

## News

### Joint EU-EUROJUST-US Seminar

**I**ntroduction. The EU-Eurojust-US Seminar, held on 13 and 14 November in Zoetermeer, Netherlands, provided over 100 participants from the EU Member States, the USA and Eurojust with an introduction to and practice in implementing the coming into force of the US-EU Extradition and Mutual Legal Assistance Agreements. Presentations at the seminar were offered on behalf of the French Presidency, European Commission, Council Secretariat, Eurojust, and US Departments of Justice and State.

The purpose of the two-day seminar was to prepare EU and US officials, prosecutors, magistrates and investigators for these two important agreements, and to provide an opportunity for practitioners on both sides of the Atlantic to meet and share experiences, expertise, and ideas for future work together. The emphasis was on cooperation and the atmosphere was extremely

friendly, making for very productive sessions.

The seminar was co-chaired by Malci Gabrijelčič, Chair of the Eurojust External Relations Team and National Member for Slovenia, and Mary Lee Warren, US Liaison Prosecutor at Eurojust and Senior Justice Counsel at the U.S. Mission to the EU. From Eurojust, José Luís Lopes da Mota, President and National Member for Portugal, Michèle Coninx, Vice President and National Member for Belgium, Pavel Zeman, National Member for the Czech Republic, Gérard Loubens, National Member for France, and Alain Grellet, Deputy National Member for France, all made presentations at the seminar.

Representing the USA were high-ranking speakers from the US Departments of Justice and State, including Kenneth Propp, Mary Ellen Warlow, Kenneth Harris, and Donald Ashley. Other guest speakers were Peter Csonka

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from the European Commission, Hans Nilsson from the General Secretariat of the Council, Jean-Marie Huet, Director of Criminal Affairs and Pardons from the French Ministry of Justice, Eugenio Selvaggi from the Italian Supreme Court of Cassation and Cedric Woodhall from the UK Financial Intelligence Unit.

#### Background

As a result of the political climate following the attacks of 9/11, the US and the EU signed comprehensive Extradition and Mutual Legal Assistance (MLA) agreements five years ago as an unprecedented way to cooperate in law enforcement and in an atmosphere of solidarity in combating terrorism. Negotiation of these historic agreements presented many challenges considering the structural differences of common law and



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## Calendar

### Monday 24 November

- All week Ms Dinu will participate in the Annual Policing Cyberspace International Summit 2008 until Thursday 27 November, Hong Kong and Bangkok, TH
- All day Ms Keller will attend the 15th CODEXTER meeting until 26 November, Strasbourg, FR
- All day Ms Gabrijelčič and Mr Sevo will attend until 26 November and give a presentation on Eurojust at the Annual Conference of State Prosecutors, Bled, SI
- All day Eurojust Tactical Meeting with MEDA countries, 11th
- 11:30 Meeting CL Team Presidency, 8th

### Tuesday 25 November

- All day Eurojust Tactical Meeting with MEDA countries, 11th
- All day Mr Skowroński will attend an Experts Meeting on THB organised by Frontex until 26 November, Warsaw, PL
- All day Ms Manfredda will meet with Mr Isidoro Palma, Deputy Prosecutor, Milan, IT
- 09:00 Meeting of the Troika of the Joint Supervisory Body of Eurojust, 8th
- 09:30 Coordination meeting: CZ, SE, ES, UK and DE, 11th
- 14:30 Plenary meeting with JSB Troika and MEDA countries meeting participants, 11th

### Wednesday 26 November

- All day Ms Lévai will participate in the National Meeting of Chief Prosecutors in Budapest where issues concerning Eurojust will also be discussed.
- All day Ms Manfredda will meet with the Head of Cabinet (MoJ), Mr Nebbioso, and with the Director of Justice Affairs Department, Mr Ormanni, to present the annual activity report of College IT at the Ministry of Justice, Rome, IT
- All day Mr Loubens will attend the Seminar on "Fight Against Cybercrime", Durbuy, BE
- 15:00 Meeting Project Bureau, 10th

### Thursday 27 November

- 09:00 Coordination meeting: LT and CZ, 11th
- 09:30 Plenary meeting, 10th
- 13:00 Mr Vast will host a visit from the SSR Zutphen law students exchange programme, 11th small
- 13:30 Ms Gabrijelčič and Mr Lopes da Mota will sign the cooperation agreement with Switzerland, Brussels, BE

### Friday 28 November

- All day Messrs Lopes da Mota, Laurell and Thuy, together with the Vice President of the EU Commission, Mr Barrot, and the French Minister of Justice, Ms Dati, will attend a Press Conference on the Child Protection Project, European Council, Brussels, BE
- All day Mses Coninx and Wood and Messrs Williams, Hicks, Grellet and Lunny will attend the Eurojust UK Marketing Seminar, York, UK
- All day Ms Manfredda will participate as speaker at the Conference on the AGIS Programme organised by the European Network against Trafficking, Venice, IT
- 10:00 Meeting Heads of Units/Services, 8th
- 14:00 Mr Vast will host a visit by law students from the University of Groningen, 10th



continental legal systems, and the concerns regarding capital punishment, the role of prosecuting authorities, data protection regimes, and extradition of nationals. These challenges were overcome and agreement was reached in the development of new opportunities to modernise and streamline the processes in the overarching agreements and in the accompanying bilateral instruments. Nevertheless, the new agreements will only work when used creatively, flexibly, and with good will. In this work together emphasis must be placed on developing and maintaining collaborative relationships and expediting the extradition and mutual legal assistance processes.

Along with the new extradition and mutual legal assistance agreements, the US has also executed two other international justice and law enforcement agreements - one with Europol and one with Eurojust. Together, these three agreements are firmly anchored in well-recognized principles of international law and take care to satisfy data protection and privacy laws. These agreements and the accompanying bilateral instruments between the US and the EU Member States formed the common ground for the ex-

tradition and MLA agreements, which in turn can show the way to "cutting edge" agreements on biometric data and criminal identification information.

The US practitioners are envious of the European Union for its EAW, which signalled a dramatic change in EU law and has compressed the time needed to return a fugitive to justice, taking on average just 50 days. It was noted that the new US-EU Extradition and Mutual Legal Assistance agreements will pose ongoing challenges that will need to be worked through, for example, the required "probable cause" evidentiary standard codified in the US constitution and laws. It needed to be remembered that litigation in extradition cases in the US is frequent. Further, the

new agreements are silent on the *non bis in idem* issue, application and implication of diverse statutes of limitation.

Repeatedly emphasized was the fact that none of the new agreements - the overarching US-EU Extradition and Mutual Legal Assistance Agreements and the individual bilateral instruments between the US and the Member States - will come into force until ratification is completed by all parties. Belgium, Greece and Italy have still not completed their internal ratification. Once these domestic procedures have been concluded, it is hoped by the end of 2008, the important work begins to turn these agreements into an expanded, functioning transatlantic judicial and law enforcement reality.

#### **Practical tools**

In addition to flexibility, goodwill, courage and imagination, the agreements on extradition and MLA need practical tools to be effective. The three main tools that will be available once the agreements are in force are: authorizing the inclusion of US police and prosecutors in Joint Investigation Teams along with their EU partners, the expedited exchange of financial information, and the encouraged use of videoconferencing for the taking of witness testimony.



**JITs.** The Joint Investigation Teams (JITs) may provide extraordinary benefits to mutual legal assistance. JITs now consist of judicial and police authorities from at least two Member States and are responsible for carrying out joint targeted criminal investigations for a prescribed period of time.

JITs and their newer, less formal variant, "JIT-lites", in the EU and the Task Force Approach in criminal investigations in the US have been found to be crucial investigative and mutual legal assistance tools, as they embody a common strategy for attacking sophisticated crime and international criminal networks.

Nevertheless, some initial obstacles must be overcome for a JIT to be successful:

- financial constraints: more funding is needed as often resources (last but not least human resources) are overstretched;
- differences in the members' justice systems;
- differences in language, not just the problem of 23 official EU languages, but also involving the different terms used in the 30 common or civil law legal systems (suggesting a need for the creation of a common lexicon on a secure website);
- timing concerns, that is, when in the course of an investigation a JIT should be set up;
- need for clear lines of authority in order to avoid leadership conflicts.

Because case coordination meetings are the daily "core business" at Eurojust, all would be well advised to include Eurojust in assisting in establishing and developing JITs. With its experience, Eurojust can bring many advantages to investigation and judicial procedures, such as a flexible framework and shorter



timeframes, in the context of JITs. When authorities are seconded to the country where the law enforcement action occurs, there are fewer structural and bureaucratic obstacles to delay investigations. As a case in point, France currently is involved in 18 JITs, and has removed any doubt of real added value of this collaborative structure.

**Exchange of banking information.** The second practical tool discussed in the seminar was the exchange of banking information. Technology plays an increasingly bigger role in banking and there is greater reliance on IT systems in investigations and proof of crimes today to track transactions, especially potentially illicit ones.

Mutual Legal Assistance often includes requests for banking information: it is important to determine when such requests are strictly necessary as they can be burdensome and lengthy (e.g. court orders), particularly when involving countries that do not have a central banking register. For example, as the US presenters made clear, requests for the identification of financial transactions anywhere in the US

of a named target must be used judiciously in only the most significant cases. These requests levy a heavy burden on the US financial system and the power to retrieve such information will be lost if not used appropriately and where no other avenues to gain greater specificity on account location are available. Applicants should make good use of open-source and police information to gain specificity in banking information; these alternative procedures must be fully explored. Such collaborative groups as CARIN (Camden Assets Recovery Inter-Agency Network) should be fully utilized (with a note that CARIN contacts will merge by 18 December in an EU Asset Recovery Office for informal identification of assets).

**Video conferencing witness testimony.** The third tool, video conferencing in the taking of witness testimony, is provided for in the new US-EU agreements. This tool is increasingly used to acquire witness evidence in investigations and for trial in a distant country, and to virtually bring together adjudicating authorities in a virtual setting. Again, it was noted however, that the US will need to proceed

cautiously in trial settings with this tool in order to satisfy constitutional guarantees for one to confront the witnesses against him in criminal cases. With this caution, however, it is clear that videoconferencing can be very effective in cutting the cost of proceedings and it is useful when witnesses or court members cannot easily travel, or in order to aid in the protection of the identity of witnesses or judicial officials.

During the seminar, Italy's successful pioneering experience in respect of cooperation with the US since the 1990s - in mafia cases - was reviewed by Mr Selvaggi as an example that might be duplicated elsewhere.

### Conclusions

At the end of the seminar, after the workshops that were very useful in bringing the different experiences together, closing remarks were made by the main speakers. They all agreed that EU-US cooperation is a sound foundation for addressing global challenges. Working together will increase knowledge of each other's judicial systems and the fuller use of today's technology will enhance expertise on both sides of the Atlantic.

To this end, Mr Csonka of the European Commission said: "Mutual recognition will not work without mutual trust which requires mutual knowledge." He called for a compilation of basic practical documentation for the 30 legal systems in place for use by the US authorities. He also stressed the need for annual meetings of practitioners, perhaps with Eurojust serving as the network bringing these practitioners together and as a potential channel for help, especially in transatlantic JITs. He further advised the participants to be mindful of the potential of Eurojust, espe-

cially in light of the new Eurojust Decision. Eurojust will have the ability to post Liaison Prosecutors in the USA.

Mr Loubens, French National Member at Eurojust, expressed the great interest of the EU French Presidency in the approval of the EU-US agreements. He reported that Ms Dati, French Minister of Justice, has made the agreements one of her priorities and is sure the Czech Presidency will follow this example. The agreements are expected to be fully ratified in the near future. This will make adhering to the common EU framework compulsory and Member States will be obliged to implement the measures provided for in the agreements.

In her closing remarks, Mary Lee Warren thanked all those who made the seminar a great success. She commented: "The experience of 9/11 proved we all need to do better. This seminar provided an extraordinary opportunity to meet people, share ideas, ask questions and dispel the mysteries of our respective legal systems. I am grateful for



*Peter Jozsef Csonka, Head of Criminal Justice Unit, European Commission*

the spirit of goodwill and solidarity. I welcome the suggestion for a mirror-image of this seminar to be held in the USA. It will be exceedingly important for all participants to stay in contact. I urge the three countries that have not yet ratified the agreements, Belgium, Greece and Italy, to do so as soon as possible."

Mr Lopes da Mota, President of Eurojust, also thanked all those who organised and participated in the seminar and highlighted the novelty of this transatlantic cooperation. He said that in order for it to be successful, our approach to judicial matters must change, and this will take time and require patience. On the practical matter of training, which was called for on several occasions for practitioners, he reminded everyone that certainly training is needed, but ultimately experience is the best teacher.

Mr Lopes da Mota went on to say: "The USA and the EU are key partners in their commitment and shared objective to fight cross-border crime and reinforce democracy. Organised crime is a real threat to democracy, justice and human rights. With these new agreements, we are now in a privileged position. I congratulate the negotiators of the agreements. Implementation will be difficult, as the agreements constitute a new culture and deep change, taking time and patience. But without experience, you cannot learn. We must continue to exchange experience, and must continue the work using the main tools of the EU/US Agreement: streamlined information exchange, joint investigation teams and videoconferencing. The new agreements are tools to be used in the context of the Eurojust/US Cooperation Agreement. The Treaty of Lisbon and the new Eurojust Decision will offer more possibilities."

## Units and Services

### Budget & Finance Unit

As already mentioned in last *Weeklies*, the Budget & Finance Unit would like to remind all post-holders to submit any questions relating to travel and missions to the e-mail address [missions@eurojust.europa.eu](mailto:missions@eurojust.europa.eu) and not to use the general "Budget" e-mail account.

Please also bear in mind the following budgetary deadlines:

- 5 December for receiving commitments for processing
- 12 December for receiving payments to be paid before 23 December

Thanks for taking note!

### Human Resources

The HR Unit is moving on 26 November from the Equinox building into HV1.

A new request form for training is to be found on the intranet under HR/Training and Development.

#### Goodbye

- Mr A van Gemmert (Driver)

#### Welcome

- Aneta Tsvetanova Kovacheva, Internship (Budget & Finance Unit). We wish Ms Kovacheva good luck in her new position.

### Information Management

#### CMS training

There are still places available for the CMS training on 1 December (Procedural) and 10 December (Advanced). For enrolment, please contact Ms Jarmasz (ext. 5226, [JJarmasz@eurojust.europa.eu](mailto:JJarmasz@eurojust.europa.eu)).

### Legal Service

#### JIT Manual

The long-awaited JIT Manual has been published and is now ready for distribution to Eurojust, Europol and the national JIT experts, just in time for the JIT Experts Meeting to be held on 15 and 16 December at Europol.

This Manual is the result of extensive work and

consultations conducted jointly by Eurojust and Europol, and has benefited from the insight provided by numerous JIT experts and practitioners. It is intended not as an authoritative guide to JITs, but as an instrument enabling an overview and understanding of the concept, together with highlighted areas of concern and practical difficulty.

The hope is that this Manual will assist practitioners familiar with the subject to understand differing views, as well as be alerted of potential areas requiring attention in practice. The Manual is also aimed at practitioners who are encountering or contemplating JITs for the first time, and require an overview of the subject matter.

The JIT Manual is currently available in electronic format only. It will be made available in hardcopy version by Europol within a few weeks.

#### Main Meetings

- *Judicial Training*: on 24 November, in Brussels, Mr Castillo will attend a meeting organised by the Université Libre de Bruxelles and ECLAN (European Criminal Law Academic Network) regarding the implementation of a new project on the updating and development of the "Standard Judicial Training Programme on EU cooperation in criminal matters".
- *Customs Cooperation*: on 24 November, in Brussels, Ms Bergmann will attend a meeting organised by OLAF to present the CIS (Customs Information System) and FIDE (Fichier d'Identification des Dossiers d'Enquêtes douanières) systems to Eurojust.
- *Host State matters*: on 27 November, Ms Jancewicz will attend a meeting organised by ICTY gathering representatives of various international organisations to discuss specific host state concerns of common interest. The meeting will focus in particular on social security and pension matters, taxation and residency issues.

#### Procurement Overview

If you wish to know the state of play of current procurement procedures (open and negotiated as well as relevant inter-institutional procedures), click on the latest version of the Procurement Overview, available on the intranet under [Legal Service \(incl. Procurement\)](#). You will find updated information about ongoing procedures, procedures under preparation and procedures under discussion.

## Press & PR

In the context of the last JAI meeting under the French Presidency, three press meetings will take place in Brussels: regarding the announcement of the establishment of the Child Protection Contact Point at Eurojust, the signing of a judicial cooperation agreement with Switzerland, and possible agreement by the Council of Ministers on the new Eurojust Decision. There is also a possibility that the judicial cooperation agreement with FYROM will be signed if there is consensus within the parliament of FYROM.

## SFMGSE

### Facility Management

The shuttle service between the Arc and the Equinox building will be reduced, starting on Monday 17 November and lasting until the end of November. Two trips per day will be provided:

- Arc to Equinox at 9:00 and return trip at 9:30;
- Arc to Equinox at 15:30 and return trip at 16:00.

Facility Management is currently heavily involved in the preparations for the move to HV1, and are unable to provide the normal full level of service. We apologise for the inconvenience that this may cause and we thank you for your understanding.

On Monday 24 November only, please send DHL requests via e-mail to Ms Stevens.

Please note that there will be no drivers available on Thursday 27 and Friday 28 November due to the move to HV1.

We are still working on the preparation of the new premises at HV1. The furniture, coffee machines and water coolers were delivered to the building this week. The IM Unit has already arranged delivery of IT equipment. The move is anticipated to take place as previously planned from 26-30 November.



## Other news

### Meeting of WG on football hooliganism best practice guide

On 17 November, the follow-up meeting of the working group on the football hooliganism best practice guide was held at Eurojust. The meeting was chaired by Ms Koller, National Member for Austria and Eurojust football correspondent. Discussion on the draft continued from the August meetings and the format and content of the final version were agreed upon, as was the way forward. Representatives from the UK, Germany, Portugal, Austria, France, Czech Republic and Poland (site of the 2012 European championship) attended, as did Ms Jooma of the Legal Service and Ms Verhaag and Mr Olmedillo from the Case Management Team. Representatives expressed their view that the draft best practice guide was a very concise, practical and useful paper for practitioners.



## Pension info session

On 20 November, Ms Sabine Delmeiren from the Pensions Unit, PMO-4, European Commission, gave a presentation to a full meeting room on "Pensions and other post-activity rights". The major topics covered were:

- Retirement Pensions
- Early Retirement
- Invalidity Allowance
- Survivor's Pension
- Transfer of Pension Rights
- Unemployment Allowance

Ms Delmeiren's PowerPoint presentation will be available shortly on the HR intranet site.

For further information, please consult the Staff Regulations or the [PMO website](#) or e-mail [PMO-Contact@ec.europa.eu](mailto:PMO-Contact@ec.europa.eu).



A screenshot of a web browser displaying the PMO website. The browser's address bar shows the URL: http://intracomm.ec.eu-admin.net/pers\_admin/pension/index\_en.html. The page title is "Termination of service / Pensions". The main content area features a heading "Termination of service / Pensions" and a sub-heading "You are an official, a contract or a temporary agent and you will soon leave the European Commission?". Below this, there is a paragraph explaining that users can check their eligibility for various benefits using an on-line questionnaire. A list of links is provided, including "The different pension schemes", "The severance grant and the transfer out", and "The unemployment allowance". A sidebar on the left contains a navigation menu with items like "Transferring pension rights", "Pensions", and "Severance grant and outward transfer". The page also includes a "PMO CONTACT" logo with a phone number "97777" and a "See also:" section with additional links.



## Eurojust-Europol Joint Press Release



### Large skimming network dismantled

*The Hague, 20 November 2008*

**Eurojust and Europol played an important role in the dismantling of a large international skimming network involving nine European Union Member States.**

On 19 November 2008, 15 persons suspected of being part of a skimming network were arrested throughout Europe: 7 in Belgium, 6 in Romania and 2 in Spain. The international operation was directed from Belgium by the Federal Prosecution Office in Brussels, in cooperation with the Prosecution Office, the Investigating Magistrate and the Federal Police of Dendermonde, Belgium, and with the support of Europol and Eurojust.

A total of 34 house searches took place: 9 in Belgium, 20 in Romania, 2 in Spain, 1 in Germany and 2 in Ireland/United Kingdom. The criminal offences were committed in Romania, the Netherlands, Italy, Germany, Ireland, the United Kingdom, Spain, and Cyprus. Outside the European Union offences were committed in Turkey, Canada, Australia, New Zealand, Dominican Republic, and Morocco.

The investigations and prosecutions took place in Belgium, Germany, Ireland, Italy, Romania, Spain, the Netherlands, the United Kingdom, Australia and Canada. As a coordinated approach in both EU and non-EU countries was needed, the Belgian authorities referred the case to Eurojust and Europol in August 2008.

Several coordination meetings took place at both institutions in The Hague between September and November 2008. Police officers, judges and prosecutors from the Member States concerned were either present or participated in the meetings through videoconferencing.

#### **BACKGROUND**

In this case, "skimming" crimes took place where the perpetrator places a device over the card slot of an automatic cash distribution machine, which reads the magnetic strip as the users pass their cards through it. These devices are often used in conjunction with a pinhole camera to read the user's PIN code at the same time.

For further questions, please contact:

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