

Title: Eurojust Report on Drug Trafficking Experiences and challenges in judicial cooperation

Date: 13.04.2021

- Drug trafficking remains a **highly lucrative market** worldwide, with an estimated value of **EUR 30 billion** per year in the European Union alone. The overall impact on societies has dramatic consequences – for healthcare, governance, economics and other indirectly affected areas. This impact also affects law enforcement and judicial authorities, which find themselves overwhelmed by the steep increase of drug trafficking cases. Many EU Member States struggle to allocate sufficient resources to the fight against highly flexible organised crime groups acting across borders.
- In addition, organised criminal networks operating in Europe benefit from open borders and take advantage of the complexity of the many different legal frameworks in the EU. To effectively counteract these circumstances, **judicial authorities** in and outside the EU **successfully cooperate** – with support from **the European Union Agency for Criminal Justice Cooperation (Eurojust)**. A further rise in the number of referrals to Eurojust can be expected in the coming years and should be taken into account in planning.
- This report looks at **experiences** and **challenges** in judicial cooperation on the fight against drug trafficking. The **methodology** used consisted of the identification and analysis of a selection of suitable cases, drawn from the practical experience gained through the agency's support for drug trafficking casework between 2017 and 2020 (1 838 cases). This casework analysis is structured in six chapters.
- The report illustrates the assistance that Eurojust provides to overcome challenges relating to seven topics that come up frequently, namely: New Psychoactive substances (NPS) and (pre-)precursors, cooperation with non-EU countries (cooperation agreements, contact points and informal cooperation), controlled deliveries, conflict of jurisdiction, financial investigation, asset tracing and recovery, the European Investigation Order and drug trafficking in a digital environment.
- Based on this analysis and Eurojust's experience of judicial cooperation in the field, the report suggests and outlines **best practices** for cross-border investigations. It contains **conclusions** and draws **recommendations** that can be summarised as follows.
 - The EU's **efforts to tackle the legal challenges** regarding **NPS (New Psychoactive Substances)** and precursors **should be continued and reinforced**. As long as judicial authorities still face operational challenges, Eurojust is the right organisation to support the judiciary.
 - Continuous and reinforced cooperation with non-EU countries through Eurojust's Liaison Prosecutors, Contact Points and other networks or means is highly beneficial in many drug trafficking cases, showing **clear additional potential for national investigations**. In line with the recent EU security union strategy and the new EU drugs strategy 2021–2025, Eurojust welcomes and strongly supports the aim of fostering and enhancing cooperation with non-EU countries, for example by concluding further cooperation agreements, extending the network of Contact Points, and widening cooperation with other institutions, agencies and networks.

- Eurojust's assistance may be of particular added value in **cross-border controlled delivery** cases to help national judicial authorities to overcome obstacles arising from the fragmented European legal landscape that must be taken into account before and during the execution of a controlled delivery. **Greater harmonisation** and **specific regulation of this investigative measure at EU level** should be considered to facilitate judicial cooperation in this area.
- To avoid negative repercussions in parallel investigations, such as *ne bis in idem* issues, Eurojust offers its expertise in cases where there may be a **conflict of jurisdictions**. A **joint recommendation (or request)** may in some cases also be considered a valuable option that can be used to obtain an unbiased opinion on the way forward.
- Financial investigation in drug trafficking cases and particularly asset freezing, confiscation and recovery have been shown to be of the utmost importance, considering their impact on organised crime groups. Relevant parties are encouraged to make full use of **Asset Recovery Offices (AROs)**, **Financial Intelligence Units (FIU)** and other networks. Eurojust supports practitioners at all stages of the financial investigation and in the practical implementation of the new **Regulation on freezing and confiscation orders** (Regulation (EU) 2018/1805).
- The **European Judicial Cybercrime Network (EJCN)** is an important actor and provides valuable support in the fight against drug trafficking on the darknet, on virtual platforms or using digital communication tools. As these investigations frequently require special knowledge not only at law enforcement level but also among judicial authorities particularly in a cross-border case, Eurojust also **encourages practitioners to approach their EJCN national contact points** in relevant cases.
- The setting up of a **joint investigation team (JIT)** is highly recommended in suitable drug trafficking cases. Contrary to widespread concern, establishing a JIT has never been simpler for judicial authorities, as **Eurojust offers support during all phases of a JIT**, providing help in negotiating, drafting, setting up, administering and financing a JIT.
- Despite the promising and successful outcome of Eurojust's **coordination centres** (e.g. during joint action days aimed at simultaneous and coordinated arrests, searches and seizures), national judicial authorities seem to be reluctant to request the setting up of coordination centres in drug trafficking cases. Eurojust therefore **invites and encourages judicial authorities to make more use of this powerful tool in this area of crime**.
- The **added value of an early referral to Eurojust** ultimately strengthens the international part of any national drug trafficking case. Therefore, Eurojust **encourages the authorities involved in cross-border drug trafficking cases** to contact their respective National Members to discuss the possibilities available in the specific case as early as possible.