



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 26 April 2011**

**9361/11**

**EUROJUST 60  
CATS 23  
EJN 48  
COPEN 88**

**NOTE**

---

from :	General Secretariat
to :	CATS
Subject :	EUROJUST Annual Report 2010

---

Delegations will find attached the EUROJUST Annual Report 2010.



# **EUROJUST ANNUAL REPORT 2010**

# Table of Contents

## Foreword

## 1 Overview

### *Casework*

### *Relations with EU institutions*

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

### *Administrative issues*

### *Information technology*

### *Public access to Eurojust documents*

## 2 Operational activities

### 2.1 *Introduction*

### 2.2 *Casework statistics*

### 2.3 *Obstacles encountered in Eurojust's judicial co-operation casework*

### 2.4 *Use of Eurojust's judicial co-operation tools*

#### *Co-ordination meetings*

#### *Articles 6 and 7 of the Eurojust Decision*

#### *The 2000 MLA Convention and evidential issues*

#### *European Arrest Warrants*

#### *Freezing orders*

#### *Confiscation and asset recovery*

#### *Controlled deliveries*

### 2.5

#### *Judicial co-operation in crime priority areas*

#### *Terrorism*

#### *Drug trafficking*

#### *Trafficking in human beings*

#### *Fraud*

#### *Corruption*

#### *Cybercrime*

#### *Money laundering*

## *Organised crime activities*

### **2.6 *Joint investigation teams***

*Eurojust and financial support to JIT operations*

### **2.7 *Eurojust casework involving third States***

*Liaison Prosecutors from third States seconded to Eurojust*

## **3 Relations with EU partners**

*European Judicial Network*

*Europol*

*OLAF*

*Frontex*

*European Judicial Training Network*

*CEPOL*

## **4 Developments**

*Implementation of Council Decision 2009/426/JHA*

*Internal Security Strategy (COSI; Consultative Forum of Prosecutors General and Directors of Public Prosecutions)*

*Task Force on the Future of Eurojust*

*JHA co-operation*

## **5 Follow-up to Council Conclusions**

**Annex**

*Figure 1: Case evolution 2002 – 2010*

*Figure 2: General case classification*

*Figure 3: Priority crime types in Eurojust cases*

*Figure 4: Priority crime types and other crime types in Eurojust cases*

*Figure 5: Eurojust cases, requesting countries*

*Figure 6: Eurojust cases, requested countries*

*Figure 7: Total number of co-ordination meetings*

*Figure 8: Co-ordination meetings, requesting countries*

*Figure 9: Co-ordination meetings, requested countries*

## 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 referred 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.eu](http://www.eurojust.eu).

## List of acronyms

AWF	Analysis Work File
CEPOL	European Police College
CMS	Case Management System
COSI	Standing committee on operational cooperation on internal security
EAW	European Arrest Warrant
EJN	European Judicial Network
EJTN	European Judicial Training Network
ENCS	Eurojust National Coordination System
EPPO	European Public Prosecutor’s Office
Frontex	European Agency for the Management of the Operational Cooperation at the External Borders of the European Union
IWG	Informal Working Group on the implementation of the new Eurojust Decision in the Member States
JIT	Joint Investigation Team
MLA	Mutual Legal Assistance
OCC	On-Call Coordination
OCTA	Organised Crime Threat Assessment
OLAF	European Anti-Fraud Office
OSR	Organisational Structure Review
ROCTA	Russian Organised Crime Threat Assessment
TE-SAT	Terrorism Situation and Trend Report
TFEU	Treaty on the Functioning of the European Union
THB	Trafficking in Human Beings

## Foreword

Eurojust's ninth Annual Report reviews its activities in 2010. The Treaty of Lisbon defines our mission as helping to fight serious crime affecting two or more Member States of the European Union. This report presents the main aspects of that operational work.

As in previous years, the number of cases that Member States have referred for Eurojust's help has increased. For the first time, more than 1,400 cases have been registered in our Case Management System. Eurojust also held about 140 co-ordination meetings, where investigators and judicial authorities attended to progress cross-border crime cases and resolve operational issues. This again was an increase over the previous year. Importantly, over 90 per cent of these meetings dealt with crimes identified as particular threats to EU citizens. These were terrorism, drug trafficking, trafficking in human beings, fraud, corruption, cybercrime, money laundering, and other activities related to the presence of organised crime groups in the economy.

Eurojust, however, has not been immune from the pressures arising from the global financial crisis. Financial restrictions in Member States have meant that the increase in casework and co-ordination has been achieved against the background that some National Desks are significantly undermanned. Given its operational importance, Eurojust held meetings about the implementation of its new Decision in Member States (which is to take place by 4 June 2011). The elements with potential for immediate impact on core business are those requiring Member States to exchange certain casework information with Eurojust, and the 24/7 availability of Eurojust's assistance to practitioners in Member States.

The year saw Eurojust's role in the judicial fight against cross-border crime reinforced in other important respects. Joint investigation teams are increasingly recognised as an effective instrument in this fight. In 2010, Eurojust was again entrusted with evaluating and making grants to joint investigation teams with Commission funds; it also appointed a co-ordinator for the JIT Network. At a policy level, Eurojust provided input from its judicial perspective to the deliberations of the standing committee for operational cooperation on internal security (established under Article 71 of the Treaty on the Functioning of the European Union). Eurojust has also provided support to the Consultative Forum of Prosecutors General and Directors of Public Prosecutions. In order to foster parliamentary evaluation of its activities in anticipation of Lisbon provisions, Eurojust took active steps to explain its role at the level of both European and national parliaments.

Internally, Eurojust continued its drive to improve efficiency and to consider the changes that might follow from future proposals on regulations for Eurojust and on a European Public Prosecutor's Office from Eurojust. An implementation programme for the Organisational Structure Review was developed, and progress was made in negotiations for new premises in The Hague, so that Eurojust can at last benefit from working in one building.

The Annual Report 2010 builds on the changes to format and subject matter introduced in last year's report, which were broadly welcomed. I hope that this report provides a useful account of Eurojust's activities in the fight against cross-border crime.

**ALED WILLIAMS**

President of Eurojust

March 2011

## 1 Overview

### *Casework*

In 2010, Member States requested Eurojust's assistance in 1,424 new cases, representing a 4 per cent increase in case referrals (there were 1,372 requests for assistance in 2009). Approximately one-fifth of these cases involved three or more countries. In line with the EU emphasis on fighting the crimes posing an especial threat to its citizens, Eurojust focused in 2010 on terrorism, drug trafficking, trafficking in human beings (THB), fraud, corruption, cybercrime, money laundering, and other activities related to the presence of organised crime groups in the economy. These crime types occurred 1,015 times in Eurojust's cases, representing a 4 per cent increase over the 2009 figure of 974.

In 2010, Eurojust held 141 co-ordination meetings. This again continued the upward trend, with a 7 per cent increase over the number of meetings (131) held in 2009. Approximately two-thirds of co-ordination meetings involved three or more countries. Over 90 per cent of co-ordination meetings dealt with a priority crime type as listed above.

For further details on Eurojust's casework, *see* Chapter 2.

### *Relations with EU institutions*

Eurojust continued its work with operational and strategic partners such as the EJM, Europol, OLAF, Frontex, EJTJ and CEPOL. This information is detailed in Chapter 3.

Eurojust developed its relationship with the principal EU institutions during 2010. In June, the Commissioner for Justice, Fundamental Rights and Citizenship, Ms Viviane Reding, visited Eurojust to discuss its work and the future of the organisation. For the first time, a representative of the European Parliament attended a regular meeting held with the representatives of the Trio Presidencies, the European Commission and the General Secretariat of the Council. Eurojust also invited the EU institutions to the meetings of the Informal Working Group on the implementation of the Eurojust Decision in the Member States (IWG).

Eurojust also participated in the meetings of the standing committee on operational cooperation on internal security (COSI), established in 2010 under Article 71 of the Treaty on the Functioning of the European Union (TFEU). Through its involvement with COSI, Eurojust intends to assist in developing appropriate judicial involvement in internal security issues.

Eurojust contributed to *fora* working to improve criminal justice co-operation in the European Union. These included the Working Party on Cooperation in Criminal Matters (COPEN), where Eurojust provided expert input to relevant legislative developments, such as the European Investigation Order (EIO). At the request of the Council Presidency, Eurojust attended CATS (former Article 36 Committee) meetings to ensure that its practitioner input was taken into account during the decision-making process. Eurojust also participated in the work of the Working Party on General Matters and Evaluation.

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

Eurojust widened its global reach in judicial co-operation in 2010. The Memorandum of Understanding between Eurojust and the United Nations Office on Drugs and Crime (UNODC) was signed on 26 February 2010. Eurojust added Brazil, Cape Verde, India and Kazakhstan to its network of contact points in third States. Eurojust supported several initiatives in the Balkans, including the EU Project on the Establishment of International Law-Enforcement Coordination Units (ILECUs) and the Police Cooperation Convention for Southeast Europe Secretariat (PCC SEE).

Work continued to extend the possibilities of operational co-operation. In 2010, co-operation agreements with the Russian Federation, Ukraine and Liechtenstein were reconfirmed as priorities. The first meeting of the Working Group to resolve practical issues regarding judicial co-operation between the European Union and the Russian Federation took place in Moscow. Negotiations for a co-operation agreement with Ukraine were resumed. In June, Eurojust informed the Council of its intention to institute formal negotiations for a co-operation agreement with Liechtenstein. Turkey was added to the priority list for negotiation of co-operation agreements.

The results of past work took effect. The agreement on co-operation between Eurojust and the former Yugoslav Republic of Macedonia (fYROM) entered into force on 23 June 2010. Eurojust also took part in a fact-finding mission to Kosovo with a view to learning about the judicial system and establishing contacts with the European Union Rule of Law Mission to Kosovo (EULEX).

For information on Eurojust casework involving third States and the role played by Liaison Prosecutors from third States seconded to Eurojust, *see* Section 2.7.

### *Administrative issues*

Eurojust prepared a Multi-Annual Strategic Plan (MASP) for the first time in 2010. The MASP covers the years 2012 – 2014 and establishes four strategic goals: improving operational work, becoming a centre for effective judicial action against cross-border crime, improving relationships with key partners and achieving further efficiency in working methods.

Eurojust's budget in 2010 was €30.2 million. It executed 98 per cent of its commitment appropriations budget. The operational part of the budget increased (through internal budget transfers) by 14 per cent, principally due to further development of its database (which included a change of supplier) and the purchase of additional hardware. A total of approximately 6,500 transactions (commitments and payments) were processed during 2010. Eurojust anticipates receiving a statement of assurance from the European Court of Auditors.

In July 2010, Eurojust received an offer of new premises from its Host State, the Netherlands. The Host State offered to finance and construct a new building for Eurojust by the end of 2015. Eurojust will submit a cost-benefit analysis to the budgetary authority in 2011 and seek its advice. The Organisational Structure Review (OSR) had commenced in February 2009 and was developed throughout 2010. The implementation phase started in the second half of 2010 with subprojects on governance structures, performance and co-operation between Eurojust and its administration, training and organisational culture.

## ***Information technology***

Eurojust continued to develop its Case Management System (CMS) as the information tool for managing operational cases. In 2010, a new version of the CMS with further usability improvements was introduced. In addition, a team was established to prepare and manage the technical changes needed to implement the Eurojust Decision. These included the On-Call Coordination (OCC) system and the EJ27 project to establish a secure communication channel with each Member State. The latter will support both the connection of the Eurojust National Coordination System (ENCS) in the Member States to the CMS and also the increased exchange of information required by Article 13.

The research project European Pool against Organised Crime (EPOC) IV, co-funded by the European Commission, advanced from information-gathering to analysis and produced the first proposals for a standard for the exchange of data at judicial level. In parallel, the project further developed a derivative of the CMS for use in Member States as the international co-operation component of national databases. Three Member State partners, Bulgaria, Italy and the Netherlands, have volunteered to test this potential solution.

## ***Public access to Eurojust documents***

In 2010, four requests were received for access to Eurojust documents. Three related to investigations or prosecutions in which Eurojust was involved and one related to a staff matter. The staff request was partly refused on the ground that “full disclosure would undermine the protection of court proceedings and legal advice”.

One request related to an operational case and two other requests arose from university research studies, which sought access regarding recommendations made by Eurojust on conflicts of jurisdiction under Articles 6 and 7 of the Eurojust Decision, and information in relation to concurrent or conflicting European Arrest Warrants (EAWs). Some information was provided. Refusals were made on the grounds of the “protection of court proceedings and legal advice ...”, and that “disclosure would undermine the protection of public interest ... the privacy and integrity of the individuals..., court proceedings and legal advice ...” and “the Eurojust decision-making process”.

## **2 Operational activities**

### ***2.1 Introduction***

This chapter summarises casework figures and, following the Council Conclusions on last year’s Annual Report, deals with obstacles to judicial co-operation, the casework use of Eurojust’s judicial co-operation tools and the evaluation of judicial instruments. The obstacles to judicial co-operation that have been identified necessarily reflect Eurojust’s experience with the cases referred to it, and do not proceed from a wider basis.

This chapter also considers priority crime areas from the perspective of judicial co-ordination and co-operation. These priorities were adopted in light of Council Conclusions on the assessments of the threats from organised crime and terrorism, to which Eurojust contributed. The types of crime identified were terrorism, drug trafficking, trafficking in human beings, fraud, corruption, cybercrime, money laundering, and other activities related to the presence of organised crime groups in the economy.

## **2.2 Casework statistics**

In 2010, 1,424 new cases where Member States sought Eurojust's assistance were registered in the CMS. Detailed statistics regarding the growth in casework and the countries involved are provided in figures 1, 5 and 6 of the annex.

Figures 2, 3 and 4 of the annex provide casework statistics in relation to the objectives and priorities set by the Council for Eurojust's activities. Almost 90 per cent of the cases referred to Eurojust involve the types of crimes and offences on which Europol is also competent to act (Article 4(1) of the Eurojust Decision). In the remaining cases, Eurojust's assistance was sought under Article 4(2) for other crime types at the specific request of the competent authorities of the Member States. The number of co-ordination meetings increased by 7 per cent in comparison with 2009, from 131 to 141. Of these meetings, 14 took place outside Eurojust for operational reasons. 63 per cent of the co-ordination meetings involved three or more countries. In 2010, 92 per cent (130 of 141) of co-ordination meetings involved the types of crime identified as priorities. The remaining meetings dealt with serious crimes (such as murder) which were not within the priority crime types. Figures 7, 8 and 9 of the annex contain detailed statistics on the co-ordination meetings held in 2010.

## **2.3 Obstacles encountered in Eurojust's judicial co-operation casework**

The Council of Europe Convention of 20 April 1959 on mutual assistance in criminal matters (1959 MLA Convention), the Convention of 29 May 2000 on mutual assistance in criminal matters between the Member States of the European Union (2000 MLA Convention), and the Framework Decision of 13 June 2002 on the European arrest warrant (Framework Decision on the EAW) continued to be the legal instruments most cited in Eurojust's judicial co-operation work. Where legal problems were identified, Eurojust assisted with advice on the interaction between European and national legal provisions and on how legal difficulties could be overcome.

Eurojust's casework in 2010 shows that practical and legal obstacles to judicial co-operation in the European Union are often interlinked. Practical obstacles include a lack of resources at national level for the timely execution of judicial co-operation requests. This was evidenced not only by delay but by difficulties arising from low-quality translation or incomplete information included in requests. In some instances, lack of adequate equipment hampered the physical execution of requests. This could occur in tracking controlled deliveries, videoconferencing or interception of telecommunications.

Connected to these resource problems are others that may be related to lack of training and trust. In some cases, the executing authorities requested extensive additional information on a variety of issues, such as all prior judicial decisions relating to the person under investigation, remedies, decisions on remedies, specific legal provisions, lifestyle of the person, etc. These requests contributed to significant delays. Lack of trust and training may still underlie apparently technical difficulties that hinder speedy disposal of judicial co-operation requests. These problems have been noted when EAWs are involved.

Eurojust was often able to help reduce delays associated with traditional mutual legal assistance (MLA) by facilitating information exchange, providing immediate assistance to Member State authorities and thus helping safeguard citizens. As a simple illustration, Eurojust received an urgent request during the trial of a serious sexual offender. Eurojust was able to ensure within 48 hours that a court in one Member State had a complete picture of the threat posed by the defendant from information in the judicial files of another, involving analysis of changes to the legislative treatment of the offence.

More technical problems were encountered in the execution of judicial co-operation requests because of differences in the practical use of relevant terms. For example, the execution of requests asking for “freezing”, “seizures” and “confiscation” could create difficulties. Here Eurojust played a key role in clarifying the needs of the authorities involved and advising on practical solutions. The problematic execution of freezing orders illustrates another area where legal difficulties have been encountered. National authorities have sometimes been reluctant to use the instruments provided for co-operation at European level. Sometimes this was because they did not immediately appear to meet practitioner needs. For example, the form in the Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence (Framework Decision on orders freezing property or evidence) has been little used, even when the legal instrument has been transposed into national legislation. Further examination of freezing orders is found in Section 2.4.

A related legal obstacle identified in Eurojust’s casework is lack of or insufficient implementation of European legislation. For example, in some cases, judicial authorities have difficulties in establishing joint investigation teams (JITs) due to inadequate transposition of EU legislation into national law in some Member States.

Other legal obstacles may, occasionally, arise from different rules on the admissibility of evidence. Examples can be found in legislation regarding the interception of communications, the hearing of witnesses, the degree of witness protection available, and in fair trial requirements. Different procedures regarding the taking of witness statements have led to practical problems. For example, statements taken without prior notification to the defence in one Member State may not be admissible as evidence in another.

Problems also arise from procedural differences. There are, for example, a number of ways in which requests for judicial co-operation can be transmitted. These include direct transmission between judicial authorities, Interpol, Schengen Information System (SIS), Eurojust and the European Judicial Network (EJN). This situation can generate uncertainty among practitioners as to which is the appropriate channel.

Problems stemming from differences in the definition of crime offences or investigative measures also occur occasionally. An example is provided in Section 2.5 under *Money laundering*.

Many of the general difficulties indicated above could be lessened by drawing on Eurojust's practitioner experience at an early stage, and by ensuring that it is provided with an accurate picture of the case. Eurojust is often requested to resolve a particular problem, but other aspects of the case on which it could also add value may not be drawn to its attention. Full implementation of the notification requirements in the Eurojust Decision may assist in this context.

In brief, cross-border investigations and prosecutions are seen as difficult and resource-intensive. Making national judicial authorities more sensitive to the importance of international judicial co-operation in general, and to the role of Eurojust in particular, is vital. The general point is that the involvement of Eurojust at an early stage, i.e. from the beginning of police co-operation, is crucial to ensuring that the investment of investigation resources yields judicial results.

## ***2.4 Use of Eurojust's judicial co-operation tools***

### ***Co-ordination meetings***

Co-ordination meetings continue to be a vital tool for Member States' judges, prosecutors and investigators in cross-border cases. They encourage the immediate exchange of information about linked investigations and the co-ordination of operational actions. These meetings allow competent national authorities and Eurojust National Members, as well as representatives from EU partners such as Europol and the European Anti-Fraud Office (OLAF), to agree on a common strategy and to plan and co-ordinate simultaneous investigations and actions, such as arrests, searches, and seizure of property.

Co-ordination meetings provide for "symmetry of information" in that they allow participating countries to identify the kind of information they need to exchange in a format valid for all partners. The appropriate channels and the timing for the transmission of information can also be identified. In addition, the authorities involved have the chance to meet and build effective working relationships.

There are two simple steps to improve the use of co-ordination meetings. The first is to ensure that agreements made at co-ordination meetings are the subject of timely execution by all parties. The second is that information exchange and the discussion of legal obstacles prior to the co-ordination meetings could add value to them. Special attention could then be given at meetings to the concrete actions required for the execution of judicial co-operation requests (e.g. controlled deliveries, simultaneous house searches, etc).

### ***Articles 6 and 7 of the Eurojust Decision***

Articles 6 and 7 of the Eurojust Decision provide for National Members and the College to make casework recommendations to competent national authorities. These recommendations are valuable tools for the improvement of judicial co-operation in cross-border cases affecting the European Union. They reflect what is in fact a continuous dialogue between Eurojust National Members and their authorities on operational casework matters.

Sometimes, this dialogue is the subject of formal exchanges (e.g. decisions or formal requests by the National Member to his/her judicial authorities) but in the majority of the cases, the exchange is informal. The use of formal requests will often reflect particular procedural practices in Member States, such as the need to create an official audit trail of prosecution decisions.

During 2010, 29 formal requests were issued under Article 6. For example, several requests were issued under Article 6.1(a)(i) (to undertake an investigation or prosecution of specific acts): Eurojust was able to add value by alerting the competent authorities in one Member State of the need to consider investigation and prosecution, although the case had originated in another Member State. The Portuguese Desk, for example, asked its authorities to consider an investigation that had originated in a Belgian case of cybercrime and money laundering, and which came to involve eight Member States and two third States. In another instance, Eurojust alerted several different prosecuting authorities within one jurisdiction to the need to take action. In an Austrian investment fraud investigation involving seven Member States and two third States, domestic judicial authorities in six different Italian cities were asked to identify the victims of the fraudulent activities, and to take the case forward by the registering of formal complaints and provision of bank information.

Other examples can be found under Article 6.1(a)(ii) (for competent authorities to accept that one of them may be in a better position to undertake an investigation or prosecute specific acts): the Portuguese and Spanish national authorities were asked to accept that the Portuguese authorities would be in a better position to undertake an investigation and further prosecution of a case of kidnapping, attempted murder, arson and forgery of documents committed by Portuguese citizens. In another case, Eurojust brokered an agreement between Spanish, Dutch and UK authorities in a drug trafficking case, as to which would be in a better position to prosecute. In all cases, competent national authorities followed Eurojust's recommendations.

National Desks made requests under Article 6.1(a)(iii) (to co-ordinate between the competent authorities of the Member States concerned): In one interception of communications case, Eurojust secured the execution of a Spanish domestic warrant that was vital to ensuring co-ordination with a requesting Member State.

National Desks made requests under Article 6.1(a)(v) (to provide any information that is necessary for the National Member to carry out its tasks): Eurojust can frequently provide information quickly and effectively, which while straightforward is nevertheless important to the proper investigation of cross-border crime. Under this provision, Eurojust's rapid identification of the responsible prosecutor or court in the executing jurisdiction made the difference: because executing authorities were contacted for immediate action, telephone interceptions and house searches yielded evidential results.

During 2010, one formal request was issued by the College of Eurojust under Article 7 of the Eurojust Decision. Article 7 provides for Eurojust to act as a College. Under Article 7.1(b), the College can ensure that competent authorities throughout the European Union know of investigations and prosecutions that might be relevant to them. The College used this power under Article 7.1(b) on one occasion in 2010. The Belgian authorities were investigating a series of murders and sexual offences that had occurred in Belgium from the 1990s onwards, supposedly committed by a school teacher. The suspect, when arrested for the murder of a young couple, confessed to the murder of a girl some years before. It became feasible that the suspect was responsible for the disappearance of young women in several different jurisdictions. In accordance with Article 7.1(b), the College decided to act in this case to "ensure that the competent authorities of the Member States inform each other of investigations and prosecutions of which it has been informed and which have repercussions at Union level or which might affect Member States other than those directly concerned". The response was that the Belgian authorities explored the setting up of a database of missing persons related to sexual exploitation.

## *The 2000 MLA Convention and evidential issues*

National Desks reported positively on the use of the 2000 MLA Convention. It is regarded as a good and solid framework for judicial co-operation, and in general, no major legal obstacles were encountered in its application. Nevertheless a certain difficulty remains, which is that of the multiplicity of available instruments. Practitioners were faced with the choice between the 2000 MLA Convention, relevant articles of the Convention implementing the Schengen Agreement of 14 June 1985 (the Schengen *acquis*), and the 1959 MLA Convention, and related protocols. That the 2000 MLA Convention is expressed to be supplementary to the 1959 MLA Convention could also generate uncertainty about its use.

Moreover, not all Member States have ratified or fully implemented the 2000 MLA Convention, which may give rise to problems, such as the difficulty of setting up JITs or the absence of videoconferencing facilities. Eurojust worked to find practical solutions to these difficulties. One recurring issue was the difficulty of balancing the requesting State's evidential requirements with the executing State's procedures, notwithstanding the provisions of Article 4 of the 2000 MLA Convention, according to which the requested State shall comply with the procedures and formalities expressly indicated by the requesting State. For instance, strict rules on disclosure of evidence to the defence could hamper the execution of confidential MLA requests. Differences in competence and powers between national systems (i.e. the different roles of police, investigating judges and prosecutors) also generated uncertainty among Member State practitioners on which interlocutor would be involved.

Eurojust played an important role in evidence gathering, by clarifying legal provisions and requirements according to national law, facilitating exchange of information between competent authorities, redrafting requests and providing supplementary information. In urgent cases, Eurojust's intervention facilitated contact between national authorities so that the issue of a formal letter rogatory might become unnecessary.

The differing extent to which information commonly sought in criminal cases was centralised in Member States also led to calls for Eurojust's assistance. Obtaining banking information illustrates this. Some Member States (e.g. France, Italy, Germany, Portugal, Romania) have set up a centralised bank account database, which facilitates the execution of requests for banking information. Others do not have such a centralised system, and locating an account name may require time-consuming enquiries. Similar difficulties were encountered regarding information on real estate properties where land registry information is not centralised.

In contrast to the obtaining of evidence, relatively few problems were recorded regarding the admissibility of evidence. Eurojust contributed to this positive result. In particular, it facilitated *ex ante* the admissibility of evidence by clarifying relevant legal requirements, and by advising on and facilitating practical solutions.

Nevertheless, there were aspects of the 2000 MLA Convention that were identified as areas of difficulty. Article 8(1) regarding the restitution of stolen items could create problems when used in conjunction with SIS alerts. For example, a stolen car acquired *bona fide* could become the subject of an SIS alert. The procedure for the withdrawal of SIS alerts should be addressed.

A different operational difficulty was identified in relation to the authorisation of interception of telecommunications under Article 20(2) of the 2000 MLA Convention. This provision applies in cases where the authorities of one Member State may be able to intercept telecommunications on the territory of another Member State without needing the technical assistance of the latter to carry out the interception.

In this case, Article 20(2) of the 2000 MLA Convention requires the intercepting Member State to inform the other Member State, before interception, when it knows, when ordering the interception, that the subject is on the territory of the notified Member State, or, in other cases, after it becomes aware that the subject is on the territory of the notified Member State. However, the majority of interceptions are recorded automatically and then analysed at a later date by a competent authority. Article 20(4) of the 2000 MLA Convention (which allows the notified Member State to approve, refuse or otherwise react to the notification) does not cover the situation when there is automatic recording and later analysis.

In this context, Eurojust raised a number of questions, such as whether it is necessary to inform another Member State about concluded cross-border interception, and whether it is possible to approve such interceptions retrospectively. Answers were received from 20 Member States. The outcome showed that the opinions, legislation and practice of Member States in this area of co-operation differ considerably and that this issue may need clarification at EU level. As Article 20 of the 2000 MLA Convention no longer corresponds to the common practice where most interceptions take place automatically and are then analysed, problems could arise regarding the admissibility of the intercept product. Two possible solutions may need to be considered: (1) authorisation in one Member State could be taken as a sufficient basis for interception carried out in another Member State, when no technical assistance is required; or (2) alternatively, the intercepting Member State should ask for permission to use the result of the interception when the interception was carried out on the territory of another Member State, without the need for technical assistance.

### ***European Arrest Warrants***

In 2010, a total of 280 cases concerning the execution of EAWs were registered at Eurojust, amounting to almost 20 per cent of all cases.

#### *Cases concerning multiple EAW requests (Article 16(2), Framework Decision on the EAW)*

According to 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 for the same person by two or more Member States shall be executed. In 2010, a number of cases were registered where Eurojust dealt with conflicting EAWs and gave advice. Furthermore, Eurojust played an important practical role in facilitating the execution of EAWs by promoting timely communication between the judicial authorities involved.

**Case illustrations:**

A Belgian public prosecutor received EAWs from Austria and from Germany for two German citizens held in pre-trial custody by its courts. The EAWs were issued in parallel Austrian and German prosecutions for marijuana trafficking. Article 29, §1, of the Belgian Implementation Law of 19 December 2003 concerning the EAW states that “when several Member States have issued a European Arrest Warrant concerning the same person, the public prosecutor informs the federal prosecutor of this and brings the matter before the council chamber in order for it to decide which European Arrest Warrant will be executed”. The federal prosecutor requested the assistance of Eurojust in resolving this issue, especially given time constraints imposed by the court. At Eurojust, the Belgian Desk discussed the issue with Austrian and German colleagues. Within 72 hours, agreement was reached, namely to give priority to the German EAW, in light of the nationality of the offenders and the particular circumstances of the offences. The recommendation was passed from Eurojust to the federal prosecutor. The court followed the recommendation and both suspects were surrendered to the German authorities in May 2010.

In another case, a Spanish court requested Eurojust’s opinion regarding the surrender of an Estonian citizen sought by both Estonia and Italy. The Spanish Desk at Eurojust consulted colleagues and an opinion was issued that the accused should be surrendered to Estonia, taking into account the relevant provisions of Spanish national law and Article 16(2) of the Framework Decision on the EAW. Among factors considered were the following: the crimes for which the subject was requested by Estonia were more serious (homicide and armed robbery) than those for which he was requested by Italy (armed robbery, participation in criminal association and illegal possession of weapons); the Estonian EAW was issued before the Italian EAW (2006 and 2007, respectively); although both EAWs were issued for the purpose of prosecution, in the case of Estonia, the investigative stage of the proceedings had been closed in 2006, and, in the case of Italy, in 2007; and the acts for which the EAW was issued were committed, in the case of Estonia, in 2001, and, in the case of Italy, in 2004.

*Cases concerning breach of time limits (Article 17(7), Framework Decision on the EAW)*

Where a Member State in exceptional circumstances 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 2010, 85 breaches of time limits were reported to Eurojust. Three of these cases were registered at Eurojust and required further action by the National Desks involved, while the others were forwarded for information. There may well be disparities in reporting practice, as Ireland notified 70 of the 85 breaches. Other cases were referred to Eurojust by 8 Member States (Czech Republic, Sweden, Malta, Latvia, France, Spain, Belgium and Slovak Republic), suggesting either that 18 Member States had no breaches of EAW time limits, or had not reported them to Eurojust.

The main reasons for delays in EAW execution were requests for additional information (e.g. clarification of the legal classification of the facts or lack of receipt of original documents) and the nature of appeal hearings.

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

Overall, EAW procedures work well, and the situation has improved as national competent authorities have gained experience in their use. However, many practical difficulties continue to appear in Eurojust's casework. In particular, problems were identified in relation to:

- Missing or unclear information: in several cases, the description of the offences was insufficient or unclear, the original documents were difficult to obtain, the link between punishment and offence was uncertain, understanding of specific legal requirements was lacking, and information regarding the time the person sought had already spent in custody was not provided.
- Requests for additional information: sometimes refusals to execute EAWs were linked to requests for additional information in situations where the need for such information was not obvious. In some cases, this could be interpreted by the issuing State as reflecting a lack of trust in the issuing authority's decision, or differing views on how the principle of proportionality under Article 49.3 of the Charter of Fundamental Rights should be applied. Difficulties remain in the application of the mutual recognition principle.
- Translation issues: poor quality and inaccurate translations of EAWs caused basic problems in understanding EAWs. Sometimes, Eurojust was able to overcome these practical difficulties, given its combination of practitioner experience and language skills. The choice between using the word "accused" or the word "suspect" could have far-reaching consequences for the execution of an EAW.
- Trials *in absentia*: a particular problem was encountered with convictions *in absentia*. In such cases, a guarantee of retrial on surrender raised the question of whether the EAW had been issued for the purpose of prosecution or for executing a sentence. The point was of practical importance because of the different information that the EAW should contain, depending upon whether it was issued for prosecution or for sentence. The situation may improve when Member States implement Framework Decision 2009/299/JHA of 26 February 2009, which amends, *inter alia*, the Framework Decision on the EAW by inserting a new provision on trials *in absentia*.
- Differences between legal systems: problems relating to differences between common and civil law systems still remain. In these cases, Eurojust played an important role in assisting the national authorities, enhancing mutual understanding and providing practical solutions. The adoption of the jurisprudence of the Court of Justice of the European Union, and in particular the principle in the *Pupino* case, C-105/03, which imposes an obligation to interpret national legislation to give effect to the purpose of Framework Decisions, may assist in resolving the difficulties that remain.
- Proportionality: issuing an EAW could be considered disproportionate in the light of factors such as the relatively minor nature of the offence, the likely penalty on conviction, the time that might be spent in custody during EAW proceedings, and the high costs of processing the EAW. Any of these factors could cause reluctance to execute the request.
- Speciality rule: differences between Member States regarding the application of Article 27 of the Framework Decision on the EAW on prosecution for other offences committed prior to the surrender still created some practical difficulties.

- Return of nationals to serve sentence after surrender for trial: difficulties in this area caused delays in some proceedings. The execution of this type of EAW would be facilitated if the issuing authorities could clearly state in the EAW form, from the outset, whether they consent to the return of the sought person to the executing country under specified conditions.
- Practical organisation of the surrender of the suspect: in a number of cases, the arranged date for the surrender was not respected, which created practical difficulties.

When obtaining information urgently to facilitate a final decision on the surrender was vital, Eurojust played a key role in speeding up communication among the national authorities concerned and clarifying the requirements of the executing judicial authorities. Other assistance involved Eurojust's advising on EAW drafting before issue. In addition, Eurojust actively encouraged practitioners to use existing EAW tools such as the European handbook on how to issue an EAW and the EAW Atlas on the EJN website.

### ***Freezing orders***

Despite the fact that Member States were to implement the Framework Decision on orders freezing property or evidence by 2 August 2005, experience with the application of this instrument is still very limited. Eurojust casework shows that various difficulties have been encountered in its practical application.

The form in the Framework Decision on orders freezing property or evidence is seen as unnecessarily complicated and as requiring information not always available when the form is to be completed. Furthermore, when assets are not identified, a letter rogatory must first be issued to identify the assets and only then is a freezing order to be issued. Use of the instrument is also not practicable in the context of searches, where a normal letter rogatory in accordance with the 1959 MLA Convention or the 2000 MLA Convention is seen by practitioners as being more convenient.

The complexity of formal requirements, their divergent interpretation, uncertainty as to whether use of the standard form is mandatory or not, and substantial differences in legal systems and procedures, all make problematic the execution of freezing orders under the Framework Decision on orders freezing property or evidence.

These difficulties may be compounded by translation requirements. For example, in one case, the original form was not used for the translated version of the order and the executing authority was not able to recognise the document as a freezing order, and as requiring swift action. The result was that the order was withdrawn when assets could no longer be traced.

In several cases, Eurojust has played a key role in advising on practical solutions and encouraging common understanding and co-operation among the authorities concerned. A number of practical suggestions can be made. Fuller implementation of the Framework Decision on orders freezing property or evidence by Member States might make a more effective use of this instrument possible. Construction of a specific "Atlas", similar to that already provided for the EAW, could facilitate the use of freezing orders. In addition, listing specific requirements for the execution of freezing orders in the various Member States could provide practical assistance in its use.

## ***Confiscation and asset recovery***

Confiscation and recovery of the proceeds of crime are two powerful tools in the fight against serious cross-border crime. To hide their ill-gotten wealth, organised crime groups very often conceal money in bank accounts abroad or convert the profits into assets, which are difficult to trace. Effective deterrents are, therefore, the seizure and confiscation of the proceeds of serious crime.

However, differences in both substantive and procedural rules in the Member States continue to constitute major obstacles to the investigation, identification, tracing and recovery of assets stemming from cross-border organised criminal activities. The application of the dual criminality principle and the burden of proof of unlawful origin of assets are common legal obstacles to the recognition and execution of confiscation orders.

Member States have very different asset recovery regimes. While in most, assets can be recovered following a criminal conviction, some Member States provide for civil recovery orders or other means whereby a decision on confiscation is possible without a criminal conviction. Cross-border recognition of civil law seizure and confiscation is thus problematic in the European Union. Difficulties are compounded by differences in terminology and legal concepts. Confiscation and asset recovery matters are dealt with at Eurojust either in meetings between the National Desks or in co-ordination meetings with national authorities. Two National Desks met, for example, to discuss whether in one jurisdiction a restraining order could be made over the defendant's assets to secure the future compensation of the victim. Eurojust played an important role in ensuring the application of the EU instruments in the field of freezing and confiscation of assets with a view to ensuring the compensation of victims.

Considerable amounts of assets have been confiscated in 2010 or will be subject to confiscation in the context of the cases registered at Eurojust during the year. The table below provides an overview of some cases where, with the assistance of Eurojust, Member States have recovered money and assets or have reached agreement on their recovery.

<b>Member State</b>	<b>Assets subject to confiscation with Eurojust's assistance</b>
Belgium	Two boats to be confiscated in Spain (concerns two different Eurojust cases)
Bulgaria	€37,000 cash and real estate property confiscated in the UK
Czech Republic	Facilitated the confiscation by Austrian authorities of 700,000 Czech crowns (€28,650)
Germany	€100,000,000 confiscated in a large tax fraud case involving co-ordinated searches in 15 countries
Ireland	Substantial amounts of property confiscated in Spain and Ireland
Spain	Five cases involving confiscation of €112,000,000, €17,000,000, €1,000,000, €23,000, and 9,000,000 (all amounts to be confiscated after the final court decision)

Italy	Provisional confiscation in the Netherlands of €400,000 Seizure of 800 kg of counterfeit products in 10 countries Seizure of a luxury watch in Germany Seizure of 300 kg of cocaine in Belgium, Spain, Italy and Czech Republic Seizure of documents related to the registration of 100 vehicles in Germany Seizure of 700 kg of hashish, one pc, mobile telephones and documents in France, Spain and the UK Seizure of one server in Austria
France	Property and vehicles in Italy, one ship and the seizure of 1,400 kg cocaine
Austria	€140,000 confiscated in Czech Republic in a large VAT fraud case €200,000 to be confiscated in Belgium in a large VAT fraud case
Finland	€13,000 to be confiscated in Spain in a money laundering case €47,500 to be confiscated in Portugal
Sweden	€1,685,800 confiscated in Sweden and a ship in another country
UK	All property and money of a main suspect (including a house, a speedboat and money with a total value in excess of €1,200,000) Several luxury vehicles in Spain

In 2010, Eurojust considered non-conviction-based confiscation or civil recovery in Member States by way of a questionnaire. Based on 22 replies, the responses showed that, mainly due to constitutional restraints, the legislation of only a few Member States provided for such measures. For instance, Italy has a long experience in dealing with organised crime, which is reflected in its legislation on non-conviction-based confiscation.

The questionnaire also asked whether Member States' legal systems provided for tools analogous to non-conviction-based confiscation or civil recovery. Even where Member States do not provide for non-conviction-based confiscation or civil recovery, many Member States have implemented the Framework Decision 2005/212/JHA on Confiscation of Crime and provide for extended confiscation. Nevertheless, few Member States have a system where property can be confiscated in the absence of a related criminal proceeding.

In principle, a letter rogatory should be sufficient for the execution of either a freezing or confiscation order in the context of a criminal proceeding. However, procedures are not straightforward; for instance, the recipients of letters rogatory may differ from Member State to Member State according to the stage of the proceedings and the location of the assets to be seized or confiscated. In some cases, the letters rogatory must be sent to the first instance courts or prosecution offices having territorial jurisdiction over the place where the assets are situated; in others, the letters rogatory must be sent to central authorities for international co-operation; in others again, to Ministries of Justice.

The responses to the questionnaire suggest that the execution of confiscation orders is simpler in those Member States that have transposed the provisions of Framework Decision 2006/783/JHA on mutual recognition of confiscation orders.

More difficulties arise in the case of requests for cross-border enforcement of non-conviction-based confiscation or civil recovery orders due to the different legal concepts and requirements. An attempt to address this difficulty is the Luxembourg Law of 1 August 2007 on confiscation, which allows a foreign confiscation order based either on a criminal conviction or, certain conditions being fulfilled, on a judicial decision of penal nature, recognising that one or more offences have been committed that are of the origin of the confiscation decision, to be recognised and enforced.

Agreements between Member States for the disposal of confiscated property and for asset sharing have facilitated the drive to deprive offenders of assets acquired through crime. Eurojust assisted Member States to reach such agreements. For example, two money laundering cases registered at Eurojust in 2010 involved confiscation orders for enforcement in Spain and Portugal. Following Eurojust's intervention, both national authorities have agreed to transfer recovered monies to a third Member State.

### ***Controlled deliveries***

According to Article 12(1) of the 2000 MLA Convention, each Member State must ensure that, at the request of another Member State, controlled deliveries may be permitted on its territory in the framework of criminal investigations into extraditable offences. Controlled deliveries may fall within the scope both of police and judicial co-operation, as in a number of Member States a judicial authorisation is needed for the execution of such operations. Moreover, controlled deliveries are explicitly referred to in Articles 9c.1(d), 9d.(a) and 13.7(b) of the Eurojust Decision, which underlines the judicial co-operation dimension of such measures.

In 2010, Member States referred controlled delivery cases to Eurojust to facilitate their timely and efficient execution. The success of controlled deliveries depends very much on effective co-ordination and quick response times. In one large drug trafficking case, Eurojust assisted the execution of a controlled delivery in four Member States, which culminated in the seizure of 1,400 kg of cocaine.

Eurojust also assisted in clarifying legal requirements related to controlled delivery procedures, which can differ substantially from one Member State to another. In a case where undercover agents were to be deployed in a controlled delivery, specific requirements regarding the security of the undercover officers had to be considered. Eurojust played a decisive role in clarifying those requirements and in advising the involved Member States on how to proceed. In the same case, Eurojust supported the requesting Member State in quickly identifying the competent authorities of the requested Member State dealing with the logistics and security of the undercover officers. As a result of Eurojust's assistance, the controlled delivery was successfully carried out and the main suspect was arrested.

Nevertheless, difficulties and legal obstacles remain that can hamper the execution of controlled deliveries in Member States. For example, authorities in a destination country may only become aware of an illegal shipment after it is already in transit, or has indeed reached their territory. In addition, the intended routes may change unexpectedly.

## ***2.5 Judicial co-operation in crime priority areas***

As noted above, the crime areas which currently pose the greatest risk to the European Union have been identified as terrorism, drug trafficking, THB, fraud, corruption, cybercrime, money laundering, and other activities related to the presence of organised crime groups in the economy. Aspects of Eurojust's casework in these areas are considered below.

### ***Terrorism***

The fight against terrorism, particularly the financing of terrorism, cyber-terrorism and chemical, biological, radioactive and nuclear (CBRN) terrorism, is a primary focus area for Eurojust. The number of operational cases involving terrorism offences, including terrorism financing, where Eurojust's assistance was sought increased to 28 in 2010, compared to 21 in 2009. Information on the basis of Council Decision 2005/671/JHA of 20 September 2005 has allowed Eurojust to have a better overview of the letters rogatory sent throughout the European Union, as well as of the state of play of trials.

Eurojust issued three editions of its Terrorism Convictions Monitor in 2010. It is distributed to the National Correspondents on Terrorism, to identify not only cases of interest across the European Union but also to gather information on legislative developments and best practices through judicial case analyses.

Five co-ordination meetings on terrorism-related cases were held at Eurojust in 2010. Europol attended one of these meetings.

Taking into account Eurojust's focus in 2009 on Kurdistan Workers' Party (PKK) activities in Europe, a suggestion was made by the Standing committee (COSI) in 2010 that Eurojust should examine the practical and legal possibilities for setting up a JIT between a Member State and a third State. However, this was not possible because of the lack of appropriate legislation in the latter. With the support of Eurojust, a JIT was, however, set up between Belgium and Denmark in a terrorism case where one individual of Chechen origin attempted to carry out a bomb attack in Copenhagen. The attack failed and the suspect was arrested. This JIT received Commission funding via Eurojust.

### Case illustrations:

In an Italian case, an investigation was carried out concerning the activities of an organised crime group, active in Afghanistan, Pakistan, Romania, Albania and Italy, started in 2007. The group had its headquarters in Rome and Milan, and was involved in illegal immigration and drug trafficking for the alleged purpose of financing radical Islamist terrorism. The group trafficked Afghani and Pakistani nationals with counterfeit documentation to Italy via Iran, Turkey and Greece. After arrival in Italy, the victims were put in trucks bound for Germany, Sweden, Belgium, the UK and Norway. Eurojust facilitated the investigation, avoiding overlapping among national investigations and potential *ne bis in idem*, synchronised the execution of EAWs, was actively involved in the co-ordination of the final and very difficult synchronised police operations in three Member States and also facilitated the co-operation of the judicial authorities throughout the operation.

Eurojust supported a Danish case, where the Danish-based Kurdish TV station, Roj TV, was prosecuted in 2010 for the promotion of terrorism, following years of investigation. This case is the first in which a Danish media organisation was prosecuted on terrorism charges. Eurojust's assistance was needed to promote a common understanding among the involved countries of the specificity of the crime. The trial is expected to take place in 2011.

In June 2010, Eurojust hosted its sixth annual strategic meeting on terrorism. These meetings serve as a platform for practitioners, mainly the National Correspondents on Terrorism, to exchange views, information and best practices in the field of counter-terrorism. The main agenda items were an evaluation of experience with the EU lists of persons and entities in the fight against terrorism and terrorism financing, and the use of encryption technology for terrorist purposes. With regard to the last topic, participants acknowledged that future generations of peer-to-peer networking architectures will continue to develop, creating more difficulties for law enforcement authorities in monitoring and intercepting communications between individuals with a criminal or terrorist intent. Strengthening EU legislation in the area of wiretapping and privacy and electronic communications, so that law enforcement and judicial authorities can receive information from Voice over Internet Protocol (VoIP) providers on both meta-data (source and destination, date, time, duration, type, user's equipment) and content of the communications, was deemed important.

On the topic of EU lists, participants concluded that the listing in itself clearly may not suffice for a conviction on terrorist offences, but should always be analysed in parallel with other circumstances of the case. Nonetheless, regular updating of national lists, aside from the twice-yearly updates at EU level, would be essential for national authorities.

Aside from the above topics, the annual strategic meeting covered the Terrorism Situation and Trend (TE-SAT) Report, information exchange on the basis of Council Decision 2005/671/JHA and two presentations on cases from France and Spain, the first regarding a verdict against the Liberation Tigers of Tamil Eelam (LTTE) on financing of terrorism and the second on ETA terrorist activities and activities carried out by organised political parties, referring to a ruling by the European Court of Human Rights of 30 June 2009.

## *EU-US Terrorist Finance Tracking Programme Agreement*

The Terrorist Finance Tracking Programme (TFTP) Agreement between the European Union and the USA entered into force on 1 August 2010. The TFTP Agreement allows the transfer to the US Treasury Department of certain categories of data stored in EU territory regarding bank operations by a designated provider of financial payment messaging services. In accordance with the TFTP Agreement, Eurojust shall receive and may transfer certain types of information for the purpose of the prevention, investigation, detection or prosecution of terrorism or terrorist financing. In addition, Eurojust may request a search for relevant information obtained through the TFTP Agreement from the US Treasury Department when there is reason to believe that a person or entity has a nexus to terrorism or its financing.

Eurojust started discussions with the relevant stakeholders, particularly Europol, to identify appropriate procedures for implementation of the relevant provisions, and has provided a judicial expert to participate in the review of the agreement. The review will be submitted, amongst others, to the European Parliament.

### ***Drug trafficking***

The European pact to combat international drug trafficking - disrupting cocaine and heroin routes - adopted by the Council of the European Union in June 2010 makes clear that drug trafficking continues to threaten the safety and well-being of EU citizens. Effective responses to cross-border threats are made at European level, as the organised crime networks involved are transnational, and adapt to the countermeasures taken by individual Member States.

Member States have made use of Eurojust's resources in facilitating the co-operation and co-ordination between national judicial authorities necessary to tackle drug trafficking. The largest number of cases (254) registered at Eurojust in 2010 concerned drug trafficking. Due to the active role played by Eurojust in the co-ordination of drug trafficking cases, links to countries outside of the European Union have been established in many cases. In particular, Eurojust's casework has shown the increasing involvement of West African nationals with drug distributors in Turkey and Colombia.

Eurojust held 39 co-ordination meetings on drug trafficking cases in 2010, which was the largest category among crime types. Eurojust invited Europol to participate in half of these co-ordination meetings. In three cases, a JIT was set up with Eurojust's assistance, and one of the three JITs also included Europol.

Specific problems have been encountered in the prosecution of drug trafficking cases. For example, proportionality concerns may cause delays with letters rogatory, when the executing Member State does not consider the quantity of drugs to be significant. In other Member States, the principle of mandatory prosecutions requires the national authorities to initiate investigations into drug trafficking, regardless of the quantity of drugs involved. Eurojust mediated in evidential requests such as those for intercepts, where differing Member State perspectives created difficulties.

## *Trafficking in human beings*

Eurojust's casework confirms that the most common purposes for which human beings are trafficked are forced labour and/or sexual exploitation. The co-ordination of investigations and prosecutions of cases of THB continued in 2010 to be facilitated by enhanced co-operation with Eurojust.

A total of 87 cases were registered in 2010. These cases represent 6 per cent of the total casework.

The number of co-ordination meetings on THB-related cases increased from five in 2009 to thirteen in 2010.

### **Case illustrations:**

The Eurojust Bulgarian Desk was asked to assist in a case involving an organised criminal group that trafficked pregnant Bulgarian women to Greece to give birth. The mothers were then forced to give up their newborn babies for adoption. Falsified identification documents were used for the victims. The Bulgarian authorities asked for the case to be opened at Eurojust for co-ordination and consideration to set up a JIT. A co-ordination meeting at Eurojust was attended by the Bulgarian and Greek judicial and police authorities and Europol. As a result of the meeting, both the investigation in Greece, which had already commenced, and the execution of the Bulgarian judicial co-operation request, were accelerated. Additional meetings with the investigative and police authorities took place in Bulgaria and Greece. Police authorities of both Member States also intensified their co-operation, and relevant information was exchanged directly and through Eurojust. Co-ordinated arrests in Bulgaria and Greece took place. As a result, six people in Bulgaria and five people in Greece were arrested, and five EAWs were issued from Bulgaria and sent to Greece.

Citizens from the Czech and Slovak Republics and several other eastern European countries were brought to the UK by an organised crime group with the promise of employment. Travel was arranged by the owner of the fictitious company, using his co-operating partner's e-mail addresses, mobile phones and means of transportation. The victims' citizenship documents were used by the organised crime group to fraudulently obtain allowances and benefits from the UK authorities. The organised crime group consisted of Czech and Slovak nationals. Another fictitious company was opened in the UK by a Slovak national to register the victims as employees of the company and to open bank accounts in the UK, into which the government allowances were paid. By taking control of the victims' bank accounts, the owner of the fictitious company was able to take possession of whatever funds were deposited. Several days after the allowances were paid, the victims were forced to leave the UK. Eurojust successfully assisted in the co-ordination of actions, which led to the arrest and prosecution of six suspects and the recovery of certain assets.

Legal obstacles to judicial co-operation between the Member States in the area of THB mainly related to the admissibility of evidence. In many instances, the victims of trafficking for the purposes of sexual or labour exploitation are also illegal immigrants. When an organised crime group is dismantled, the victims are arrested, and called as witnesses against the members of the criminal group. As witnesses, the victims will often be unwilling or unavailable to appear before the court. Thus, their initial testimonies cannot be confirmed at the trials and cannot be admitted as evidence in most of the Member States. In addition, direct threats and violence against the victims and their families are significant deterrents to the victims testifying. In a number of cases registered at Eurojust, the criminal networks know the victims' families, increasing the likelihood that the witnesses could be threatened and be at risk both before and after the trial. In some cases, the victims' families were made to pay a "debt" to the criminal network.

These difficulties underlie the concern identified in Opinion No 7/2010 of the Group of Experts on Trafficking in Human Beings of the European Commission. Whilst an increase in the number of THB victims has been detected by specialised agencies, an increase in the number of prosecutions is not apparent.

### ***Fraud***

This section focuses on fraud-related crimes, including tax fraud, computer fraud, advanced fee fraud, misappropriation of corporate assets and VAT fraud. A total of 198 fraud-related cases were registered in 2010, a slight decrease compared to the previous years. These cases represent 14 per cent of total casework at Eurojust. Six cases concerning criminal offences affecting the EU's financial interests were registered in 2010.

Eurojust held 17 co-ordination meetings under the category of fraud.

As with other crime types, a common problem in cross-border fraud cases is delay in the execution of judicial co-operation requests. Fraud cases typically involve significant amounts of documentary evidence, creating demands on the capacities of both issuing and executing judicial authorities. In terms of both time and personnel, the execution of the letters rogatory may be seen as requiring significant resources, which must be diverted from other pressing national tasks. The execution of international requests for judicial co-operation rarely figures among the performance indicators for domestic authorities, and may rather be seen as an impediment to achieving national performance objectives.

A related difficulty is that some fraud cases lead to a negative conflict of jurisdiction, with no country willing to investigate and prosecute. A number of cases in 2010 made clear that fraud is committed on a global scale, often with use of the internet, and where the principle of territorial jurisdiction could hinder an effective response. The fraud may be intentionally committed in various locations and countries, with individuals of different nationalities. The suspects are frequently located in other countries, which do not suffer the effects of the crime and whose courts do not have competence to prosecute on the basis of territoriality/nationality principles.

**Case illustrations:**

Hungary asked Eurojust's support in its largest VAT carousel fraud case. The case involved 13 Member States, 5 third States and Israeli citizens as the main figures. The estimated VAT loss in Hungary was €33.4 million. The central role was played by a trade company to which a large number of companies from the involved countries supplied goods or simply false invoices, then "imported" them back through a large number of buffer companies with the sole aim of making it possible for the central trade company to unlawfully claim back VAT. The activities of some of these foreign import/export companies were already under investigation in the countries where they were registered, e.g. in Latvia and Spain, as part of a criminal network even larger than the one under investigation in Hungary. Offshore companies in the Seychelles Islands were used to launder the money gained through the criminal activity. The perpetrators made a double profit because they also sold the goods. The case is not a typical carousel fraud case, because on several occasions only false invoices were involved without actual goods, and sometimes the false invoices documented goods of another type or quantity. Due to the complexity of the fraud scheme, the Hungarian authorities requested the assistance of Eurojust and Europol. A co-ordination meeting in early 2010 at Eurojust with prosecutors and investigators from Bulgaria, Cyprus, Germany, Greece, Latvia, Lithuania, Poland, Romania, Spain and Slovak Republic shared information, helped prepare letters rogatory incorporating all the elements of the shared information, and created a strategy to dismantle the network. Owing to the co-ordination of Eurojust, most of the Hungarian letters rogatory were executed by the end of 2010.

In July 2010, the Dutch Social Intelligence and Investigation Service, under the direction of the National Prosecution Service for Serious Fraud and Environmental Crime, arrested nine farmers in a case involving money laundering, false papers and membership in a criminal organisation. The Dutch Public Prosecutor's Office suspected the farmers of laundering tens of millions of euros through the use of a false business. In total, 225 law enforcement officers, as well as tax inspectors, were involved in the investigation. Investigations were also conducted in Poland, Cyprus, Belgium, Denmark, France and Switzerland. Arrests were made only in the Netherlands, but records were requested and money seized in all the involved countries. To achieve this coherent and co-ordinated cross-border action, several meetings, including a co-ordination meeting at Eurojust with investigators and prosecutors from the involved countries, took place to manage the gathering of evidence, seizing of assets and arrests.

Eurojust's early involvement averted a conflict of jurisdiction in a serious fraud case involving two Member States. Criminals in Member State A had targeted wealthy expatriates in Member State B and had defrauded them of several million pounds through the operation of a Ponzi scheme. Funds from one set of investors were used to pay dividends to other investors. Both jurisdictions had identified suspects and had started investigations. Eurojust was alerted to the existence of the parallel investigations, and called a co-ordination meeting, where the potential conflict of jurisdiction was raised, and where prosecutorial access to material held in the other jurisdiction was agreed in principle. Eurojust's early involvement meant a diminished risk of expensive fraud prosecutions continuing in parallel, fewer unnecessary costs for Member States and a greater likelihood of justice at trial.

The Bulgarian authorities asked Eurojust's assistance in a case of fraud, with projects financed under the SAPARD Program (a European Commission program for improving and processing agricultural and fish products), committed between 2004 and 2006. The Bulgarian authorities had already started working on the case with OLAF, and Eurojust's assistance was needed to set up a JIT between Spain and Bulgaria. Bulgarian investigations were initiated on the identification of companies and individuals involved in the fraud scheme. The authorities needed to trace the goods, purchased with funds from the SAPARD Program, as well as map out the money flows. Once the picture was put together, the Bulgarian authorities planned to confiscate the proceeds of the crime and bring the case to trial. Eurojust hosted a co-ordination meeting in June between Bulgaria, Spain, Hungary and OLAF, where it turned out that the investigation in one Member State was already at a very advanced stage, compared to the other. The co-ordination meeting allowed the entire case to be seen in perspective, even though, in the particular case, distinct prosecutions in different jurisdictions were appropriate.

In 2010, Eurojust continued to progress two ongoing projects:

- the strategic project on enhancement of exchange of information and MLA between judicial authorities of the Member States in the area of VAT fraud; and
- the project on enhancement of MLA and exchange of information between Member States and other European countries and territories in the area of economic and financial crime.

At the same time, Eurojust participated as an observer in the 5th round of mutual evaluations on financial crime and financial investigations. The Eurojust observers played an active role during the evaluation visits and contributed to the drafting of the final evaluation reports, ensuring that sufficient attention was drawn to aspects of judicial co-operation in this area and that any practical and legal obstacles were identified.

### ***Corruption***

A total of 31 cases were registered in 2010 under the crime type corruption, representing a 55 per cent increase compared to 2009. Corruption crimes were present in 11 of the 141 co-ordination meetings in 2010.

One of the new provisions of the Eurojust Decision is the creation of the Eurojust National Coordination System, which will involve, with other key national players in judicial co-operation, contact points against corruption. Council Decision 2008/852/JHA of 24 October 2008 on a contact point network against corruption stipulates in Article 1 that: "in order to improve cooperation between authorities and agencies to prevent and combat corruption in Europe[,] a network of contact points of the Member States of the European Union shall be set up. The European Commission, Europol and Eurojust shall be fully associated with the activities of the Network." Eurojust will ensure that the anti-corruption network is taken carefully into consideration in the implementation of the ENCS.

**Case illustration:**

Thanks to Eurojust's intervention, a JIT between two Member States was formed to progress the investigation and prosecution of a case involving serious allegations of corruption. Funds had been made available for the purchase of medicines destined for countries where particular diseases were endemic. The award of the contract for the medicines was alleged to have been made corruptly. Because of the international nature of the case, particular problems arose in obtaining evidence from witnesses located in different jurisdictions. Eurojust facilitated the drafting and signing in The Hague of a JIT agreement between the Member States involved. Crucial evidence was obtained quickly and the case is ongoing.

**Cybercrime**

Cybercrime illustrates in stark form the difficulties in investigation and prosecution of crime that crosses national boundaries. From its casework, Eurojust has noted that in cybercrime cases, often multilateral by their very nature, negative conflicts of jurisdiction have occurred: national authorities concentrate only on criminal activity within their boundaries rather than seeking to combat the problem at EU level, giving rise to the risk that the crime goes unpunished. In 2010, Eurojust worked with partners to combat such impunity. Of particular note has been participation in the European Cybercrime Platform, which includes the Internet Crime Reporting Online System and Europol's Analysis Work File (AWF) CYBORG.

Eurojust registered 32 cybercrime cases in 2010. There is an element of underreporting in these figures. Because national authorities have understandably concentrated on the results of cybercrime (dissemination of terrorism material, fraud, intellectual property theft, pornography, etc.) in their jurisdictions, the methods by which the crimes have been committed have not always been central to recording practice. Eurojust held one co-ordination meeting in 2010.

**Case illustrations:**

Eurojust co-ordinated a Europe-wide police and judicial action in 13 countries against groups of computer servers hosting pirated material and networks disseminating this material. Since the start of the investigation in 2008, the four most prominent groups involved in the distribution on the internet of 80 per cent of the productions in the Dutch language or foreign languages with Dutch subtitles had been identified. The investigating judge and the Computer Crime Unit of the Belgian Federal Police involved Eurojust and Europol in co-ordination of international actions and assistance in the execution of letters rogatory to the Member States and the Liaison Prosecutors of Croatia and Norway. The international co-ordinated action was facilitated by both Eurojust and Europol. Its goal was to close down and seize 48 servers or groups of servers identified as part of the network hosting pirated material; 16 people were arrested. It was estimated that the pirated material represented a loss of authors' rights and income for production companies of €30 million in Belgium alone and up to €6 billion in Europe.

An Italian case, involving a very large criminal organisation active in child pornography and abuse via the internet with encrypted software, was dismantled. Due to the extensive and timely support of Eurojust, the area of the investigation was extended to 11 other countries. During a co-ordination meeting, computer logs and IP addresses linking these other countries were shared, and investigations in the other involved countries were started. Eurojust was able to monitor the investigations and synchronised execution of arrests and seizures of material, and could later provide several national authorities with new IP addresses in those countries where, due to their data protection regimes, the IP lists had been deleted by the internet providers. As a consequence of the co-ordinated investigation, 12 house searches were carried out in 10 countries, and 8 people were arrested. Numerous computers and other items were seized. The case is ongoing.

### *Money laundering*

In 2010, money laundering remained a major crime type, with a total of 146 cases. This figure represents a small but nonetheless significant increase in the number of money laundering cases, with 103 cases in 2008 and 125 in 2009.

Money laundering figured in 26 co-ordination meetings held at Eurojust during the year. In nine of these meetings, Europol's involvement was also required. In 2010, three JITs in this crime area were established.

Eurojust, together with the Spanish Presidency of the European Union, hosted a strategic seminar in Granada, Spain, in 2010 on laundering of the proceeds of crime and tracing and disposal of illegal assets. The main focus of the seminar was the exchange of information on financial crime between the Member States and the use of MLA and mutual recognition instruments in economic crime and asset recovery matters. Participants agreed that efficient national anti-money laundering systems, enhanced international co-operation, and a more active contribution by Eurojust in complex and multilateral cases of money laundering, freezing and confiscation of criminal assets are needed.

#### **Case illustrations:**

One co-ordination meeting dealt with the difficulty of obtaining evidence related to money transfers. In this particular case, the funds transferred via Western Union from Greece had been set at a level which fell below the ceiling for controls. Different systems for such controls exist in the Member States, which can be evaded if, for example, money transfers are processed with the provision of financial or other products. Eurojust's involvement and the use of the co-ordination meeting brought added value in obtaining evidence: by clarifying legal provisions, facilitating the exchange of information between national authorities, re-drafting a request for MLA and providing supplementary information.

Organised crime groups have been quick to exploit the financial possibilities of fraudulent emissions allowance trading with the commission of VAT fraud and money laundering on an international scale. Since 2009, the alleged perpetrators had set up various carbon credit trading chains in Germany that were part of an international VAT carousel structure. A German “missing trader” purchased emissions allowances from foreign suppliers and provided his purchasers with invoices with openly declared VAT. When re-selling the carbon credits, the VAT was neither declared nor paid to the revenue authorities. The carbon credits were then sold and passed on to various “buffers” until they were exported again to another Member State by the so-called “distributor”. This distributor made his claim for reimbursement of the prior tax charge to the revenue authorities based on the invoices received from the preceding members of the trading chain. Eurojust supported the investigation by co-ordinating over 100 searches and freezing of assets, all scheduled to be carried out simultaneously in nine Member States and in five third States. Due to the swift execution of the letters rogatory and the co-ordination through Eurojust, the General Attorney’s Office in Frankfurt was able to seize a total of €100,000,000. Thanks to the prompt transmission of the evidence that was seized in the different Member States, there was sufficient proof of probable cause for the arrest of several heads of the organised crime group, who could be charged with more than one serious offence. The case illustrates the added value brought by Eurojust to Member States in tax fraud cases.

One specific judicial obstacle in the fight against money laundering occurs when national legislation requires that the predicate offence for money laundering is precisely established. Eurojust’s casework shows that organised crime groups often diversify their criminality: drug trafficking may form part of a criminal business with THB, and a drug mule may also be trafficked for sexual exploitation. Requirements that the predicate offence be exactly specified can make the fight against money laundering particularly difficult. In addition, the differences in organisational set-up of financial investigation and prosecution offices in various Member States may cause difficulty. Again, some Member States do not criminalise “self-laundering”: money laundering in these jurisdictions is not subject to prosecution if it is carried out by the person who illegally obtained the funds. Thus, the flow of “black money” is very difficult to investigate and trace. In the majority of complex money laundering cases, the predicate offence is drug trafficking. In Italy, such cases often involve mafia-type criminal groups. The illicit gains from their activities are often laundered, in part in Italy. Alternatively, proceeds are invested in foreign property or companies, through several financial channels. “Pollution” caused by criminal involvement in legal commercial activities can affect fair competition for other legal businesses. The distortion of market competition may indicate possible money laundering activities derived from organised crime activities.

## ***Organised crime activities***

In its conclusions to Eurojust's Annual Report 2009, the Council supported "Eurojust's intention to improve its statistic[al] tools in order to be able to provide the Council with more detailed figures concerning crimes characterised by this phenomenon". This work is continuing, and the CMS includes two crime types that are specifically connected to the presence of organised crime groups. These crime types are "participation in a criminal organisation" and "organised robbery". In 2010, the number of times that these two crime types were registered in Eurojust cases was 233 (153 and 80, respectively), compared to 254 in 2009.

In 13 co-ordination meetings, organised robbery cases were dealt with, whilst participation in a criminal organisation figured in 30 co-ordination meetings. Europol was invited to co-ordination meetings in 6 cases involving organised robbery and to 15 co-ordination meetings involving participation in a criminal organisation.

In 2010, Eurojust contributed to the Europol Organised Crime Threat Assessment (OCTA) report with some specific findings on the links between organised crime activity and other crime types, taken from a judicial perspective. Whilst in the UK, France and Malta, organised crime cases are mostly linked to drug trafficking, illegal immigrant smuggling, money laundering, illicit trafficking in arms and fraud, in Finland these cases are generally connected to crimes against life, limb or personal freedom (kidnapping, illegal restraint and hostage-taking). In Ireland, terrorism (participation in the IRA) is the main crime type related to participation in a criminal organisation. In Poland, the majority of organised crime groups are involved in drug trafficking, extortion, smuggling of alcohol and smuggling of BMK (amphetamines) from the Russian Federation (where the production of BMK is legal). In Lithuania, most of the organised crime groups deal with drug distribution, organised robberies, VAT fraud, illegal smuggling of goods, THB and fraud. In Italy, organised crime cases regularly involve mafia-type criminal groups, which participate directly in criminal activities or give authorisation to other criminal groups to carry them out. Portugal, on the other hand, has no stable, established organised crime groups (e.g. mafia-type, street gangs, family clans, etc); there are rather only *ad hoc* organisations that operate for a certain period of time. Their main involvements are in drug trafficking and illegal immigrant smuggling.

The organised crime-related cases referred to Eurojust in 2010 have reflected the Council Conclusions on the fight against crimes committed by mobile (itinerant) criminal groups. These criminal groups commit crimes against property, mainly theft and fraud, and are highly mobile, exploiting the lack of EU borders and also operating outside the European Union in Scandinavia, the Russian Federation, Ukraine, Belarus and China. For instance, in Estonia, organised crime groups specialising in robberies of jewellery and luxury goods shops have shifted their activities from Estonian territory to other Member States. In Lithuania, some groups involved in drug trafficking organise their criminal activities outside the country and avoid the transit of drugs/precursors via Lithuanian territory.

Some specific problems in judicial co-operation between the Member States in fighting organised crime have been identified. Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime called for the approximation in all the Member States of the definition of offences relating to participation in a criminal organisation, and for the imposition of penalties corresponding to the seriousness of those offences on natural and legal persons who committed them or are responsible for their commission.

Member States were required to comply with the provisions contained in this Framework Decision by 11 May 2010. Legislation on this topic varies greatly between the Member States. There are notable differences on specific topics (e.g. type of predicate offences, continuity, penalties, etc) and some Member States have not provided for offences relating to participation in a criminal organisation in their criminal codes but have provided for offences of conspiracy to commit particular crimes. This situation might explain the considerable differences between Member States' case referrals to Eurojust relating to the crime type "Participation in a criminal organisation", with some Member States registering no cases with this crime type.

**Case illustrations:**

*At the end of November 2010, a large-scale police and judicial action was simultaneously executed in France and Italy against an international gang called "Children of the Metros."* The criminal organisation used children between the ages of 10 and 16 to steal wallets and purses in the metros. The victims were primarily tourists. Young accomplices aged 17 to 19 organised the thefts on the spot. French police arrested 16 suspects, and the Italian police arrested 6 suspects. The criminal organisation was also suspected of organising money laundering and illegal car theft schemes. The arrests took place following agreements and a strategy made at a co-ordination meeting held at Eurojust in October 2010. A French investigating magistrate issued EAWs following the meeting.

In the "Gomorra" case, involving the trafficking of counterfeit products, such as electric generators, chainsaws, drill hammers and clothing, the illicit products were produced in China and distributed all over the world via Naples. Before selling the goods, counterfeit labels of well-known companies were applied by the gang, who then sold the goods via door-to-door vendors in rural areas. The electrical goods did not comply with EU safety standards, thus representing a health and safety hazard to users. The criminal activity was highly profitable – for example, a team of two vendors generated €250,000 after only 2-3 months of illegal activity. The criminal group consisted of more than 60 people, mainly Italian, highly organised and with cells all over Europe. Financial investigations pointed to Naples and profits appeared to be laundered also via Australia and Iceland. The operation started with a Belgian investigation and was developed at Europol, whose analysis reports led to the opening of several investigations all over Europe through the intervention of Eurojust. Five co-ordination meetings were held to exchange information, raise awareness on the connections between apparently low-priority crimes (counterfeiting) and organised crime cartels linked to the Camorra, and to co-ordinate the actions among several law enforcement and judicial authorities to carry out simultaneous operations. A specific judicial strategy was adopted to co-ordinate the operations (arrests and seizures), which were then carried out in several Member States to avoid dispersion of evidence or flight of criminals. The challenges of this investigation were several: the reconstruction of the criminal network, the opening of investigations and the execution of simultaneous operations. The last phase of the arrests and simultaneous searches and seizures posed further challenges: the urgency of the activities (in under two weeks), the identification of the competent authorities, the different legal requirements and the burden of proof to obtain the searches in some countries, the poor quality of the translation of the letters rogatory and the need for real time execution of the letters rogatory during the day of action. Eurojust held a meeting with the involved Member States to solve all these problems, and co-ordinated the day of action together with Europol, via a mobile office in Naples. As a result of the action, 67 suspects were arrested, 143 warehouses were searched, more than 800 tonnes of counterfeit products were seized (valued at €12 million), assets exceeding €16 million were recovered, and new investigative leads pointing to yet another country were identified.

### ***Contact Point for Child Protection***

Eurojust also focused on cases of crimes against children, which are linked to some of the crime types described in this report.

Since 2004, Eurojust has registered a total of 135 cases concerning children, and an additional four cases registered by Norway in child-related matters. In 2010, Eurojust registered 40 cases against children.

Among the Eurojust cases, the most frequent types of crimes affecting children are sexual abuse, including rape and sexual exploitation, child abuse images (child pornography), and THB.

The Contact Point for Child Protection at Eurojust strengthened Eurojust's co-operation with the European Financial Coalition against sexual exploitation of children online (EFC) and intensified contacts with the EU-US Child Protection Working Group in this field. The Contact Point for Child Protection and the Liaison Prosecutor for the USA held a meeting of this working group at Eurojust. Discussions dealt with the principles behind online groups and social networking sites as means used to exchange child abuse images, technologies most recently used in this respect (e.g. e-mail, Internet Related Chat, SMS services, Bulletin Board Systems, P2P, etc) and strategies to defeat encryption and other efforts used by child abuse networks. Best practices on how to deal with encrypted and anonymised data were also exchanged.

The USA was involved in cases involving illicit images of sexual abuse of children. These cases have raised technical difficulties of encryption or other methods of concealment and of determining the true identity of the perpetrators. With the involvement of the Eurojust Contact Point for Child Protection, a technical working group has been established at Eurojust, with Europol and the Criminal Division Section of the US Department of Justice, dedicated to pursuing these crimes. In the working group, prosecutors and forensic experts share the latest technologies and identify how such perpetrators seek to conceal their activities and disguise their identities. The working group has met several times with the Eurojust Contact Point for Child Protection. A visit to the US child protection units and centres in Washington, DC is planned for 2011.

## **2.6. Joint investigation teams**

During 2010, Eurojust continued to support JITs and encouraged their setting up by providing information and advice to practitioners.

By virtue of Article 9f of the Eurojust Decision, in 2010, Eurojust National Members participated in 20 JITs, acting either on behalf of Eurojust or in their capacity as national competent authorities, in crime types involving, *inter alia*, fraud, corruption, car theft, drug trafficking and THB. In addition, Eurojust received 11 notifications from Member States regarding the setting up of JITs in accordance with Article 13.5 of the Eurojust Decision.

Eurojust continues to support and encourage enhanced judicial training in the use of JITs within and outside the European Union. Eurojust participated in the Europol internal training programme on JITs and gave trainings in practitioner *fora*, such as the European Police College (CEPOL) and the workshops organised by the Secretariat of the Police Cooperation Convention for Southeast Europe (PCC SEE).

In December 2010, Eurojust and Europol jointly organised the sixth annual meeting of the network of national experts on JITs at Europol, attended by experts and practitioners from 22 Member States and by representatives of the Commission and the General Secretariat of the Council. Topics ranging from the practicalities of several national systems in setting up JITs, the support given to JITs, JITs with third States and future trends in JITs were presented. Two workshops were held, one on “profile requirements for the successful JIT expert at national level, identifying role and mission” and the other a solution-oriented discussion on commonly encountered issues during the setting up, running and conclusion of JITs, as identified by practitioners.

### ***Eurojust and financial support to JIT operations***

Eurojust continued to support JITs in 2010 by providing financial and logistical assistance. On the basis two successful applications submitted to the European Commission under its financial programme, “Prevention of and Fight against Crime 2007-2013”, Eurojust received funds for two JIT Funding Projects. In both, Eurojust has assisted with two common types of expenditures related to JIT activities: travel and accommodation costs, and translation and interpretation costs. In addition to financial support, Eurojust has been able to lend equipment such as mobile phones, laptops and, under the second project, mobile scanners and printers.

The first (pilot) JIT Funding Project, “Financial, administrative and logistical support to Joint Investigation Teams with establishment of a centre of expertise with a central contact point” was launched in July 2009 and completed on 31 December 2010. The budget allocated for this project was €316,473. Out of a total of 34 applications for funding under this project, 29 were received in 2010. The project supported 10 JITs in 13 Member States in 2010, awarding a total of €292,537.

The second JIT Funding Project, “Supporting the Greater Usage of JITs”, commenced on 1 October 2010 and will run until 30 September 2013. The budget for this second project was significantly increased to €2,272,800. Eurojust received 12 applications for funding under this project in the period 25 October to 26 December 2010, and supported 12 JITs in 15 Member States, awarding a total of €265,161.

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

## **2.7 Eurojust casework involving third States**

Eurojust's co-operation with third States takes place on the basis of Articles 3.2, 26a and 27b of the Eurojust Decision. In 2010, a study was conducted on Eurojust's casework involving third States for the period 1 September 2008 until 31 August 2010.

The most frequently requested third State was Switzerland, followed by the USA, Norway, Croatia, the Russian Federation, Turkey, Albania and Ukraine. The main crime types in cases involving at least one third State were drug trafficking, swindling and fraud, money laundering, participation in a criminal organisation, and smuggling of human beings.

Most cases concerned facilitation of requests for judicial co-operation and co-ordination. In a majority of them, Eurojust enabled the speedier execution of MLA requests, including extradition requests. Delays in the execution of requests for judicial co-operation were a recurrent obstacle identified in this context.

Requests for judicial co-operation to third States facilitated by Eurojust included, *inter alia*, requests for bank information, hearings of witness and suspects, hearings by videoconference, interception of telecommunications, searches, controlled deliveries, service of summons, and the freezing, seizure and confiscation of assets.

Eurojust also held co-ordination meetings that facilitated exchanges of information and evidence between competent authorities, simultaneous executions of requests for judicial co-operation, international arrest warrants and house searches, and controlled deliveries. The third States that were most frequently involved in co-ordination meetings at Eurojust were Switzerland, the USA, Norway, Croatia, the Russian Federation, Turkey, Albania and Ukraine. In accordance with data protection rules, exchanges of operational information, including personal data, were facilitated by Eurojust only with those third States with which a co-operation agreement has been concluded.

Assistance to competent authorities in Member States was facilitated by appropriate contact with Eurojust contact points in third States. Liaison officers and liaison magistrates posted by Member States in third States were also contacted, when needed.

### ***Liaison Prosecutors from third States seconded to Eurojust***

Liaison Prosecutors from third States seconded to Eurojust can register their own cases on the basis of their countries' co-operation agreements with Eurojust. There are currently three Liaison Prosecutors.

The Liaison Prosecutor from Norway at Eurojust registered 50 cases in 2010. The cases were related to drug trafficking, crimes against property or public goods including fraud, crimes against life, limb or personal freedom, THB, and cybercrime. The Liaison Prosecutor held three co-ordination meetings in 2010 involving representatives from eight Member States, the USA and Interpol.

The Liaison Prosecutor from Croatia at Eurojust registered 11 cases in 2010. The cases were mainly related to corruption, crimes against property or public goods, including fraud, crimes against life, limb or personal freedom, and drug trafficking. Seven out of the 11 cases registered by Croatia were corruption cases, some involving freezing of bank accounts, assets, etc.

The Liaison Prosecutor from the USA at Eurojust registered three cases in 2010. The cases were mainly related to crimes against property or public goods, including fraud, corruption, THB, and cybercrime. The Liaison Prosecutor held two co-ordination meetings in 2010, involving representatives from Germany, Greece, France, Hungary, the Netherlands and the UK, as well as representatives from FYROM and Switzerland.

#### **Case illustrations:**

Since 2008, Eurojust, via the Norwegian Liaison Prosecutor, supported an investigation into the sexual abuse of minors and the production and distribution of child abuse images. As the investigation developed, it revealed possible links to other countries and suspects, including Italy, the USA, Romania, the UK, Belgium, France, Germany, Czech Republic, Afghanistan and Brazil. As a result of the efforts of the national authorities involved, which were co-ordinated from Eurojust, a worldwide paedophile network was uncovered.. So far, about 30 suspects are under investigation, most of them in the USA; more than 70 victims have been identified. Five co-ordination meetings were held during which the participating countries shared evidence and co-ordinated requests for MLA and actions against the offenders. The co-ordination and exchange of information via Eurojust facilitated the initiation and conduct of investigations. Issues regarding the competent jurisdiction to investigate and prosecute were solved. Joint actions by the Norwegian, Italian, Romanian and US authorities were planned and executed, including house searches, arrests and hearing of suspects. The international co-operation, facilitated by Eurojust, enabled the judicial and law enforcement authorities to identify offenders and rescue numerous child victims.

The Croatian Office for the Suppression of Corruption and Organised Crime conducted an investigation against eight high-level officials, including a former politician, for illegally approving and placing loans between 2006 and 2009 to acquire means of financing the purchase of shares via numerous other companies within Croatia and abroad. The damages are estimated to be approximately €54,000,000. In the course of this extensive investigation, 29 witnesses in other States were questioned, numerous companies and bank accounts in other States were checked, and corresponding documents were collected. MLA requests were sent to the UK, Norway, Hungary, Czech Republic, Malta, the Republic of Serbia, Switzerland and Italy, and facilitated by Eurojust. This facilitation produced excellent results, with some documents being received within 24 hours and in most cases within a few days. Prosecutors from Croatia were present at the questioning of witnesses in Hungary and Malta. Searches in Malta were highly successful, and important documents were secured. The trial will commence in Croatia in 2011.

Liaison Prosecutors confirmed that they faced similar casework obstacles to those encountered by the National Desks.

Organisation of co-ordination meetings for complex cases is one of the main strengths of Eurojust in its co-operation with Liaison Prosecutors. Their partnership significantly speeds up the execution of requests and helps resolve other legal and practical problems. In general, the presence of the Liaison Prosecutors at Eurojust has helped practitioners to navigate the complex provisions governing judicial co-operation between the European Union, Member States and external partners.

### **3 Relations with EU partners**

#### ***European Judicial Network***

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

In 2010, relations between Eurojust and the EJM were strengthened. In June and November, EJM representatives were invited to participate in the two meetings of the IWG. Among other issues, the participants discussed the role of the Member States, Eurojust and the EJM in securing a more fruitful interaction between Eurojust and the EJM.

Complementarity between Eurojust and the EJM has been addressed in two specific meetings held at Eurojust. In October, the College Presidency, the Administrative Director and the Chair of the EJM & Liaison Magistrates Team met with the EJM Trio Presidency and the EJM Secretary to discuss how to enhance co-operation between Eurojust and the EJM. Discussion focused on three areas: how to improve the information flow between Eurojust and the EJM Contact Points; in which types of operational cases Eurojust and the EJM could carry out complementary activities; and how to regularly assess co-operation between Eurojust and the EJM. Further agreement was reached on the setting up of a Joint Task Force, consisting of representatives from Eurojust and its Secretariat, to find practical ways to strengthen co-operation between Eurojust and the EJM.

The Joint Task Force met for the first time in the margins of the 5th IWG meeting. The members agreed that, at EU level, shared marketing of Eurojust and the EJM should be carried out, so that both organisations should be perceived as a team by the Member States. In this context, the opportunity for closer working of Eurojust and the EJM afforded by the Eurojust National Coordination System (ENCS) should be used to the full. Similarly, Eurojust National Members could become EJM Contact Points, whenever appropriate and in accordance with the different national judicial systems.

#### ***Europol***

Eurojust and Europol have continued their efforts to foster closer co-operation in the fight against serious cross-border crime by increasing information exchange and improving their strategic and operational co-operation. On 1 January 2010, the revised Co-operation Agreement entered into force, offering a range of new possibilities for enhanced co-operation between the two organisations, in particular by specifying the situations when casework co-operation between the two bodies is triggered. It also provides for temporary posting of representatives of one agency in the other's premises, as well as for the obligation to inform each other about participation in JITs. Pursuant to Article 22 of the revised Co-operation Agreement, a joint annual report on co-operation is to be submitted each year to the Council.

In 2010, Eurojust invited Europol to continue its active participation in the meetings of the IWG, in particular for the discussion on how to promote closer relations between the ENCS and the Europol National Units, as provided for in Article 12.5(d) of the Eurojust Decision.

Eurojust attended various meetings of the Heads of Europol National Units (HENUs) at Europol. It also held a meeting for the HENUs and the College to increase awareness about the role played by Eurojust in AWFs, and the potential for increased co-operation in light of the new provisions of the revised Co-operation Agreement.

Eurojust continued to develop its strategic co-operation with Europol in the field of organised crime and terrorism. In October 2010, Eurojust provided a substantial contribution to the OCTA 2011 report, following a strict methodology developed by the analysts at Eurojust and Europol. The contribution includes qualitative and quantitative information on two years of Eurojust's casework in the main priority crime areas covered by the OCTA report. Data for the quantitative analysis were extracted from the CMS and elaborated on by Eurojust's Case Management Team, while the qualitative assessment was based mainly on interviews conducted with the National Desks on a selection of cases.

Eurojust continued its strategic co-operation with Europol in terrorism matters, discussing in various meetings policies and strategies related to counter-terrorism and contributing to Europol's TE-SAT Reports.

In the field of operational co-operation, Eurojust became associated with a further three AWFs in 2010. These deal with cybercrime, maritime piracy and heroin trafficking, and bring the total number of Eurojust associations with AWFs to 15. Europol has participated in 41 Eurojust co-ordination meetings. The exchange of information through the secure communication link has increased by 27 per cent with a total of 675 messages exchanged in 2010. Significantly, the quality of the co-operation has brought excellent results in operational cases with Europol providing analysis reports on the basis of which Eurojust could co-ordinate judicial co-operation activities.

To allow for the exchange of more highly classified information, on 20 October 2010, Europol proposed to Eurojust a revision of the Table of Equivalence between their respective confidentiality and security standards to enable the exchange of information up to the level of "EU Top Secret". The negotiations on a new Memorandum of Understanding between Eurojust and Europol were concluded in January 2011, and entered into force on 15 February 2011.

For cases involving Europol, *see* Chapter 2, in particular under organised crime and cybercrime.

## **OLAF**

To strengthen the fight against fraud, corruption or any other criminal offence affecting the EU's financial interests, Eurojust and OLAF continued in 2010 to co-ordinate efforts and maintain regular contacts. The implementation of the 2008 Practical Agreement on arrangements of cooperation between Eurojust and OLAF ("Practical Agreement") has shown that collaboration on complex cases has been enhanced, with an increased exchange of case referrals, case summaries and case-related information and a regular follow-up of ongoing cases. In 2010, OLAF referred four cases to Eurojust and Eurojust referred one case to OLAF.

On 09 July 2010, the President of Eurojust and the Acting Director General of OLAF met in Brussels to evaluate co-operation and discuss the need to improve methods of identifying appropriate cases that would benefit from a collaborative approach. The need to explore synergies between the two bodies was stressed in the context of possibilities under the Lisbon Treaty.

Regular liaison meetings between Eurojust and OLAF continued to take place in 2010 to reinforce co-operation by exchanging relevant case summaries and providing general feedback on the activities performed in those cases. The liaison meetings have also monitored the progress made in setting up a secure communication network to exchange information between Eurojust and OLAF. This network is being established in the framework of Council Decision 2009/917/JHA on the use of information technology for customs purposes. This Decision will grant Eurojust reading access to the Customs Information System and to the Customs Files Identification Database as of May 2011, allowing Eurojust to obtain immediate information that will enhance the support of judicial authorities in the Member States.

In the framework of the Eurojust-OLAF Exchange Programme, a study visit to Eurojust of senior OLAF investigators and heads of units took place in March. The OLAF representatives were briefed on Eurojust's role, on the secure communications infrastructure and on the impact on judicial co-operation of the implementation of the Practical Agreement and the Eurojust Decision. In exchange, representatives from Eurojust's National Desks participated in September in OLAF's Executive Board meeting and had the opportunity to exchange experiences with representatives of several OLAF units, including the investigations and customs units.

In December, Eurojust co-hosted with Europol the 18th OLAF Anti-Fraud Communicators' Network (OAFCN) meeting. Since 2004, Eurojust has been an institutional member of OAFCN, the network of heads of communication of national authorities and organisations involved in the fight against fraud.

For cases involving OLAF, *see* Section 2.5 under *Fraud*.

### ***Frontex***

In 2010, Eurojust intensified contacts with the European Agency for the Management of the Operational Cooperation at the External Borders of the Member States of the European Union (Frontex) to establish and maintain co-operative relations in accordance with Article 26.1 of the Eurojust Decision.

On 29 April 2010, as a follow-up to informal contacts between the two organisations, the President of Eurojust and the Executive Director of Frontex met at Eurojust to discuss possible areas for future of co-operation. The Executive Director of Frontex attended a College meeting and made a presentation on the organisation and functioning of Frontex.

Eurojust initiated contacts with Frontex for the possible negotiation of a draft co-operation instrument in accordance with Article 26.1 of the Eurojust Decision.

### ***European Judicial Training Network***

The basis for co-operation between Eurojust and the European Judicial Training Network (EJTN) in the field of judicial training is set out in the Memorandum of Understanding signed on 7 February 2008. Under the exchange programme for 2010, two traineeships, each for a period of three months, took place at Eurojust's Italian and Austrian National Desks. In addition, Eurojust participated and provided active support at the EJTN seminars on "International Judicial Cooperation in Criminal Matters in Practice – EAW and MLA simulations", which took place in October and November 2010.

In 2010, Eurojust proposed the attendance and participation of police and judicial delegates together at a scheduled JIT course in Lyon, thus involving both the EJTN and CEPOL. Eurojust also contributed directly by providing expert training at the event.

### ***CEPOL***

The Memorandum of Understanding between Eurojust and the European Police College (CEPOL), the goal of which is to define, encourage and improve training for police and prosecutors in the fight against serious crime, entered into force on 1 January 2010.

Co-operation between Eurojust and CEPOL continued to develop through Eurojust's support of CEPOL's training activities, and CEPOL's attendance at Eurojust seminars and conferences. In particular, two CEPOL study visits were hosted by Eurojust in 2010. In addition, Eurojust actively supported the CEPOL seminar on JITs that took place in October 2010, and was invited to participate in the CEPOL Annual Programme Committee meeting that took place in September 2010. Eurojust also contributed to the CEPOL five-year external evaluation.

Eurojust and CEPOL have agreed to explore the options to establish training of senior police officers and prosecutors about JITs in co-operation with the EJTN. In addition, Eurojust will contribute to the development and implementation of course materials and a Common Curriculum on Eurojust.

## **4 Developments**

### ***Implementation of Council Decision 2009/426/JHA***

The revision of the Eurojust Decision, published in June 2009, aims to make Eurojust more operational. Important elements are transmitting certain casework information to Eurojust and making Eurojust's assistance available to practitioners in Member States on a 24/7 basis. Because the Eurojust Decision's provisions must be transposed in Member States by June 2011, Eurojust continued its ambitious implementation programme in 2010 through its Informal Working Group, involving experts from the European Parliament, Council and Commission and Member States. The programme was set up to ensure that adequate co-ordination, communication, reporting and assessment mechanisms were in place.

Two meetings of the IWG were held in 2010. They focused mainly on the setting up and functioning of the ENCS, the flow of information between Eurojust and EJM Contact Points, and Eurojust's external relations with third States. The EPOC IV proposal for a standard for the exchange of data (*see* Chapter 1) was demonstrated as a possible ICT tool for the ENCS.

One important element in the implementation programme is the mechanism for facilitating the transmission of casework information from Member States to Eurojust. To this end, Eurojust has undertaken work to create a standard template through which information can be transferred, and to develop the accompanying technical provision for safe transmission and processing of the information.

In a related development, the OCC system is being set up, enabling Eurojust to receive and process requests referred to it on a 24/7 basis. The OCC will be operational in 2011 and will enhance Eurojust's capability to intervene in urgent cases.

The amendments to the Eurojust Decision also called for Eurojust to be responsible for the Secretariats of the Networks for Joint Investigation Teams and for Genocide and related crimes. In 2010, Eurojust completed the recruitment process for the co-ordinators of each network, who will assume their duties in early 2011 and who will form part of Eurojust's staff.

***Internal Security Strategy (COSI; Consultative Forum of Prosecutors General and Directors of Public Prosecutions)***

In 2010, Eurojust participated in various policy developments at EU level. The Internal Security Strategy, approved by the Council in February 2010, sets out a four-step policy cycle for the establishment of a reference framework for the internal security of the European Union. The standing committee on operational cooperation on internal security (COSI) was set up in accordance with a Decision of November 2009 with the mandate to co-ordinate and evaluate security policies within the European Union, including, where appropriate, judicial co-operation in criminal matters relevant to operational co-operation in the field of internal security. The goal of the Harmony Project, initiated by the Belgian Presidency in 2010, is to streamline and integrate existing EU instruments and new developments by providing, amongst others, a concept for a generic European crime intelligence model and a genuine European policy cycle. The Council Conclusions on the creation and implementation of an EU policy cycle for organised and serious international crime, adopted by the JHA Council in November 2010, propose the establishment of a multi-annual policy cycle with regard to serious international and organised crime, consisting of four steps: evaluation of the threats, definition of the policy priorities, implementation, and evaluation.

In light of these developments, Eurojust considers that its involvement in the judicial dimension of internal security issues can be of value, and supported the work of the Consultative Forum of Prosecutors General and Directors of Public Prosecutions of the Member States of the European Union during 2010. Eurojust provided extensive support to the meetings organised by the Spanish Presidency in May 2010 and by the Belgian Presidency in December 2010. During its December meeting, the Consultative Forum agreed on its mandate for the future, and asked Eurojust to take responsibility for hosting its meetings and to consider providing administrative and secretarial support, including in the preparation of its meetings.

### ***Task Force on the Future of Eurojust***

In December 2009, Eurojust approved the setting up of a Task Force on its future to consider possible developments under TFEU Articles 85 (regulations on Eurojust) and 86 (creation of a European Public Prosecutor's Office from Eurojust). The main objective of the Task Force is to promote internal discussion, on the basis of Eurojust's practical experience, and make contributions, when required, to discussions in different European institutions and *fora*.

The Task Force met regularly in 2010 to deal with different issues regarding the future of Eurojust under the Lisbon Treaty, with contributions from both external experts and from Eurojust practitioners. In September 2010, Eurojust held a seminar in Bruges, "Eurojust and the Lisbon Treaty: towards more effective action", in co-operation with the Belgian Presidency of the European Union. More than 120 experts, including academics, representatives from the Member States, EU institutions and bodies and Eurojust National Members, discussed the future development of Eurojust and the possible establishment of a European Public Prosecutor's Office (EPPO) in light of the new provisions introduced by the Lisbon Treaty. A summary of the seminar has been published as a Council document.

Eurojust contributed to a study on the EPPO which was being undertaken for the European Parliament. It set out the importance of a thorough impact assessment and of evidence-based analyses from a casework and practitioner perspective.

### ***JHA co-operation***

The need for enhanced co-operation between the European institutions involved in the Justice and Home Affairs area has been frequently emphasized. In October 2009, Eurojust, Europol, CEPOL and Frontex were requested by the Council Presidency to participate in the drafting of a joint report on improved co-operation among EU crime-fighting agencies. Areas for improving bilateral and multilateral co-operation were identified by Eurojust and its partners, and their final report was adopted by COSI in June 2010. COSI invited the bodies to implement the measures contained in the final report by the end of 2011 and to organise regular meetings of the JHA Heads of Agencies. A scorecard to keep track of the status of the different measures and identify concrete ideas for implementing these measures has been drafted and regularly updated. At the JHA Heads of Agencies meeting in November 2010, hosted by Europol, it was agreed that Eurojust should host the Secretariat of the JHA Agencies in 2011.

## 5 Follow-up to Council Conclusions

On 3 June 2010, the JHA Council adopted Conclusions on the eighth Eurojust Annual Report (Document 9959/10). As in previous reports, Eurojust provides information in this chapter on the areas where the Council made recommendations.

<b>Casework: analysis, evaluation and identification of obstacles</b>	
Increase Eurojust's capacity to analyse obstacles to judicial co-operation at EU level, making use of its casework evaluation tools. Provide regular information on the state of judicial co-operation within the European Union. Gather information on the practical and legal difficulties related to the use of judicial co-operation instruments and report to Council, Parliament and Commission.	Eurojust has continued the evaluation of casework on a systematic basis to identify obstacles to international judicial co-operation. Chapter 2 of this Annual Report summarises casework figures and, following Council Conclusions on last year's Annual Report, deals with obstacles to judicial co-operation, the use of judicial co-operation tools in Eurojust casework and the evaluation of judicial instruments. This is on the basis of the cases referred to it. Eurojust is taking steps to develop a Eurojust Casework Guide.

## Casework classification and statistics

Provide statistics on standard/complex cases and on bilateral/multilateral cases, and focus further on complex cases that require co-ordination.

The classification of cases as bilateral or multilateral has been re-introduced. It of course is clear that a bilateral case does not mean that a less serious criminal offence is concerned, or that limited involvement by Eurojust is appropriate. A bilateral VAT fraud case can result in a loss of several million euros, and may require the full commitment of Eurojust resources because of its legal and evidential complexity, and the need to address such aspects as cross-border intercepts and confiscation of assets. Conversely, some multilateral drug trafficking cases may involve only minor seizures and require limited support from Eurojust. Further, a bilateral case at Eurojust may be multilateral in a Member State.

The reintroduction of the standard/complex classification was considered in depth, but not adopted. Eurojust had experimented with a matrix of different factors in an attempt to give some objectivity to the distinction, but concluded that in practice this was not possible. Elements suggesting complexity might not be present when the case was to be registered in the Case Management System, but appear later. Equally, a case initially seen as complex might not in fact require full commitment of Eurojust resources such as co-ordination meetings, and should be rather treated as standard. Furthermore, a case classified by Eurojust as standard might have implications rendering it complex for the national judicial authorities involved. Limited support by Eurojust might nevertheless be crucial and have a major impact at national level.

The standard/complex distinction may also have failed to assist those considering Eurojust's casework from a policy standpoint. It has been suggested that complex cases link to organised crime cases when this is not always the situation. Similarly, the standard/complex classification may be unhelpfully conflated with the bilateral/multilateral: the bilateral and standard (and the multilateral and complex) are misleadingly seen as synonymous. This situation could lead to inappropriate referrals of cases to other bodies, when Eurojust's assistance was in fact required. A casework example may illustrate the difficulty: facilitating execution of a European arrest warrant may involve resolution of "standard" problems of communication and information relating to different legal practices. However, execution may also reveal issues (e.g. *ne bis in idem*, the nature of accusation and conviction warrants, the interpretation of what is a "final" judgement, the interaction between EU and national legislation, the existence of competing warrants) that are "complex".

	<p>The 9 statistical annexes which follow accordingly provide information on (1) number of cases registered at Eurojust from 2002 to 2010 together with bilateral and multilateral distribution; (2) classification according to the scope of competences of Eurojust (Article 4(1) and (2), and legal topic cases); (3) priority crime types in Eurojust cases; (4) priority crime types and other crime types in Eurojust cases; (5) Eurojust cases by requesting countries; (6) Eurojust cases by requested countries; (7) total number of co-ordination meetings; (8) co-ordination meetings by requesting countries; and (9) co-ordination meetings by requested countries.</p>
<b>Eurojust - EJM</b>	
<p>Report on concrete measures regarding referral of cases to the EJM, indicating obstacles in this respect.</p>	<p>Cases are frequently referred by Eurojust to EJM Contact Points in efficiently and swiftly. Cases have similarly been referred to Liaison Magistrates of the Member States.</p> <p>With regard to cases that could be referred to EJM contact points, Eurojust has developed a variety of practices according to the nature of the case: some National Desks routinely inform their national authorities that the issue could have been addressed to the EJM; others make immediate referrals to EJM contact points; and others have established close contacts with their EJM Contact Points and EJM National Correspondents. There is encouragement for letters rogatory to be sent first to Eurojust for quality control to anticipate problems that could jeopardise a national proceeding at a later stage.</p> <p>It should be emphasized that Eurojust and the EJM are complementary and benefit from each other's expertise in the performance of their tasks. In the context of the Council Conclusions, the obstacles that lead to referral of cases to Eurojust instead of the EJM are of two main types. First, some cases reach Eurojust because attempts to resolve judicial co-operation issues through the EJM have been inconclusive. Eurojust is approached because other channels have not yielded results. Second, other cases are referred to Eurojust because of a particular need for urgent action, which a contact point structure may not always be able to provide.</p>

<b>Co-ordination meetings and involvement of Europol and OLAF</b>	
Promote co-ordination meetings, and involve, where relevant, other EU bodies such as Europol or OLAF. Foster Eurojust's access to information in Europol's AWFs and Europol's access to information when participating in co-ordination.	In 2010, Eurojust held 141 co-ordination meetings, ten more than in 2009. Europol participated in 41 co-ordination meetings and OLAF in one. Eurojust became associated with a further three AWFs in 2010, which brings the total number of Eurojust associations with AWFs to 15. Eurojust and Europol collaborate closely on JIT initiatives. For more information on co-operation with Europol and OLAF, <i>see</i> Chapter 3.
<b>Eurojust's contribution to the OCTA and TE-SAT Report</b>	
Contribute to the OCTA and TE-SAT Report.	In October 2010, Eurojust provided a significant contribution to the 2011 OCTA report, including qualitative and quantitative information on two years of Eurojust's casework in the main crime priority areas covered. Eurojust also contributed to the TE-SAT Report by providing quantitative and qualitative judicial information on terrorism matters. In addition, Eurojust regularly attended Europol's TE-SAT advisory board meetings.
<b>Use of Articles 6 and 7 of the Eurojust Decision</b>	
Increase use of references under Articles 6 and 7.	National Desks frequently recommended actions to their national authorities without formally referring to their competences under Article 6. From casework experience, it appears that only some Member States, due to specific rules concerning the conduct of investigations, use formal written recommendations. In those cases where formal requests were issued, some led to the opening of new cases at Eurojust and the organisation of co-ordination meetings. In 2010, one College recommendation was issued under Article 7.  Eurojust considers it premature to make an assessment regarding use of Article 7.2 on conflicts of jurisdiction and Article 7.3 on recurrent difficulties of judicial co-operation. National Desks currently resolve conflicts of jurisdiction through exercise of their powers and without the issue of written non-binding opinions from the College. It may be that more pro-active use should be made of Article 7.3 so far as written College opinions on difficulties are concerned. Eurojust intends to prepare guidelines on the issue of written non-binding opinions. Eurojust will also prepare guidelines on issuing opinions in cases of competing EAWs in accordance with Article 16(2) of the Framework Decision on the EAW. For further information, <i>see</i> the section on use of Articles 6 and 7 in Section 2.4.

<b>Eurojust National Coordination System</b>	
<p>Increase the efforts of Eurojust and the Member States to set up the system efficiently by June 2011.</p>	<p>Taking into account the deadline for implementation of the new Eurojust Decision, and within the frame of the ENCS and Information Exchange Project, the drafting of these deliverables progressed and documents will be available by June 2011:</p> <ul style="list-style-type: none"> <li>- <b>Standard template</b> for transmission of information to Eurojust pursuant to Article 13.5-7 of the Eurojust Decision;</li> <li>- <b>Paper</b> on interpretation of Article 13.5-7 of the Eurojust Decision;</li> <li>- <b>Paper</b> on the tasks of the ENCS (including “common denominator”) and on the profile and practical tasks of the Eurojust National Correspondents re the use, in particular, of Article 12.5;</li> <li>- <b>Guidelines</b> on content, frequency and format of the information and feedback to be provided by Eurojust to the competent national and EU authorities; and</li> <li>- <b>“Fiches Suédoises” template</b> for the collection of available data on the particularities of the implementation of the Eurojust Decision in relation to setting up and functioning of the ENCS and the exchange of information (including contact details).</li> </ul>
<b>Joint investigation teams</b>	
<p>Promote among practitioners the setting up of JITs, as well as the involvement, where appropriate, of other EU bodies such as Europol and OLAF.</p>	<p>In 2010, Eurojust National Members were involved in 20 JITs, by virtue of Article 9f of the Eurojust Decision, acting either on behalf of Eurojust or in their capacity as national competent authorities, in crime types involving, <i>inter alia</i>, fraud, car theft, drug trafficking and THB.</p> <p>In addition, Eurojust received 11 notifications from Member States regarding the setting up of JITs in accordance with Article 13.5 of the Eurojust Decision.</p> <p>For further information, <i>see</i> Section 2.6.</p>
<b>Case Management System</b>	
<p>Implement the new provisions of the Eurojust Decision and exploit the full potential of the CMS with a view to possible requests to Member States, on the basis of cross-referencing analysis, to initiate investigations.</p>	<p>An in-depth evaluation of the CMS is under way. Major changes to make it more user-friendly were introduced in 2010. However, efforts to make it an effective tool for storing relevant casework data and for analysis and evaluation of casework, including making use of cross-referencing analysis, where appropriate, are ongoing. The new provisions of the Eurojust Decision will be introduced into the future CMS. The template for transmitting Article 13 information is being developed so that input into the CMS will be semi-automatic.</p>

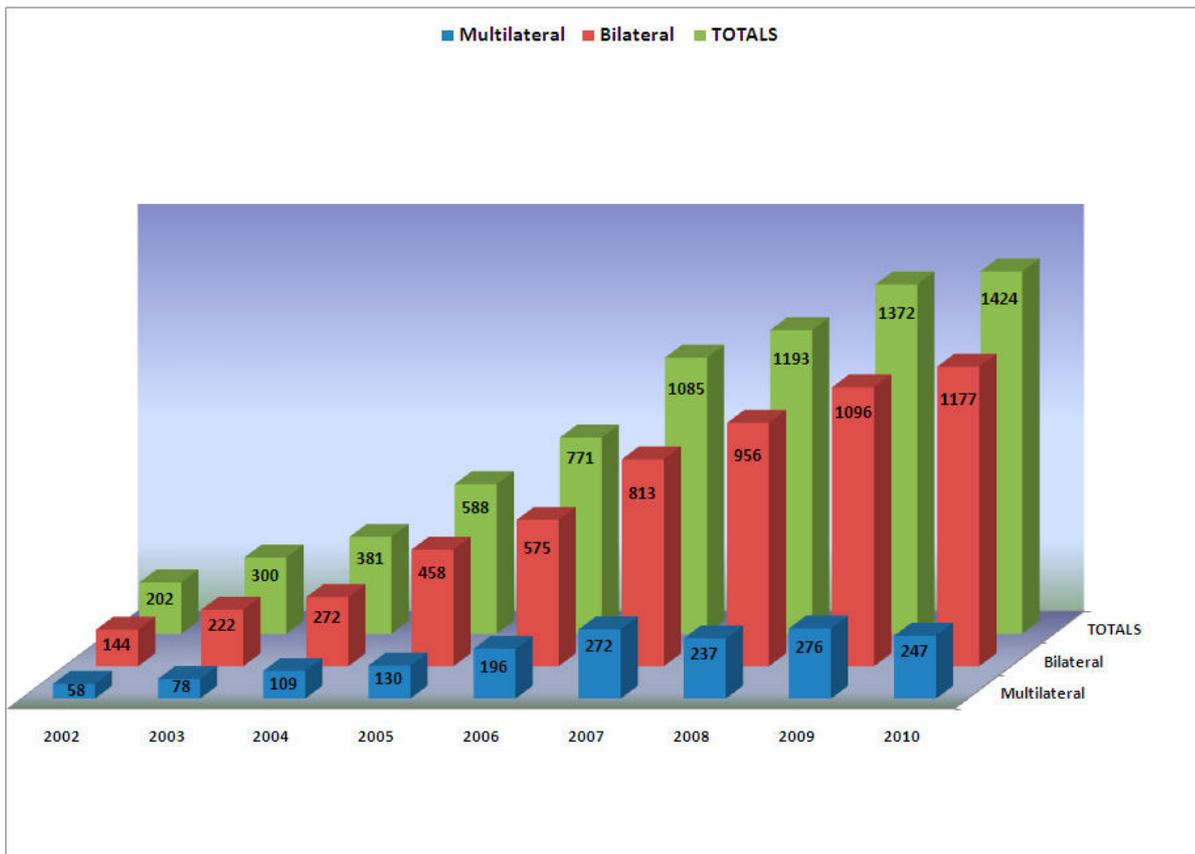
<b>Eurojust's website - Secretariats for the Networks</b>	
Establish sections on Eurojust website in respect of the Networks for which Eurojust is to provide Secretariats.	The JITs Network Secretariat will have its own section on Eurojust's website in the course of 2011, and the same will be done for future secretariats to other networks.
<b>Strategic project - VAT fraud</b>	
Inform on the outcome of the strategic project.	In 2010, Eurojust, in close collaboration with Europol, continued working on the strategic project on enhancement of exchange of information and MLA between judicial authorities of the Member States in the area of VAT fraud. On the basis of a questionnaire disseminated to the judicial authorities of the Member States, Eurojust and Europol prepared the agenda and case studies for the VAT fraud seminar, which will take place on 28 March 2011 at Eurojust. Experienced practitioners in investigations and prosecutions against VAT fraud, identified through the National Desks, will attend the meeting.
<b>Co-operation between Eurojust and Frontex</b>	
Establish formal working arrangements with Frontex that would go beyond the <i>ad hoc</i> co-operation so far established.	Eurojust initiated contacts with Frontex for the possible negotiation of a draft co-operation instrument in accordance with Article 26.1 of the Eurojust Decision. <i>See</i> Chapter 3.
<b>Strengthening of relations with third States and organisations</b>	
Strengthen its relations with third States and organisations outside the EU, in particular in view of difficulties related to data protection issues.	<i>See</i> the sections on relations with third States and organisations and Eurojust casework involving third States in Chapter 1 and Section 2.7.

<b>Project on College Performance and the OSR</b>	
Present the results of these projects. Focus on Eurojust core business by considering measures to reduce the burden put on the College and National Members stemming from tasks other than those provided for in Articles 6 and 7 of the Council Decision.	<p>Eurojust adopted decisions on the restructuring of its administration following the conclusions on the Final Report of the consultancy company on Phase 1 – Step 4 of the OSR Project in June 2010. An action plan for the necessary organisational changes was adopted in October 2010, describing the main activities, human resources and deadlines, including proposals for measures to be taken during the implementation phase.</p> <p>Seven different projects have been established to consider the facilitation of Eurojust’s business: (1) delegation of some management decisions from the Eurojust College to an Executive Board; (2) grouping of work areas currently undertaken by College Teams into a structure of portfolio management; (3) performance and risk management; (4) ensuring Eurojust administrative structures are aligned with its core business; (5) re-structuring and re-grading of the administration; (6) culture; and (7) training.</p> <p>Closely related to core business, revision of the concept of the operational <i>tour de table</i> with a view to allowing more time to discuss legal obstacles to judicial co-operation in criminal matters is under consideration.</p>
<b>Implementation of the Eurojust Decision</b>	
Continue working on the implementation of the Eurojust Decision.	<i>See</i> the section on the implementation of Council Decision 2009/426/JHA of 16 December 2008 in Chapter 4.
<b>Revision of Eurojust’s Rules of Procedure</b>	
Revise the Rules of Procedure.	A strategic project on the tasks, responsibilities, management and working methods of the College, including a revision of its Rules of Procedure, has been set in place. Proposals on how to improve Eurojust’s working methods are being considered, with a view to the implementation of the Eurojust Decision and to the proposals on delegation of decisions, etc to be considered under the OSR.
<b>On-Call Coordination</b>	
Report on the setting up of the OCC and the added value brought by it.	The OCC project was launched in May 2010, so that Eurojust is able to receive and process requests referred to it on a 24/7 basis. Internal policies and procedures have been approved. Adoption of a technical solution for judicial and law enforcement authorities to contact Eurojust at any time has been decided upon. The project also provides a technical solution for automatic updating and circulation of the schedule of OCC representatives. Promotional material in all official EU languages is being prepared.

## Annex

**Figure 1: Case evolution 2002 – 2010**

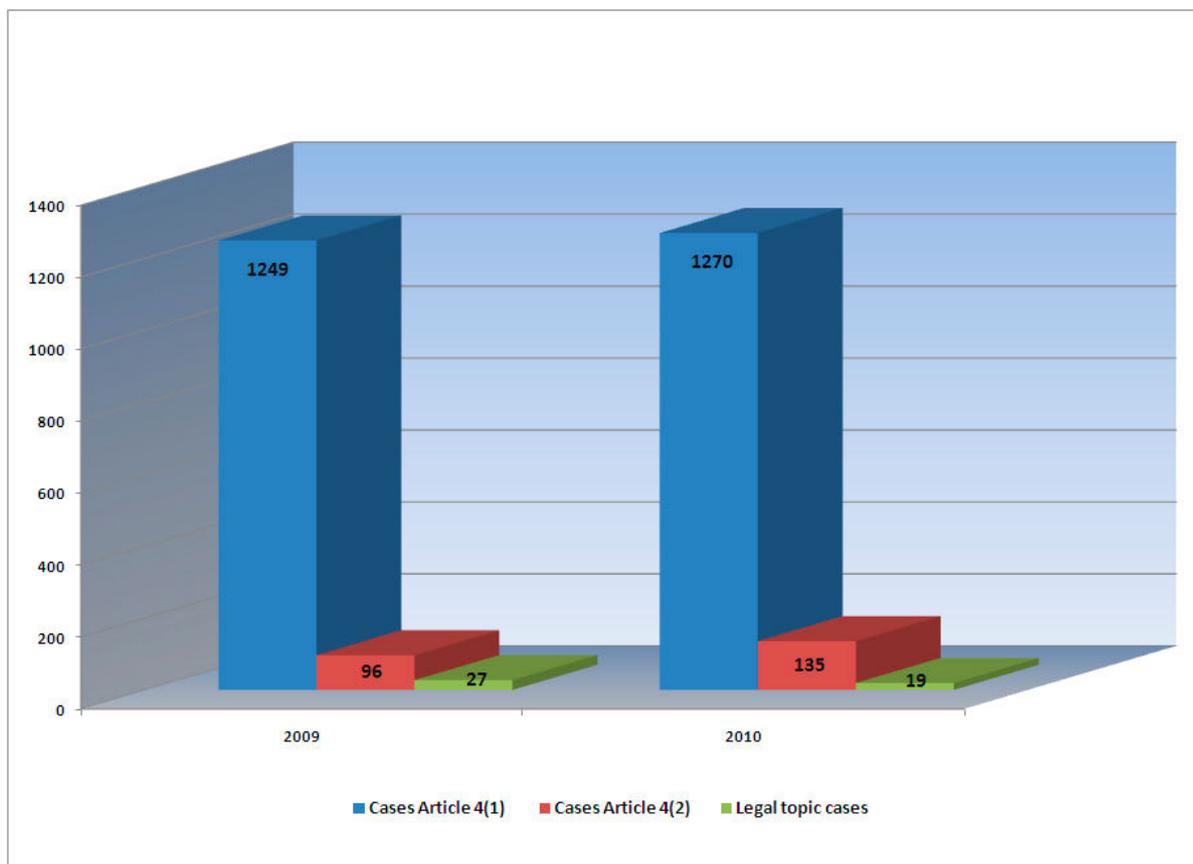
In 2010, Eurojust registered 1,424 cases, which continued the upward trend in the number of referrals for assistance by Member States since 2002. Approximately one-fifth of these cases involved three or more countries.



**Figure 2: General case classification**

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

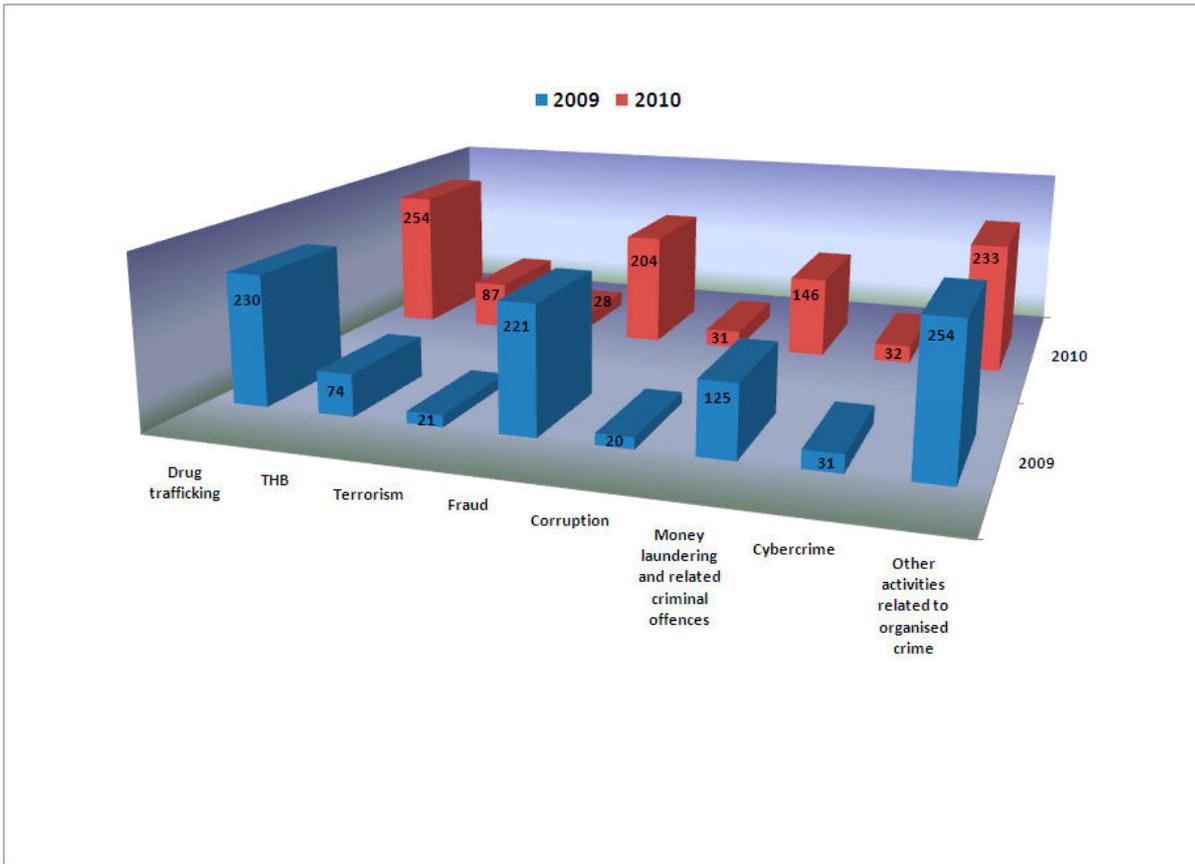
For other types of offences, Eurojust may, in accordance with its objectives, assist in investigations and prosecutions at the request of a competent authority of a Member State as per Article 4(2). Eurojust may also be requested by a Member State to provide assistance on matters or topics of a more general nature that are not necessarily directly linked to an ongoing operational case, *inter alia*, concerning national legislation or procedures (legal topic cases).



**Figure 3: Priority crime types in Eurojust cases**

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

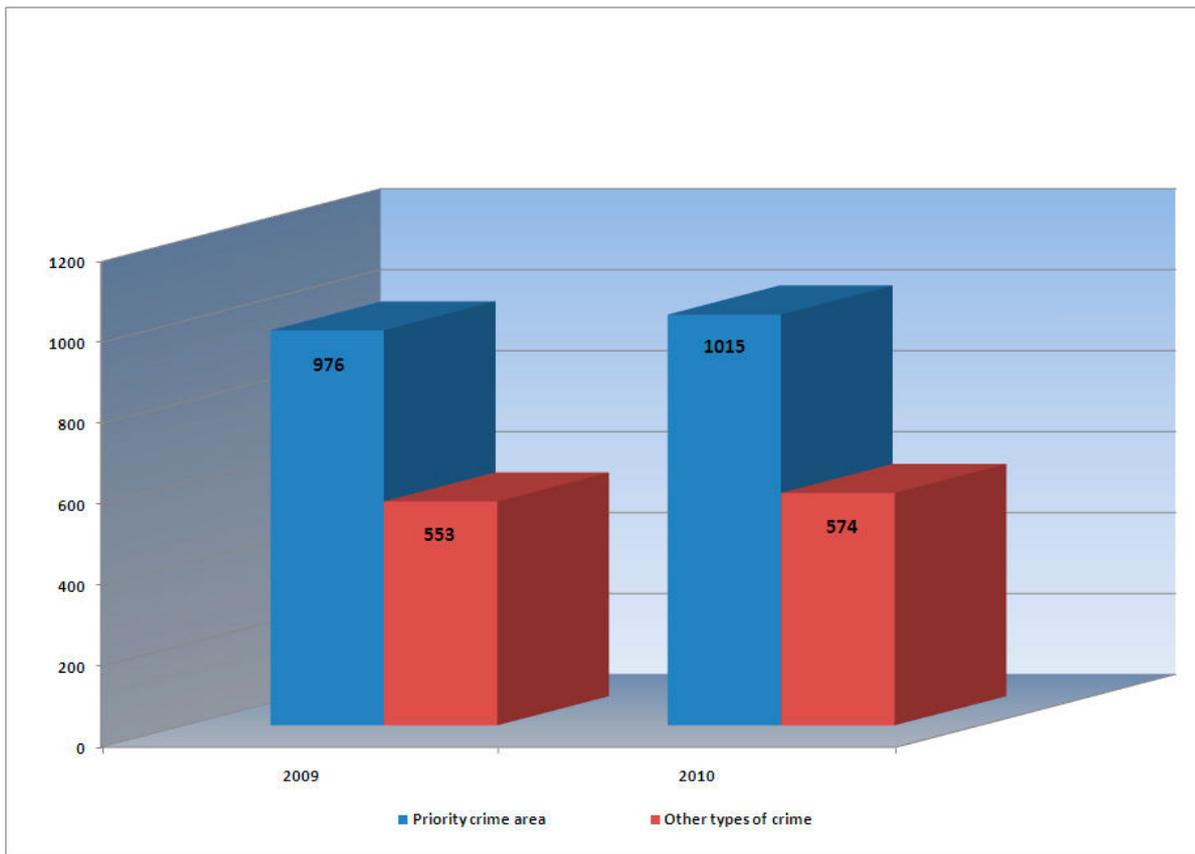
The figure shows the number of times that these crime types were involved in the cases registered at Eurojust in 2009 and 2010. One case may involve more than one crime type. Further information can be found in the relevant sections in Chapter 2.



**Figure 4: Priority crime types and other crime types in Eurojust cases**

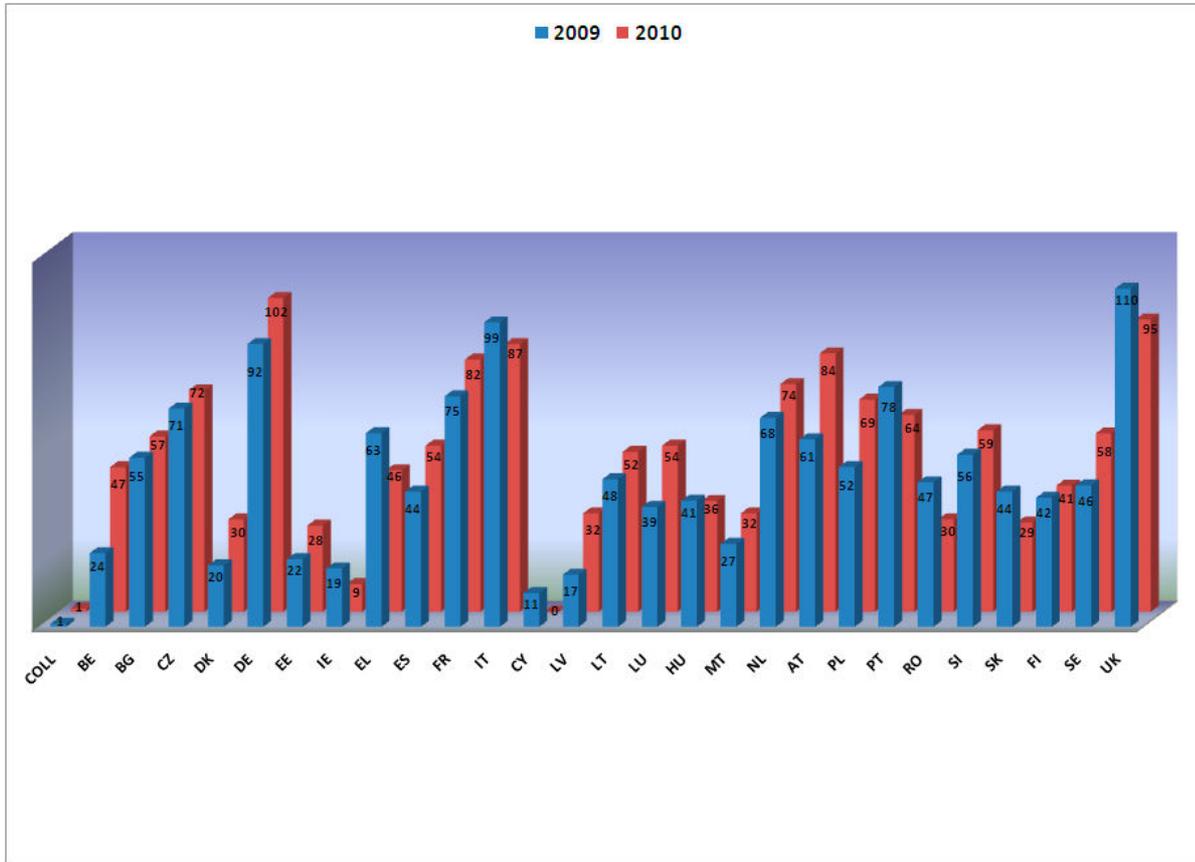
The operational priority areas adopted by Eurojust in 2009 cover terrorism, drug trafficking, THB, fraud, corruption, cybercrime, money laundering, and other activities related to the presence of organised crime groups in the economy.

The figure shows the number of times that crime types in the priority crime areas, as well as other crime types, were involved in the cases registered at Eurojust in 2009 and 2010. One case may involve more than one crime type.



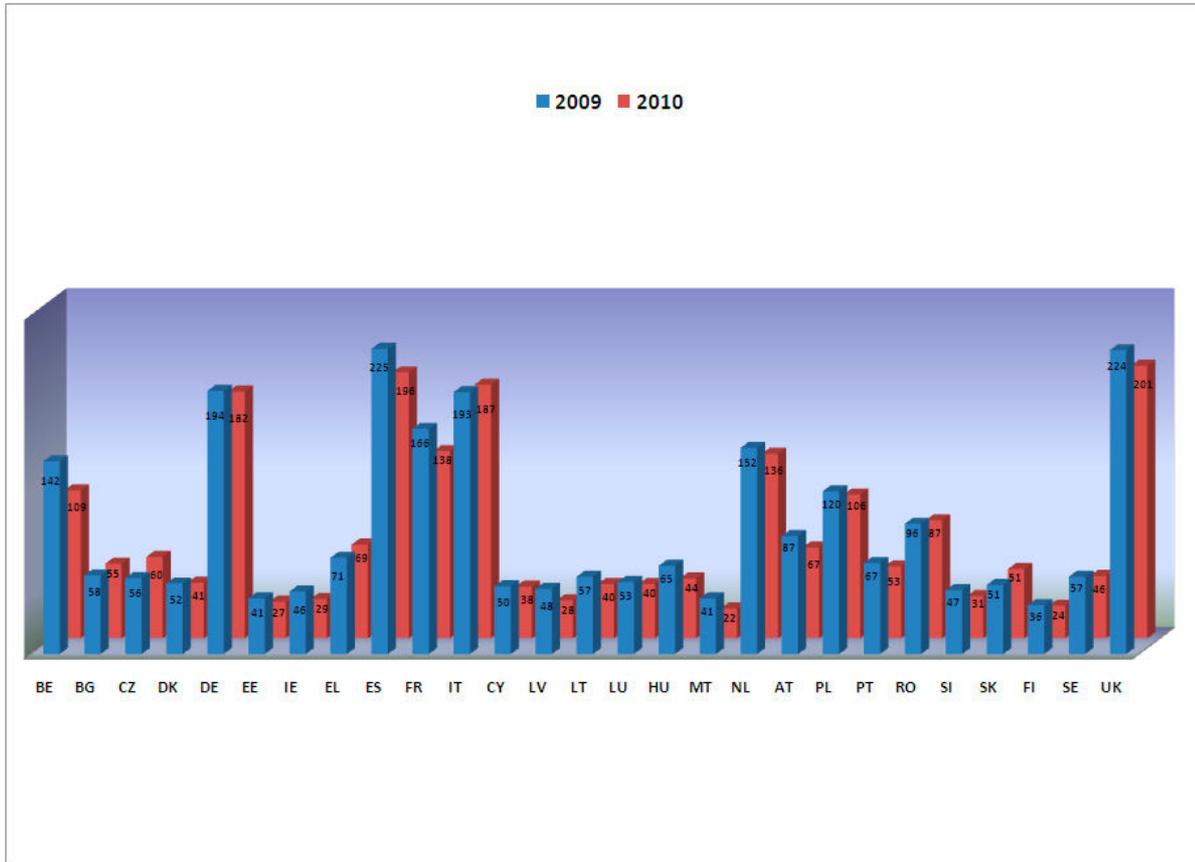
**Figure 5: Eurojust cases, requesting countries**

The figure shows by Member State the number of times Eurojust’s assistance was requested in 2009 and 2010.



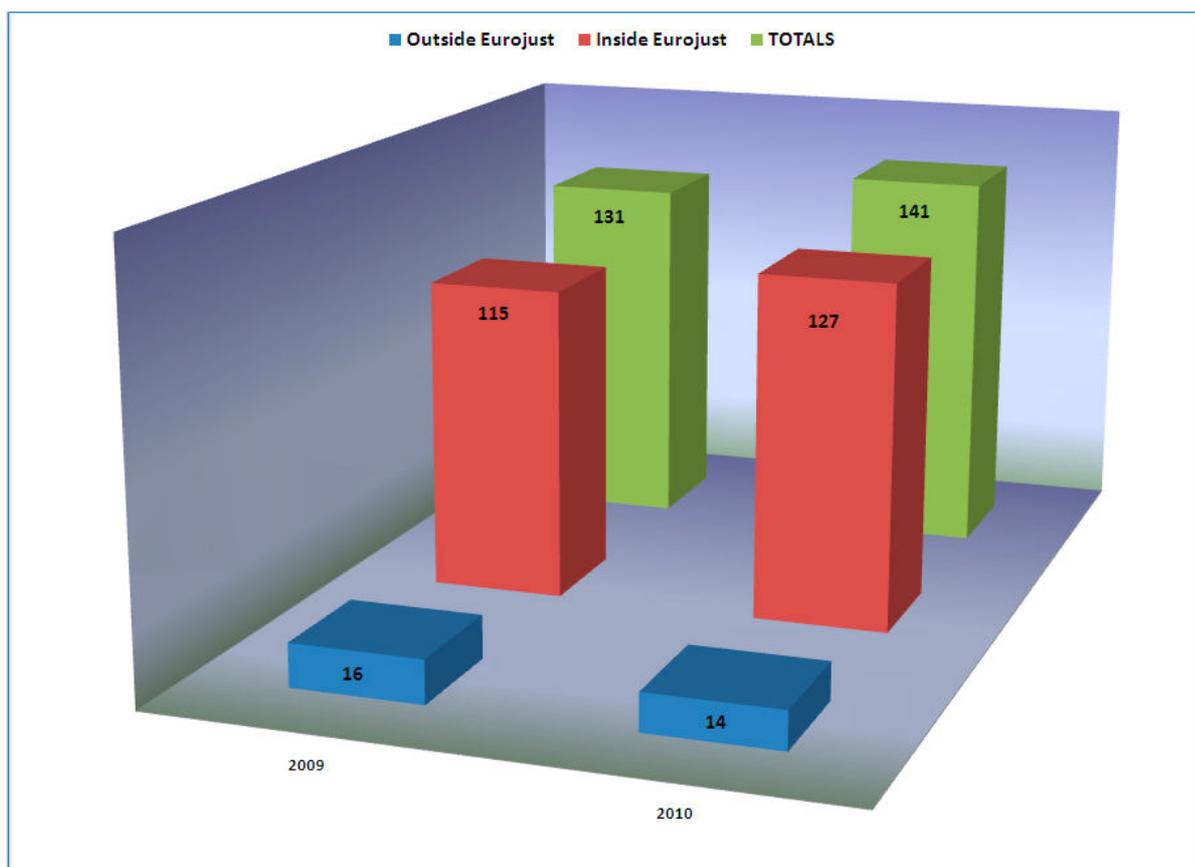
**Figure 6: Eurojust cases, requested countries**

The figure shows the number of times the assistance of authorities in each Member State was requested through Eurojust in 2009 and 2010.



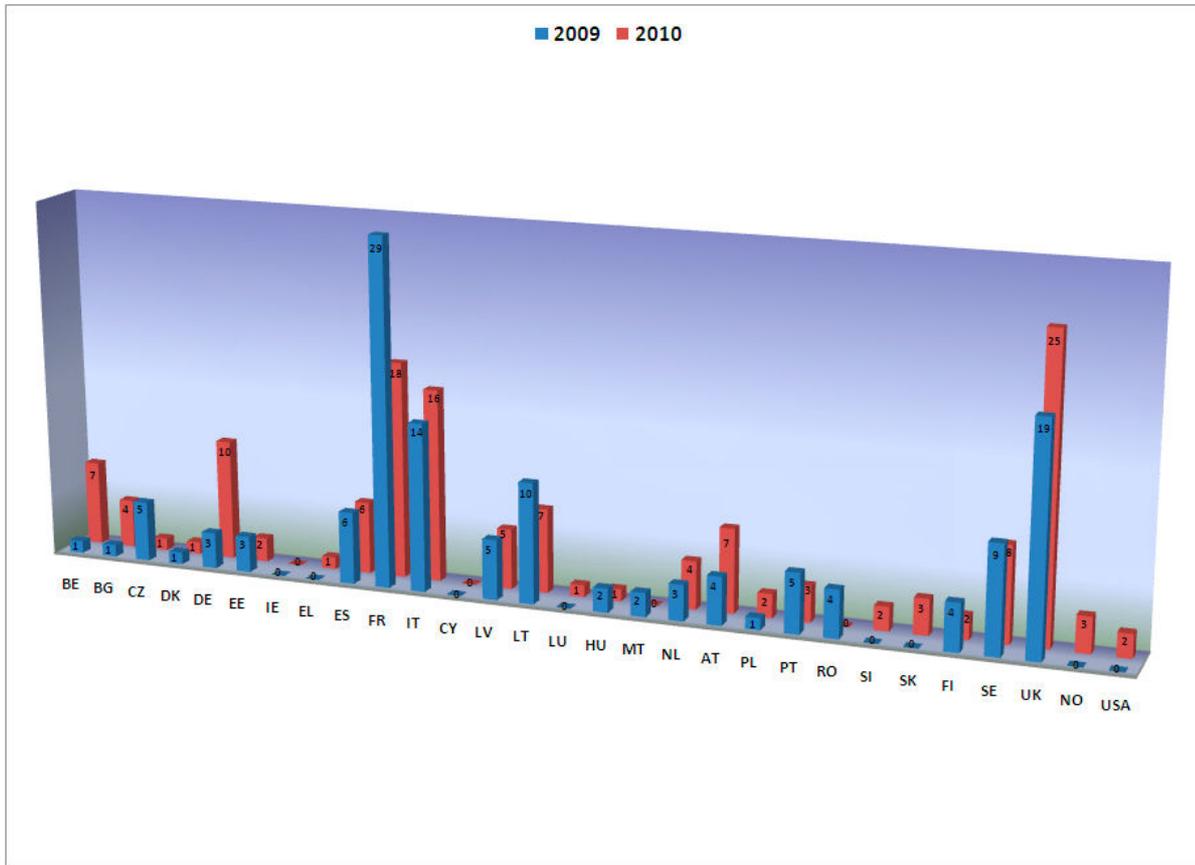
**Figure 7: Total number of co-ordination meetings**

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



**Figure 8: Co-ordination meetings, requesting countries**

The figure shows the number of co-ordination meetings organised by Eurojust following a request for assistance from each Member State or third State.



**Figure 9: Co-ordination meetings, requested countries**

The figure shows the number of times Member State authorities participated in a Eurojust co-ordination meeting after being requested for assistance.

