

**EUROJUST**

# 2019 Eurojust Report on Counter-Terrorism

December 2020

*Criminal justice across borders*

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## Abbreviations

<b>AP</b>	Analysis Project (Europol)
<b>CIC</b>	Core International Crimes
<b>CMS</b>	Case Management System (Eurojust)
<b>CT</b>	counter-terrorism
<b>CTR</b>	European Judicial Counter-Terrorism Register
<b>EAW</b>	European Arrest Warrant
<b>ECTC</b>	European Counter Terrorism Centre (Europol)
<b>EIO</b>	European Investigation Order
<b>EJN</b>	European Judicial Network
<b>EU</b>	European Union
<b>EU IRU</b>	European Union Internet Referral Unit (Europol)
<b>FTF</b>	foreign terrorist fighter
<b>ISIL (Da'esh)</b>	Islamic State of Iraq and the Levant
<b>JIT</b>	joint investigation team
<b>JHA</b>	Justice and Home Affairs
<b>MLA</b>	mutual legal assistance
<b>OSP</b>	online service provider
<b>SIRIUS</b>	Scientific Information Retrieval Integrated Utilisation System
<b>SNE</b>	seconded national expert
<b>TCM</b>	<i>Terrorism Convictions Monitor</i>
<b>TE-SAT</b>	<i>European Union Terrorism Situation and Trend Report</i>

## Executive summary

With the evolution of the security threat and the changing complexity of terrorist attacks and terrorist activities targeting EU Member States, it has become evident that an efficient judicial response to terrorism often reaches beyond a single jurisdiction. To address challenges efficiently, competent national authorities need to cooperate and coordinate among themselves and with relevant EU and international bodies, and share information in a timely and comprehensive manner.

The *2019 Eurojust Report on Counter-Terrorism* presents Eurojust's activities in the area of counter-terrorism (CT) in 2019, based on Eurojust's mandate and aiming to strengthen the efficient judicial response to terrorism. It provides insights into the growing number of complex and diverse CT investigations and prosecutions coordinated by Eurojust, identifies challenges and best practices and refers to examples of the assistance that Eurojust provided to national authorities.

CT investigations and prosecutions brought to Eurojust for assistance concerned terrorist attacks and other types of terrorist activities committed by terrorist networks, terrorist cells or single individuals. Specific challenges were identified in relation to the execution of requests based on mutual recognition instruments, mutual legal assistance (MLA) requests and the establishment of the (best-placed) jurisdiction to prosecute.

Eurojust's unique mandate and expertise have allowed it to assist national authorities efficiently at all stages of judicial proceedings and in relation to all types of terrorism. With the entry into force of [Regulation \(EU\) 2018/1727](#) on the European Union Agency for Criminal Justice Cooperation (Eurojust) on 12 December 2019, Eurojust's capacity to assist with and coordinate investigations and prosecutions has been further reinforced.

In the CT investigations and prosecutions coordinated by Eurojust, legal and operational assistance tailored to the specific needs of each case was provided. Eurojust's coordination meetings helped build a common understanding of the alleged terrorist activities, identify links between investigations, discuss cooperation and coordination needs and agree on the best way forward. Joint investigation teams (JITs) set up with the assistance of and funding from Eurojust were seen as an efficient judicial cooperation tool to address the challenges faced by the involved States, enabling them to share information and evidence directly and discuss, agree on and coordinate their investigation and prosecution strategies.

The transmission of (copies of) European Investigation Orders (EIOs) and MLA requests and their execution through Eurojust has become an established and efficient practice to ensure that the documents reach the judicial authorities they are addressed to in the swiftest manner possible and to guarantee proper follow-up, whenever needed.

In the CT investigations and prosecutions coordinated in 2019, Eurojust's assistance was instrumental in ensuring the exchange of information on linked proceedings and mapping the scope of investigations and future prosecutions to determine risks of infringement of the *ne bis in idem* principle and develop possible coordinated strategies to avoid such infringements.

CT cases referred to Eurojust for assistance demonstrated that international judicial cooperation is a powerful tool to safeguard and guarantee the rights of victims of terrorism and their families. Through judicial cooperation and with the help of Eurojust, national authorities can ensure that foreign victims are informed of their rights in the country where a terrorist attack took place and that those rights are guaranteed immediately after the attack, during the investigation and in court.

As CT investigations in EU Member States often reach beyond the EU, Liaison Prosecutors from third States who are posted at Eurojust were very instrumental in ensuring swift and efficient cooperation between the authorities of those third States and EU Member States. Furthermore, Eurojust's network of judicial contact points in third States allows Eurojust and the national authorities to reach out to jurisdictions all over the world to facilitate and speed up cooperation, including in CT cases.

Aiming to support EU Member States in the best way possible, Eurojust continued to cooperate closely with its key partner Europol, ensuring complementarity in the assistance offered to national authorities, in conformity with the respective mandates of the two agencies.

Recognising the fundamental importance of the sharing of information, on 1 September 2019 Eurojust launched the European Judicial Counter-Terrorism Register (CTR), in cooperation and consultation with the EU Member States. The CTR is a unique operational tool at EU level, which collects information on ongoing and concluded judicial CT proceedings in the EU Member States, transmitted to Eurojust on the basis of [Council Decision 2005/671/JHA](#) of 20 September 2005 on the exchange of information and cooperation concerning terrorist offences. The CTR's main objective is to identify (1) potential links between judicial proceedings and (2) possible coordination needs, in full respect of the applicable data protection rules and the confidentiality and ownership of the information.

The transmission to Eurojust of accurate and up-to-date information on judicial CT proceedings results in concrete and tangible benefits for the EU Member States. It contributes to a more efficient detection of links between national judicial proceedings on the basis of CTR information. The links may help national authorities understand better the international dimension of a terrorist cell and/or activity and provide national authorities with a broader range of avenues for cooperation and coordination. In CT proceedings that were not previously known to affect other States, the CTR may help identify international links that reveal the cross-border nature of terrorist cells and/or activities. Inserting the CTR information into the Eurojust Case Management System also makes it possible to identify links between CT proceedings and proceedings concerning other types of serious and organised crime.

When links are confirmed, EU Member States can benefit from the coordination mechanisms that Eurojust offers. Eurojust can help national authorities assess their investigation and cooperation needs more precisely, coordinate national efforts and foster common or cooperative prosecution strategies to achieve better operational results and ensure the successful outcome of investigations and prosecutions.

Based on the experience gained from coordinating CT investigations and prosecutions, and the need to support national authorities in an efficient manner, Eurojust identified the following priority areas on which to focus its efforts and resources in 2020:

- the efficient and timely coordination of CT investigations and prosecutions to help render EU Member States' investigations and prosecutions successful;
- further implementation of the CTR to enhance the timely and comprehensive sharing of information on judicial CT proceedings, optimise the ability to identify links between proceedings and ensure efficient follow-up of each link;
- the coordination of judicial cooperation to provide support to victims of terrorism and guarantee their rights;
- the sharing of experience and input to discussions at EU level concerning judicial cooperation, exchange of information on terrorist offences and challenges and best practices in the judicial response to terrorism to address the evolving nature of the terrorist threat.

## 1. Introduction

The objective of the *2019 Eurojust Report on Counter-Terrorism* (hereafter ‘the report’) is to present Eurojust’s activities in the area of counter-terrorism (CT) in 2019. The report builds on experience gained by Eurojust in assisting CT investigations and prosecutions in EU Member States and third States and in facilitating the exchange of information on CT investigations, prosecutions and convictions. It highlights some recurring or distinctive judicial cooperation challenges and best practices, allowing to gain insights into various aspects of the judicial response to terrorism across the EU and beyond. The report is a follow-up to the *2018 Eurojust Report on Counter-Terrorism* and the Eurojust reports on the criminal justice response to foreign terrorist fighters (FTFs) (2013–2017).

The report presents an overview of recent **Eurojust casework in the area of CT** (Chapter 2), highlighting legal and practical challenges encountered in investigations and prosecutions across Europe. It also includes some concrete examples of the coordination and support provided by Eurojust to enhance national authorities’ efforts to manage efficiently CT cases of a cross-border nature. With the entry into force of Regulation (EU) 2018/1727 on the European Union Agency for Criminal Justice Cooperation (Eurojust) on 12 December 2019, Eurojust’s capacity to assist with and coordinate investigations and prosecutions has been further reinforced. In the framework of the operational support provided to competent national authorities, the importance of cooperation with Eurojust’s key partner Europol is also highlighted.

The report also outlines the importance of the **sharing of information with Eurojust on investigations, prosecutions and convictions of terrorist offences** (Chapter 3). It presents the main concepts and principles of the **European Judicial Counter-Terrorism Register (CTR)**, which was launched on 1 September 2019. This is a unique operational tool at EU level, which collects information on ongoing and concluded judicial CT proceedings in EU Member States, transmitted to Eurojust on the basis of Council Decision 2005/671/JHA of 20 September 2005 on the exchange of information and cooperation concerning terrorist offences. The CTR, which was set up on the initiative of and in consultation with the EU Member States, aims to identify potential links between judicial proceedings and possible coordination needs and thus build a stronger judicial response to terrorism.

The report concludes with an outlook into Eurojust’s main priorities in the area of CT in 2020.

## 2. Eurojust casework on counter-terrorism

### 2.1. Counter-terrorism investigations and prosecutions assisted by Eurojust

Over the past few years, the assistance given by Eurojust to CT investigations and prosecutions of a cross-border nature has evolved significantly. Eurojust has received requests to coordinate and facilitate judicial cooperation in a large number of multilateral cases of considerable complexity and diversity. Eurojust's unique mandate and expertise have made it possible to provide effective assistance to national authorities at all stages of judicial CT proceedings (before, during and after trial) and in relation to all types of terrorism (jihadist, separatist, right-wing and left-wing).

The assistance provided by Eurojust and the growing trust of national judicial authorities have led to a steady increase in the number of cases referred to Eurojust for assistance.

In 2019, Eurojust coordinated 222 CT cases, 94 of which were newly registered in 2019 and 128 of which were ongoing from previous years. The cases concerned requests for Eurojust's assistance by the national authorities of EU Member States and third States with a Liaison Prosecutor at Eurojust <sup>(1)</sup>. Eurojust also organised 24 coordination meetings for CT cases, providing a trusted venue for national authorities to share information on the progress of their investigations, discuss prosecution strategies and agree on a common or coordinated approach to achieve better operational results. The operational assistance in CT investigations and prosecutions that Eurojust provided in 2019 increased compared with 2018, when Eurojust supported 191 cases (84 of which were registered in 2018) and organised 20 coordination meetings <sup>(2)</sup>. In 2019, Eurojust also supported eight joint investigation teams (JITs) in CT cases, two of which were set up in 2019 and six of which were extended from previous years.

In 2019, Eurojust actively coordinated investigations and prosecutions concerning attacks that were planned or committed in EU Member States or third States. Some cases involved attempts or threats to commit such attacks in EU Member States.

Other CT investigations and prosecutions assisted by Eurojust concerned participation in or support for a terrorist group, production of terrorist propaganda and/or dissemination of such propaganda online, public incitement, and provocation or instigation of others to commit terrorist acts. Travel to or return from a conflict zone were also under investigation in some cases. Some of these cases targeted FTFs travelling to a conflict zone to join the ranks of a terrorist group or undergo terrorist training, while



<sup>(1)</sup> In 2019, Eurojust hosted Liaison Prosecutors for Montenegro, North Macedonia, Norway, Switzerland, Ukraine and the United States.

<sup>(2)</sup> The number of newly registered CT cases at Eurojust has been growing progressively over the past few years, from 14 in 2014 to 41 in 2015, 67 in 2016, 87 in 2017, 84 in 2018 and 94 in 2019.

others focused on networks and cells involved in recruitment, financing, logistical support and facilitation of the travel or return of FTFs.

In some CT investigations and prosecutions, the alleged terrorist activities were committed in combination with other offences, e.g. trafficking (of human beings, drugs), smuggling (of migrants, cigarettes), economic crimes (money laundering or tax offences with possible links to financing of terrorism), computer crimes, explosives-, weapons- and ammunition-related offences, including possession and trafficking, and forgery of official documents.

The CT investigations and prosecutions referred to Eurojust for assistance concerned single individuals or alleged terrorist cells or networks. In some cases, organised crime groups were also involved.



## 2.2. Legal and practical challenges

### European Investigation Orders

As EU Member States gain more experience with issuing and executing European Investigation Orders (EIOs), the advantages of using this comprehensive judicial cooperation instrument in cross-border CT investigations and prosecutions are becoming increasingly evident <sup>(3)</sup>.

#### KEY FEATURES

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

#### ADVANTAGES OF THE EIO

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

In CT cases coordinated by Eurojust in 2019, EIOs were issued with regard to investigative measures in support of investigations into terrorist attacks or the alleged preparation of such attacks or other terrorist offences, participation in a terrorist group, financing of terrorism, production and/or dissemination of terrorist propaganda, etc.

The investigative measures to be carried out by the executing State concerned obtaining evidence and other information, including banking transactions and telecommunications data; the hearing of suspects and witnesses; conducting searches and seizures; etc.

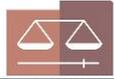
In some cases the assistance of Eurojust was sought by the involved EU Member States as an EIO needed to be transmitted and/or executed urgently. In other cases the information contained in an EIO was not sufficient to allow the executing State to carry out the listed measures, or additional information was needed after an EIO was executed. In several CT investigations and prosecutions referred to Eurojust for assistance, EIOs were pending for various reasons and their execution was essential for the issuing States to advance their investigations.

### Mutual legal assistance requests

Some CT cases were referred to Eurojust as national authorities needed assistance in facilitating mutual legal assistance (MLA) requests. The requests concerned investigations in EU Member States and third States of terrorist attacks, alleged preparations for or threats of such attacks, financing of terrorism, recruitment for terrorism or other terrorist activities.

Through MLA, national authorities requested information and evidence relating to, for example,

<sup>(3)</sup> In 2019, Denmark and Ireland were the EU Member States that did not take part in the EIO.



persons under investigation, copies of judgments, financial transactions and telecommunications data. The measures requested through MLA included, among others, hearing of witnesses and suspects, house searches and seizures.

A particular type of MLA request facilitated by Eurojust concerned foreign victims of terrorist attacks that took place in an EU Member State or a third State. Such MLA requests were issued either by the State whose nationals became victims of a terrorist attack abroad or by the State where a terrorist attack took place, resulting in the death or injury of foreign nationals.

National authorities sought the assistance of Eurojust to facilitate the drafting and execution of MLA requests and possible follow-up. At times, Eurojust was contacted because MLA requests had been pending for a long time or because their execution was urgent, for example when a suspect had been arrested. In some cases, information and evidence requested through MLA were needed as the national authorities of the requesting State were planning an action day. In other cases, the requested State was asked to execute the measures simultaneously or in coordination with measures planned in the requesting State, which took place with the assistance of Eurojust.

### European Arrest Warrants

Eurojust's assistance was also requested in CT investigations and prosecutions in which there were challenges associated with the execution of European Arrest Warrants (EAWs). In some cases, coordination was needed as two EU Member States had issued concurrent EAWs. In other cases, EAWs had to be executed simultaneously in several EU Member States, as part of a coordinated action against a terrorist group active in the territory of those EU Member States.

Several EAWs handled with the assistance of Eurojust concerned individuals suspected to have been involved in terrorist attacks in the EU, in the planning of such attacks or in other terrorist activities, including participation in a terrorist group and financing of terrorism. Eurojust's assistance was also requested after surrender had taken place, as the executing authorities needed information on the proceedings in the issuing State.

### Parallel investigations, jurisdiction and *ne bis in idem*-related issues

Parallel or linked investigations are often coordinated by Eurojust to ensure that the States involved share information in a timely and comprehensive manner, cooperate to achieve the best possible results, and discuss and agree on efficient prosecution strategies. Parallel CT investigations referred to Eurojust for assistance were opened in two or more States because, for example:

- a terrorist attack had taken place in the territory of one State and its victims or the alleged perpetrators were of a different nationality;
- a terrorist network had been active in the territory of more than one State;
- terrorist activities had expanded beyond national borders or affected more than one jurisdiction.

The existence of parallel investigations was considered beneficial, for example, in CT cases where the investigations were at different stages and certain elements of the alleged terrorist activities were still



to be identified or where various coordination tools (e.g. the possibility of setting up a JIT) were being considered. Essentially, the assistance of Eurojust was considered crucial to ensure that parallel investigations were not jeopardised by possible actions of authorities in the different States, in particular in cases where the investigations were at different stages.

In cases of parallel investigations, international cooperation and coordination are also central to avoid conflicts of jurisdiction and infringement of the *ne bis in idem* principle; to consider the potential transfer of proceedings or other coordinated prosecution strategy; or to avoid impunity.

### National law and jurisprudence

Several CT cases referred to Eurojust for assistance concerned national law and jurisprudence in other States. In some cases, national authorities sought assistance in relation to ongoing proceedings in the pre-trial or trial stage, aimed at identifying jurisprudence in other States concerning facts similar to those dealt with in the ongoing proceedings in order to help build a solid prosecution strategy. With the help of Eurojust, existing judgments were analysed, relevant cases from other countries were identified and copies of judgments or further assistance were requested. In other cases, national legal provisions qualifying certain types of conduct as a terrorist offence were also requested. In other ongoing CT investigations, copies of judicial decisions issued in another EU Member State were requested.

In December 2017, the Public Prosecutor's Office of the Court of Appeal of The Hague in the Netherlands requested Eurojust's assistance in relation to a specific point of law concerning public incitement to terrorism and relevant jurisprudence across Europe. The request related to a case in which an appeal was submitted against a 2015 judgment of the District Court of The Hague by which eight men and one woman were sentenced to prison terms of up to six years. In particular, the request to Eurojust concerned the question of whether retweeting a message could be considered endorsement of its content.

In response to the request and based on judgments summarised in recent issues of the *Terrorism Convictions Monitor* (TCM) and consultation with the National Desks, Eurojust examined the relevant EU legal framework, as well as some relevant legal provisions and jurisprudence in other EU Member States concerning retweeting of certain types of content and distribution of terrorist propaganda or messages via social media.

In a ruling of 25 May 2018, the Court of Appeal of The Hague deliberated, among other things, whether or not (re)tweets by the appellant could be qualified as inciting in the meaning of the law.

The court held that tweets by the appellant could be considered inciting as, read together, they glorified the violence, martyrdom and fight of a terrorist group active in Syria in such a way that they could incite someone to participate in the armed conflict there. Other posts on Twitter and Facebook were also considered inciting. The court also held that in this case the uploading of files on Twitter and Facebook was to be considered the same as spreading those files.

Following the appeal in cassation submitted by the defence counsel, in December 2019 the Attorney General issued an advisory opinion to reduce the prison term, because of time limit violations, and dismiss the rest of the appeal in cassation <sup>(4)</sup>.

<sup>(4)</sup> In March 2020, the Supreme Court issued a judgment that reduced the imposed prison term to five years and four months.



Furthermore, in support of national authorities, Eurojust continued to analyse national jurisprudence and experience in dealing with various aspects of the criminal justice response to terrorism. The analysis, included in Eurojust's TCM, was shared with judicial practitioners and EU stakeholders to help identify common challenges, lessons learned and best practices <sup>(5)</sup>.

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<sup>(5)</sup> The TCM has been published on a regular basis since 2008. It provides an overview of terrorism-related convictions and acquittals throughout the EU, as well as an analysis of jurisprudence experience. Prior to the launch of the CTR (see Chapter 3 of this report), the TCM was based on data provided by the national authorities in implementation of Council Decision 2005/671/JHA, as well as open-source information. In 2019, Eurojust redesigned the TCM to include only information shared with Eurojust on the basis of Council Decision 2005/671/JHA and to reinforce the legal analysis of specific issues addressed by courts in the EU Member States.

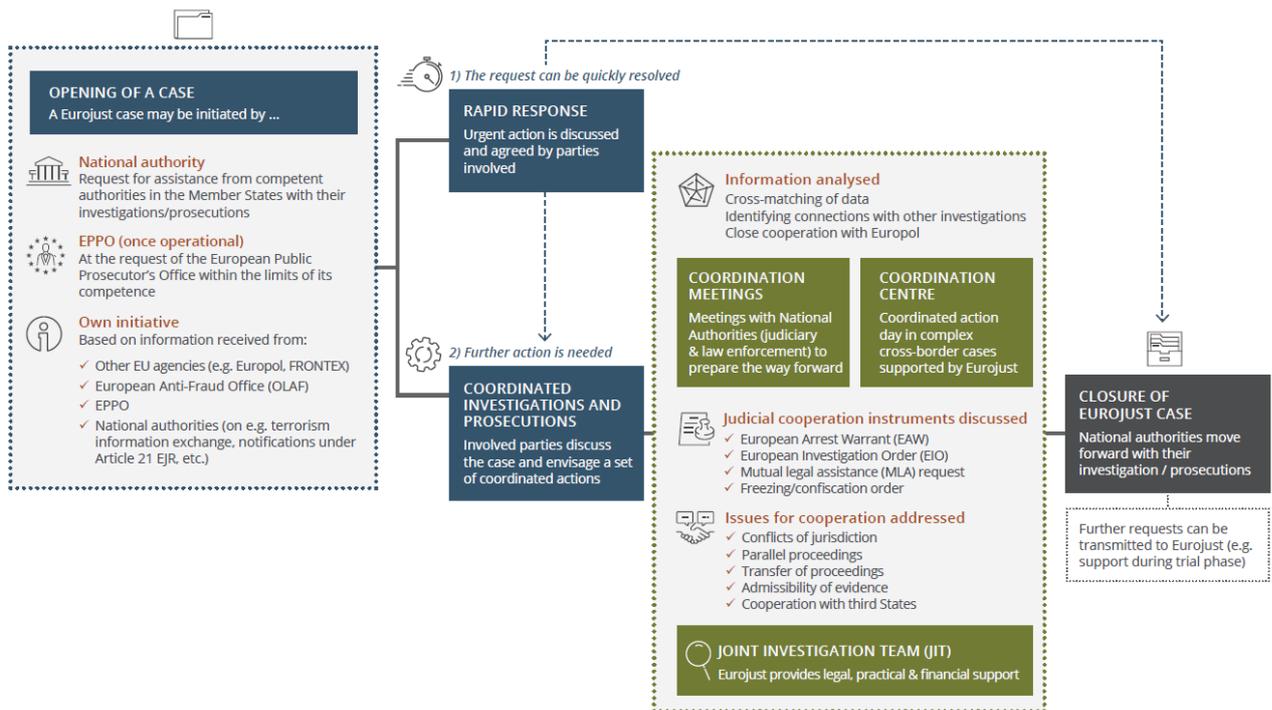


### 2.3. Coordination and assistance provided by Eurojust

#### Coordination of investigations and facilitation of judicial cooperation: a general overview

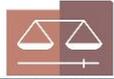
Eurojust provides competent, swift and efficient assistance, tailored to the specific needs of each case. Because of the complex and sensitive nature of CT investigations and prosecutions, they often require coordination and synergies involving various judicial cooperation instruments and tools. With its unique competence and experience, Eurojust has established trusted partnerships with national authorities, which allows it to assist with the coordination of national investigations and with reaching agreements on common or cooperative prosecution strategies so that proceedings reach a successful end in court. With the entry into force of the Eurojust Regulation on 12 December 2019, Eurojust's capacity to assist with and coordinate investigations and prosecutions has been further reinforced.

#### Timeline of a Eurojust case



CT investigations and prosecutions were often referred to Eurojust for assistance in facilitating the exchange of information on linked proceedings and coordinating judicial cooperation among the States involved. Requests based on mutual recognition instruments and MLA requests were often transmitted through the National Desks and Liaison Prosecutors at Eurojust and assistance was also provided to facilitate and follow up the execution of such requests, particularly in cases of urgency or delay, or when there were specific impediments to their swift and comprehensive execution.

To overcome concrete operational, legal and practical challenges faced by national authorities in their CT investigations and prosecutions, Eurojust organised 24 coordination meetings in 2019 with the participation of EU Member States and, in some cases, third States. Coordination meetings helped build



a common understanding of alleged terrorist activities, identify (potential) links between national investigations, discuss cooperation and coordination needs and agree on the best way forward.

Eurojust provided legal and analytical support to address various issues dealt with during coordination meetings, for example by mapping out the scope of proceedings in the States involved and potential gaps or overlaps, as well as possible ways to strengthen cooperation and coordination. Coordination facilitated by Eurojust was particularly important in cases where national proceedings were at different stages and it was essential to ensure that measures taken in one State would not jeopardise the proceedings in another State, or where a potential conflict of jurisdiction or a possible transfer of proceedings needed to be carefully assessed. Furthermore, coordination meetings organised by Eurojust allowed national authorities to agree on and plan simultaneous and coordinated actions or discuss the setting up of a JIT.

In 2019, Eurojust was asked to support a case concerning a Syrian national suspected of terrorist offences linked to the Islamic State of Iraq and the Levant (ISIL (Da'esh)). This high-profile target allegedly took part in the public executions of some 20 persons in Syria in 2015, which were filmed and reported on social media.

In December 2018, the target was detained on presenting false travel documents at an airport in Hungary. He was subsequently sentenced to a short suspended prison term for this offence. In March 2019, the Hungarian immigration authority arranged for his deportation to Greece, where he held refugee status. During the transfer procedure, the target was identified as an alleged member of ISIL (Da'esh), who it was believed had taken part in the fight against Syrian armed forces, as well as in the above-mentioned executions.

Urgent judicial cooperation through Eurojust was requested as the deportation of the target to Greece was imminent and the time limit for detaining the target in custody, without initiating formal criminal proceedings, was due to expire within a few days. To gather the necessary evidence, the Hungarian authorities issued EIOs towards Belgium and later towards Greece and Malta. France and Belgium were even asked if they could provide experts who could analyse the video and identify the target by his accent. Because of the urgency of the case, Eurojust played a key role in ensuring that the EIOs issued by Hungary were transmitted in electronic format, with clarifications and summaries in English to simplify cooperation in a timely manner, in a language and a format that were accepted by the requested countries. Subsequent EIOs requesting house searches and the hearing of witnesses were coordinated in a similar manner. Eurojust, together with the Genocide Network, was further requested to provide the national authorities with examples of existing case-law, which assisted the Hungarian authorities in their decision to extend the charges against the suspect from terrorism only to include crimes against humanity.

In May 2019, Eurojust's coordination efforts continued by way of a coordination meeting in which national investigating and prosecuting authorities from all of the involved countries participated. As it was likely that parallel investigations were ongoing in two or more EU Member States, the coordination meeting ensured that a conflict of jurisdictions would not arise and that any links between the suspect and other forms of criminality were clarified. The coordination meeting also provided an opportunity to list and explain the collected evidence and agree on further cooperation needs. In September 2019, following six months of intensive, coordinated investigation, the Hungarian prosecution authority issued an indictment against the suspect. The court proceedings are ongoing.



## Facilitation of spontaneous exchange of information

Coordination meetings organised by Eurojust for several CT investigations and prosecutions were used by the competent national authorities to share information on the basis of Article 7 of the [Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union](#) of 29 May 2000 ('2000 MLA Convention'). Information contained in the judicial file of one EU Member State was shared with the national authorities of other involved countries to allow them to gain a better insight into the available information and evidence and to assess the possibility of opening their own investigations. Exchanges of information were facilitated by the secure, trustful and direct interactions between national authorities during the coordination meetings and resulted in several cases in the opening of an investigation in the receiving State.

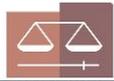
Bulgarian authorities were conducting an investigation into a group of persons alleged to be involved in the financing of terrorist organisations active in Syria through the *hawala* system. The investigation revealed that the group had been active since 2016. It was suspected of transferring money from ISIL (Da'esh)-controlled territories in Syria to Bulgaria and other European countries. Some of the money was thought to be intended for members of terrorist groups located in Europe. The main suspect was believed to be a *hawala* cashier in Bulgaria, whose family members acted as *hawaladars* in other countries. The group was also suspected of buying sports utility vehicles (SUVs) in Europe, transporting them to Syria and supplying them to terrorist groups, such as Hay'at Tahrir al-Sham, the Syrian branch of the Kurdistan Workers' Party (PKK) and other armed groups. Some of the vehicles were believed to have been used to commit terrorist attacks.

Eurojust's assistance was sought in this case as the investigation revealed the presence of complex multinational poly-criminal activities that required multilateral coordination. Eurojust organised two coordination meetings involving nine EU Member States that were affected by the criminal activities. The coordination meetings provided a platform for the involved States to discuss the links and leads, as well as cooperation and coordination needs. With the assistance of Eurojust, issues encountered in relation to EIOs were identified and clarified, additional information was provided or EIOs were amended to ensure they could be duly executed. As a result of the coordination meetings, the national authorities agreed to spontaneously share State-specific information on the basis of Article 7 of the 2000 MLA Convention. The information shared on the basis of Article 7 and the additional information provided on the (amended) EIOs served as a basis for States that had no ongoing investigation to consider opening one.

The investigation resulted in an action day in January 2019 during which 43 persons were arrested and more than 50 house searches took place. Later in 2019, six persons were charged with participation in an organised crime group aimed at financing terrorist groups active in Syria.

## Efficient use of joint investigation teams

In 2019, Eurojust provided legal and financial assistance to eight JITs that were set up to investigate CT cases; two of these JITs were set up in 2019 and six were ongoing from previous years. The JITs, both bilateral and multilateral, concerned investigations of terrorist attacks, suspected preparations for such attacks and financing of terrorism. Some of the JITs involved EU Member States only, while others also involved third States.



JITs in CT cases coordinated by Eurojust were considered an efficient judicial cooperation tool to address the challenges faced by the involved States. They enabled national authorities to share information and evidence directly, with no need for EIOs or MLA requests, and discuss, agree on and coordinate their investigation and prosecution strategies.

The national authorities sought Eurojust's support to facilitate discussions on the benefits of a possible JIT or to assist with the setting up of a JIT. Eurojust provided legal advice on the added value of establishing a JIT and on the legal and formal requirements, and assisted with the drafting of JIT agreements, including before or after coordination meetings organised by Eurojust. In some cases, coordination meetings provided an opportunity to discuss, modify, complete and agree on the text of a JIT agreement. Eurojust also assisted national authorities further as a participant in the JITs. Through its financial assistance to JIT activities, Eurojust reimburses costs related to:

- travel and accommodation,
- interpretation and translation, and
- transfer of items (procedural documents, evidence or items seized during JIT operations).

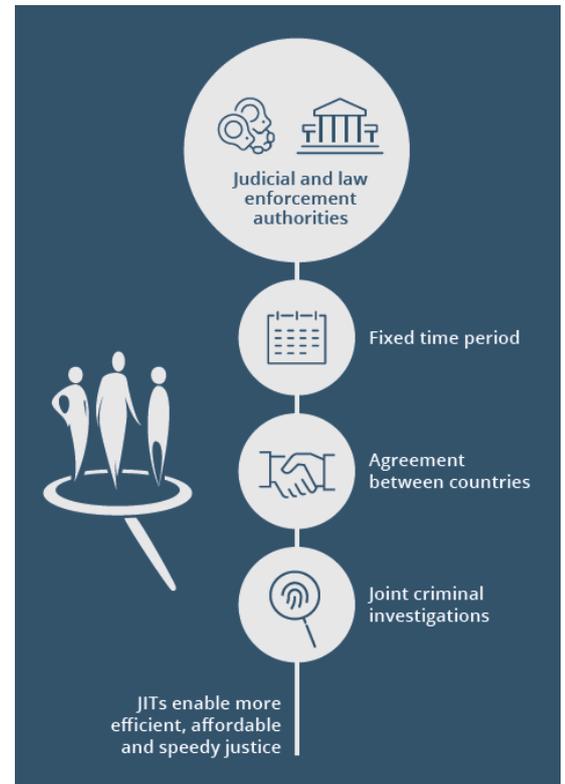
In addition, to address the increased need for communication between JIT members, as well as the possible lack of facilities and infrastructure, Eurojust loans equipment such as mobile phones, laptops, mobile printers and scanners <sup>(6)</sup>.

### European Investigation Order improvement and facilitation

Eurojust provides assistance to competent national authorities at all four stages of the life cycle of an EIO: (1) drafting (content and form); (2) issuance and transmission; (3) facilitation of communication during the recognition phase; and (4) assistance in overcoming difficulties in the execution phase.

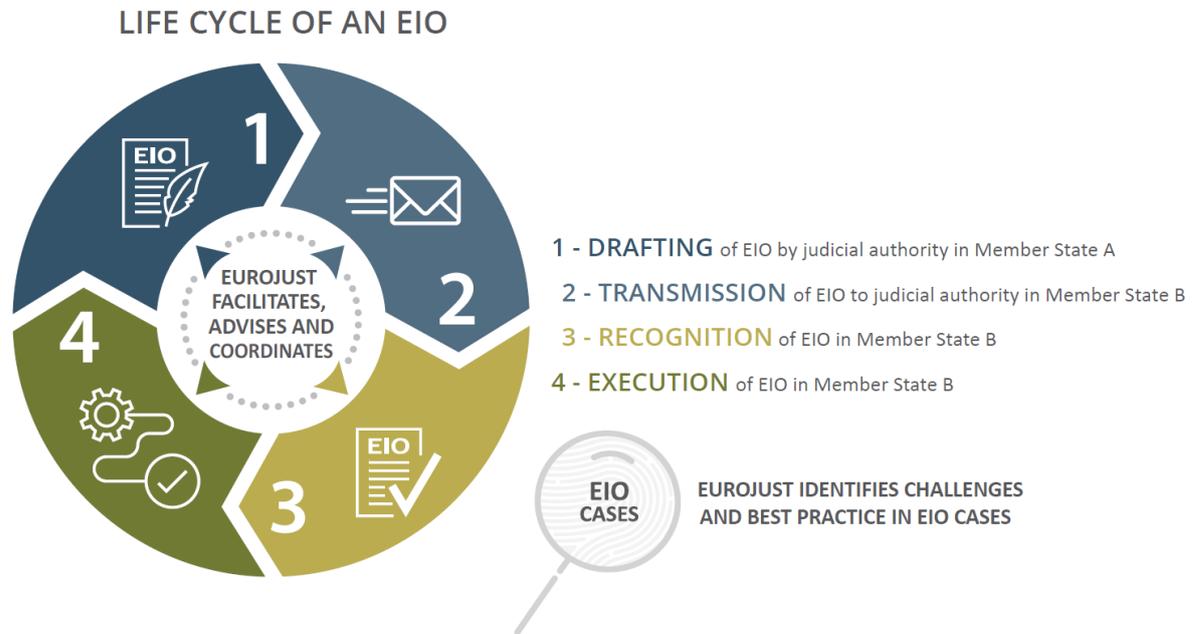
In the CT investigations and prosecutions coordinated by Eurojust in 2019 in particular, Eurojust was instrumental in the identification of the competent prosecution office to execute EIOs and the issuing, (urgent) transmission and speedy execution of EIOs, including EIOs to be executed simultaneously in several EU Member States.

The transmission of (copies of) EIOs and their execution through the respective National Desks at Eurojust has become an established practice, which has proved to be very efficient in ensuring that the documents reach the judicial authorities they are addressed to in the swiftest manner possible and



<sup>(6)</sup> In June 2018, the [Memorandum of Understanding on the joint establishment of rules and conditions for financial support to joint investigation team activities between Eurojust and Europol](#) was signed. The memorandum provides for measures at Eurojust and Europol to prevent non-compliance with the principle of non-cumulative award.

guaranteeing proper follow-up, whenever needed. Information contained in EIOs in CT cases also served as a basis for the executing EU Member States to open investigations and make further use of Eurojust’s cooperation and coordination tools.



To support the work of national authorities dealing with EIOs, in June 2019, Eurojust and the European Judicial Network (EJN) published a *Joint Note on the practical application of the European Investigation Order*. The note addresses common issues and challenges in the application of [Directive 2014/41/EU](#) regarding the EIO in criminal matters and includes best practice and guidelines on when and how to use an EIO. It also provides examples of the support offered by Eurojust and the EJN in the application of the EIO Directive <sup>(7)</sup>.

### Determining the jurisdiction that is best placed to prosecute

Eurojust’s mandate gives it unique competences, enabling it, among others, to ask the competent authorities of EU Member States to ‘undertake an investigation or prosecution of specific acts’ or ‘accept that one of them may be in a better position to undertake an investigation or to prosecute specific acts’, or issue written opinions on how to resolve a conflict of jurisdiction (previously Articles 6 and 7 of [Council Decision 2002/187/JHA](#) setting up Eurojust, as amended by [Council Decision 2009/426/JHA](#), and currently Article 6 of the Eurojust Regulation).

When it comes to centralising CT proceedings in one EU Member State, the special role that Eurojust plays in facilitating cooperation between judicial authorities and coordinating their action has also been confirmed by [Directive \(EU\) 2017/541](#) on combating terrorism. The directive provides EU-wide definitions of terrorist and terrorism-related offences. Its transposition paves the way to a more

<sup>(7)</sup> The note was published as a [Council document](#) (11168/19) and was translated into 23 EU languages.



coherent approach to combating terrorism across the EU and lowers the risk of possible prosecution gaps.

### Directive (EU) 2017/541

Concerning jurisdiction and prosecution, Article 19(1) of the directive sets out that

‘Each Member State shall take the necessary measures to establish its jurisdiction over the offences referred to in Articles 3 to 12 and 14 where:

- (a) the offence is committed in whole or in part in its territory;
- (b) the offence is committed on board a vessel flying its flag or an aircraft registered there;
- (c) the offender is one of its nationals or residents;
- (d) the offence is committed for the benefit of a legal person established in its territory;
- (e) the offence is committed against the institutions or people of the Member State in question or against an institution, body, office or agency of the Union based in that Member State.

Each Member State may extend its jurisdiction if the offence is committed in the territory of another Member State.’

Furthermore, Article 19(3) specifies that ‘When an offence falls within the jurisdiction of more than one Member State and when any of the Member States concerned can validly prosecute on the basis of the same facts, the Member States concerned shall cooperate in order to decide which of them will prosecute the offenders with the aim, if possible, of centralising proceedings in a single Member State. To this end, the Member States may have recourse to Eurojust in order to facilitate cooperation between their judicial authorities and the coordination of their action.

Account shall be taken of the following factors:

- (a) the Member State shall be that in the territory of which the offence was committed;
- (b) the Member State shall be that of which the offender is a national or resident;
- (c) the Member State shall be the country of origin of the victims;
- (d) the Member State shall be that in the territory of which the offender was found.’

The directive also sets out the obligation for each EU Member State to take the necessary measures to establish its jurisdiction over the offences set out in the directive in cases where it refuses to surrender or extradite a person suspected or convicted of such an offence to another Member State or to a third country (Article 19(4)).

In the CT investigations and prosecutions coordinated in 2019, Eurojust’s assistance was instrumental in ensuring the exchange of information on linked proceedings and mapping the scope of investigations and future prosecutions to determine the risks of infringement of the *ne bis in idem* principle and develop possible coordinated strategies to avoid such infringements.



Coordination meetings at Eurojust were used to discuss targets of common interest, arrest warrants issued by the involved States, and the basis for establishing jurisdiction and to design prosecution strategies, including on the basis of Eurojust's analysis. Coordination meetings provided an opportunity to clarify which States were willing to transfer their proceedings and which States were willing and able to take over proceedings of other States.

### Execution of European Arrest Warrants

Improving the execution of EAWs was a central matter in some of the CT investigations and prosecutions coordinated by Eurojust. At the request of the issuing national authorities, Eurojust liaised with the executing authorities and ensured swift and smooth communication and follow-up. At the request of the executing authorities, Eurojust facilitated the submission of additional information to enable the execution of the EAWs, as well as the sharing of information on proceedings in the issuing EU Member States after an EAW had been executed and the requested person had been surrendered. EAWs were also discussed during several coordination meetings organised by Eurojust in relation to CT investigations and prosecutions.

In October 2019, Eurojust published the updated *Guidelines for deciding on competing requests for surrender and extradition*. The guidelines outline different factors to consider when deciding which requests to execute, as well as the support available through Eurojust to resolve incidences of competing requests. The guidelines are available in all of the official EU languages.

Furthermore, following the landmark [judgment](#) of the Court of Justice of the European Union of 27 May 2019 and its further judgments on the concept of 'issuing judicial authority' under Article 6(1) of [Council Framework Decision 2002/584/JHA](#) on the European arrest warrant and the surrender procedures between Member States, Eurojust was given a special mandate by the Council <sup>(8)</sup>. Together with the EJN, Eurojust consulted EU Member States on the legal position of public prosecutors in each State to assist practitioners in the application of the aforementioned judgments. A country-by-country [overview](#) was produced containing concise information on, among other things, (1) what the position of public prosecutors is, (2) who ultimately makes the decision about EAWs and (3) whether or not national law affords public prosecutors a guarantee of independence from the executive branch <sup>(9)</sup>.

### Support for victims of terrorism

CT cases referred to Eurojust for assistance demonstrated that international judicial cooperation is a powerful tool to safeguard and guarantee the rights of victims and their families. Through judicial cooperation and with the help of Eurojust, national authorities can ensure that foreign victims are informed of their rights in the country where an attack took place and that those rights are guaranteed

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<sup>(8)</sup> In its judgments, the Court interpreted to what extent a public prosecutor's office falls within the concept of 'issuing judicial authority' and clarified the requirements of objectivity and independence and the need for effective judicial protection to be afforded to the requested persons if an EAW is issued by a public prosecutor's office.

<sup>(9)</sup> A first version of this compilation of replies from EU Member States was presented at the COPEN Meeting on 19 June 2019 (10016/19); this was followed by an updated version in November 2019 (10016/19/REV 1). The subsequent judgments of the Court on this topic, issued in October and December 2019, prompted a further update of the document.

immediately after the attack, during the investigation and in court <sup>(10)</sup>.

Also in 2019, Eurojust assisted in investigations in which international judicial cooperation was successfully used to support victims of terrorist attacks in the EU and some third States. The care, protection and support to victims from EU Member States and third States was central in a number of EIOs and MLA requests facilitated by Eurojust <sup>(11)</sup>.

In March 2019, Eurojust held the first ever coordination meeting with representatives from three west African countries (Burkina Faso, Côte d'Ivoire and Mali) as part of the follow-up to four terrorist attacks in 2015 and 2016. It brought together judicial authorities from the three west African countries and EU Member States and third States that were affected by the attacks. The meeting focused not only on exchanging operational information on ongoing investigations but also on sharing information on the victims and taking stock of the current terrorist threat in the west African region.

### Facilitation of cooperation with third States

About one quarter of the CT investigations and prosecutions assisted by Eurojust in 2019 involved third States. The third States most frequently requested to assist included Switzerland, the United States, Tunisia, Norway, Turkey and Ukraine. In addition to cases opened at Eurojust by EU Member States and involving third States, third States with a Liaison Prosecutor at Eurojust also sought the assistance of EU Member States and other third States to support their national authorities' CT investigations and prosecutions.

CT investigations and prosecutions involving one or more third State that were assisted by Eurojust in 2019 concerned terrorist attacks committed in the third State or in a EU Member State, or threats to commit such attacks, alleged participation in or support for a terrorist group, financing of terrorism, activities of FTF recruitment and support networks, the (intended) return of FTFs from conflict zones, production and/or dissemination of terrorist propaganda, instigation or incitement of acts of terrorism, etc.

The assistance requested from Eurojust in these cases involved support for the coordination of investigations, facilitation of the exchange of information on linked investigations and prosecutions, and the transmission and (simultaneous) execution of MLA requests. Eurojust was also asked to provide support for the setting up of JITs and to organise coordination meetings to share information and discuss future cooperation and coordination needs and strategies. In some cases, the experiences of other States in handling certain judicial cooperation requests from third States were sought to gain insights and establish best practices.

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<sup>(10)</sup> At its meeting on 4 June 2018, the Justice and Home Affairs (JHA) Council adopted the [Council conclusions on victims of terrorism](#) (9719/18). Among other things, the Council conclusions call on EU Member States to 'encourage cooperation and synergies with existing EU structures such as the European Network on Victims' Rights, the European Judicial Network (EJN), EUROJUST and EU police- and crisis management networks'.

<sup>(11)</sup> Further information on Eurojust's role in supporting victims of terrorism, including foreign victims of the attacks in Barcelona and Cambrils, can be found in Eurojust's fact sheet [Supporting judicial authorities in the fight against terrorism](#).

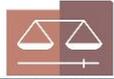


The assistance of Eurojust was requested in relation to a terrorist attack in Oslo in August 2019, committed by a 22-year-old Norwegian national. The attacker first shot his stepsister, who was adopted and of Asian origin, in their home. He then drove to a mosque and unsuccessfully tried to kill the three people who were present inside the mosque. The attacker had published materials on social media in which he had expressed his intention to carry out the attack. With the support of Eurojust, the Norwegian authorities sought to establish possible links to similar, recent attacks in Europe.

A judgment was rendered by a Norwegian court of first instance on 11 June 2020. The defendant was found guilty of the murder of his stepsister and of committing a terrorist act by attempting to kill other persons with the intention of instilling serious fear in a population. The defendant had been radicalised over a two-year period. He drew inspiration to carry out the criminal acts from the manifest written by the perpetrator of the attack in New Zealand five months earlier, during which 50 people were killed and a similar number injured. By carrying out the attack on the mosque, the defendant hoped to accelerate a civil war based on race, which he thought would soon take place. The court sentenced the defendant to 21 years' imprisonment, with a minimum of 14 years and the possibility of extending the prison term indefinitely if the defendant is considered to pose a threat to society. The decision is final.

Liaison Prosecutors from third States posted at Eurojust have been very instrumental in ensuring swift and efficient cooperation between their home authorities and the national authorities of EU Member States. In addition to the Liaison Prosecutors at Eurojust, the large network of judicial contact points in third States allows Eurojust and the national authorities to reach out to jurisdictions all over the world to facilitate and speed up cooperation, including in CT cases. In 2019, Eurojust contact points were appointed in Armenia, Belarus, China, San Marino and Uruguay, enlarging the number of third States that are part of the network to 52.





## 2.4. Cooperation with Europol

### Operational cooperation

In 2019, Eurojust continued to cooperate closely with Europol in CT cases, ensuring complementarity in the assistance offered to national authorities, in conformity with the respective mandates of the two agencies. Eurojust and Europol are key partners when it comes to supporting EU Member States in their CT investigations.

To support EU Member States to gain the full benefits of the criminal analysis provided by Europol, Eurojust continued to encourage national judicial authorities to consider sharing with Europol information from CT cases brought to Eurojust for assistance. Europol was also regularly invited to attend coordination meetings on CT cases organised by Eurojust. With the explicit consent of and on behalf of the competent national authorities, Eurojust shared information with Europol for cross-checking and analysis to reinforce CT investigations and ensure efficient judicial follow-up.

Successive strikes by judicial and law enforcement authorities and online service providers led to the disruption of online terrorist propaganda. In 2017, a coordinated strike led by the Spanish Guardia Civil with the support of Europol, Eurojust and the United States targeted part of the web assets and infrastructure of Amaq, the news agency of ISIL (Da'esh). The seized servers allowed for the identification of radicalised individuals in 133 countries and the detection of more than 200 million instances of access to ISIL (Da'esh) propaganda content by 52 000 potential consumers.

In 2018, a multinational operation led by the Belgian Federal Prosecutor's Office, together with the Belgian Federal Judicial Police of East Flanders, with the support of Europol's EU Internet Referral Unit (EU IRU), Eurojust and EU Member States, finally took down the web infrastructure of ISIL (Da'esh), forcing the terrorist propagandists to rely heavily on social media and messaging applications to reach a wider audience online.

In the build-up to the action day, Eurojust facilitated an urgent MLA request in preparation for an upcoming coordinated multinational takedown action, which allowed the requested State to seize and disrupt a content server used to disseminate terrorist propaganda online. The takedown action, which took place in April 2018, targeted 27 servers and 12 domains worldwide.

In June 2018, Eurojust hosted a coordination meeting to organise the follow-up actions, set up a clear mechanism to share information and help decide on the jurisdiction in which to prosecute. Following this, two further coordination meetings were held at Eurojust's premises in 2019 to coordinate national investigation strategies and prepare for a joint action day.

On 21–23 November 2019, action days led by the Belgian Investigating Counter-Terrorism Judge and the Belgian Federal Prosecutor's Office, together with the Belgian Federal Judicial Police of East Flanders, and involving 12 EU Member States and nine online service providers, were coordinated through the EU IRU and supported by Eurojust.

The strikes focused on social media networks used by ISIL (Da'esh) media operatives and resulted in:

- the referral of more than 26 000 items of ISIL (Da'esh)-supporting content;
- the arrest in Spain of an individual suspected of being one of the core disseminators of ISIL (Da'esh) terrorist propaganda online.



Eurojust has been associated with Europol's Analysis Projects (APs) Travellers since April 2015, Hydra since August 2016, Core International Crimes (CIC) since April 2018 and Dolphin since November 2018 <sup>(12)</sup>. The association allows Eurojust and Europol to cooperate in a structured manner and make efficient use of the benefits of information sharing.

In October 2019, Eurojust hosted the second joint meeting of Eurojust Contact Points and the Europol APs, including those related to CT matters. Participants at the meeting discussed ways of enhancing cooperation and creating synergies, confirming that effective cooperation between Europol APs and the Eurojust Contact Points can contribute to improving operational cooperation between the two agencies <sup>(13)</sup>.

In addition to cooperation on specific CT cases, Eurojust shares all its strategic reports in the area of CT with Europol in the spirit of transparency, knowledge sharing and awareness raising. Similar to previous years, in 2019 Eurojust contributed to the annual *European Union Terrorism Situation and Trend Report* (TE-SAT), providing information on concluded court proceedings in terrorism cases in EU Member States, including statistical information, case examples and summaries of amendments to national terrorism-related legislation. Eurojust's contribution can be found in the chapter 'Convictions and penalties' and the respective annexes of the TE-SAT.

### **Eurojust seconded national expert to the European Counter Terrorism Centre**

The Eurojust seconded national expert (SNE) posted to the European Counter Terrorism Centre (ECTC) has proved particularly effective in enhancing cooperation between Eurojust and Europol. The SNE was appointed in September 2017, in line with the *European Agenda on Security* (COM(2015) 185 final), which calls for Eurojust to be fully involved in the activities of the ECTC to improve the coordination of investigations and prosecutions. The SNE is an experienced CT prosecutor from an EU Member State who was recruited by Eurojust to represent it at the ECTC.

The SNE was very instrumental in reinforcing the synergies between Eurojust and Europol at strategic and operational levels. More specifically, in ongoing CT investigations, the SNE participated in operational meetings at Europol and facilitated the exchange of information between Europol and National Desks and Liaison Prosecutors at Eurojust. The SNE was also involved in the planning and coordination of joint action days and supported the National Desks and Liaison Prosecutors at Eurojust in dealing with CT cases.

In December 2019, the second SNE on CT took office after the term of office of the first SNE expired.

### **Scientific Information Retrieval Integrated Utilisation System project**

Eurojust and Europol continued to cooperate in the framework of the Scientific Information Retrieval Integrated Utilisation System (SIRIUS) project <sup>(14)</sup>. The sharing of information and best practice on MLA

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<sup>(12)</sup> AP Travellers focuses on FTFs and AP Hydra on other types of terrorism-related crimes perpetrated by individuals, groups, networks or organisations who evoke Islam to justify their actions. AP Dolphin focuses on any other type of terrorism.

<sup>(13)</sup> Further information can be found in the *Joint Eurojust–Europol Annual Report 2019* (9289/20).

<sup>(14)</sup> SIRIUS is an innovative project that includes an interactive knowledge-sharing platform that is accessible to judicial and law enforcement authorities. Its objective is to produce and disseminate training and knowledge-related products to improve EU–United States cooperation on cross-border access to electronic evidence. As part of the project, Eurojust is responsible for managing, monitoring and moderating information and discussions on the judiciary forum of the platform.

procedures and internet-based investigations, as well as practical ways to improve (mainly) EU–United States cooperation on cross-border access to electronic information, could add particular value to CT investigations and prosecutions. To help national judicial and law enforcement authorities gain access to electronic evidence, Eurojust and Europol have prepared guidelines, templates for information requests to online service providers (OSPs) and other specialised products, which could also be used in CT investigations.

In October 2019, the third annual SIRIUS conference took place. It was co-organised by Eurojust and Europol and gathered over 300 participants representing judicial and law enforcement authorities from 40 countries, as well as representatives from Google, Microsoft, eBay, Cloudflare and Twitter, to address issues and challenges faced when conducting internet-based investigations. A specific focus of the discussions was on the lawful access to electronic evidence, including the sharing of knowledge, experience and best practice on the types of data collected by OSPs and how to request such data <sup>(15)</sup>.

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<sup>(15)</sup> Further information on the event can be found in the event's [press release](#).



### 3. European Judicial Counter-Terrorism Register

With the evolution of the security threat and the changing complexity of terrorist attacks and activities targeting EU Member States, the need for timely and comprehensive exchange of information has become increasingly evident. It has also become evident that an efficient judicial response often requires cooperation and coordination beyond a single jurisdiction.

#### 3.1. European Judicial Counter-Terrorism Register: a unique operational tool

The CTR is a unique operational tool at EU level, which collects information on ongoing and concluded judicial CT proceedings in EU Member States, transmitted to Eurojust on the basis of Council Decision 2005/671/JHA. The CTR's main objective is to identify:

- (1) potential links between judicial proceedings, and
- (2) possible coordination needs.

#### Council Decision 2005/671/JHA

Council Decision 2005/671/JHA acknowledges the need for Eurojust, among others, to have information if it is to perform its tasks (Preamble, Recital 3). It sets out that '[t]he scope of information exchanges must be extended to all stages of criminal proceedings, including convictions, and to all persons, groups or entities investigated, prosecuted or convicted for terrorist offences' (Preamble, Recital 4). It provides for the designation in each Member State of one or more authorities 'as Eurojust national correspondent for terrorism matters or an appropriate judicial or other competent authority which, in accordance with national law, shall have access to and can collect all relevant information concerning prosecutions and convictions for terrorist offences and send it to Eurojust' (Article 2(2)).

According to Article 2(5), the information to be transmitted to Eurojust shall be the following:

- (a) data which identify the person, group or entity that is the object of a criminal investigation or prosecution;
- (b) the offence concerned and its specific circumstances;
- (c) information about final convictions for terrorist offences and the specific circumstances surrounding those offences;
- (d) links with other relevant cases;
- (e) requests for judicial assistance, including letters rogatory, addressed to or by another Member State and the response.'

Each Member State is to take measures to ensure that at least the information referred to above '... concerning prosecutions and convictions for terrorist offences which affect or may affect two or more Member States ... is transmitted to ... Eurojust, in accordance with national law ...' (Article 2(3)).

The CTR may help identify links between proceedings that were not known to the national authorities. It may help national authorities reveal the cross-border nature of terrorist cells and/or activities and understand better the international dimension of terrorist cells and/or activities. Once a link between proceedings is confirmed, Eurojust's coordination tools are available to support national authorities in gaining a better understanding of the international dimension of their investigations and prosecutions and to provide a wide range of possibilities for cooperation and coordination.



### 3.2. Enhanced dialogue and strong partnership with EU Member States

The CTR was launched as an initiative of the EU Member States for the EU Member States. The initiative was first presented by the Ministers of Justice of France, Germany, Spain and Belgium, in a [joint statement](#) of 20 June 2018, and was later endorsed by the Ministers of Justice of Italy, Luxembourg and the Netherlands in a [declaration](#) issued at the European conference on the fight against terrorism, held on 5 November 2018 in Paris. It was supported by, among others, the [Consultative Forum of Prosecutors General and Directors of Public Prosecution of the EU Member States](#) and the European Parliament in its [resolution](#) of 12 December 2018 on findings and recommendations of the Special Committee on Terrorism (2018/2044(INI)). The resolution called for 'the immediate creation of such a register at Eurojust based on Council Decision 2005/671/JHA, amended by Directive 2017/541, with adequate financial and human resources' (Section 116).

The enhanced dialogue and strong partnerships between Eurojust and the EU Member States have been the pillars of the implementation and functioning of the CTR both prior to and after its launch. The main principles of the implementation and functioning of the CTR were discussed with competent national authorities during a dedicated meeting that took place on 7 May 2019. Following that meeting, Eurojust prepared a proposal for EU Member States that set out:

- (1) the type of information that is key for establishing links between judicial proceedings;
- (2) the minimum common rules and standards for ensuring that EU Member States comply, at the

same level, with the obligation to share information, as set out in Council Decision 2005/671/JHA and subject to the applicable data protection rules;

(3) a definition of the feedback to be provided by Eurojust.

The proposal was presented at the annual [Eurojust meeting on CT](#) on 19–20 June 2019, during which the national experts agreed on practical steps for the implementation of the CTR.

The CTR was launched on 1 September 2019 <sup>(16)</sup>.

### 3.3. European Judicial Counter-Terrorism Register implementation and functioning: main concepts and principles

The implementation and functioning of the CTR are based on the following main principles, as agreed in consultation with the national authorities of the EU Member States:

- **Facilitated implementation of existing legal framework.** The CTR builds on the existing legal framework (Council Decision 2005/671/JHA, Directive (EU) 2017/541 on combating terrorism and Council Decision 2009/426/JHA on the strengthening of Eurojust, replaced by the Eurojust Regulation on 12 December 2019) and does not entail additional legal requirements and obligations to be set <sup>(17)</sup>.
- **Purpose-driven selection of the type of information to be transmitted.** Based on the type of information set out in Council Decision 2005/671/JHA, Eurojust and the EU Member States have agreed on a minimum set of data to be transmitted to Eurojust that will enable the Eurojust Case Management System (CMS) to detect potential links between proceedings and ensure efficient follow-up. The information to be transmitted should concern both ongoing and concluded CT proceedings.
- **Timely transmission of information.** CTR information is to be transmitted to Eurojust as soon as an investigation is formally opened by the judicial authorities. National authorities are to inform Eurojust in due time of any major developments in proceedings or provide regular updates at least every three months.
- **Transmission of structured information.** To facilitate the transmission of information on the basis of Council Decision 2005/671/JHA in a structured manner, Eurojust created a special template. Prior to the launch of the CTR, the template was translated into all official EU languages and sent to the EU Member States, along with detailed guidelines on how to fill it in.
- **Comprehensive cross-checking of information and identification of potential links.** CTR information is cross-checked against all information inserted in the CMS, regardless of the crime type, allowing for identification of potential links between CT proceedings, as well as between CT proceedings and proceedings for other types of serious organised crime. It also allows Eurojust to identify potential links to other States that may (not yet) be involved in a case.

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<sup>(16)</sup> Eurojust held a [press conference](#) on 5 September 2019 in Brussels on the occasion of the launch of the CTR. A recording of the press conference is available [here](#).

<sup>(17)</sup> Regulation (EU) 2018/1727 on the European Union Agency for Criminal Justice Cooperation (Eurojust) became directly applicable in the EU Member States on 12 December 2019.

- **Full respect for the confidentiality and ownership of data.** The information transmitted to Eurojust in the framework of the CTR is inserted and processed in the Eurojust CMS. The information is managed under the general rules and principles of the CMS, including full respect for the confidentiality and ownership of the data and strict data protection rules <sup>(18)</sup>.

### 3.4. Benefits for EU Member States

The transmission of accurate and up-to-date information on judicial CT proceedings to Eurojust in a timely manner results in concrete and tangible benefits for the EU Member States, some of which are mentioned in the following sections. It contributes to more efficient detection of links between national judicial proceedings on the basis of CTR information and enables EU Member States to benefit from the coordination that Eurojust offers. The more information that is transmitted in the framework of the CTR, the more efficient it will be in fulfilling its operational objectives.

#### Creation of a comprehensive EU-wide operational tool to support EU Member States' investigations and prosecutions

The CTR collects information on ongoing and concluded judicial CT proceedings in all EU Member States. It covers all types of terrorism and all types of terrorist and terrorism-related offences.

Transmitting as much relevant information as possible in the framework of the CTR will have a positive impact on the possibility to identify links between proceedings.

Information on concluded CT proceedings will also help gain insights into specific *modi operandi* and (emerging) terrorist phenomena and contribute to building solid prosecution cases and strengthening the judicial response to terrorism.

#### Larger possibilities for identifying links between judicial proceedings

The CTR may help identify further links to other proceedings or jurisdictions. The links may help national authorities understand better the international dimensions of terrorist cells and/or activities and provide national authorities with a broader range of avenues for cooperation and coordination.

In the case of proceedings with no clear links to other jurisdictions, the CTR may help identify international links that were not known to the national authorities or that were impossible to detect based solely on information available at the national level and may help reveal the cross-border nature of terrorist cells and/or activities.

Through the CTR, potential links may be identified across jurisdictions but also across crime types, allowing for the identification of links between CT proceedings, as well as with proceedings concerning other types of serious and organised crime.

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<sup>(18)</sup> For further information, see Regulation (EU) 2018/1727, Article 3 and Chapter IX of [Regulation 2018/1725](#) on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and the [Rules of procedure](#) on the processing and protection of personal data at Eurojust.

### **Enhanced feedback from and coordination by Eurojust**

When links are confirmed, EU Member States can benefit from Eurojust's legal and operational assistance, which is tailored to the specific needs of each case.

Eurojust can help national authorities assess their investigation and cooperation needs more precisely, coordinate national efforts and foster common or cooperative prosecution strategies to achieve better operational results and ensure successful outcomes of CT proceedings.

The implementation of the Digital Criminal Justice programme and planned developments in the CMS will allow Eurojust to provide more comprehensive feedback on the results of the processing of information transmitted to Eurojust, including on potential links between judicial proceedings.

## 4. Concluding remarks

Based on the experience gained from coordinating CT investigations and prosecutions, and the need to support national authorities in an efficient manner, Eurojust identified the following priority areas on which to focus its efforts and resources in 2020:

- **Efficient and timely coordination** to help render EU Member States' investigations and prosecutions successful remains a standing priority for Eurojust. Eurojust remains committed to assisting national authorities in ensuring the best possible coordination of CT investigations and prosecutions and providing swift and efficient operational, legal and practical support to help EU Member States bring perpetrators of terrorist offences to justice. Eurojust will continue to encourage EU Member States to refer their investigations to Eurojust for assistance as early as possible and make full use of the judicial coordination and cooperation tools it offers.
- Eurojust will focus on **further implementation of the CTR** on the basis of Council Decision 2005/671/JHA. In strong partnership with EU Member States, Eurojust will continue to seek ways to enhance the timely and comprehensive sharing of information on judicial CT proceedings, optimise the possibilities for identifying links between proceedings and ensure efficient follow-up of each link. Eurojust and the EU Member States will explore together the **possibilities for reinforcing the implementation and functioning of the CTR**.
- Eurojust will continue to coordinate and encourage judicial cooperation among national authorities to provide **support to nationals or residents of other States who have fallen victim to terrorist attacks or other offences**, in particular concerning their right to information, compensation, legal aid and representation not only during the investigation but also during and after trial.
- Eurojust stands ready to **share its experiences and contribute to discussions at EU level** on judicial cooperation, exchange of information on terrorist offences, and challenges and best practices in the judicial response to terrorism to address the evolving nature of the terrorist threat.



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