



Annual Report 2009



Eurojust building 1 - the Arc

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List of abbreviations

AWF	Analysis Work File
CMS	Case Management System
EAW	European Arrest Warrant
EJN	European Judicial Network
ENCS	Eurojust National Co-ordination System
EPOC	European Pool against Organised Crime
FATF	Financial Action Task Force
IWG	Informal Working Group on the implementation of the new Eurojust Decision in the Member States
JIT	Joint Investigation Team
LTTE	Liberation Tigers of Tamil Eelam
MLA	Mutual Legal Assistance
OCC	On-Call Coordination
OCG	Organised Crime Group
OCTA	Organised Crime Threat Assessment
OSR	Organisational Structure Review
PKK	Kurdistan Workers' Party
ROCTA	Russian Organised Crime Threat Assessment
TE-SAT	Terrorism Situation and Trend Report
THB	Trafficking in Human Beings

Foreword

I am pleased to present Eurojust's eighth annual report, which reviews our activities in 2009. It highlights aspects of the work undertaken by Eurojust in its mission to help fight serious crime affecting two or more Member States of the European Union.

2009 brought important changes to the environment in which Eurojust operates. The Lisbon Treaty entered into force, the Stockholm Programme was adopted and a new Eurojust Decision was published. Work continued to ensure that Eurojust meet the challenges of this new environment, including the possibility of establishing a European Public Prosecutor's Office from Eurojust.

Changes designed for operational effectiveness marked the year. In particular, the new Eurojust Decision gives a central place to strengthening our casework capacities. The Decision makes new powers available to Eurojust; information flows and co-ordination with national authorities are facilitated; the 24/7 nature of Eurojust's work is put on a formal basis; and Eurojust will host the Secretariat of the Network for Joint Investigation Teams and other network secretariats.

The operational emphasis was accompanied, as in previous years, by a substantial increase in the number of cases that Member States referred to Eurojust. There was a 15 per cent rise in caseload compared to the preceding year, with almost 1,400 new cases registered on Eurojust's Case Management System. Co-operation beyond the immediate boundaries of the European Union was strengthened by the appointment of a liaison prosecutor from Croatia to join colleagues from Norway and the USA.

Eurojust continued to seek ways to improve the management of its work. An Organisational Structure Review was started to see how Eurojust could function more efficiently. On the domestic front, negotiations continued about new premises, which would allow us to work in one building rather than two as at present.

In May 2009, a new Administrative Director, Hans Jahreiss, was appointed. In December, José Luís Lopes da Mota, then President and long-serving National Member for Portugal, resigned. Elections for a new President were held in February 2010.

Following a Council recommendation, this year's Annual Report focuses on Eurojust's operational work in the light of EU priorities regarding the fight against serious and organised crime. On the basis of work undertaken in 2009, Eurojust is confident that it can maintain and improve its contribution to meeting those priorities.



Aled Williams

ALED WILLIAMS
President of Eurojust
March 2010



Eurojust College of National Members, February 2010

1 General information on activities and management

Operational activities

Following the priorities set by the Council, Eurojust focused on the fight against terrorism, drug trafficking, trafficking in human beings, fraud, corruption, cybercrime, money laundering and other activities related to the presence of organised crime groups in the economy.

The number of cases referred to Eurojust by the Member States increased by 15 per cent over 2008 to 1,372 cases in 2009.

Eurojust held 131 co-ordination meetings in 2009 with the participation of judges, prosecutors and investigators from the Member States. Of these co-ordination meetings, 16 were held outside Eurojust for operational reasons. Two-thirds of the co-ordination meetings involved three or more countries.

Eurojust's powers under articles 6 and 7 of the Eurojust Decision were exercised on 10 occasions in 2009. Nine recommendations were formally issued under article 6 of the Eurojust Decision, which enables National Members to ask competent Member State authorities to undertake specific casework action. In one instance, the College acted under article 7 of the Eurojust Decision to resolve a problem of extradition of own nationals between Member States. In many cases, the formal use of powers under articles 6 and 7 is not necessary because recommendations have already been accepted through informal negotiations between the National Members and national authorities concerned.

Chapter 2 contains more detailed information concerning casework in the priority crime areas and concerning EAWs and JITs. Additional statistics on casework

and co-ordination meetings are provided in the annex.

For the first time, Eurojust evaluated applications and administered Commission funding for JITs during 2009. Following the implementation of the new Eurojust Decision, Eurojust will host the Secretariat of the Network for Joint Investigation Teams.

Relations with States and organisations outside the European Union

Negotiation of co-operation agreements with the Russian Federation, Ukraine, Albania, Moldova, Liechtenstein and Cape Verde were set as priorities in 2009. Serbia, Montenegro, Bosnia and Herzegovina and Israel were added, as these countries formally expressed



interest in co-operation agreements with Eurojust. In addition to new rounds of negotiations with the Russian Federation, a seminar on judicial co-operation in criminal matters, attended by practitioners and representatives from the European Commission and the Russian Federation, was held at Eurojust in October. The seminar dealt with extradition, transfer of criminal proceedings and MLA. One outcome of the seminar was to create a working group to solve practical issues regarding judicial co-operation between the European Union and the Russian authorities.

Lack of data protection legislation meant that little progress could be made in negotiations with Ukraine. Preliminary talks on negotiations for co-operation agreements were held with Serbia and Bosnia and Herzegovina. The co-operation agreement with Croatia, signed in 2007, entered into force on 02 June 2009, and a liaison prosecutor was appointed to Eurojust in November 2009. Apart from Croatia, co-operation agreements are in

force (thus facilitating the exchange of data in operational cases) with Norway, Iceland and the USA. On 26 June 2009, Eurojust and Norway held their annual consultation on the implementation of the co-operation agreement. It was concluded that co-operation had intensified and that it was advisable to continue with the secondment of the Liaison Prosecutor at Eurojust. The co-operation agreements signed with Switzerland and FYROM in November 2008 will enter into force when written notification that all internal procedures have been completed is exchanged.

In 2009, Eurojust added a contact point in the Republic of Korea to its third State network. For the full list of contact points, please see the Eurojust website.

A Memorandum of Understanding was signed with the Iberoamerican Network of International Legal Cooperation (Iber-RED), a network of contact points for judicial co-operation in Central and South America, on 04 May 2009.



Michèle Coninx, Eurojust, Viviane Reding, Vice-President, European Commission, Francisco Caamaño Domínguez, Minister of Justice, Spain, and Antonio Costa, Executive Director, UNODC

In 2009, Eurojust also finalised negotiations with the United Nations Office on Drugs and Crime (UNODC). A Memorandum of Understanding between Eurojust and the UNODC was signed on 26 February 2010.

On 24 June 2009, Eurojust's application for observer status was unanimously accepted by the FATF.

Administrative issues

Housing continued to be an important issue in 2009. Because of its increasing workload, Eurojust has been located in two separate buildings in The Hague since 2008. In October 2009, the Ministry of Justice of the Netherlands and the Municipality of The Hague presented a proposal for possible locations for new premises, which would allow all Eurojust staff to work in one building. Negotiations on the future premises are ongoing, and various substantial issues remain unresolved. In 2010, Eurojust will establish a programme to deal with the detailed projects for the new premises.

Implementation of the new Eurojust Decision (see chapter 4) started in parallel with another major project at Eurojust, the OSR. The purpose of the OSR is to enhance the efficiency and effectiveness of Eurojust by reviewing the management structure, roles and responsibilities of internal stakeholders, co-ordination mechanisms,

human resources management and control systems.

An assessment phase started in spring 2009 with an analysis of the current management structure, focusing on the overall corporate governance system and on realignment of administrative workflows with Eurojust's operational work. Workshops were held with National Members and members of the administration to further common understanding of management processes. The results of the assessment phase of the OSR will be considered during the second quarter of 2010.

Eurojust was granted a budget of €22.5 million in 2009. The amending budget, granted in September 2009, added another €3.9 million. The operational budget increased during 2009 by 10 per cent due to the increased caseload, operational co-ordination and strategic meetings and the further development of the CMS. A total of approximately

6,700 payment transactions and 950 commitments were processed during 2009. Total budget execution for 2009 was €25.2 million. Eurojust received the statement of assurance from the Court of Auditors regarding its accounts for 2008.

Information technology

The EPOC software has been used as the Eurojust CMS since October 2004. The software was developed during three projects co-funded by the European Commission (EPOC I to III). Following the successful completion of EPOC III, Eurojust initiated the EPOC III+ Project to refine the software. All funding for EPOC III+ has been provided by Eurojust. EPOC III+ was launched in April 2008 with the aim of increasing the user-friendliness of the CMS. Based on practical experience in using the software, the user interface was revised and workflows were re-designed to better support different aspects of Eurojust casework. The new



software also provides for access with different security levels. While the most sensitive information stored in the CMS is only accessible from dedicated isolated terminals within Eurojust, authorised users may access less sensitive data from their standard desktop computer. These improvements should facilitate an increase in the quality and quantity of data entered into the system. In addition, EPOC III+ introduces some technical modifications and revised software architecture. These modifications provide a sound basis for the implementation of future changes arising from the new Eurojust Decision. The EPOC III+ system was installed at Eurojust during summer 2009.

As part of the new approach of the Annual Report 2009, information formerly found in our annual reports can now be found detailed and updated on our website, which was completely revised in October 2009. The website includes an expanded section on Joint Investigation Teams,

including the JIT Funding Project, the Contact Point for Child Protection and other matters for practitioners. The site is at www.eurojust.europa.eu.

Public access to Eurojust documents

In accordance with the College Decision on Rules Regarding Public Access to Eurojust Documents, “any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, has a right of access to documents of Eurojust”. In addition, “Eurojust shall include in its annual report the number of cases in which it refused to grant access to documents”.

In 2009, Eurojust refused to grant access to Eurojust documents on one occasion. The grounds were that “disclosure would undermine the protection of the public interest as regards [...] national

investigations and prosecution in which Eurojust assists [and] fulfillment of the applicable rules on professional secrecy” (per article 4(1)(a), 6th and 7th indents of the Decision). As regards the documents originating from the Member States in the same request, the grounds were refusal of disclosure from the national authorities involved as provided in article 4(4) of the Decision.



Eurojust's administration



Eurojust's Heads of Units and Services. Seated from left to right: Diana Alonso Blas, Data Protection Officer, Elizabeth Gavin, Acting Head of Budget & Finance Unit, Catherine Deboyser, Head of Legal Service, and Carla Garcia Bello, Legal Secretary to the College. Standing from left to right: Jon Broughton, Head of Information Management Unit, Pavel Golob, Acting Head of Corporate Services Unit, Hans Jahreiss, Administrative Director, Jacques Vos, Acting Head of Human Resources Unit, and Joannes Thuy, Press Officer. Missing in the photograph: Fatima Adélia Pires Martins, Secretary to the EJM.

2 Operational activities

Introduction

Eurojust's operational priorities for 2009 were adopted in light of the Council's conclusions on the OCTA, the ROCTA, the TE-SAT Report, and the EU strategy for the development of an area of freedom, security and justice. Accordingly, Eurojust in 2009 focused on the fight against terrorism, drug trafficking, trafficking in human beings, fraud, corruption, cybercrime, money laundering, and other activities related to the presence of organised crime groups in the economy.

Each priority crime area is considered below from the perspective of judicial co-ordination and co-operation, and within the context of cases referred to Eurojust and its role in facilitating the fight against serious crime. Included is

information on obstacles, problems, best practice, and solutions found in judicial co-operation.

Co-ordination, strategic, and tactical meetings held in 2009 provided a platform for the exchange of best practice in judicial co-operation. Specific examples are described in the individual sections below.

Evaluation of casework, general trends and issues

In 2009, Eurojust registered 1,372 new cases where Member States sought its assistance. Statistics with more detailed information about the growth in casework and the countries involved are provided in figures 1, 5 and 6 of the annex.

This Annual Report applies a new approach to classifying the cases referred to Eurojust. The statistics in figures 2-4 of the annex provide information about casework in line with the objectives and priorities for Eurojust's activities laid down by the Council. Additionally, about 66 per cent of Eurojust's co-ordination meetings involved three or more countries, as did about 20 per cent of the overall caseload.

More than 90 per cent of the cases referred to Eurojust involve the types of crime and offences in respect of which Europol is also competent to act (article 4(1) of the Eurojust Decision). Only a minority of the cases concern other types of offences where Eurojust has assisted at the request of a competent authority of a Member State (article 4(2) of the Eurojust

Decision). It should be noted that such cases can also be of a particularly serious nature, such as genocide, but which fall outside the competence of Europol (see figure 2).

Of the cases referred to Eurojust under article 4(1), almost two-thirds of the crime types involved were within the identified priority crime areas (see figures 3 and 4 of the annex).

In 2009, 118 of the 131 co-ordination meetings involved crime types in the priority areas. Eight co-ordination meetings concerned cases involving other offences at the request of the competent authorities of a Member State (article 4(2)).

Co-ordination meetings continue to be a very useful tool for Member States' judges, prosecutors and investigators in cross-border cases. In 2009, co-ordination meetings were the most common vehicle for the exchange of information on linked

investigations and for planning joint actions. These meetings allow competent national authorities and Eurojust National Members, including representatives from relevant EU partners such as Europol and OLAF, where appropriate, to agree a common strategy between Member States, to plan and co-ordinate simultaneous investigations and actions (such as arrests, searches, and seizure of property), to anticipate and resolve legal difficulties, and to facilitate the execution of subsequent MLA requests.

Figures 7-9 of the annex contain statistics on co-ordination meetings held in 2009. Most meetings were requested by France, the UK and Italy, with 29, 19 and 14 co-ordination meetings, respectively. The same Member States were invited to participate as involved country in 18, 28 and 24 co-ordination meetings, respectively. Examples of successful co-ordination are given in the sections on different crime types later in this chapter. Issues that could have taken months to

settle under traditional MLA procedures were rapidly resolved during co-ordination meetings.

In the last three months of 2009, following a pilot project in 2008, the National Desks carried out a detailed evaluation of all closed cases. Of the 255 cases that were evaluated, the majority dealt with EAWs and requests for judicial co-operation in respect of suspects, witnesses and/or victims. There were also requests for other forms of evidence (obtaining objects, documents, or data) and information on legal or practical issues. The legal instruments most often used in judicial co-operation were the 1959 and 2000 Mutual Legal Assistance Conventions, and the Framework Decision of 13 June 2002 on the EAW and the surrender procedures between Member States. On very few occasions were problems identified in relation to the 2000 Convention and the EAW. Many requests for assistance dealt with by Eurojust related to the facilitation of legal procedures or documents, such



as letters rogatory, warrants, and orders. Where legal problems were identified, Eurojust's services were used to obtain information on national legal provisions and on how legal difficulties could be overcome. Eurojust time and again assisted in the identification of competent authorities in the Member States, a task normally to be resolved by the use of the EJM tools or contact points.

From the 2009 evaluation, a general observation can be made regarding obstacles to judicial co-operation in the execution of MLA: practical and legal obstacles are interlinked and seem to occur with equal frequency.

Practical obstacles are: a lack of resources at national level for a timely execution of MLA requests or – following from the lack of resources – a “de-prioritisation” of MLA requests received from other Member States in favour of their “own” national proceedings; no acknowledgement of receipt of letters rogatory; difficulties arising from low-quality translations; or

incomplete information included in MLA requests. Eurojust is sometimes asked to intervene when these practical obstacles have not been resolved by use of the EJM.

Linked to these obstacles are difficulties that may be described as cultural. National judicial authorities may lack experience of other criminal justice systems, of how assistance can be obtained most effectively and of why certain requests are formulated in a particular way. For instance, a procedural measure (such as formal questioning of a suspect) may be essential to prosecution in one Member State but not another. A practical consequence of these different perceptions is that execution of a request is given a low priority.

Legal obstacles are clearly related to differences in criminal procedure and evidence. Examples can be found in different legislation regarding interception of communications, the hearing of witnesses, the degree of

witness protection available (e.g. in cases involving organised crime or THB), and fair trial requirements in evidentiary matters (e.g. witness statements being admissible only when taken before a judge, but not when taken by the police).

When examining some principal judicial co-operation instruments (letters rogatory/MLA, transfer of proceedings, recognition of decisions/judgements, and extraditions/EAW), Eurojust noted the following specific legal difficulties in operational cases:

- the potential inadmissibility of evidence obtained by letter rogatory when the standards or legal requirements for evidence-gathering in the issuing State are different from those in the requested State;
- despite provisions in the 2000 MLA Convention, failure by the executing Member State to meet the formalities and procedures requested by an issuing Member State;

- a possible lacuna in the Council Framework Decision of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders was detected in cases where the national legislation of the issuing State allows victims to claim recovery of assets directly in criminal proceedings, while the executing State only recognizes confiscation for general benefit;
- delay in ratification of instruments: problems have been identified in setting up a JIT, in applying the Convention on Transfer of Proceedings and in the use of interception of telecommunications. Eurojust assisted in all these situations in 2009. It remains the case after 10 years that the 2000 MLA Convention has still not been ratified and implemented by all Member States;
- a number of issues and difficulties were identified specifically with regard to two legal instruments available for

EU judicial co-operation, EAWs and JITs. See the separate sections on these two instruments below.

Terrorism

Terrorism continues to challenge the internal security of the European Union, with the threat of terrorist attacks remaining significant. Militant Islamist terrorism and the activities of some European separatist groups continue. The activities of some ethno-nationalist groups from third States (PKK and LTTE) were reflected in Eurojust's meetings in 2009.

The number of cases where Eurojust's active assistance in dealing with terrorism offences has been sought decreased in 2009 (2004: 33; 2005: 25; 2006: 44; 2007: 34; 2008: 31; 2009: 21). Eurojust reinforced its commitment to facilitating the exchange of information and the practical application of the legal

instruments adopted at European and international level, mainly (but not only) through the national correspondents for terrorism matters of Eurojust. Eurojust has also encouraged relations with other European partners (EU Counter-terrorism Coordinator, Europol), and competent authorities of the third States (USA, Western Balkans, Sri Lanka and Turkey) and international institutions and bodies (FATF).

Activities of the PKK in Europe necessitated a co-ordination meeting in Turkey. Eurojust participated in Europol's Counter-Terrorism Week, which included a seminar on PKK developments and potential threats. Co-ordination meetings were held in four cases. Two meetings were related to PKK activities in Europe, and highlighted the need to exchange information on the activities of the PKK and supporting organisations, focusing on the structure, *modus operandi* and execution of MLA requests to achieve successful prosecutions of terrorist activities. The

activities of supporting organisations or companies also needed to be investigated for links to financing or propagandising of terrorism.

In one co-ordination meeting, it became clear that varying legal requirements about the conduct of investigations and prosecutions may cause obstacles. For example, the presence of a lawyer during witness interviews conducted abroad may not be required in legal systems outside the European Union. It might follow that evidence or witness statements obtained without the presence of defence counsel in, say, Turkey may invalidate the use of the evidence in a national court of the European Union. To avoid delays or complications in the execution of these requests for MLA, legal formalities in different countries must be clearly outlined.

Eurojust also offered assistance with the execution of complicated outstanding MLA requests from third States to EU Member States. Reciprocally, to support prosecutions in the European Union,

Eurojust asked the third States to provide the EU Member States with a better overview of the activities carried out by terrorist groups.

The goal of another co-ordination meeting was to gain an overview of ongoing investigations into organisations supporting terrorism, as well as propaganda and financing activities. Within the European Union, better co-ordination and co-operation is needed, because national authorities are cautious about the exchange of information, particularly in terrorism cases. This caution is especially marked when the sharing of intelligence is involved.

Another co-ordination meeting at Eurojust in November, hosted by France and attended by 5 other Member States and Switzerland, resulted in the conviction of 21 members of the LTTE, with sentences of up to 7 years, for funding of terrorism. The Court of Paris also ordered the dissolution of the Tamil Coordinating Committee in France.

Strategic and tactical meetings at Eurojust offer the opportunity for practitioners to exchange views, information, and best practice in the field of counter-terrorism. To strengthen its relationship with national authorities, Eurojust held its fifth annual strategic meeting on terrorism, on the subject of terrorism financing, in June 2009. The purpose of the meeting was to raise awareness among the national correspondents for terrorism about applicable international and European conventions and framework decisions, as well as the Nine Special Recommendations on Terrorist Financing of the FATF. The strategic meeting also dealt with issues relating to the exchange of information on terrorism offences, on the basis of Council Decision 671/2005 and the new Eurojust Decision, the TE-SAT Report, and the description and further analysis of two relevant judgements and one proceeding on terrorism: one judgement relating to financing of PKK activities, issued by the French judicial authorities in January 2009, one judgement relating to LTTE activities in the UK, issued by the UK

judicial authorities in June 2009, and one proceeding about LTTE activities in France, which led to the decision of the Court of First Instance in Paris in November 2009.

Eurojust hosted a tactical meeting in 2009 on the activities of the LTTE, in co-operation with Europol.

Under the Czech Presidency of the European Union, Eurojust also held a seminar in Prague to examine terrorist threats in the Western Balkans and to promote closer co-operation and exchange of information between the competent authorities of the EU Member States, the Western Balkans, Eurojust and Europol in the fight against terrorism.

Drug trafficking

Both the smuggling of drugs into Europe and their production within the European Union continue to pose significant threats to its citizens. New routes are continually being developed; for instance, the smuggling of cocaine through Eastern

European countries has increased markedly over the past few years.

In 2009, 230 cases registered at Eurojust concerned drug trafficking. With 30 registered cases, Italy was the Member State most frequently requesting Eurojust's assistance, whereas Spain was the country most frequently requested by other Member States, followed by the Netherlands and again Italy.

Eurojust held 40 co-ordination meetings on drug trafficking cases in 2009, 38 on its premises in The Hague, and 2 outside

Eurojust. Europol was invited to 6 of these meetings; there were 13 meetings with participants from third States (Colombia, Iceland, Norway, Switzerland, Turkey, the USA, Ukraine and Serbia).

As with all crimes committed by criminal networks operating across borders, prosecution of drug trafficking cases frequently gives rise to jurisdictional problems (with producers and distributors usually located in different countries and many significant seizures and arrests being made in the transit countries). Eurojust is the forum where decisions to

In a drug trafficking case, Eurojust contributed to the disruption of a criminal organisation of ethnic Albanians, based mainly in Italy but with operational cells also in Antwerp and Oslo. The criminal organisation used couriers and specially designed vehicles to traffic cocaine, hashish, ecstasy and heroin. The judicial investigations were co-ordinated by Eurojust. Eurojust held several meetings involving Europol and the concerned national authorities to enhance the investigative measures and to define a

common strategy for tackling the network. Europol analysts identified network contacts in 42 countries. Based on this analysis and national investigations, the competent national authorities were able to seize substantial quantities of drugs. During the actions, which culminated with 30 arrests, Eurojust and Europol established a joint operation centre to co-ordinate the action of the various national authorities.

resolve possible conflicts of jurisdiction and to prosecute efficiently can be most effectively made.

Controlled deliveries, JITs, and interception of communications are co-operation tools frequently used in drug cases. Problems can arise due to the fact that controlled deliveries are subject in some Member States to judicial co-operation, and in others to police co-operation. This situation can cause problems if the Member State requesting assistance acts only on the basis of police co-operation without issuing an MLA request. In such cases, the requested Member State, whose system for controlled deliveries implies judicial co-operation, cannot comply with a police request alone. Eurojust frequently acts

When investigation showed a Colombian criminal organisation was trafficking cocaine, via Spain and France, to Italy, the *Direzione Antimafia* in Rome asked Eurojust to assist in the co-ordination of investigations in the three Member States. One issue resolved at the co-ordination meeting was a

potential conflict of jurisdiction. After consideration of relevant factors, the participants agreed to transfer the case to the Italian authorities. The case resulted in the arrest of 32 suspects and the seizure of 100 kg of cocaine.

Eurojust also acted to help overcome a conflict of jurisdiction in a case concerning trafficking of cannabis from Spain through France into the UK. Whilst in 2008 it was decided to conduct simultaneous investigations in France and the UK on different aspects of the case, in 2009 a second co-ordination meeting was held at Eurojust to decide which judicial authority would be in a better position

to undertake investigations against the entire network to avoid overlapping investigations and a resulting conflict of jurisdiction. The French judicial authority agreed during the meeting to transfer the case to the UK. The French investigating magistrate was invited to present the French investigation results in the UK court. Five individuals were convicted in the UK and sentenced to a total of 37 years.

to provide solutions to difficulties of this type.

In general, requests related to controlled deliveries were executed swiftly. However, the transmission of police reports after

execution proved more problematic, especially in cases where police reports were categorised as classified information, a common occurrence in most Member States.

The lack of implementation of the 2000 MLA Convention causes some difficulties. For example, in one case, a Member State that ratified the 2000 MLA Convention refused to transfer a signal from a direct interception to a Member State that had not ratified the 2000 MLA Convention.

After the intervention of Eurojust, the interception could be executed. A contrasting example is provided in a case where an undercover agent from one Member State needed to go to another Member State to proceed with the investigation. However, the second Member State had not ratified the 2000 MLA Convention and the Protocol of 16 October 2001, while the first Member State had not ratified the Palermo Convention. In this case, no legal instrument was available to allow the presence or provide assistance to the undercover agent of the first Member State in the second Member State, and the operation could not be undertaken.

Trafficking in Human Beings

Compared to 2008, there was a slight decrease in cases referred to Eurojust in 2009 (74 cases as compared to 83 in 2008). The majority of the cases referred (52) involved sexual exploitation.

In 2009, Eurojust held five co-ordination meetings on cases related to THB, involving either forced labour or THB for reasons of sexual exploitation.

The legal issues identified in the drug trafficking section above were also seen in crimes involving THB.

Fraud

In the category of swindling- and fraud-related crimes including tax fraud, computer fraud, advanced fee fraud, misappropriation of corporate assets, and VAT fraud, Eurojust's caseload has steadily increased since 2004; these crime types were recorded in 214 of Eurojust's cases in 2009. In addition, seven cases were referred to Eurojust concerning crimes affecting the financial interests of the European Community.

The number of co-ordination meetings in cases involving swindling and fraud

increased from 15 in 2008 to 20 in 2009. Most co-ordination meetings concerned tax fraud (12 cases) and VAT fraud (7 cases).

Currently, there is no uniform European approach to criminal investigations and prosecutions of VAT fraud cases. As stated in the Communication from the European Commission to the Council of 23 November 2007 concerning some key elements contributing to the establishment of the VAT anti-fraud strategy within the EU (COM (2007)758 final), there is a clear need to involve judicial authorities in the co-ordination strategies and efforts of the European

In a case involving Italian, Dutch and Colombian authorities, women were being trafficked for forced prostitution, in part to finance purchases of large amounts of cocaine in Colombia by a criminal organisation based in Nigeria. As a result of the co-ordination meeting held at Eurojust in March 2009, the links between the THB, the exploitation of women and the financing of drug activities was established, and a simultaneous action agreed during the meeting resulted in 62 arrests.



In 2006, a case between Romania and the UK was opened, involving an organised criminal network trafficking children from Romania to the UK, with the aim of exploiting them to commit crimes (mainly stealing and begging). A JIT was set up in 2008, through the intervention and facilitation of Eurojust, to co-ordinate arrests of leaders of the organised criminal network, to confiscate their properties and to obtain important means of evidence from the destination country and vice versa. The JIT allowed the establishment of a common plan of action between the national and international actors involved, with Europol providing analytical support

and Eurojust playing a key role in ensuring direct contacts between the UK police and the Romanian prosecutors, clarifying the differences between the two legal systems and advising on where best to prosecute, taking into consideration the different evidentiary requirements of the two countries. The JIT received substantial Commission funding. Due to the differences between civil and common law systems, additional assistance from Eurojust had been requested. The case is ongoing, but some criminals appeared before the UK courts in 2009.

Contact Point for Child Protection

In 2009, the Contact Point for Child Protection intensified co-operation with the European Financial Coalition against commercial sexual exploitation of children online (EFC). In October 2009, Eurojust became a member of the Steering Committee and Chair of the Legal Working Group of the EFC.

The Contact Point for Child Protection has also established close contacts with the USA. In 2009, a Eurojust/USA working group was

set up to improve co-operation between the European Union and the USA, focusing primarily on crimes involving child exploitation over the internet (and other means of publication and dissemination), travel for the purpose of sexually assaulting children, and trafficking in minors. Whilst seeking to engage other international organisations in the fight against these types of crime, the working group members will exchange information on trends and best practice in the investigation and prosecution of international child predator groups.

In a case of child abuse images, a suspect, using an IP address in Spain, allegedly enticed Estonian teenagers to submit pornographic pictures of themselves. During the first contacts with the victims, the Spanish suspect also pretended to be a teenager. The victims were later forced to submit more pictures, under threat of publication of the victims' photographs on Facebook by the suspect. The Prosecution Service of Estonia sent an MLA request to Spain, asking for a house search. Eurojust's assistance was requested to accelerate its execution. At a co-ordination meeting, Eurojust also solved a conflict of jurisdiction with the use of formal article 6 powers in determining that Spain was in a better position to prosecute, because the suspect was Spanish, and the crime was committed in/from Spain; and, in the interest of protecting the young victims from media attention, Spain was considered a safer venue for the trial.

French judicial authorities requested a co-ordination meeting, in the context of a Europol AWF, in a VAT carousel fraud case involving France, Spain, Belgium and Germany. A French company was selling second-hand cars bought in Belgium, Germany and Spain since 2007. Due to the creation of fictitious Spanish companies and the use of forged documents, the VAT was only paid on the profit, with a VAT loss estimated at more than €1.5 million. The co-ordination meeting allowed the exchange of information and the preparation of five letters rogatory, leading to simultaneous arrests and searches in three of the Member States in September 2009.

Eurojust co-operated in 2009 with OLAF and Europol on a VAT and customs fraud and counterfeiting investigation dealing mainly with clothing, garlic and tobacco imported from China to the EU, mainly via France and the Netherlands. The goods were sent to Hungary, Austria, and Italy. The value of the goods was under-declared to the customs authorities in the Member States or not declared at all. At the co-ordination meeting held at Eurojust, a common strategy and links were defined concerning the ongoing investigations in seven countries, providing the basis for effective action against the organised crime group.

Boiler room frauds where investors in one Member State are targeted by criminals based in another Member State cause particular problems to investigators and prosecutors. In a case that involved Spain, Malta, Slovakia, Austria, Cyprus, Switzerland, Ireland, and the UK, investors had been defrauded of some £28 million sterling. Eurojust

assisted to co-ordinate multilateral searches, and to clarify MLA requirements in the different states so as to ensure proper and timely execution, particularly in respect of the seizure of computer data, where evidential requirements differed. Seven persons were arrested in the operation.

Community to improve the fight against fiscal fraud, with a particular emphasis on a multi-disciplinary approach, including both judicial and law enforcement authorities. Against this background, Eurojust has taken the lead in facilitating co-operation between judicial authorities in cases of transnational VAT fraud.

In 2009, Eurojust initiated a strategic project on enhancement of exchange of information and MLA between judicial authorities of EU Member States in the area of VAT fraud. Europol is involved in this project. The goals of this project are:

- to analyse the main obstacles and difficulties in the co-ordination of transnational investigations against

VAT fraud on the basis of existing reports, practical experiences and available information;

- to launch a questionnaire with a view to seeking solutions to the main obstacles and difficulties already identified;
- to promote the early warning of suspicious transaction reports and the computerised VAT Information Exchange System (VIES) by the competent administrative authorities for the exchange of information at national level to the prosecutorial and judicial authorities;
- to facilitate co-operation between judicial and law enforcement

authorities of the EU Member States competent for investigating and prosecuting VAT fraud; and

- to clarify the roles and competences of the European units and bodies competent in the fight against VAT fraud.

Corruption

This year, for the first time, corruption, being one of the priority crime areas, is included as a separate topic in the Annual Report. There were 20 cases referred to Eurojust in 2009 (25 in 2008), but due to their sensitivity and the fact that these cases are still ongoing, no detailed information can be included here.

As the result of actions taken at two co-ordination meetings held at Eurojust in 2009, two Member States have commenced and co-ordinated corruption investigations. The meetings have enabled authorities of the Member States to co-ordinate their investigations and to

process the huge amount of information for evidential purposes. Although letters rogatory are still necessary, complex financial investigations and prosecutions cannot be efficiently conducted on the basis of such letters alone. In that sense, the involvement of Eurojust has already proven to be highly successful. In a corruption case involving the UK and Denmark and involving various jurisdictions, Eurojust provided assistance in the formation of a JIT for more efficient evidence gathering, facilitating the initiation of court proceedings in 2009.

It is clear that in corruption cases, complicated letters rogatory can be a serious drain on limited investigation time and resources. By advising on drafting, legal requirements and subsequent execution, Eurojust can significantly assist in ensuring that complex cross-border investigations are facilitated.

Cybercrime

The 2008 Council Conclusions on a Concerted Work Strategy and Practical Measures against Cybercrime recognised a recent increase in transnational offences committed via the internet. Eurojust registered 31 cybercrime cases in 2009, of which 17 also involved computer fraud.

Eurojust held five co-ordination meetings on cybercrime, and several preparatory meetings for co-ordination meetings to be held in 2010. Co-ordination meetings are essential in cybercrime cases, as these cases normally involve several

perpetrators located in different countries, servers located in yet other countries and predicate offences (criminal activities from which the proceeds of the crime are derived) committed throughout the world.

For the majority of the transnational cases involving economic crimes via the internet, such as payment card fraud and transactions through mules, co-ordination of the investigations and prosecutions is essential. Taking into account the enormous and ever-increasing number of these transactions, a common approach and agreement on the handling of

In a case of internet auction fraud, two criminal groups were active in Romania and abroad. After payment was received, the money was picked up by so-called "mules" (people who transfer money and may be involved in reshipping goods that have been fraudulently obtained in one country, usually via the internet, to another country where the perpetrator of the fraud lives) using fake IDs and in complicity with Western Union and telegram operators. In total, 181 complaints were received

and the total loss resulting from the criminal activity investigated is estimated to be over €950,000. At the co-ordination meeting, judicial aspects and mechanisms for the collection and exchange of evidence between the involved Member States were explained, and a conflict of jurisdiction matter was dealt with. In total, 17 people were arrested in Romania alone, 6 EAWs were executed and 29 people were sent to trial.



In another case, Italian authorities led an investigation into a group suspected of carrying out skimming of at least 15,000 payment cards in the European Union, with a total of over 35,000 fraudulent transactions and losses amounting to approximately €6.5 million. The case, targeting a Romanian organised crime group operating in Italy and Spain, was submitted to Eurojust in 2009 to plan a co-ordinated action for simultaneous arrests. Eurojust and Europol co-operated in this case, and Europol's analysis identified links to criminal offences in Italy, Belgium, France, Germany, Ireland, Moldova, the Netherlands, Spain,

Sweden, Switzerland, and the UK. Two co-ordination meetings were held at Eurojust to identify targets and organise a joint operation. Eurojust facilitated the execution of EAWs with Belgian, Irish, Italian, Dutch, and Romanian magistrates and co-ordinated requests for interception. 24 people were arrested: 8 in Italy, 12 in Romania, 2 in the Netherlands and 2 in Belgium. In several house searches, illegal equipment, counterfeit payment cards, drugs, weapons, and large sums of cash were seized.

such cases would be beneficial on a European level, particularly concerning the jurisdiction for investigations and prosecutions of mules and of individuals using false payment cards.

Ratification and implementation of the Council of Europe's Convention on Cybercrime in all Member States would also facilitate more effective law enforcement activities in this field by providing improved investigative tools, *inter alia* the possibility for the law enforcement authorities of a Member State, subject

to lawful and voluntary consent of the competent person, to access stored computer data in other Member States where directly accessible, without the authorisation of these Member States.

Money laundering

Money laundering, the process by which criminals attempt to conceal the true origin and ownership of the proceeds of criminal activities, is often perpetrated by OCGs, and is closely connected to

most organised crime offences with a transnational dimension. The horizontal nature of money laundering has been stressed by the OCTA 2009 and the ROCTA 2008, and subsequently identified by the Council as one of the EU priorities in the fight against organised crime. The EU priorities have highlighted the danger of an increasing criminal influence in the political, economic and judicial spheres, especially in connection with Russian-speaking OCGs. EU Member States have been asked to give high priority to the surveillance and detection of money

laundering and investments by external OCGs in the European Union and more generally to financial aspects, including asset recovery.

The legal framework in relation to money laundering is complex, due to the number of relevant legal instruments issued by the European Union, the Council of Europe and the United Nations. In the European Union, instruments focus on prevention, confiscation and recovery of criminal assets. Given the complexity of this legal framework, Eurojust has devoted efforts to facilitating the practical application of the European legal instruments and international conventions against money laundering.

Money laundering is one of the most common crime types dealt with at Eurojust. Spain, the Netherlands, and the UK are the Member States with most requests in money laundering cases registered since 2004. In 2009, 125 cases

were registered at Eurojust, showing an increase of almost 25 per cent over the previous year.

In 2009, Eurojust held 19 co-ordination meetings on money laundering-related cases. In most of these co-ordination meetings, Eurojust facilitated the exchange of information between law enforcement (both administrative and police) and judicial authorities of EU Member States and third States, promoted the execution of and solved practical problems related to letters rogatory, co-ordinated the execution of simultaneous arrests and searches and encouraged the freezing of assets and evidence. When letters rogatory are executed prior to the co-ordination meeting, evaluation of the information and evidence collected is very useful. Particular attention is given to the necessary exchange of information between the competent authorities involved for a better identification of suspicious cash transit transactions.

Finland held two co-ordination meetings on a particularly complex money laundering case involving the Russian Federation, Finland, Germany, and other EU countries. Large amounts of money of suspicious origin were being moved from all over the world to Finland (where a company co-ordinating the money transfers had its seat) and to other EU Member States, including Germany. The chief Finnish investigator and the prosecutor in charge asked Eurojust to facilitate a meeting with their German counterparts at Eurojust to discuss the following matters: the use and sharing of the evidence already gathered in Germany and Finland; possible co-operation with the Russian authorities in the future; and jurisdictional questions (should the charges be brought in Finland or in Germany). The success of the co-ordination meetings has led to consideration of extending their scope to involve the Russian authorities, since this co-operation is vital to investigating the purpose of money transfers to offshore banks.

Some of the main legal issues identifiable in Eurojust's casework with regard to money laundering can be summarised as follows.

The Portuguese authorities had started investigations of money laundering-related offences, which were partially committed in France. When a letter rogatory was sent to France, it became clear that France was already investigating related criminal activity. A co-ordination meeting was called. In the meanwhile, France discovered connections with Luxembourg and Belgium. The

result was a “double” co-ordination meeting in which Portugal invited France, and France invited Luxembourg and Belgium. Letters rogatory were executed before the meeting took place, so that the participants could evaluate data and evidence requested under those letters rogatory during the meeting.

“Self-laundering” (money transactions related to proceeds of crimes committed by the launderer himself) is a criminal offence in some, but not all, Member States. A consequence of this situation is that difficulties in judicial co-operation may arise where Member States with different approaches are involved. In a number of Eurojust cases, the person committing the predicate offence (criminal activity from which the proceeds of the crime are derived) does an act that is considered as “self-laundering” in the Member State where the action takes place, but the prosecution takes place in a Member State where “self-laundering”

is not a criminal offence. In such cases, flexibility and pragmatic solutions may be required to ensure that the proceeds of the predicate offences can be seized and confiscated, irrespective of different definitions of money laundering.

Issues around double criminality and evidentiary burdens have also been identified. The execution of letters rogatory for money laundering activities proved to be difficult when the link between the predicate offence and the money laundering-related activities was not evident. In one case, a Member State refused judicial assistance because the

predicate offence was not clearly identified in the letter rogatory. After Eurojust’s involvement, it was agreed that it would be sufficient to establish the probability that the source of the laundered proceeds was not legal. This solution was considered to be in line with the Framework Decision of 24 February 2005 on confiscation of crime-related proceeds, instrumentalities and property, and was accepted by the parties.

Traditional MLA instruments do not always ensure the speedy execution of requests. Some of the problems detected are related to delays in the execution of letters rogatory and requests for supplementary information. These are real issues in the field of anti-money laundering as the prompt execution of letters rogatory is always essential to prevent the transfer of illegal funds between bank accounts.

The limited use of mutual recognition instruments, in part because they have not been implemented under national

law by all Member States, also requires consideration. Instances are the Framework Decision of 22 July 2003 on the execution in the European Union of orders freezing property or evidence, and the Framework Decision of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders. Their application would facilitate in practice the prompt execution of requests that would no longer be subject to the traditional mechanisms referred to above. Eurojust has repeatedly pointed out the importance of implementation.

The lack of an appropriate legal framework for the exchange of information with third States is another difficulty that has prevented efficient co-operation. In this respect, problems have been encountered, *inter alia*, with the Russian Federation in the framework of investigations and prosecutions against money laundering and predicate offences committed by Russian-speaking OCGs. Eurojust facilitated and provided support to the

judicial authorities in this context. Further, Eurojust also facilitated the exchange of information and the execution of letters rogatory with Switzerland, Liechtenstein, and the Cayman Islands.

Other activities related to the presence of OCGs in the economy

The European Union, the United Nations and others have worked to create a generally accepted definition of organised crime activity, but a consensus in defining this type of criminality has not been reached by the international community. As a result, the existing legal definitions contain common aspects but differ slightly as to the details of the constituent elements. In addition, the Expert Group on Organised Crime of the Council of Europe established criteria to further determine the definition of “organised crime groups”. Common to these definitions are the following general elements: at least

three people are involved, the activity is established over a period of time, and the people concerned are suspected or convicted of committing serious criminal offences, with the objective of pursuing profit and/or power.

In addition to cases involving organised crime in the particular priority areas of crime types described above, the current registrations of crime types in Eurojust’s CMS also include the specific crime types “participation in a criminal organisation” and “organised robbery”, which by definition constitute organised crime. In 2009, the number of times that these two crime types were registered in Eurojust’s cases was 173 and 81, respectively. In addition, a significant number of cases registered under other crime types such as illegal immigrant smuggling, illicit trading of arms and explosives or other objects, Euro counterfeiting and racketeering and extortion will involve organised crime. Eurojust will seek to improve its statistics to produce more accurate figures in the

In a case between Spain and Bulgaria, a JIT (together with Eurojust and Europol) was established in early March 2009. It conducted investigations into an OCG involved in counterfeiting currency. The operation resulted in a very swift action, dismantling a major euro counterfeiting network, as the culmination of a long-running investigation, with 17 suspects arrested in Bulgaria and €500,000 in counterfeit euros seized.

In 2009, the Netherlands received MLA requests from seven EU Member States relating to Nigerian criminal groups acting throughout Europe and committing drug trafficking, illegal immigrant smuggling, THB, murder, and money laundering offences. The Dutch Desk at Eurojust first hosted an internal meeting, where it became clear that most of the cases were linked. The Netherlands had initially decided not to investigate due to a lack of concrete indications for investigation and a lack

of capacity, but the meeting at Eurojust resulted in a decision to start up investigations, whilst at the same time the Netherlands continued to execute multiple MLA requests. To dismantle the possible underlying Nigerian criminal organisations, a co-ordinated approach at EU level was needed. The National Members at Eurojust agreed to involve Europol's analytical capacities in gathering as much information as possible, to be analysed in the context of the relevant AWF.

next annual reports on the number of cases involving organised crime activity.

Further to the cases mentioned in the sections above, other examples of organised crime cases follow.

Experience from the cases in this field has shown that co-operation between Member States, in addition to common practical problems (such as translation difficulties or unclear requests), is often complicated by differences in legislation as to particular procedures aimed at organised crime, rather than by substantial criminal law issues. For example, while interceptions

in Germany can only be executed when a criminal activity is supposedly ongoing, this requirement is not needed in Italy when an investigation is related to organised crime activities.

Member States may also have different rules and guarantees for the protection of individuals collaborating with judicial authorities, making it necessary to find practical solutions when two or more Member States are involved in a case.

JITs have proved to be a good tool in investigating cases relating to OCGs involving two or more Member States. However, according to Eurojust's experience, some national judicial authorities are still reluctant to set up a JIT. This reluctance may be due to lack of information or knowledge about the possibilities offered by the Framework Decision on JITs and the provisions of the 2000 MLA Convention. In response, Eurojust has produced (with Europol) a JIT Manual for practitioners (for further details, see below under Joint Investigation Teams).

With Eurojust's assistance, a Slovenian case came to a successful conclusion in 2009, when a court convicted each of the 9 individuals to up to 15 years' imprisonment for their involvement in an OCG that transported illicit drugs from Kosovo through Slovenia to Italy and other countries in Western Europe. From 2007, Eurojust provided assistance during the prosecution and court hearings. The case highlighted the practical impact of an interesting legal decision: the Constitutional Court in Slovenia ruled at the end of 2008 that the validity of evidence obtained abroad should be double-checked to comply with fair trial standards.

Through the intervention of Eurojust, the Italian authorities provided as much support as possible, retrieving, one day before the end of the trial in Slovenia, relevant information from judicial files in Italy that had been lost in the earthquake in L'Aquila. As Eurojust was involved in this case continuously from the beginning, it was able to facilitate excellent co-operation between the authorities directly. The court referred in its concluding remarks to the substantial and continued support of Eurojust.

European Arrest Warrants

In 2009, Eurojust improved co-operation between the competent authorities of the Member States, particularly by facilitating the execution of EAWs (article 3(1)(b) of the Eurojust Decision) and giving advice in cases of conflicts of EAWs (article 16(2) of the Framework Decision on the EAW (EAW FD)). In addition, Eurojust registered the breaches of time limits that were reported by Member States in accordance with article 17 of the EAW FD and took action wherever necessary.

1. Cases of facilitation of EAW execution

A total of 256 cases were registered at Eurojust in 2009 concerning the execution of EAWs. This figure amounts to almost 19 per cent of all cases registered in the year, which gives an idea of the important involvement of Eurojust in this particular field. Only one case concerned a general issue; the remainder were operational cases.

The most frequently **requesting** country was the UK, followed by Greece, Poland,

the Netherlands, Bulgaria, and Portugal. The most frequently **requested** country was also the UK, followed by Spain, Poland, France, Belgium, Germany, Romania, and Italy. (Requesting and requested country refer to the Member State asking for or receiving assistance through Eurojust. This can be the Member State either issuing or executing an EAW.)

2. Cases concerning article 16 of the EAW FD

In 2009, Eurojust dealt with four cases of conflicting EAWs. One case was

registered by Belgium (towards France and Luxembourg), another by Bulgaria (towards Germany and France), another by Germany (towards Italy), and another by Ireland (towards Lithuania and the UK).

3. Cases concerning article 17 of the EAW FD

A total of 30 cases of breach of time limits were reported to Eurojust in 2009. Three of these cases were registered in the College, as they required further action by the National Desks involved. Ireland referred the most cases to Eurojust (18), followed by the Czech Republic (5) and Hungary (2). The large number of notifications provided by Ireland may

well indicate that this country regularly complies with the obligation set out in article 17, rather than there being more EAW proceedings delayed in Ireland in comparison to other EU Member States. Eurojust encourages the Member States to inform it promptly and appropriately about breaches of time limits and the reasons for the delays.

4. Issues identified in the practical application of the EAW

In 2009, Eurojust identified the following issues in the practical application of the EAW:

- The nationality of the requested person was considered in a number of

cases to be an underlying reason for refusing the execution of an EAW. A number of Member States were still quite reluctant to surrender their own nationals to other EU Member States.

- Problems related to proportionality were identified. In particular, it was noted that many EAWs were issued for offences that were regarded by the executing Member State as being disproportionate given the minor nature of the offence and the high economic cost of processing the EAW. In relation to drug trafficking offences, the inverse phenomenon occurred.
- If the executing Member State considered that the higher sentences likely to be imposed in the issuing Member State were disproportionate, this fostered reluctance to execute EAWs.
- Practical problems related to the speciality rule were identified when the requested person was additionally

In one of the cases, the Bulgarian authorities received two EAWs relating to the same person (from France and Germany). Eurojust was requested to give advice on which EAW should be given priority. The requested person, charged with, among other crimes, fraud, participation in a criminal organisation and forgery of administrative

documents, asked the court to be surrendered to Germany. However, after consultation among the parties involved in the case, Eurojust recommended surrender to France in view of the gravity of the allegations there. The Bulgarian court followed Eurojust's recommendation and decided to surrender the requested person to France.

charged with other crimes after the surrender.

- Obstacles to surrender were also identified when the requested person was serving a sentence in the executing Member State for which he had been convicted in a different Member State.
- Problems were identified in relation to trials *in absentia*. In particular, difficulties arose between Member States where a suspect need not be personally aware of the proceedings if legally represented and, on the other hand, Member States where such knowledge is required pursuant to article 5(1) of the EAW FD. Refusals to surrender also arose where it was considered unlikely by the executing authority that the requested person could apply for a retrial in the issuing Member State.
- Differences in legal systems with respect to life imprisonment also led to difficulties in the execution of EAWs. Eurojust supported national authorities

to reach common agreements on the terms of the guarantee to be provided in accordance with article 5(2) of the EAW FD.

- Difficulties were encountered in the return of nationals in application of article 5(3) of the EAW FD. Different Member States, not considering the EAW FD as the appropriate legal basis for the return of nationals, sought to apply the 1983 Council of Europe Convention on the Transfer of Sentenced Persons.
- Missing information in issued EAWs and requests to supply additional information caused delays in many proceedings.
- Problems of translation, in particular with respect to crime descriptions and factual circumstances, led on a number of occasions to the breach of time limits for the decision to execute the EAW. Eurojust provided support in the issuing of EAWs in an effort to avoid linguistic misunderstandings

and anticipate and satisfy requests for additional information. In these cases, the involvement of Eurojust was crucial to accelerate proceedings and avoid delays.

- Delays in translations and in the delivery of the original version of the EAW (when required by the law of the executing Member State) led in a number of cases to the release of the arrested person.
- The question of the exact period of detention served by the requested person in the executing Member State after a successful surrender recurred in many proceedings.
- Differences in the legal systems of Member States, in particular between common law and civil law systems, raised a number of issues that were solved through the mediation of Eurojust. For example, in cases where a common law country demanded a guarantee that the requested person would be prosecuted in the issuing

Member State (a civil law country), Eurojust's intervention enhanced mutual trust between judicial authorities and facilitated mutual understanding of the different legal systems involved.

Joint Investigation Teams

Eurojust's central role in the creation as well as during the operation of a JIT and its follow-up, usually by means of a prosecution, has been increasingly recognised by practitioners and is also reflected in EU legislation.

Two articles from the new Eurojust Decision specifically relate to Eurojust's role in JITs. Article 9 provides for Eurojust National Members, and also their Deputies or Assistants, to be members of a JIT, acting in their capacity as national competent authorities, and/or in their role as College Members. In cases where Community funding is provided to the JIT, either directly from the European

Commission or through Eurojust itself via its JIT Funding Project, Eurojust always has the possibility to become a member.

In addition to Eurojust's actual activity as a member or participant in a JIT, Eurojust's role in establishing and promoting best practice in this field has been recognised in article 13 of the new Eurojust Decision, which provides that all Member States report the setting up of a JIT to Eurojust, including the type of crime being investigated, the size of the JIT, and the outcome. Once the new Eurojust Decision has been fully implemented across the Member States, Eurojust will be in the unique position of being the only contact point within Europe to be able to provide actual figures on the evolution and usage of JITs across the European Union.

During 2009, Eurojust continued to play an important role in the development and creation of JITs, both by providing general support and by assisting in operational cases. Eurojust National Members were involved as participants in 7 JITs and

additionally Eurojust was notified about the setting up of JITs in 10 cases.

The lack of information and knowledge about the possibilities offered by the Framework Decision of 13 June 2002 on Joint Investigation Teams, as well as the practitioners' lack of familiarity with the concept of JITs, have been targeted as problems. In an effort to remedy the situation, the JIT Manual, created jointly by Eurojust and Europol, has been praised by practitioners across the European Union, and is now available as Council Document 13598/09 of 23 September 2009 in all 23 official languages. The JIT Manual can also be found on the websites of Eurojust, Europol and the Council.

Eurojust encourages and supports enhanced judicial training, including practical experiences with JITs, to improve acceptance and familiarity of JITs and their legal framework.

Eurojust applied for funding from the European Commission in 2008, and

received this funding in 2009. Since July 2009, Eurojust has been able to actively support JITs by providing direct financial assistance as well as the loan of telephones and laptops. By December 2009, Eurojust had awarded support to five JITs. Applications for 2010 have already been received and grants have been allocated. For details on the JIT Funding Project, please see the dedicated webpage, www.eurojust.europa.eu/jit_funding.htm. This webpage also contains a downloadable brochure outlining in a concrete manner the role Eurojust can provide in JITs, whom to contact, and what type of assistance is available.

From the feedback received and the interest generated in the JIT Funding Project and the role of Eurojust, e.g. via hosting the fifth annual meeting of the Network of National Experts on JITs at Eurojust, jointly with Europol, and presentations made there, Eurojust is optimistic that it can supply the necessary support.

3 Relations with EU partners

In accordance with articles 25a and 26 of the new Eurojust Decision, below can be found more detail on our relationships with the following partners: the European Judicial Network, Europol, OLAF, Frontex, CEPOL, and the EJTN.



EJN meeting

Eurojust also negotiated in the second half of 2009 a Memorandum of Understanding on co-operation between the European Commission and Eurojust. Eurojust anticipates signing the Memorandum of Understanding in 2010.

European Judicial Network

In accordance with article 25a.1(b) of the Eurojust Decision, the EJM Secretariat forms part of the staff of Eurojust but functions as a separate unit.

The EJM and Eurojust work closely together to promote each other through mutual participation in activities and meetings organised by the EJM Secretariat and Eurojust. During the marketing seminars in Lithuania and Bulgaria, the further development of co-operation between Eurojust and the EJM based on

consultation and complementarity was emphasized.

Representatives of the College invite the EJM Secretary on a regular basis to exchange views and to discuss ways to improve working relations. Both the EJM and Eurojust are currently implementing their new Council Decisions and endeavour to use a co-ordinated approach and mutual consultation.

Closer operational co-operation is expected through the establishment of the ENCS as envisaged in the new Eurojust Decision. The ENCS is to be set up to ensure co-ordination of the work carried out by the national correspondents for Eurojust and by the national correspondent for the EJM, as well as up to three other EJM contact points. The goal of the ENCS at national level is to ensure the transmission of relevant cases to Eurojust

or the EJM and will therefore strengthen relations between Eurojust and the EJM and contribute to a better co-ordination of their activities.

The EJM Secretariat has been invited to participate in all meetings of the IWG, and in particular in the second meeting when the ENCS was discussed. The involvement of the EJM in the ENCS requires further reflection in 2010 with the EJM Secretariat and the EJM contact points.

Europol

On 01 October 2009, Eurojust and Europol signed a new co-operation agreement to increase the joint effectiveness of their organisations on both a strategic and an operational level, principally through improved information exchange. More specifically, the agreement aims at improving the quantity and quality of co-operation, particularly in relation to Eurojust's involvement in Europol's AWFs, and Europol's participation in strategic and co-ordination meetings at Eurojust.

The revised co-operation agreement entered into force on 01 January 2010. A joint report on co-operation is submitted annually to the Council.

Europol participated in the meetings of the IWG on the implementation of the new Eurojust Decision in the Member States in 2009 and in the Stockholm seminar with a view to fostering the close relations of the Europol National Units within the framework of the ENCS foreseen in the new Eurojust Decision.

Eurojust also developed its strategic co-operation with Europol in the field of terrorism. Both agencies met regularly in 2009 to discuss issues related to counter-terrorism on an *ad hoc* basis. As in previous years, Eurojust contributed to the Europol-produced TE-SAT report by collecting judicial data with case illustrations from prosecutions and convictions for terrorist offences.

Co-operation in operational matters continued to take place mainly through Eurojust co-ordination meetings and



José Luís Lopes da Mota, Eurojust, Beatrice Ask, Minister of Justice, Sweden, and Rob Wainwright, Director, Europol

Europol operational meetings. Europol participated in approximately one-third of Eurojust's co-ordination meetings, where practical solutions to cross-border investigation and prosecution problems were sought. This is an increase of about 50 per cent over 2008.

The exchange of operational and classified information between Eurojust and Europol is provided for by a secure communication

link. In 2009, a total of 529 messages were exchanged via this channel, which constitutes a three-fold increase since 2008. Efforts are ongoing to allow for the exchange of more highly classified information as well as to further explore technical communication possibilities.

Eurojust's main role in the context of AWFs is the promotion of a "judicial follow-up" of Europol's analyses, i.e. identifying the competent judicial authorities, organising co-ordination meetings with national authorities, solving issues regarding the execution of EAWs, organising synchronised activities to retrieve evidence in several countries, and stimulating the initiation or re-opening of investigations at national level.

Examples of Eurojust's co-operation with Europol in casework can be found above in chapter 2. Below is an example of a joint operation.

Operation "Ticket-to-ride" targeted a network, consisting primarily of Iraqi nationals, involved in the illegal immigration of citizens from Iraq and other countries, including Afghanistan, into and within Europe. Europol experts prepared various intelligence reports, facilitated the exchange of information, and co-ordinated the police operations. Eurojust was involved in assisting the co-ordination of the investigations, the exchange of information between the Member States involved, and the issuance and execution of EAWs. In a co-ordinated action on 09 June 2009, 75 people were arrested in Belgium, France, Germany, Greece, Italy, and Switzerland.

Eurojust's judicial co-ordination and co-operation activities complement the criminal analysis and police co-operation activities carried out by Europol. In 2009, association of Eurojust with 12 AWFs continued. Associations of Eurojust with AWFs, such as those dealing with international terrorism and domestic extremism, could further improve operational co-operation between the agencies.



Franz-Hermann Brüner, Director General, OLAF

OLAF

OLAF is a partner in the fight against fraud, corruption and other crimes affecting the financial interests of the European Community. A practical agreement on arrangements of co-operation between Eurojust and OLAF was signed on 24 September 2008.

The President of Eurojust and the Director General of OLAF met on 07 July 2009 in

The Hague to discuss ways to increase co-operation between OLAF and Eurojust on common objectives, tasks and activities. Practical casework was discussed and the need for further support from the national authorities of the Member States was stressed.

Throughout the year, Eurojust and OLAF conducted exchange/study visits. In March, OLAF provided practical training in the use of the EU Customs Information System (CIS) to a Eurojust delegation, to fully assess the potential practical value for Eurojust in having access to this tool. In June, a group of OLAF Senior Investigators and Heads of Unit visited Eurojust, and were briefed on the secure communications infrastructure, the CMS and EPOC. They also attended the operational part of the College plenary meeting. In September, a delegation composed of College Members, Deputies, Assistants and Liaison Magistrates attended an all-day exchange visit to OLAF and were offered the opportunity to attend a meeting of the Executive Board and witness how

OLAF deals with the cases referred to the institution.

See Fraud in chapter 2 for an example of operational co-operation with OLAF.

Frontex

In accordance with article 26 of the new Eurojust Decision, Eurojust shall establish and maintain co-operative relations with the European Agency for the Management of the Operational Cooperation at the External Borders of the Member States of the European Union (Frontex). No formal working arrangements have been established apart from *ad hoc* co-operation. In November 2009, both agencies agreed to establish first contacts, and a meeting between the President of Eurojust and the Executive Director of Frontex will take place in early 2010.

CEPOL

A Memorandum of Understanding with the European Police College (CEPOL) entered into force on 07 December 2009. The purpose of the Memorandum of Understanding is to define the co-operation between Eurojust and CEPOL in the field of training to encourage and improve cross-border co-operation in the fight against serious organised crime. Eurojust and CEPOL plan to work closely together and co-operate in the organisation of courses, seminars, conferences, common curricula, training activities and study visits in areas of mutual interest.

EJTN

A Memorandum of Understanding with the European Judicial Training Network (EJTN) was signed in 2008. Its purpose is to establish and regulate co-operation between Eurojust and the EJTN in the field of judicial training. Under the exchange programme 2008, two 3-month traineeships took place, at the Italian and Romanian National Desks at Eurojust, during 2009. In December 2009, Eurojust and the EJTN agreed to three new long-term traineeships under the exchange programme 2010.



4 Implementation of new Eurojust Decision

Activities of the Informal Working Group

Council Decision 2009/426/JHA of 16 December 2008 on the strengthening of Eurojust and amending Council Decision 2002/187/JHA setting up Eurojust with a view to reinforcing the fight against serious crime entered into force on 04 June 2009. The significant changes that it introduces in the legal framework of Eurojust require substantial implementation efforts from both the Member States and Eurojust.

Thus, Eurojust, together with the Trio Presidency, the Council Secretariat and the European Commission, formed the IWG to support a co-ordinated implementation approach between the Member States as well as to enhance the dialogue between Eurojust and the Member States.

The goal of regular meetings of the IWG at Eurojust is to provide a platform for the national experts to discuss common challenges in the implementation process, to exchange best practice examples and to consult and interact with the National Members of Eurojust. The Member States were invited to appoint two contact points to the IWG, one responsible for the overall legislative implementation of the new Eurojust Decision, the other responsible for the technical aspects.

In 2009, the IWG met three times and Eurojust also organised, together with the Swedish Presidency, a seminar in Stockholm. Topics at these meetings dealt in particular with the composition of the National Desks, the setting up of the OCC system, which will ensure Eurojust's 24/7 availability, the setting up of the ENCS, the increased exchange of information, and the powers of the National Members.

In addition, Eurojust developed, with the support of the Trio Presidency, a non-binding implementation plan for the Member States. The goal of this implementation plan is to provide a full picture of the changes and responsibilities under the new Eurojust Decision, to keep track of the state of play of the implementation activities, and to suggest implementation measures. This implementation plan, including target dates for specific implementation activities, is intended to serve as a roadmap and monitoring tool for the Member States.

In light of the positive feedback from participants from the Member States on the usefulness of these meetings and the continued necessity for Eurojust to proceed with the implementation hand in hand with the Member States, Eurojust will also hold meetings of the IWG in 2010.

Internal implementation at Eurojust

The changes and innovations introduced by the new Eurojust Decision concern Eurojust in its entirety and, consequently, their implementation requires several activities and long-term projects at Eurojust. The Eurojust Action Plan was developed and serves as an internal planning and monitoring tool.

To facilitate communication and co-ordination in the agency throughout the implementation process and to ensure monitoring and assessment of progress towards full and timely implementation, Eurojust has set up an Implementation Programme. This Implementation Programme provides the framework for effective and efficient management of the work to be done. Specific projects dedicated to the major new concepts will be initiated at the beginning of 2010. These projects concern the OCC, the integration of the

new network secretariats — notably the Secretariat of the Network for JITs and the secretariat to the contact points in respect of persons responsible for genocide, crimes against humanity and war crimes — information communication technology-related aspects such as connections to the Member States and networks, security and data protection issues, and necessary adjustments to the CMS. Also covered in these projects are support to the ENCS and the exchange of information, as well as the possibility for Eurojust to post Liaison Magistrates to third States.

5 Follow-up to Council Conclusions

On 04 June 2009, the JHA Council adopted Conclusions on the seventh Eurojust Annual Report (EU Document 10115/09, 25 May 2009). Since 2006, Eurojust has provided information on the implementation of these Conclusions in its annual reports.

The table below gives feedback on the implementation of the Council's Conclusions in those areas where the Council set out key guidelines and recommendations for Eurojust.

Figures on casework/case assessment/EJN cases	
Continue the assessment of casework and focus on complex multilateral cases that require co-ordination; simple bilateral cases should in general be referred to the EJN.	<p>Eurojust has developed a new classification system to improve the information provided about the type and nature of its cases. This system is introduced in this Annual Report to better explain the nature of the cases that are handled at Eurojust in accordance with its objectives and in light of the operational priorities <i>inter alia</i> set by the Council based on the OCTA and ROCTA reports.</p> <p>The new Eurojust Decision foresees the setting up of the ENCS to ensure the transmission of relevant information to Eurojust, as well as to strengthen relations and operational co-operation between Eurojust and the EJN. In 2009, during the second meeting of the IWG and during the Stockholm seminar in September, in-depth discussions on the setting up of the ENCS took place (see chapter 4). In 2010, Eurojust intends to continue its assistance in setting up the ENCS in close co-operation with the EJN (see chapter 3).</p>

Analysis and evaluation of casework with a view to identifying obstacles to international judicial co-operation

Continue analysing the obstacles to international judicial co-operation and further develop its tools, to evaluate its casework and strengthen its ability to give information on elements of the state of judicial co-operation within the European Union.

Based on its experience in 2008, Eurojust developed in 2009 a new evaluation tool to assess the case referrals to Eurojust, the judicial and practical obstacles and problems encountered, best practice and solutions found and the value that Eurojust was able to add to the co-operation and co-ordination of the cases. This new tool, the case evaluation form, was implemented in the period October-December 2009 and is an additional basis for the findings presented by Eurojust in chapter 2 of this Annual Report.

In 2009, the College adopted Eurojust's priorities for 2009-2010 to enhance its operational work. By setting operational priorities, the College can focus its activities and initiate strategic projects with a view to improving judicial co-operation in a concrete area and mapping and analysing information about obstacles/problems/best practice in judicial co-operation. The operational priorities take into account the Council Conclusions on the OCTA reports 2007 and 2009 and the TE-SAT report 2009. In 2009, two projects were initiated on enhancement of exchange of information and MLA in the area of VAT fraud and on economic and financial crimes.

Eurojust will continue the evaluation of casework on a systematic basis with a view to identifying obstacles to international judicial co-operation. Other related activities are: strategic seminars and tactical meetings organised by Eurojust, Eurojust's participation in the fifth round of mutual evaluations on financial crime and financial investigations, and Eurojust's participation in several Community-funded projects, as well as Eurojust's contribution to the OCTA and TE-SAT reports.

Referral of cases to Eurojust by the competent national authorities	
<p>Encourage the National Members to take any possible initiatives at national level to overcome any legal or practical obstacles in the context of facilitating the referral of cases to Eurojust.</p>	<p>National Members took note of this recommendation and in line with previous initiatives continued with the organisation of meetings with their home authorities, including by videoconference, to discuss the possible support Eurojust can provide in co-ordination and facilitation of investigations and prosecutions and to verify if legal or practical obstacles exist in the context of facilitating the referral of cases to Eurojust.</p> <p>In 2009, marketing seminars were held in Spain, Bulgaria, and Lithuania.</p> <p>It should also be noted that National Members actively participate, where possible, in the implementation process for the new Eurojust Decision at national level, as well as in the activities of the IWG with a view to stimulating a timely, correct and effective implementation of the new Eurojust Decision in the Member States.</p>
Strengthen Eurojust's capacity to deal with and analyse received information effectively	
<p>Further strengthen its capacity to deal with and analyse received information effectively and welcomes the development of the CMS with a view to achieving cross-referencing analysis and stressed the importance of exploiting the full potential of Eurojust.</p>	<p>The implementation of the EPOC III+ Project will improve the usability of the software and allow an increased quantity and quality of data processing. The new software delivered by EPOC III+ has been used operationally since August 2009. The CMS already allows for case-by-case cross-reference analysis.</p> <p>Eurojust analysed the additional technical CMS features required for the processing of the new information provided for in the new Eurojust Decision. The resources required for their implementation were planned and the actual implementation project is expected to start in spring 2010.</p>

Internal implementation of the new Eurojust Decision	
<p>Urges Eurojust to take the necessary steps to adjust its internal structures to the requirements of the new Eurojust Decision.</p>	<p>The changes and innovations introduced by the new Eurojust Decision concern Eurojust in its entirety and, consequently, their implementation requires several activities and long-term projects, and close interaction with the Member States to ensure a co-ordinated approach. See also chapter 4.</p> <p>Eurojust also envisages a revision of the Eurojust Rules of Procedure.</p>
Joint Investigation Teams	
<p>Asks the relevant authorities in the Member States to consider setting up Joint Investigation Teams.</p>	<p>The JIT Funding Project was launched on 15 July 2009 by the setting up of a dedicated webpage, www.eurojust.europa.eu/jit_funding.htm. The project was promoted by a press release, as well as dissemination through the national experts on JITs. The aim of the JITs Funding Project is to support and facilitate the setting up of JITs and to establish a centre of expertise regarding JITs at Eurojust on the basis of information gathered and experience obtained. The successful applications were presented to the JIT experts at their annual meeting held at Eurojust on 30 November and 01 December. In 2009, a total of five JITs received the assurance of financial and logistical assistance, totaling approximately €45,000. The receipt of an additional grant from the Commission allows Eurojust to continue the funding project beyond 2010.</p> <p>Eurojust is committed to inform and assist national authorities and to take a proactive approach to co-ordinating investigations and prosecutions with a view to assisting national competent authorities in the setting up of JITs.</p>

	<p>Eurojust also further developed the initiatives launched in previous years. The updated JIT Manual was distributed as an official document in September 2009, and is available in all official EU languages.</p>
Relations with third States	
<p>Continue developing relations with third States according to the priority list set out for 2009, taking note of the importance of including clear provisions on data protection in forthcoming co-operation agreements with third States.</p>	<p>Eurojust continued strengthening its relations with countries outside the European Union and endorses the view of the Council asking for clear provisions on data protection. In negotiations with both the Russian Federation and Ukraine, data protection issues remain open and require further discussion due to lack of legislation on data protection or lack of implementation of data protection provisions.</p> <p>See also relations with States and organisations outside the European Union in chapter 1.</p>
Core business of Eurojust's National Members	
<p>Consider measures to reduce the burden put on the College and National Members stemming from tasks other than those provided for in articles 6 and 7 of the Eurojust Decision.</p>	<p>In 2009, Eurojust launched the Project on College Performance to undertake a review of the College's tasks, responsibilities and working methods. The goal of the project is to — step-by-step — analyse processes and assess and identify areas for improvement. The project is expected to feed into changes in the Rules of Procedure of Eurojust. During 2009, the preparatory phase of the project provided input to the review of the governance of the agency within the frame of the OSR.</p> <p>One of the elements in the OSR is a review of the management structure to enhance efficiency and effectiveness by improving management processes and defining adequate roles and responsibilities at the highest level of the agency.</p>

Annual Report	
<p>Focus in its Annual Report more on examples of casework and on Eurojust's merits to improve judicial co-operation in specific operational cases including also its comments, conclusions and suggestions for the implementation of best practice.</p>	<p>With the Annual Report 2009, Eurojust introduces a new concept, based on improved case evaluation tools and an increased analytical capacity to generate more detailed and comprehensive information to practitioners and stakeholders about relevant issues in judicial co-operation and co-ordination and the possible added value of Eurojust's involvement.</p> <p>Eurojust will continue the evaluation of casework on a systematic basis with a view to identifying obstacles to international judicial co-operation and drawing conclusions and will also continue to improve the quality of the annual report to ensure that it focuses more on operational work and its conclusions and suggestions concerning judicial co-operation between the EU Member States and with third States.</p>

Annex

Figure 1

The number of cases registered at Eurojust from 2002-2009.

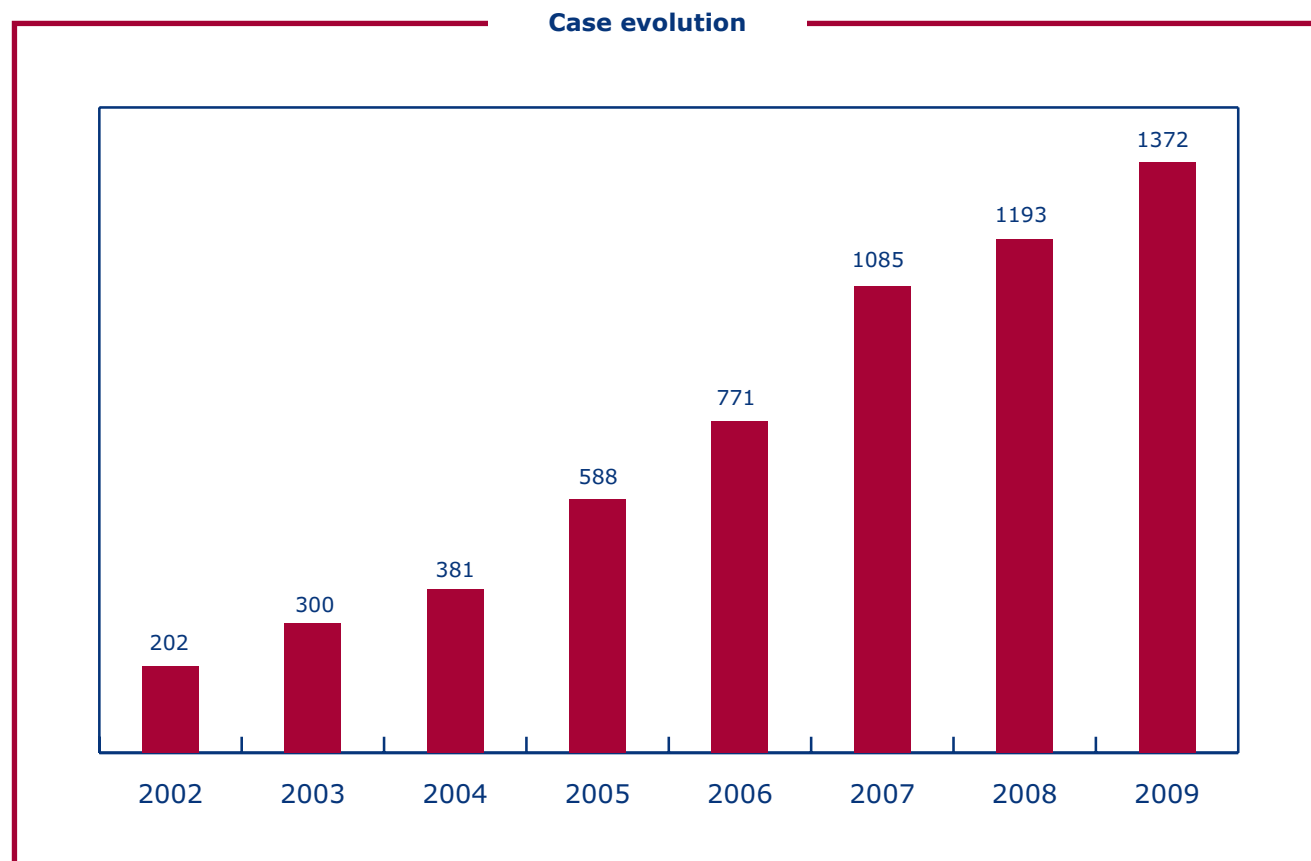


Figure 2

According to article 4(1) of the Eurojust Decision, the general competence of Eurojust covers the types of crime and the offences in respect of which Europol is at all times competent to act and other offences committed together with these types of crime and offences.

For other types of offences, Eurojust may, in addition, in accordance with its objectives, assist in investigations and prosecutions at the request of a competent authority of a Member State as per article 4(2).

Eurojust may also be requested by a Member State to provide assistance on matters or topics of a more general nature which are not necessarily directly linked to an ongoing operational case, *inter alia* concerning national legislation or procedures (legal topic cases).

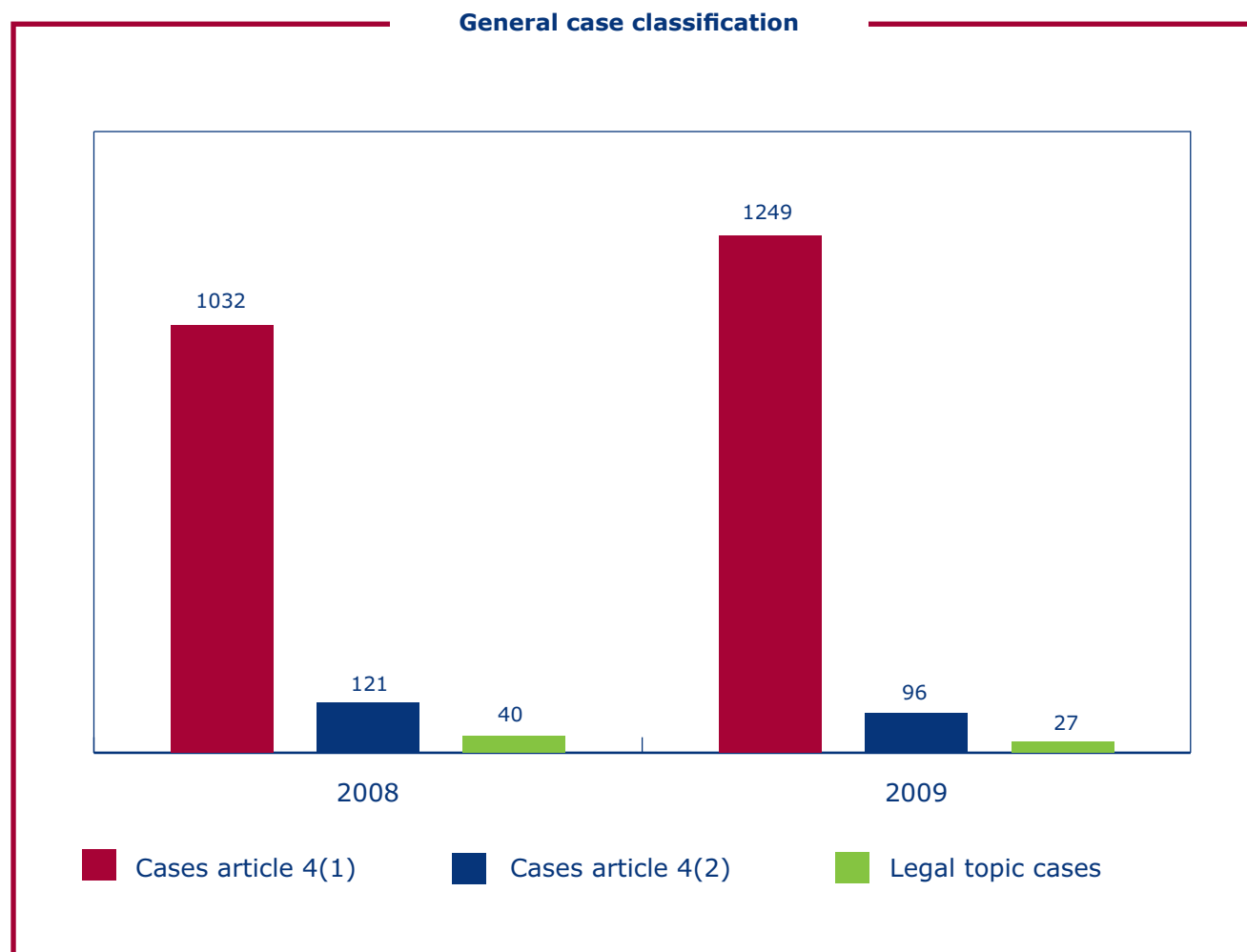


Figure 3

The operational priority areas adopted by Eurojust in 2009 cover terrorism, drug trafficking, THB, fraud, corruption, cybercrime, money laundering, and other activities related to the presence of organised crime groups in the economy.

The figure shows the number of times that these crime types were involved in the cases registered at Eurojust in 2008 and 2009. One case may involve more than one crime type. Further information can be found in the relevant sections in chapter 2.

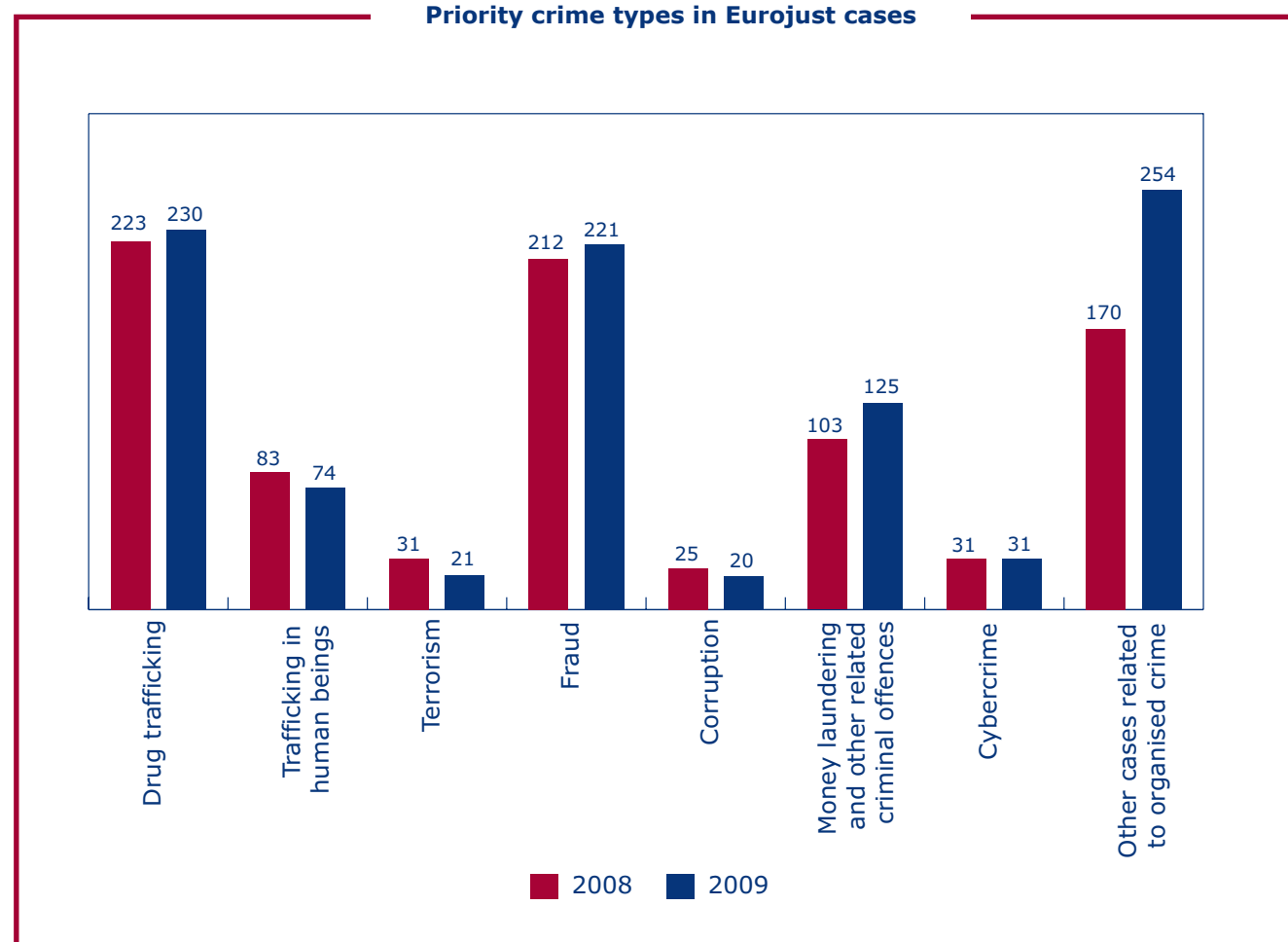


Figure 4

The operational priority areas adopted by Eurojust in 2009 cover terrorism, drug trafficking, THB, fraud, corruption, cybercrime, money laundering, and other activities related to the presence of organised crime groups in the economy.

The figure shows the number of times that crime types in the priority crime areas, as well as other crime types, were involved in the cases registered at Eurojust in 2008 and 2009. One case may involve more than one crime type.

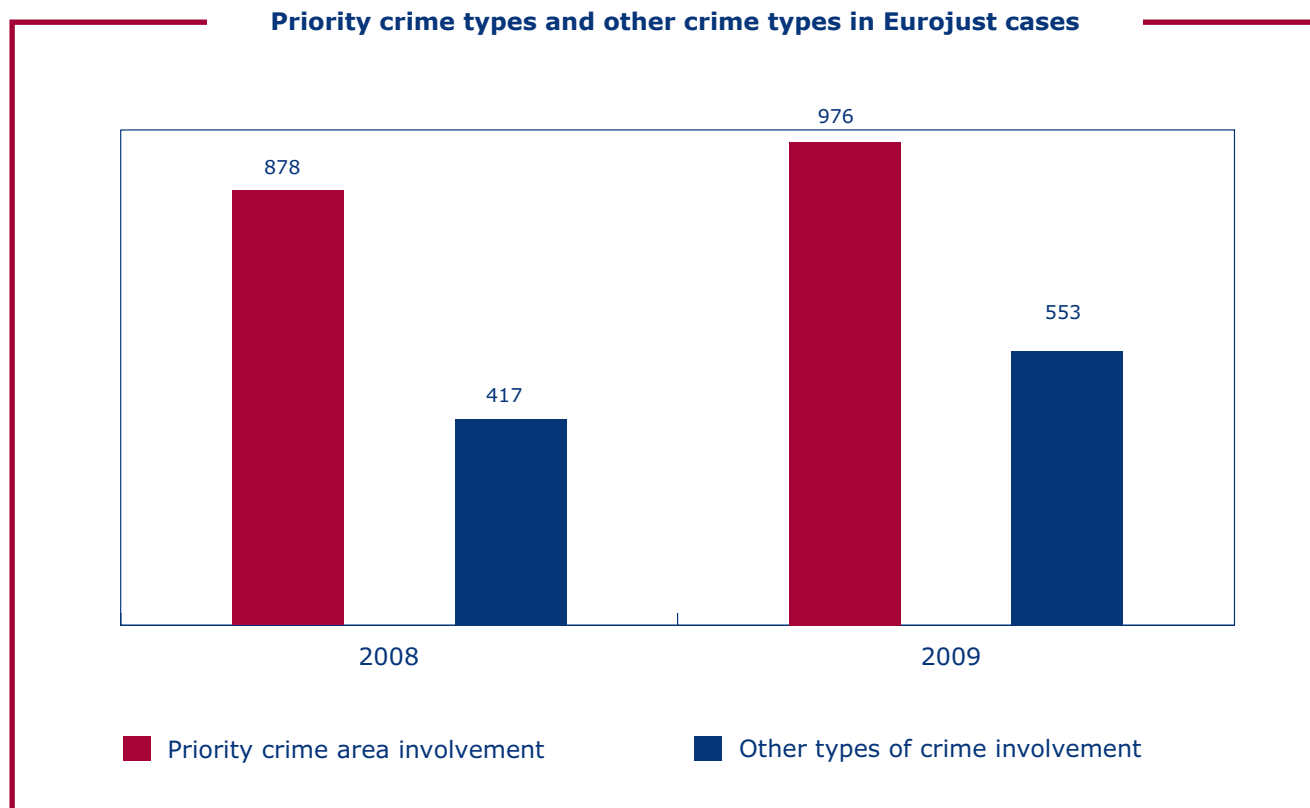


Figure 5

The figure shows the number of cases registered in 2008 and 2009 by each of the national representations requesting assistance through Eurojust. Eurojust may also act as a College.

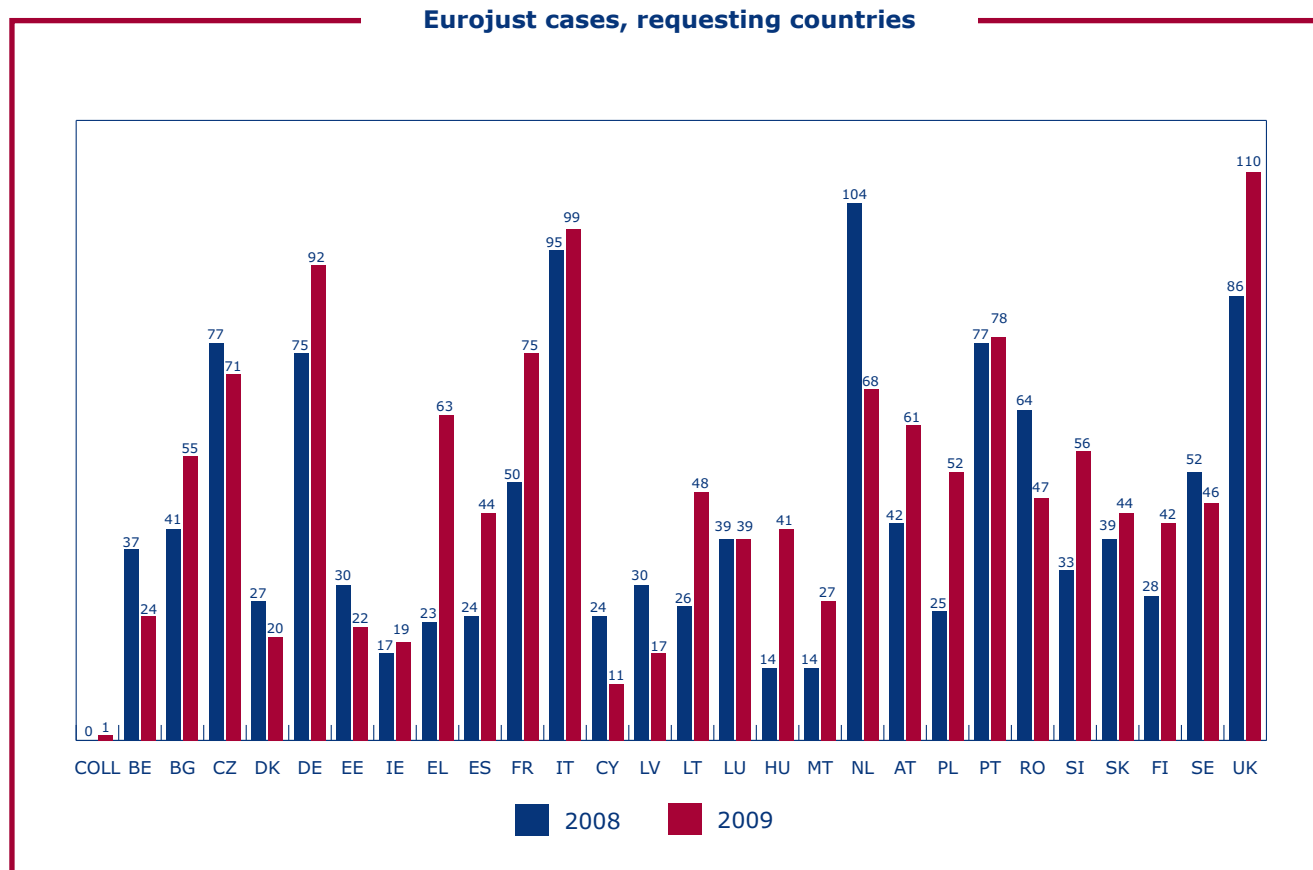


Figure 6

The figure shows the number of times the assistance of each of the national representations was requested through Eurojust. In multilateral cases with more than two Member States involved, the assistance of more than one national representation was requested through Eurojust.

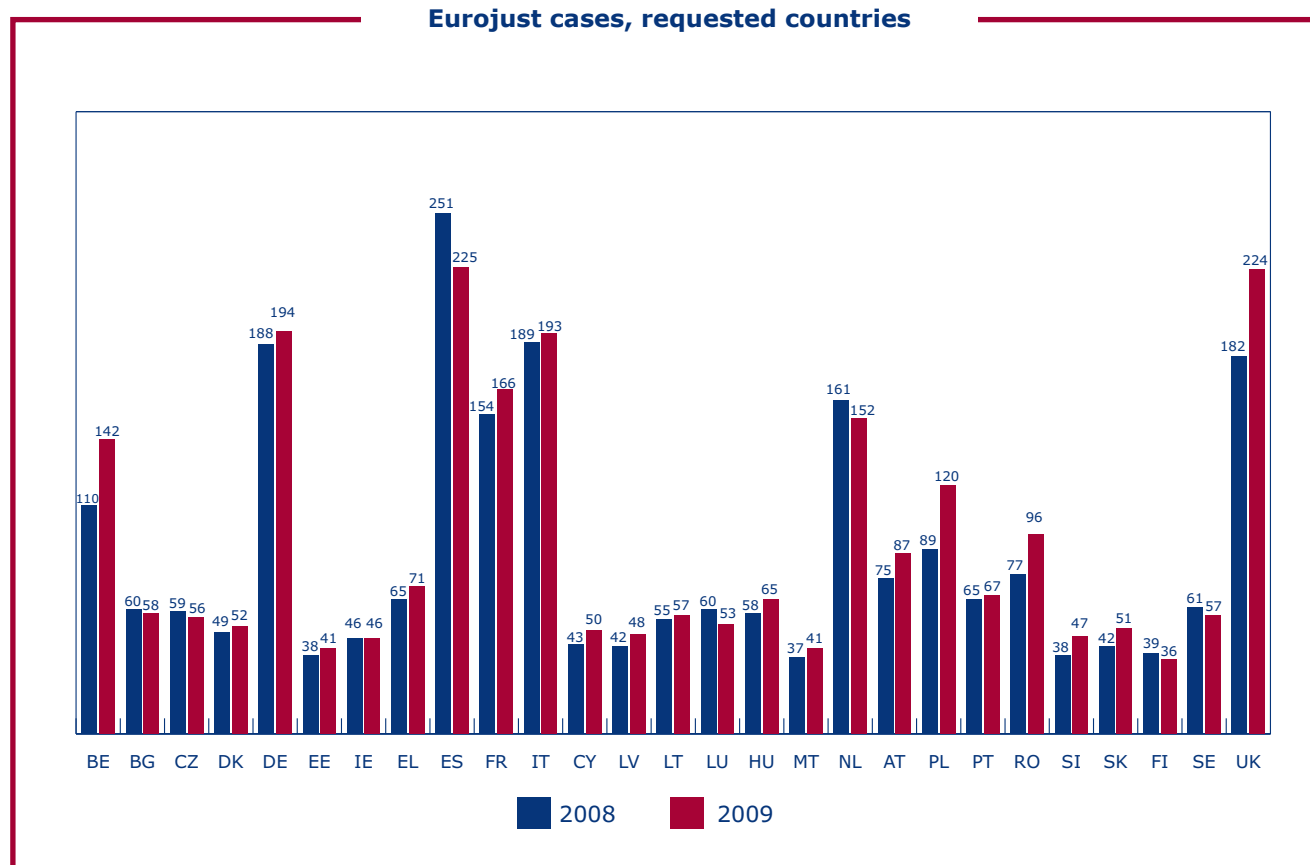


Figure 7

The figure shows the number of co-ordination meetings held by Eurojust. Co-ordination meetings are held at Eurojust's premises in The Hague. In certain situations, Eurojust co-ordination meetings were also held outside Eurojust in a Member State or a third State.

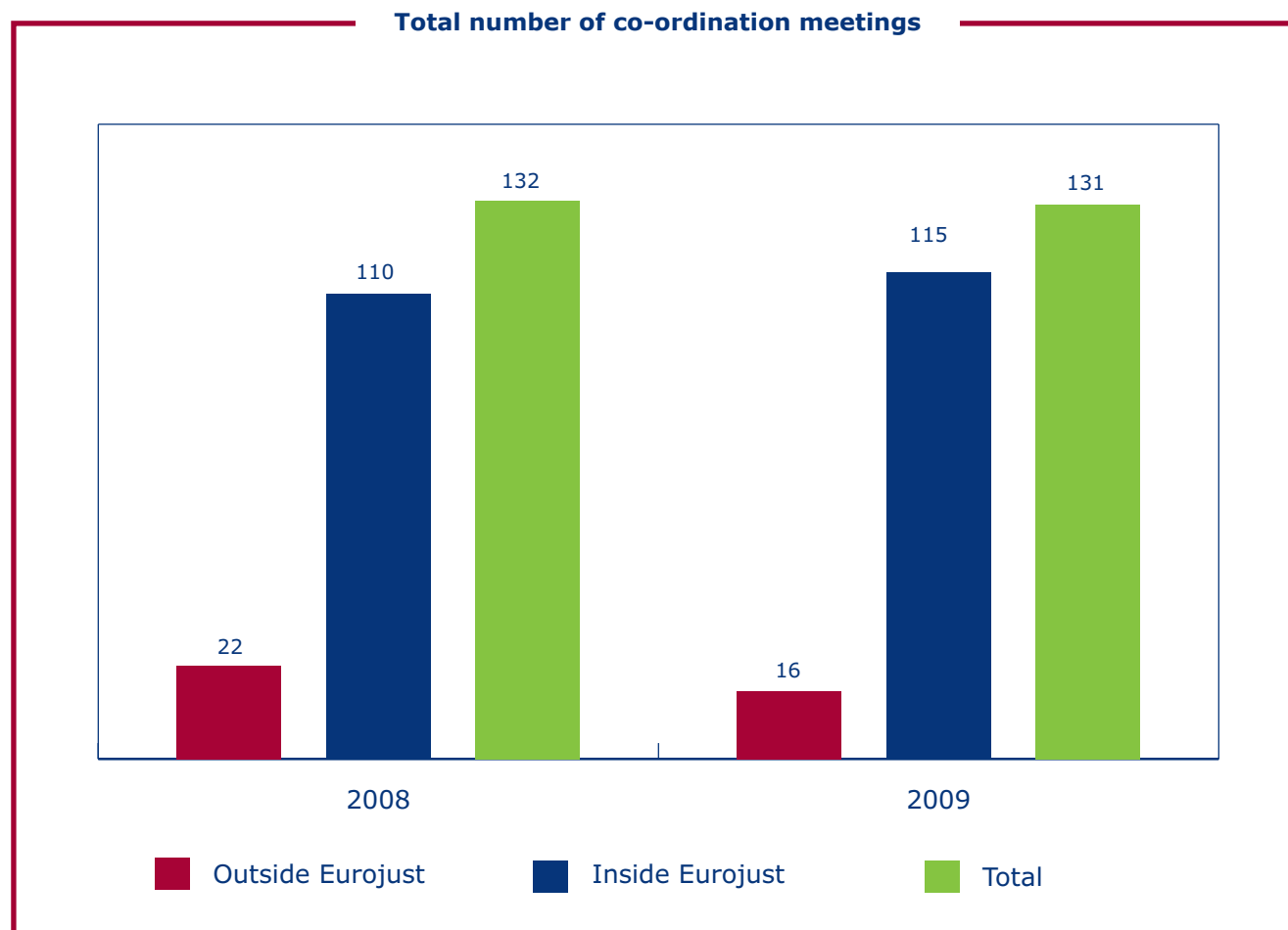


Figure 8

The figure shows the number of times each of the national representations organised a co-ordination meeting requesting assistance through Eurojust.

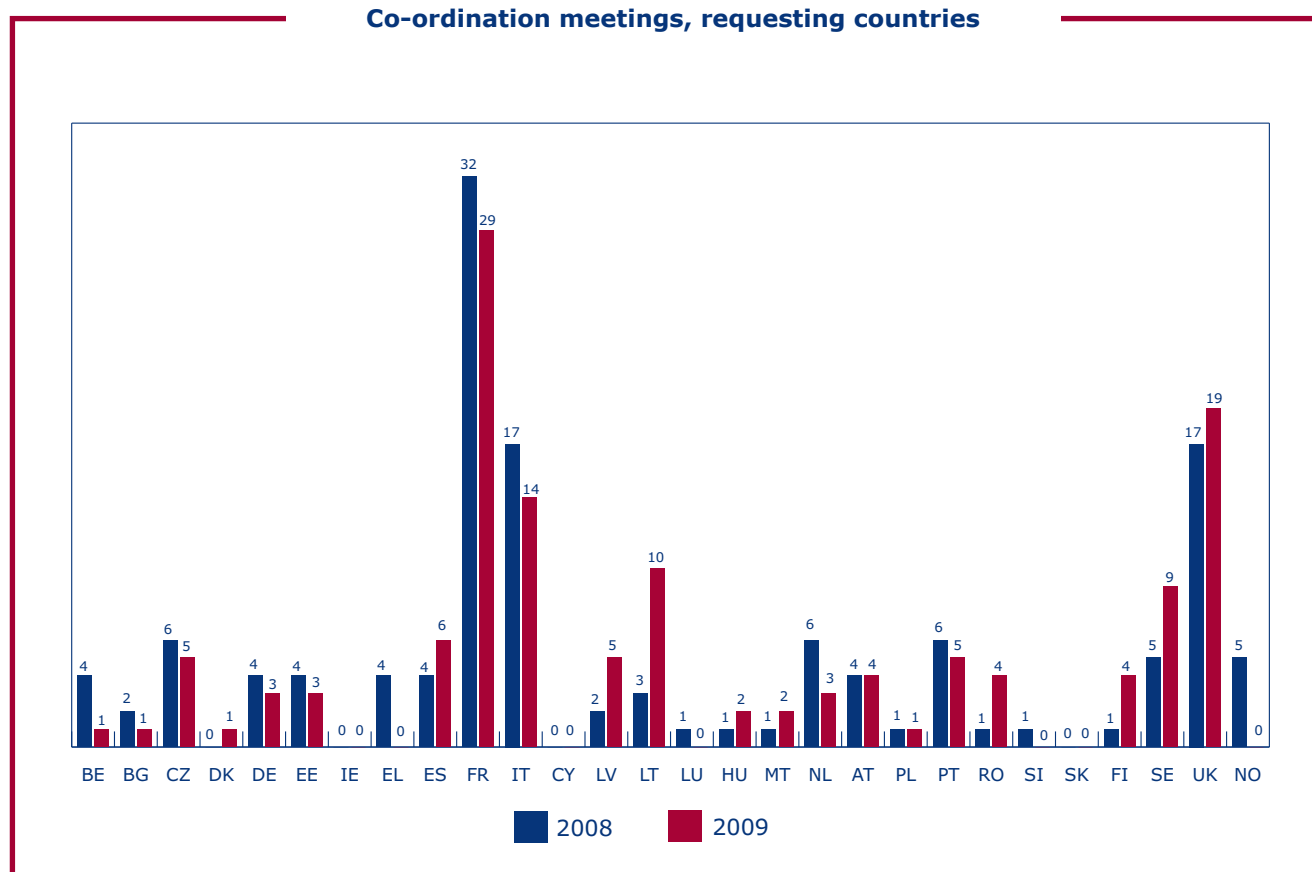
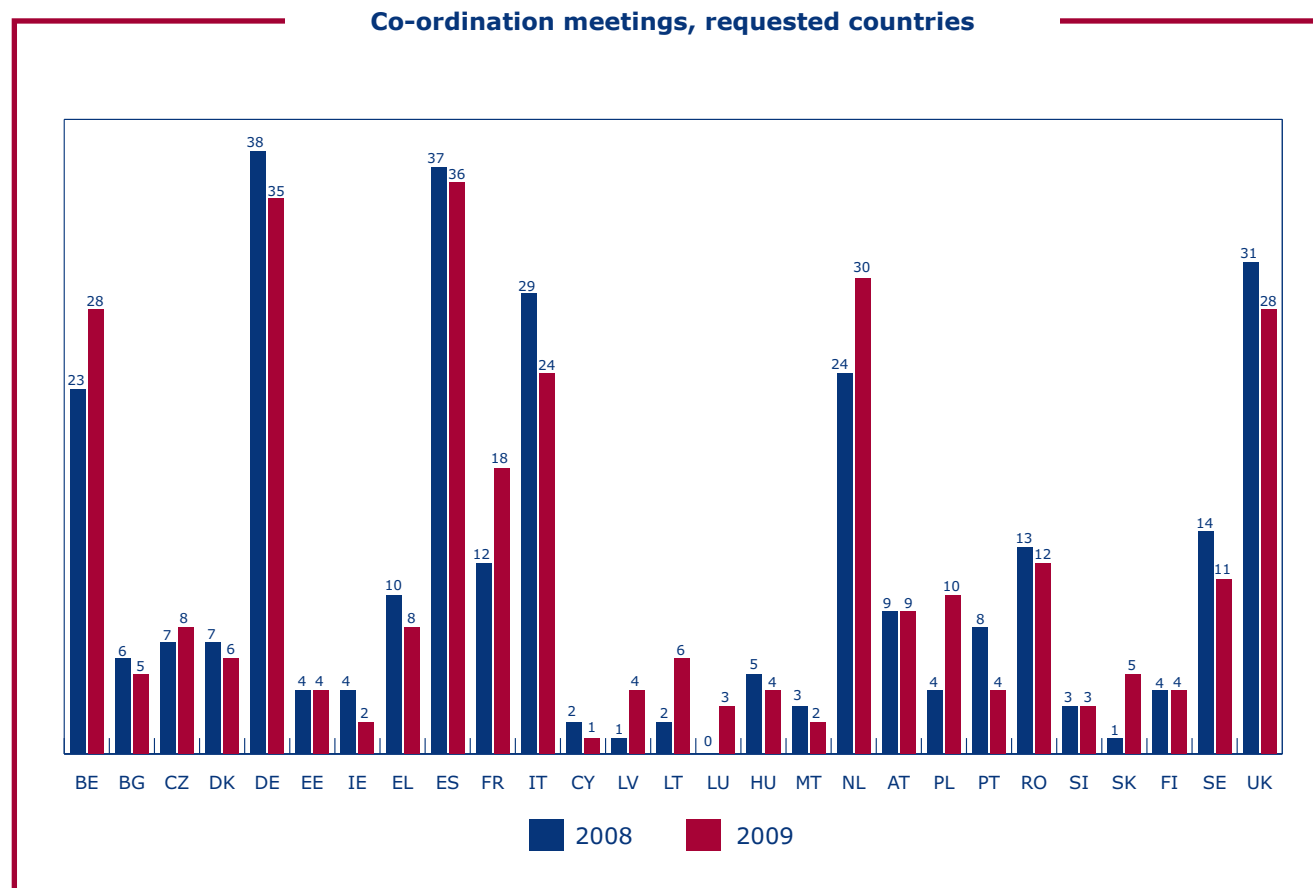


Figure 9

The figure shows the number of times each of the national representations participated in a co-ordination meeting after being requested for assistance. In multilateral cases with more than two Member States involved, more than one national representation may participate in a meeting.





Eurojust building 2 - Haagse Vest

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