



## JUDICIAL COOPERATION IN CRIMINAL MATTERS

Judicial cooperation in criminal matters is based on the principle of mutual recognition of judgments and judicial decisions, and includes measures to approximate the laws of the Member States in several areas. The Treaty of Lisbon has provided a stronger basis for the development of a criminal justice area, while also stipulating new powers for the European Parliament.

### LEGAL BASIS

Articles 82 to 86 of the Treaty on the Functioning of the European Union (TFEU).

### OBJECTIVES

The progressive elimination of border controls within the EU has considerably facilitated the free movement of EU citizens, but has also made it easier for criminals to operate transnationally. In order to tackle the challenge of cross-border crime, the area of freedom, security and justice involves measures to promote judicial cooperation among the Member States in criminal matters. The starting point is the principle of mutual recognition. Specific measures have been adopted to fight transnational crime and terrorism, and to make sure that the rights of victims, suspects and prisoners are protected across the EU.

### ACHIEVEMENTS

#### A. Main EU legislative acts on judicial cooperation in criminal matters

##### 1. Adoption procedures

In accordance with the TFEU, most measures for judicial cooperation in criminal matters are adopted under the ordinary legislative procedure and are subject to judicial review by the Court of Justice of the European Union. Nevertheless, even setting aside the specific features of the area of freedom, security and justice (opt-outs for Ireland and Denmark (see Protocols 21 and 22 annexed to the TFEU) and the privileged role for national parliaments (see Protocols 1 and 2)), judicial cooperation in criminal matters, together with police cooperation, have not been entirely integrated into the EU framework and they retain some of their original features from before the Treaty of Lisbon:

- The Commission shares its power of initiative with the Member States, provided they represent a quarter of the members of the Council (Article 76 TFEU);



- Parliament is merely consulted on specific measures for judicial cooperation in criminal matters, which are then adopted unanimously by the Council. In the absence of unanimity in the Council, it is still possible for nine or more Member States to work together on the basis of enhanced cooperation.
- 2. Main legislative acts adopted under the ordinary legislative procedure**
- a. Common minimum standards for criminal proceedings:**
- [Directive 2010/64/EU](#) of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings;
  - [Directive 2012/13/EU](#) of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings;
  - [Directive 2013/48/EU](#) of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty;
  - [Directive \(EU\) 2016/343](#) of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings;
  - [Directive \(EU\) 2016/800](#) of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings;
  - [Directive \(EU\) 2016/1919](#) of the European Parliament and of the Council of 26 October 2016 on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings.
- b. The fight against terrorism:**
- [Directive \(EU\) 2016/681](#) of the European Parliament and of the Council of 27 April 2016 on the use of passenger name record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime;
  - [Directive \(EU\) 2017/541](#) of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA;
  - [Regulation \(EU\) 2021/784](#) of the European Parliament and of the Council of 29 April 2021 on addressing the dissemination of terrorist content online;
  - [Regulation \(EU\) 2023/2131](#) of the European Parliament and of the Council of 4 October 2023 amending Regulation (EU) 2018/1727 of the European Parliament and of the Council and Council Decision 2005/671/JHA, as regards digital information exchange in terrorism cases.



- c.** The fight against corruption, cybercrime, fraud and money laundering:
- [Directive 2013/40/EU](#) of the European Parliament and of the Council of 12 August 2013 on attacks against information systems and replacing Council Framework Decision 2005/222/JHA (the Cybercrime Directive);
  - [Directive 2014/42/EU](#) of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union;
  - [Directive 2014/57/EU](#) of the European Parliament and of the Council of 16 April 2014 on criminal sanctions for market abuse (the Market Abuse Directive);
  - [Directive 2014/62/EU](#) of the European Parliament and of the Council of 15 May 2014 on the protection of the euro and other currencies against counterfeiting by criminal law, and replacing Council Framework Decision 2000/383/JHA;
  - [Directive \(EU\) 2017/1371](#) of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law;
  - [Directive \(EU\) 2018/843](#) of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing;
  - [Directive \(EU\) 2018/1673](#) of the European Parliament and of the Council of 23 October 2018 on combating money laundering by criminal law;
  - [Regulation \(EU\) 2018/1805](#) of the European Parliament and of the Council of 14 November 2018 on the mutual recognition of freezing orders and confiscation orders;
  - [Directive \(EU\) 2019/713](#) of the European Parliament and of the Council of 17 April 2019 on combating fraud and counterfeiting of non-cash means of payment and replacing Council Framework Decision 2001/413/JHA.
- d.** The exchange of information between Member States and EU agencies:
- [Directive 2014/41/EU](#) of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters;
  - [Regulation \(EU\) 2018/1726](#) of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA);
  - [Regulation \(EU\) 2018/1862](#) of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters;
  - [Regulation \(EU\) 2019/816](#) of the European Parliament and of the Council of 17 April 2019 establishing a centralised system for the identification of Member



States holding conviction information on third-country nationals and stateless persons (ECRIS-TCN) to supplement the European Criminal Records Information System and amending Regulation (EU) 2018/1726. This regulation is connected to [Directive \(EU\) 2019/884](#) of 17 April 2019 amending Council Framework Decision 2009/315/JHA, as regards the exchange of information on third-country nationals and as regards the European Criminal Records Information System (ECRIS);

- [Regulation \(EU\) 2019/818](#) of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of police and judicial cooperation, asylum and migration;
  - [Directive \(EU\) 2023/977](#) of the European Parliament and of the Council of 10 May 2023 on the exchange of information between the law enforcement authorities of Member States and repealing Council Framework Decision 2006/960/JHA;
  - [Regulation \(EU\) 2023/1543](#) of the European Parliament and of the Council of 12 July 2023 on European Production Orders and European Preservation Orders for electronic evidence in criminal proceedings and for the execution of custodial sentences following criminal proceedings;
  - [Directive \(EU\) 2023/1544](#) of the European Parliament and of the Council of 12 July 2023 laying down harmonised rules on the designation of designated establishments and the appointment of legal representatives for the purpose of gathering electronic evidence in criminal proceedings.
- e. Protection of victims:**
- [Directive 2011/36/EU](#) of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims;
  - [Directive 2011/93/EU](#) of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography;
  - [Directive 2011/99/EU](#) of the European Parliament and of the Council of 13 December 2011 on the European protection order;
  - [Directive 2012/29/EU](#) of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime.

**B. Agencies for judicial cooperation in criminal matters and other related bodies**

**1. European Union Agency for Criminal Justice Cooperation (Eurojust)**

[Eurojust](#) stimulates and improves the coordination of investigations and prosecutions, and cooperation among the authorities in the Member States. In particular, it facilitates the execution of international mutual legal assistance requests and the implementation of extradition requests. Eurojust supports the Member States' authorities in any way it



can, so as to make their investigations and prosecutions of cross-border crime more effective.

Eurojust may assist a Member State, at its request, in investigations and prosecutions concerning the Member State in question and a non-Member State if Eurojust and the non-Member State have concluded a cooperation agreement or if an essential interest has been demonstrated.

Eurojust covers the same types of crimes and offences for which the European Union Agency for Law Enforcement Cooperation (Europol) has competence, such as terrorism, drug trafficking, human trafficking, counterfeiting, money laundering, cybercrime, crime against property or public goods, including fraud and corruption, criminal offences affecting the EU's financial interests, environmental crime and participation in a criminal organisation. Eurojust may, at the request of a Member State, also assist in investigations and prosecutions of other types of offences.

Following Russia's military aggression against Ukraine, which began in February 2022, a [Eurojust-supported joint EU investigation team](#) (JIT) has been active in Ukraine since March 2022. On 14 April 2023, the seven members of the JIT agreed to investigate not only alleged war crimes, but also crimes of genocide committed in Ukraine. They also welcomed the US Department of Justice's pledge to second a prosecutor to the International Centre for the Prosecution of the Crime of Aggression against Ukraine. Eurojust also hosts a Core International Crimes Evidence Database (CICED) to support the work of the JIT and other investigations into international crimes.

In April 2022, the Commission published a [proposal](#) to expand Eurojust's mandate. [Parliament](#) and the Council reached an agreement a few weeks later on the revised mandate, which is enabling Eurojust to preserve, analyse, store and share evidence of war crimes, genocide and crimes against humanity with the competent judicial authorities of the Member States and with the International Criminal Court. The new Eurojust Regulation was published in the EU Official Journal on 31 May 2022 and entered into force the following day.

The previous legal framework for Eurojust ([Council Decision 2009/426/JHA](#) of 16 December 2008 on the strengthening of Eurojust) entered into force on 4 June 2009. On 12 December 2019, [Regulation \(EU\) 2018/1727](#) started to apply. The current legal basis of Eurojust is [Regulation \(EU\) 2022/838](#) of the European Parliament and of the Council of 30 May 2022 amending Regulation (EU) 2018/1727 as regards the preservation, analysis and storage at Eurojust of evidence relating to genocide, crimes against humanity, war crimes and related criminal offences.

Every year, Eurojust publishes an annual report. On 24 May 2023, Eurojust published its [2022 annual report](#). The top three crime types handled by the agency in 2022 were swindling and fraud, drug trafficking and money laundering.

Eurojust is based in The Hague in the Netherlands.

## 2. The European Public Prosecutor's Office (EPPO)

[Council Regulation \(EU\) 2017/1939](#) of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office (the



EPPO) has been in force since 20 November 2017. Parliament gave its consent to the Council's draft regulation in its [legislative resolution of 5 October 2017](#).

The [EPPO](#) is an independent office in charge of investigating, prosecuting and administering justice for crimes against the EU budget, such as fraud, corruption or cross-border VAT fraud of more than EUR 10 million. The list of crimes could be extended in the future to include, for example, terrorism.

Parliament and the Council appointed by common accord the first European Chief Prosecutor, Laura Codruța Kövesi, for a non-renewable term of seven years.

So far, 22 Member States have joined the EPPO and the few Member States that currently do not participate could join at any time. The EPPO central office is located in Luxembourg, along with the offices of the Chief Prosecutor and the College of Prosecutors from all participating Member States. They head the day-to-day criminal investigations carried out by the delegated prosecutors.

The EPPO started its operations on 1 June 2021 and is already carrying out many investigations. Work also continues in a number of areas, including the adaptation of national justice systems to EPPO regulations, the appointment of the European Delegated Prosecutors, and the recruitment of staff.

On 23 March 2023, the EPPO presented its [2022 annual report](#) before the European Parliament's [Committee](#) on Civil Liberties, Justice and Home Affairs. In 2022, the EPPO received and processed 3 318 crime reports and opened 865 investigations. Moreover, judges granted freezing orders for EUR 359.1 million in connection with EPPO investigations (compared to EUR 147.3 million in 2021), which is equivalent to over seven times the organisation's 2022 budget.

## **ROLE OF THE EUROPEAN PARLIAMENT**

Parliament has played a key role in shaping EU legislation in the field of judicial cooperation in criminal matters by making fighting crime and corruption a political priority. It has been working on judicial cooperation in criminal matters on an equal footing with the Council. The ordinary legislative procedure applies to almost all areas of EU criminal law, with a few exceptions, including, most notably, the consent procedure for establishing the EPPO.

The main instrument for achieving judicial cooperation in criminal matters among the Member States is Eurojust. When Eurojust was being reformed, Parliament actively advocated for greater parliamentary scrutiny and improved data protection rules.

On 1 December 2020, Parliament organised (via remote participation due to COVID-19) the first inter-parliamentary committee meeting (ICM) on the evaluation of Eurojust activities. The ICM was dedicated to a first assessment of Eurojust's activities by the European Parliament and national parliaments in accordance with Article 85 TFEU and [Regulation \(EU\) 2018/1727](#). The [second ICM](#) on the evaluation of Eurojust's activities was organised on 1 February 2022, while [the third](#) took place on 30 November 2022. The [fourth ICM](#) was held in Brussels on 7 November 2023 in Brussels.

On 20 January 2021, Parliament adopted a [resolution](#) on the implementation of the European arrest warrant and the surrender procedures between Member States (and



also approved an implementation report on Council Framework Decision 2002/584/JHA of 13 June 2002, adopted before the Treaty of Lisbon). In this resolution, Parliament assessed the results of the simplified cross-border judicial surrender procedure that in 2004 replaced the lengthy EU extradition procedures, based on the principle of mutual recognition of court decisions.

On 6 October 2021, Parliament adopted a [resolution](#) on artificial intelligence in criminal law and its use by the police and judicial authorities in criminal matters.

Parliament is currently preparing reports (and resolutions) on the following issues: preventing and combating violence against women and domestic violence; combating corruption; preventing and combating trafficking in human beings and protecting its victims; the transfer of criminal proceedings; victims' rights; money laundering and the financing of terrorism; confiscation and asset recovery; hate speech online and cyber violence; and the detection and removal of child sexual abuse material.

Parliament will also follow recent and upcoming initiatives by the Commission in the areas of organised crime, drug trafficking, cybercrime, digitalisation of justice, law enforcement cooperation, terrorism and violent radicalisation, intrusive spyware, disinformation and illegal content online, judicial training, rule of law developments in the field of justice, and artificial intelligence.

In May 2022, in the light of the Russian aggression in Ukraine, the [Commission proposed](#) new reinforced rules on asset recovery and confiscation, which would contribute to the implementation of EU restrictive measures, the violation of which would be added to the list of EU crimes. Parliament is involved in the approval process for these proposals, which were put forward in the context of the ['Freeze and Seize' Task Force](#).

Policies for judicial cooperation in criminal matters are still developing, with a special focus on countering pan-EU threats and crime more effectively. Parliament has adopted specific measures to fight terrorism, transnational crime, corruption, fraud and money laundering and to protect the rights of victims, suspects and prisoners across the EU. Several measures intended to improve the exchange of information among the Member States have also been adopted.

Alessandro Davoli  
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