

Title: The Impact of Covid-19 on Judicial Cooperation in Criminal Matters – Analysis of Eurojust's Casework

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

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

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

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

1. The European Arrest Warrant (EAW) mechanism remained functional, although pandemic measures such as closure of borders and compulsory quarantine, as well as a shortage of police staff, significantly affected the final stage of EAW proceedings: physical surrender of the requested person. The relevant legal rules stipulated in Article 23 of the European Arrest Warrant framework decision (EAW FWD) ⁽²⁾ were applied when postponement of surrender was necessary. The executing authorities sought Eurojust's assistance with their requests for supplementary information (under Article 15(2) of the EAW FWD) more frequently than usual. Transmitting the relevant requests (in the context of both Article 23 and Article 15(2)) through Eurojust enabled practitioners to receive timely responses and move forward with EAW proceedings. Particularly in

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

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

relation to the application of Article 23, the early involvement of Eurojust facilitated swift agreement on a new surrender date.

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

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

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

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