



**EUROJUST**

European Union Agency for  
Criminal Justice Cooperation

# Eurojust Meeting on Counter-Terrorism, 22 - 23 November 2023

## Summary of Discussions

*Criminal justice across borders*



**EUROJUST MEETING ON COUNTER-TERRORISM***The Hague, 22-23 November 2023**(Eurojust's premises and videoconference)***SUMMARY OF DISCUSSIONS**

The 2023 Eurojust Meeting on Counter-Terrorism (CT) focused on the amendments to the Eurojust Regulation concerning digital information exchange in terrorism cases and the European Judicial Counter-Terrorism Register (CTR), victims' rights, including the work of Eurojust in the framework of victims' rights and experience of judicial authorities in mass trials, experience and best practice from recent trials in EU Member States, and addressing the dissemination of terrorist content online (TCO). The meeting gathered the national correspondents for Eurojust for terrorism matters, specialised prosecutors from both EU Member States and non-EU States, as well as representatives from EU institutions and agencies, and international organisations.

**Welcoming Remarks****President of Eurojust**

The President of Eurojust extended a warm welcome to all participants in the 2023 Eurojust Meeting on CT, including the national correspondents for terrorism matters and specialised CT practitioners from EU Member States and partner non-EU States, the representatives of the Office of the EU Counter-Terrorism Coordinator (EU CTC), the European Commission, Europol and Interpol. He referred to recent developments, including the terrorist attacks in France and Belgium, which demonstrate that the threat of jihadist terrorism in the EU remains significant. Further challenges are also posed by extremists and lone actors. In parallel to the operational developments, the EU has reinforced its capacity at policy and legislative levels to address efficiently the terrorist threat.

Less than a month prior to the meeting, the Eurojust Regulation was amended once again to enable digital information exchange in terrorism cases, embed the CTR in the Eurojust Regulation and step up our ability to detect links between investigations and prosecutions. The amendments follow the extension of the Eurojust mandate in 2022 in relation to core international crimes (CIC), which allows us to preserve, analyse and store evidence relating to genocide, crimes against humanity, war crimes and related criminal offences in relation to the war in Ukraine but also other past, present and future conflicts. In implementation of the extended mandate, Eurojust is currently rolling out the Core International Crimes Evidence Database (CICED), aimed to facilitate the work of all Member States and partners involved in CIC investigations. Both amendments make sure that Eurojust is better equipped to assist national authorities of Member States and partner non-EU States in complex CT and CIC investigations.

The President of Eurojust thanked the former Chair of the Eurojust Counter-Terrorism Team for her leadership and achievements over the past four years and wished the new Chair success in his role.

**Chair of the Eurojust CTT**

The Chair of the Eurojust CTT also welcomed the distinguished speakers and participants in the meeting. He noted the amendments to the Eurojust Regulation concerning digital information exchange in terrorism cases that entered into force on 31 October 2023, as mentioned by the President of Eurojust.

The changes set out in the amendments will be implemented in the new Case Management System (CMS) of Eurojust that will be in place by 1 December 2025. Until then, the CTR remains functional and national authorities of EU Member States are invited to keep transmitting CTR information to Eurojust.

The Chair of the CTT confirmed Eurojust's commitment to continue working in dialogue and partnership with the EU Member States to implement the amendments. The national correspondents for terrorism matters are welcome to raise questions or share experience during the meeting or through their National Desk at Eurojust and Eurojust remains available to assist with issues national authorities may face.

The 2023 Eurojust Meeting on CT is an opportunity for CT practitioners to gain insight into relevant developments at the EU level, share experience and exchange best practices on key topics, such as the support to victims of terrorism, including in the framework of large trials, sharing of information and evidence in cross-border cases, and addressing the dissemination of TCO. International judicial cooperation is an efficient tool to reinforce investigations into cross-border cases. Terrorist attacks have changed the role and place of Eurojust in terrorism cases. Countering terrorism remains a key priority for Eurojust and Eurojust stands ready to continue supporting national authorities in their CT investigations and prosecutions in the best possible manner.

### **Ongoing developments at EU level**

#### **Office of the EU CTC**

The representative of the Office of the EU CTC presented current challenges and priorities the EU CTC focuses on. He pointed out that the number of terrorist attacks has decreased over the past five years; however, the terrorist threat remains high and increasingly diverse. Challenges faced by national authorities include Islamist extremist foreign information manipulation and interference, used to polarise diaspora public perceptions, as seen also in relation to the recent terrorist attack in Brussels. The risk of attacks in Europe motivated by the current situation in the Middle East is present and lone actor Islamist extremist attacks remain a threat. A threat is also posed by violent right-wing extremists.

The situation in Afghanistan remains a priority for the EU CTC, with the *Islamic State – Khorasan Province* (ISKP) being assessed as a threat to the EU. The small number of violent extremists that have travelled to Ukraine to fight on both sides may also pose a potential risk upon their return to the EU; trafficking of firearms is being addressed and border security and management is being addressed and needs to be reinforced. The situation in camps in North-East Syria has also been a concern over the past few years, as the camps may be a breeding ground for radicalisation. Recent efforts have been focused on supporting the Iraqi government in repatriation, rehabilitation and reintegration into local communities. Significant progress has been made in the Western Balkans region to repatriate women and children from the camps. But more work needs to be done. For those who returned, it is important to have a proper approach in prosecution, rehabilitation and reintegration. With regard to FTFs, the importance of the work of Eurojust and the Genocide Network concerning battlefield evidence and analysis of jurisprudence on cumulative prosecutions for terrorism and CIC was recognised.

The support and protection of victims of terrorism have been a standing priority for the EU CTC. Improving support and recognition of victims of terrorism, avoiding secondary victimisation and implementing the Operational Protocol for the Network of single contact points for victims of terrorism are important and have also been included in the recent draft Council conclusions on the topic.

Work has been ongoing in relation to other issues, including the threat posed by prison leavers, which has been addressed in draft Council conclusions, and challenges faced by authorities to access data needed for investigations and prosecutions due to encryption and data retention limitations that will be a subject of a guidance document to be prepared by a dedicated high level working group in 2024. With regard to the latter, the input of Eurojust could be essential to draw attention to the consequences the lack of access to data may have on investigations and prosecutions.

## **Directorate-General for Justice and Consumers**

The representative of the Directorate-General for Justice and Consumers (DG JUST) shared insights into the amendments to the Eurojust Regulation as regards digital information exchange in terrorism cases and the planned follow-up actions. The amendments, that entered into force on 31 October 2023, codify the current practice with the implementation and functioning of the CTR based on the experience of the Eurojust national correspondents for terrorism matters. The provisions related to Eurojust are carved out of Council Decision 2005/671/JHA on the exchange of information and cooperation concerning terrorist offences and are included in the Eurojust Regulation. The Council Decision, however, remains in force unchanged for Denmark.

The amended Eurojust Regulation defines more precisely the obligation for EU Member States to share information on terrorism cases with Eurojust. EU Member States are required to inform Eurojust of ongoing or concluded criminal investigations supervised by judicial authorities, ongoing or concluded prosecutions and court proceedings and court decisions on terrorist offences. The obligation applies to all criminal investigations relating to terrorist offences, as defined in Directive (EU) 2017/541 on combating terrorism, with or without a known link to another EU Member State or third country, unless the criminal investigation, due to its specific circumstances, clearly affects only one EU Member State. The amended Eurojust Regulation provides a more precise timing for the initial transmission of information to Eurojust, i.e. as soon as the case is referred to a judicial authority, and for the transmission of information on updates.

To bring legal certainty, the data that is required to be transmitted to Eurojust is explicitly set out in the new Annex III. It is based on the information that is already shared with Eurojust and specific requirements are set for the transmission of biometric data. The amendments extend also the retention periods for data on convicted persons (five years) and allow Eurojust to continue to process data relating to persons who are acquitted or subject to a final decision not to prosecute, with a shorter retention period (two years). The processing of data relating to persons who are acquitted or subject to a final decision not to prosecute is a new element in the legal basis, which is expected to help Eurojust identify more links between proceedings.

Further to the obligation for EU Member States to share information on terrorism cases with Eurojust, the amended Eurojust Regulation also sets out the legal basis for the digitalisation of Eurojust. The new CMS for Eurojust will be developed by 1 December 2025 that will better integrate the CTR and improve the identification of links between proceedings, while handling codes will be introduced to manage the access to and the use of CTR information. National authorities will be able to access certain information in the CMS, under the control of their National Member, and it will be possible to transmit the information to Eurojust in a semi-automated and structured manner from national registers. Secure digital communication channels based on eEDES/e-CODEX technology will be established between Eurojust and the competent national authorities, which will also be used for digital exchange of judicial cooperation instruments based on the Regulation on the digitalisation of judicial cooperation, which is to be adopted soon. In 2024, the European Commission will start working on the necessary implementing acts for the amended Eurojust Regulation and may require operational input from Eurojust and the national authorities of the EU Member States.

Last but not least, the amended Eurojust Regulation clarifies the cooperation with third country liaison prosecutors posted at Eurojust, which will facilitate the day-to-day cooperation with those countries. Furthermore, negotiations with additional 13 third countries about the conclusion of a cooperation agreement are also ongoing and preliminary agreement has already been reached with two of them, Armenia and Lebanon.

## **Administrative Director of Eurojust**

The Administrative Director of Eurojust recalled the cooperation with national authorities in the setting up of the CTR. He referred to the need to share information after the terrorist attacks in Paris and Saint-Denis in November 2015 that was at the very core of the initiative to launch the CTR.

The Administrative Director presented the steps taken at Eurojust to implement the latest

amendments to the Eurojust Regulation. It is an important vehicle for the Digital Criminal Justice Programme, which will result in the complete redesign of the Eurojust CMS. The development of the new CMS will allow to integrate the CTR and Ciced, as well as other systems, including the secure communication channel to be used to share information with Eurojust, ECRIS-TCN, etc.

The legislative proposal for amendments to the Eurojust Regulation was accompanied by a financial statement that sets out the resources to implement the amendments, including 25 additional posts. The core functionalities of the new CMS related to the CTR and Ciced will be put in place by the end of 2025 and the remaining ones by 2026-2027. This is the largest programme that has ever been implemented at Eurojust and is expected to be completed in 2030.

In the meantime, Eurojust remains committed to receive data, cross-check it for possible links and provide swift feedback to the national authorities. Recent events demonstrate that the work of Eurojust is relevant and will continue to be so in the future.

### **Directorate-General for Migration and Home Affairs**

The representative of Directorate-General for Migration and Home Affairs (DG HOME) presented the priorities of DG HOME that are of relevance to the topics of the meeting. In implementation of the 2020 CT Agenda for the EU, the Strategy on Preventing Radicalisation is reviewed every 2 years and the Strategic Orientations on a Coordinated EU Approach to Prevention of Radicalisation for 2024-2025 were recently adopted.

DG HOME works closely with DG JUST on developing policies and legislation to support and protect victims of terrorism. A working group on victims/survivors of terrorism has also been established as part of the Radicalisation Awareness Network (RAN), in the framework of which several reports have been produced. These include a publication on the perception of victims/survivors of terrorism in media (2022), which contain, among others, recommendations for journalists, but also for victims/survivors of terrorism and those working with them, to ensure a respectful portrayal of victims/survivors in media, and a publication on involving victims/survivors of terrorism in prevention and countering violent extremism (2023).

Addressing challenges related to the use of new technology, internet, social media or gaming platforms is another priority, as they may play a crucial role in radicalisation and spread of terrorist and extremist propaganda. The European Commission plays a key part in supporting EU Member States to deal with those challenges. A number of activities in this area are run by RAN too.

Over the last few years, a major focus has been placed on activities to prevent the dissemination of terrorist and violent extremist content online, as well as borderline content. The implementation of Regulation (EU) 2021/784 on addressing the dissemination of TCO is essential to remove specific content while ensuring safeguards are in place to protect fundamental rights. Since 2015, the EU Internet Forum provides a collaborative environment to discuss and address challenges of malicious content online and offers flexibility to quickly adapt and respond to challenges. Furthermore, EU Member States may benefit from the support of Europol for identifying and referring TCO.

### **First session: Victims of terrorism**

**The Chair of the Eurojust Working Group on Victims' Rights (WGVR)** presented an overview of the work of Eurojust in the framework of victims' rights, a topic identified as one of the priorities of the European Commission. Ensuring that victims' rights are protected in cross-border criminal investigations and prosecutions is of the utmost importance and Eurojust plays a critical role in this respect in ensuring timely and efficient coordination between the States and partners involved.

The support provided by Eurojust in that field aims at helping national authorities to ensure the best possible assistance to victims, regardless of their nationality and residence and despite challenges inherent to cross-border cases. This support can take four different forms:

- helping identify, rescue and protect victims;



- minimising the risk of secondary victimisation;
- helping manage large numbers of victims; and
- including a victims' rights dimension in all Eurojust operational work.

The first line of support – helping identify, rescue and protect victims – is achieved through coordinating the exchange of information between national authorities in large-scale cases so that every Member State or country involved is aware of the whole proceedings. In addition, Eurojust helps securing procedural rights for victims in cross-border investigations and prosecutions.

The second line of support – minimising the risk of secondary victimisation – is of crucial importance for the psychological health of victims. In that regard, Eurojust provides both practical advice to ensure that the latter are spared from repeated witness interviews in multiple jurisdictions and legal advice to ensure admissibility of evidence and compliance with procedural requirements in case, for example, of transfer of proceedings.

The third line of support – helping manage large numbers of victims – may take various forms, including the development of templates for practitioners to identify, support and compensate victims and the facilitation of the exchanges of best practices on cases involving large numbers of victims. The Chair of the Eurojust WGVR cited the example of the terrorist attacks in Barcelona and Cambrils in 2017, which affected victims of thirty-four nationalities. In that case, Eurojust helped the Spanish authorities prepare and transmit across Europe a specially designed template informing victims of their rights. The template was specially designed to be understood by the victims and their relatives and helped ascertaining their procedural rights to assistance and compensation. In another case involving a non-EU State, Eurojust provided a two-tier support: (a) it compiled a list of victims to provide a global common overview of their number and identity and (b) further helped clarifying the definition of victims and the conditions to be met for compensation according to the legislation of the non-EU State concerned.

The fourth line of support – including a victims' rights dimension in all Eurojust operational work – is provided in particular in coordination meetings and joint investigations teams but also through addressing specific developments on victims' rights in the judicial cooperation tools developed by Eurojust. The example was given of the Guidelines issued by Eurojust on conflicts of jurisdiction or those on competing requests for surrender and extradition which factor in the interests of the victims, including their protection, as a determining factor.

## **Second Session: Experience with mass trials with a focus on victims' rights**

*Two Representatives of the French authorities addressed the role of victims in mass trials, based on the national experience in the recent trial of the Paris and Saint-Denis terrorist attacks of November 2015.*

The first speaker, the **magistrate in charge of the organisation of the trial**, presented the challenges encountered during the preparation for trial; the strategies developed to overcome them as well as best practices that could possibly be duplicated in future trials.

Taken into account its large-scale nature (more than 2600 civil parties, 330 lawyers and 20 accused involved), this trial represented a huge challenge which could not have been met without the commitment of all stakeholders and the provision of all the necessary means. In that context, two factors were key to the smooth running of the trial. First, advance consultation and close coordination with all stakeholders – including defence and civil parties' lawyers, law enforcement authorities and journalists – at an early stage enabled to set up all the practicalities before the trial and to focus on the substance of the case during it. Second, learning from previous similar trials and preparedness to innovate made it easier to adjust to the specific needs of the trial in a timely and efficient manner.

Although this trial was firstly that of the accused, this two-track approach also allowed to give special attention to the protection of the victims' rights at all stage of the proceedings.

Ahead of the trial, the victims' rights to information and to protection were taken into account through, *inter alia*, the provision to civil parties of practical information about the court building and functioning as well as about the support that would be offered throughout the trial, including via

resource persons, psychologists and multilingual teams present on the spot. Specific protection needs of the victims were fulfilled through engaging and raising awareness with the press and law enforcement authorities attending the trial. Military personnel and police officers agreed, for instance, to make heavy weapons less visible so that victims feel more comfortable. In the same vein, different colours of badges were used to facilitate the identification by journalists of civil parties consenting to be approached.

During the trial, efforts were deployed aimed at ensuring the best possible conditions of attendance for both nationals and foreign victims. Interpretation was available for civil parties within the courtroom to reply to the language needs expressed by about forty of them. A web radio was broadcasted on a secured platform available for civil parties only, enabling them to follow the whole trial. Another benefit of having a web radio, rather than a web tv as initially envisaged, was to ensure enhanced safety of witnesses, and in particular of police officers who expressed concerns about testifying in court if filmed.

Finally, while the use of technical tools contributed to the smooth running and success of the trial, emphasis was put on the need to also leave scope for solemnity and symbolic elements. This included in particular having the trial in a historic place in the centre of Paris.

The second speaker, a **representative of the National Antiterrorism Prosecutor's Office of France and Chief Prosecutor during the trial**, shared her operational experience and best practices in relation to the conduct of the hearing with a focus on the main legal and procedural challenges faced by judicial authorities as a result of the large number of victims.

One first significant challenge related to the definition of victim as the existing legislation showed some limits when it came to complex cases involving a very high number of injured and deceased persons. The more than 2600 persons who asked to be recognised as a civil party to the proceedings in Paris and Saint-Denis attacks trial embraced a wide range of personal situations and damages suffered. In that context, the court found that the definition of a victim, whether a natural or a legal person, should be widely drawn.

With regard to natural persons, direct victims were considered as including not only those deceased or injured during the attacks, but also those who survived the attacks and committed suicide afterwards as a result of the traumatism suffered. Relatives of direct victims of the terrorist attacks were generally recognised as indirect victims (or "victimes par ricochet"), provided that they could prove that they personally suffered as a result of the offences prosecuted. Interestingly, the inhabitants of the building destroyed a few days later by the survivors of the terrorist commando during the intervention of the police forces, were equally admitted as civil parties to the proceedings as the court considered that this destruction was part of the same sequence of events as the attacks.

By contrast, the court generally declared inadmissible the requests submitted by persons who were in the vicinity of the scene of an attack. While these so-called "unfortunate witnesses" may have been shocked by what they experienced, this was not enough, in itself, to confer on them the status of victim, considering that they had not been directly targeted or exposed to a danger of death or bodily harm.

Some legal persons were also able to successfully claim victim status, including the companies operating the concert hall, bars and restaurants targeted by the terrorists but not the cities where the attacks took place.

Another major challenge consisted of ensuring the effective exercise of victims' procedural rights – including the rights to be heard, to call witnesses, to ask questions to the accused, to make submissions and to request damages – while ensuring the smooth and timely running of the hearing. Advance consultation with relevant stakeholders and innovative solutions were key to achieve this objective.

In particular and further to preliminary discussions with all parties to the proceedings, it was agreed that the witnesses called by the lawyers of participating victims would not exceed a reasonable

number. In the same vein, the usual order of the questions to the accused was changed to allow the prosecution authorities to intervene first, thus enabling a more concise debate. Lawyers of participating victims also accepted to submit thematic pleadings.

**A Belgian Federal Magistrate** made a presentation on (crossborder) victims of terrorist attacks rights in Belgium during the investigation and the trial.

The principles applicable in Belgium to the protection of victims of terrorism in light of EU standards largely derive from the lessons learned from large-scale accidents, involving a high number of victims, residing in Belgium and abroad. In particular, (1) protection and support should be provided to victims at all stages of the proceedings: victims are entitled to receive adequate information and support at an early stage, right after an attack, during the investigation and throughout the trial. In light of the cross-border nature of terrorism, (2) specific needs of foreign victims should also be taken into account.

Implementing these principles requires coordinated and multidisciplinary support. In that regard, key actors at the national level include the Judicial Victim Support services and the National Victims' Unit of the Federal Prosecutor's Office (VU). International cooperation has also proven to be an efficient tool to ensure victims' protection in a cross-border context.

Right after an attack, the Judicial Victim Support services and the VU are immediately integrated into the Emergency response infrastructures in order to, *inter alia*, establish a list of victims, offer immediate psycho-social support and take initiatives in relation to the victims' personal belongings. In parallel, close cooperation is established with the Belgian Ministry of Foreign Affairs, the Crisis Centre of the government and the embassies of relevant countries to ensure adequate protection and support of cross-border victims.

During the investigation, the continuous collaboration and coordination between all stakeholders with differentiated and complementary interventions towards victims ensures that the latter receive an overall support. The Judicial Victim Support services and the VU inform, assist and emotionally support victims throughout the criminal proceedings, from the first interrogation until and during the trial. Victims' right to information is ensured via the provision of comprehensive leaflets, dedicated websites and the organisation of information sessions updating civil parties on the progress of the investigation. If appropriate, individual meetings may also be organised with pathologists for the next of kin wishing to receive further information on the causes of death of their relatives.

While all victims, regardless of their nationality and place of residence, enjoy the same rights, challenges inherent to cross-border cases require additional measures to be taken to ensure full implementation of foreign victims' rights. This may include providing cross-border victims with general information on the Belgian judicial system and relevant provisions applicable, access to the translation of the correspondence and case file in several languages and interpretation during (pre-trial) court. Close international cooperation is crucial in that regard as the involvement of stakeholders such as liaison magistrates, police liaison officers, Eurojust and the European Judicial Network may significantly facilitate the establishment of contacts and the sharing of information.

During the trial, victims are entitled to a series of rights, among which the rights to be present in the main courtroom or – if the limited number of places does not allow it – in relay rooms, to be heard and to have access to interpretation services. Mirroring some of the measures put in place in the context of the recent French mass trials, web radios may be set up for civil parties unable to attend the hearing and accreditation badges of different colours may be used for a smooth implementation of the victims' right not to be approached by the press. Resorting to polls may also help better identify and address victim's specific needs in all their forms, ranging from wheelchair accessibility and hearing aid to the presence of children. In line with the support provided at the earlier stages of the proceedings, cross-border victims continue to be informed, if needed through the relevant embassies, about the timeline of the trial and the relevant developments. Liaison magistrates and police officers are allowed to attend the trial to support their nationals as appropriate.



During the discussions that followed the presentations, the French and Belgian speakers explained that some specific challenges remain with respect to sharing information with cross-border victims. In particular, at the stage of the identification of victims, liaising with all consulates may prove challenging but experience has shown that Eurojust can play a crucial role in facilitating the required coordination and cooperation.

### **Third Session: Interesting verdicts and best practices**

*A representative of the National Public Prosecution Office of the Netherlands and a representative of the Federal Court of Justice of Germany* addressed the rising threat of the ISKP in Europe. The presentation addressed four issues: first, the origin and development of ISKP; second, the growing threat ISKP poses to Europe; third, some practical and legal challenges of a case of this kind from an international perspective; and, fourth, the future and the best way to combat ISKP.

ISKP was formed in the autumn of 2014, a few months after the declaration of the Islamic State Caliphate in Syria and Iraq. In January 2015, ISIL acknowledged the new organisation as a province of ISIL. For ISIL, the Khorasan province includes Afghanistan, Pakistan, some former Soviet republics and sometimes also India. In reality, the stronghold of ISKP has always been Afghanistan. The number of fighters is estimated at more than 2000. The ISKP has turned against the Taliban, who they view as enemies of the real Islam.

Initially, the operational activities of ISKP took place in Eastern Afghanistan, but nowadays global operations are carried out. Among the victims of their attacks are Taliban members, local security and law enforcement personnel, Shiites, Hindus, working women and the civilian population. ISKP applies a structure comprised of a central leadership that makes the strategic choices, while decentralised structures with semi-autonomous factions take independent decisions on an operational level. The organisation is still a regional and dependent branch of ISIL. The objectives are to establish safe havens and state-like structures, to defeat the Taliban and to destroy existing governmental structures and establish an Islamic Caliphate in Afghanistan and neighbouring countries pursuant to Sharia law. The *modus operandi* of the organisation comprises bomb attacks, suicide attacks, targeted killings, incendiary attacks and capture followed by execution. The media strategy of the organisation is very sophisticated and social media channels and local radio stations are used to recruit new fighters and legitimise territorial claims.

The focus of the organisation has shifted from the South-West Asia region prior to 2019, to the ISKP calling for attacks in Western Europe from February 2023, after the fall of the so called caliphate and the withdrawal of American soldiers from Afghanistan. In 2023, 15 terrorist plots against Western targets were identified by US intelligence, 20 arrests were made in Istanbul and warnings against the ISIL branch in Afghanistan were issued by German security services.

Two German court cases and a case involving suspects in both Germany and the Netherlands were presented. The first case, against five Tajik nationals, concerned participation in simulated combat, contract killing in Albania, intelligence gathering, procurement of firearms, one of which was to be used to commit a terrorist attack against a Germany-based critic of Islam. In May 2022, the Higher Regional Court in Düsseldorf sentenced the accused to imprisonment terms between three years and eight months and nine years and six months, for participation in a foreign terrorist organisation. The second case concerned membership of and support to ISIL, as well as conspiracy to commit an attack in Germany on behalf of ISKP. In September 2023, the Higher Regional Court in Hamburg sentenced two youngsters to imprisonment terms of three years and six months and three years and three months, respectively, to be served in a juvenile prison. The defendants got in contact with ISKP-members in Afghanistan via Internet, who instructed them to set up an Internet group in Germany, in support of ISKP. The defendants did as they were told. One of the defendants was later instructed to commit an attack in Germany and to build an explosive device. As the defendant did not understand how to do it, he was told to do a knife-attack on a police officer instead. The defendants were arrested before the plan was realised.

The Dutch/German case concerned nine suspects who formed a cell with ties to ISIL in Germany and

the Netherlands as of June 2022, with the objective to carry out attacks to the benefit of ISIL and the collection of funds for the organisation. The group held meetings in public, contemplating targets and potential locations for the attacks, discussing the approach and enquiring about weapons. The group did not enter the stage of imminent planning and execution of the anticipated attack. The members of the group are suspected of the forming and membership of a domestic terrorist organisation, as well as supporting a foreign terrorist organisation (ISIL). The judicial proceedings are ongoing.

Five categories of challenges during cross-border cooperation were identified:

1) *DE/NL difference in information sharing between intelligence services and law enforcement.* While in the Dutch system, there is a strict distinction between intelligence and law enforcement, there is more room for manoeuvre for sharing between these authorities in Germany, which may lead to different levels of information among international partners;

2) *Information sharing between the DE/NL investigations.* Two EIOs or MLA requests, one from Germany and one for the Netherlands, were required for the same information, as the two countries could not share amongst themselves;

3) *Mobility of suspects (in particular in border regions).* As suspects were travelling frequently, almost on a weekly basis, it was challenging to acquire court orders for investigative measure on foreign territories in a timely manner (often right before the weekends);

4) *Challenges at the prosecution stage.* Difference in legal requirements, for instance to establish membership in a terrorist organisation. Awareness of these legal differences needed at the beginning of the investigation, to be able to organise evidence collection accordingly;

5) *Deportation of suspects or convicts.* Suspects released after prison or after pre-trial detention may not have a right to lawful residence in the prosecuting country, however, deportation may not be possible and lead to the suspect or possibly convicted terrorist with strong ideological drive, disappearing. This is a serious issue that requires solution on political level, e.g. through bilateral agreements.

The investigations have shown the presence of ISKP in Europe and the mobility of the organisation. It is also clear that the suspects in these cases are part of a bigger network of ISKP members and supporters in Europe, which calls for a European approach. It may be concluded that there is a widespread presence of ISKP in Western Europe, both online and offline. The ISKP is well organised and capable, and poses a serious threat to Western Europe. The question to be posed is whether enough is done on a prosecutorial level across Europe.

*A representative of the Audiencia Nacional's Public Prosecutor Office of Spain presented an analysis and best practice of the Cataluña terrorist attacks. The origin of the terrorist cell in question was traced to the town of Ripoll in Gerona, Spain, where at the end of 2014 or beginning of 2015, the imam of the mosque radicalised three young men, who then incorporated their younger brothers into the cell. The imam moved to Belgium in October 2015, but then returned to Ripoll in March 2016. In May 2017, during Ramadan, the members of the cell planned attacks on important monuments, such as the Sagrada Família in Barcelona, using vans full of explosives. They looked for a house in Alcanar, Tarragona, to store the explosives. In August 2017, two members of the cell travelled to Paris and studied and took photos of the Eiffel Tower, as an object for a terrorist attack. The camera used was later found in Alcanar. On 16 August 2017, two accidental explosions took place in Alcanar, where the explosives were stored. The imam and another member of the cell died. Another member was injured and hospitalised under arrest. Another member of the cell travelled to Morocco during the first half of August 2017 and on 16 August, he hired a van in Barcelona. On the 17<sup>th</sup>, there was a conversation between two other members of the cell, during which one of them informed the other about the explosion in Alcanar. On the same day, another member of the cell used the van and ran pedestrians over in the pedestrian street La Ramblas in Barcelona, killing 14 and injuring more than 170 people. The terrorist ran away, stole a car and killed its owner in the university area of Barcelona. On the following day, another five terrorists, driving a car, crashed against a police control in Cambrils, killing one woman and injuring 23 people before being killed by the police. They wore fake*

explosive belts. The person responsible for the crimes in Barcelona was killed on 21 August 2017, after four days on the run. The investigation showed that large quantities of materials for building explosive devices were purchased by the cell and that these materials were used to build (person born) improvised explosive devices. ISIL (Da'esh) media agencies claimed responsibility for the attacks.

In Spain, the investigation was divided according to geographical criteria, the Cataluña police being in charge of the main investigation, the Guardia Civil aspects related to the investigations in France and Belgium and the Policía Nacional aspects related to the investigation in Morocco. The Intelligence Centre against Terrorism and Organized Crime (C.I.T.C.O.) of the Home Affairs Ministry was tasked with the reception and coordination of information at strategic level and the facilitation of information sharing to the police. A JIT with France was set up with the support of Eurojust and cooperation through EIOs and MLA requests took place among more than 10 countries, both EU Member States and non-EU countries.

On 27 May 2021, the National High Court convicted two accused for participation in the activities of a terrorist organisation (12 years of imprisonment); possession of explosives with terrorist aim (15 years/10 years); attempt to cause extensive destruction with terrorist aim (12 years/10 years); reckless bodily injuries (6 months x 29 (equals the number of victims in Alcanar)); probation measures (10 years). The limit of imprisonment was 20 years. A third accused was convicted for collaborating with a terrorist organisation (8 years plus a fine, probation 5 years). On 13 July 2022, the Court of Appeal altered the part of the first instance decision concerning reckless bodily injuries to 4 years' imprisonment for the crime of reckless destruction (Alcanar) and added compensation. On 24 November 2023, the Supreme Court reduced the sentence of the third accused to 18 months, considering that his actions constituted a crime of recklessness (non-intentional) collaboration with a terrorist organisation. All other grounds of appeal were dismissed.

Best practice during the investigation included a key role for Eurojust, providing support by elaborating and sending victims' procedural rights templates, which contained information on their rights, including their right to compensation. Through these templates, the victims were also requested to share their medical reports. Eurojust also supported the establishment of JIT with France, which allowed for direct incorporation of evidence in both the French and the Spanish proceedings, without the need for EIOs. Other best practice comprised the territorial distribution of police investigation competences and the exchange of information between the antiterrorism prosecutors of Belgium, France, Morocco and Spain, as well as the division of the proceedings in several parts, such as the parts on: the main investigation; house searches; protected witnesses; MLA requests and EIOs; private accusations; and financial information. Best practice at the trial stage included the intervention of the public prosecution service, as well as both private accusations (victims of terrorism) and popular accusations (association of victims of terrorism). The trial sessions were available to victims abroad through streaming. As for the judicial decisions, they included a complete description of the terrorist offences and took into consideration all the victims of the terrorist attacks in Alcanar, Barcelona and Cambrils, in accordance with the Spanish legal definition and rights of victims of terrorism.

#### **Fourth Session: Stay alert – terrorist content online**

The first part of the presentation made by the representatives of Europol focused on the European Counter-Terrorism Centre (ECTC), as well as on the EU Internet Referral Unit (EU IRU) and SIRIUS project.

After a short personal introduction, the new Head of ECTC stressed the importance of working together, agencies and national authorities, and pursuing the same goal which is the fight against crime. The ECTC will continue providing operational tailor-made support to CT activities and, through operational task forces, will keep monitoring the online propaganda landscape to address a major challenge posed by the radicalisation online, among others.

The Head of EU IRU provided a comprehensive overview of the Unit (i.e. composition, activities and

support to investigations, tools) and highlighted the specific areas of cooperation with Eurojust, including the SIRIUS project.

The importance to achieve a global understanding in relation to terrorist online activities was emphasised, especially with the latest challenges (e.g. new technologies, tools and trends) to be addressed. This would only be possible by building trust between the industry and law enforcement authorities, as well as by reinforcing cooperation with the judiciary. Raising more awareness on the PERCI (*Plateforme européenne de retraits des contenus illégaux sur internet*) should also be considered.

The speaker concluded by expressing Europol's continuous support and commitment to facilitate the implementation of EU legislation on the matter (i.e. Regulation to prevent and combat child sexual abuse, Regulation to address the dissemination of terrorist content online and Digital Services Act), aiming to create a harmonised approach in tackling online criminal activities in the Member States, and establish scrutiny rules and transparent reporting, among others.

In the second part of the intervention, the EU IRU presented the TCO-DETECT tool which has been developed for both law enforcement and judicial authorities in order to assist their domestic investigations in the detection of TCO. The original product will soon incorporate content related to the ongoing Israeli-Palestinian conflict. Updates will be conducted every semester, thus judicial authorities are also invited to feed the tool so as to trigger as many relevant findings as possible. An initiative to develop a non-terrorist product is being considered as well.

During the discussions that followed the presentation, the EU IRU brought further clarifications as to the functioning of the TCO-DETECT tool. The product's only objective will be to support and facilitate national investigations. The tool will not provide evidence, but the content that has been assessed as terrorist according to the EU Directive on combating terrorism. Each Member State, as data owner, will need to assess whether the relevant findings are of terrorist nature and should be integrated in the judicial proceedings.

### **Concluding remarks**

The Chair of the Counter-Terrorism Working Group thanked all speakers and participants for their positive contributions to the meeting and closed the 2023 Eurojust Meeting on Counter-Terrorism.

## **MAIN FINDINGS OF THE EUROJUST MEETING ON COUNTER-TERRORISM**

### **CTR**

- The recently adopted amendments to the Eurojust Regulation concerning digital information exchange in terrorism cases reinforce the CTR so that
  - it can function efficiently
  - more links can be detected at an early stage of the investigation, and
  - all Eurojust coordination tools can be put in place to support and coordinate national authorities either at their request or at Eurojust's own initiative
- Eurojust will continue to work together with the Member States and the European Commission to implement the amendments and enhance the operational added value of the CTR.

### **Eurojust's role in support to victims**

- International judicial cooperation is an efficient tool to support cross-border victims of terrorism and other types of crime. Eurojust plays an important role in facilitating and coordinating the cooperation between involved States to safeguard victims' rights by
  - helping identify, rescue and protect victims,
  - minimising the risk of secondary victimisation,
  - helping manage large numbers of victims, and

- including a victims' rights dimension in all Eurojust operational work.
- EU Member States and partner non-EU States are encouraged to seek the assistance of Eurojust to ensure best possible protection and guarantee of victims' rights in cross-border cases.

#### **National experiences with mass trials with a focus on victims' rights**

- Protection and support should be provided to victims at all stages of the proceedings.
- Consulting and coordinating with all stakeholders (including civil parties, defence lawyers, journalists, police forces, etc.) at an early stage is key to set up all necessary modalities before trial.
- In light of the cross-border nature of terrorism, the measures taken by national authorities should also take into account the specific needs of foreign victims. This can be facilitated by international cooperation, including via the involvement of Eurojust.

#### **Interesting verdicts and best practices**

- Investigations into ISKP are ongoing or have resulted in prosecutions and convictions in a number of EU Member States and non-EU States. These cases are an indication of the widespread presence of ISKP in Western Europe, both online and offline. ISKP appears to be well organised and capable, and poses a serious threat to Western Europe.
- In addition to legal differences when it comes to information sharing both at the investigation and the prosecution stages, countries cooperating in cases against ISKP members have noted challenges caused by the mobility of suspects across borders, as well as challenges following the release of ideologically driven suspects or convicts.
- Effective international cooperation is an important element of the judicial response to the threat posed by ISKP. Consideration of and action against this threat on a prosecutorial level across Europe are called for.
- Best practice from the successfully concluded judicial proceedings on the Cataluña terrorist attacks in August 2017 includes the early involvement of Eurojust, the setting up of a JIT through Eurojust and the effective use of EIOs and MLA requests among more than 10 countries, both EU Member States and non-EU countries.
- The added value of requesting Eurojust's support on matters related to victims was highlighted in the investigation on the Cataluña terrorist attacks, during which Eurojust developed templates containing information on the victims' procedural rights, including their right to compensation.
- Based on the cases on the Cataluña terrorist attacks, exemplary judicial decisions in cases concerning terrorist attacks, involving multiple victims, preferably contain a complete description of the terrorist offences committed and take into consideration all the victims, in accordance with the legal definition and rights of victims of terrorism.

#### **TCO**

- The detection and referral of terrorist content is key in addressing the spread of terrorist propaganda online.
- Tools and platforms have been put in place to ensure efficient operational support so that law enforcement and judicial authorities can successfully conduct CT investigations and prosecutions.
- Designed by Europol to assist national investigations in the detection of TCO, the newest operational tool TCO-DETECT can be used by both law enforcement and judicial authorities in charge of CT investigations and prosecutions, but will not provide evidence as such. The terrorist nature of relevant findings and their possible integration in the domestic judicial proceedings have to be assessed exclusively by the data owner.





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