

EUROJUST

Eurojust Casework on Counter-Terrorism: Insights 2020 – 2021

December 2021

Criminal justice across borders

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Executive summary

- ▶ Eurojust facilitates and coordinates complex cross-border investigations and prosecutions of terrorist offences in EU Member States.
- ▶ Based on the specific needs of each case, Eurojust provides efficient operational and legal assistance at all stages of judicial proceedings (before, during and after trial) and in relation to all types of terrorism.
- ▶ Through the [European Judicial Counter-Terrorism Register](#), launched in September 2019, Eurojust collects information on ongoing and concluded judicial counter-terrorism proceedings from EU Member States, which allows Eurojust to identify potential links between judicial proceedings and coordination needs.
- ▶ Eurojust cases on counter-terrorism concern investigations of terrorist attacks, alleged preparation of such attacks, financing of terrorism, recruitment and training to commit terrorist acts, and dissemination of terrorist propaganda.
- ▶ Eurojust supports EU Member States' judicial authorities, as well as the efforts at EU and international level to enhance the use of battlefield information, which is a critical component of the effective judicial response to foreign terrorist fighters.
- ▶ The assistance and coordination provided by Eurojust facilitate the cooperation between judicial authorities to successfully address challenges faced by cross-border victims in the immediate aftermath of a terrorist act or offence, during the investigation phase, as well as during and after trial.
- ▶ Throughout the COVID-19 pandemic, Eurojust remained fully operational and helped national authorities address the [impact of COVID-19-related](#) measures on judicial cooperation by facilitating the exchange of information and evidence and the functioning of joint investigation teams, and ensuring the best possible coordination of investigations and prosecutions.
- ▶ Eurojust continues to pursue cooperation with key partners in the area of counter-terrorism, including Europol and a number of third countries, which help render EU Member States' investigations and prosecutions more efficient.
- ▶ Cooperation and coordination through Eurojust have led to [tangible results](#), including seizures, confiscations, arrests and convictions in complex cross-border investigations and prosecutions.

Introduction

Eurojust's Casework on Counter-Terrorism: Insights 2020-2021 presents key findings based on Eurojust's casework in the area of counter-terrorism (CT). It builds on experience gained by Eurojust in assisting CT investigations and prosecutions and in facilitating the exchange of information on judicial CT proceedings. It is a follow-up to the 2018 and 2019 Eurojust reports on counter-terrorism and the Eurojust reports on the criminal justice response to foreign terrorist fighters (FTFs) (2013–2017).

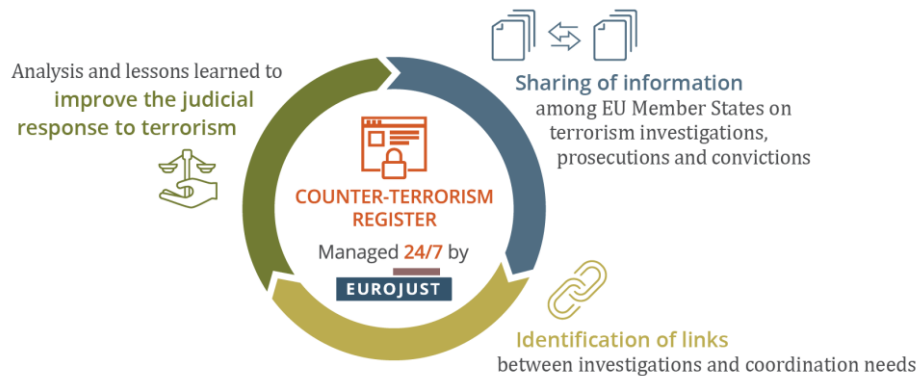
The document focuses in particular on the progress achieved with the implementation of the European Judicial Counter-Terrorism Register (CTR), the use of judicial cooperation tools in cross-border CT cases, including joint investigation teams (JITs), as well as specific legal and practical challenges in the criminal justice response to terrorist phenomena, such as FTFs (and the related use of battlefield evidence), right-wing and left-wing terrorism, and *modus operandi* used by terrorist networks, cells and individual offenders. It outlines the role of Eurojust in coordinating judicial cooperation when dealing with the protection and support to victims of terrorism, jurisdiction issues and requests for assistance to third countries. It includes case examples that demonstrate the support Eurojust provided and, where available, the outcome of the court cases at national level.

Eurojust's assistance in the investigation of the terrorist attacks in Paris and Saint-Denis of 13 November 2015 has also been highlighted in view of the historic trial of the terrorist attacks, which began in France. The case registered at Eurojust to support the French national authorities has been a turning point in judicial cooperation and exchange of information in CT matters.

1. Tools to enhance the judicial response to terrorism

European Judicial Counter-Terrorism Register: a unique operational tool

Set up at Eurojust in September 2019 on the basis of Council Decision 2005/671/JHA ⁽¹⁾, the [European Judicial Counter-Terrorism Register](#) (CTR) collects information on ongoing and concluded judicial CT proceedings from EU Member States. Its main objective is to identify potential links between judicial proceedings and possible coordination needs ⁽²⁾.



As a result of the setting up of the CTR, the transmission of information on judicial CT proceedings to Eurojust increased and links between proceedings in different EU Member States were identified. This has led to enhanced judicial cooperation in a number of cases. Eurojust provided swift and efficient operational assistance, which was geared to the specific needs of each case and aimed to facilitate the exchange of information between national authorities, coordinate national efforts and advance national investigations in the most efficient manner.



Since the launch of the CTR on 1 September 2019, there have been several cases in which, on the basis of CTR information, the need for multilateral coordination was identified and successfully pursued. One of those cases was registered at Eurojust by the National Desk of Italy following information transmitted to Eurojust in the framework of the CTR and concerning a large-scale investigation carried out by the Italian authorities against an alleged FTF. The case was opened towards five EU Member States, one third country and Europol. The Italian authorities sought to identify, through the CTR's functionalities and judicial cooperation tools, possible links with the main target of their investigation, as well as other terrorism cases.



Eurojust facilitated multiple European Investigation Orders (EIOs) and mutual legal assistance (MLA) requests in a bid to gather further evidence in support of the Italian investigation from the executing countries, share available information and hear witnesses. Eurojust also facilitated the spontaneous exchange of information between national judicial authorities on the basis of Article 7 of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union of 29 May 2000 and the cooperation with Europol. Eurojust organised two coordination meetings to enable national authorities to inform one another about the developments in the ongoing investigations and the execution of EIOs and MLA requests, to discuss future judicial cooperation and coordination needs and to agree on the most efficient way forward.



The timely and effective international judicial cooperation coordinated by Eurojust allowed national authorities to share information and evidence to confirm links between investigations and establish the full scope of the investigated acts. As a result, in May 2021, the main target of the Italian investigation was sentenced to four years of imprisonment for participation in a terrorist organisation.

(1) Council Decision 2005/671/JHA sets out the scope of information exchange (Preamble, Recital 4), provides for the designation of Eurojust national correspondents for terrorism matters in all EU Member States (Article 2(2)) and defines the information to be transmitted to Eurojust (Article 2(5)).

(2) Detailed information on the CTR, its main concepts, principles and the benefits for the EU Member States can be found in the [2019 Eurojust Report on Counter-Terrorism](#).



Investigation of an alleged foreign terrorist fighter

Identifying links in the European Judicial Counter-Terrorism Register (CTR)



+ 5 Member States, 1 third country



May 2021 – The main target of the investigation is sentenced to four years' imprisonment for participation in a terrorist organisation.



July 2020 and **October 2020** – Eurojust organises two **coordination meetings**, enabling national authorities to inform one another about developments in the ongoing investigations and execution of EIOs and MLA requests, to discuss future judicial cooperation and coordination needs, and to agree on the most efficient way forward.



Over the course of 2020, Eurojust facilitates multiple **European Investigation Orders (EIOs)** and **Mutual Legal Assistance (MLA) requests**, gathering further evidence and witness testimonies in support of the Italian investigation.

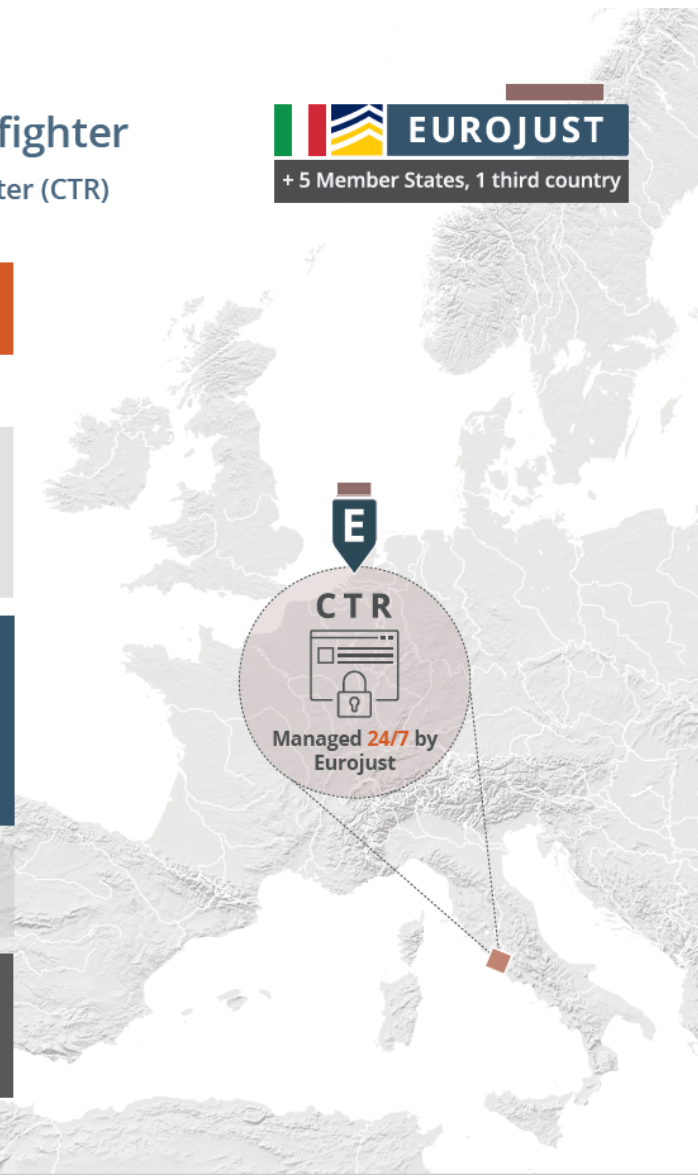
Eurojust also facilitates spontaneous **exchanges of information** between national judicial authorities involved and with **Europol**.



February 2020 – The **Italian Desk at Eurojust** opens the case towards **five EU Member States, one third country and Europol**.



Investigating a suspected foreign terrorist fighter, the **Italian authorities** seek to identify, through the CTR's functionalities and judicial cooperation tools, possible links with the main target of their investigation, as well as other terrorism cases.





Following the initial months of the implementation of the CTR, in 2020 Eurojust focused its efforts on ensuring the efficient functioning of the CTR. Eurojust engaged with the national authorities of the EU Member States to consolidate a uniform and coherent approach to the transmission of information and ensure all EU Member States benefit, in the most efficient manner, from the detection of potential links between judicial proceedings and the coordination Eurojust can offer.

To achieve that, Eurojust continuously encouraged EU Member States to share information on ongoing and concluded judicial CT proceedings for all types of terrorist offences as defined by national law and Directive (EU) 2017/541 and for all types of terrorism, with and without a known link to another jurisdiction. Such an approach would help identify (further) links to other proceedings or jurisdictions and reveal the cross-border nature of terrorist cells and/or activities. This is particularly important in cases where international links were not known to the national authorities or were impossible to detect based solely on information available at national level.

Eurojust ensured that the information transmitted in the framework of the CTR was processed in a timely manner within the secure environment of the Eurojust Case Management System (CMS). Based on the functionalities of the CMS, the CTR information was cross-checked against all other information inserted in the system, allowing for potential links to be identified across jurisdictions but also across crime types. The timely handling of CTR information, the consistent approach towards the verification of the identified potential links and their efficient follow-up remain key to the effective functioning of the CTR. The management of CTR information and the follow-up of potential links is carried out in full respect of the confidentiality and ownership of data in conformity with the Eurojust Regulation.

Progress achieved with the setting up of the CTR:

- ▶ **More information:** There has been a significant increase in the amount of information sent to Eurojust.
- ▶ **Up-to-date information:** Information transmitted to Eurojust is updated on a regular basis to ensure accuracy of data and compliance with the applicable data protection rules.
- ▶ **Uniform and consistent information transmitted to Eurojust:** A common, minimum set of structured data is transmitted by all EU Member States using a special template, which helped to overcome the previously existing differences in the format and scope of data transmitted to Eurojust and allows for the detection of links between judicial proceedings.
- ▶ **Identical scope of transmitted information:** Following the first months of the implementation of the CTR, Eurojust proposed a practical approach to the scope of proceedings to be reported in order to ensure consistency of reporting by all EU Member States and avoid information gaps.
- ▶ **Identified links:** Links between proceedings previously unknown to national authorities have already been detected, leading to enhanced judicial cooperation in a number of cases.

Further to Eurojust cases that were opened following the identification of links between proceedings transmitted to Eurojust in the framework of the CTR, notifications about ongoing judicial CT proceedings initially sent to Eurojust for information served as a basis to open several cases at a later stage when the assistance of Eurojust was sought by the national authorities. In those cases, Eurojust was requested to facilitate MLA between EU Member States and with third countries in the framework of investigations into alleged participation in a terrorist organisation, financing of terrorism and related other offences, such as forgery of documents and fraud.



Following the launch of the CTR, in 2019 the national authorities of an EU Member State informed Eurojust about an ongoing investigation into alleged terrorism financing. The investigation concerned several persons who were suspected to have made multiple transactions and transferred funds in the period 2015-2017. The funds were intended for persons believed to be acting as intermediaries and eventually came into the possession of a person suspected of having carried out a terrorist attack in a third country.



The information about this investigation was transmitted to Eurojust as a notification in the framework of the CTR. As the investigation advanced, the national authorities of the EU Member State issued an MLA request to the authorities of the third country. The notification was transformed into a Eurojust case, as Eurojust was requested to liaise with the Eurojust Contact Point in the third country and facilitate the execution of the MLA. The case is still ongoing.

In addition to following up on each potential link identified on the basis of CTR information, Eurojust revised the concept of its regular report, the *Terrorism Convictions Monitor* (TCM), to further enhance the operational and strategic feedback provided to national authorities⁽³⁾. Since 2020, the TCM includes only information shared with Eurojust by the EU Member States in the framework of the CTR to enable a more targeted legal analysis of specific issues addressed by courts in the EU.

In conclusion, the CTR is huge step forward in modernising judicial cooperation against terrorism, and the first step in a more ambitious project to bring judicial systems into the digital era by allowing national investigators and prosecutors to work together in a secure, encrypted, inter-operable way.

The way ahead:

- ▶ **Legislative proposals to improve information exchange and coordination:** In December 2020 the Commission published a [Communication](#), *A Counter-Terrorism Agenda for the EU: Anticipate, Prevent, Protect, Respond* (COM(2020) 795 final), which states that '[t]he Register should become a proactive tool for ensuring coordination in cross-border judicial counter-terrorism proceedings' and envisages legislative proposals 'to improve information exchange and coordination in judicial proceedings in cross-border terrorism cases, so as to make this exchange secure and efficient and enable Eurojust to react to it in a timely manner'.
- ▶ **Digitalisation of justice:** The CTR is one of the initiatives that will be impacted by the upcoming changes announced in the [Communication](#) from the Commission, *Digitalisation of justice in the European Union: A toolbox of opportunities* (COM(2020) 710 final). It demonstrates the intention to bring the digitalisation of justice up to full speed. It refers to legislative initiatives on the digital information exchange on cross-border terrorism cases and foresees, among others, an update of the Eurojust CMS.

⁽³⁾ The TCM provides a regular overview of terrorism-related judgments throughout the EU. It is based on information transmitted to Eurojust by the national authorities of EU Member States and is part of the feedback provided by Eurojust to the information submitted in the framework of the CTR and in conformity with Article 22 of the [Eurojust Regulation](#).



Joint Investigation Teams

Prosecution and investigating authorities continue to seek the [assistance of Eurojust](#) to enhance their operational and judicial cooperation undertakings with the setting up of JITs. In CT cases as in other types of criminal investigations, JITs allow EU Member States, but also increasingly third countries party to the agreement, to share information and exchange evidence in an efficient manner and coordinate their investigative actions and prosecution strategies.

Inevitably, COVID-19-related travel limitations heavily impacted direct interactions between JIT members and planned joint activities within JITs in 2020, including JITs in CT cases. In the absence of the possibility to arrange face-to-face meetings, Eurojust coordination meetings held via a secure online communication platform provided a trusted venue for JIT members to discuss the progress achieved and agree on the next steps to take.

Further to the operational support to JITs, Eurojust amended the terms and conditions of its funding programme and implemented changes to the [funding process](#) to enable continuity and flexibility in planning of common JIT activities.



In a case opened at Eurojust by the Liaison Prosecutor for Switzerland, Eurojust played an active role in supporting the creation of a JIT between the Swiss and the German authorities concerning investigations on terrorism offences and suspicions of financing Da'esh. The charges held by the Swiss judicial authorities concerned in particular provisions of the Swiss law related to the support of a criminal organisation and Article 2 of the Federal Act on the Proscription of the Groups 'Al-Qaeda' and 'Islamic State' as well as Associated Organisations.

Concretely, Eurojust was involved in the discussions between the national authorities on the legal and practical benefits of setting up a bilateral JIT in this case and provided tailor-made assistance to the drafting of the JIT agreement. As the legal basis for the JIT between an EU Member State and a third country, the agreement referred to Article 20 of the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959.



2. Terrorist phenomena and *modus operandi*

Foreign terrorist fighters and battlefield evidence

Eurojust has been assisting FTF investigations and prosecutions and analysing the criminal justice response to the FTF phenomenon for almost 20 years. Since 2012, a specific focus has been placed on FTFs who travelled to the conflict zone in Syria to join jihadist terrorist groups. The majority of the investigations and prosecutions assisted by Eurojust concerned jihadi-motivated FTFs and networks and cells that recruit, radicalise and provide financial, logistical and other support and training; however, some investigations and prosecutions concerned non-jihadist areas of conflict, such as the one in Ukraine.

The complex and dynamic FTF phenomenon has been changing throughout the years and Eurojust has gathered unique operational experience by assisting EU Member States' FTF investigations and prosecutions. The support provided by Eurojust has been evolving to ensure challenges faced by national authorities, including the gathering and admissibility of evidence, e-evidence and financial investigations, are addressed in an efficient manner and national efforts are strengthened by solid multilateral cooperation and coordination.



The Italian authorities launched an investigation related to the alleged activities of a criminal group. The group was suspected of being involved in the recruitment of Italian and foreign mercenaries to be sent to the theatre of conflict of Ukraine. In parallel, the Ukrainian authorities were investigating an Italian national who had allegedly been involved in the activities of armed troops in the Donbas region.



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The assistance of Eurojust was requested by both Italy and Ukraine. Eurojust facilitated the transmission and execution of an Italian MLA request, which sought the assistance of the Ukrainian authorities in, among others, obtaining information about investigated persons, who were suspected to be found on Ukrainian territory, and hearing witnesses or suspects. Via the Liaison Prosecutor of Ukraine at Eurojust, a Ukrainian MLA request was forwarded to Italy.

The assistance of Eurojust was instrumental in ensuring exchange of information among the competent national authorities, coordinating the investigations and establishing an effective prosecution strategy. The coordination meeting organised by Eurojust enabled direct contact between the Italian and Ukrainian authorities and facilitated the discussions that led to a successful outcome of the investigation.



On 2 July 2019, the Preliminary Investigative Judge at the Court of Genoa, Italy, sentenced an Albanian-born man to 20 months of imprisonment for training and recruiting more than one person in order to participate in a non-international armed conflict. The court found that the recruits were trained to join the conflict in the Donbas region of Ukraine, which was aimed at undermining the constitutional order or the territorial integrity of the Ukrainian State. A co-defendant of Moldovan origin was handed a suspended sentence of 16 months. He was found guilty of combating, after being trained and recruited, in the non-international armed conflict in Donbas aimed at undermining the constitutional order or the territorial integrity of the Ukrainian State, without being a Ukrainian citizen, a member of the armed forces or belonging to a party to the conflict. The court defined as an aggravating circumstance the contribution of a transnational organised crime group to committing the crimes mentioned above.

Over the past few years, the number of cases in which terrorism charges were brought together with charges for core international crimes has increased. Where allowed by national law and subject to the facts of the case, this approach provides an opportunity to prosecute perpetrators for offences under different legal statutes to ensure accountability for all crimes committed, as well as to increase justice

for victims. Depending on the circumstance of each case, members of terrorist organisations and FTFs could be prosecuted for war crimes, genocide and crimes against humanity ⁽⁴⁾.

Battlefield evidence, such as photos depicting crimes committed against civilians and fingerprints on explosive devices, is used in CT investigations, including those concerning FTFs, as well as investigations of core international crimes. The [2020 Eurojust Memorandum on Battlefield Evidence](#), produced with the Genocide Network, shows that while there are many challenges in obtaining such data and making sure it is admissible in court, such information is increasingly used to bring both suspects of terrorism and suspects of core international crimes to trial in Europe.

Key findings of the 2020 *Eurojust Memorandum on Battlefield Evidence*:

- ▶ The experience of national authorities in obtaining and using battlefield evidence has increased over the past years. Courts have rendered convictions in cases in which **significant evidence originated from the battlefield**.
- ▶ The use of battlefield evidence is not excluded under national law. To ensure admissibility, the **general conditions for admissibility of evidence** must be met, such as the right to a fair trial.
- ▶ Judicial authorities have received and used battlefield information transmitted by both **national and foreign military forces**, as well as by **NGOs and UN entities**. The evidence consisted of both electronic data and physical items, as well as situational reports and other documentation.
- ▶ While battlefield evidence has been obtained through spontaneous transmission, **MLA procedures may be needed** to ensure admissibility in some legal systems.
- ▶ Solutions to certain challenges have been found, including **declassification of raw data** as a standard procedure. Providing context for raw material may be helpful, as is establishing a methodology for declassifying battlefield information.
- ▶ **Challenges** remain, including those related to obtaining battlefield evidence in a timely manner, (over-)classification of information, and battlefield evidence consisting of statements by witnesses or defendants.



Role of Eurojust:

- ▶ **Monitor developments** in this area by analysing Eurojust's casework and convictions of terrorist offences, including cases in which battlefield evidence was used.
- ▶ **Facilitate exchanges** of national experiences in terrorism and in core international crimes cases, including among national correspondents for terrorism matters and within the Genocide Network.
- ▶ **Continue its collaboration with Europol** to enhance cooperation and coordination of EU Member States' efforts to identify, investigate, prosecute and sanction individuals, networks and groups involved in committing terrorist offences and/or core international crimes.
- ▶ **Continue its cooperation with the US authorities**, including as part of a joint effort to enhance searches of stored battlefield information and provide guidance on the categories of information that will be useful for criminal proceedings.

⁽⁴⁾ Existing national jurisprudence of EU Member States was compiled by the Secretariat of the EU Network for investigation and prosecution of genocide, crimes against humanity and war crimes ('Genocide Network'), based at Eurojust, and was published in the 2020 report [Cumulative prosecution of foreign terrorist fighters for core international crimes and terrorism-related offences](#).



Financing of terrorism

The investigations and prosecutions into alleged financing of terrorism coordinated by Eurojust have concerned different types of terrorism. The investigated acts were carried out using the official banking system, financial services companies and money transfer providers, as well as *hawala*. In some cases, links to other types of crime have also been investigated, including participation in an organised crime group, migrant smuggling, drug trafficking, extortion and money laundering.

The assistance of Eurojust has been sought to address both legal and practical issues that national authorities face, for example to:

- guarantee a speedy execution of an EIO or an MLA request;
- identify and coordinate possible parallel investigations;
- prepare an international coordinated action;
- discuss and agree on investigative and prosecution strategies, jurisdiction matters and possible transfer of proceedings.

Eurojust's assistance has been crucial to the successful outcome of national investigations. The coordination provided by Eurojust has ensured timely exchange of information, including spontaneous exchange of information under Article 7 of the [Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union](#) of 29 May 2000, as well as facilitation of requests based on mutual recognition instruments and MLA requests. Eurojust's assistance has been sought by the national authorities at different stages, from the moment an EIO or an MLA request is drafted to the follow-up on their execution.

Eurojust played an important role in the coordination of linked investigations conducted by national authorities. To facilitate the coordination, Eurojust has provided analytical support by mapping out investigations, financial transactions, possible analytical links, and relevant legal issues, as well as advice to effectively address those issues. In a number of cases, Eurojust also facilitated the exchange of information about ongoing investigations with Europol, upon the request of national authorities.

Discussions on judicial cooperation strategies are central during coordination meetings organised by Eurojust. Furthermore, Eurojust has served as a platform for the national authorities to discuss and agree on setting up JITs and has funded activities to facilitate the functioning of the JITs.

Cooperation via Eurojust has helped build trust and strengthen the efficient cooperation among national investigating and prosecution authorities. With the assistance of Eurojust, national authorities have been able to successfully address clandestine terrorist financing activities of individuals and networks, both in the EU and third countries, and ensure justice is delivered.



In early 2015, the Dutch authorities contacted the National Desk of the Netherlands at Eurojust with a request for assistance in relation to an investigation into alleged financing of terrorism. The investigation had been triggered by a report from the Dutch Financial Intelligence Unit. The report referred to a number of people in several EU countries who had transferred funds to a middleman in a third country, who was suspected of facilitating the provision of cash to FTFs in conflict areas. The funds had been sent using money transfer companies. As the investigations in the involved countries advanced, links between the senders of the money and FTFs in Syria and Iraq, who were the final recipients of the money, were confirmed. Names of other alleged middlemen were also identified, as well as links to other countries.



Shortly after the case was registered at Eurojust, the National Desks of the involved States decided to organise a coordination meeting to discuss the state of play of national proceedings and the possibilities for future cooperation. Eurojust hosted four such coordination meetings over a period of one-and-a-half years.



During the coordination meetings, the national delegations exchanged information on the state of play of their investigations and discussed their prosecution strategies and cooperation needs. On several occasions, delegations made use of the possibility to spontaneously exchange information, as provided for in Article 7 of the 2000 MLA Convention, concerning their investigations or relevant jurisprudence. Information was also shared with Europol to allow for possible detection of other links, including through the Terrorist Finance Tracking Programme.

Discussions at the coordination meetings focused particularly on the need and ways of seeking assistance from the authorities of a third country, including in view of the intention of several States to request such assistance via MLA. As a result of the discussions at one of the coordination meetings and the common interest to achieve better operational results, those States agreed to jointly draft a brief text, with the assistance of Eurojust, that would be included in their MLA requests. Inserting such a common text in the MLA requests was intended to demonstrate the seriousness of the alleged offence and the determination of the respective national authorities to address it. A copy of the MLA requests was also sent through Eurojust to the Eurojust Contact Points in that third country.

With the assistance of the Eurojust Contact Points in the third country, contact with the competent national authorities was established and they were invited to participate in one of the coordination meetings organised by Eurojust. The coordination meeting allowed the national authorities to discuss and agree on how to proceed further with the execution of the MLA requests and the measures requested therein.

Further to the organisation of coordination meetings, the facilitation of the spontaneous exchange of information and the transmission and execution of MLA requests, and the facilitation of contacts and exchange of information with the third country and with Europol, Eurojust supported the case by analysing the available information, possible links and relevant legal issues in order to facilitate the coordination of investigations.

As a result of the positive experience in the framework of this case, the affected countries agreed to build on the contacts between the involved prosecutors and investigators in possible future investigations and prosecutions related to financing of terrorism and to promote the assistance of Eurojust.



The investigations in the affected States resulted in several convictions pronounced by national courts against persons who had sent money via the identified middleman intended for FTFs in conflict areas.

Right-wing and left-wing terrorism

Right-wing and left-wing extremism and terrorism have been a challenge for some EU Member States for years, while for others they have become a threat only recently. According to information on concluded court proceedings for terrorist offences transmitted to Eurojust in the framework of the CTR, convictions and acquittals for left-wing and anarchist terrorism-related offences (a total of 48, or 11%) were the second-largest type (after jihadist terrorism) in the EU in 2020. Also the number of verdicts related to right-wing terrorism increased in 2020 (11, or 3%) compared to 2019 (6). Despite the low number of proceedings for right-wing terrorism-related offences, they all resulted in convictions, confirming a trend of successful prosecutions observed over the past few years.

In 2020-2021, Eurojust assisted several investigations concerning alleged right-wing and left-wing terrorism-related acts. The investigations involved both EU Member States and third countries. The assistance of Eurojust was requested to facilitate the exchange of information between national authorities and to help identify and pursue the most efficient cooperation strategy.



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Following the receipt of two postal parcels by highly ranked public officials in France and Germany respectively, which originated from Greece (a terrorist organisation active in Greece claimed responsibility for one of the dispatches), coordinated actions have been triggered in the EU Member States involved, so as to collect all available data and establish the framework for this case. A first coordination meeting between Germany and Greece and a second one with all involved national authorities took place at Eurojust, combined with the exchange of information and substantial evidence. These efforts have led to the indictment of a Greek national in Greece.

In another case concerning an investigation into offences allegedly committed by persons linked to the *Federazione Anarchica Informale/International Revolutionary Front (FAI/IRF)*, information and evidence were shared through Eurojust enabling the court to establish certain terrorist activities, which ultimately lead to convictions.



On 24 April 2019, the Court of Assizes of Turin ruled in the case of 23 persons charged with various offences, including participation in a criminal association with the aim of terrorism. They had been prosecuted for setting up such an association which, along with FAI, made up the Informal Anarchist Federation (FAI/IRF). The Italian authorities had also established links to a series of attacks, explosive devices sent to public figures, advocacy of and incitement to crime. The court found five persons guilty and acquitted the remaining 18.



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The Court of Turin needed evidence to establish beyond reasonable doubt certain terrorist activities that were allegedly committed on Greek territory. To facilitate that, the assistance of Eurojust was requested to identify and share available judgments issued by Greek courts concerning the criminal association and render the cooperation between the Italian and Greek authorities more effective. To this end, Eurojust organised two coordination meetings and ensured information was transmitted in due time in view of the upcoming hearing at the Court of Assizes of Appeal of Turin. Further information regarding the structure of the association throughout the years was also provided by the Greek authorities, as well as clarifications in relation to the Greek judgment and the convicted crimes.



In a judgment, pronounced on 24 November 2020, the Court of Assizes of Appeal of Turin recognised the terrorist nature of FAI/IRF and confirmed the guilty verdicts of the three leading persons in the Italian investigation, handing prison sentences of 20 years, 16.5 years and 13 months and taking into account their previous convictions of participation in a terrorist organisation. They were also found guilty of creating and disseminating an anarchist publication. Two co-defendants, convicted at first instance, were acquitted of the same charge but one of them was found guilty of spreading an anarchist publication. Sentences of 18 to 30 months were given to three other defendants convicted of incitement to commit crimes, while four defendants were convicted of disseminating an anarchist publication and two defendants were convicted of producing and publishing material on dedicated anarchist websites.

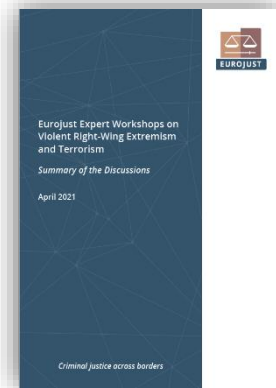
In addition to assisting ongoing investigations into right-wing and left-wing terrorist offences, on 26 November and 3 December 2020, Eurojust hosted online expert workshops on judicial responses to violent right-wing extremism and terrorism, as part of Eurojust's commitment to the four strands of action to combat violent right-wing extremism and terrorism adopted by the Justice and Home Affairs Council on 8 October 2019. The workshops offered an opportunity for judicial practitioners and experts in EU Member States and partner third countries, together with EU and international stakeholders, to discuss best practice in the investigation and prosecution of these offences and identify common issues to be tackled at EU and international level. Participants in the workshops emphasised the growing threat posed by right-wing extremists and terrorists and the need for an efficient judicial response across the EU. While some examples of successful prosecutions of right-wing-motivated acts as terrorist offences were presented, judicial practitioners also shared challenges in applying CT legislation in relation to



these types of acts. Instead, other criminal law provisions, including on murder, organised crime, discrimination and hate crime, might be used to prosecute violent right-wing extremist acts.

Main challenges identified by judicial practitioners during the [Eurojust Expert Workshops](#) included:

- ▶ **Definition of the problem:** violent right-wing extremism and terrorism is a versatile and volatile phenomenon, with various profiles of perpetrators and potential victims.
- ▶ **Legal qualification of the alleged crimes:** difficulties exist in defining right-wing-related acts as terrorism, prosecuting them under the CT legislation, proving terrorist intent and/or the elements of the definition of terrorism, in particular in cases of 'lone actors' or in the absence of an identified (terrorist) group.
- ▶ **Use of ICT systems, resources and tools:** the internet, social media and darknet are largely used to disseminate huge amounts of extremist content and propaganda, (self-) radicalise, finance extremist right-wing-related activities, and connect with individuals and groups abroad.



Best practice to successfully address those challenges include:

- ▶ **Exchange of information at operational and strategic level among EU Member States, and with key third countries** to strengthen the judicial response to violent extremism and terrorism.
- ▶ **Implementation of Directive (EU) 2017/541** to help achieve a more coherent approach in the EU.
- ▶ **Effective cooperation among competent actors from the judiciary, the police and intelligence services** to enhance the response to right-wing extremism and terrorism.
- ▶ **Engaging in a broader cooperation at EU and international level, including via Eurojust** to define common judicial strategies towards right-wing extremist and terrorist activities.



3. Key aspects of judicial cooperation

Support to victims of terrorism

The protection and support to victims of terrorism is a priority and shared responsibility for national governments, societies and international partners. CT investigations and prosecutions assisted by Eurojust have shown that it is crucial to take into account the rights and needs of victims and the effective access to information and legal assistance of all victims are essential in each judicial case.

By definition, Eurojust cases concern victims, regardless of whether the cases are about terrorism or other types of serious cross-border crime.

Specific role of Eurojust in relation to support to victims of terrorism and their effective access to justice:

- ▶ **Assist and coordinate the judicial cooperation** to provide efficient support to cross-border victims and guarantee their rights in the country where a terrorist offence took place but also to agree on a prosecution strategy that takes into account the interests of victims, including from other countries.
- ▶ **Collect experience and good practice** of EU Member States in supporting victims of terrorism.
- ▶ **Raise awareness and share lessons learned** among judicial authorities and policy-makers.

The assistance and coordination provided by Eurojust have facilitated the cooperation between judicial authorities to successfully address challenges faced by cross-border victims in the immediate aftermath of a terrorist act or offence, during the investigation phase, as well as during and after trial. Those may range from ensuring that information about the available victims' rights, legal (and other) aid and representation and compensation is available to cross-border victims, to enabling victims to be heard during court proceedings, including via videoconference.

The continuous close collaboration between judicial authorities, including through Eurojust, is key to ensuring victims are protected and supported, and their rights are guaranteed regardless of possible differences in the national legal systems. Judicial cooperation is also used to reduce the possible negative impact on victims, for example to coordinate among countries seeking information from the same victim(s) in order to avoid secondary and repeat victimisation in case of multiple (foreign) requests for interviews, or to overcome difficulties related to the need to keep cross-border victims informed of the progress of court proceedings if they are not in the country where the trial takes place. Eurojust has also facilitated a coordinated approach among the national authorities of EU Member States to engage in a dialogue with third countries where a terrorist attack took place in which discussions regarding victims were central.

Interests of victims are an important factor to consider when future prosecution strategies are discussed, including in the framework of Eurojust coordination meetings. In cases of parallel investigations, e.g. in the country where a terrorist offence was committed and in the country of origin of the victim(s), the interests of the victim(s) are taken into account when discussing the possible centralisation of proceedings in a single country, as set out in Directive (EU) 2017/541 (Article 19(3)(c)) and the Eurojust [guidelines](#) on deciding which jurisdiction is best placed to prosecute. The interests of the victim(s) are also one of the factors that Eurojust considers when advising EU Member States in case of parallel proceedings, conflicting European Arrest Warrants or extradition requests.



On 18 July 2012, a suicide attack took place at the parking lot of the airport of the Bulgarian coastal city of Burgas. The attack was committed by a Lebanese-French national, who detonated an improvised explosive device (IED) about a metre away from a bus intended to transport Israeli tourists. The attack caused the death of five Israeli tourists and the Bulgarian bus driver, and injured another 38 Israeli tourists. The information and evidence collected in the course of the investigation implicated the involvement of an Australian and a Canadian national both of Lebanese origin, who were suspected to have advised and supported the perpetrator of the attack.



The National Desk of Bulgaria was approached by the Bulgarian authorities with a request to assist and a case was registered at Eurojust towards Israel. A key aspect of the requested assistance concerned the involvement of the Israeli victims and witnesses and their participation in the trial. They had been interviewed during the pre-trial phase; however, hearing them in court during the trial phase appeared difficult due to impossibility to travel to Bulgaria. Therefore, the possibilities to arrange a videoconference were explored.

Eurojust facilitated the transmission of MLA requests, which included detailed information on the rights and obligations of victims and witnesses of crime under Bulgarian law and outlined the possibilities available to the Israeli nationals for their possible participation in the trial. The victims and witnesses were requested to indicate their willingness to participate in the criminal proceedings and their availability for the scheduled court hearings.

In addition, at the request of the Bulgarian authorities, National Desks and Liaison Prosecutors were consulted on a legal matter concerning the possibility of and experience with including a terrorist organisation as a party in a trial, e.g. as (civil) defendant.



On 21 September 2020, the Specialised Criminal Court ordered life imprisonment without the possibility of parole for the Australian and Canadian nationals. The court established that the two had advised and instructed the perpetrator of the attack how to obtain the material needed for the IED and how to make it. They had further given logistical advice and support to facilitate the terrorist act. The court found the two defendants, tried in absentia, guilty of terrorism resulting in the death of the six victims, attempted murder of more than two persons, material damage caused by an IED, for which they were given life imprisonment with the possibility of parole. Additional penalties of 10 years of imprisonment that are to run concurrent with the life sentence were also ordered by the court in relation to the use of forged documents. The decision of the court has been appealed.



The role of Eurojust as an 'indispensable partner to support the single contact points for victims of terrorism in terms of ensuring – where appropriate – an efficient flow of information as far as criminal investigations and proceedings are concerned' was also recognised in the [paper, The state of play regarding support for victims of terrorism, particularly in cross-border situations](#) (doc 13175/20), issued by the German Presidency of the Council of the European Union in November 2020 ⁽⁵⁾.

The strengthened support to victims of terrorism is an integral part of the 'respond' pillar of the [Counter-Terrorism Agenda for the EU](#) (COM(2020) 795 final), published in December 2020. The Agenda points to the need to 'make the most of the operational support EU Agencies, such as Europol and Eurojust, can provide' and to ensure the right legal framework is in place 'to bring perpetrators to justice and to guarantee that victims get the support and protection they need'.

⁽⁵⁾ The [Council conclusions](#) of 4 June 2018 on Victims of Terrorism call on EU Member States to nominate a national contact point to provide information about the available support, assistance, protection and compensation system. They also call on EU Member States to encourage cooperation and synergies with existing EU structures, including Eurojust.



The valuable and long-lasting experience Eurojust has gained in facilitating and coordinating judicial cooperation and successfully overcoming cross-border challenges serves as a solid basis for Eurojust's [commitment](#) to participate actively in the Victims' Rights Platform set up in September 2020 in implementation of the [EU Strategy on Victims' Rights \(2020-2015\)](#), in the interest and service of victims of cross-border crime, including victims of terrorism ⁽⁶⁾.

Parallel investigations and jurisdiction issues

Eurojust plays a distinctive role in cross-border CT cases, which is particularly important when parallel or linked investigations are carried out in two or more States. Coordination meetings organised by Eurojust have provided a trusted venue for national authorities to share information about their ongoing CT investigations and prosecutions in order to identify possible overlaps or gaps, but also to seek synergies and strengthen cooperation and coordination that are key in complex cross-border cases.

Further to facilitating the exchange of information and coordinating national investigations, in cases of such overlaps or gaps, Eurojust's unique mandate allows it, among others, to ask EU Member States to undertake an investigation or prosecution or accept that one of them may be in a better position to do so ⁽⁷⁾. Eurojust's written (joint) recommendations on which State is best placed to prosecute are an [effective tool](#) to solve jurisdictional issues in transnational proceedings and prevent risks of infringing the principle of *ne bis in idem* and may also be very instrumental in CT cases, to prevent impunity and ensure justice is done ⁽⁸⁾.



In 2018, CT Police North West (CTPNW) in the UK launched an investigation concerning two men who had made Western Union financial transactions that were suspected to have reached persons in Iraq allegedly supporting Da'esh fighters. The two men were found to have sent approximately GBP 2 700 between April and July 2019. As the money was sent to Iraq via Denmark, the assistance of the Danish authorities was sought.



Eurojust was requested to assist in this investigation by the UK authorities in 2019. Due to the nature of the alleged criminal acts and the identified links to Denmark, it was necessary to ensure exchange of information, deconfliction and coordination between the national authorities of the two countries, as well as joint decision-making regarding investigative strategy, review of international jurisdiction and potential transfer of proceedings. An international Letter of Request was sent by the UK authorities to the Danish authorities as well.

Eurojust's efficient assistance was crucial to the successful outcome of this investigation. Eurojust organised a coordination meeting with the participation of Danish and UK authorities and facilitated the sharing of information, cooperation and coordination. It contributed significantly to designing the UK prosecution strategy, which ultimately led to the two would-be terrorist financiers being imprisoned.



As a result of the collaborative efforts of the Crown Prosecution Service, Greater Manchester Police and The Metropolitan Police CT Command (SO15) and the cooperation with the Danish authorities, the two men were arrested on 16 July 2019. During the operation, large quantities of digital media, including

⁽⁶⁾ The strategy, which sets out key actions to empower victims of crime and work together for victims' rights, recognises the specific vulnerability of victims of terrorism and the specialist and integrated support they require.

⁽⁷⁾ The particular role of Eurojust in facilitating cooperation between EU Member States' judicial authorities and coordinating their action in cases of potential conflicts of jurisdiction was also upheld by [Directive \(EU\) 2017/541](#) on combatting terrorism.

⁽⁸⁾ To help national authorities resolve cross-border conflicts of jurisdiction, Eurojust has created [Guidelines for deciding 'Which jurisdiction should prosecute?](#). The Guidelines, published in all official EU languages, provide a checklist of the main factors to be taken into account when deciding the best jurisdiction to prosecute, and work as a shared starting point for the basis on which a decision can be reached.



mobile phones, were seized, which provided valuable evidence to prove the involvement in terrorist financing.

Both men were charged with arranging funds or property for the purposes of terrorism contrary to Section 17 of the Terrorism Act 2000. One of them was also charged with four counts of possession of a document or record containing information of a kind likely to be useful to a person committing or preparing an act of terrorism, contrary to Section 58 of the Terrorism Act 2000 and three counts of disseminating terrorist material under Section 2 of the Terrorism Act 2006. They pleaded guilty to all charges at the pretrial hearings or during trial. On 24 April 2020 at the Old Bailey, they were given prison sentences of five years and three months, and nine years and six months respectively.

In another case coordinated by Eurojust, offenders who acted together were convicted in two different EU Member States. Also in this case, exchange of information and cooperation were crucial to ensure what has thus far been a successful outcome in court.



The Danish authorities had been investigating an attempted terrorist attack. The attack was to be carried out with bombs and knives against random persons in Copenhagen, in the name of Da'esh. In the course of the investigation, it was revealed that the attack was planned by two men. One of them was arrested in Germany and subsequently convicted of his participation in the attempted terrorist attack by a German court.



The Danish authorities requested the assistance of Eurojust during the trial stage. An MLA request was sent to the German authorities, as it was important to ensure that the person who had been convicted in Germany could appear before the Danish court as a witness in the Danish trial. Eurojust facilitated the cooperation between the Danish and German authorities and the execution of the MLA request. As a result, the man could give his witness statement before the Danish court in February 2019.



During the trial at the Copenhagen City Court, the defendant pleaded not guilty. However, the court found there was sufficient evidence presented in the case. On 20 May 2019, the Copenhagen City Court convicted him of attempted terrorism for having planned terrorist attacks in Copenhagen. The court stated it was the intention of the defendant to kill and mutilate random people in Copenhagen around November 2016 using homemade bombs and long knives. He was sentenced to 12 years of imprisonment and was subjected to an expulsion order.

The judgment of the Copenhagen City Court was appealed before the Eastern High Court, which upheld the conviction and the penalty in a judgment of 21 December 2020. The person has applied for leave to bring the case before the Supreme Court.

Cooperation with third countries

Third countries are key partners of EU Member States and Eurojust in ensuring an efficient judicial response to the terrorist threat. A number of CT cases coordinated by Eurojust in 2020-2021 concerned investigations in EU Member States involving third countries or investigations in third countries involving EU Member States. The cooperation agreements Eurojust has concluded with 13 third countries and the large number of Eurojust Contact Points worldwide have facilitated the contacts and cooperation with EU Member States' judicial authorities ⁽⁹⁾.

⁽⁹⁾ On 1 March 2021, the Council authorised the opening of negotiations for cooperation agreements with Eurojust between the EU and 13 third countries: Algeria, Argentina, Armenia, Bosnia and Herzegovina, Brazil, Colombia, Egypt, Israel, Jordan, Lebanon, Morocco, Tunisia and Turkey. Some of those countries are also part of the [EuroMed Justice](#) – a capacity-building programme aimed to develop a sustainable cross-regional mechanism of judicial cooperation in criminal matters, including in the CT area. EuroMed Justice is funded by DG NEAR and implemented by Eurojust, in close cooperation with DG JUST.



Eurojust CT cases involving third countries were related to investigations into terrorist attacks, as well as alleged preparation of a terrorist offence, participation in a terrorist organisation, kidnapping, financing of terrorism, recruitment for terrorism, incitement to terrorism, and support and promotion of terrorism.

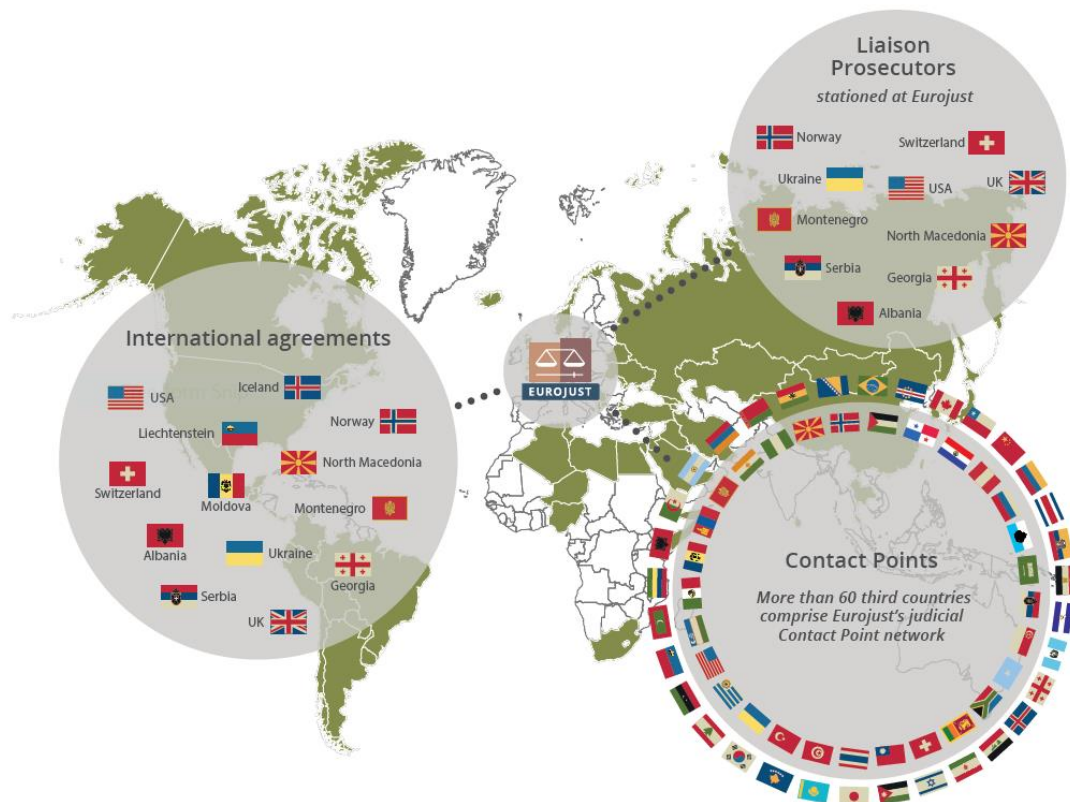
The judicial cooperation coordinated by Eurojust included, among others, facilitation of the execution of (delayed) MLA requests concerning hearing of witnesses and suspects, requests for information about suspects located or arrested in third countries and establishment of possible dual criminality.



The Czech authorities approached Eurojust for assistance in a case concerning a Czech national suspected of supporting and promoting terrorism, a criminal offence under the Czech Criminal Code. In 2018, three Czech soldiers serving in Afghanistan had been killed in a terrorist suicide attack, which was later claimed by the Taliban movement. Articles on this event were shared on social media and in reaction to one of the articles on Facebook, the suspect posted a comment. In his comment, the suspect stated that foreign units should not operate in Afghanistan at all, as it is a sovereign country. He also claimed that it was good that the people of Afghanistan defended themselves, that Czech soldiers were aggressors and had deserved to die. The Czech authorities had initiated an investigation, but as the suspect was a resident of a third country, cooperation with that country was needed.



Eurojust established contacts with the competent national authorities of that third country through the Eurojust Contact Point, appointed by the third country to facilitate cooperation and mutual legal assistance with EU Member States. Within a short time span, the third country authorities were able to respond to the queries of the Czech authorities regarding the criminalisation in that country of the acts carried out by the suspect. As a result of this efficient cooperation, the Czech authorities established a lack of dual criminality, which made it impossible to ask the third country for legal assistance.





In May 2018, a Dutch parliamentarian announced that he wanted to organise a cartoon competition relating to the Prophet Mohammed in the Dutch Parliament. The cartoon competition attracted attention, also abroad, and in Pakistan the contest led to protests and demonstrations. The Pakistani government expressed its displeasure with the cartoon competition and through diplomatic channels attempts were made to stop the competition. In late August 2018, the Dutch police were made aware of a video posted on Facebook by a man of Pakistani origin. He was said to have entered the Netherlands with the intent to kill the Dutch politician. The following day, he was arrested at The Hague Central Station. A few days later, the Dutch politician announced the withdrawal of the competition, due to threats and increasing danger to himself and to the Netherlands.



The Dutch authorities sought Eurojust's assistance in this investigation prompted by the suspicion of preparation of murder with terrorist intent. Information was needed on the suspect's whereabouts in the period and years before his arrest, to understand his motives and to explore whether he worked alone or as part of a terrorist group. Eurojust facilitated the gathering of information and requests for materials and legal assistance from several EU Member States and third countries simultaneously.



The case resulted in the successful prosecution of the suspect and on 19 February 2021, the Court of Appeal of The Hague convicted this person of preparing and/or facilitating the carrying out of a terrorist attack, threat of a terrorist offence and incitement and/or distribution of inciting writings or images, and sentenced him to 10 years of imprisonment. The Court of Appeal dismissed the claim by the defence that the acts of the defendant were protected by the freedom of expression. It held that Article 10 of the European Convention for Human Rights did not offer protection to a person who threatens another individual with terrorist homicide, or a person who incites to commit a terrorist offence or displays, for further distribution, pictures that incite to commit such offences.



Eurojust's assistance in the investigation of the terrorist attacks in Paris and Saint-Denis, 13 November 2015

A turning point in judicial cooperation and exchange of information in CT matters

In September 2021, the historic trial of the terrorist attacks in Paris and Saint-Denis of 13 November 2015 began in France. As a result of the terrorist attacks, 130 people were killed, 495 injured and thousands left in shock. The investigation revealed links to other terrorist acts, including the terrorist attacks in Brussels and Zaventem on 22 March 2016, the trial of which is expected to start in 2022 in Belgium.

The coordination and assistance provided by Eurojust to support the national authorities included:

- ▶ November 2015: Opening of a Eurojust case in the immediate aftermath of the terrorist attacks. In addition to France, the case involved other 14 EU Member States and the USA.
- ▶ December 2015: Joining the JIT, together with Europol, set up between France and Belgium days after the attacks, and extended to the Netherlands in January 2018.
- ▶ January 2016 – February 2019: Organising 17 coordination meetings to exchange information, discuss cooperation needs and agree on the way forward.
- ▶ Throughout the investigation and pretrial stage: Coordinating the transmission and execution of numerous MLA requests.

As a result of the collaboration, possible links between the attacks in Paris and Saint-Denis and other terrorism cases were uncovered. Two suspects arrested in Austria and one detained in Germany were successfully surrendered to the French authorities.

As a result of its involvement, Eurojust has become an important and legitimate actor in the CT area and is perceived as a reliable and credible partner of judicial CT practitioners. This has strengthened the trust towards Eurojust and the efficient role it has in CT matters. It has also encouraged national authorities to share information on CT investigations and prosecutions with Eurojust and seek the assistance of Eurojust in many ongoing judicial CT proceedings.

The experience with the assistance Eurojust provided and the increased sharing of information concerning terrorist offences paved the way for the establishment of the CTR and the systematic transmission of information on judicial CT proceedings to Eurojust, even in cases where operational cooperation is not facilitated by the agency.



Paris terrorist attacks of 13 November 2015

A turning point in judicial cooperation and information exchange in counter-terrorism



8 September 2021 – The historic trial of the November 2015 terror attacks begins in Paris.



January 2016 – February 2019

17 **coordination meetings** are organised to exchange information, discuss cooperation needs, and agree on the way forward. Throughout the investigation and pre-trial stage, Eurojust coordinates the transmission and execution of numerous **Mutual Legal Assistance** requests.



December 2015 – The **Joint Investigation Team (JIT)** set up by France and Belgium days after the attacks is extended to Eurojust and Europol. The Netherlands joins the JIT in January 2018.

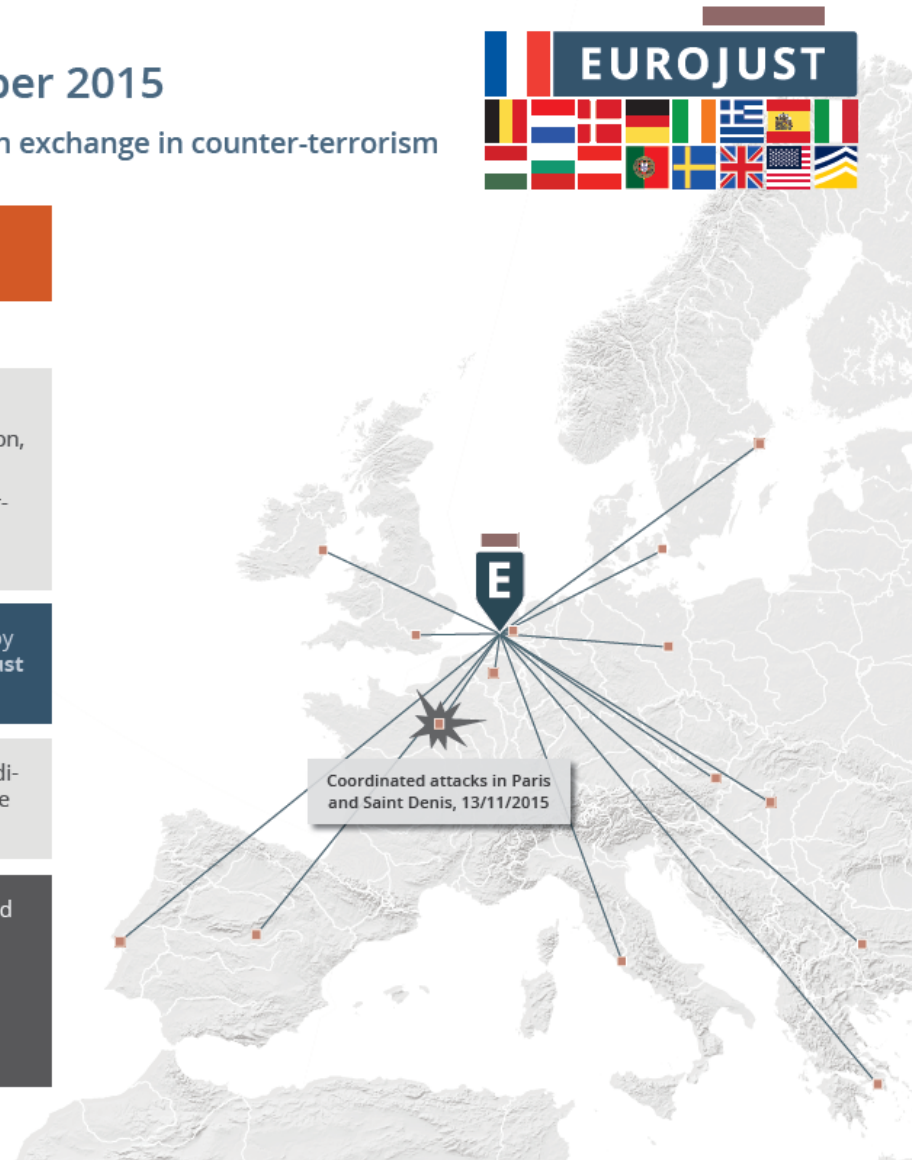


26 November 2015 – A Eurojust case is opened in the immediate aftermath of the terrorist attacks. In addition to France, the case involves 14 Member States and the USA.



13 November 2015 – Terrorists launch a series of coordinated attacks in Saint-Denis where an international football match is being held, around crowded cafés and restaurants in central Paris, and at the Bataclan theatre.

The shootings and bomb blasts kill 130 people, injure 495 and leave thousands in shock.





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