



# EUROJUST

Annual Report 2012



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## Eurojust Annual Report 2012



Eurojust's vision is to be the key player and centre of expertise at judicial level in the fight against organised cross-border crime in the European Union

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# Note re Eurojust Decision

Eurojust Decision – the Council Decision of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime, as last amended by Council Decision 2009/426/JHA of 16 December 2008 on the strengthening of Eurojust, will be re-

ferred to in this report as the “Eurojust Decision”. A consolidated version of the Eurojust Decision, prepared by the Council General Secretariat for information purposes only, is available on our website at [www.eurojust.europa.eu](http://www.eurojust.europa.eu).

## List of acronyms

|        |   |
|--------|---|
| CMS    | Case Management System  |
| EAW    | European Arrest Warrant   |
| EIO    | European Investigation Order  |
| ENCS   | Eurojust National Coordination System                               |
| EPPO   | European Public Prosecutor’s Office                                 |
| JIT    | joint investigation team  |
| LoR    | Letter of Request   |
| MLA    | mutual legal assistance   |
| OCC    | On-Call Coordination  |
| OCG    | organised crime group   |
| OCTA   | Organised Crime Threat Assessment                                   |
| TE-SAT | Terrorism Situation and Trend Report                                |
| TFEU   | Treaty on the Functioning of the European Union (the Lisbon Treaty) |
| THB    | trafficking in human beings   |





Strong partnerships are the basis for progress  
in helping meet the needs of citizens for  
a safer, freer and more just Europe



# Foreword

It is my pleasure to present the eleventh Annual Report, taking stock of Eurojust's operational activities, organisational developments and partnership relations in 2012.

Eurojust makes continued progress in supporting and strengthening coordination and cooperation between national investigation and prosecution authorities of the Member States when dealing with serious cross-border crime cases.

Eurojust's unique tools, coordination meetings and coordination centres, are frequently used and valued by practitioners in streamlining operations, facilitating immediate judicial follow-up, and resolving legal and practical difficulties resulting from the differences in the 30 legal systems in the European Union.

The positive trends and results of joint investigation teams, a cooperation instrument employing the principles of mutual recognition and mutual trust, should also be highlighted. Eurojust is proud to be a driving force in the successful functioning of joint investigation teams, by assisting with expert advice, by hosting the JITs Network Secretariat and through our JIT Funding Project.



Eurojust maintains its commitment to tackle the EU crime priority crimes in a coordinated, coherent and comprehensive manner and bring perpetrators to justice, while working alongside Europol and other Justice and Home Affairs (JHA) agencies and key players in the field.

Eurojust's strategic reports on drug trafficking and human trafficking, available on the Eurojust website, highlight the main difficulties encountered in information exchange, in coordination of efforts, in the execution of mutual legal assistance and in the application of judicial cooperation instruments, and offer solutions to overcome identified problems.

The changes brought by the Eurojust Decision enhance Eurojust's operational capabilities and its ties with the competent national authorities in the Member States. The sixth round of mutual evaluations on the practical implementation and operation of the Decisions on Eurojust and the EJM, which began in May 2012, will provide the impetus to fully implement the Eurojust Decision and will help in identifying shortcomings and best practice.

With the entry into force of the TFEU, Eurojust has also continued reflecting on the prospects for further enhancement of Eurojust, as well as the possibility of the creation of a European Public Prosecutor's Office "from Eurojust", in different *fora*. In the course of this memorable year, Eurojust celebrated its 10th anniversary in February, I was elected President of Eurojust in April, and Mr Carlos Zeyen, National Member for Luxembourg, was elected Vice-President in May.

Looking back at 10 years of achievements, Eurojust has reached "cruising speed". In my capacity as President of Eurojust, anticipating the future and the new challenges ahead, our experience and expertise give us the confidence to explore and realise our potential.

A handwritten signature in black ink, consisting of a stylized 'M' and 'C' followed by a horizontal line.

**Michèle CONINSX**  
President of Eurojust

# Executive Summary

The number of cases where Member States requested Eurojust's assistance in fighting serious cross-border crime increased 6.4%, from 1 441 cases in 2011 to 1 533 cases in 2012. The development of Eurojust's coordinating and facilitating role is provided below:

- ▶ The number of coordination meetings in 2012 was 194, a slight decrease from 204 in 2011, possibly reflecting a more efficient use of the coordination meeting tool.
- ▶ The number of coordination centres remained the same as in 2011, with seven.
- ▶ Eurojust's involvement in the setting up of JITs increased 42%, rising to 47 in comparison with 33 in 2011.
- ▶ The combined use of these three coordination tools has been noted.
- ▶ The number of registered cases concerning the execution of EAWs was 259.
- ▶ Enhanced involvement of the Eurojust Liaison Prosecutors was noted, in particular with regard to Norway.
- ▶ Eurojust's casework increased in the following EU priority crime areas in 2012: fraud; drug trafficking; (mobile) organised crime groups; money laundering; cybercrime; terrorism and corruption.
- ▶ Eurojust published two strategic reports in 2012, both of which were then published as EU documents:
  - *Enhancing the work of Eurojust in drug trafficking cases*, highlighting the complexity of the activities required to coordinate high-level drug trafficking cases; and
  - *Eurojust's Action against Trafficking in Human Beings: Final Report and Action Plan for 2012 – 2016*.
- ▶ The sixth round of mutual evaluations on the practical implementation and operation of the Decisions on Eurojust and the EJM began in May 2012 and will end in 2014. By the end of 2012, based on information received from Member States, 11 Member States had not yet implemented the Eurojust Decision. Eurojust hopes that the sixth round of mutual evaluations will provide the necessary impetus to the Member States to fully implement the Eurojust Decision.

## College of National Members, March 2013



*Seated from left to right:* Laima Čekelienė, LT; João Manuel Da Silva Miguel, PT; Robert Sheehan, IE; Francesco Lo Voi, IT; Raivo Sepp, EE, Vice-President; Michèle Coninx, BE, President; Carlos Zeyen, LU, Vice-President; Donatella Frendo Dimech, MT; Lampros Patsavellas, EL; Mariana Lilova, BG; Gunars Bundzis, LV

*Standing from left to right:* László Venczl, HU; Francisco Jiménez-Villarejo, ES; Jolien Kuitert, NL; Lukáš Starý, CZ; Jesper Hjortenborg, DK; Hans-Holger Herrnfeld, DE; Harri Tiesmaa, FI; Leif Görts, SE; Frances Kennah, UK; Daniela Buruiană, RO; Sylvie Petit-Leclair, FR; Mariusz Skowroński, PL; Ingrid Maschl-Clausen, AT; Malči Gabrijelčič, SL; Ladislav Hamran, SK; Katerina Loizou, CY

- Implementation of the Eurojust Decision internally: further work was done on the ENCS for secure e-mail transmission; fully functioning OCC; development of the CMS; and development of the “smart” Article 13 PDF form.

In addition, a first meeting of national correspondents took place to discuss and exchange best practice and experience and the state of play of the set-up and functioning of the ENCS in the Member States.

- The Task Force on the Future of Eurojust has been active since 2009. In view of the announced proposals of the Commission on Article 85 TFEU, the Task Force continued its activities on the reform of Eurojust, including possible governance set-ups and the involvement of the European Parliament and national parliaments in the evaluation of Eurojust’s activities. The Task Force also continued its activities regarding Article 86 TFEU on the establishment of the EPPO.

- The Memorandum of Understanding between Eurojust and the Commission: on 20 July 2012, Eurojust and the European Commission signed a Memorandum of Understanding, formalising the exchange of information and seeking to enhance cooperation in matters of mutual interest.

- Administrative developments:

- The number of prosecutors, judges and police officers having their regular place of work at Eurojust in The Hague in 2012 was 45.
- Eurojust’s budget for 2012 was EUR 32 967 000; budget implementation was a record 98%.
- The number of JITs financially supported by Eurojust nearly doubled from that of 2011, with 62 JITs involving 22 Member States.



Eurojust's 10th Anniversary





## Celebrations in the Nieuwe Kerk and the Ridderzaal

On 28 February 2012, Eurojust celebrated a major landmark: its 10th anniversary. To commemorate the occasion, two events were held.

On the evening of 27 February, Eurojust held its ALUM-Night at the Nieuwe Kerk in The Hague. In attendance were ambassadors, Ministers of Justice, and high-ranking representatives from the Council, Commission and European Parliament. Past and present Presidents of Eurojust, National Members and administrative staff who were instrumental in the development of Eurojust were interviewed. Eurojust's first promotional film was screened, and the new website was launched.

On the following morning, as a prelude to the informal meeting of the Ministers of the Justice and Home Affairs Council under the Danish EU Presidency, high-ranking officials paid homage to Eurojust in the historic Ridderzaal in The Hague. Featured speakers were: HE I.W. Opstelten, Minister of Justice of the Netherlands, representing Her Majesty Queen

Beatrix, Mr Morten Bødskov, Minister of Justice of Denmark, Mr J.J. van Aartsen, Mayor of The Hague, Mr Aled Williams, President of Eurojust, Mr Gilles de Kerchove, EU Counter-Terrorism Coordinator, Ms Myria Vassiliadou, EU Anti-Trafficking Coordinator, and Ms Françoise Le Bail, Director General for Justice, European Commission, representing Ms Viviane Reding, Vice-President and Commissioner for Justice, Fundamental Rights and Citizenship.

A press conference took place following the opening ceremony, attended by Mr Williams, the two Eurojust Vice-Presidents, Ms Michèle Coninx and Mr Raivo Sepp, as well as Mr Bødskov, Mr de Kerchove and Ms Le Bail.

The topic of the informal meeting of the Ministers of the Justice and Home Affairs Council following the opening ceremony was: *The main achievements and further development of Eurojust: how to strengthen the role of Eurojust in judicial cooperation between the investigating and prosecuting authorities of the Member States.*

## Visit of Her Majesty Queen Beatrix of the Netherlands

In the context of Eurojust's 10th anniversary celebrations, the President of Eurojust, Ms Coninx, had the great honour of hosting the visit to Eurojust on 26 September 2012 of Her Majesty Queen Beatrix of the Netherlands. Her Majesty met the National Members and Liaison Prosecutors, as well as the administrative

staff, and a crystal memento commissioned for her visit was viewed. Several presentations on Eurojust, its history and case illustrations, were delivered. Her Majesty showed herself to be well informed about the work of Eurojust and the challenges faced by the European Union in fighting serious cross-border crime.









## Operational activities



## 1.1 Introduction

Eurojust's work priorities for 2012, adopted in line with the Council's conclusions on setting the EU's priorities in the fight against organised crime, are terrorism, drug trafficking, trafficking in human beings, fraud, corruption, cybercrime (including child sexual abuse images), money laundering, organised crime (including (mobile) organised crime groups), illegal immigration, and criminal offences affecting the EU's financial interests (so-called PIF offences).

Eurojust's operational casework in these areas, including obstacles and identified best practice, and its strategic initiatives and contributions, are detailed below.

In 2012, Eurojust assisted the Member States in 1 533 registered cases, a 6.4% increase over 2011, with approximately 20% involving three or more countries and 78% involving the above-mentioned EU priority crimes. The remainder of cases included mostly crimes other than those referred to in Article 4(1) of the Eurojust Decision and for which the Member States' competent authorities requested Eurojust's assistance

(Article 4.2 Eurojust Decision), followed by crimes against life, limb or personal freedom. Detailed figures regarding casework and Member States' involvement are provided in the Annex.

Practitioners consider coordination meetings to be one of Eurojust's main tools, bringing together judicial and law enforcement authorities. While the overall number of coordination meetings slightly decreased in 2012 to 194 compared to 204 in 2011, this reduction possibly reflects a more efficient use of the coordination meeting tool. Approximately 55% of coordination meetings involved three or more countries, and 89% concerned priority crimes.

As in 2011, seven coordination centres were held at Eurojust in 2012.

Eurojust's involvement in the setting up of JITs increased by 42%, rising to 47 in comparison with 33 in 2011, and the number of JITs financially supported by Eurojust nearly doubled that of 2011, totalling 62.

## 1.2 Overview of Eurojust's casework

### General problems and best practice in Eurojust's casework

Eurojust's casework in 2012 reflects its continued commitment to the resolution of problems in serious cross-border crime cases. Eurojust facilitated the execution of requests for, and decisions on, judicial co-operation, assisting the competent authorities of the Member States in resolving practical and legal obstacles faced in their investigations and prosecutions.

Legal obstacles continued to arise as a result of differences between the legal systems of the Member States, and due to different rules on admissibility of evidence, especially in relation to the interception of telecommunications.

Different procedures regarding house searches and the taking of witness statements and disparities in relation to data retention rules in the various Member States, mostly in cases related to cybercrime but also in relation to other forms of organised crime, have led to difficulties. These issues can be resolved

at an early stage of investigation through coordination, where the procedural standards and evidential requirements can be explained to all the parties involved and the necessary LoRs prepared.

Other more practical difficulties include specific requests for assistance with (i) the identification of the competent national authority for judicial authorisation in relation to cross-border surveillance and controlled delivery cases; (ii) problems organising coordination meetings due to priority being given by national authorities to domestic workload; (iii) difficulties encountered by national authorities in accessing business registers, especially in relation to cases concerning financial and economic crimes; and (iv) difficulties in persuading other Member States to begin a parallel investigation or difficulties in providing them with sufficient and admissible material for doing so.

A spontaneous provision of information under Article 7 of the 2000 MLA Convention with its 2001 Protocol (MLA Convention) might not be considered sufficient grounds for initiating an investigation due to different

evidential requirements in the receiving Member State, which may result in the inadmissibility of evidence at the trial stage.

Another recurring issue is delay in the execution of MLA requests, often due to different requirements regarding the level of detail contained in the request, resulting in delay until further information and clarification are received. Delay in the execution of MLA requests is exacerbated by simultaneous transmission of requests through different channels, poor translation, lack of centralised databases and lengthy execution procedures in certain Member States.

In some instances, Eurojust was able to assist in drafting MLA requests, identifying and transmitting the requests to the appropriate national authorities, and advising on evidential requirements in the requesting and requested countries.

**Conflict of jurisdiction case example.** In 2011, precious metals with a value exceeding GBP 1 million, consisting of 29 kg of gold and 160 kg of silver, were stolen from a truck in Belgium. The driver of the truck claimed to have been the victim of an armed robbery, during which the precious metals were stolen. The truck was travelling from Switzerland to the UK via Belgium. The driver was in fact a member of the OCG that had conspired to steal the cargo.

A conflict of jurisdiction issue arose, as three suspects were apprehended in Belgium and the remainder of the suspects were located in the UK. A coordination meeting at Eurojust resolved this issue. The Belgian and UK authorities were able to reach an agreement that all of the suspects would be prosecuted in the UK.

After the arrest of the suspects, a JIT agreement was signed, enabling the authorities in the UK and Belgium to easily share evidence and respond quickly to apprehend those suspects still at large. Close cooperation between UK prosecutors and police authorities, Belgian police and Eurojust ensured that those involved were brought to justice. In December 2012, six defendants were sentenced to a total of 23 ½ years' imprisonment.

A continuing problem with the issuance of EAWs is the refusal to surrender in cases where an executing authority considers the requested person to be unlikely to be granted a retrial when convicted *in absentia*.

Other problems that compromise the timely execution of EAWs include differences in crime definitions, requests for additional information, and translation issues. Eurojust assists by facilitating dialogue between issuing and executing Member States and providing advice to help clarify the crime definitions in the jurisdictions involved.

Other issues include limited feedback to Eurojust from national authorities concerning the outcome of the assistance requested and the final outcome of the case, leading to difficulties in the evaluation of the intervention of Eurojust or the functioning of a JIT.

Eurojust also assists in the coordination of coercive measures such as search warrants and arrest warrants, as well as in establishing direct contact between the national authorities involved in both bilateral and multilateral cases. Eurojust provides an open channel for communication and plays an important role as mediator by, *inter alia*, facilitating the prevention of conflicts of jurisdiction. Its rapid intervention can result in the immediate execution of MLA requests.

Eurojust facilitates case information exchange via coordination meetings and by funding and facilitating the setting up and running of JITs, which have been recognised as two very effective tools in complex cases.

## Coordination meetings

In 2012, Eurojust held coordination meetings related to 194 cases. This mechanism again proved valuable for national authorities in cases involving other Member States or third States. Coordination meetings are set up for a number of reasons, an important one being the exchange of information between the participating Member States. The advantage of early information exchange is that it allows Member States to initiate investigations, identify possible parallel proceedings in other Member States, exchange evidence, overcome language barriers, and build mutual trust.

A coordination meeting may also be convened to facilitate and/or coordinate the execution of LoRs, thereby simplifying, for example, the tracing and freezing of funds. Coordination meeting participants may seek assistance from a third State, coordinate ongoing investigations, or define a common strategy regarding

investigations in participating States. In some cases, the objective may be to agree upon a concrete division of work between the participating national authorities, or to reach a mutual understanding of which national authorities are in the best position to prosecute the crimes involved.

An important feature of coordination meetings, and one used frequently in 2012, is that they allow States to plan common action and to set up JITs. Furthermore, in addition to authorities from Member States, representatives of third States and EU bodies such as Europol and OLAF may also, where appropriate, participate in coordination meetings. During 2012, third States were represented at 49 coordination meetings, Europol at 85 and OLAF at five.

## Coordination centres

The coordination centre ensures real-time transmission and coordination of information between authorities during a common action day of arrests, house/company searches and witness interviews. In addition to facilitating coordination at judicial level with the execution of EAWs, LoRs and freezing orders, a coordination centre also facilitates on-the-spot decision-making and immediate responses by national judicial

authorities to new facts relayed by the coordination centre. Initiated in 2011 as a new tool in combating cross-border crime at EU level, coordination centres were further developed and utilised in 2012.

As in 2011, seven coordination centres were held at Eurojust by: France (3); Finland (1); Italy (1); the Netherlands (1); and the UK (1). They targeted the following crimes: illegal immigration (3); trafficking in human beings (1); drug trafficking (1); child pornography (1); and tax fraud linked with manure trading (1).

Three coordination centres were set up in cases where a JIT was already running. In the framework of the existing JIT, the coordination centre facilitated coordination among participating authorities from different Member States and allowed for the elimination of any information shortfall and enhanced coordination between the national authorities even where, by means of a JIT, coordination was already in place.

Cooperation with third parties such as Europol was enhanced. Europol participated in six out of seven coordination centres and supported the simultaneous actions by cross-matching, analysing and linking emerging data sent to the coordination centre. Switzerland and Interpol also participated actively in Eurojust coordination centres in 2012.

**Coordination centre case example.** The French authorities initiated a case at Eurojust concerning an Albanian OCG trafficking heroin and cocaine between the Netherlands, France and Albania. The OCG had contacts in Belgium and other countries on the route from France to Albania (Italy, Switzerland, Spain and possibly Greece). Requests for cross-border surveillance were sent and executed.

Eurojust hosted three coordination meetings to exchange information, to coordinate the execution of surveillance requests and to discuss possible *ne bis in idem* issues. As a result, a common action day was planned in the Netherlands, Belgium, France and Switzerland. These common efforts led the investigators to detect a future illicit drug transport from the Netherlands to France.

In March 2012, a coordination centre was held at Eurojust to ensure smooth information exchange during the action day, with analytical support provided by Europol. Individuals involved in the drug trafficking operation were arrested and the drugs seized. This day of common action triggered subsequent law enforcement actions, resulting in 17 arrests, several house searches in France and the Netherlands, and the seizure of 12 kg of heroin.

The Italian authorities, in close contact with the French and Dutch police, had been targeting the same OCG for approximately one year and launched an operation on Italian territory in May 2012. This operation resulted in the execution of 13 EAWs and the seizure of 15 kg of cocaine and 4 kg of heroin. The swift and flexible organisation of the OCG required intensive exchanges of information between the competent national authorities, particularly between the investigative bodies in the involved countries. This round-the-clock information exchange, over approximately two weeks, was facilitated by Eurojust.

## Articles 6 and 7 of the Eurojust Decision

Articles 6 and 7 of the Eurojust Decision allow National Members and the College to make casework recommendations to competent national authorities. These recommendations illustrate the continuous, daily dialogue between College Members and their national authorities on operational casework matters, and are often the result of information provided in an LoR or made available during a coordination meeting or informal discussions with national authorities. Coordination meetings are, indeed, one of the most frequently used tools.

These recommendations are generally informal. As a result, the figures noted below do not provide a complete overview of the recommendations made, as they merely refer to cases where an official audit trail of judicial decisions is required under the domestic law of a particular Member State.

During 2012, nine formal recommendations were recorded under Article 6 of the Eurojust Decision and all have been followed by the national authorities.

*Requests to undertake an investigation or prosecution of specific acts – Article 6(1)(a)(i)*

Two requests were issued under Article 6(1)(a)(i) by the Italian Desk.

*Requests to competent authorities to accept that one of them may be in a better position to undertake an investigation or prosecute specific acts – Article 6(1)(a)(ii)*

Two requests were issued on the basis of this provision by the Spanish Desk.

*Requests to competent authorities to coordinate between the competent authorities of the Member States concerned – Article 6(1)(a)(iii)*

One request was issued under Article 6(1)(a)(iii). The Spanish Desk requested a coordination meeting with the Belgian authorities to address an asset recovery-related matter in a case of organised crime and money laundering.

*Requests to provide any information that is necessary for the National Member to carry out their tasks – Article 6(1)(a)(v); and requests to take any other measure justified for the investigation or prosecution – Article 6(1)(a)(vii)*

Three requests were issued on the basis of Article 6(1)(a)(v) and (vii). The Spanish authorities were requested to facilitate the provision of information and other

investigative measures (hearing of suspects and victims) in a Belgian fraud and euro counterfeiting case.

*Requests to take special investigative measures – Article 6(1)(a)(vi)*

In a case involving fraud, forgery and money laundering, the Spanish authorities were requested to conduct house searches and to initiate investigations under Article 6(1)(a)(vi).

## Mutual Legal Assistance Conventions

Two of the most used tools for judicial cooperation within the European Union are the MLA Convention and the 1959 Council of Europe Convention on Mutual Assistance in Criminal Matters with its Protocols (1959 Convention). Their application is generally seen as positive and effective.

Difficulties arise from the fact that not all Member States have ratified the MLA Convention. However, this situation does not necessarily constitute an obstacle, for example, in the setting up of a JIT, if that Member State has implemented the Framework Decision on JITs, or for conducting a hearing by videoconference, which may also be done on the basis of the 1959 Convention or the principle of reciprocity and/or when its domestic legislation nevertheless allows for such measures.

Difficulties linked with the interception of telecommunications and cross-border surveillance, insufficient or inadequate use of the spontaneous exchange of information tool, and lack of an indication of time limits in urgent requests, are still encountered and perceived as areas for improvement.

Practical problems can arise where MLA requests do not meet the required level of detail in the executing state, leading to uncertainties and possible non-execution of requests. Further problems remain in relation to lack of or delay in feedback and information on the progress of the execution of MLA requests from the requested Member State. This situation is especially problematic in urgent cases if suspects are in custody, or if the use of other channels may not lead to results within the tight timeframe provided. Eurojust has been called upon by national authorities to facilitate informal contact in such cases, often speeding up the process significantly. A practical recommendation to national prosecutors is the indication in urgent LoRs of domestic time limits and the desired time for execution of the request.



## Issues regarding gathering and admissibility of evidence

As was also observed in 2011, different rules on the gathering, admissibility and disclosure of evidence continue to pose difficulties in efficiently fighting serious cross-border crime. Differences in rules on data retention, especially in cases related to cybercrime and other crimes in which suspects use telecommunications to interact with each other, have caused an increasing number of problems. In such cases, time is of the essence, especially in Member States in which the time allotted for data retention is very limited.

Domestic legislation on obtaining evidence varies. This situation, which requires knowledge of the legal systems concerned, makes the assistance of Eurojust particularly valuable. In a case involving a Slovenian national, defence counsel argued that the evidence gathered during an international operation in Germany for the identification of the perpetrator did not conform to German legislation and was therefore inadmissible in the Slovenian court. Eurojust successfully assisted the Slovenian judicial authorities in obtaining information on the applicable criminal procedural provisions in Germany. Direct exchange of information and discussion of the different legal systems in coordination meetings often prevent difficulties and contribute to the resolution of problems related to the gathering and admissibility of evidence, including in JITs.

Making national rules on the gathering and admissibility of evidence available to other Member States has contributed to knowledge-sharing and prevented obstacles. Eurojust can serve as a centre of expertise for best practice in this area.

When setting up JITs, another best practice developed at Eurojust has been the inclusion of provisions on admissibility of evidence and disclosure obligations in the JIT agreement, helping to prevent problems at a later stage.

The future adoption of a Directive on the EIO could potentially facilitate the resolution of difficulties identified in this field.

## Prevention and resolution of conflicts of jurisdiction

Eurojust makes limited formal use of its recommendation powers to prevent and resolve positive or negative conflicts of jurisdiction. Frequently, situations

**Conflict of jurisdiction case example.** An OCG based in Bulgaria and Spain forced victims chiefly of Bulgarian nationality into prostitution in Spain. The branch of the OCG in Bulgaria recruited victims from vulnerable communities by offering work opportunities abroad. The victims were transported to Spain and their passports were held. The OCG branch in Spain forced the victims to engage in prostitution in Spain by using threats and physical violence.

The investigation began after one of the victims escaped and reached the Bulgarian Embassy in Madrid, which immediately contacted the Spanish authorities. They started an investigation that eventually dismantled the group in Spain. Judicial authorities in both countries were running criminal proceedings against this group, and as both jurisdictions were submitting requests for MLA, the Spanish Desk registered a case at Eurojust to obtain assistance with the coordination of these activities.

Eurojust hosted a coordination meeting in which both delegations were able to directly discuss the state of play of their investigations. At the meeting, they reached an agreement on several important aspects. First, both jurisdictions ensured swift execution of the pending requests. Second, a possible *ne bis in idem* situation was prevented by delineating the national proceedings. Bulgaria focused on prosecution of money laundering activities, which Spain supported by providing evidence concerning the organised nature of the group under investigation. Spain focused on prosecuting the trafficking and sexual exploitation charges, for which Bulgaria interviewed witnesses residing in its territory. Bulgaria also activated a witness protection programme for the family of one victim in Spain.

Eurojust's involvement significantly assisted in establishing solid ground for further development of the national prosecutions.

occur in which two or more Member States, in accordance with their domestic law, have jurisdiction over a case; the vast majority of cases are resolved with the

assistance of Eurojust and without the registration of a formal request to the concerned Member States. In this respect, coordination meetings have been recognised as a very useful tool, allowing for early discussion and agreement between the competent authorities involved in parallel investigations. Lack of information has been identified, on occasion, as an obstacle to the prevention of conflicts of jurisdiction. Clarification of the scope of interrelated investigations and early preparation and analysis in advance of coordination meetings are considered best practice.

Eurojust plays a predominantly preventive role by encouraging an early and informal exchange of views. A comprehensive introduction on this subject is contained in *Guidelines for deciding "Which jurisdiction should prosecute?"*, found in the Eurojust Annual Report 2003.

Eurojust has also been involved in cases of negative conflicts of jurisdiction, in which no Member State considered itself to be in the best position to investigate and/or prosecute. In July 2012, the College adopted the *Guidelines for the Application of Article 7(2) and (3) of the Eurojust Decision*, which describe the internal administrative procedure on the resolution of conflicts of jurisdiction and recurring refusals or difficulties concerning the execution of requests for judicial cooperation, including instruments giving effect to the principle of mutual recognition.

## Transfer of criminal proceedings

Most Member States continue to use the 1972 European Convention on the Transfer of Proceedings in Criminal Matters or the 1959 Convention (Article 21) in conjunction with Article 6(1) last paragraph of the MLA Convention. Some Member States also use the United Nations Convention against Transnational Organised Crime (Article 21). The use of these different legal instruments can create difficulties that trigger the national authorities to call upon Eurojust.

Eurojust has been able to assist in these cases by facilitating informal contact between Member States and informally examining the likelihood of the transfer in advance of an official request. Occasionally, the transfer of proceedings is agreed at a coordination meeting as part of an agreement regarding jurisdiction to prosecute, with the actual transfer achieved by the issuance and execution of EAWs and LoRs, if needed.

The reasons for difficulties in transferring criminal proceedings vary. Among other factors, the evidence gathered must be admissible in the court of the

requested Member State (see *Issues regarding gathering and admissibility of evidence* above), and a clear interest on the part of the requested Member State to accept the transfer of the proceedings must be demonstrated. If the transfer is requested by the Member State that wishes to be the recipient, i.e. that wishes to prosecute, difficulties sometimes arise if a risk exists that the transfer may compromise a linked ongoing investigation in the requested Member State.

Difficulties also arise as a result of different substantive and procedural rules. The entire file must be translated before the decision can be taken by the national authorities, and National Desks at Eurojust can only provide a preliminary assessment based on a case summary provided beforehand.

## Exchange of criminal records

No major difficulties have been encountered by Eurojust in the exchange of criminal records, and when difficulties were encountered, they tended to be of a practical nature.

In Member States in which the European Criminal Records Information System (ECRIS) is not yet operating, requests for the exchange of criminal records are sometimes facilitated by use of the MLA Conventions. Difficulties can arise if National Desks do not have access to criminal records or the records are held by different national authorities (e.g. police and judicial authorities) and no centralised database of criminal records exists. In urgent cases, Eurojust has been able to facilitate the obtaining of criminal records.

Different definitions of crimes in the Member States have created occasional difficulties, leading to uncertainty as to the actual offence. Associated issues include the amount of information contained in the criminal record, which some Member States deem insufficient under their domestic legislation, resulting in delays while the request for additional information is dealt with.

In some cases, when criminal records are received, reference is made to a legal provision without a description of the criminal offence. In these cases, the requesting Member State often requires Eurojust's assistance in obtaining the relevant legislation to clarify this issue.

Complications and delays arise when judges in certain Member States require a copy of the full original judgement and its translation, and an LoR will often need to be issued to obtain a copy of the judgement,

as the extract from the criminal record is insufficient (for sentencing purposes).

Further difficulties can arise in cases in which a person prosecuted in one Member State argues that he was previously convicted in another Member State for the same offence. The Member State may be unable to confirm this allegation as a result of differing national standards for ascertaining the identity of a person, resulting in inaccurate recording of his personal details.

## European Arrest Warrants

In 2012, 259 cases concerning the execution of EAWs were registered at Eurojust, amounting to 16.8% of all cases registered at Eurojust. The vast majority (252) related to the facilitation of the execution of EAWs. Following the trend of previous years, the Polish Desk made the greatest number of requests, followed by the Belgian and Swedish Desks. The Spanish Desk received the greatest number of requests, followed by the German and Polish Desks.

The College also dealt with two more general issues related to the application of the EAW. The first issue concerned the gathering of information on whether an authority in the Member State that does not have the power to issue domestic warrants has the authority to issue EAWs, and on whether the authorities/courts of the Member State have refused to execute an EAW because the authority that issued it does not have the power to issue domestic arrest warrants. The second issue considered was whether, since the

introduction of the EAW scheme, any Member State has refused to surrender on the basis that the Ministry of Justice of the issuing state is not considered to be a “judicial authority” pursuant to Article 6(1) of Framework Decision 2002/584/JHA on the European Arrest Warrant (Framework Decision on the EAW) by the authorities of the executing Member State.

### *Cases concerning multiple EAW requests*

Under Article 16(2) of the Framework Decision on the EAW, the executing judicial authority may seek the advice of Eurojust when deciding which of the EAWs issued by two or more Member States for the same person shall be executed. The number of times in which Eurojust was formally asked to provide advice increased to six cases in 2012 compared to four in 2011. Eurojust’s expertise in this field, whether through negotiation or direct contact with the concerned authorities, is regularly sought and provided at coordination meetings.

In all six cases referred to above, Eurojust assisted in securing a consensus between the Member States involved on the question of which EAW should be given priority, including, when at stake, arrangements for subsequent or temporary surrender of the sought person. In all six cases, Eurojust’s advice was followed; Eurojust’s *Guidelines for internal proceedings on the provision of Eurojust’s opinion in case of competing European Arrest Warrants*, adopted in June 2011, were applied. In one case, an agreement on the priority to be given was reached at a coordination meeting and the domestic court deciding on the

***EAW case example.*** While dealing with the execution of three Greek EAWs concerning a Swedish national, Belgian authorities received a new EAW issued by the Cyprus authorities related to the same person. With the new request, the authorities were forced to suspend the execution of the Greek EAWs (already allowed by the Belgian Court of Appeal).

The Belgian Federal Prosecutor requested Eurojust’s advice on the Member State to which the individual should be surrendered. The Belgian Desk consulted both the Greek and Cyprus Desks to gain information on the legal possibilities, such as the option to transfer the person to the other Member State during the investigation, prosecution or execution of sentences. The Belgian Desk also consulted the participating Member States on the opinions of the involved home authorities.

Taking into account the information received, the Belgian Desk advised surrendering the individual to Greece. The Belgian authorities agreed with the advice. After the acceptance of a supplementary fourth Greek EAW, the individual concerned was surrendered to Greece, which in turn ensured the execution of the Cyprus EAW. With the assistance of Eurojust, the three Member States involved were able to coordinate the execution of the requests in a swift and efficient manner.

matter followed Eurojust's advice and quoted, in its judgement, the agreement reached at Eurojust during the coordination meeting.

### *Cases concerning breach of time limits*

Where, in exceptional circumstances, a Member State cannot observe the time limits provided for in Article 17 of the Framework Decision on the EAW, it shall inform Eurojust, giving the reasons for the delay. In 2012, 94 breaches of time limits were registered at Eurojust. Two of these cases required further action. As in previous years, Ireland reported the largest number of breaches. Other cases were referred by Czech Republic, Bulgaria, Slovenia and Spain. As noted in previous years, EU statistics indicate that more breaches occur than are registered by Eurojust.

One case, concerning the interpretation of Article 28(2) of the Framework Decision on the EAW, gave rise to a decision by the Court of Justice of the European Union of 28 June 2012 (C-192/12). The Finnish prosecutor dealing with the EAW proceedings requested information from the UK, through Eurojust, on how to speed up the procedure in the event that consent from the UK would be required for the surrender of the requested person from Finland to France. The purpose of Eurojust's involvement was to prevent a possible breach by Finland of the time limits under Article 17 of the Framework Decision on the EAW. Eurojust was able to provide the necessary assistance in a timely manner.

The main reasons for delay in the execution of EAWs were: the length of appeal proceedings, requests for additional information, the absconding of requested persons while on bail, and the large number of EAWs.

### *Issues identified in the practical application of the EAW*

Eurojust continued to play a significant role in facilitating transmission of information, in clarifying legal requirements of both issuing and executing authorities, and generally in speeding up the execution of EAWs. In urgent cases, Eurojust's assistance has proved particularly important. In one such case, assistance was swiftly provided in the margins of a College plenary meeting, and in another, Eurojust was able to provide advice and guidance through OCC, leading to a timely surrender.

On 16 October 2012, the Nordic Arrest Warrant surrender procedures between the Nordic countries (Denmark, Finland, Iceland, Norway and Sweden) entered into force, meaning that the Nordic Arrest Warrant, rather than the Framework Decision on the EAW, will

be used in surrender procedures between Finland, Denmark and Sweden. No experiences have been reported to Eurojust.

Practitioners still face practical and legal issues in the execution of EAWs. The following have been identified by Eurojust in its casework:

- ▶ Poor quality of the translation of the EAW.
- ▶ Delay as a result of insufficient or inadequate information in the EAW with regard to: (i) the description of the facts, including the nexus required to show the connection between the sought person and the criminal offence; (ii) the criminal offences; (iii) the sentence imposed or foreseen for all or some of the offences; or (iv) the aggregation of sentences into a final sentence after the execution of the EAW issued for the execution of several sentences.
- ▶ Slow communication between competent authorities.
- ▶ Delay linked to transit authorisation procedures, as Member States have different procedural rules and time limits in these procedures.
- ▶ Cases in which the original or a certified copy of the translated EAW is requested through Eurojust on very short notice before the EAW hearing.
- ▶ Delay in cases where guarantees linked with the surrender of own nationals are required and the authority competent to issue the guarantees (Ministry of Justice) is different from the authority (Public Prosecution Office) competent to issue the EAW and provide additional information in relation thereto.
- ▶ Delay in the provision by the executing judicial authorities of the information under Article 26(2) of the Framework Decision on the EAW, which entails a risk that the requested person is detained beyond the limits foreseen in the applicable legislation of the issuing Member State.
- ▶ Legal issues linked to whether a Ministry of Justice is considered a judicial authority pursuant to Article 6(1) of the Framework Decision on the EAW, and thus competent to issue EAWs.
- ▶ Proportionality issues in the executing Member State, linked with mandatory prosecution in the issuing Member State, giving rise to excessive issuance of EAWs, with increased difficulties in cases in which the dual criminality requirement is not met (Article 2(2) of the Framework Decision on the EAW).



- ▶ Costs incurred with surrenders.
- ▶ Delay in receiving consent to prosecute for additional offences (speciality rule, Article 27 of the Framework Decision on the EAW).
- ▶ Different approaches to sentences *in absentia* and the right to a retrial, as not all Member States have implemented Council Framework Decision 2009/299/JHA amending the Framework Decision on the EAW on the right to retrial, resulting in possible refusal of execution of an EAW.
- ▶ Use of different channels to transmit the EAW (Supplementary Information Request at the National Entry (SIRENE), Interpol, Liaison Magistrates, European Judicial Network (EJN) and Eurojust), without information that the EAW is being sent via a particular channel.
- ▶ Cases in which the person whose surrender had been ordered has been released on bail but failed to appear as directed.
- ▶ Multiple EAWs, issued by different judicial authorities in the same Member State, create uncertainty as to which EAW forms the basis of the surrender.

## Freezing orders

Although transposed in most Member States, Council Framework Decision 2003/577/JHA on the execution in the European Union of orders freezing property or evidence (the 2003 Framework Decision) is still not widely used. As a consequence, judicial authorities that use the freezing order and recognise, *inter alia*, the added value of the tight deadlines provided therein are at times confronted with counterparts in other Member States that are not familiar with this instrument or are unable to use it. The latter rely instead on traditional LoRs in accordance with the 1959 and MLA Conventions, as well as the 1990 Council of Europe Convention on laundering, search, seizure and confiscation of the proceeds of crime, which can include requests for identification, freezing and confiscation of assets.

Eurojust's casework in 2012 shows that this situation appears to persist as a result of: (i) the limited scope of the 2003 Framework Decision (it does not allow for identification, freezing and confiscation in one request); (ii) the difficulty in using a freezing order when the evidence to be frozen, unknown to the issuing authorities at the time of the drafting of the request, comes to light at a later stage in the

investigation; and (iii) a general perception that the 2003 Framework Decision involves additional cumbersome formalities.

On occasion, the specific internal jurisdictional division of some Member States brings additional difficulties in cases in which freezing orders relate to assets located in different internal jurisdictions.

Difficulties occasionally also arise from the absence of a national central register/database of ongoing proceedings in cases of separate and unconnected freezing orders with respect to the same assets.

The absence of uniform implementation and use of the 2003 Framework Decision exacerbates a situation in which freezing (and confiscation) of assets is still not often contemplated by all Member States at an early stage of investigation or prosecution of serious cross-border crime. Eurojust's relatively small number of requests for facilitation of execution of freezing orders is a reflection of this situation.

Eurojust's casework has identified as best practice: (i) the inclusion, within the initial request for freezing, of a request for early sale of frozen assets (when they are perishable, lose value with the passage of time or involve high management costs) in advance of confiscation; (ii) early consideration of administration of funds pending a final decision; and (iii) reminding national authorities of their reporting obligations under the 2003 Framework Decision. In one case, Eurojust's assistance secured the execution of freezing orders in one Member State on the same day that a number of arrests and searches were conducted in another Member State.

In 2012, the College dealt with a general issue linked to freezing orders, namely the gathering of information on national legislation regarding the possibility of seizure of property to be used in civil proceedings and whether the 2003 Framework Decision would be applicable. Eurojust also participated in the recent discussions of the Asset Recovery Offices (ARO) Platform through its ARO Contact Point, and as an observer in the fifth round of mutual evaluations on financial crime and financial investigations.

## Confiscation and asset recovery

Framework Decision 2006/783/JHA on the application of the principle of mutual recognition to confiscation orders and Framework Decision 2005/212/JHA on confiscation of crime-related proceeds,

instrumentalities and property have not been fully implemented by all Member States, thereby rendering uncertain the common grounds for confiscation and recognition of confiscation orders. Legislation in the field of confiscation still differs significantly from Member State to Member State, as do specific concepts such as extended confiscation, non-conviction-based confiscation, and value-based confiscation.

Eurojust's confiscation and asset recovery casework remains limited and demonstrates that lengthy procedures persist. Eurojust's role in such cases is mainly one of facilitation and mediation. Eurojust assists in the clarification of legal requirements in the different jurisdictions and facilitates the transmission of requests. Several successful cases in 2012 have shown Eurojust's assistance to be crucial. In one case, solely due to the receipt of information provided via Eurojust, one Member State secured two convictions. Its tax authorities were able to recover EUR 295 500, and the convicted persons were ordered to pay a total of approximately EUR 900 000 to the tax authorities. In another case, as a result of Eurojust's assistance, ten luxury apartments were confiscated in one Member State.

With regard to the specific matter of management of frozen assets, Eurojust facilitated the exchange of expert opinions from tax authorities in two Member States in a case involving EUR 110 000 in frozen assets. In a non-conviction-based confiscation case, a confiscation order in the amount of EUR 580 000 was made following Eurojust's assistance.

Recurring difficulties arise in relation to the nexus required to show that the assets belong to the suspect (except in extended confiscation cases, in which the burden of proof is lower), and the excessive length of proceedings concerning the sale of confiscated assets, aggravated by the participation of administrative authorities and perceived unnecessary bureaucracy. Eurojust's casework shows that the consent of the suspect (in jurisdictions where the possibility of plea bargaining is foreseen) and the early sale of certain types of frozen assets in advance of confiscation can speed up the confiscation process.

The proposal for a Directive of the European Parliament and of the Council on the freezing and confiscation of proceeds of crime in the European Union, currently under discussion, seeks to harmonise definitions of certain serious crime areas and also seeks to partially replace the 2005 Framework Decision on confiscation of crime-related proceeds, instrumentalities and property. Eurojust's Opinion on this draft instrument was submitted to the Committee on Civil Liberties, Justice and Home Affairs (LIBE Committee) of the European Parliament in 2012 (*see also* section 2.1). Eurojust also continued to provide support via the Camden Asset Recovery Inter-Agency Network (CARIN), in which it participates as an observer.

## Controlled deliveries

Controlled deliveries are considered a useful investigative tool, particularly in drug trafficking cases. The Eurojust Decision foresees that National Members may be granted the power to authorise and coordinate controlled deliveries. To date, that power has been granted only to a limited number of National Members.

In 2012, Eurojust continued to assist in identifying the competent authority and/or in solving difficulties linked to delays, obtaining authorisations, translating LoRs, overcoming procedural difficulties or through coordination meetings facilitating the setting up of such investigative tools in complex cases. Eurojust has also been of assistance in the prevention of the *ne bis in idem* issue and, generally, in urgent cases.

Difficulties have been encountered as a result of: (i) disparities in substantive and procedural requirements for authorising controlled deliveries; (ii) time pressure for the setting up and carrying out of controlled deliveries; and (iii) identification of the competent national authority for judicial authorisation of controlled deliveries, exacerbated in cases where the transit through Member States other than those directly involved in the case also requires authorisation. The authorisation for controlled deliveries, as a specific investigative tool, is, in some Member States, made at judicial level, while in others it lies within the competence of the police.

## 1.3 Eurojust's activities in crime priority areas

### Terrorism

*Membership in a terrorist organisation was the crime most frequently referred to in Eurojust terrorism cases.*

*The cases referred to Eurojust in 2012 did not appear to be linked to any single crime category, but showed a large variety in their crime type, including crimes against life, limb or personal freedom.*



| Crime statistics                | 2012 | 2011 |
|---------------------------------|------|------|
| Number of cases registered      | 32   | 27   |
| Number of coordination meetings | 3    | 1    |

On the basis of the input and recommendations of Eurojust's national correspondents for terrorism matters, Eurojust developed the concept and contents of its Terrorism Convictions Monitor (TCM), providing an overview of terrorism-related judicial developments in Member States as well as judicial analysis of selected cases.

Special attention was given to certain aspects of analysis and additional focus areas are envisaged for future issues of the report. The TCM is based on information shared with Eurojust resulting from the implementation of Council Decision 2005/671/JHA of 20 September 2005, as well as open sources. Three issues of the TCM were published in 2012.

Eurojust contributed to Europol's TE-SAT Report, providing quantitative and qualitative analysis of terrorism-related court decisions and an overview of the amendments of terrorism-related legislation in the Member States.

In the framework of the World Justice Project, an independent initiative focused on strengthening the rule of law worldwide, Eurojust prepared an article, *Strengthening Inter-State Cooperation – the Eurojust Experience*, which was published in *Counter-Terrorism: International Law and Practice* in January 2012. The article provides recommendations on how judicial cooperation should be conducted to ensure national and regional security imperatives while respecting the rule of law.

On 20 June, Eurojust held its annual strategic meeting on terrorism. The meeting focused on the phenomenon of the lone individual involved in terrorism ("lone wolf") and social networks in a terrorism context. The results of a questionnaire on this topic were shared and relevant case examples from several Member States and Norway were discussed and presented by practitioners.

On 11 and 12 December, a practitioners' workshop, co-organised by Eurojust and Europol, reunited counter-terrorism specialists from India and the European Union. The objective of the workshop was to promote judicial cooperation by defining common interests and reflecting on standards of cooperation. A full day was dedicated to judicial cooperation matters and common counter-terrorism cases. In an attempt

***Terrorism case example.*** In a combined bombing and mass shooting in Norway on 22 July 2011, a lone individual caused the death of 77 people. Investigations were launched into the first major terrorist attack in Europe perpetrated by a single individual and the fourth largest terrorist attack in Europe since World War II.

Eurojust provided valuable assistance with several aspects of this case during the investigation and trial phases. With the involvement of the Norwegian Liaison Prosecutor at Eurojust and the Latvian and UK National Desks, banking information was swiftly obtained from Latvia and Antigua and Barbuda. The Polish National Desk made enquiries regarding an LoR to hear a witness. The Spanish and the UK National Desks willingly shared their expertise in handling such a large terrorism case. Direct contact between the French Desk and the Norwegian Liaison Prosecutor contributed to the effective execution of two LoRs to France regarding the identification, location and hearing of a witness. The Liaison Prosecutor for the USA provided assistance in the execution of an urgent request for a hearing of a witness by videoconference in the USA during the trial proceedings.

The assistance provided by Eurojust was a valuable component of the international cooperation in this case. The assistance consisted of continuous facilitation of MLA requests and allowed direct personal contact between Member States and third States through National Desks and Liaison Prosecutors at Eurojust. The efforts of Eurojust contributed to efficient, effective and time-saving judicial cooperation between competent national authorities.

Court hearings were held in Norway from April to June 2012. On 24 August 2012, the accused was found guilty and sentenced to the maximum prison sentence in Norway, preventive detention for 21 years, with a minimum sentence of 10 years.

to collect pertinent judicial information prior to the debates, Eurojust had disseminated a questionnaire on these matters to the counter-terrorism authorities in the Member States.

## Drug trafficking

| Crime statistics                | 2012 | 2011 |
|---------------------------------|------|------|
| Number of cases registered      | 263  | 242  |
| Number of coordination meetings | 59   | 50   |
| Number of JITs                  | 13   | 7    |

*Analysis of the crime type confirms that criminal organisation and money laundering are very often linked to drug trafficking cases referred to Eurojust. The Member States most heavily involved in this crime type by requesting judicial cooperation at Eurojust were*

*Sweden, France and Italy, while the Netherlands, Spain and Belgium were the most requested.*

In January, Eurojust published the final report on its strategic project, *Enhancing the work of Eurojust in drug trafficking cases*, highlighting the complexity of the activities required to coordinate the investigation of high-level drug trafficking cases. Preliminary findings of this project were discussed during a strategic seminar in Krakow in October 2011. The final report touches upon the various difficulties encountered in the exchange of information and coordination, conflicts of jurisdiction, execution of MLA requests and EAWs, JITs, controlled deliveries, asset recovery and relations with third States.

Key recommendations for actions in the fight against drug trafficking resulting from the report were presented to the EU's Standing Committee on Operational Cooperation on Internal Security (COSI) in June. On the basis of this analysis, Eurojust formulated an Action

**Drug trafficking case example.** Several drug trafficking distribution networks in Austria, Germany, Belgium and the Netherlands had been set up by an OCG from the former Yugoslav Republic of Macedonia. Large transports of heroin were organised from the former Yugoslav Republic of Macedonia to Belgium and the Netherlands. Once the drugs reached western Europe, the heroin was distributed to Frankfurt and Vienna in quantities of up to 5 kg. Possible links appeared to exist with the UK, Sweden, Denmark, France and Switzerland. Thanks to police cooperation between Austria and Germany and intensive investigations, large quantities of heroin were seized in both countries. While several low-level members of the OCG were arrested, they were replaced within 2-3 days. To step up the common efforts in fighting the OCG, the parties agreed that Eurojust should coordinate the investigations in the Member States, and promote the initiation of investigations and prosecutions in the former Yugoslav Republic of Macedonia.

At the onset of Eurojust's involvement in the investigations, neither the Netherlands nor the former Yugoslav Republic of Macedonia had opened national criminal proceedings. As the former Yugoslav Republic of Macedonia does not allow extradition of its own nationals, and since most of the suspects were residing there, Eurojust held two coordination meetings to encourage their involvement and to speed up the investigations. As a result of the first coordination meeting held at Eurojust, the former Yugoslav Republic of Macedonia initiated criminal proceedings. Coordinated investigations resulted in the arrest and conviction of the main suspects and several other perpetrators.

The OCG subsequently rebuilt its network and a third coordination meeting was held at Eurojust to discuss how to foster cooperation. Several legal problems, caused by differences in the legal systems of the involved countries, posed an obstacle to disclosure of information and full involvement of the potential partners. This third coordination meeting provided a forum for an in-depth debate on how to overcome any legal issues and to identify potential solutions combining the use of several judicial instruments. After consultation and agreement at national level on the proposed measures to be adopted, a fourth coordination meeting at Eurojust resulted in the setting up of a JIT between Austria, Germany, the Netherlands and the former Yugoslav Republic of Macedonia that is currently active. The JIT received financial support through Eurojust's JIT Funding Project.

Plan 2012 - 2013, with recommendations to improve its casework in cooperation with national authorities.

In the context of the European Multidisciplinary Platform Against Crime Threats (EMPACT), Eurojust participated, among others, in four projects related to drug trafficking with special focus on synthetic drugs, trafficking by West African organised crime groups, trafficking through the Western Balkans, and trafficking in container shipments.

Eurojust representatives contributed to a preparatory study for an impact assessment on a new legislative instrument replacing Council Framework Decision 2004/757/JHA on illicit drug trafficking.

Eurojust was represented at the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) *Second European conference on drug supply indicators* that took place in Lisbon in November. Formal negotiations for a Memorandum of Understanding between Eurojust and the EMCDDA were initiated at the end of 2012.

In the context of cooperation with Latin American countries, Eurojust attended the Euro-Latin American Parliamentary Assembly's high-level seminar in Mexico in February on the *Fight Against Drug Trafficking and Organised Crime in Europe and Latin America*. In addition, cooperation with the Network of Prosecutors against Organized Crime in Central America (REFCO), an initiative of the United Nations Office on Drugs and Crime (UNODC), was explored. Cooperation with the Ibero-American Network of International Legal Cooperation (IberRed) was fruitful.

## Trafficking in human beings

| Crime statistics                | 2012 | 2011 |
|---------------------------------|------|------|
| Number of cases registered      | 60   | 79   |
| Number of coordination meetings | 20   | 24   |
| Number of JITs                  | 6    | 6    |

*Analysis of the crime type shows that approximately half of the cases dealt with THB as a stand-alone offence. Membership in a criminal organisation was frequently involved in THB cases referred to Eurojust, followed by illegal immigration. The Member States most heavily involved in this crime type by initiating cases at Eurojust are Germany and the UK, followed by Bulgaria and Spain; the Member States most requested for cooperation in this field are Romania, Bulgaria and the Netherlands.*

**THB case example.** France initiated a case of trafficking in human beings involving the sexual exploitation of Bulgarian nationals. Members of an OCG recruited victims in Bulgaria for forced prostitution in several European countries. The French authorities requested the support of Eurojust to identify possible parallel proceedings in Belgium and to facilitate the setting up of a JIT. Following a coordination meeting at Eurojust, the Belgian authorities started a preliminary investigation targeting two suspects appearing in the French proceedings.

A JIT was set up involving France, Bulgaria, Eurojust and Europol to facilitate the exchange of information and evidence. The JIT received financial support through Eurojust's JIT Funding Project. The investigations focused both on the human trafficking part of the criminal activity and the financial flows resulting from it. In this regard, Eurojust's analysis of financial transactions through Western Union remittances was particularly helpful in identifying the illicit profits sent from France to the main suspects residing in Bulgaria.

After thorough investigation by the JIT, France initiated a common action day. Due to the high level of mobility of the OCG, Belgian and Polish authorities also participated in the action day. A coordination centre was set up at Eurojust with the participation of the Eurojust National Desks involved, the Case Analysis Unit and Europol, ensuring real-time decision-making and information exchange. The coordination centre also facilitated the issuance of four EAWs during the action day and provided analysis and cross-checking of information, which identified links with other investigations in the European Union. Documentary evidence and mobile telephones were seized in 13 searches, six EAWs were executed and nine people were arrested.

The 2011 Joint Statement of JHA Agencies strove to address THB in a coordinated, coherent and comprehensive manner and resulted in Eurojust's commitment to increase its efforts to assist Member States, in cooperation with other agencies, in THB

investigations and prosecutions, and in coordinating cross-border action.

As a follow-up to this Joint Statement and in line with the EU Strategy towards the Eradication of THB 2012 - 2016, Eurojust initiated a strategic project, *Eurojust's Action against Trafficking in Human Beings*, to strengthen and improve cooperation between national judicial authorities in the fight against THB; improve the efficient use of the existing legal instruments; intensify efforts in prosecuting these crimes at national level; and enhance the involvement of Eurojust in THB cases. The project was based on (i) analysis of the replies to a questionnaire sent to all Member States, Croatia and Norway; (ii) analysis of specific Eurojust cases on THB in the period 1 January 2008 - 31 December 2011; and (iii) conclusions reached as a result of a strategic meeting on THB held at Eurojust in April 2012. The outcomes were used to produce a *Final Report and Action Plan for 2012 – 2016*, presented at the European Anti-Trafficking Day in Brussels on 18 October 2012.

Eurojust supported training initiatives organised by Frontex and the European Police College (CEPOL) by providing experience and expertise. Eurojust established contacts with the UN Informal Group on Trafficking in Persons and with the Trafficking in Persons Platform established by the International Association of Prosecutors (IAP).

Eurojust participated in the EMPACT project targeting THB, and has also participated in the project *The introduction of the requirements for establishing JITs to fight THB in South Eastern Europe*, led by Bulgaria and Slovenia, with a focus on both judicial cooperation and coordination, as well as on the protection of victims.

Fraud

| Crime statistics  | 2012 | 2011 |
|---|------|------|
| Number of cases registered *  | 382  | 218  |
| * Total figures for 2012 cannot be compared with previous years – see explanation below |      |      |
| Number of coordination meetings   | 33   | 58   |
| Number of JITs  | 11   | 4    |

*Swindling (86 cases) and VAT fraud (58 cases) figured most prominently in 2012. Analysis of the crime type shows that the majority of cases (256) dealt with fraud as a stand-alone offence. However, organised crime, forgery of documents and money laundering were the*

*crimes most often connected to fraud in cases where it was not a stand-alone crime. The Member States most active in initiating cases of this crime type were Austria, Czech Republic and Hungary; those most frequently requested were the UK, Spain and Germany.*

\* In 2012, Eurojust applied new criteria to the statistical classification of Eurojust cases by crime type. These changes explain the apparent increase in fraud cases.

Eurojust participated in an expert meeting organised by Europol within the framework of Europol’s Missing Trader Intra-Community (MTIC) fraud Focal Point.

**Fraud case example.** Judicial authorities in Sweden asked the Swedish Desk at Eurojust to set up a coordination meeting to discuss a number of legal obstacles concerning investigation into an advanced case of “boiler room” fraud, known as “high-yield investment fraud”. The case had links to Finland, Iceland, Cyprus and the UK. In Sweden, 19 victims, who had been defrauded of a total of EUR 800 000, were identified.

The coordination meeting held at Eurojust had the following objectives: to exchange information on evidence and intelligence gathered in the countries involved, to establish which country was in the best position to prosecute the case, and to decide on the possibility of prolonging the bilateral JIT agreement between Sweden and Finland.

Following the coordination meeting, the bilateral JIT agreement between Sweden and Finland was prolonged and extended to the UK, Cyprus and Iceland. Eurojust facilitated the process of amending the JIT agreement and provided the necessary EU funding through the JIT Funding Project. At the coordination meeting, all countries agreed that Sweden would take the lead in investigating and prosecuting this fraud case, thus avoiding a conflict of jurisdiction.

Corruption

*The majority of cases were linked to money laundering and fraud.*



| Crime statistics                | 2012 | 2011 |
|---------------------------------|------|------|
| Number of cases registered      | 30   | 26   |
| Number of coordination meetings | 7    | 19   |
| Number of JITs                  | 3    | 1    |

Several cases have been handled by Eurojust concerning public procurement involving EU funds or tender procedures.

Eurojust participated in an expert review panel that looked at the findings of the Commission-funded study, *Development of an EU Evaluation Mechanism in the area of Anti-Corruption with a particular focus on*

**Corruption case example.** The representatives of a Finnish company producing armoured vehicles were suspected of having paid bribes to Croatian government officials and decision-makers. The Finnish authorities had opened an investigation on suspicion of aggravated bribery, after having discovered that the financial transactions related to this deal were similar to another deal between the same company and the Slovenian authorities. An Austrian company acted as agent in the transactions between the two parties, receiving payments from the vehicle producer. The Finnish authorities had reason to believe that the bribery offence was committed as an advance payment related to the deal.

A JIT was set up with the support of Eurojust. The JIT allowed the competent Finnish, Austrian and Croatian authorities to jointly carry out effective pre-trial investigations. Within the framework of the JIT, the national authorities were also able to conduct the necessary interviews, use coercive means and take other required investigative actions. Eurojust hosted two coordination meetings, enabling the participants in the JIT to agree on the drafting of an operational plan to be signed by all JIT parties. The support of Eurojust proved to be important in enabling the parties to the investigations to cooperate effectively and to achieve mutual trust. In 2012, Eurojust continued to facilitate the work of the national authorities in this case.

*identifying and reducing the cost of corruption in Public Procurement involving EU Funds.* Eurojust provided its expertise in the area of investigation and prosecution.

Eurojust participated in the *Euronews* television broadcast debate on corruption in September 2012. On this occasion, the role of Eurojust in fighting corruption was emphasized, as were concrete proposals to address problems faced by prosecutors in the investigation and prosecution of corruption. These problems and Eurojust's proposals had been discussed by the Consultative Forum of Prosecutors General and Directors of Public Prosecutions of the Member States of the European Union during a debate held at Eurojust after the EU anti-corruption package was adopted in 2011. The key message conveyed was that Eurojust is actively committed to the fight against corruption and that the future development of Eurojust, in light of the TFEU, is designed to increase its efficiency and effectiveness.

## Cybercrime

| Crime statistics                | 2012 | 2011 |
|---------------------------------|------|------|
| Number of cases registered      | 42   | 24   |
| Number of coordination meetings | 5    | 10   |
| Number of JITs                  | 2    | 2    |

*Analysis of the crime type confirms that organised crime, fraud and money laundering were often linked with cybercrime cases referred to Eurojust. A major proportion of these cases concerned phishing or child abuse images. The Member States most involved in this crime type as requesting countries were Romania, Belgium, Estonia, Germany, France and Italy; the Member States most often requested for judicial cooperation were Italy, the UK and Germany, followed by Spain and the Netherlands. In the reporting period, Eurojust hosted one coordination centre concerning cybercrime.*

Eurojust again participated in the European Cybercrime Platform, including the Internet Crime Reporting Online System (I-CROS) and Europol's Cyborg Focal Point.

In line with the Council Conclusions on the establishment of the European Cybercrime Centre (EC3), which emphasized the importance of ensuring that EC3 works closely with Eurojust, the College of Eurojust appointed a representative of the College to the EC3 Programme Board in December 2012. During the first EC3 Programme Board meeting, Eurojust proposed to act as a focal point for judicial stakeholders

**Cybercrime case example.** Since August 2010, an OCG had been using forged and stolen credit card data to pay for goods purchased from German internet sites. These goods, which were predominantly high-quality electronics such as tablets, digital cameras, flat screen televisions and mobile telephones, as well as designer clothing and watches, were sent to goods traders in Germany, who then forwarded these packages to northern Europe (particularly Estonia).

Two coordination meetings were held at Eurojust. At the first meeting in 2011, a JIT agreement was signed between Estonia and Germany to identify the suspects and dismantle the OCG. The JIT members also exchanged information to facilitate the prosecutions in both countries. The Estonian judicial authorities needed information from the German authorities regarding the predicate crimes related to money laundering committed in Germany. Due to differences in criminal procedure, the German authorities had produced the information for the purposes of the German proceedings, which did not conform to Estonian legal requirements. Within the framework of the JIT, the problems were resolved and additional documentation was swiftly drawn up by the German authorities, enabling the Estonian authorities to satisfy the evidentiary requirements of their criminal procedure.

As a result of the investigations, goods with a value estimated at EUR 250 000 were seized in Germany in 2011. The total damage the offenders caused was estimated at EUR 3 million. In the Estonian judicial proceedings, 27 suspects were identified and charged with money laundering. In 2012, a second coordination meeting was held at Eurojust, during which the authorities of the involved countries indicated that the investigations had revealed links to Russia, Italy, the UK, Austria and Lithuania.

and to investigate all possible links between EC3 and cybercrime training for the judiciary in the Member States. The College of Eurojust decided to establish a Task Force on cybercrime and cyber-related crime at Eurojust, as well as to second a staff member to EC3 to ensure coverage of the judicial dimension.

As Eurojust's sphere of action also extends to cooperation with third States, Eurojust hosted a workshop on cybercrime within the context of the *Workshop on the application of the Mutual Legal Assistance and Extradition Agreements between the European Union and the United States of America*, held on 25 and 26 October.

## Money laundering

| Crime statistics                | 2012 | 2011 |
|---------------------------------|------|------|
| Number of cases registered      | 144  | 122  |
| Number of coordination meetings | 34   | 27   |
| Number of JITs                  | 8    | 4    |

*Analysis shows that a significant number of cases (64) dealt with money laundering as a stand-alone offence. Fraud, organised crime and drug trafficking were the crime categories most frequently associated with money*

*laundering in cases where money laundering did not appear as a stand-alone offence. The Member States*

**Money laundering case example.** Authorities in Spain and the UK were investigating an elaborate money laundering scheme. The illegal activities included the importation, acquisition and distribution of controlled drugs. Some of the methods used by the OCG to launder more than EUR 2 million included mortgage fraud, fraudulent sales of vehicles and the acquisition of assets in both Spain and the UK.

The goal of the investigation was to identify the investments of the OCG in Spain and to proceed with the seizure of assets. Eurojust facilitated the information exchange between Spain and the UK, enabling the Spanish authorities to identify additional properties owned by members of the OCG based in Spain. Europol's analysis of the data helped to identify the relationships between the members and associates of the OCG. Following two coordination meetings, the Spanish authorities arrested several suspects and seized their assets.



most active in initiating cases were Austria, Cyprus and the UK. The most requested Member States were Italy, the Netherlands and France.

Eurojust attended meetings of the Financial Action Task Force (FATF) and participated in the expert meeting organised by Europol within the framework of its Sustrans Focal Point.

### (Mobile) organised crime groups

| Crime statistics                | 2012 | 2011 |
|---------------------------------|------|------|
| Number of cases registered      | 231  | 197  |
| Number of coordination meetings | 43   | 56   |
| Number of JITs                  | 5    | 6    |

Analysis of the crime type shows that a significant number of cases (68) dealt with organised crime as a stand-alone offence. In cases where this was not a stand-alone offence, drug trafficking was the crime type most associated with organised crime, followed by fraud, crimes against life, limb or personal freedom and THB. The Member States that most often registered a case linked to organised crime were Italy, Austria and Bulgaria; the Member States most frequently requested for cooperation were Italy, Belgium and the UK.

Organised crime groups (OCG) continue to be present in Eurojust casework, not only as a stand-alone feature, but also as a cross-cutting characteristic that adds a more serious component to other crimes.

To ensure alignment with EU priorities, College Decision 2012-10 on Eurojust's operational priorities 2012-2013 introduced (mobile) organised crime groups as a distinct category of organised crime. This category refers to itinerant criminal networks operating across the European Union, usually specialised in crime areas such as burglary, robbery of armoured vehicles, and metal theft.

Eurojust promoted multi-disciplinary approaches to organised crime. A strategic seminar jointly organised with the Danish EU Presidency, *A Multidisciplinary Approach to Organised Crime: Administrative Measures, Judicial Follow-Up and the Role of Eurojust*, was held in Copenhagen in March.

Eurojust also participated in the meetings of the Informal Network on the administrative approach to prevent and fight organised crime, and contributed

actively as a member of the network's core group in the creation of the virtual community set up for practitioners in this area.

Dealing with the disposition of the proceeds of organised crime remains a concern for Eurojust, as addressed during the seminar, *Confiscation and Organised Crime: procedures and perspectives in international judicial cooperation*, held in Palermo in May.

**OCG case example.** Italian authorities were investigating an OCG involved in appropriating heavy-duty vehicles (tractors, semi-trailers, trucks, etc.) through embezzlement and simulation of theft to the detriment of leasing companies, causing losses of several million euros. The license plates and registration numbers were altered and the vehicles subsequently sold in eastern Europe, North Africa, Albania, Turkey, Poland and Saudi Arabia. The OCG was operating in Italy, Austria and Germany.

The Italian authorities requested the support of the Italian National Desk at Eurojust to extend the inquiries to these countries.

Eurojust was requested to arrange a simultaneous execution of EAWs and search warrants. The involved National Desks coordinated the actions with their national authorities and agreed on a common action day in December 2011. On that day, 13 arrests were made in Italy, one in Austria and one in Germany, and a large number of searches were also carried out.

After the actions, the support of Eurojust was required to facilitate the execution of additional MLA requests and to discuss the best way to coordinate criminal procedures in the affected jurisdictions to avoid *ne bis in idem* issues. One of the suspects was arrested in her home country, but could not be extradited according to national law, and hence would need to be prosecuted in that jurisdiction. To address these matters, a coordination meeting was arranged in March 2012, where the parties agreed on transferring the Italian proceedings to the Austrian authorities.

## Illegal immigration

| Crime statistics                | 2012 | 2011 |
|---------------------------------|------|------|
| Number of cases registered      | 29   | 31   |
| Number of coordination meetings | 18   | 13   |
| Number of JITs                  | 4    | 2    |

*Analysis of the crime type shows that approximately half of the cases dealt with illegal immigration as a stand-alone offence. THB, organised crime and forgery of documents were the crimes most often associated with illegal immigration in cases where it was not a stand-alone crime. The Member States most active in initiating cases were France, Austria and Italy; the Member States most often requested for cooperation were Italy, the Netherlands and the UK.*

As stated above, Eurojust's operational priorities are in line with EU priorities and now include illegal immigration as a priority. This crime type is included for the first time in our Annual Report.

Eurojust participated in the EMPACT project dealing with illegal immigration.

## Crimes affecting the EU's financial interests

| Crime statistics           | 2012 | 2011 |
|----------------------------|------|------|
| Number of cases registered | 27   | 21   |

Eurojust paid particular attention to the area of crimes affecting the EU's financial interests (so-called PIF offences). As with other crime areas, Eurojust provided assistance to national authorities by facilitating the prompt execution of LoRs and coordinating the steps to be taken in investigations and prosecutions. For example, Eurojust hosted coordination meetings, facilitated the freezing and confiscation of the proceeds of crime and handled urgent requests, particularly when national statutory time limitations were approaching.

In Eurojust's reply of June 2012 to the European Commission's public consultation, *Protecting the EU's financial interests and enhancing prosecutions*, Eurojust highlighted that, from a judicial cooperation perspective, problems encountered in the protection of the EU's financial interests may result from differences in criminal proceedings in the Member States, such as statutory limitations and rules on the gathering of

**Illegal immigration case example.** Finnish border authorities initiated an investigation in December 2010, after the arrival at a Finnish airport of two females with counterfeit Indian passports, who were accompanied by an Indian male. After a preliminary investigation, the authorities uncovered a very active OCG that facilitated illegal immigration from Sri Lanka into the European Union. The Finnish authorities suspected the OCG of facilitating the illegal entry of people from Sri Lanka to France, frequently using a route through the United Arab Emirates, Kenya, Tanzania, Turkey and Finland. Some of the illegal immigrants used counterfeit British passports produced in Thailand to travel to Canada.

The Finnish authorities requested assistance from Eurojust to set up a JIT with France. Despite the differences between the JIT approval processes in both Member States, the JIT was established during a coordination meeting held at Eurojust in September 2011. The JIT's legal framework allowed a prompt exchange of information for judicial purposes without the need for lengthy rogatory procedures. Both the language barrier and the necessity for translations were likely to create obstacles. Eurojust hosted three coordination meetings, which helped build mutual trust, exchange information and overcome language barriers.

In addition, a coordination centre was set up at Eurojust in February 2012 to support the simultaneous execution of the operation in Finland, France and Belgium. The coordination centre was in direct communication with a Europol operational centre, which was set up in Paris. The two centres allowed for real-time exchange of information and evidence between police and judicial authorities in the countries concerned, and immediate analysis of the data collected. During the common action day, 23 searches were carried out and 27 people were arrested. After the common action day, Eurojust continued to follow developments to ensure the best outcome at judicial level.

**Crimes affecting the EU's financial interests case example.** Italian authorities investigated a criminal association of several Italian suspects involved in tax evasion. These suspects had, while acting on behalf of various foreign companies, signed a deed of conveyance for the transfer of shares of an Italian company operating in Siena to a third party, a company registered in Bermuda, to evade taxes in Italy. The tax evasion scheme also involved American and Portuguese companies, both operating as subsidiaries of their mother company based in Bermuda. The capital gains of both companies were transferred to the company in Bermuda.

Eurojust's assistance was requested by the Italian authorities to facilitate the execution of MLA requests addressed to the competent authorities in the USA and Portugal to acquire all the relevant information and documentation proving the fictitious nature of both subsidiaries. Thanks to Eurojust's speedy intervention, a quick response from the Portuguese authorities to the Italian MLA request was obtained, which resulted in the full payment of tax liabilities of the investigated Italian company within the time limits of the Italian preliminary investigation. The immediate reaction of Eurojust and the Portuguese authorities enabled the Italian authorities to recover EUR 67 million in unpaid taxes.

evidence. In addition, lack of resources and specialisation at national level may create practical difficulties in fighting crimes affecting the EU's financial interests. In serious crime cases, cooperation and coordination between national competent authorities at an early stage are essential. When requested, Eurojust provides these types of assistance to national competent authorities.

Eurojust experienced difficulties in gathering reliable statistics for these crimes, mainly due to the lack of a clear definition of a PIF offence at EU level, a situation that results in different views, both in the Member States and, as a consequence, at the National Desks, of what constitutes such an offence.

To address this problem, the College adopted measures in December 2012 to improve the gathering of

statistical data and the legal analysis of Eurojust's casework related to PIF offences. Eurojust follows with interest the *Proposal for a Directive of the European Parliament and of the Council on the fight against fraud to the Union's financial interests by means of criminal law*.

On 14 September 2012, Eurojust submitted a detailed response to the House of Lords: *Call for evidence on EU Policies and actions to combat fraud against the financial interests of the EU*.

### Contact Point for Child Protection at Eurojust

Eurojust's casework shows that the most frequent types of crimes affecting children were pornography, sexual abuse, abduction, THB and crimes against life. Eurojust continued to take the lead in coordinating information and advising on possible action in the transnational investigation and prosecution of serious crimes against children referred to Eurojust for assistance. The activities involved frequent contact with the National Desks for the purposes of, *inter alia*, exchanging relevant information and encouraging the national competent authorities to refer more cross-border cases involving crimes against children to Eurojust.

Eurojust dealt with 27 cases of crimes against children, including three cases registered by Norway. At the end of 2012, the Contact Point participated in the official launch of two important EU and international tools created to better protect children from serious crimes: (1) the New European Financial Coalition against Commercial Sexual Exploitation of Children Online, a project that addresses old and new online commercial distribution practices of child sexual abuse material by targeting payments and ICT systems used to run illegal operations; and (2) the Global Alliance to fight child sexual abuse online, which seeks better identification of and assistance to child victims and effective prosecution of perpetrators. Eurojust participated in Europol's Annual Sexual Exploitation Experts Conference and the ICLN 11th Annual Conference on Combating Cybercrime.

The Eurojust Decision includes an obligation for Member States to inform Eurojust of complex cross-border cases involving sexual exploitation of children and child pornography. Since 2004, Eurojust has registered 187 cases concerning child victims, an additional nine cases were registered by Norway, and one case was registered by the USA.

**Crimes against children case example.** The Italian National Desk requested 11 Member States plus Norway, the USA, Europol and Interpol to support an Italian investigation into the distribution of pornographic material involving minors. An Italian suspect was managing a social network, hosted on servers located in the USA, which served as a worldwide exchange platform for images and videos of children under the age of 14 years.

Eurojust hosted two coordination meetings, in January and February 2012, and as a result coordinated actions were agreed upon and scheduled immediately. Users were identified via their IP addresses in 12 Member States and Norway, Turkey, Ukraine, the USA and Asia.

Eurojust was requested to coordinate the searches to be carried out in Member States through international judicial cooperation tools, supported by Europol and Interpol, to preserve evidence and to dismantle the network. A coordination centre was set up at Eurojust with the active involvement of France, Portugal, Germany, Spain, Sweden and Italy.

As a result of these efforts, 112 people were identified and indicted for criminal association, 10 persons were arrested worldwide, a large number of house searches were conducted and evidence was seized. The US authorities closed the social network and seized its content to ensure that it is available as evidence.

## 1.4 Joint investigation teams

In 2012, Eurojust continued to provide support and assistance to practitioners in the setting up and running of JITs. In the reporting period, there were 78 active JITs, with 62 JITs receiving funding from Eurojust.

National Members participated in 47 newly created JITs, some of which concerned more than one crime type. National Members participated either in their capacities as national competent authorities or on behalf of Eurojust. The JITs addressed the most serious types of criminality, such as drug trafficking, money laundering, THB and fraud. In addition, Eurojust received 14 notifications from Member States in accordance with Article 13(5) of the Eurojust Decision.

The increasing use of JITs facilitated by Eurojust suggests that practitioners are becoming more familiar with the JIT instrument, recognise the expertise of Eurojust in this field, and acknowledge the importance of the JIT Funding Project.

The specific role played by Eurojust in the setting up and proper functioning of JITs has continued to relate mostly to: (i) providing support in drafting JIT agreements and operational action plans, espe-

cially where specific clauses need to be added to the standard models; (ii) offering advice to national authorities as to whether this tool is appropriate in concrete cases; (iii) identifying suitable cases for JITs; (iv) offering information on different procedural systems; (v) supporting JITs via coordination meetings; and (vi) providing coordination during operational activities on action days.

Eurojust's casework indicates that legal and practical difficulties still affect the proper functioning of the JIT tool. The following obstacles were identified: (i) different levels or pace of the investigations in the Member States involved in a JIT; (ii) absence of a parallel investigation in those Member States that require such an investigation to enable them to participate in a JIT; and (iii) differences in legal systems, especially with regard to the rules for secrecy of proceedings, access to case file documents (disclosure issues), time limits for data retention, and the giving of evidence via videoconference or in relation to a judicial control mechanism. Eurojust has again addressed recurrent problems related to admissibility of evidence and disclosure of information and has managed to successfully assist practitioners in overcoming them.



Eurojust has continued to raise awareness of JITs among practitioners by underlining the added value of this tool, particularly in Member States with less experience of JITs.

Eurojust and practitioners in the Member States strongly support a systematic evaluation of the JIT tool to enhance and improve its use and function. In 2012, Eurojust's casework showed some degree of involvement in the evaluation of JITs on a case-by-case basis, both before an extension of a JIT and after its closure.

Evaluation of the JIT tool was discussed during the 8th Annual Meeting of the National Experts on Joint Investigation Teams, co-organised by Eurojust and Europol, on 18-19 October. Experts agreed on the importance of a systematic and centralised gathering of JIT-related information, highlighting the need to develop a standard template or checklist to assist practitioners in JIT evaluations.

The involvement of national contact points of the Network of National Experts on Joint Investigation Teams (JITs Network), either by providing support or by collecting and forwarding the results of evaluations to a central point, possibly the JITs Network Secretariat, was considered essential to the evaluation process. The establishment of a web-based platform for the results of such evaluations would be a valuable tool to provide practitioners with up-to-date information and support. In addition to national evaluations, experts recognised the need for the evaluation of the use of the JIT tool at EU level.

## Eurojust's financial support to JIT operations

As has been strongly affirmed by practitioners in the Member States, financial and logistical support for JITs provides crucial added value to the setting up and running of JITs within the European Union. Eurojust is widely recognised as the key player in financial support to JITs.

Eurojust continued its JIT Funding Project, entitled *Supporting the Greater Usage of JITs*, in 2012. The project, based on a grant received from the European Commission under the programme *Prevention of and Fight against Crime 2007-2013*, was launched in October 2010.

The project, which enables Eurojust to financially support the operational activities of JITs, will end on 30 September 2013. Eurojust is actively engaged in seeking alternative funding solutions that would enable Eurojust to continue its financial support to JITs.

### *Illegal immigration (JIT) case example.*

A JIT agreement was signed at Eurojust to facilitate investigations in the UK and the Netherlands into the offences of facilitation of illegal immigration and people smuggling taking place by means of, among others, the arrangement of sham marriages, document fraud and drug offences committed by OCGs or individuals. An OCG operating in the Netherlands was involved in recruiting Dutch Antillean women to marry Nigerian nationals in the UK and legitimise their immigration status.

Three coordination meetings were held at Eurojust to exchange information on the status of the investigations in the UK and the Netherlands, to discuss tactical options regarding the arrest phase in the Netherlands, to explore the possibilities for a strategic meeting on sham marriages, and to raise awareness of this type of crime.

Following two years of JIT activity, both Member States reported a very successful partnership. In the UK, the action plan resulted in 68 arrests, 56 convictions and prison sentences amounting to a total of more than 72 years. In the Netherlands, the main suspect was arrested and surrendered to the UK.

Eurojust supported a total of 62 different JITs involving 22 Member States in 2012. The most frequent crime areas targeted by the supported JITs were drug trafficking and THB. The Member States most active in the funding of JITs were the UK, France, Belgium, Germany, the Netherlands and Estonia.

On the basis of the 143 funding applications received in 2012 (twice the number of applications received in 2011), Eurojust assisted with travel, accommodation, translation and interpretation costs related to JIT activities. In addition, a number of mobile telephones, laptops, mobile printers and scanners were loaned to JIT members to facilitate their communications. The increased number of funding applications received confirms the importance of funding availability.

Further details on the JIT Funding Project can be found on the Eurojust website.

**THB (JIT) case example.** Following evidence obtained from a Bulgarian victim of human trafficking, who had been brought to the UK via Greece under threat and was forced to work as a prostitute in the UK for approximately one month, the UK initiated an investigation. More victims were found to have been trafficked by the same suspects, and the UK authorities set up a JIT agreement with Bulgaria. The JIT received financial support through Eurojust's JIT Funding Project. The JIT submitted three funding applications on the basis of which EUR 98 330 was awarded, and two laptops, one printer and a scanner were loaned.

Two coordination meetings were held at Eurojust prior to the parties signing the JIT agreement. Jurisdictional issues formed the main concern, as crimes, suspects and victims were located in the UK and Bulgaria. The differences in criminal procedure, such as the requirement of corroboration, constituted evidential challenges, which were met by the JIT. The mutual interest in, and benefit of, the JIT prevailed and led to the success of the combined efforts of both the UK and Bulgarian authorities. The work of the JIT, and the simplified cooperation through coordination meetings at Eurojust, resulted in the identification of several suspects and additional victims of this OCG. The main suspect was tried and received a six-year sentence.

## 1.5 Eurojust casework involving third States

In 2012, the assistance of third States was requested by Eurojust on 242 occasions, an increase over previous years. The most frequently requested third States were Switzerland, Norway, the USA, Croatia, Serbia, Albania, Brazil and Ukraine. The main crime types in these cases were drug trafficking, fraud and money laundering. Eurojust's assistance was also requested in cases of cybercrime, corruption, organised robbery, illegal immigrant smuggling and illegal trading.

Third States were represented on 49 occasions at Eurojust coordination meetings, an increase over 2011, with the most frequently involved third States being Norway (10), followed by Switzerland (9), Turkey (6), the USA (5), Albania (5), the former Yugoslav Republic of Macedonia (3), Croatia (2) and Serbia (2).

The most frequent requests made by Eurojust to third States were to speed up or facilitate the execution of extradition and MLA requests (e.g. execution of freezing and confiscation orders, hearings by videoconference, interception of communications, transfer of criminal proceedings, requests for criminal records), to clarify legal requirements and relevant legislation or to identify contact details of competent authorities.

Eurojust's casework shows that cooperation with third States and the assistance provided by Eurojust contact points in third States is useful and successful. However, difficulties and delays arise from: (i) lack of direct contacts in some third States; (ii) use of

diplomatic channels, rather than central authorities, for the transmission of requests; and (iii) significant differences in legal systems. These difficulties were identified notably with third States with which the Member States concerned have not concluded bilateral or multilateral agreements, or with which Eurojust has not concluded a cooperation agreement.

The Memorandum of Understanding between Eurojust and IberRed has facilitated cooperation between the Member States and Latin American countries by improving communication channels. Eurojust's Spanish and Portuguese Desks have played an active role as channels for Eurojust's casework involving Latin American countries. Among the most frequent types of assistance sought are requests for information on legal requirements and legislation, state of execution of LoRs and extradition requests, and identification of relevant authorities and contact points.

### Liaison Prosecutors from third States seconded to Eurojust

The presence at Eurojust of Liaison Prosecutors from Croatia, Norway and the USA has facilitated judicial cooperation between national competent authorities. In 2012, the Liaison Prosecutor for Croatia registered five cases related to corruption and participated in two coordination meetings. The Liaison Prosecutor for Norway registered 41 cases dealing with drug trafficking,

fraud, murder, organised robbery, THB, terrorism, and also three cases involving child abuse. Norway held one coordination meeting in a drug trafficking case, and participated in 10 coordination meetings and in one JIT. The Liaison Prosecutor for the USA participated in five coordination meetings.

The main issues and practical difficulties in judicial cooperation identified by Liaison Prosecutors were, *inter alia*, delays or non-execution of requests, problems with the hearing of witnesses by videoconference, extradition of nationals, different standards required to access or obtain data, information and evidence, jurisdictional issues and questions on how multiple States involved in connected investigations should proceed with prosecutions.

Best practice includes the close working relationships developed between and among the National Desks as well as with the Liaison Prosecutors. In one case involving Norway and the USA, the Liaison Prosecutor for the USA was able to immediately contact FBI officials in Europe and the USA to request assistance in locating a witness, and completed arrangements for testimony within 48 hours. Eurojust coordination meetings were also considered highly effective in coordinating criminal investigations and prosecutions of major importance. Another best practice involves early contact, whenever possible, to discuss how information can be obtained most effectively and to facilitate the rapid transfer of evidence.

**Third State case example.** In 2009, the USA began an investigation into a highly sophisticated and well organised international criminal network involved in the creation and dissemination of graphic images and videos of child sexual abuse throughout the world. A private online bulletin board, hosted in the USA, enabled members to trade explicit images and video of themselves and other adults sexually molesting children, often under the age of 12, and often in very violent fashion. Perpetrators used various measures to avoid detection, including aliases, proxy servers, encryption and passwords. Countries involved included Belgium, Canada, Denmark, Ecuador, France, Germany, Hungary, Kenya, the Netherlands, the Philippines, Qatar, Serbia, Sweden and Switzerland.

In 2010, the USA expanded its investigation by opening a file within Eurojust to facilitate coordination between the American and Member States' investigations. The investigations uncovered links to 45 different countries, and continued to produce results through the autumn of 2012.

## 1.6 Eurojust and the practitioner networks

### European Judicial Network

Eurojust participated in the 38th EJNI plenary meeting in Copenhagen, which dealt with issues regarding JITs and cooperation with the JITs Network and the European network of contact points in respect of persons responsible for genocide, crimes against humanity and war crimes (Genocide Network). Eurojust also participated in the 39th EJNI plenary meeting in Nicosia, where matters related to the application of the EAW and, in particular, the principle of proportionality, were discussed.

As in previous years, Eurojust worked on its relationship with the EJNI. In addition, the Joint Task Force Eurojust-EJNI (the Task Force) was requested under the Danish EU Presidency to further address the issue of complementarity between the EJNI and Eurojust. The Eurojust EJNI & Liaison Magistrates Team contributed to the preparation of the Task Force meeting in

Copenhagen and the drafting of a joint paper to inform judicial practitioners in the Member States about the work carried out by the EJNI and Eurojust and to describe the services provided by these organisations. Plans for the Task Force to contribute in the future to the setting up of the ENCS and implementation of Article 13 and 13a of the Eurojust Decision were discussed.

Eurojust also hosted the 33rd regular meeting of the EJNI contact points, the 11th Tools Correspondents meeting, and the 4th National Correspondents meeting.

### JITs Network

Since 2005, Eurojust and the JITs Network have been cooperating to raise awareness, promote the use of and develop supporting tools for the use of JITs in the Member States.

By establishing the JITs Network Secretariat in 2011, Eurojust provided JITs practitioners with a useful co-ordination platform. In 2012, the JITs Network Secretariat supplied practitioners in the Member States, and relevant EU institutions and agencies, with more than 3 500 copies of the printed edition of the *Eurojust-Europol JIT Manual*.

On 18-19 October, more than 100 JITs practitioners gathered at the 8th Annual Meeting of the National Experts on Joint Investigation Teams. The discussions focused on the evaluation of JITs. Further information about Eurojust's work in the field of JITs can be found in section 1.4.

## Genocide Network

Since 2004, Eurojust and the European Network of contact points in respect of persons responsible for genocide, crimes against humanity and war crimes (Genocide Network) have cooperated efficiently in the fight against impunity for core international crimes. Since the establishment of the Genocide Network Secretariat at Eurojust in 2011, the activities of the Genocide Network have significantly increased.

By hosting the Genocide Network meetings and its Secretariat, Eurojust provides a forum for practitioners to meet, discuss, exchange information, best practice and experience, and cooperate and assist each other in the investigation and prosecution of persons responsible for genocide, crimes against humanity and war crimes.

Eurojust hosted the 12th and 13th meetings of the Genocide Network at its premises. Both meetings brought together practitioners from the Member States and

their counterparts from Canada, Norway, Switzerland, the USA, the International Criminal Court (ICC) and *ad hoc* international criminal tribunals, the International Committee of the Red Cross (ICRC), Interpol and representatives from civil society.

At the 12th meeting, participants discussed cooperation between national immigration authorities and law enforcement/prosecution services in the identification of alleged perpetrators who have entered or already reside within the territory of the European Union. Participants also discussed the requirements for the effective investigation and prosecution of cases based on Article 1F of the 1951 Geneva Convention relating to the Status of Refugees.

The 13th meeting further explored this topic, with the participation of the European Asylum Support Office and NGOs that assist in the identification of witnesses, victims and perpetrators of core international crimes. Experts also discussed: (i) gathering of information on crimes in the ongoing conflict in Syria; (ii) the outcome of the International Court of Justice (ICJ) judgement on questions relating to the obligation to prosecute or extradite (*Belgium v. Senegal*), and its consequences in relation to conventions on cooperation in criminal matters; (iii) the initiative on a new international legal framework for cooperation in respect of genocide, crimes against humanity and war crimes; and (iv) possibilities to establish JITs for the investigation and prosecution of core international crimes. Eurojust's expertise proved essential.

Eurojust and the Genocide Network have continued to actively cooperate in the establishment of tools for information exchange between the members of the Genocide Network.







Relations with EU institutions and partners

## 2.1 Institutional relations



### European Parliament

Following established practice, the President of Eurojust presented the Annual Report 2011 to the LIBE Committee in June. An exchange of views took place on the future of Eurojust. The LIBE Committee announced plans to visit Eurojust. In June, Eurojust also presented its findings on *Enhancement of cooperation between the judicial authorities of the Member States involved in the fight against organised crime and the role of Eurojust* to the Special Committee on Organised Crime, Corruption and Money Laundering (CRIM Committee).

Eurojust provided its opinion on the proposal for an EU draft Directive on the freezing and confiscation of proceeds of crime in the European Union. The contribution included an overview of best practices developed in some Member States, together with information on the existing systems of some Member States, recognising the possibility of applying non-conviction-based confiscation.

### Council of the European Union

Eurojust was invited to participate in various Council Working Parties dealing with judicial cooperation in criminal matters. In particular, Eurojust contributed to the efforts of the Working Party on General Matters and Evaluation (GENVAL), the Working Party on Cooperation in Criminal Matters (COPEN), and the JAI-RELEX Working Party (JAIEX). In addition, Eurojust attended Justice and Home Affairs (JHA) Council and CATS meetings whenever its presence was requested.

Eurojust continued to participate in the meetings and activities of COSI and to offer its contributions, from a judicial perspective, to operational cooperation in criminal matters. In particular, Eurojust provided input to the second implementation report on the EU Internal Security Strategy and to the Council's *Considerations about effectively financing the EU policy cycle*

*with regard to the financing of JIIs* by Eurojust. Eurojust contributed to the implementation of the policy cycle and participated in all Operational Action Plans related to the EU crime priorities.

The main findings and recommendations of the Eurojust Strategic Project on *Enhancing the work of Eurojust in drug trafficking cases – final results* (11483/12); the strategic seminar organised jointly with the Danish Presidency on *A Multidisciplinary Approach to Organised Crime: Administrative Measures, Judicial Follow-Up and the Role of Eurojust – Copenhagen, 11 - 13 March 2012 – Outcome Report* (11298/12), and the Strategic Project on *Eurojust's action against trafficking in human beings – final report and action plan* (16947/12), were submitted to the Council Working Parties.

### European Commission

Following negotiations conducted in 2011, Eurojust and the European Commission signed a Memorandum of Understanding on 20 July 2012, formalising the exchange of information and seeking to enhance cooperation in matters of mutual interest. Meetings between the Eurojust Presidency and Administrative Director with counterparts in the European Commission took place throughout 2012, facilitating communication on strategic and budgetary matters.

Eurojust replied to the European Commission's public consultation, *Protecting the EU's financial interests and enhancing prosecutions*. Practical and legal issues related to the establishment of a specialised EPPO were highlighted, in particular the importance of a close relationship between the EPPO and Eurojust.

At the invitation of Vice-President Viviane Reding, Commissioner for Justice, Fundamental Rights and Citizenship, Eurojust participated in a meeting on 26 June, together with Prosecutors General and Directors of Public Prosecutions of the Member States, dealing with the prosecution of fraud against the EU's financial interests.

In October, Eurojust welcomed the invitation to attend and contribute to the consultative meeting of the European Commission and Member States' experts on the reform of Eurojust's governance, parliamentary control and possible additional powers, such as the initiation of investigations and the issuing of binding decisions to resolve conflicts of jurisdiction.

## 2.2 Relations with practitioner networks

### European Judicial Training Network

Eurojust continued its active participation in and support to the European Judicial Training Network (EJTN) Exchange Programme. Over the course of the year, nine prosecutors/judges from different Member States spent three months at Eurojust, participating in the daily work of the National Desk of their country of origin (Austria, Belgium, Czech Republic, Germany, Spain, Hungary, Italy, Portugal and Slovak Republic). The Exchange Programme exposes participants to the work of the organisation as a whole, providing a greater understanding of the use and efficiency of the judicial tools at the disposal of the National Desks.

Eurojust and the EJTN also followed up on the newly created programme of EJTN trainees for a short-term period (one week). Three National Desks (Hungary, Portugal and Spain) hosted short-term trainees in December. The short-term exchange programme affords prosecutors/judges the opportunity, during a limited period, to understand the scope of the work of the National Desks and provides a broad overview of the work conducted at Eurojust. Eurojust actively supported a training course, *International judicial cooperation in criminal matters in practice*, which provided simulations of EAW and MLA cases. The training courses took place in several European cities (Bucharest, Madrid, Lisbon, Krakow, Rome, Tartu and Zagreb).

### Consultative Forum of Prosecutors General and Directors of Public Prosecutions

During 2012, Eurojust continued to provide extensive legal and logistical support to the work of the Consultative Forum of Prosecutors General and Directors of Public Prosecutions of the Member States of the European

Union (Consultative Forum). In June, under the Danish EU Presidency, Eurojust facilitated the response of the Consultative Forum to the public consultation launched by the European Commission, *Protecting the European Union's financial interests and enhancing prosecutions*, with a common contribution dealing with harmonisation of criminal law and the establishment of the EPPO, prepared on the basis of the replies provided by numerous Consultative Forum members.

A meeting of the Consultative Forum, organised by the Cyprus EU Presidency, was held at Eurojust in December. Participants discussed the challenges to the investigation and prosecution of crimes affecting the EU's financial interests, the added value brought by the recent draft *Directive of the European Parliament and of the Council on the fight against fraud to the Union's financial interest by means of criminal law*, and the respective roles of the European Union, Eurojust, and the Member States. Also discussed were definitions of PIF offences, jurisdictional concerns, harmonisation of sanctions, time limits, and the importance of all these issues for the future establishment of the EPPO. Matters linked with judicial cooperation in freezing and confiscation were also discussed, with particular emphasis on obstacles to asset recovery, practitioners' experience, best practice and needs, the practical use of existing EU instruments, and the possible impact of the draft Directive on the freezing and confiscation of proceeds of crime in the European Union. The participants discussed future perspectives for the Consultative Forum. In this context, the Consultative Forum members asked Eurojust to continue to provide support for its activities. The outcome of this meeting is transmitted to the relevant EU institutions to make known the opinions of the Consultative Forum on all discussed topics and to serve legislative and policy efforts at EU level in the fight against serious crime.

## 2.3 EU agencies and bodies

### Europol

Operational cooperation between Eurojust and Europol was enhanced by the complementarity of their mandates and continued to be of crucial importance to Eurojust's activities throughout the year. The TFEU refers to Eurojust's coordination role being based on

"information supplied by Member States' authorities and Europol". Both organisations sought to improve the exchange of information to enable Eurojust to fully achieve its mandate.

Casework cooperation between Eurojust and Europol benefited from Europol's participation in Eurojust's



coordination meetings concerning 85 cases. The development of direct communication and cooperation between National Desks and the Europol Liaison Bureaux continued, with many National Desks having regular contacts and meetings.

The exchange of operational information through the secure communication line between Eurojust and Europol has remained stable, with 943 messages exchanged.

An additional improvement in information exchange arose from the entry into force on 1 April of an updated Memorandum of Understanding on the establishment of a secure communication line that creates the legal prerequisite for the use of the Secure Information Exchange Network Application (SIENA) for information exchange with Eurojust. Technical implementation and training in SIENA for the National Desks and Case Analysis Unit was almost completed by the end of the year. The use of SIENA for information exchange with Europol will be assessed regularly to ensure its full utilisation.

Eurojust continued to be associated with 17 of the Europol Focal Points (formerly Analysis Work Files) and commenced work on a feasibility study. Discussions continue to facilitate the further association of Eurojust with Focal Points such as those related to Islamist terrorism and domestic extremism.

An exchange programme for staff at both organisations, launched in 2011, proved successful, and the number of mutual visits and participants increased. A total of 44 post-holders were reciprocally hosted at Eurojust and Europol. Europol participants visiting Eurojust attended briefings tailored to their specific professional backgrounds and needs. Operational cooperation in JITs was improved by the development of a mechanism to inform each other of participation in JITs.

On 12 April and 24 November, informal meetings between the Eurojust Presidency, the Eurojust Administrative Director and the Europol Directorate took place, a welcome initiative that will be continued in the future. As in previous years, Eurojust attended the Heads of Europol National Units (HENUs) meetings.

## European Anti-Fraud Office

The European Anti-Fraud Office (OLAF) is a privileged partner in the fight against fraud, corruption and other crimes affecting the financial interests of the European Union. Eurojust opened five cases with the involvement of OLAF and one further case, which had already been

opened at Eurojust in 2010, was extended to OLAF in 2012. OLAF also attended five coordination meetings.

Throughout the year, Eurojust and OLAF's liaison teams met regularly to strengthen operational cooperation in ongoing cases and to elaborate on matters of common interest. A discussion of the possibility of establishing an exchange programme for Eurojust and OLAF was initiated during the common meetings.

Eurojust participated in the 10th OLAF Conference of Fraud Prosecutors in November, as well as the June conference, *A blueprint for the European Public Prosecutor's Office? EU model rules of criminal procedure*, organised by the University of Luxembourg with the support of OLAF. Eurojust and OLAF enhanced their efforts throughout the year to strengthen casework cooperation, and expressed their commitment to initiate cooperation whenever the need for coordination becomes apparent, regardless of the bilateral or multilateral nature of the case. The common list of cases is monitored and regularly updated and a common evaluation of closed cases in which both OLAF and Eurojust were involved was agreed.

An agreement in principle was also reached on a "common mission" approach of Eurojust and OLAF representatives in relation to cases where an administrative investigation requires judicial follow-up.

Finally, the new OLAF regulation is expected to greatly contribute to future operational cooperation between Eurojust and OLAF, as it provides specific reference to the transmission of relevant information to Eurojust.

## Frontex

Eurojust and Frontex continued negotiations on an instrument to encourage and promote inter-agency cooperation and support their mutual efforts in the fight against cross-border crime. Frontex succeeded Eurojust as Chair of the Heads of JHA Agencies. Eurojust participated in the activities of the JHA Agencies focusing on multilateral cooperation, and attended the annual meeting of Heads of JHA Agencies on 3 December at Frontex.

## CEPOL

Eurojust continued to contribute to the work of CEPOL, with input to the CEPOL online learning module on THB, participation in the CEPOL webinar for EU

law enforcement and judicial cooperation agencies, and training in JIT funding. To enhance future cooperation, a meeting between CEPOL and Eurojust on the

development of a *Eurojust Common Curriculum* took place, with an internal working group on this topic established at Eurojust.

## 2.4 Relations with third States and organisations outside the European Union

In December, Eurojust submitted the draft agreement on cooperation between Eurojust and the Principality of Liechtenstein to the Council of the EU for approval and informed the Council of its plans to institute formal negotiations to conclude a cooperation agreement with the Republic of Moldova. Cooperation agreements with the Russian Federation and Ukraine were reconfirmed as priorities.

Contacts were pursued to explore the possibility of initiating negotiations on cooperation agreements with Albania, Bosnia and Herzegovina, Cape Verde, Israel, Montenegro, Serbia and Turkey. Latin American countries, in particular Brazil, Colombia and Mexico, were added to the priority list for negotiation of cooperation agreements. Eurojust also added Tunisia to its network of contact points in third States. In addition, Eurojust and Interpol initiated negotiations to conclude a Memorandum of Understanding.

A strategic seminar, *Judicial Cooperation in Criminal Matters between the EU Member States and Southern neighbours of the EU* (Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Palestinian Authority and Tunisia), was held in Limassol, Republic of Cyprus, on 4-5 October, jointly organised by Eurojust, the Cyprus EU Presidency, the Attorney General of the

Republic of Cyprus and the European Commission. It addressed best practice and difficulties encountered in various fields of judicial cooperation, possible further steps to strengthen cooperation, and the appointment of Eurojust contact points in Southern neighbours of the EU.

The *Workshop on the Application of the Mutual Legal Assistance and Extradition Agreements between the European Union and the United States of America* was held at Eurojust on 25-26 October, organised jointly by Eurojust and the USA, with support from the Cyprus EU Presidency, the General Secretariat of the Council, and the European Commission. The workshop addressed the difficulties encountered in the field of extradition and MLA, as well as issues related to confiscation and asset recovery, cybercrime investigations and exchange of electronic evidence.

Eurojust continued to support initiatives in the Balkans, including the European Commission project, *Fight against organised crime and corruption: Strengthening the Prosecutors' Network*.

For information on Eurojust casework involving third States and the role played by Liaison Prosecutors from third States seconded to Eurojust, see section 1.5.





## The Eurojust Decision and the future



## 3.1 Implementation of the Eurojust Decision

Legislation to bring national law into conformity with the Eurojust Decision by the June 2011 deadline was necessary in 20 Member States. However, by the end of 2012, only 12 Member States had fully implemented the Eurojust Decision (7 legislatively and 5 administratively), 4 Member States had partially implemented it, and based on information received from Member States, 11 had not yet implemented it.

Eurojust completed several projects related to the internal implementation of the Eurojust Decision. The OCC system, which became operational in 2011, is now fully functioning, enabling Eurojust to be reached 24/7 via a free international telephone number.

Eurojust continued to develop its CMS, as well as its “smart” Article 13 PDF form, which was developed in 2011 to facilitate a structured transmission of information from practitioners to Eurojust and, following user requests, was improved in 2012 with Version 2.0 that can also be semi-automatically imported into the CMS.

One of the most important developments in the Member States in 2012 has been the evolution of the ENCS. Eurojust devoted further work to the technical connection between the members of the ENCS in the Member States and Eurojust’s CMS to better meet the needs of users and to make the transmission of information both safer and more convenient. In the short term, this connection will facilitate greater security for e-mail transmissions, while in the longer term, the connection enables ENCS members in Member States to be linked to the CMS.

Connections are in place with Bulgaria and Romania. Other Member States will soon follow.

A first meeting of National Correspondents for Eurojust was held at Eurojust on 12 November. The objective of the meeting was to discuss and exchange best practice and experience. The meeting focused on the state of play of the set-up and functioning of the ENCS in the Member States, information exchange on the basis of Article 13 of the Eurojust Decision, the use of the Eurojust “smart” Article 13 PDF form, feedback from Eurojust on the basis of Article 13a, and of the technical connection between the ENCS and the CMS.

The *fiches suédoises*, developed by Eurojust to provide an overview of the implementation of the ENCS in the Member States, were launched in 2008 under the Swedish EU Presidency and have been regularly updated.

Several Member States reported having an ENCS in place, but little or no practical experience to date, due to its recent establishment. In some Member States, the ENCS has been established in strict accordance with Article 12 of the Eurojust Decision (i.e. only those categories of members mentioned in the Eurojust Decision are included in the ENCS). Other Member States have chosen a wider approach, and have either included in the ENCS or invited to ENCS meetings representatives of other agencies not mentioned in Article 12 of the Eurojust Decision, such as representatives from law enforcement agencies dealing with financial crime, and contact points for OLAF and Europol.

## 3.2 Sixth round of mutual evaluations on the practical implementation and operation of the Decisions on Eurojust and the EJM

In June 2011, GENVAL decided that the sixth round of mutual evaluations should be devoted to the practical implementation and operation in the Member States of the Decisions on Eurojust and the EJM. All Member States will be evaluated over the course of three years (2012-2014). Each Member State provides written replies to a Council questionnaire,

and then receives a visit by an evaluation team composed of three experts from other Member States and observers from the Commission, Eurojust and Europol. Eurojust also provided replies to a specific questionnaire addressed to it that are taken into account by the evaluation teams participating in the visits to each Member State.

Over the course of 2012, Sweden, Lithuania, Belgium, Estonia, Slovak Republic, Denmark, Finland, Hungary and Austria were evaluated. Following on-site visits to the Member States, the experts – with the assistance

of the observers – write evaluation reports based on the Member States' replies to the questionnaires and the findings from the evaluation visits. The final reports are presented to GENVAL.

### 3.3 Task Force on the Future of Eurojust

The Task Force on the Future of Eurojust continued its reflections and activities on the reform of Eurojust in light of Article 85 TFEU and towards the establishment of an EPPO “from Eurojust”, as foreseen by Article 86 TFEU. Eurojust concluded initial considerations regarding its future structure, building on principles of sound public governance

and the independence of the operational work of the National Desks, and submitted a contribution to the European Commission suggesting possible governance set-ups. A second contribution concerned the involvement of the European Parliament and national parliaments in the evaluation of Eurojust's activities.

### 3.4 Conference on *Ten years of Eurojust, operational achievements and future challenges*

Both the expertise gained by Eurojust in the coordination of investigations of serious crime in the past decade and its future perspectives were discussed during a conference in November, organised by Eurojust with the support of the Academy of European Law (ERA), entitled *Ten years of Eurojust, operational achievements and future challenges*.

The conference brought together representatives from EU institutions and relevant bodies in the area of criminal justice, representatives from the Member States, national judicial authorities, academic experts and present and former National Members. For the first time, a Eurojust event was also open to the general public.

The participants confirmed that coordination meetings, coordination centres and support for JITs were seen as effective tools to help overcome shortcomings faced in transnational investigations and prosecutions against serious cross-border crime.

Participants underlined that improvement in the internal structure and parliamentary control of Eurojust should be accompanied by its enhanced operational effectiveness in the coordination of investigations and prosecutions, possibly including in the future the initiation of investigations and the resolution of conflicts of jurisdiction.

In the context of Article 86 TFEU, the necessity for a coherent framework and close links between Eurojust and the EPPO and other relevant actors in the field, such as OLAF and Europol, to achieve a common goal were underlined, e.g. combating fraud against the EU's financial interests more effectively.

Participants agreed that a future EPPO should build on existing structures, experience and expertise and become part of a coherent system in the area of freedom, security and justice. They also agreed that Eurojust will have a pivotal role to play in a future EPPO and in relations with the national judicial authorities of the Member States and third States.





## Administrative developments





## 4.1 Administrative developments

The Annual Work Plan and operational plans at unit level form a key component of the Eurojust strategic planning and programming cycle and the basis of Eurojust's activity-based budget. Work is in progress to improve the tools available to ensure effective planning, cost-effective budgeting and performance management.

The planned activities of Eurojust in 2012 were achieved with a workforce of 274 having their regular place of work in The Hague, namely 45 prosecutors, judges and police officers of equivalent competence seconded to Eurojust from Member States, 12 Seconded National Experts and 217 staff members. Eurojust's budget for 2012 was EUR 32 967 000; the budget implementation was 98%.

In the framework of the Memorandum of Understanding between the European Commission and Eurojust, a number of management meetings and a regular exchange of information and consultation between representatives of the Commission, the Administrative Director of Eurojust and the Heads of Units and Services, have taken place. The increased dialogue has been mutually beneficial, especially during a time of financial constraints and discussions on the new regulations for Eurojust.

Eurojust participated within the framework of the activities of the JHA Agencies in expert meetings on

strategic planning. Eurojust also consulted the other agencies on its annual work programme for 2014.

Eurojust made progress in the framework of the Organisational Structure Review (OSR), including the migration of Eurojust's administration to a new structure. The migration process followed a recruitment plan, managed through a series of internal and external selection procedures. Included in the large volume of selection procedures associated with this migration, the selection of the Head of Operational Support was completed.

The Action Plan for the implementation of the Eurojust Communication Strategy, adopted by the College in October 2012, includes a series of activities to reinforce relations with EU partners, stakeholders and media, and sets up a database of case illustrations to increase the visibility of Eurojust's casework. The new Eurojust website was launched in February 2012 on the occasion of Eurojust's 10th anniversary celebrations.

The winning design team for the new Eurojust premises was selected by Eurojust and the Host State in early 2012, and continued working on the definition of requirements and the final design of the new premises, due at the end of 2013. According to the planning schedule, Eurojust's new premises will be delivered by the end of 2015.

## 4.2 Public access to documents

The number of requests for public access to Eurojust documents increased in 2012, amounting to seventeen initial requests and one confirmatory application. Fourteen of the initial requests were received directly by Eurojust. Eurojust was consulted as a third party in the other three cases, following requests received by other national and international organisations.

In seven of the eight non-case-related requests, access was fully granted. In one request, access was partially refused because full disclosure would undermine public security, the fulfilment of Eurojust's tasks in reinforcing the fight against serious crime and the fulfilment of the applicable rules on professional secrecy (per article 4(1)(a), 1st, 5th and 7th indents of

the Decision to Adopt Rules Regarding Public Access to Eurojust Documents).

With regard to the six requests to access case-related documents, one request was partially granted; refusal of some of the requested documents (or parts of them) was decided on the grounds of the protection of the privacy and integrity of the individuals and the protection of Eurojust's decision-making process (per articles 4(1)(b) and 4(3) of the Decision to Adopt Rules Regarding Public Access to Eurojust Documents). In another request, Eurojust no longer held the requested documents. In the four remaining requests to access case-related documents, access was refused because their release would undermine the protection of the public interest

regarding the fulfilment of Eurojust's tasks in reinforcing the fight against serious crime, national investigations and prosecutions in which Eurojust assists, and the fulfilment of the applicable rules on professional secrecy (per article 4(1)(a), 5th, 6th and 7th indents of the Decision to Adopt Rules Regarding Public Access to Eurojust Documents), the integrity of individuals (per Article 4(1)(b) of the Decision to Adopt Rules Regarding Public Access to Eurojust Documents) and/or the protection of Eu-

rojust's decision-making process (Article 4(3) of the Decision to Adopt Rules Regarding Public Access to Eurojust Documents).

The other three requests for access referred to criminal matters or to criminal investigations in general, but either fell outside the scope of Eurojust's mandate or referred to cases in which Eurojust had not assisted. Therefore, Eurojust communicated to the applicants that no Eurojust documents were available.

## Eurojust Heads of Units and Services



*From left to right: Jacques Vos, Corporate Services; Joannes Thuy, Spokesperson, Press & PR; Diana Alonso Blas, Data Protection Officer; Carla Garcia Bello, Legal Secretary to the College; Alinde Verhaag, Case Analysis; Anna Baldan, JI's Network Secretariat Coordinator; Klaus Rackwitz, Administrative Director; Catherine Deboyser, Legal Service; Jon Broughton, Information Management; Mike Moulder, Budget, Finance and Procurement; Linda Scotts, Human Resources; Matevž Pezdirc, Genocide Network Coordinator; Fatima Martins, Secretary to EJM*

## Eurojust Administration 2013









## Follow-up to Council Conclusions



On 6 June 2012, the JHA Council adopted Conclusions on the tenth Eurojust Annual Report (10360/12). As in previous years, Eurojust reports on the implementation of these conclusions. Below is a table indicating where more information can be found in the areas where the Council made recommendations.

| Council recommendations  | Follow-up   |
|--|---|
| To enhance the use of videoconferencing.   | Although no figures are available, more frequent use by National Desks of the videoconferencing equipment in coordination meetings, coordination centres and meetings with their home authorities has been noted.                             |
| To develop the use of coordination centres and to report on the practical use and its value for carrying out of the investigations.                                  | Seven coordination centres were held in 2012. <i>See</i> section 1.4.   |
| To further support the creation and implementation of JITs with a view to developing best practices and sharing information on judicial experience and case results. | Eurojust participated in 47 JITs and financed 62 in 2012. <i>See</i> sections 1.4 and 1.6 (JITs Network).   |
| To maintain its practice of associating Europol in the coordination process.   | Europol participated in Eurojust coordination meetings in 85 cases. <i>See</i> section 2.3.   |
| To report on the implementation of article 7(3) of the EJD in relation to the EAW.   | <i>See</i> section 1.2.   |
| To perfect its capacities to report on difficulties, solutions and trends in judicial cooperation in criminal matters.   | <i>See</i> section 1.   |
| To report on the use of PDF form in relation to Article 13 of the EJD and to specify the extent of exchange of information.  | An electronic template has been developed. The latest version allows semi-automatic input of data into the Case Management System. <i>See</i> section 3.1.  |
| To ensure a timely finalisation of the EPOC IV project.  | The conclusion of the project coincided with the final conference on 29 and 30 March 2012 in Noordwijk, Netherlands.  |
| To complete the implementation process as well as the implementation of the secure connection allowing access to the CMS on national level.                          | A total of 11 Member States are still to implement. <i>See</i> section 3.1 (secure connection to the CMS at national level).  |
| To report on the implementation of Article 13a with respect to the information and feedback provided to national authorities.  | Feedback through the Annual Report and strategic reports on serious crimes (drug trafficking, THB). Also through link detection and cross-referencing analysis and information exchange during coordination meetings. <i>See</i> section 3.1. |



## Annex - Eurojust case statistics

Figure 1 - Case evolution 2002-2012

Eurojust registered 1 533 cases in 2012, continuing the upward trend in the number of referrals for assistance by Member States since 2002. Approximately 20% of these cases involved three or more countries.

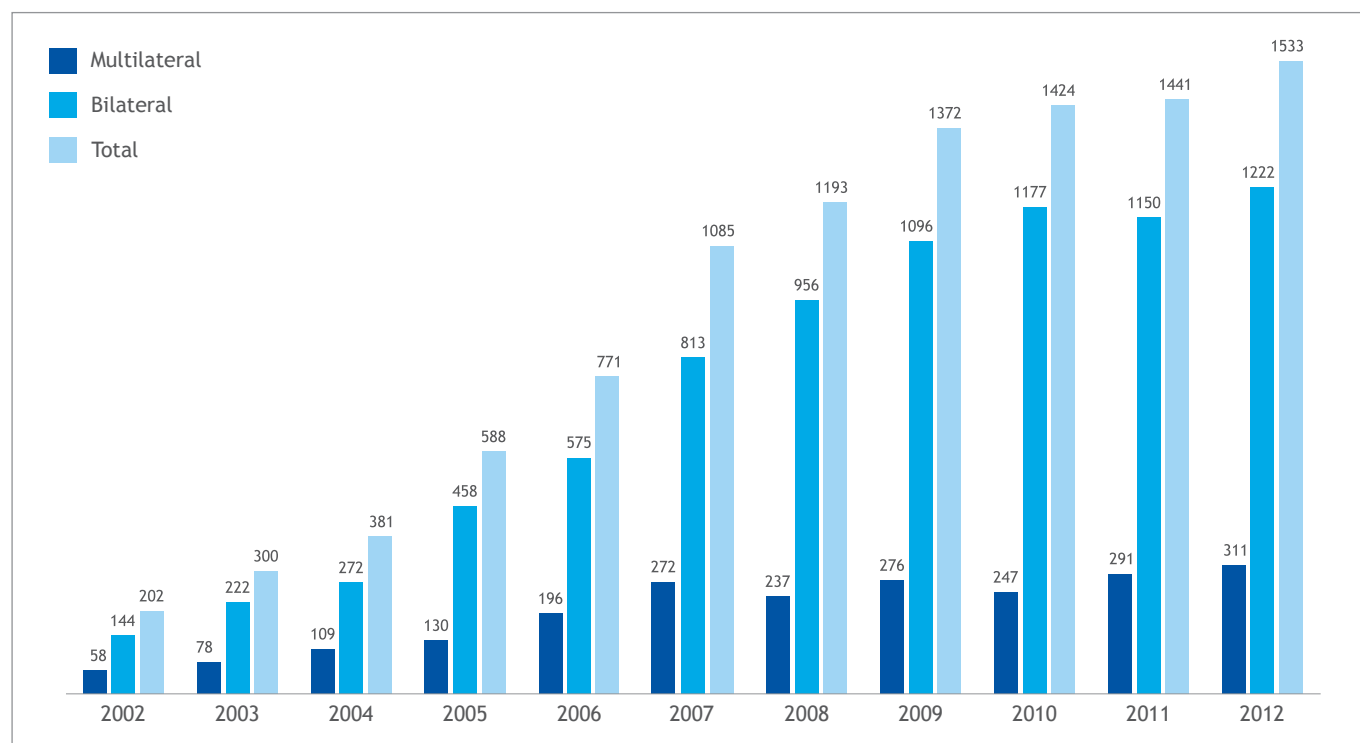


Figure 2 - Bilateral/multilateral cases by National Desk 2012

The figure shows the number of bilateral and multilateral cases registered by National Desk in 2012. A bilateral case does not mean that a less serious criminal offence is concerned or that limited involvement by Eurojust is appropriate. A bilateral case at Eurojust may be multilateral in a Member State.

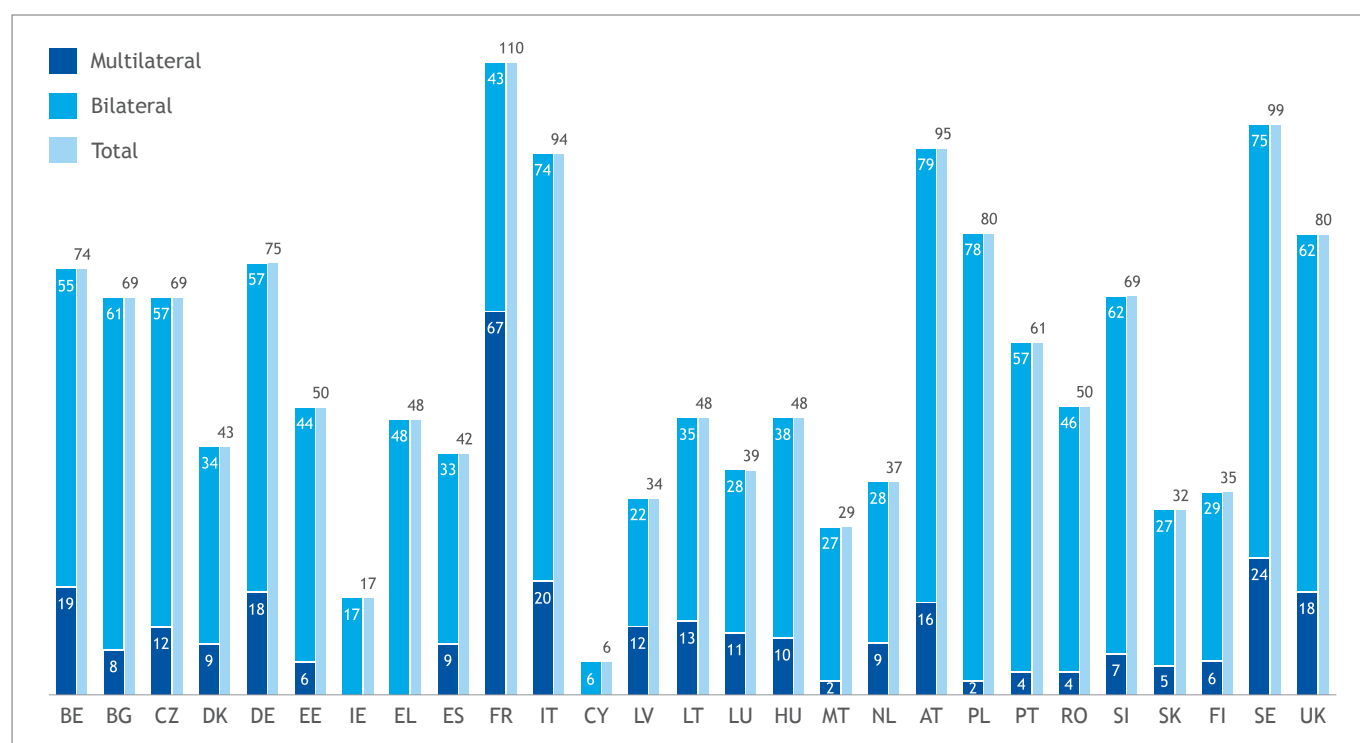


Figure 3 - Cases opened/closed 2003-2012

The caseload of the National Desks is not only impacted by the number of cases registered in a year, but also by ongoing cases of previous years. Eurojust had a total of 575 cases pending from previous years (2003-2011) that still required attention and assistance.

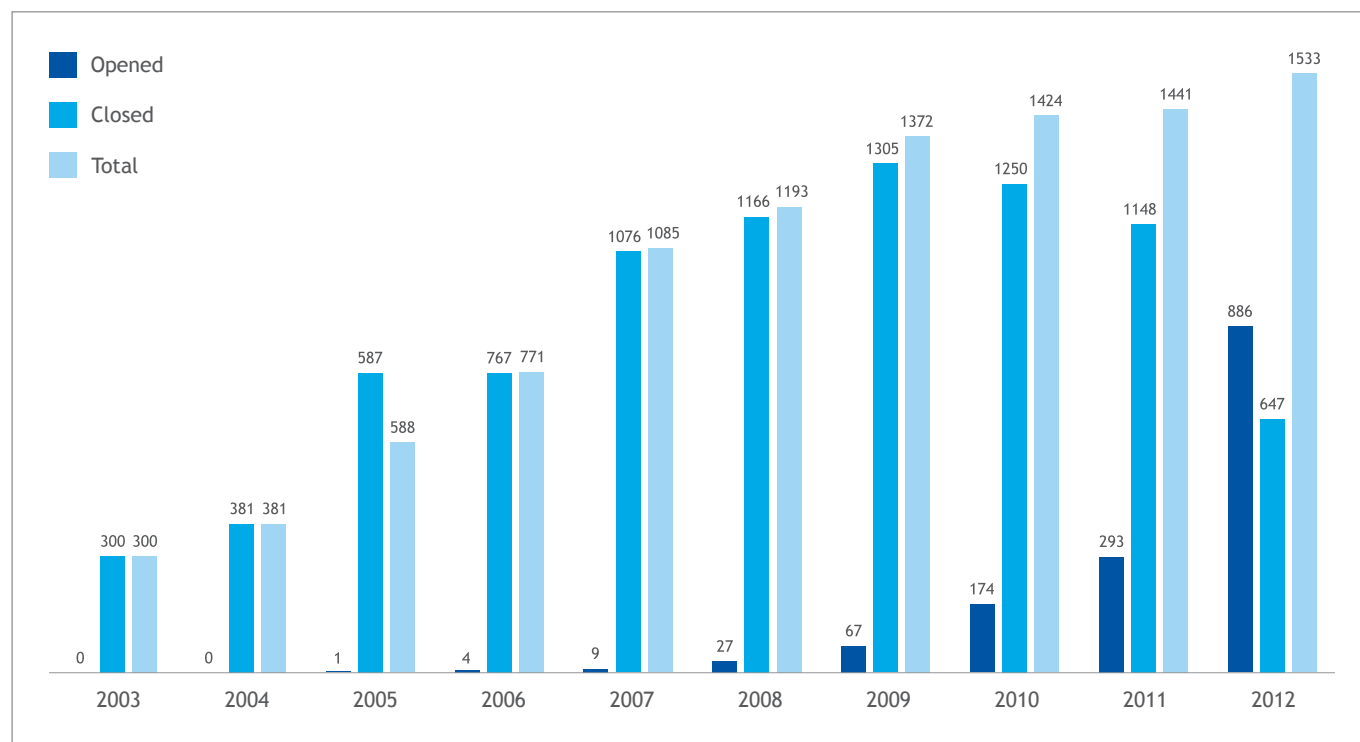
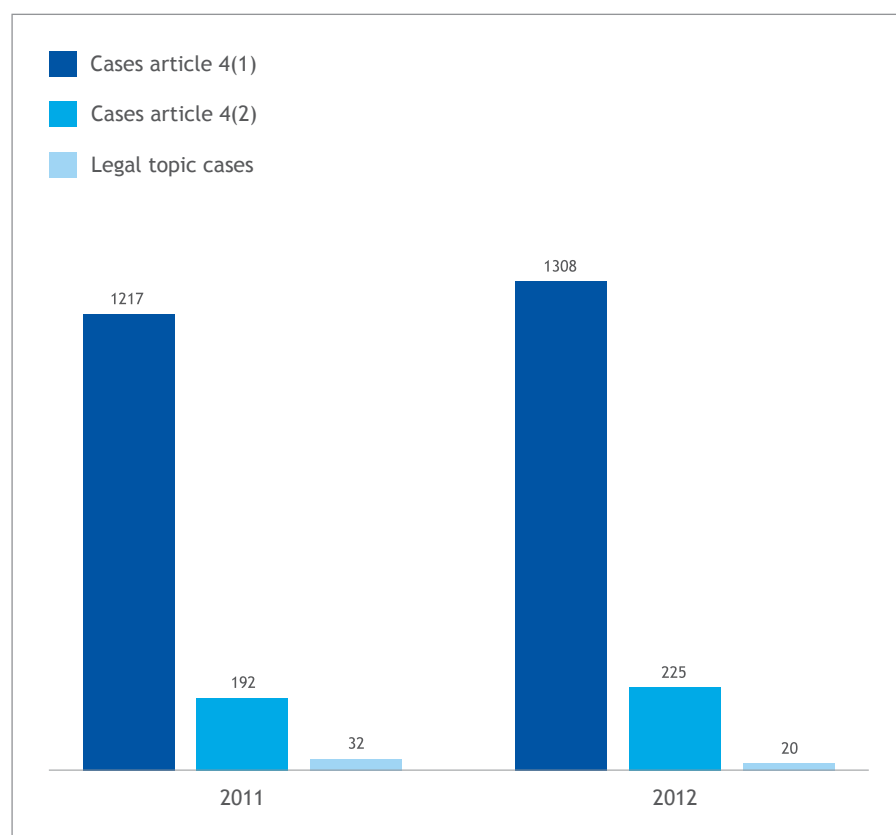


Figure 4 - General case classification



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

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

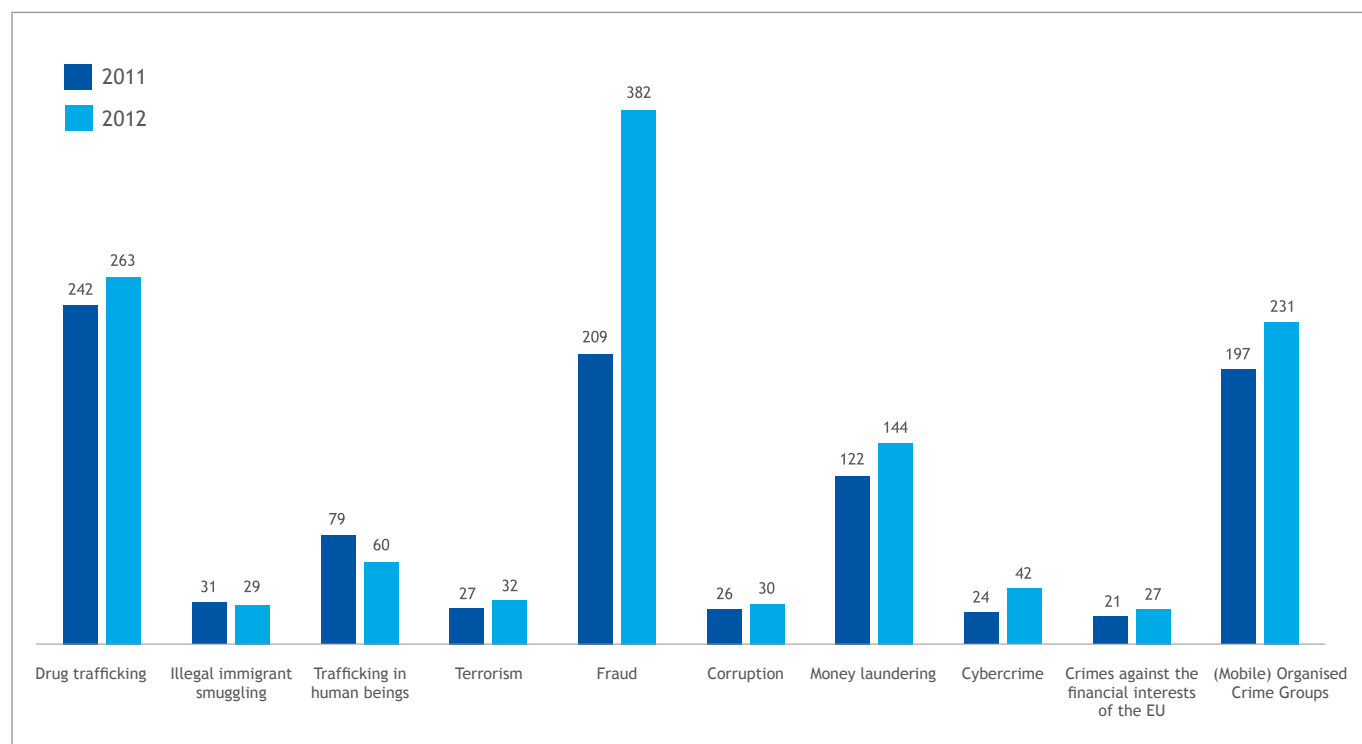
Eurojust may also be requested by a Member State to provide assistance on matters or topics of a more general nature, not necessarily directly linked to an ongoing operational case, *inter alia*, concerning national legislation or procedures (legal topic cases).



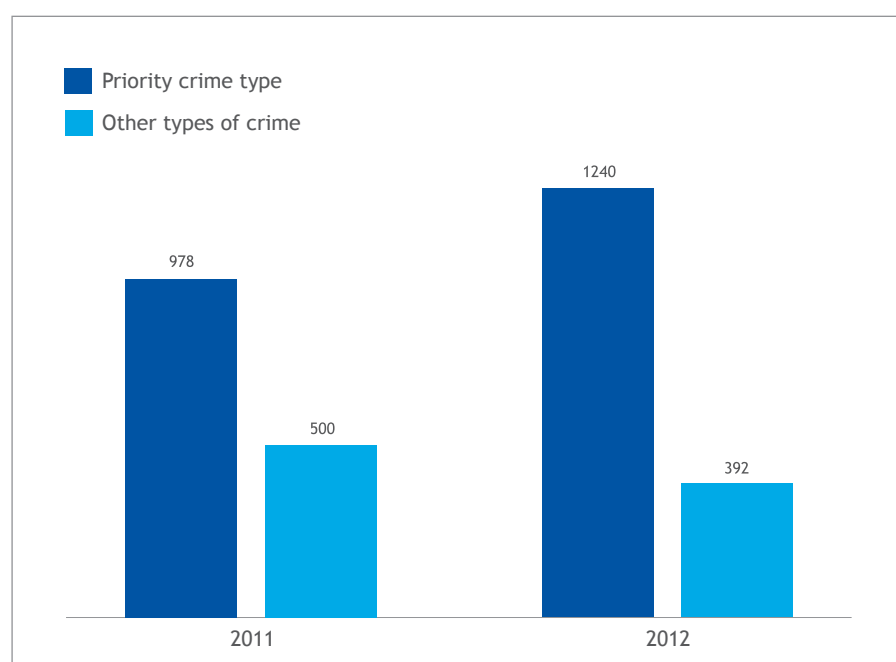
*Figure 5 - Priority crime types in Eurojust cases*

The operational priority areas adopted by Eurojust in 2012-2013 cover drug trafficking, illegal immigrant smuggling, trafficking in human beings, terrorism, fraud, corruption, money laundering, cybercrime, crimes against the financial interests of the European Union and other activities related to the presence of organised crime groups in the economy.

The figure shows the number of times that these crime types were involved in the cases registered at Eurojust in 2011 and 2012. One case may involve more than one crime type. Further information can be found in the relevant subsections of section 1.



*Figure 6 - Priority crime types and other crime types in Eurojust cases*

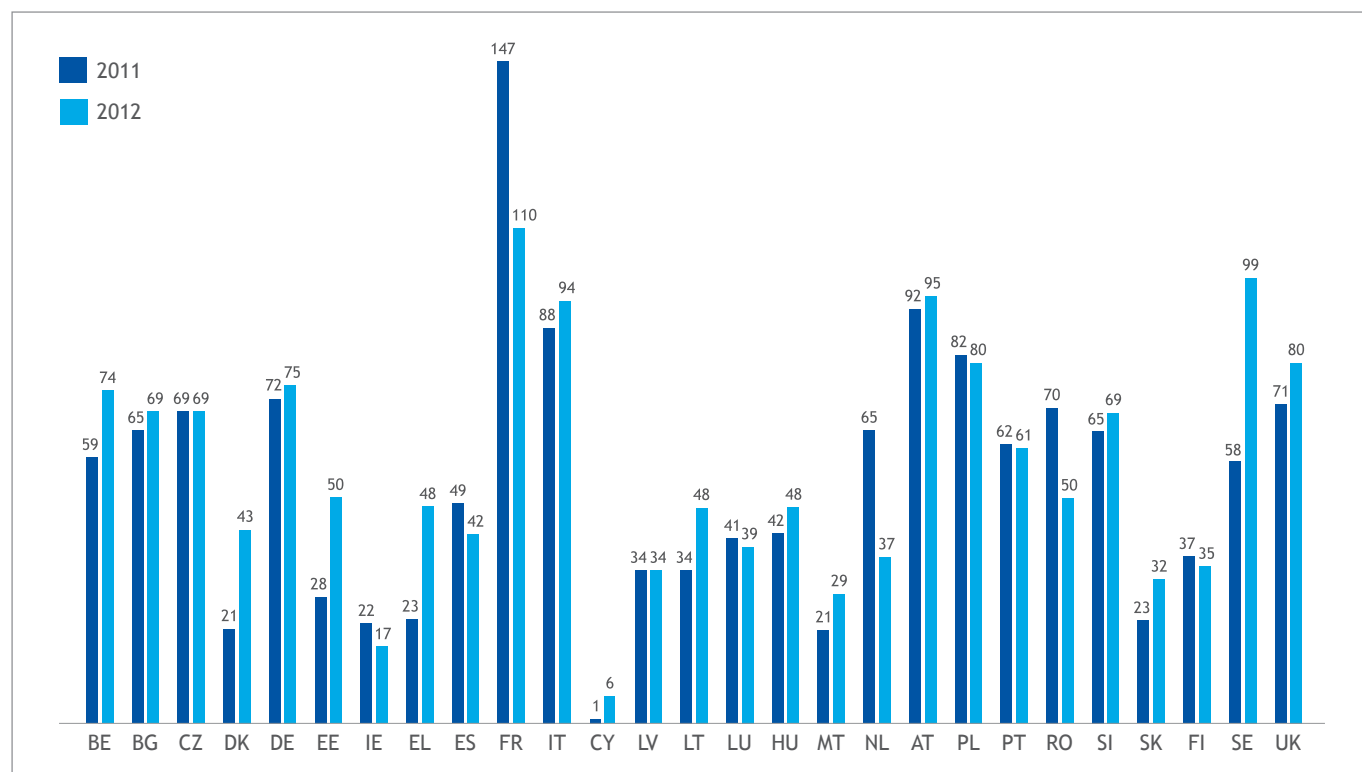


The operational priority areas adopted by Eurojust in 2012-2013 cover drug trafficking, illegal immigrant smuggling, trafficking in human beings, terrorism, fraud, corruption, money laundering, cybercrime, crimes against the financial interests of the European Union and other activities related to the presence of organised crime groups in the economy.

The figure shows the number of times that crime types in the priority areas, as well as other crime types, were involved in the cases registered at Eurojust in 2011 and 2012. One case may involve more than one crime type.

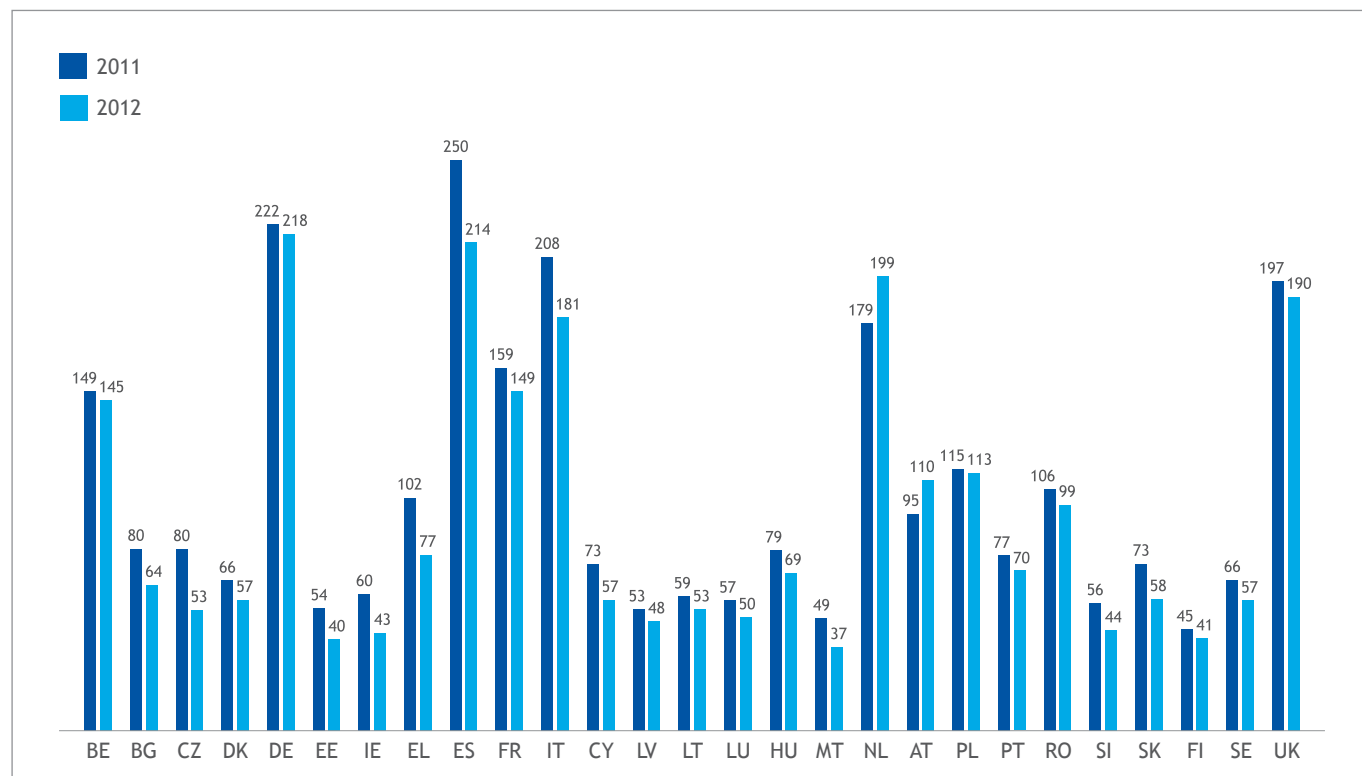
*Figure 7 - Eurojust cases: requesting countries*

The figure shows by Member State the number of times Eurojust's assistance was requested in 2011 and 2012.



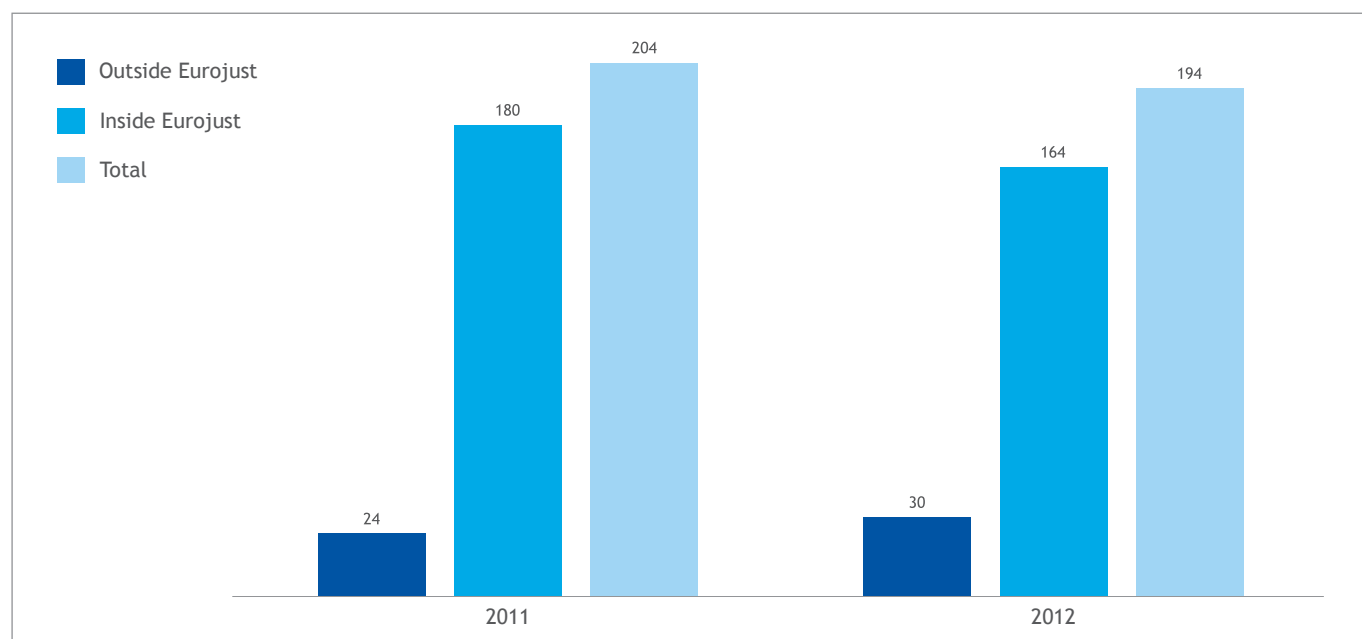
*Figure 8 - Eurojust cases: requested countries*

The figure shows the number of times the assistance of authorities in each Member State was requested through Eurojust in 2011 and 2012.



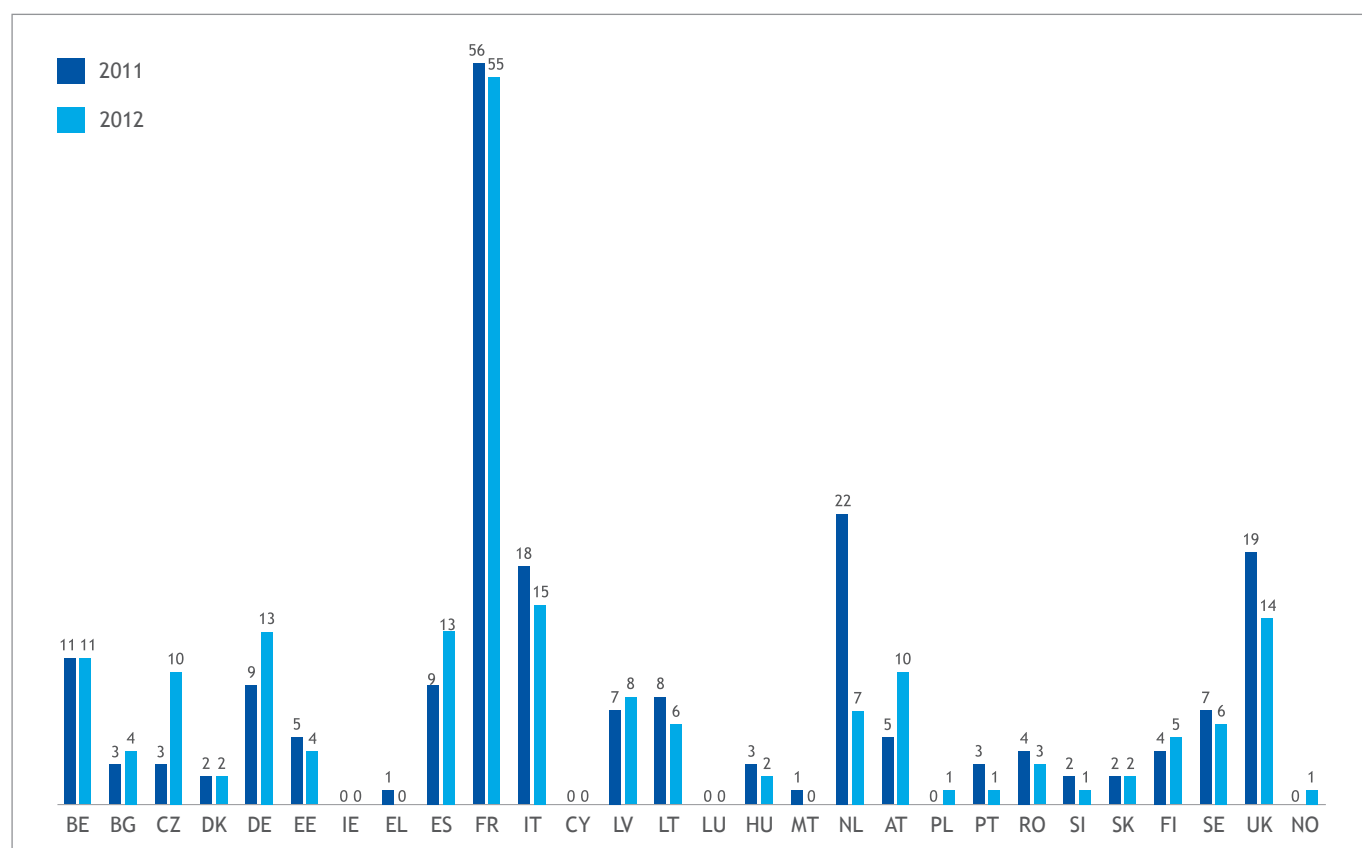
*Figure 9 - Total number of coordination meetings*

The figure shows the number of cases that required a coordination meeting. Coordination meetings are normally held at Eurojust's premises in The Hague. In certain situations, coordination meetings are held outside Eurojust, in a Member State or in a third State.



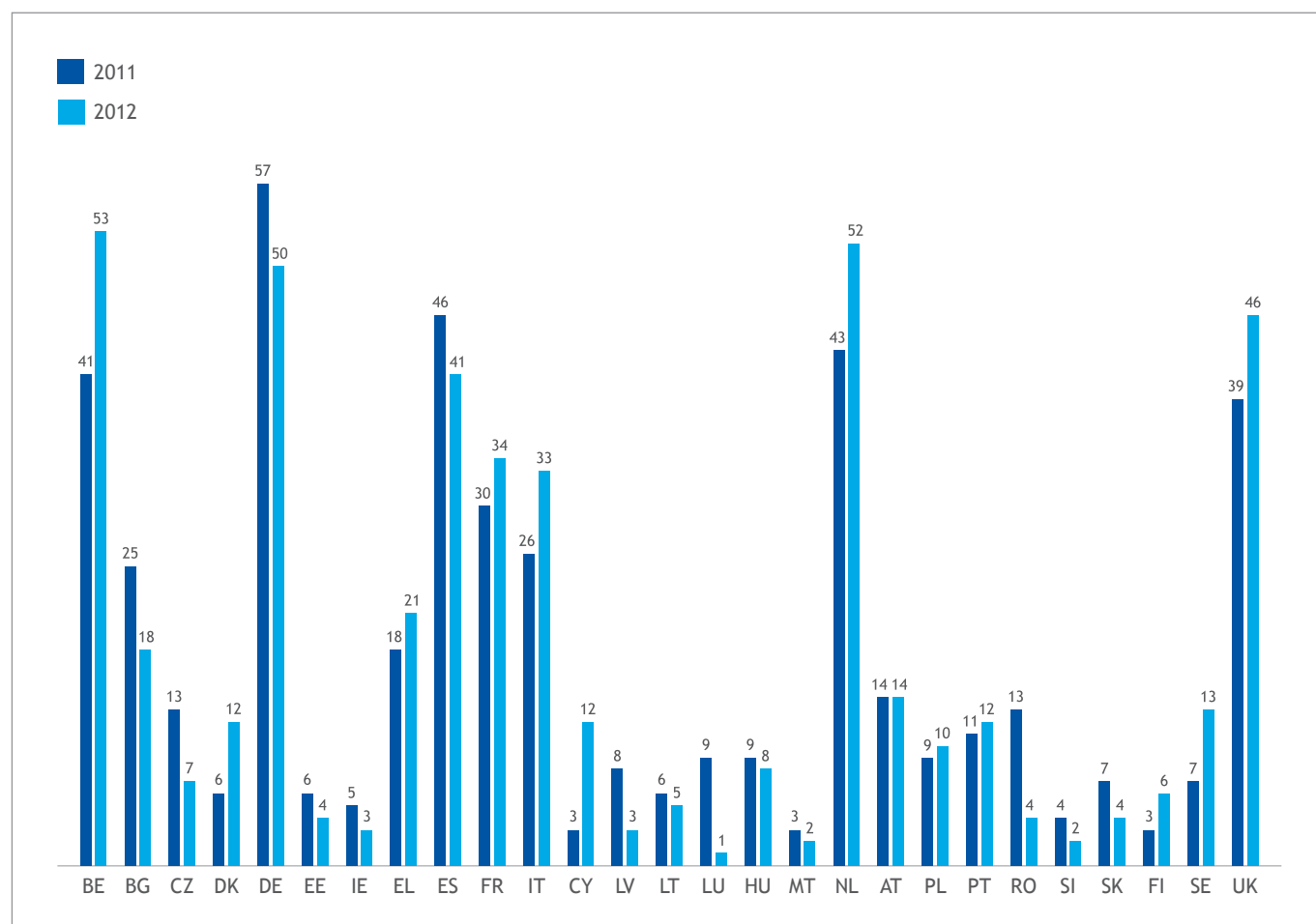
*Figure 10 - Coordination meetings: requesting countries*

The figure shows the number of cases that required a coordination meeting following a request for assistance from each Member State or third State.



*Figure 11 - Coordination meetings: requested countries*

The figure shows the number of times Member State authorities participated in a Eurojust coordination meeting on cases requiring coordination after being requested for assistance.







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