



Operation Vertigo

A closer look



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Operation Vertigo: a closer look

A typical cross-border fraud case would tend to follow logical geographical lines and could, for example, focus on a particular language group. Operation 'Vertigo' did not follow a usual pattern. Its sheer scale and complexity made it exceptional.

In this carousel fraud case, the OCG behind the criminal activity used a sophisticated infrastructure (buffer companies, missing traders, companies functioning as 'alternative payment platforms' to facilitate money laundering and crime-related money transfers) spread over various Member States and a number of third States, defrauding EU citizens of approximately EUR 320 million in tax revenues.

Several coordination meetings, initiated by the German Desk at Eurojust, took place at Eurojust between November 2013 and October 2015. The Czech Republic, Germany, Poland and the Netherlands established a JIT, partly funded by Eurojust. Eurojust and Europol demonstrated strong collaboration from the early stages of the investigation. Europol provided extensive analytical support and intelligence sharing.

A coordination centre set up at Eurojust coordinated the judicial response and provided support to the **first common action day** in 2015, the goal of which was to disrupt the operation of one branch of the OCG. As a result, nine suspects were arrested and 26 premises in the participating Member States were searched.

The **second common action day** led to the arrest of 14 suspects, including some alleged masterminds, and more than 40 searches. In parallel, the German, Czech and Polish authorities proceeded to carry out arrests and searches on the basis of national warrants in the framework of their own national investigations.

The **third common action day** focused on searches and interviews of suspects and witnesses who had been identified mainly based on evidence gathered in the framework of the two previous common action days. More than 49 searches and 27 hearings of witnesses and suspects were carried out in Belgium, the Czech Republic, Denmark, France, Germany, Italy, Ireland, Luxembourg, the Netherlands, Poland, Romania, the Slovak Republic, Spain, Sweden and the UK.

Europol deployed a mobile office at all three Eurojust coordination centres, which allowed direct access to Europol's databases for cross-checking and analysing data and facilitated real-time information exchange. Eurojust facilitated the handling of MLA requests, EAWs, searches, seizures and hearings on the spot.



Legal and practical issues

- ▶ The key challenge was the *modus operandi* of this OCG, particularly the way in which the OCG managed the payments, making use of so-called alternative payment platforms to facilitate crime-related money transfers and associated money laundering. This method allowed the OCG to spread its activities across the globe, for example by placing the tool for managing payments in one country while the bank account of the alternative payment platform was located in another country. Furthermore, the masterminds behind the fraud could reside anywhere, without being limited by the ongoing criminal activities, meaning that any action on the part of the investigating authorities would require them to cross the border of their own jurisdiction, necessitating international cooperation.
- ▶ The size of the investigations also necessitated cross-border cooperation. In Germany alone, more than 500 MLA requests were issued.
- ▶ Due to the large scope of the criminal activities, a number of investigations had been initiated in the affected States. Facilitating and coordinating effective judicial cooperation in this setting required that all parallel investigations were identified.

Lessons learned

- ▶ Despite the links discovered to most Member States, a decision was made to focus the Eurojust case on the main States involved. The effectiveness of a dynamic JIT composed of only four Member States was considered more important than establishing a more inclusive but perhaps less flexible JIT.

- ▶ The channelling of MLA and requests made among JIT partners through Eurojust was only done for requests to be executed during the action days. Future cases could profit from channelling all such requests, including follow-up requests, through Eurojust.
- ▶ To prepare an action day, a coordination meeting at Eurojust was held six weeks before the envisaged date. At least one month before this coordination meeting, notifications about the targets or, if possible, drafts of the MLA and JIT requests were distributed via the National Desks of the involved countries, for the purpose of collecting and verifying data concerning the targets, prior to issuing a domestic court order. In this fashion, a more expedient execution of MLA requests can be achieved and sufficient time can be allocated to prepare the final MLA requests and the necessary translations, as well as the execution of the requests during the action day.
- ▶ Three coordination centres were necessary due to the scope of the case and the actions needed and also allowed the national authorities to focus on a certain level of perpetrators or measures each time.
- ▶ During the coordination centres at Eurojust, direct communication without necessarily having to first go through the respective National Desks (for example, Dutch authorities communicating directly with the representative of the Eurojust German or Spanish Desk and vice-versa) worked very well, enabling the handling of an immense number of follow-up measures at very short notice.
- ▶ Communication and follow-up of MLA requests via the Eurojust National Desks took a great burden off the national authorities.
- ▶ To prepare an action day, a coordination meeting at Eurojust should be held at least six weeks before the envisaged date.
- ▶ While all States participating in the JIT had previous experience with this judicial coordination tool in smaller scale cases, the present case convinced the JIT participants that large-scale cases can equally be handled more efficiently through JITs.
- ▶ A form has been created, which is used among JIT members to keep track of requests made and evidence exchanged.
- ▶ While Eurojust coordination centres to date have offered a complementary service to national coordination efforts during action days, the coordination centres set up in this case acted as the sole point of coordination of the actions in the main participating States. This case demonstrates that Eurojust can perform the full range of tasks involved in a large-scale multilateral action day. The active participation of the national authorities ensured the smooth flow of information between the Eurojust coordination centre and the authorities responsible for executing the actions.
- ▶ The presence at Eurojust of national authorities from participating countries during the common action days, working together with Eurojust staff in one room, ensures an immediate pooling of information, which allows for quick judicial responses to new/emerging evidence/information (for example, new freezing orders, searches), prompt solutions to practical problems and conclusions from all sides.
- ▶ The process of collecting lessons learned throughout the lifecycle of a case significantly helps in improving cooperation and in facilitating the judicial response among the identified stakeholders. Having collected this information will also be of great assistance to the evaluation at the end of the Eurojust case, the results of which can be used for future cases of a similar scope and size.

Best practice

- ▶ The early involvement of Eurojust ensures that the authorities competent to execute the MLA requests are identified at an early stage and that direct contact with these authorities is established. For example, close cooperation with the police on Cyprus on the first action day was of added value, as the determination of the actual place of residence of a main suspect and his arrest on the basis of an EAW was made possible.
- ▶ Strong collaboration among all parties involved should be ensured at an early stage, which is an important factor in the success of the investigations. For example, Europol was able to link the German, Polish, Czech and Dutch investigations. This collaboration, together with the help and coordination of Eurojust and Europol, were key factors in forming the JIT.

The Polish, Dutch and German prosecutors in charge of the case commented on the third joint common action day in November 2015:

‘While still busy gathering and evaluating the outcome of the numerous procedural measures conducted during the action day, we can already say that the operation was a huge success, which was only made possible by the outstanding contributions from all the participants. It proves that working together in a JIT with support of Eurojust, Europol and the national authorities give us an advantage in the ongoing international battle against MTIC fraud.’



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