CONTRIBUTION FROM EUROJUST ON THE RELATIONSHIP BETWEEN THE FUTURE EUROPEAN PUBLIC
PROSECUTOR’S OFFICE AND EUROJUST - ARTICLE 86 TFEU
EUROJUST OPERATIONAL SUPPORT DURING THE LIFE-CYCLE OF AN EPO PIF CASE

Eurojust has analysed the steps that a PIF case will follow from the initiation of an investigation to the execution phase. The possible involvement and support of Eurojust to the EPPO during the different stages and phases of a PIF case life-cycle have been considered.

Eurojust takes into account the following considerations:

1. The support of Eurojust will mainly relate to multilateral cases, however this would not exclude mere bilateral cases between the EPPO and a Member State;
2. The support required from Eurojust will be indispensable in the case the EPPO would be established by enhanced cooperation; however Eurojust’s support will also be substantial in case all Member States would be part of the EPPO;
3. If additional powers under Article 85 of the TFEU were granted to Eurojust (initiation of criminal investigations and proposal of the initiation of prosecutions conducted by competent authorities of the Member States, especially in PIF offences, and powers for resolving conflict of jurisdiction), the support to be provided by Eurojust would be intensified;
4. The support of Eurojust could entail the use of the existing powers of facilitation and/or coordination.

a. Facilitation implies the use of the existing capacities and powers of Eurojust to provide legal advice, support and expertise in all areas of international judicial cooperation in order to render investigations and prosecutions more effective:

   A non-exhaustive list of supporting activities rendered by Eurojust includes:
   - support in the transmission, execution and follow-up of complex Mutual Legal Assistance requests;
   - provide legal advice on the preparation of Mutual Legal Assistance requests and EAWs;
   - provide legal advice on the most adequate legal instrument applicable to a case, including mutual recognition instruments;
   - provide legal advice on the area of confiscation and assets recovery;
   - provide information and advice in order to prevent issues related to the ‘ne bis in idem’ principle;
   - provide information to national authorities that may lead to the opening of an investigation or prosecution;
   - provide legal advice on the better position of a Member State to undertake an investigation or prosecution;
   - provide legal advice on the setting-up of a JIT.

b. Coordination implies the use of the existing capacities and powers of Eurojust to make investigations and prosecutions between Member States more effective.

   A non-exhaustive list of supporting activities rendered by Eurojust includes:
   - organisation of coordination meetings and coordination centres gathering together competent authorities of the Member States in order to exchange information and agree on a follow-up of cases with cross-border dimension;
   - support the Member States in the adoption of precautionary measures and the preparation of coordinating actions such as simultaneous house-searches and arrests, controlled deliveries, searches and seizures, evidence gathering;
   - be a central point for coordination of activities on an action day providing immediate reporting tools to support investigations and prosecutions;
   - provide legal advice in order to settle conflicts of jurisdiction;
   - issue non-binding opinions to resolve conflicts of jurisdiction;
   - issue non-binding opinions on refusals or difficulties concerning the execution of requests for judicial cooperation including instruments of mutual recognition;
   - negotiate and facilitate JITs;
   - ensure the cooperation and exchange of information with EJN, OLAF and Europol in order to support investigations and prosecutions.
You will find an analysis of the different steps of the process and the support to be provided by Eurojust.

The analysis is based on a 6-step-process (colours refer to the main actor directing this procedural step):

- Reporting of suspicions of PIF crimes within EPPO scope
- EPPO decision to open or take over a criminal investigation
- Criminal investigation directed by the EPPO
- Decision of the EPPO to prosecute
- Trial phase
- Execution phase

The analysis of each step is done taking into consideration:

- The possible setting-up of an EPPO with all Member States participating or the setting-up by enhanced cooperation
- The exercise by Eurojust of its current (Eurojust Council Decision) or extended powers (Article 85 of the TFEU)

Finally, there is an overview of the possible obligations of the EPPO towards Eurojust.

Please note that the paragraphs marked in red differ from one part of the table to the other.
EUROJUST OPERATIONAL SUPPORT DURING THE LIFE-CYCLE OF AN EPPO PIF CASE

- Reporting on suspicions of PIF crimes within EPPO scope
- EPPO Decision to open/take over a criminal investigation
- Criminal investigation directed by EPPO
- EPPO Decision to prosecute
- Trial Phase
- Execution Phase
### Operational support by Eurojust to the EPPO

#### Reporting on suspicions of PIF crimes within EPPO scope

**28 Member States EPPO**

- **Eurojust can detect possible PIF offences within the scope of the EPPO by:**
  1. Establishing links to a PIF crime when facilitating and coordinating ongoing cases within the scope of competence of Eurojust (non-PIF);
  2. Facilitating and coordinating PIF cases below the threshold of the scope of competence of the EPPO (gaining evidence of a more severe scale of PIF crime);
  3. Analysing existing data leading to the suspicion of a PIF case;
  4. Gathering information received on the basis of Art. 13 EJD reported to Eurojust on both non-PIF and PIF cases (within and below the threshold of the scope of competence of the EPPO);
  5. Gathering information and establishing links when facilitating and coordinating cases brought up by third States on the basis of article 27 EJD and/or Liaison Prosecutors at Eurojust.

**Eurojust shall:**
- 1. Report to the EPPO cases within its scope of competence;
- 2. Facilitate and coordinate contacts between the EPPO and third States.
- 3. Provide expertise and advice on international judicial cooperation matters.

- **Eurojust can additionally detect possible PIF offences within the scope of the EPPO by:**
  1. Establishing links to a PIF crime when facilitating and coordinating ongoing cases within the scope of competence of Eurojust (non-PIF);
  2. Facilitating and coordinating PIF cases below the threshold of the scope of competence of the EPPO (gaining evidence of a more severe scale of PIF crime);
  3. Analysing existing data leading to the suspicion of a PIF case;
  4. Gathering information and establishing links when facilitating and coordinating cases brought up by third States on the basis of article 27 EJD and/or Liaison Prosecutors at Eurojust.

**Eurojust shall:**
- 1. Report and advise the competent national authorities about the competence of the EPPO and the possible need for a case referral;
- 2. Report to the EPPO cases within its scope of competence;
- 3. Facilitate and coordinate contacts between the EPPO and third States.
- 4. Provide expertise and advice on international judicial cooperation matters;
- 5. Facilitate and coordinate PIF cases in non-EPPO Member States with links to EPPO Member States;
- 6. Facilitate and coordinate PIF cases in non-EPPO Member States.

**Enhanced cooperation EPPO**

**Eurojust can detect possible PIF offences within the scope of the EPPO by:**

1. Establishing links to a PIF crime when facilitating and coordinating ongoing cases within the scope of competence of Eurojust (non-PIF);
2. Facilitating and coordinating PIF cases below the threshold of the scope of competence of the EPPO (gaining evidence of a more severe scale of PIF crime);
3. Analysing existing data leading to the suspicion of a PIF case;
4. Gathering information and establishing links when facilitating and coordinating cases brought up by third States on the basis of article 27 EJD and/or Liaison Prosecutors at Eurojust.
5. Facilitating and coordinating PIF cases in non-EPPO Member States with links to EPPO Member States;
6. Gathering of information received on the basis of Art. 13 EJD reported to Eurojust on both non-PIF and PIF cases (within and below the threshold of the scope of competence of the EPPO), in particular, on PIF cases of non-EPPO Member States;

**Eurojust shall:**
1. Report and advise the competent national authorities about the competence of the EPPO and the possible need for a case referral;
2. Report to the EPPO cases within its scope of competence;
3. Facilitate and coordinate contacts between the EPPO and third States.
4. Provide expertise and advice on international judicial cooperation matters;
5. Facilitate and coordinate PIF cases in non-EPPO Member States with links to EPPO Member States;
6. Facilitate and coordinate PIF cases in non-EPPO Member States.

**Eurojust can additionally detect possible PIF offences within the scope of the EPPO by:**

1. Establishing links to a PIF crime when facilitating and coordinating ongoing cases within the scope of competence of Eurojust (non-PIF);
2. Facilitating and coordinating PIF cases below the threshold of the scope of competence of the EPPO (gaining evidence of a more severe scale of PIF crime);
3. Analysing existing data leading to the suspicion of a PIF case;
4. Gathering information and establishing links when facilitating and coordinating cases brought up by third States on the basis of article 27 EJD and/or Liaison Prosecutors at Eurojust.

**Eurojust shall:**
1. Report and advise the competent national authorities about the competence of the EPPO and the possible need for a case referral;
2. Report to the EPPO cases within its scope of competence;
3. Initiate an investigation or propose the initiation of a prosecution resulting from a suspicion of PIF crime below the threshold of the scope of competence of the EPPO;
4. Initiate an investigation or propose the initiation of a prosecution resulting from a suspicion of PIF crime in a non-EPPO Member State.

**New powers of Eurojust under Article 85TFEU**

- Reporting on suspicions of PIF crimes within EPPO scope
- Operational support by Eurojust to the EPPO

**Current powers of Eurojust under EJD**

- Reporting on suspicions of PIF crimes within EPPO scope
- Operational support by Eurojust to the EPPO
Eurojust can support the EPPO during the criminal investigation by:

1. Establishing links to a PIF crime when facilitating and coordinating ongoing cases within the scope of competence of Eurojust (non-PIF);
2. Sharing information received on the basis of Art. 13 EJD reported to Eurojust on both non-PIF and PIF cases (within and below the threshold of the scope of competence of the EPPO);
3. Analysis of the existing data at Eurojust linked to PIF cases under investigation by the EPPO;
4. Facilitating and coordinating PIF cases below the threshold of the scope of competence of the EPPO and gaining evidence of a more severe scale of PIF crime;
5. Gathering information and establishing links when facilitating and coordinating cases brought up by third States on the basis of article 27 EJD and/or Liaison Prosecutors at Eurojust related to PIF crimes in the Member States.

Eurojust shall:
1. Report and advise the competent national authorities about the competence of the EPPO and the possible need for a case referral;
2. Report to the EPPO possible cases or information;
3. Facilitate and coordinate PIF cases below the threshold of the scope of competence of the EPPO;
4. Issue non-binding opinions, on request, on conflicts of jurisdiction between the EPPO and the Member States in the case of connected cases;
5. Involve the EPPO as a privileged party to the coordination efforts of non-PIF cases with links to PIF cases;
6. Involve the EPPO as a privileged party when facilitating and coordinating cases brought up by third States on the basis of article 27 EJD and/or Liaison Prosecutors at Eurojust related to PIF crimes in the Member States;
7. Provide support for the exchange of information with third States (through existing cooperation agreements, Liaison Prosecutors of Eurojust in third States or the Eurojust’s Network of Contact Points in third States);
8. Provide legal advice for negotiating and facilitating the setting-up of JITs and JITs funding;
9. Provide advice for the prevention of conflicts of jurisdiction and choice of forum;
10. Provide expertise and advice on international judicial cooperation matters.

Eurojust can additionally support the EPPO during the criminal investigation by:

1. Establishing links to a PIF crime when initiating an investigation or proposing the initiation of a prosecution on cases within the scope of competence of Eurojust (non-PIF);
2. Initiating an investigation on a PIF crime below the threshold of the scope of competence of the EPPO, and gaining evidence of a more severe scale of PIF crime within the scope of the EPPO;
3. Proposing the initiation of a prosecution resulting of a suspicion of PIF crime below the threshold of the scope of competence of the EPPO, and gaining evidence of a more severe scale of PIF crime within the scope of the EPPO;
4. Issue binding opinions for the resolution of conflicts of jurisdiction and choice of forum on PIF cases below the threshold of the scope of competence of the EPPO;
5. Issue binding opinions on conflicts of jurisdiction between the EPPO and the Member States in the case of connected cases.

Eurojust can support the EPPO during the criminal investigation by:

1. Establishing links to a PIF crime when facilitating and coordinating ongoing cases within the scope of competence of Eurojust (non-PIF);
2. Sharing information received on the basis of Art. 13 EJD reported to Eurojust on both non-PIF and PIF cases (within and below the threshold of the scope of competence of the EPPO), in particular, on PIF cases of non-EPPO Member States;
3. Analysing the existing data at Eurojust linked to a PIF case under investigation by the EPPO;
4. Facilitating and coordinating PIF cases in non-EPPO Member States with links to EPPO Member States;
5. Facilitating and coordinating PIF cases below the threshold of the scope of competence of the EPPO and gaining evidence of a more severe scale of PIF crime;
6. Gathering information and establishing links when facilitating and coordinating cases brought up by third States on the basis of article 27 EJD and/or Liaison Prosecutors at Eurojust related to PIF crimes in the Member States.

Eurojust shall:
1. Report and advise the competent national authorities about the competence of the EPPO and the possible need for a case referral;
2. Report to the EPPO possible cases or information;
3. Facilitate and coordinate PIF cases below the threshold of the scope of competence of the EPPO;
4. Facilitate and coordinate PIF cases in the non-EPPO Member States (including the adoption of investigative measures e.g. simultaneous house-searches, controlled deliveries, evidence gathering and other pre-cautionary measures e.g. the freezing of assets);
5. Involve the EPPO as a privileged party to the coordination efforts of non-PIF cases with links to PIF cases;
6. Issue non-binding opinions on conflicts of jurisdiction between the EPPO and the Member States in the case of connected cases;
7. Issue non-binding opinions on a conflict of jurisdiction between the EPPO and non-EPPO Member States in PIF cases with links to EPPO Member States;
8. Involve the EPPO as a privileged party when facilitating and coordinating cases brought up by third States on the basis of article 27 EJD and/or Liaison Prosecutors at Eurojust related to PIF crimes in the Member States;
9. Provide support for the exchange of information with third States (through cooperation agreements, Liaison Prosecutors of Eurojust in third States or the Eurojust’s Network of Contact Points in third States);
10. Provide legal advice for negotiating and facilitating the setting-up of JITs and JITs funding;
11. Provide advice for the prevention of conflicts of jurisdiction and choice of forum in the EPPO Member States;
12. Provide expertise and advice on international judicial cooperation matters.

Eurojust can additionally support the EPPO during the criminal investigation by:

1. Establishing links to a PIF crime when initiating an investigation or proposing the initiation of a prosecution on cases within the scope of competence of Eurojust (non-PIF);
2. Initiating an investigation on a PIF crime below the threshold of the scope of competence of the EPPO, and gaining evidence of a more severe scale of PIF crime within the scope of the EPPO;
3. Proposing the initiation of a prosecution resulting of a suspicion of PIF crime below the threshold of the scope of competence of the EPPO, and gaining evidence of a more severe scale of PIF crime within the scope of the EPPO;
4. Issue binding opinions on a conflict of jurisdiction between the EPPO and non-EPPO Member States in PIF cases with links to the EPPO's Member States;
5. Issue non-binding opinions on conflicts of jurisdiction and choice of forum in the EPPO Member States;
6. Issue binding opinions on conflicts of jurisdiction between the EPPO and the Member States in the case of connected cases.
Operational support by Eurojust to the EPPO
Trial and execution phases in the Member States

Eurojust can support the Member States by:
1. Providing information and follow-up related to connected cases;
2. Providing expertise and advice on international judicial cooperation matters, especially in the international admissibility of evidence (witness/expertise statements or forensic ratifications and the necessary arrangements and legal implications in order to use videoconference).
3. Providing information related to non-EPPO Member States in order to avoid issues related to the 'ne bis in idem' principle;
4. Facilitating the enforcement of conviction sentences in non-EPPO Member States;
5. Facilitating the enforcement of EAWs and confiscation orders in non-EPPO Member States;
6. Facilitating the transfer of convicted persons for the execution of the convictions in non-EPPO Member States;
7. Coordinating international requests for insolvencies investigations of convicted persons in non-EPPO Member States.

Enhanced cooperation EPPO

Eurojust can support the Member States by:
1. Providing information and follow-up related to connected cases;
2. Providing expertise and advice on international judicial cooperation matters, especially in the international admissibility of evidence (witness/expertise statements or forensic ratifications and the necessary arrangements and legal implications in order to use videoconference).
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6. Facilitating the transfer of convicted persons for the execution of the convictions in non-EPPO Member States;
7. Coordinating international requests for insolvencies investigations of convicted persons in non-EPPO Member States.
## EPPO OBLIGATIONS TOWARDS EUROJUST

### 28 Member States EPPO

The EPPO should:
1. Inform Eurojust of cross-border PIF cases requiring coordination being below the threshold of competence of the EPPO;
2. Inform Eurojust on cross-border connected cases to a PIF case requiring coordination;
3. Consult Eurojust before deciding on a conflict of jurisdiction;
4. Inform Eurojust on ongoing cross-border PIF cases;
5. Request Eurojust to exchange information and search for possible links with other cases.

### Enhanced cooperation EPPO

The EPPO should:
1. Inform Eurojust of cross-border PIF cases requiring coordination being below the threshold of competence of the EPPO;
2. Inform Eurojust on cross-border connected cases to a PIF case requiring coordination;
3. Consult Eurojust before deciding on a conflict of jurisdiction between EPPO Member States;
4. Request Eurojust to issue a non-binding opinion on a conflict of jurisdiction between EPPO Member States and non-EPPO Member States;
5. Inform Eurojust on ongoing cross-border PIF cases in EPPO Member States;
6. Inform Eurojust on ongoing cross-border PIF cases in non-EPPO Member States and refer the cases to Eurojust for facilitation and coordination;
7. Exchange information with Eurojust on possible links of PIF cases in EPPO Member States and non-EPPO Member States;
8. Request Eurojust to exchange information and search for possible links with other cases.

### New powers of Eurojust under Article 85TFEU

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<th>Current powers of Eurojust under EJD</th>
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