



Council of the
European Union

Brussels, 20 November 2018
(OR. en)

14459/1/18
REV 1

JAI 1163
COPEN 403
EUROJUST 151
EJN 45
CATS 86
CT 184
COSI 293
ENFOPOL 567
MIGR 195

NOTE

From: Presidency
To: Delegations

Subject: Conclusions of the 13th Meeting of the Consultative Forum of Prosecutors
General and Directors of Public Prosecution

Delegations will find attached the Conclusions of the 13th Meeting of the Consultative Forum of Prosecutors General and Directors of Public Prosecution, which was held at Eurojust on 19 October 2018.

Consultative Forum
of Prosecutors General and



13TH MEETING OF THE CONSULTATIVE FORUM OF PROSECUTORS GENERAL AND DIRECTORS OF PUBLIC PROSECUTIONS 2018

Conclusions

Session I - Counter-terrorism, current challenges in combatting and preventing terrorism

1. The Consultative Forum strongly condemns the recent terrorist attacks in the EU and expresses its support to and solidarity with the victims and their families. The Forum members emphasize the utmost importance of addressing the terrorist threat in an efficient manner and ensuring a solid criminal justice response, including by the enhancement of the cooperation between law enforcement, judicial authorities and intelligence services.
2. The Consultative Forum welcomes the efforts at EU and national levels to harmonise national counter-terrorism legislation by transposing Directive (EU) 2017/541 on combating terrorism to ensure a coherent approach towards the criminalisation of certain types of conduct and to avoid prosecution gaps throughout the EU.
3. The Consultative Forum praises Eurojust for its continued commitment to assisting the national authorities by coordinating investigations and prosecutions and facilitating judicial cooperation in a growing number of cross-border terrorism cases. It recognises that based on its mandate, powers and valuable experience, Eurojust is best placed to coordinate national efforts and foster common or cooperative prosecution strategies to achieve better operational results and render investigations and prosecutions successful.

4. The Forum members underline the paramount importance of sharing of information on investigations, prosecutions and convictions for terrorist offences between the Member States and with Eurojust and Europol, as provided for in Directive (EU) 2017/541 and Council Decision 2005/671/JHA on the exchange of information and cooperation concerning terrorist offences. The Consultative Forum expresses its commitment to foster full compliance with the obligations stemming from the Directive and the Council Decision in order to enable the timely and comprehensive sharing of information and detection of possible links between investigations.
5. The Consultative Forum welcomes the efforts and initiatives to reinforce the availability and sharing of information on counter-terrorism cases on the basis of Council Decision 2005/671/JHA, including the idea to set up a European Judicial Counter Terrorism Register at Eurojust. The Forum members encourage Eurojust to follow up on this initiative and explore the possibilities and impact of its practical implementation, including by setting up an internal working group at Eurojust.

Session II – Recent Developments in the EU’s criminal justice area

6. The Consultative Forum welcomes Eurojust's new legal framework, as it is based on Eurojust's successful work in support of the national public prosecution offices, and the Consultative Forum is confident the new legal framework will enable Eurojust to cope with the ever-increasing demands of the national authorities, including in crime priority areas such as terrorism, cybercrime and migrant smuggling. The Consultative Forum understands that the new Eurojust Regulation will enhance Eurojust's effectiveness. Forum members encourage Eurojust to continue fostering cooperation with national authorities in third countries and EU agencies such as Europol and Frontex.
7. The Consultative Forum encourages Eurojust and the Member States to implement the Eurojust Regulation as quickly as possible, by the end of 2019 at the latest.
8. The Consultative Forum acknowledges that the successful integration of the European Public Prosecutor’s Office in the Union’s EU’s judicial landscape requires multilevel cooperation between the EPPO and competent national authorities, Eurojust, the European Judicial Network, Europol, OLAF and third countries. Ensuring complementarity and sincere cooperation should be the guiding principles in the implementation process.

9. The Consultative Forum underlines that, in particular, in the current security context, a well-functioning system of judicial cooperation in criminal matters within the European Union and across its borders is essential. Therefore, new ways to continue successful judicial cooperation with Denmark via Eurojust will need to be found quickly. Effective and efficient cooperation with the UK is also of mutual interest.

Session III – Eurojust: developments in operational priority areas and institutional outlook

Migrant smuggling

10. The Consultative Forum strongly encourages national authorities to refer more cases to Eurojust in view of dismantling criminal rings in their entirety by making full use of judicial cooperation tools offered by Eurojust, its capacity to cooperate with third countries and further ensuring confiscation of illegally obtained assets by launching parallel financial investigations at an early stage.
11. The Consultative Forum encourages Eurojust to evaluate the relevance of setting up an informal network of practitioners taking into account possible overlap with existing networks and the need for a basic institutional framework. Such a network would facilitate further exchange of best practice and help identify challenges in investigating and prosecuting migrant smuggling cases.
12. The Consultative Forum encourages Member States to refer to Eurojust issues at judicial level related to the implementation of the humanitarian exception. National authorities are further encouraged to focus their investigations on financial flows in order to detect, *inter alia*, *hawala*.
13. The Consultative Forum encourages Eurojust to promote joint investigation teams with the competent authorities of third countries as a tool that can increase synergies with areas from which migration flows originate.

European Investigation Order (EIO)

14. The Consultative Forum takes note of the conclusions of the four workshops of the Eurojust meeting on the European Investigation Order that took place on 19-20 September 2018 and is satisfied to see that so many relevant issues concerning this challenging new mutual recognition instrument were discussed. The Consultative Forum is also looking forward to receiving the outcome report of this meeting in due time.
15. The Consultative Forum is of the opinion that the EIO Directive is an important step forward in judicial cooperation in criminal matters and invites practitioners to apply and interpret this instrument in light of the principles of mutual trust and mutual recognition, as enshrined in the Treaty on the Functioning of the European Union, but, at the same time, to respect the different legal systems, including the different legal prerequisites for investigative measures.
16. The Consultative Forum recognises Eurojust's crucial role in the four stages of the life cycle of the EIO: (i) drafting (content and form), (ii) issuance and transmission, (iii) facilitation of communication during the recognition phase, and (iv) assistance in overcoming difficulties in the execution phase. The role of Eurojust can be seen not only in a multilateral coordination scenario, but in close cooperation with the EJM also in complex and/or urgent bilateral cases, e.g. in relation to issues resulting from the various consultation procedures that are foreseen in the legal framework or in relation to issues stemming from differences among legal systems. Eurojust is in a privileged position to serve as a bridge-maker between both authorities and the Consultative Forum, and, therefore, encourages practitioners, whenever necessary and appropriate, to refer cases to Eurojust in such scenarios.

E-evidence

17. The Consultative Forum acknowledges the challenges that may arise with e-evidence-gathering in criminal investigations and prosecutions, and therefore welcomes the e-evidence proposals from the European Commission on European production and preservation orders.

18. The Consultative Forum acknowledges the position of Eurojust on the proposed Regulation on European production and preservation orders, indicating that the legislative proposals represent a positive step forward, as they have the potential to tackle the issues encountered in cross-border gathering of e-evidence.
19. The Consultative Forum supports the enhancement of Eurojust's role in the different stages of the lifecycle of a production and preservation order, taking into account its current mandate and competences, and therefore supports the proposal of Eurojust to be further introduced in additional provisions of the draft Regulation.

Digital Justice

20. The Consultative Forum acknowledges the importance of establishing Digital Justice in the European Union, allowing for an automated, structured and secure exchange of operational data between Member States and Eurojust. The Consultative Forum feels supported by the Conclusions of the European Council of 18 October 2018, which stressed the need to provide Eurojust with adequate resources to face new challenges posed by technological developments and the evolving security threat landscape.

Eurojust institutional matters

21. The Consultative Forum is concerned about a reduction in resources that may render untenable the operational growth of Eurojust. It supports providing Eurojust with sufficient financial and human resources to address the continuous qualitative and quantitative growth in its operational work. The judicial authorities of the Member States consider Eurojust their natural EU partner in ensuring international judicial cooperation, leading to tangible operational results and successes. The reinforcement of the 2019 budget proposal for Eurojust should ensure, at least, continuity of ongoing operations; furthermore, the allocation of adequate resources in the Multi-annual Financial Framework 2021-2027 for Eurojust should ensure a long-term investment in justice at EU level.