared with
information and material contained in the Europol AWF. This case was a good example of successful prevention and the development of common strategies between the competent authorities in Member States and with Eurojust and Europol.

**Fraud**

A case involving losses of about €10 million was sent by an investigating judge to the Belgian Federal Prosecutor’s Office for co-ordination and co-operation of judicial action.

The original letters of request to be sent to Luxembourg, France, Spain and Switzerland were transmitted directly to the Belgian National Member. Eurojust National Members made suggestions to amend the letters to ensure more rapid and effective execution. After consultation with one of Eurojust’s Swiss contact points, the letter of request was forwarded to the Federal Office of Justice in Switzerland.

Our first objective was to identify, in each country, the competent teams responsible for the execution of the requests, in order to invite them to a level 3 co-ordination meeting and to confront them directly with the concrete demands of the Belgian investigating judge and the Belgian national correspondent. The final goal of this meeting was to simultaneously co-ordinate: execution of the letters of request, freezing of bank accounts, seizing of documents, making of house searches and interviewing of suspects.

At the end of the meeting all the delegations agreed on a common date for the execution of the letters of request. The planned actions took place simultaneously in June 2004. Without Eurojust’s support, it would have been impossible to achieve the same result within the same time-frame.

**Drug Trafficking**

At the end of August a Czech prosecutor asked the Czech National Member for help in a case of trafficking of about 60 kilos of heroin from the Czech Republic to Italy. The trafficking occurred over a period of several years and a number of people were in custody in the Czech Republic, the duration of which was due to expire in mid-November 2004. The prosecutor had a limited time to prepare and transfer the case to court; otherwise, the detained persons would be released and some were foreigners who were very likely to disappear from Czech jurisdiction.
The time for execution of letters of request was limited and the case was referred to Eurojust for assistance. After a meeting at Eurojust the National Members were able to facilitate a series of complex executions in three different jurisdictions within the custody time deadline. Czech investigators were also able to make only one, instead of several, visits to Italy, which saved their limited resources.

**Drug Trafficking**

German prosecutors were investigating a case of drug trafficking in which a woman was suspected of acting as a courier, transporting heroin from Rotterdam and delivering it to an organisation of dealers in Italy. The Germans planned to arrest the woman while at the same time Italian prosecutors were investigating the same group of drug dealers. They heard about the German prosecutors’ plan to arrest the courier, an action which would have destroyed all their efforts. The Italian prosecutors sent an urgent request to Eurojust to ask the German authorities to postpone the arrest. The German prosecutor said that, under German law, it was impossible to postpone the arrest unless The Netherlands, Germany and Italy could agree to arrange a controlled delivery. Eurojust organised a co-ordination meeting only 24 hours after its assistance had been requested. The competent authorities from the three countries attended. During the meeting, it was agreed that a controlled delivery would take place. It was arranged and occurred three days later. As a result twelve suspected Italian drug dealers and the German courier were arrested in Italy and brought to court.

**Drug Trafficking**

At the end of November 2004 a Polish prosecutor asked the Polish National Member for assistance in a drug trafficking case. Elements of the case had some connection to Germany, where a number of people were in custody. The Polish prosecutor was waiting for the execution of a letter of request by the German authorities for several months. The need for execution of this letter of request became very urgent as the limited period allowed for detention of suspects at the investigative stage was about to expire and there was pressure to prepare evidence to use in court. The German evidence was crucial to commence the prosecution’s case. The German and Polish National Members worked closely to persuade the authorities to complete the execution quickly, the case was registered at Eurojust and, within three days, the request was executed and the evidence obtained. The case was able to proceed before the expiration of the detention period.
**Illegal Immigration**

A case with links to more than 25 countries was sent to Eurojust by the Belgian Federal Prosecutor’s Office after a preparatory meeting in Brussels in October 2004. At the Belgian national level, a file was almost finalised and the instructing judge decided to forward all available and relevant information to the competent authorities in the different concerned countries of the EU with a view to tackling this criminal network in a more co-ordinated way. The seven most concerned countries were invited to send a representative investigator and prosecutors to a meeting hosted by Eurojust.

Our first objective was for the competent authorities of the seven countries to check in advance the existence of ongoing criminal investigations linked to that network and, if possible, to explore the possibility of initiating criminal investigations, with a view to organising a simultaneous disruptive action in the different countries.

The meeting was arranged quickly and Europol attended to offer its analytical capacity, if needed. The exchange of information during the meeting was successful. In December, the main target was arrested in Belgium and joint judicial and police action took place in four other EU states. This case is still ongoing.

Although Eurojust was consulted at a late stage of the Belgian case, the outcome was quite positive, if rather limited. If consultation had occurred earlier, the results may have been even more encouraging. Nonetheless, the case shows a real change of approach by the Belgian judiciary and in particular the will to tackle a whole criminal network, rather than the tackling of one isolated part of it by one Member State.

**Drug Trafficking – Undercover Operation**

Eurojust was able to assist German and Polish prosecutors in finding and providing a legal framework for German undercover agents to operate on Polish territory. We believe this is the first time that this has happened. The German and Polish police had worked together closely and set up a number of sophisticated technical measures. The judicial and prosecutorial aspects had to be refined and defined in some detail. There was a strong feeling that this investigative technique would be required and repeated in the future, not only for Germany and Poland but between other Member States.
After detailed negotiations and discussions and consultation with Eurojust, a memorandum was signed by the prosecution offices of both countries at a meeting held in a town on the German/Polish border.

**Murder and Conspiracy – Motorcycle Gang**

The Chief Prosecutor in Bolzano, Italy, requested assistance from Eurojust in a case relating to a criminal organisation operating across Europe. This case concerns a group of motorcyclists, who were indicted for murder and conspiracy in Italy and who were under investigation in Germany, Sweden, Luxembourg, The Netherlands, France and Austria.

A number of letters of request were sent by the Italian prosecutor to Denmark, Luxembourg, Sweden and Germany. Eurojust organised a co-ordination meeting attended by the competent authorities of the countries involved and representatives from Europol. The meeting was very fruitful. The co-operation and support provided by Eurojust enabled and facilitated the effective execution of the letters of request, which gave a strong impetus to the Italian investigation. There was also a profitable exchange of information, which ultimately made it possible to dismantle the structure of the criminal organisation and its activities around Europe.

**European Arrest Warrant (EAW)**

At the end of August 2004 authorities in the Slovak Republic issued an EAW against a citizen of Zaire who was detained in Belgium, where his detention was due to end on 14 October 2004. The EAW was transmitted on 6 September via Interpol in the Slovak language with a translation in English. On 13 October 2004 the French translation of the EAW was transmitted via Interpol. Unfortunately, the EAW was not passed to the competent judicial body in Belgium and so the EAW was not executed and the person was released. This case provides a clear example of some obstacles in communication relating to the EAW not only between the organs of one state but also between two Member States of the European Union. Communication via the Schengen Information System is used in so-called “old” EU Member States. This system is very efficient and the Sirene offices already have rules on how to handle EAWs that have been issued or received. Although the “new” EU Member States are bound by the Schengen Convention (they did not sign the convention but they accepted its application by signing the EU accession treaty), they cannot use the Schengen Information System because of its technical limits. This is why the method of EAW transmission via
Interpol is used. Authorities in the "old" EU Member States must be aware of this possibility and adapt their national communication channels in order to ensure the timely and efficient execution of EAWs. Eurojust would like to underline the importance and effectiveness, where possible, of direct transmission of EAWs between the issuing and executing judicial authorities.

** Trafficking in Human Beings**

A case of trafficking in human beings, involving several European countries, was referred to Eurojust by prosecutors in Italy and Greece through their respective National Members. It transpired that both prosecutors, unknowingly at first, were investigating offences committed by the same criminal network which was trafficking people from Albania and other Balkan countries. Eurojust facilitated the exchange of information at an early stage between the Italian and the Greek authorities and ensured that they would co-ordinate their actions. The first co-ordination meeting on this case took place in Greece and a follow-up meeting was planned and took place at our premises in The Hague in early 2005 with the participation of prosecutors from Albania and with assistance from Europol. The case is continuing.

**Drug Trafficking and Money Laundering**

A major drug trafficking and money laundering case involving Greece, Spain, Germany and Belgium was referred to Eurojust in the second half of 2004. After more than two years of successful police co-operation, primarily involving officers from Greece, Spain, the UK and the United States of America, a shipment of 5.4 tons of cocaine was seized in Spanish waters. The members of the crew were arrested and detained in Spain while the main suspect for this and similar illegal operations was arrested in Germany, to be surrendered to Greece on the basis of an EAW. It was the first EAW issued by Greece as their national legislation on the EAW had only come into force a few days earlier. The Greek judicial authorities had to address requests for mutual legal assistance to Germany and Belgium for illegal activities of members of the criminal organisation in these two countries. Eurojust organised a co-ordination meeting at our premises in The Hague, bringing together the prosecutors from all countries involved. Simultaneous interpretation in four languages was provided to facilitate the exchange of legal and practical information and to ensure that all the competent authorities who became partners in this case could work together closely and help bring to justice a criminal organisation with a long record of involvement in major criminal activities.
Conflict of Jurisdiction – European Arrest Warrant (EAW)

This is the first case in which Eurojust, on the basis of article 16 of the Framework Decision on the European Arrest Warrant, has been asked for advice on resolving a conflict of jurisdiction problem. Arrest warrants had been issued by German and Belgian authorities for the same suspect in a fraud case, a Dutch national who was also known to reside in The Netherlands. The prosecutor in Amsterdam, who is responsible as the centralised authority for all Dutch incoming EAW requests, asked Eurojust for advice.

The criminal offences involved the non-payment of goods through a German company. After purchase, the goods were sold immediately, often through linked intermediaries, to buyers in Belgium. The buyers paid cash and were given documents which were probably false. The loss suffered was in millions of Euros. Both Germany and Belgium wanted to prosecute the main suspect. Belgium also asked for the surrender of another Dutch suspect, who operated only in Belgium. The German case was about fraud only. The Belgian case concerned both fraud and the falsification of documents. Both countries had jurisdiction to prosecute the main suspect but only Belgium had jurisdiction to deal with the falsification of documents.

The case was discussed by the National Members of the countries involved at several meetings. Eurojust advised the competent authorities in The Netherlands, first, to transfer the main suspect to Germany on the condition that Germany would take over the Belgian prosecution insofar as it did not create a non bis in idem situation; and, second, that the second suspect should be transferred to Belgium. Both the German and the Belgian authorities had indicated that they would agree with that solution. The competent court in Amsterdam based their decision on the advice supplied by Eurojust.

Serious Tax Fraud – Alcohol Smuggling

A case concerning serious tax fraud was first referred to Eurojust in 2002. Five European countries are linked to the matter and the amount of the loss is estimated as at least € 80 million. A sophisticated criminal organisation was operating within Portugal and Spain and had links to persons and companies acting in other countries. Arrangements were put in place for close co-ordination between the judicial authorities and the organisation was dismantled.

At the outset it was known only that one company was exporting alcohol from one country to another and that large quantities of alcohol were being sent to Scandinavian countries from
countries in southern Europe. It became necessary to have more detailed information collected in the countries where the alcohol originated and with possible links between acts committed in different countries. There were some indications that the suspects and activities in the different countries could be the same or very closely linked. Using the information exchanged through Eurojust and passed directly between them, Portuguese and Spanish authorities were maintaining close police and judicial co-operation and set up co-ordinated action on both a domestic and a European level with support by Eurojust. This included organising co-ordination meetings in different places and at Eurojust’s own premises.

Eurojust’s involvement made it possible to identify the links between the investigations and to ensure the exchange of information among national authorities. In addition new investigations were undertaken based on this information and connections were made regarding various aspects of the organisation’s activities, making it possible to identify individuals and companies involved in the criminal activities, to gain information and to obtain evidence to be used by the national authorities. More than 20 people were arrested, including the leader of the organisation. A number of prosecutions are continuing.

Eurojust also facilitated the preparation and execution of letters of request within a very short time-frame. The co-ordination which was established aimed to prevent gaps and duplication of effort amongst the linked investigations. It also allowed the facts related to different jurisdictions to be clearly identified and prevented possible conflicts of jurisdiction between Member States involved in investigations and prosecutions.

**Smuggling of Illegal Immigrants and Drug Trafficking**

A significant number of case referrals from the UK during the past year have concerned illegal immigrant smuggling. One case concerning an investigation into an organised crime group engaged in illegal immigrant smuggling and drug trafficking was referred to Eurojust jointly by the Crown Prosecution Service (CPS) and the National Crime Squad (NCS). In March 2004 a meeting was held at the request of the UK authorities. The participating countries were Germany, Belgium, France, Austria and The Netherlands. Representatives from Europol also attended. The meeting dealt with the management of parallel investigations in the UK and Germany and the exchange of evidence between the national authorities in both countries. It also dealt with the links between investigations in the UK and Belgium and further information was provided to the Belgian authorities to enable them to further their investigations. The meeting also ensured the facilitation of mutual legal assistance requests in France and Austria.
and explored the possibility of commencing investigations in The Netherlands. Following the meeting, arrests were made in Germany, and there was a successful seizure of 107 kilos of heroin. Arrests were also made in the UK for facilitation of illegal immigration. In The Netherlands, searches took place at various locations.

In May 2004 a follow-up meeting took place. Representatives from the UK and Germany gave presentations on the current state of play of their investigations and prosecutions. An update was also provided by representatives from The Netherlands and a time-frame was given for the execution of letters of request from the UK. The German representatives were also able to hand over new letters of request for execution to the Dutch authorities. Informed discussion in relation to evidence and matters of jurisdiction also took place. There is no doubt this exchange proved to be very useful as the investigations continued.

**Illegal Immigrant Smuggling**

Another illegal immigrant smuggling case was referred by the UK authorities to Eurojust in October 2004 by the CPS and Kent Police. A separate investigation connected to the UK case was proceeding in Germany. The Germans planned to arrest their suspects in early December 2004 and the CPS and Kent Police were eager to organise a joint operation, so that they could carry out co-ordinated arrests on the same day. The UK case also had links to Belgium. A key associate of the UK gang was believed to be residing and operating, as part of this group, in Brussels. The CPS and Kent Police wanted to canvass the possibility of the Belgian authorities commencing an investigation into this individual and his activities as well as his contacts with the UK suspects. Eurojust arranged a co-ordination meeting to address these issues. A prosecutor from the CPS in Kent, two officers from Kent Police, a German prosecutor and a Belgian magistrate participated in the meeting. All parties present were intent upon co-operating and assisting one another and, following useful discussions, there was agreement that arrests would be carried out in Germany and in the UK in a co-ordinated manner and that the Belgian authorities would commence an investigation into linked activities believed to be taking place in Brussels. Following the meeting co-ordinated arrests were carried out; one suspect in the UK and two in Germany are now in custody. An investigation in Belgium has started and is continuing.

These cases clearly illustrate the benefit of co-ordination where there are ongoing linked or parallel criminal investigations in different countries. Eurojust provides the perfect forum for bringing these investigations together, so that information can be exchanged and future strategies discussed, formulated, agreed and executed.
Investment Fraud

This case is an important illustration of constructive co-operation between EU countries and third countries in the early stages of a case. A French investigating magistrate dealing with an investment fraud case with losses of €1.5 million requested Eurojust to obtain information about similar cases relating to the same perpetrators acting worldwide. In addition to France, five EU countries are involved: Luxembourg, Austria, Italy, the UK and the Czech Republic; two third countries, Liechtenstein and Switzerland, are also involved.

Co-ordination arranged by Eurojust, working closely with the Liaison Magistrates, the EJN and Eurojust contact points in the third countries, quickly confirmed the existence of similar cases in five countries, some cases concerning the same French victim, and revealed another case in France. The information exchanged allowed both investigating judges and police officers to have a full and global overview of the commission of offences all over Europe. It also revealed how well organised the criminals were.

In June 2004 two suspects were arrested in France. Eurojust was immediately asked by one of the investigating judges to organise a second co-ordination meeting, which was scheduled in early 2005.

The meeting will permit effective co-ordination of the current investigations and promote direct exchanges in order to facilitate the ongoing and forthcoming mutual legal assistance relating to the new arrests. It will also help to co-ordinate further judicial action so as not to jeopardize current investigations in other European countries. This meeting will also provide an opportunity to discuss at an early stage possible jurisdictional conflicts and extradition problems. More generally, a strategy could be devised to agree the venue of the prosecutions of this organised crime group. Should they take place in one country or in different countries?
**Figure 1: Total cases referred**

![Bar chart showing total cases referred from 2001 to 2004.](chart.png)

**Figure 2: Requesting countries**

![Column chart showing requesting countries in 2003 and 2004.](chart.png)
Figure 3: Requested countries

Figure 4: Bi- and multilateral cases
It is vitally important for Eurojust that National Members and Assistants have a strong and trusting relationship with all their national authorities. The strength of this relationship will help to ensure that appropriate cases are referred to Eurojust.

The majority of National Members work in the College without an Assistant. They all make contributions to the infrastructure and wider policy and strategy issues at Eurojust. Their time is prioritised for dealing with casework. But time devoted to encouraging case referrals and promoting Eurojust in their home countries is limited. For this reason, we have continued our policy of meeting in The Hague for three days each week and allow two days to be specifically devoted to contact with national authorities. We have continued to arrange one week every two months for National Members to spend time dealing with casework in their home countries and strengthening relations with their national authorities.

Eurojust has no power to demand that cases be referred to the College. While the number of case referrals has increased gradually since Eurojust was created, the College feels it still has the capacity to deal with more cases. The case statistics show that some countries have referred very few cases to Eurojust in the past while others have requested assistance on a significant number of cases.

During the second half of 2004 the Dutch EU Presidency hosted an informal meeting of Ministers of Justice and Home Affairs in The Hague. Eurojust was very pleased that several ministers took the time to visit our premises in the city. It was encouraging that several were from the new EU states. They were able to meet their National Members and to learn at first hand more about our work. We are pleased to report that the number of visits by ministers, prosecutors general, and other senior officials increased during the 2004. Many visitors are encouraged to link their visit to Eurojust with a visit to our colleagues at Europol. It is essential that both our organisations are better known in the Member States.

Eurojust is always delighted to welcome ministers and other senior national representatives. We invite those who have not visited us to do so at the earliest opportunity. Encouragement, enthusiasm and promotion of our organisation at the highest levels of government and amongst other institutions can only help to increase the knowledge and awareness of Eurojust within the Member States.

In 2004 the National Members took every opportunity to give presentations about the work of our organisation and to promote increased use of Eurojust. National Members, being by profession prosecutors and investigators, do not always have advertising and marketing expertise. But
raising Eurojust’s profile is a key part of our work and we are continuing to spend time making Eurojust better known in the Member States. The initiatives by some National Members who are working with national counterparts at Europol on strategies to raise awareness of both organisations in the home countries are to be commended.

We are pleased to report that all Member States, including the Accession States, have appointed national correspondents for terrorism. This is an important step but it is equally important for the efficiency of the system, for Eurojust and for the Member States that the correspondents must also be able to fulfil their functions. For the arrangements to work in practice and benefit all concerned, all the correspondents must have rapid access to and be able to provide their Eurojust National Members with all the information required by the Council Decision. This is not always the case.

Eurojust is also recognised with greater frequency as a key player in the fight against organised crime in the European Union by a wide range of commentators, academics and conference organisers. There are many EU recent developments and initiatives relating to justice and home affairs issues and measures introduced to improve the fight against serious cross-border crime. National Members, like their domestic counterparts, are frequently asked to contribute either to the national and international media, as speakers at seminars, or by taking part in workshops. Provided that such involvement does not impinge on our casework, we take every opportunity to do so. This helps to raise Eurojust’s profile and to encourage case referrals by national investigating and prosecuting authorities.
EU Enlargement

The enlargement of the European Union on 1 May 2004 brought huge changes to all EU organisations and Eurojust was no exception. Since the early days of provisional Eurojust in 2002 we were linked closely to the EU Accession States through nominated contact points. We held regular meetings with our contact points to prepare for the new challenges to be brought by enlargement and to ensure a smooth transition as Eurojust grew from 15 to 25 National Members.

We achieved our objective in that each of the 10 Accession States had appointed their National Members to Eurojust on the day of enlargement. On 4 May 2004 all 10 new National Members attended a meeting of the enlarged College. From that time, the majority of National Members joined Eurojust immediately on a permanent basis. Several National Members attended College meetings regularly but were not based permanently in The Hague, reflecting the need for practical arrangements and legislation to be put in place before the financial infrastructure could be made available to provide the support necessary for them to be permanently based in The Hague.

During 2004 Malta was the only EU Member State that was not represented regularly in College meetings, in part because shortly after EU enlargement the National Member for Malta was designated as Attorney General. We hope that another person will be appointed shortly so that Malta can play a much fuller role in Eurojust’s work.

The new National Members have brought a fresh approach and a new perspective on the fight against organised cross-border crime. They have begun to play an active role in the work of the College and of Eurojust as a whole. Many have introduced a significant number of cases and several have been actively involved in the work of the College. We look forward to building further and better co-operation as the College grows in confidence and feels more comfortable co-operating with and co-ordinating cases in the new legal environment that now exists in the European Union.

Third States

During 2004 Eurojust completed negotiations and concluded a co-operation agreement with the Kingdom of Norway. This is the first third country agreement Eurojust has concluded and we hope it will provide a framework for future agreements with other third states. The agreement was
sent to the Council for approval in the autumn of 2004. We were pleased to hear that, as this report was being finalised, the Council approved the agreement in February 2005.

Eurojust has continued to work regularly through its contact points with the remaining EU Candidate States. For example, co-operation with the Romanian authorities via our contact point has continued very positively. The Romanian Prosecutor General also visited Eurojust during the year and initiated work on a formal co-operation agreement. We hope this agreement will be finalised during 2005.

Other visits to Eurojust in 2004 included the first visit by our recently appointed contact point from the Russian Federation. Eurojust’s contact point is a senior prosecutor in the international department of the Prosecutor General’s Office in Moscow. He visited with a colleague in March and provided valuable insight into how our joint work could be developed. We are pleased that he has been able to offer regular assistance to National Members in many cases linked to the Russian Federation. We hope to continue to strengthen the initial contacts made on this visit.

As the EU has enlarged, its eastern borders have changed and brought new neighbours such as Ukraine. The President of the College wrote to the Prosecutor General, suggesting that a contact point should be appointed. A positive response was received and a contact point has been nominated. The Prosecutor General and the contact point are making arrangements to visit Eurojust in early 2005.

Eurojust has a number of contact points in South American states. We are eager to support the recently formed network of prosecutors and investigators, Red Iberoamericana de Asistencia Judicial (IbeRED). In 2004 we made good initial contacts through our Spanish National Member and we hope to develop these first steps for the mutual benefit of IbeRED and the South American and EU authorities. It is important that we develop these wider links as Eurojust matures as an organisation.

Representatives from the international section of Israel’s Attorney General’s department had preliminary talks with Eurojust during 2004 with a view to developing closer relations in the future and building structures for judicial co-operation. We hope that this will result in a formal contact point being nominated early in 2005.

Representatives from the Department of Justice of the United States of America heard very positive reports of our strategic meeting on terrorism and were eager to engage with Eurojust in this area. We plan to hold a meeting in early 2005 to look at completed terrorism cases. The objective will be to try to build a connection between United States prosecutors and the
established Eurojust network of terrorist investigators and prosecutors and also to look at good practice, lessons learned and links to related cases.

We hope that a positive experience will encourage the United States of America to negotiate a formal agreement with Eurojust. This will enable positive and beneficial relationships to be developed not only on terrorism cases but also in other areas of organised crime including drug trafficking, counterfeiting and fraud and money laundering.

The President of the College addressed the joint meeting of Ministers of Justice of the EU and Western Balkan states towards the end of 2003. During 2004 all of the Western Balkan states, with the exception of Bosnia-Herzegovina, responded to his request and have appointed contact points to work with Eurojust.

Eurojust sees the development of effective co-operation with the Western Balkan states as a key success factor for the future development of Eurojust. A number of the Western Balkan states are transit countries or originating countries used by organised crime groups for trafficking people or prohibited goods into the EU. Good effective judicial co-operation is essential to provide an effective response to such criminality. Two Deputies to National Members have been allocated to take leading responsibility for Eurojust’s relations with initiatives in that region such as the Stability Pact Organised Crime Initiative, the Southeast European Co-operation Initiative (SECI Centre) and the South East European Prosecutors’ Advisory Group (SEEPAG). Eurojust has additionally focussed one of its new teams on continuing the work that was started to help prosecutors and investigators in the area become more effective.

At the end of 2004 the following states had appointed contact points to work in co-operation with Eurojust: Albania, Argentina, Bulgaria, Canada, Croatia, Japan, Liechtenstein, the Former Yugoslav Republic of Macedonia, Norway, Montenegro, Romania, the Russian Federation, Serbia, Switzerland, Turkey, Ukraine and the United States of America.
The day-to-day administration of Eurojust and the management of staff fall under the responsibility of the Administrative Director, whose activities are supervised by the President of the College. The following paragraphs provide further information on the administration and management, including budgetary management, of Eurojust.

General

The year 2004 was very demanding for the Eurojust administration. In the two years since Eurojust moved to The Hague, a great deal of effort was made to establish an infrastructure to ensure that Eurojust, and the European Judicial Network, could become fully operational. It is vital that they are able to give the support and provide the facilities expected of them as key players in the European Union’s area of freedom, security and justice. Although budgetary resources and capacities were limited initially, significant progress has been made to establish the basic infrastructure within the target period between 2002 and 2006. We are pleased with the progress that we have made. It is not surprising that some of the more challenging and important elements, such as the secure network for Eurojust and the Virtual Private Network (VPN) for the EJN, are still in the development phase. However, the infrastructure of both Eurojust and the EJN grew significantly during 2004 and now provides a wide range of facilities and services necessary to achieve the objectives set out in the Eurojust Decision and in the Joint Action which created the EJN.

Eurojust has now been located in The Netherlands for well over two years and we are disappointed that there is still no formal Seat Agreement with the Dutch government. Lengthy negotiations with the Dutch Ministry of Foreign Affairs have still not resulted in the completion of a formal agreement to confirm our status in The Hague. Similarly, we have not signed a formal Lease Agreement to regularise our occupancy of our premises in the city. These continuing uncertainties are an unnecessary diversion and a worry for existing and prospective National Members, their Assistants and Eurojust’s staff.

EU Enlargement

The preparation for, and handling of, EU enlargement had a significant impact on the operational work and staffing of Eurojust in 2004. Within our premises a range of construction and refurbishment work for enlargement had to take place to host the 10 new National Members and their support staff. We are pleased that the detailed preparatory work ensured that enlargement of Eurojust in May and the following months was a smooth and successful operation.
Organisational Structure of the Administration

The administrative services are currently provided by six units: Budget and Finance, EJN Secretariat, Human Resources, Information Management, Legal Service and Security and General Services. In addition there are three dedicated services: Press & PR Service, Data Protection Office and the Secretariat to the College.

**Staffing and Organisational Structure:**

The current administrative arrangements combine the specific requirements of the Eurojust Decision with a lean management structure with heads of each unit and section reporting to the Administrative Director. Special teams including College members, when appropriate, were created to deal with specific projects such as EU enlargement, the development and implementation of a case management system and the secure network. The structures created are flexible and can be changed as necessary to ensure that the casework and other business needs of the College are met.

**Budgetary Management**

Although Eurojust is a key player in the EU fight against terrorism and other forms of serious crime, the annual budget is relatively small. In 2003 the Budgetary Authority allocation to Eurojust was € 8 million; in 2004, the figure was € 9.3 million, even though Eurojust had requested € 11.5 million. These are comparatively small amounts for facilitating the co-
ordination of all judicial action in serious cross-border crime in the 25 Member States when compared to the funding made available to other institutions. A single case of VAT fraud, resolved with the assistance of Eurojust, could potentially recover an amount equivalent to the entire Eurojust annual budget. We are confident that our work in 2004 has more than “repaid” our budget allocation.

Budget Evolution 2003 – 2005 (requested, received, executed) *(see figure 7)*

Eurojust’s sound financial management was acknowledged during 2004 by the European Court of Auditors. Their report to the European Parliament granted a discharge to the Administrative Director for the financial year 2002. In their report the Court gave a positive opinion on Eurojust’s budgetary management for the year 2003. The Court was particularly pleased with the fact that the 2003 accounts were established on an accrual accounting basis in accordance with International Public Sector Accounting Standards.

The recommendations made by the Court of Auditors have led to improved guidelines on financial management and the establishment of internal control standards. With the support of the Internal Audit Service of the European Commission, we will further develop our own internal audit capability.

We are pleased that in 2004 Eurojust was able to execute 98% of its budget allocation for the year. We feel this reflects the improvement in financial and budget management arrangements noted by external auditors in 2004. The comparative figure for 2003 was approximately 76%, which was due to the transitional phase when we were establishing the structure of our organisation. We should also report that Eurojust is still waiting for the approval of the European Commission on the draft Financial Regulation, adopted by the College of Eurojust in November 2003.

Recruitment and Staff Management (Human Resources Unit)

During 2004 the Human Resources Unit (HR Unit) concentrated on three main tasks: recruitment of staff; implementation of the new Staff Regulations; and preparation for enlargement. Additionally, Eurojust’s staff training capacity was further developed and *Centurio*, a software tool for the management of human resources, was installed.

During the year great efforts were made to recruit staff to fill the 76 positions available in the Eurojust establishment plan for 2004. By the end of 2003 28 posts had been filled from an
available total of 53 posts. During 2004 25 new staff members began work. At the end of 2004 the HR Unit had filled 52 positions (see figure 8). During the period mentioned above a number of positions were occupied by interim staff to ensure that Eurojust was fully operational. We are pleased that four members of staff from the new Member States took up posts with Eurojust during 2004.

**Information Management Unit (IM Unit)**

The most significant achievement for the IM Unit took place in October 2004 when the (Provisional) Eurojust Case Management System (CMS) was successfully implemented. This core tool for Eurojust’s operational work was developed through a Grotius-funded prototype, known as the E-POC Project, involving several partners but led by the Italian Ministry of Justice. During 2004 significant progress was also made in providing a secure environment for the CMS and several National Members worked with the administrative staff to help to develop the project. As a first step, specific security features were implemented in Eurojust’s network to safeguard processed data. The preparations for the second phase of the secure network, a physically separated network with high security standards that fully comply with Eurojust’s data protection requirements, is nearing completion. The additional workstations necessary to finalise this phase were purchased in anticipation of network realisation in early 2005. The planning for phase three of this project, which will allow the possibility of secure communication to Member States and other strategic partners such as Europol, was also completed. A number of training courses have been provided to make users familiar with these new tools and other ICT applications used within Eurojust.

ICT User Support successfully implemented all of the technical equipment required for the new Member States. New framework contracts have been put into place for the supply of hardware, mobile telephone service and library resources. The latter has allowed the library to expand, providing a multilingual collection of books, periodicals and materials to support the operational work of the College.

**Legal Service Unit**

On 1 April 2004 the Legal Service Unit was created with the appointment of Eurojust’s first Legal Officer. The Head of Unit joined in August. The establishment of the Legal Unit is still in its initial phase. Although there are only two lawyers they have begun to provide a wide range of legal advice to the College, and to the different administrative functions within Eurojust.
In 2004 the unit provided important assistance in completing Eurojust’s legislative framework, including the adoption of the Decision on Access to Documents and the Decision on the Implementation of Regulation (EC) Nº 1073/1999 relating to investigations conducted by OLAF. Another important task of the unit has been to supply legal advice on the implementation and application of the Eurojust legislative framework and on European and national legislation, as well as to the College and to the administrative units. It has provided assistance in the negotiation, drafting and legal follow-up of contracts concluded or to be concluded by Eurojust, and ensured the management of litigation cases.

The unit will expand in 2005, which will allow it to support the College in its function of commenting on policy and legislative proposals which touch on Eurojust’s competence.

In April 2003 the Kingdom of Spain brought an action before the Court of Justice of the European Communities against eight advertisements for the recruitment of staff issued by Eurojust. Spain, which was later supported by the Republic of Finland, claimed that the linguistic requirements, and the requirement that some of the documents required to be submitted with applications be written in English, were contrary to the EU law and to the principle of non-discrimination.

The Advocate General delivered his opinion on 16 December 2004, in which he rejected the argument based on a breach of the principle of non-discrimination but suggested the annulment of only one call for which no link was established between the proposed duties and the requirement to submit the application in English. However, his opinion suggested that such an annulment should not affect the appointment already made. As this Annual Report 2004 was being sent to print, a final judgement was given on 15 March 2005 in which the Court rejected the Spanish case as inadmissible. The Court considers that there is no legal basis for an action brought by a Member State against acts adopted in the field of police and judicial co-operation in criminal matters under Title VI of the Treaty on European Union. A full copy of the judgement can be found on the website of the European Court of Justice at http://curia.eu.int/jurisp/cgi-bin/form.pl?lang=en case reference C-160/03, Spain/Eurojust.

Communication Management (Press & PR Service)

During 2004 the Press & PR Service developed and delivered Eurojust’s communication policy, raised Eurojust’s profile in the EU and assumed responsibility for the production of the Annual Report.
In the past year the Eurojust website registered a significant number of hits each day. The website was improved and updated in 2004 and will be re-designed and launched in 2005.

Our internal newsletter, the Eurojust Weekly, has been a great success. Produced in electronic magazine format, it is distributed to all staff and, equally important, to our contact points outside Eurojust, allowing them to keep abreast of developments in our organisation. This magazine has been widely praised and is being used as a model by other longer-established agencies and organisations.

Events Service

Eurojust now has its own Events Service, managing the complex logistics of organising conferences and meetings for delegates from over 25 countries. A total of 267 operational meetings took place in 2004. The service facilitated six strategic meetings on various topics, each attended by approximately 80 delegates. One strategic meeting, on the European Arrest Warrant, was held in Prague and demonstrated Eurojust’s ability to host events in Member States at a considerable distance from The Netherlands.
Figure 7: Eurojust budget

(Figures in millions of Euros)

- 2003: Requested 8, Received 8, Executed 6.2
- 2004: Requested 9.3, Received 9.1
- 2005: Requested 11.5, Received 13.3, Executed 13
- 2006: Requested 13, Received 16.5

Figure 8: Eurojust staff

- 2002: 6
- 2003: 28
- 2004: 52
## 7 Performance Against Objectives for 2004

Set out below are the objectives that the College agreed it would seek to achieve in 2004 and which were published in our Annual Report for 2003.

We have made observations to provide an assessment of our actual achievements against each of these objectives.

<table>
<thead>
<tr>
<th>Objective</th>
<th>Performance Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To prepare and submit to the Council for approval data protection rules in accordance with the Eurojust Decision.</td>
<td>Achieved. The rules were agreed unanimously by the College in October 2004 following earlier approval by the independent Eurojust JSB on Data Protection. The Council gave its approval in February 2005.</td>
</tr>
<tr>
<td>To establish a programme of meetings and other action to develop further the existing relations between the College and the EU Accession States to ensure a smooth transition as the College grows from 15 to 25 National Members in readiness for enlargement on 1 May 2004.</td>
<td>Achieved. A series of meetings was arranged. All ten Accession States nominated their National Members and all attended the first meeting of the enlarged Eurojust College in The Hague on 4 May 2004. Malta does not yet fully participate.</td>
</tr>
<tr>
<td>To continue at every opportunity the work to encourage early and full implementation of the Eurojust Decision in all Member States with appropriate legislation being adopted where necessary.</td>
<td>Partly achieved. Every opportunity used to promote the need for the Decision to be adopted into national legislation. By the end of 2004 many of the Member States who needed to introduce legislation had actually done so. Some still have to do so.</td>
</tr>
<tr>
<td>To review and renew the Eurojust strategy for marketing and increasing the number of serious multilateral cases referred to Eurojust, such strategy to be designed to ensure that full attention is paid to developing an effective, clear and detailed programme to promote case referrals from the new Member States in the enlarged EU.</td>
<td>Achieved in part and ongoing.</td>
</tr>
<tr>
<td>OBJECTIVE</td>
<td>PERFORMANCE ASSESSMENT</td>
</tr>
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| To improve the quality of interaction between Eurojust and Europol by:  
  - Driving forward the adoption and implementation of the agreement which is being negotiated with Europol;  
  - In appropriate circumstances where Eurojust can add value and in close co-operation with Europol, Eurojust should aim to generate its own cases;  
  - Encouraging National Members to develop and improve their relationships with their national counterparts at Europol. This is with a view to ensuring that the combined resources of Eurojust and Europol national desks are used to the best effect and particularly to guard against duplication of work and so that action taken by one organisation does not prejudice the work of the other. | Achieved.  
  - The Eurojust/Europol Agreement was signed on 9 June 2004. Joint meetings take place regularly to ensure effective implementation;  
  - Eurojust has begun to generate one or two of its own cases and work will continue with Europol to develop this capacity;  
  - Many National Members meet regularly with their national counterparts at Europol. One country has concluded a memorandum of understanding between the Eurojust team and the Europol national desk to bring clarity, openness and practical effectiveness to their working relationship. |
| To continue to work to improve the quality of co-operation between Eurojust and the European Judicial Network (EJN) and to ensure that each organisation is fully aware of the work of the other, ensuring full use is made of the opportunities for working together with the EJN Secretariat. | Achieved. The relationship between Eurojust and the EJN remains strong. There was regular engagement with the EJN over the year. This occurred both in The Hague with the EJN Secretariat and at the regular meetings of the EJN in Dublin and The Hague during the Irish and the Dutch Presidencies of the EU. |
| To review and evaluate the existing memorandum of understanding with OLAF and to use this evaluation to begin to plan and prepare a new agreement with OLAF with a view to improving the effectiveness of both organisations. | Achieved in part through our attempts to implement the MoU. More work should be done and the best way forward is to implement the agreement, especially in view of the newly agreed Eurojust Rules on Data Protection. |
| To establish a framework to provide Eurojust with a new ICT system which can be developed to allow the secure transmission of electronic communications to competent authorities in the Member States and the provision of a casework database. | Achieved. The Case Management System (CMS) has been in use since October 2004. More work is to be done in 2005 regarding further development of the CMS and a secure communications system with Member States’ authorities. |
EUROPEAN ARREST WARRANT

This warrant has been issued by a competent judicial authority. I request that the person mentioned below be arrested and surrendered for the purpose of conducting a criminal investigation or executing a provisional sentence or detention order.
We held the annual Eurojust Planning Event in October 2004. EU enlargement and a number of changes amongst National Members meant that this was the first experience of a Eurojust Planning Event for over half the College. Over 40 participants took part and it was challenging and interesting for all concerned.

Managing the process with so many individuals involved in making contributions, deciding upon objectives and helping to shape Eurojust’s future was not an easy task. The College is very grateful to representatives of the Management and Audit Service team from the Crown Prosecution Service who again successfully facilitated the event.

The College agreed the following key objectives for its work in 2005:

- To establish a new structure to deliver more efficient working methods drawing on the expertise of all members of the College and the skills of the staff;
- To ensure that the agreement with Europol operates well in practice;
- To improve how we work with and influence OLAF, drawing on the data protection rules;
- To define strategies for negotiation and priorities for establishing future agreements with third countries;
- To develop a strategic approach for handling casework, including:
  - prioritising action and enhancing our capacity to deal with terrorism,
  - refocussing our marketing and case-harvesting strategies in order to attract more case referrals,
  - identifying where the blockages to referral occur and why, and
  - making Member States more aware of Eurojust’s added value;
- To devise methods of improving Eurojust’s performance by:
  - evaluating the role of Eurojust,
  - establishing a performance management system, and
  - setting performance standards;
- To become more proactive in influencing EU criminal justice policy, legislation and key decision-makers;
• To develop the training capacity of Members of the College and Eurojust staff;

• To continue our work to improve the effective practical operation of the European Arrest Warrant;

• To develop effective management support systems for casework and enhanced and secure ICT functionality; and

• To research and set a longer-term vision for Eurojust.
9 CONCLUSIONS

In December of 2004 we marked the second anniversary of Eurojust moving to its premises in The Hague. This was a milestone in the life of our organisation. We feel that our "establishment" phase has drawn to a close.

During this time our premises have been furnished and adapted for our use and almost all the key administrative staff and many others have been recruited. We have successfully completed the challenging process of ensuring the appointment and accommodation of ten new National Members in line with EU enlargement. Our new meeting room and conference facilities have been completed and a basic ICT system is in place.

Although there is much more to do, we feel that we have also built a reasonable level of knowledge and a fairly good number of case referrals. We have laid the foundation for a strong organisation and we can now look to develop and strengthen our existing partnerships and develop others both within and outside the EU.

There were a number of key achievements in 2004:

**European Union Enlargement**

The enlargement of Eurojust, in line with EU enlargement, has been a smooth transition from 15 National Members to a College of 25 National Members. The ten new National Members were appointed in May and all attended Eurojust for the first meeting in early May 2004. The new National Members are beginning to play a major role in Eurojust’s work. Our only regret is that Malta is rarely represented at Eurojust and consequently cannot fully take part in the operational work of the College. We hope this situation will change in 2005.

**Casework**

In 2004 381 cases were referred to Eurojust. This represents a 27% increase from the 300 cases referred in 2003. During 2004 there was nearly a 40% increase in the number of multilateral cases referred, i.e., cases with more the two Member States involved.

Eurojust hosted 52 co-ordination meetings on individual cases and a number of strategic meetings on different types of organised crime, including terrorism.
Eurojust held its annual practitioners’ meeting in October in Prague on issues relating to implementation of the European Arrest Warrant.

**Data Protection Rules and EPOC/CMS**

A small team drawn from the College assisted by the Data Protection Officer prepared the draft rules of procedure on data protection. As required by the Eurojust Decision, the draft rules were first approved unanimously by the full College in October and, shortly afterwards, approved by the independent Eurojust Joint Supervisory Body (JSB) for Data Protection. The rules have been sent to the Council for approval, which we hope will be forthcoming in early 2005. In the meantime, and with the sanction of the Eurojust JSB, the data protection rules are being applied in the interim period as if they were approved and in force.

The E-POC Project developed during the year formed the basis for a prototype case management system. The first version of the Eurojust Case Management System (CMS) came into operation on 15 October 2004.

**Europol**

The formal Eurojust/Europol Agreement was signed and the relationship between the two organisations continues to go from strength to strength.

**EJN**

Eurojust and the EJN are continuing to work closely together, drawing on the benefit provided by the EJN Secretariat being located at Eurojust’s premises. The relationship was further enhanced when part of the Dutch EU Presidency meeting of EJN contact points was also held at Eurojust’s premises.

**OLAF**

This is one disappointing feature in a year of overall pleasing performance. Very few cases were referred by OLAF to Eurojust and although there was regular contact between individuals in both
organisations, this did not result in the positive results that we would have hoped for. We need to do more work to develop a more positive relationship in 2005.

Third States

The negotiations for an agreement with the Kingdom of Norway were completed in mid-2004. We are awaiting formal approval from the Council so that the agreement can be signed and implemented. We have received much positive assistance from non–EU states through our network of contact points, several of whom attend our meetings regularly. Contact points have also been appointed in several of the Western Balkan states, including Croatia, which became a candidate country for EU membership in 2004. Ukraine has also appointed a contact point and we expect further appointments, including Israel, in 2005.

New Structure to Manage Eurojust Business

At the end of 2004 we established a new team structure for Eurojust to make better use of our skills and resources and to better suit the changing shape and size of our organisation. Implementation of this new structure will continue in 2005. The teams set out below are comprised of National Members and Assistants and are supported by appropriate members of the administration. The teams take responsibility for these topics and report and make recommendations to the full College for action.
Performance against Objectives for 2004

At the end of 2003 we set a range of objectives to be achieved in 2004. Many of the objectives were fully achieved and all were achieved at least in part. Commentary on our performance against the objectives is set out elsewhere in this report.

Development of the Administration

The targets for employment of staff to complete Eurojust’s establishment plan were achieved. The number of staff employed by Eurojust increased from 29 at the beginning of January 2004 to 52 at the end of December 2004. All the heads of units and services were employed, including the head of the Legal Service Unit. The first steps to install the Eurojust secure information technology communications system were taken in the latter part of 2004. Work on this project will continue throughout 2005.

Seat Agreement

In 2004 we had expected to conclude both a Seat Agreement and a separate Lease Agreement with the Dutch authorities. These would have formalised our presence as an international organisation in The Netherlands and our occupation of our premises in The Hague, respectively. It is disappointing that neither agreement has been concluded this year. The lack of speed and the changing negotiating position of the Dutch have delayed the process. The College and the staff of Eurojust are concerned and insecure due to the lack of certainty. We expect that others in the wider EU community share this concern.

Enquiry Report by the United Kingdom’s House of Lords

A report on the work of Eurojust was completed in July by sub-Committee F of the House of Lords from the UK Parliament. Detailed written and verbal evidence was gathered formally from a wide range of sources. This report is the first independent report conducted into the operation and work of Eurojust. The conclusions were positive. The sub-Committee praised the work done by the College and the administration to establish the new organisation and said that Eurojust had made an excellent start. The full report can be found at: www.publications.parliament.uk/pa/ld200304/ldselect/ldeucom/138/13802.htm
Mike Kennedy is President of the College and National Member for the UK. He has more than 20 years of experience as a prosecutor. He has dealt with a wide range of serious cases at the headquarters of the Crown Prosecution Service where he was also the Head of the International Branch handling MLA and extradition matters. Before joining Eurojust he was the Chief Crown Prosecutor for Sussex in England.

Ulrike Haberl-Schwarz is National Member for Austria and Vice-President. She started her career as a judge in Salzburg in 1990. When dealing with major economic and financial crime cases as an investigating judge for six years she gained experience both in international co-operation matters and in organised crime. She joined Eurojust in January 2003. She was elected Vice-President in January 2004.

Roelof-Jan Manschot is National Member for The Netherlands and Vice-President. He has more than 30 years’ experience as a prosecutor. He was advocate-general at the Court of Appeal in Amsterdam from 1985 where he worked specifically on organised and financial crime. He was appointed as a Chief Prosecutor in 1995 and he joined Eurojust in June 2001. He was elected Vice-President in September 2004 to replace Olivier de Baynast.

Michèle Coninsx is National Member for Belgium. She has more than 15 years’ experience as a prosecutor. She worked for nine years for the International Civil Aviation Organization and was responsible for anti-terrorism relating to aircraft sabotage and hijacking. Before joining Eurojust she was a National Prosecutor in Belgium dealing with terrorism and organised crime.

Pavel Zeman is National Member for Czech Republic. He is a prosecutor with the Supreme Public Prosecutor’s Office in Brno. Before he was appointed National Member at Eurojust, he worked in the international department of the Supreme Public Prosecutor’s Office, dealing with cases of international legal assistance.

Johan Reimann is National Member for Denmark. He has worked for 25 years in the Danish judiciary, inter alia, as a prosecutor with the district attorneys of Copenhagen and of Zealand, as head of the police office in the Ministry of Justice and as a police auditor. Prior to his appointment to Eurojust he was deputy permanent secretary in the Ministry of Justice with responsibility for the general administration of budget and personnel for the Danish police and prosecutions.
**Hermann von Langsdorff** is National Member for Germany. He has 30 years’ experience as judge and prosecutor. Before becoming the National Member for Germany he worked as a Federal Prosecutor dealing with terrorism and espionage cases.

**Raivo Sepp** is National Member for Estonia. He has 15 years’ experience in the judiciary. He started his career in the prosecutor service as investigator. He has also worked as the Director of the Pre-trial Investigation Bureau. Afterwards, he was the Police Chief of the county and the Deputy Director General of the Police Board. He was the Prosecutor General of the Republic for five years.

**Stavroula Koutoulakou** is National Member for Greece. She worked in private practice as a lawyer before entering the Greek judiciary in 1997. She served as a Deputy Public Prosecutor in Athens and in Korinthos until her secondment to Eurojust in June 2002.

**Ruben Jimenez** is National Member for Spain. He was appointed as an examining judge in 1973. In 1996 he was appointed and served for six years as a member of the General Council of the Spanish Judiciary. Whilst in this post he was responsible for organising the EJN in Spain.

**François Falletti** is National Member for France. He has 27 years of experience as prosecutor both in court and at the French Ministry of Justice where he has been "Directeur des affaires criminelles et des graces" from 1993 to 1996 before being appointed Chief Prosecutor of the Court of Appeal of Lyon, where he stayed until he joined Eurojust in September 2004 to replace Olivier de Baynast as French National Member. In his former positions he has been in charge of a very wide range of cases and issues especially related to economic offences and MLA. He has also been involved in the activities of organisations of prosecutors acting at the European and international level.

**Jarlath Spellman** is National Member for Ireland. He was called to the Irish Bar in 1992 and practiced as a Barrister for a number of years. He worked as Advisory Counsel at the Office of the Attorney General in the Justice and Home Affairs area in 2000. In 2001 he was appointed a Professional Officer at the Office of the Director of Public Prosecutions. He has had experience in the prosecution of a wide range of serious criminal offences as well as dealing with mutual assistance and extradition.
Cesare Martellino is National Member for Italy. He started his career as a prosecutor in 1969. Until 1988 he acted as deputy prosecutor in Rome and later as Chief Prosecutor in Terni. During his career he has dealt with sensitive cases concerning organised crime, corruption, murder and kidnapping. In Italy he is currently entrusted with a significant role as a judge in the field of sports justice.

Katerina Loizou is National Member for Cyprus. She worked in private practice as a lawyer before entering the Attorney General’s office in 2002. She served as a counsel of the Republic in Nicosia until her secondment to Eurojust in September 2004.

Gunārs Bundzis is National Member for Latvia. He has 11 years of experience as a prosecutor. Before joining the Prosecution Service, he worked for the Criminal Police for several years. He began work at the Prosecutor General’s Office as senior assistant. Afterwards, he was appointed as Chief Prosecutor in one of the districts of Latvia. He continued to work at the Prosecutor General’s office as Chief Prosecutor in the methodology division and later in the international co-operation division, dealing with co-operation in criminal matters related to extradition, transfer of proceedings and of sentenced persons and mutual legal assistance.

Rolandas Tilindis is National Member for Lithuania. He started his career as an investigator in 1991 in the Investigation Department within the Ministry of Internal Affairs and the Prosecutor General’s Office of Lithuania. In 1995 he was appointed as a prosecutor in the Organized Crime and Corruption Investigation Department of the Prosecutor General’s Office and has been dealing with sensitive cases of wide public interest, also related to international organised crime. Before joining Eurojust in May 2004, he was a contact point for the Prosecutor’s Office.

Georges Heisbourg is National Member for Luxembourg. He has been a member of the judiciary in Luxembourg since 1976. He has worked for more than 20 years as a prosecutor. He was appointed a deputy chief prosecutor in 1993 and was head of the organised crime branch in charge of major money laundering cases and international judicial co-operation matters.

Ilona Lévai is National Member for Hungary. She is a career prosecutor, having gained experience at all levels of the Public Prosecution during her more than 25 years’ professional life. Since 1990, she is been working for the Office of the Prosecutor General of Hungary. For six years, she was Director General for International and European Affairs before joining Eurojust. She had, amongst others, a nationwide responsibility for preparing the Prosecution Service for the EU accession. In 2003, she was awarded with the Order of Merit Cross by the President of the Republic.
Silvio Camilleri, National Member for Malta.

Jerzy Iwanicki is National Member for Poland. He has 18 years’ experience as a prosecutor in various levels of the prosecution service in Poland. He dealt with economic crimes in the Investigation Division of the Regional Prosecutor’s Office in Warsaw. In 1996 he was appointed to the Bureau for Organised Crime in the National Prosecutor’s Office within the Ministry of Justice. Before joining Eurojust, he was contact point for the Prosecution Service in this authority.

José Luis Lopes da Mota is National Member for Portugal. He has 25 years’ experience in the judiciary as a prosecutor and as an assistant to the Portuguese Prosecutor General where he was responsible for matters related to management of the prosecution services at a national level and for international co-operation. He was a lecturer at the Portuguese national school for magistrates and a deputy Minister of Justice in charge of a range of issues including European affairs.

Barbara Brezigar is National Member for Slovenia. She spent her professional life in the prosecution service. She is Supreme State Prosecutor; in the past she was first head of the group of state prosecutors dealing with organised crime and other forms of serious crime. In 2000 she was Minister of Justice.

Peter Paluda is National Member for the Slovak Republic. He has worked 22 years in the Slovak judiciary. He has 12 years’ experience as a prosecutor. He worked in the District and Regional Prosecutor’s Office in the Banská Bystrica in Middle Slovakia until 1987. From 1987 until 1994 he worked for the General Prosecution Office in Bratislava. At the time of his appointment to Eurojust, he was judge of the Supreme Court of the Slovak Republic, dealing with criminal cases.

Maarit Loimukoski is National Member for Finland. She has more than 15 years’ experience as a district prosecutor in Helsinki. In 1999 she was appointed to the Prosecutor General’s Office as a State Prosecutor, specialising in organised crime. Prior to her appointment to Eurojust she worked at the Registry of the European Court of Human Rights in Strasbourg and as a counsellor in Brussels at the Permanent Representation to the EU on criminal and judicial co-operation matters.
Solveig Wollstad is National Member for Sweden. She has over 15 years’ experience as a prosecutor dealing, inter alia, with organised drug-related and other serious crime cases. Before becoming the National Member for Sweden she was a Chief Public Prosecutor in Sweden and head of the international unit of the Public Prosecution Authority for Linköping in Sweden. She was also a Swedish EJN contact point.

Jürgen Kapplinghaus is Deputy National Member for Germany. He has more than 29 years’ experience at different levels in the prosecution service. From 1975 to 1989 he was a local prosecutor and he then spent 10 years at the General Prosecutor’s Office. Between 1999 and 2001 he was attached to the Ministry of Justice in North Rhine-Westphalia. Overall he has specialised for more than 15 years in Mutual Legal Assistance and combating organised crime. Before joining Eurojust in 2001 he was Head of Division in the Ministry responsible for MLA and extradition matters.

Jean-Francois Bohnert is Deputy National Member for France. He has 19 years’ experience in the French judiciary. He began his career as a prosecutor in Strasbourg and worked afterwards as an investigating magistrate at the French military court in Germany. Subsequently he was for nearly five years the French liaison magistrate in Germany based in Bonn and later in Berlin.

Carmen Manfredda is Deputy National Member for Italy. She has 30 years’ experience in the fight against organised crime. Prior to joining Eurojust she worked as public prosecutor in Milan and afterwards as chief prosecutor in Vigevano.

Donatella Frendo Dimech is Deputy National Member for Malta. She joined the Attorney General’s Office as a Prosecutor in 1997 and since 2000 she has been dealing with money laundering as well as being responsible for international mutual judicial co-operation and extraditions. As Senior Counsel to the Republic she is also the EJN contact point for Malta.
Jolien Kuitert is the Deputy National Member for The Netherlands. She is a Public Prosecutor based at the National Public Prosecutor’s Office in The Netherlands where she deals with international co-operation in the field of combating organised crime. She is also the contact point for the Public Prosecutors Service in the EJN.

António Santos Alves is Deputy National Member for Portugal. He has more than 15 years’ experience at different levels in the Public Prosecution Service. From 2000 to 2002 he was a General Inspector for the Environment and between 2003 and 2004 he was Counsellor in the Permanent Representation of Portugal to the European Union.

Sanna Palo is Deputy National Member for Finland. She is a Finnish police officer with a legal background. She was a legal secretary in the Ministry for Foreign Affairs for two years and a judge in criminal cases for a year in Helsinki. She has also spent four years in Helsinki working on mutual legal assistance matters at the Finnish National Bureau of Investigation.

Ola Löfgren is Deputy National Member for Sweden. He has been working as a prosecutor for 10 years. He has experience in prosecuting all types of serious crime and he spent time working at the Economic Crimes Bureau in Stockholm. He has several years’ experience in international co-operation at the Office of the Prosecutor General in Sweden. He was also part of the Swedish team in the negotiations in Brussels to agree the Council Decision setting up Eurojust.

Rajka Vlahovic is Deputy National Member for the UK. She has 12 years’ experience as a prosecutor in central London and is a Higher Court Advocate. At the Crown Prosecution Service she dealt with a wide range of serious cases, including the prosecution of war crimes. Prior to joining Eurojust she was at Her Majesty’s Customs and Excise Solicitor’s Office where she was responsible for international mutual legal assistance and extradition cases.
**Assistants**

*Anne Delahaie* is Assistant to the National Member for France. She has a background in the Ministry of Justice since 1979. In the Ministry of Justice she was involved in International Judicial Co-operation in criminal matters and in bilateral and multilateral negotiations (Schengen EU, Council of Europe, and the UN). Since 2001 she has been an Assistant to the French National Member of Eurojust.

*Francesca Pietrini* is Assistant to the National Member for Italy. She has been working for the Ministry of Justice since 1997. From 1999 she was assigned as assistant to the Secretary of State to the Minister of Justice. Afterwards she worked for the Chief of Cabinet of the Minister of Justice. In September 2004 she was seconded to Eurojust as Assistant to the Italian desk.

*Ann den Bieman* is Assistant to the National Member for the UK. She has been a prosecutor with Scotland’s prosecuting authority, the Procurator Fiscal Service, since 1996. In March 2000 she was seconded to The Netherlands as one of the prosecutors involved in the Lockerbie trial. She subsequently joined Eurojust, where she works as an Assistant to the National Member for the UK.

*Susanne Stotz* is Assistant to the National Member for Germany. Since 1999 she worked for the German judiciary in Bavaria where she started as a prosecutor. In 2003, after four years in the Department for Economic and Financial Crime, she became a judge as member of a jury court for capital crime. Being located in the north-east of Bavaria close to Eastern European countries she had exposure to mutual legal assistance cases and bilateral co-operation, particularly with Czech colleagues. Since January 2005 she has been working for the German desk at Eurojust.

**Administrative Director**

*Ernst Merz* was appointed and served as a judge in Germany until 1987. He was then detached to the Ministry of Justice of Rhineland-Palatinate and Thuringia. Between 1992 and 1999 he was the Director of the Academy of European Law (ERA) in Trier. In 2000 he was appointed as President of the Social Court Koblenz and acted as first Secretary General of the European Judicial Training Network. In May 2002 he became provisional Administrative Director of Eurojust and in September 2002 he was appointed as Administrative Director.
ANNEX II – THE LEGAL AND PRACTICAL IMPLEMENTATION OF THE FRAMEWORK DECISION ON THE EUROPEAN ARREST WARRANT (EAW)

In October 2004 Eurojust organised a strategic meeting in Prague on the implementation of the European Arrest Warrant. The main objectives of the meeting were to identify the legal and practical obstacles to the implementation of the Council Framework Decision of 13 June 2002 on the EAW and to establish the criteria in case of competing EAWs for the same person (art. 16 of the EAW FD). The meeting took place in the Czech Republic, in order to raise the awareness of the new instruments of judicial co-operation in one of the Accession States, and included experts in this field from all 25 Member States - practitioners and academics, as well as representatives of the European Judicial Network, the Council Secretariat and the European Commission. The issues were discussed in plenary sessions and in workshops. The outcome may be summarised as follows:

Identification of Obstacles

The main purpose of the Framework Decision of 13 June 2002 which created the EAW was to enhance the effectiveness of judicial co-operation within the EU as well as to accelerate extradition procedures. All Member States, except Italy, have implemented the provisions of the Framework Decision in their national legislation. Although the EAW came into force more recently in certain Member States, it appears that various problems have already been encountered relating to its execution:

- **The completion of the standard form and the length of the description of the circumstances of the case.** Some Member States give incomplete information and also fail to provide a sufficient description of the offence.

- **The quality of the translation of the EAW in the language of the executing state.** When the quality of the translation of the documents into the language of the executing state is poor, it can cause unnecessary delay, as well as risk a breach of the time limits set for the execution of the EAW.

- **The transmission of the original EAW within time limits, which differ from one Member State to the other.** Some of the executing states have short time limits under their domestic laws for sending the EAW with the necessary translation under Article 8 paragraph 2 of the Framework Decision. Furthermore, some Member States do not accept the transmission of the warrant by fax and they require the original form with a short deadline.
• In some Member States, an alert sent through Interpol ("red notice") is not considered a request for provisional arrest. In this case, the warrant itself should also be sent once the person is found.

• Those Member States that belong to the Schengen area send alerts via the Schengen Information System (SIS). The problem that arises here is whether the transmission via SIS occurs only when the address of the person is unknown or this is something that takes place systematically.

• There are some doubts as to whether the SIRENE Bureau examines the "legality" of the warrant, i.e., whether the offence is under prescription.

• The identification of the competent judicial authorities of the executing Member States. The assistance of SIRENE offices is usually considered helpful in facilitating and making more efficient contacts for Member States belonging to the Schengen area. The adaptation of the EJN "Atlas" will represent a real improvement in this regard.

• The list of offences. As the result of different legal systems, the offences are seen by some as vague and obscure. The absence of interpretive guidance at the outset seems to add some confusion and uncertainty to the process. It should, however, be remembered that the list of offences in the Framework Decision is "defined by the law of the issuing Member State...". The judge or prosecutor in that state will know what offence he is investigating. On the other hand, the fact that the EAW Framework Decision does not provide for "accessory extradition", namely the surrender of a person for minor offences together with the offences falling under the scope of the EAW, has also given rise to difficulties.

• Differences in the definitions of the offences in national legislations and their translation within the scope of the EAW (Article 2 of the Framework Decision) indicate that not all countries give the same importance or have the same perception about certain offences.

• In some cases, the EAW was not executed for lack of double incrimination. More specifically, in certain cases, the decision to surrender the person was suspended because of national investigations involving the same person. Moreover, the legislation in some Member States requires the existence of an EAW before an arrest can be
effected, especially when the EAW is transmitted via Interpol. However, this procedure involves the risk, and the probability, that the suspect will flee.

- **One Member State applies the EAW for offences that were committed after the date they had implemented the EAW Framework Decision.** Indeed, there were some cases where the EAW was not executed because it was received before, or the relevant events took place before, the EAW Framework Decision was implemented in the national law of the specific Member State.

- **Difficulties may also arise as several Member States included fundamental rights as a mandatory ground for refusal in their EAW legislation, although they were not envisaged as such in the Framework Decision and Member States are bound to respect them in any event.**

Initial experience of practitioners with cases dealt with under the umbrella of the EAW Framework Decision indicates that it will take both time and some amendments in order to be fully effective. Despite the fact that almost all Member States have implemented the EAW Framework Decision into their national legislation, they did so according to their own methods of implementation, each with their own requirements. The problem so far encountered by Member States consists of insufficient regulation of the communication languages, delivery terms and means of translation. Concerning the transmission of the warrant, it seems that there is no uniformity. It appears that in the near future clarification as well as unification of the ways of transmission should be put in place so that the system works more effectively.

**Guidelines for Deciding on Competing EAWs**

The increase in international cross-border crime has led to a subsequent increase in the number of cases in which more than one Member State has, under their domestic law, jurisdiction to prosecute and try such cases. There is a need for co-ordination in order to ensure that a person will not be prosecuted in more than one Member State for the same acts.

One of the main tasks of Eurojust is facilitating the proper co-ordination of national prosecuting authorities. To that end, in our Annual Report for 2003, and in accordance with the powers in the Eurojust Decision, we published guidelines suggesting criteria to be taken into consideration in multi-jurisdictional cases. It is always the competent national authorities who decide which jurisdiction is better placed to prosecute but early consultation and decisions made by the concerned Member States are likely to produce a better outcome. Similarly, effective and early co-ordination between the competent authorities of the Member States concerned, before
the issue of an EAW, should minimise the number of cases of multiple requests for the same person.

There are four main situations where two or more Member States have issued EAWs for the same person, for purposes of prosecution or for execution of a custodial sentence or detention order ("competing arrest warrants"): 

- Two (or more) arrest warrants issued against the same person for purposes of prosecuting the same crime;
- Two (or more) arrest warrants issued against the same person for purposes of prosecution of two (or more) different crimes;
- Two (or more) arrest warrants issued against the same person, one (or more) for purposes of prosecution of crimes and one (or more) for purposes of execution of a custodial sentence or detention order; and
- Two (or more) arrest warrants issued against the same person for purposes of execution of two (or more) custodial sentences or detention orders.

The criteria to be used for the decision on which competing arrest warrants should be executed vary in each of these situations according to the guidelines below. The four situations may sometimes be intermixed. In such cases, which we expect will not occur frequently, the criteria should apply *mutatis mutandis*. Each situation where warrants compete will be unique. The decision on which competing arrest warrant should be executed must be considered on a case by case basis taking into account all the facts, circumstances and merits in each individual case, weighing and considering all relevant issues.

In the following guidelines, it is assumed that each of the competing arrest warrants signifies that the jurisdiction in question is able and willing to prosecute and successfully secure a conviction.

**1) Two (or more) arrest warrants issued against the same person for purposes of prosecuting the same crime.**

Basically this is a matter of deciding which jurisdiction should prosecute. We feel the point of departure should be the Eurojust guidelines on which jurisdiction should prosecute in those
cross-border cases where there is the possibility of a prosecution being launched in two or more different jurisdictions. Thus, all the relevant factors mentioned in the guidelines, e.g., the location where the majority of the criminality occurred or the majority of the loss was sustained, should be taken into consideration. The criteria mentioned in the guidelines will be applicable in most cases, but there are some differences due to the existence of competing arrest warrants.

The dates of the competing arrest warrants, mentioned in Article 16(1) of the Framework Decision as a possible element in the decision on which warrant should be executed, do not seem per se to merit weight. However if the early date of one of the warrants signifies that the prosecution in one of the competing Member States is further advanced and that Member State is therefore able to bring the case to trial more quickly, this could be taken into account.

The location of the accused is mentioned in the Eurojust guidelines, and the possibility for surrendering the person will be of little importance unless the executing state considers non-execution of the warrant for other reasons.

However the citizenship of the accused may be a factor to be taken into consideration if the accused has citizenship in one of the countries requesting the surrender. Similarly a strong personal connection with one of the countries requesting the surrender may be a factor to be taken into consideration.

The relative seriousness of the crime is mentioned as a criterion in the Framework Decision. However, in the situation where the warrants relate to the same criminal offence, little weight should be put on this factor. Certainly the decision on which jurisdiction should prosecute should not be based on an evaluation of which penalties are highest.

2) Two (or more) arrest warrants issued against the same person for purposes of prosecution of two (or more) different crimes.

In this case the decision cannot be founded solely on the principles regarding choice of jurisdiction. The question is not "who should prosecute?" but "who should prosecute first?"

Thus the point of departure should be which jurisdiction will suffer the greatest loss if the prosecution must await the outcome of a prosecution in another jurisdiction. This may,
for example, be due to prescription, prosecution of co-accused, evidential problems, including witness statements, concern for the victims, possibility of confiscation, etc.

The **dates of the competing arrest warrants** should only be a significant factor if the early date of one of the warrants signifies that the prosecution in one of the competing Member States is further advanced, and therefore able to bring their case(s) to trial more quickly.

The **relative seriousness of the crimes** should be taken into consideration. Thus the warrant from one jurisdiction may request the surrender for prosecution of a large number of crimes, whereas the other only regards one crime. But also the seriousness of the individual crime as such should be taken into consideration. In this respect the seriousness of the criminal conduct as such, rather than the relative sentencing powers of the courts in different jurisdictions, should be the deciding factor.

Additionally the **condition of the victims** should be seen as an important factor, both in evaluating the seriousness of the crime and in assessing which prosecution should come first.

### 3) Two (or more) arrest warrants issued against the same person, one (or more) for purposes of prosecution of crimes and one (or more) for purposes of execution of a custodial sentence or detention order.

In this situation again the question is not who should prosecute or which sentence should be executed, but rather the sequence with regard to the prosecution of the offences and the serving of a sentence.

There must be a **strong presumption** that the surrendering of a person for the purpose of being available for prosecution has priority over the serving of a sentence.

However, in special cases, such as where there is danger of the sentence being prescribed due to **statutes of limitation** and a similar risk does not apply to the prosecution, the surrender for the execution of a sentence may prevail.
The **dates of the competing arrest warrants** seem to merit little importance in this situation, just as the **location and relative seriousness of the crime** will normally signify very little.

4) **Two (or more) arrest warrants issued against the same person for purposes of execution of two (or more) custodial sentences or detention orders.**

As the main problem in this situation is to arrange for the sequence and circumstances for serving two or more prison sentences in different countries, it will to a large degree be the responsibility of the **prison authorities** in the countries concerned to co-operate closely on the planning and practical arrangements for the serving of the sentences, taking into account also the personal circumstances of the sentenced person.

The risk of **prescription of sentences due to statutes of limitation** must weigh heavily in the decision of the executing state.

The **dates of the offences and relative seriousness of the crimes** may be taken into consideration to ensure the principle that the oldest sentence is served first and that the more serious crime is expiated before the less serious. However the dates of the competing arrest warrants are likely to be of little importance in this situation.

**The Reference to Eurojust**

Article 16(2) of the Framework Decision allows the executing judicial authority to seek the advice of Eurojust when deciding which competing arrest warrant should be executed. However Eurojust will be happy to offer its assistance to all parties in cases of this nature. The National Members will be pleased to participate in the discussions about the cases and to offer facilities for meetings and negotiations between prosecutors from the countries involved.

**Breach of Time Limits in EAW Cases**

In addition to role discussed above, the Framework Decision on the EAW provides another task for Eurojust. Article 17(7) of the Framework Decision of 13 June 2002 requires Member States to notify Eurojust of any incident where the time limit is exceeded, preventing the surrender of the person requested. Member States are also required to provide reasons for any delay (Breaches
of time limits). We are firmly of the view that the competent authorities in very few Member States were aware of this responsibility. A number of Eurojust National Members had to remind their national authorities of the requirement before any data were forthcoming.

We have obtained the following information on breaches of time limits.

In 2004 Eurojust received notifications that the EAW time limits had been breached in 14 cases. This figure is low and we feel sure there have been more breaches than those reported in these 14 cases. Our feeling is reinforced by the fact that the reports come from only four Member States. We urge all Member States to ensure that procedures are in place to report failures to meet deadlines to Eurojust, and that the procedures are implemented.

The Member States which made reports to Eurojust are:

- United Kingdom – 8 cases
- Belgium – 2 cases
- France – 2 cases
- Denmark – 1 case
- Portugal – 1 case

The following reasons for the delay were given by Member States:

**Defence request time:** 2 cases.
One was asked on the basis of a human rights argument and the other for mental health reasons.

**Refusal:** 3 cases.
In one of these cases the judicial authority considered that some of the acts were committed before the date notified by the Member State in accordance with Article 32 of the Framework Decision of 13 June 2002. In the second case the judicial authority gave equal status to the rules implementing the Framework Decision as to the national rules for the serving of sentences. No details were provided concerning the third case. These refusals have been successfully appealed by the requested authorities.

**Proceding adjourned due to pending procedure or sentence being served in the requested country:** 6 cases.
In some of these cases it seems that the UK did not apply the provisions of Article 24 of the Framework Decision but decided, with the agreement of the requesting country, to schedule the examination of the case after the execution of the national sentence. In one case the time-frame
could not be kept because there was an appeal against the decision to surrender the person requested. In another case information is still missing. In yet another case there was a need for clarification relating to the legal qualification of the facts decided in the case and the translation. This situation led to the release of the person and the need for a replacement EAW to be issued to overcome the initial difficulties. In two Belgian cases all the procedural steps were followed resulting in one successful and one unsuccessful outcome.
ANNEX III – GUIDELINES FOR INFORMATION SUBMITTED BY NATIONAL CORRESPONDENTS FOR TERRORISM MATTERS AND NATIONAL SPECIALIST AUTHORITIES TO NATIONAL MEMBERS OF EUROJUST

1. The Council Decision 2003/48/JHA of 19 December 2002 on the implementation of specific measures for police and judicial co-operation to combat terrorism obliges the Member States to ensure that relevant information regarding terrorist investigations is communicated to Eurojust by or through the National Correspondents for Terrorism Matters or the appropriate judicial or other competent authority.

Article 3.2 of the Decision provides:

"2. Each Member State shall take necessary measures to ensure that at least the following information, collected by the national correspondent or by the appropriate judicial or other competent authority, is communicated to Eurojust, in accordance with national law, and insofar as permitted by, the provisions of the Eurojust Decision, in order to enable it to carry out its tasks:

(a) data which identify the person, group or entity;
(b) acts under investigation or prosecution and their specific circumstances;
(c) links with other relevant cases of terrorist offences;
(d) the existence of mutual legal assistance requests, including letters rogatory, which may have been made by or to another Member State, as well as the results of these."

2. The College has carefully considered the most appropriate way this information should be submitted to Eurojust and recommends the following guidelines:

2.1. The information submitted should relate to persons, groups or entities listed in the latest version of the Annex to the Council Common Position on the application of specific measures to combat terrorism (Common Position 2001/931/CFSP).

For information purposes, the latest revision is Council Common Position 2004/500/CFSP of 17 May 2004, OJ L 196, 3 June 2004; however, national correspondents should ensure they are fully aware of changes.

2.2. The information submitted should be relevant to Eurojust’s tasks; it should relate to and result from criminal proceedings under the responsibility of judicial authorities. Thus only judicial information obtained as a result of terrorist investigations and prosecutions, and not purely police intelligence data, should be forwarded. Such information will include, e.g., information obtained following arrests, searches, formal interviews, etc.
2.3. The information should **concern terrorist offences** as referred to in Articles 1 to 3 of Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism.

2.4. The information should be submitted to Eurojust through the National Member in the form of a **summary report** confirming:

- the reason for opening the investigation;
- the investigative measures used;
- at a minimum the following information:
  - the acts and offences under investigation or prosecution and their specific circumstances;
  - details of the person, group or entity being investigated;
  - links with other relevant cases of terrorist offences, especially links to other Member States.

2.5. Copies of **all letters of request** for mutual legal assistance sent by competent authorities in Member States and relating to terrorist cases for execution in other Member States should be sent to Eurojust for information **as well as the results** of these in the form of a summary report. All letters of request requiring co-ordinated action in such cases should be forwarded through Eurojust in accordance with Article 6(g) of the Eurojust Decision when its intervention is required to co-ordinate action. Where Eurojust’s assistance is requested, a report explaining, for example, what type of co-ordination or co-operation is required should accompany the request.

2.6. Copies of **all European Arrest Warrants** issued in respect of terrorist offences should be sent to Eurojust.

2.7. **Supplementary information** on the cases should be made available upon request of the National Member.

2.8. The **form, medium and method** of communication of information should be decided by the national correspondent and the National Member. Eurojust’s IM Unit should be contacted for the development of IT-based communication of information.
ANNEX IV – GUIDELINES FOR DECIDING WHICH JURISDICTION SHOULD PROSECUTE

This guidance was first published as an annex to the Eurojust Annual Report 2003. Several National Members from the 10 EU Accession States asked for it to be included again as an annex to the Annual Report 2004. They feel it will be of assistance and benefit to their colleagues in the national jurisdictions who deal with such issues and who will not have been able to read the guidelines in their own languages.

In November 2003 Eurojust organised a seminar to discuss and debate the question of which jurisdiction should prosecute in those cross-border cases where there is a possibility of a prosecution being launched in two or more different jurisdictions. The objective of the seminar was to establish some guidance which would assist Eurojust when exercising its powers to ask one state to forgo prosecution in favour of another state which is better placed to do so.

The seminar delegates included practitioners from all EU Member States, from most of the EU Accession Countries as well as representatives from the Commission, the Council Secretariat, Europol and OLAF. There were a series of presentations and four workshops with case studies to help discuss potential criteria. The debates were enriched by the presence, as speakers and participants in the workshops, of several delegates who were university professors and/or academics with an interest in this area of law. We are grateful to all the seminar delegates for their contributions.

The Eurojust College offers the following guidance which was first published as an annex to our Annual Report 2003.

Generally

When reference is made to "prosecutors" in this guidance it is intended to refer not only to prosecutors but also to judges and other competent judicial authorities.

Each case is unique and consequently any decision made on which jurisdiction is best placed to prosecute must be based on the facts and merits of each individual case. All the factors which are thought to be relevant must be considered.

The decision must always be fair, independent and objective and must be made by applying the European Convention of Human Rights, ensuring that the human rights of any defendant or potential defendant are protected.

Any decision should be reached as early as possible in the investigation or prosecution process and in full consultation with all the relevant authorities in each jurisdiction. The complex
question of "forum shopping", which we would define as the arbitrary selection of the venue for prosecution, has different meanings in different legal systems and is not dealt with in this guidance. It is likely to be the subject of future discussion within Eurojust as our experience in handling this type of case develops.

As part of their discussion to resolve these cases prosecutors should explore all the possibilities provided by current international conventions and instruments, for example to transfer proceedings and to centralize the prosecution in a single Member State. A number of conventions and other instruments, which have been signed but not yet ratified, could also provide assistance in the future when they have been fully implemented.

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**Non bis in idem**

A basic principle of international criminal law and the law of national criminal jurisdictions is that a defendant should not be prosecuted more than once for the same criminal conduct. This applies even if the defendant has been acquitted of that conduct in one jurisdiction. This guidance fully supports, adheres to and endorses that principle.

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**Initial Considerations**

The first consideration should be: "Where can a prosecution take place?" This decision should be considered at as early a stage as possible and in any event as soon as it is discovered that a prosecution might take place in more than one jurisdiction.

Prosecutors must identify each jurisdiction where a prosecution is not only possible but also where there is a realistic prospect of successfully securing a conviction. Making this assessment will require expertise and knowledge, which can only be provided by experienced practitioners from the relevant jurisdictions.

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**Meeting to Discuss Action**

If the criminality occurred in several jurisdictions whose competent authorities could each institute proceedings in their own courts, there should be a meeting between nominated senior prosecutors representing each jurisdiction involved to discuss and agree where the prosecution should be mounted.
Each of the prosecutors nominated to attend such a meeting must be fully competent to discuss the issues and to make decisions on behalf of the prosecuting authorities in the jurisdiction they represent. The prosecutors should apply the following guidance criteria in reaching their decisions.

Reference to Eurojust

Eurojust expects any cases of this type, particularly where the representatives of the respective jurisdictions cannot reach agreement on where the case should be prosecuted, to be referred to it for assistance.

Eurojust would be happy to offer advice and to facilitate such meetings. If required the relevant National Members of Eurojust would be pleased to be involved in these discussions. Eurojust would actively encourage all competent authorities to consider referring this type of case to it for assistance.

Making the Decision – "Which Jurisdiction Should Prosecute?"

A Presumption

There should be a preliminary presumption that, if possible, a prosecution should take place in the jurisdiction where the majority of the criminality occurred or where the majority of the loss was sustained.

When reaching a decision prosecutors should balance carefully and fairly all the factors both for and against commencing a prosecution in each jurisdiction where it is possible to do so.

There are a number of factors that should be considered and can affect the final decision. All these factors should be considered at the meeting of prosecutors from the relevant states affected by the criminality concerned. Making a decision will depend on the circumstances of each case and this guidance is intended to bring consistency to every decision-making process.
Some of the factors which should be considered are:

**The Location of the Accused**

The possibility of a prosecution in that jurisdiction and whether extradition proceedings or transfer of proceedings are possible will all be factors that should be taken into consideration.

**Extradition and Surrender of Persons**

The capacity of the competent authorities in one jurisdiction to extradite or surrender a defendant from another jurisdiction to face prosecution in their jurisdiction will be a factor in deciding where that defendant may be prosecuted.

**Dividing the Prosecution into Cases in Two or More Jurisdictions**

The investigation and prosecution of complex cases of cross-border crime will often lead to the possibility of a number of prosecutions in different jurisdictions.

In cases where the criminality occurred in several jurisdictions, provided it is practicable to do so, prosecutors should consider dealing with all the prosecutions in one jurisdiction. In such cases prosecutors should take into account the effect that prosecuting some defendants in one jurisdiction will have on any prosecution in a second or third jurisdiction. Every effort should be made to guard against one prosecution undermining another.

When several criminals are alleged to be involved in linked criminal conduct, while often it may not be practicable, if it is possible and efficient to do so, prosecutors should consider prosecuting all those involved together in one jurisdiction.

**The Attendance of Witnesses**

Securing a just and fair conviction is a priority for every prosecutor. Prosecutors will have to consider the willingness of witnesses both to give evidence and, if necessary, to travel to
another jurisdiction to give that evidence. In the absence of an international witness warrant, the possibility of the court receiving evidence in written form or by other means (such as remotely (by telephone or video-link)) will have to be considered. The willingness of a witness to travel and give evidence in another jurisdiction should be considered carefully, as this factor is likely to influence the decision as to the jurisdiction where a prosecution is to be instituted.

**The Protection of Witnesses**

Prosecutors should always seek to ensure that witnesses or those who are assisting the prosecution process are not endangered. When making a decision on the jurisdiction for prosecution, factors for consideration may include, for example, the possibility of one jurisdiction being able to offer a witness protection programme where another jurisdiction has no such possibility.

**Delay**

A maxim recognised in all jurisdictions is that "justice delayed is justice denied". While time should not be the primary factor in deciding which jurisdiction should prosecute, where other factors are balanced then prosecutors should consider the length of time which proceedings will take to be concluded in a particular jurisdiction. If several states have jurisdiction to prosecute consideration should always be given to how long it will take for the proceedings to be concluded.

**Interests of Victims**

Prosecutors must take into account the interests of victims and whether they would be prejudiced if any prosecution were to take place in one jurisdiction rather than another. Such consideration would include the possibility of victims claiming compensation.

**Evidential Problems**

Prosecutors can only pursue cases using reliable, credible and admissible evidence. Evidence is collected in different ways and often in very different forms in different jurisdictions. Courts in different jurisdictions have different rules for the acceptance of evidence often gathered in
very diverse formats. The availability of evidence in the proper form and its admissibility and acceptance by the court must be considered as these factors will affect and influence the decision on where a prosecution might be brought. These are factors which prosecutors must consider when reaching any decision on where a prosecution should be instituted.

**Legal Requirements**

Prosecutors must not decide to prosecute in one jurisdiction rather than another simply to avoid complying with the legal obligations that apply in one jurisdiction but not in another.

All the possible effects of a decision to prosecute in one jurisdiction rather than in another and the potential outcome of each case should be considered. These matters include the liability of potential defendants and the availability of appropriate offences and penalties.

**Sentencing Powers**

The relative sentencing powers of courts in the different potential prosecution jurisdictions must not be a primary factor in deciding in which jurisdiction a case should be prosecuted. Prosecutors should not seek to prosecute cases in a jurisdiction where the penalties are highest. Prosecutors should however ensure that the potential penalties available reflect the seriousness of the criminal conduct which is subject to the prosecution.

**Proceeds of Crime**

Prosecutors should not decide to prosecute in one jurisdiction rather than another only because it would result in the more effective recovery of the proceeds of crime. Prosecutors should always give consideration to the powers available to restrain, recover, seize and confiscate the proceeds of crime and make the most effective use of international co-operation agreements in such matters.

**Resources and Costs of Prosecuting**

The cost of prosecuting a case, or its impact on the resources of a prosecution office, should only be a factor in deciding whether a case should be prosecuted in one jurisdiction rather than
in another when all other factors are equally balanced. Competent authorities should not refuse to accept a case for prosecution in their jurisdiction because the case does not interest them or is not a priority to the senior prosecutors or their Ministry of Justice.

Where a competent authority has expressed a reluctance to prosecute a case for these reasons, Eurojust will be prepared to consider exercising its powers to persuade the authority to act.

**Matrix**

The factors which should be considered in making decisions on which jurisdiction should prosecute are set out in this guidance. The priority and weighting which should be given to each factor will be different in each case. The intention of this guidance is to provide reminders and to define the issues that are important when such decisions are made.

During the Eurojust seminar on this topic a number of delegates found it useful to apply a matrix. While applying a matrix rigidly may be too prescriptive, some may find a more structured approach to resolving these conflicts of jurisdiction helpful. The matrix allows a direct comparison and weighting of the relevant factors which will apply in the different possible jurisdictions.

The logo uses strong colours and a modern style which represent Eurojust as a strong new organisation. The logo brings together a representation of Eurojust in blue as an organ of the European Union (EU) and the different interlocking shapes and colours represent the very different EU legal systems working together. Red is added to the blue and gold colours of the EU to represent the strongly contrasting legal systems within the EU and additionally to represent our will to fight against cross-border crime.

The scales overlay the shapes and colours and are a world-wide symbol of justice. They are a consistent theme in the very different legal systems represented within Eurojust. The sword res tant represents both our fight against organised crime, which is at the heart of Eurojust’s objectives, and the potential sanction of the legal systems. All this is within the EU circle of stars to show that Eurojust is an EU body.

The circle of stars is open and the interlocking shapes are mainly within the circle and within the EU, but also spread outside to show that Eurojust works within the EU as well as with cases and legal systems outside the EU. The open circle of stars also represents our openness to working with other systems beyond the EU and it adds to the sense of flexibility and co-operation which are key parts of our work.

We hope the logo is like Eurojust – new, modern, fresh and dynamic; we are confident that, like Eurojust, it will have significant impact.