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**NOTE**

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From: Eurojust  
To: Standing Committee on operational cooperation on internal security  
Subject: Proposals from Eurojust: Improving information and intelligence exchange  
in the area of counter terrorism across the EU

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Delegations will find in Annex Eurojust proposals on improving information and intelligence exchange in the area of counter terrorism across the EU.

## Eurojust's contribution on proposals to enhance information sharing and operational cooperation in the fight against terrorism

Eurojust is pleased to provide the COSI with its contribution on proposals to enhance information sharing and operational cooperation in the fight against terrorism.

Eurojust recognises the crucial importance of information sharing between Member States and with the relevant EU agencies. At the same time, Eurojust highlights the importance for ensuring that information shared can be used as **evidence to secure convictions**. This paper presents the proposals of Eurojust on how existing platforms and services can be better used to share appropriate information.

### 1. Council Decision 2005/671/JHA

Eurojust calls for **better compliance with the obligations stemming from Council Decision 2005/671/JHA** on the exchange of information on terrorist offences<sup>1</sup>. Further to information on convictions, which should be transmitted to Eurojust on a regular basis, Member States should also provide Eurojust, in a timely and systematic manner, with information on prosecutions, links with other relevant cases, as well as requests for judicial assistance, including letters rogatory addressed to or by another Member State and the relevant responses, as required by Council Decision 2005/671/JHA (Article 2(2) and (5)).

Increased information sharing will contribute to a more complete overview of the challenges and best practice related to prosecutions and convictions. Eurojust's analysis of the judicial responses to terrorism, shared with the Member States via the Terrorism Conviction Monitors<sup>2</sup>, would then be further enriched. Eurojust will also focus its analysis on judgements regarding foreign fighters, recruiters and facilitators who have in the past been convicted of terrorist offences.

### 2. Article 13 of the Eurojust Decision

Eurojust calls for **better compliance with the obligations stemming from Article 13** of the Eurojust Decision, particularly the exchange of information with Eurojust in cases involving **illicit trafficking in firearms**. In response, Eurojust provides feedback to national authorities, including links with terrorism cases and, where appropriate, detection of criminal networks.

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<sup>1</sup> In 2014, 180 court proceedings have been reported to Eurojust, involving 444 individuals.

<sup>2</sup> **Terrorism Convictions Monitor (TCM)** Since 2008, Eurojust has published the TCM regularly. The TCM is an internal report classified as Eurojust LIMITED, which is based on open source information and contains data provided by the national authorities in the implementation of Council Decision 2005/671/ JHA. It provides a regular overview of terrorism-related convictions and acquittals throughout the European Union as well as analytical and statistical information.

### 3. European Criminal Records Information System

Eurojust supports the further development of the European Criminal Records Information System (ECRIS) to assist the Member States in accessing information on convictions of third-country nationals. Eurojust is prepared to take part in a discussion regarding a **European index of convicted third-country nationals**. In the meantime Eurojust can structure information it receives on convictions of third-country nationals in relation to terrorist offences by virtue of Council Decision 2005/671/JHA.

### 4. Optimal use of existing networks

Eurojust will reinforce this information sharing by making optimal use of existing networks, e.g. *the Consultative Forum of Prosecutors General and Directors of Public Prosecutions of the Member States of the European Union, the national correspondents for terrorism, JHA agencies, the Eurojust Contact Points in third States, the European Judicial Training Network (EJTN)*, and the Eurojust annual strategic and tactical meetings on terrorism.

For example, in 2015:

- Eurojust is proposing to the **Consultative Forum to discuss the phenomenon of foreign fighters under the Latvian Presidency**;
- Eurojust is consulting the national correspondents for terrorism, amongst others, on the role played by the judiciary in disengagement, rehabilitation and anti-/de-radicalisation.

### 5. Better use of Eurojust

Member States are encouraged to **involve Eurojust at an early stage of investigations and prosecutions**<sup>3</sup> and, in particular,

- To make use of Eurojust's **coordination meetings and coordination centres** to exchange information and discuss investigation and prosecution strategies;
- To make use of Eurojust's legal, operational and financial support in the setting up and functioning of **joint investigation teams (JITs)**;
- To seek Eurojust's assistance in the execution of **European Arrest Warrants**, and, in the future, in the execution of **European Investigation Orders**; and
- To seek Eurojust's assistance in solving legal and judicial issues related, for example, to **e-evidence**, as well as in **financial investigations** in terrorism cases.

In addition, Member States are also encouraged to make efficient use of the **Eurojust National Coordination System (ENCS)** as a platform to exchange information and ensure coordination, and Eurojust's **On-Call Coordination (OCC)** provided on a 24-hour/7-day basis.

### 6. Cooperation with Europol

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<sup>3</sup> Although an increase has been noted in the referral of foreign fighter cases to Eurojust, in general the number of terrorism related cases at Eurojust is still very low:

- 2013: 17 cases, 3 coordination meetings and 1 JITs (funded by Eurojust)
- 2014: 14 cases, 4 coordination meetings and 2 JITs (both funded by Eurojust)

Eurojust will analyse the possibilities to further **increase the sharing of information with Europol**. The possibilities to enlarge the legal basis for an extended exchange of information between Eurojust and Europol could also be explored.

The **association of Eurojust with Europol Focal Points on terrorism Check-the Web, Hydra and Dolphin** is essential to ensure the judicial follow-up of information exchanged within the Focal Point<sup>4</sup>.

## 7. EU Internet Referral Unit at Europol

Eurojust welcomes the setting-up of an EU Internet Referral Unit at Europol as a development of the 'Check the web' project.

Eurojust highlights the importance of ensuring **proper judicial follow-up** of the tasks of this Unit, in particular when intelligence and administrative actions would require subsequent investigation and prosecution; or when taking down websites would require judicial involvement. Eurojust can facilitate the judicial follow-up.

## 8. Operational and strategic cooperation with third States

Eurojust will continue to strengthen cooperation with the USA<sup>5</sup> and with Eurojust Contact Points in Turkey and in the Western Balkans to reinforce judicial cooperation in relation to the foreign fighter phenomenon.

Eurojust is looking into enlarging its **contact point network in the MENA countries**<sup>6</sup>. Eurojust assists the Member States in investigations and prosecutions involving MENA countries in accordance with the legal framework currently in place. The initiation of negotiations for MLA and Extradition Agreements between the European Union and the MENA countries could be considered taking into account the Rule of law and the protection of human rights.

Eurojust is discussing the posting of **Eurojust liaison magistrates in third States**, in particular the role of a liaison magistrate and the criteria for selecting countries (e.g. the need to address the phenomena related to the travel of foreign fighters).

In 2012, Eurojust held a strategic seminar<sup>7</sup>, *Judicial Cooperation in Criminal Matters between the EU Member States and Southern Neighbours<sup>8</sup> of the EU* in Cyprus. Eurojust is considering organising a **strategic seminar with the MENA countries in 2015 as a follow-up to the seminar held in Cyprus**. The seminar could focus on judicial cooperation, including the challenges in addressing the foreign fighters' phenomenon.

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<sup>4</sup> Eurojust is already associated to Focal Point TFTP and has been recently invited to be associated to Focal Point Travellers.

<sup>5</sup> Eurojust signed a cooperation agreement with the United States which allows for the exchange of personal data

<sup>6</sup> Eurojust has already a Contact Point in Egypt and Tunisia

<sup>7</sup> Council document 8087/13.

<sup>8</sup> Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Palestinian Authority, Syria and Tunisia.

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