Guest Editorial eucrim 1/2019

Ladislav Hamran

eucrim
European Law Forum: Prevention • Investigation • Prosecution

Editorial

ABSTRACT

Twenty years have passed since the EU heads of state and government came together in Tampere and agreed that the principle of mutual recognition should become the cornerstone of judicial cooperation in criminal matters between the EU Member States. This was followed by the adoption of an ambitious list of mutual recognition instruments for the pre-trial, trial, and post-trial phases, which all reflect the same basic notions: direct contact between judicial authorities, uniform templates, short deadlines, a duty to recognise and execute (subject to limited grounds for refusal), and a presumption of mutual trust.

AUTHOR

Ladislav Hamran

President
Eurojust

CITATION SUGGESTION

L. Hamran, "Guest Editorial eucrim 1/2019", 2019, Vol. 14(1), eucrim, p1. DOI: https://doi.org/10.30709/eucrim-2019-002

Published in
2019, Vol. 14(1) eucrim p 1
ISSN: 1862-6947
https://eucrim.eu

Dear Readers,

Twenty years have passed since the EU heads of state and government came together in Tampere and agreed that the principle of mutual recognition should become the cornerstone of judicial cooperation in criminal matters between the EU Member States. This was followed by the adoption of an ambitious list of mutual recognition instruments for the pre-trial, trial, and post-trial phases, which all reflect the same basic notions: direct contact between judicial authorities, uniform templates, short deadlines, a duty to recognise and execute (subject to limited grounds for refusal), and a presumption of mutual trust.

But what do twenty years of experience with the mutual recognition principle tell us? In the past two decades, judicial authorities have applied mutual recognition in practice when issuing and executing European Arrest Warrants (EAWs), European Investigation Orders (EIOs) and freezing, confiscation, and supervision orders. Despite its advantages, there ensued challenges and limits to this principle that were not always readily apparent. The authorities learned how differences between national legal systems complicate mutual recognition, but also how these differences can be overcome. The jurisprudence of the European Court of Justice (ECJ) provided insight into how key legal issues need to be interpreted in light of the mutual recognition principle.

There now exists a deeper understanding that mutual recognition is based on mutual trust, but not on blind trust. Often, additional information needs to be requested and there is a stronger awareness that mutual recognition is not only aimed at facilitating cooperation between authorities, but also at protecting individual rights. Perhaps most significantly, we have come to realise that mutual recognition is not a miracle solution. While it can be efficient and effective, it can also be cumbersome and complicated. Even though direct contact with colleagues abroad is a great starting point, it is not always sufficient. Fortunately, when judicial authorities need help in applying the principle of mutual recognition, they have Eurojust's support at their disposal.

Facilitating the execution of requests and decisions based on mutual recognition is at the heart of Eurojust's work. The number of EAW cases where Eurojust helped overcome practical and legal problems increased from 217 cases in 2013 to 410 newly registered cases in 2018. Particularly in recent years, ECJ case law raised new questions, and practitioners often struggled with requests for additional information and to meet deadlines. In 2018, Eurojust also opened 830 new cases on the EIO. The outcome report of the Eurojust Meeting on the EIO – summarized further on in this journal – provides a good overview of some of the main issues that mutual recognition has triggered. Similarly, the first preliminary ruling (Case C-324/17 *Gavanozov*) is currently pending before the ECJ and raises relevant questions on the meaning of mutual recognition and fundamental rights. It will be very interesting for practitioners to see how ECJ case law develops in the field of the EIO.

Applying the mutual recognition principle is not only about overcoming legal challenges. Efficient cooperation also requires judicial authorities to have the necessary practical means at their disposal, and a fundamental requirement for cross-border cooperation is a secure communication channel. Against this background, Eurojust recently launched an initiative to develop a digital infrastructure to support the exchange of operational information and evidence between judicial authorities across the EU, between judicial authorities and Eurojust, and between Eurojust and other JHA Agencies. This infrastructure will allow judicial authorities to identify connections between proceedings in different Member States more easily and to communicate more efficiently with Eurojust on cases requiring its support. Together with the secure online portal currently being developed by the Commission, I am convinced that it will soon greatly facilitate judicial cooperation.

https://doi.org/10.30709/eucrim-2019-002

Ladislav Hamran,
President of Eurojust

About eucrim

eucrim is the leading journal serving as a European forum for insight and debate on criminal and "criministrative" law. For over 20 years, it has brought together practitioners, academics, and policymakers to exchange ideas and shape the future of European justice. From its inception, eucrim has placed focus on the protection of the EU's financial interests – a key driver of European integration in "criministrative" justice policy.
Editorially reviewed articles published in English, French, or German, are complemented by timely news and analysis of legal and policy developments across Europe.
All content is freely accessible at https://eucrim.eu, with four online and print issues published annually.

Stay informed by emailing to eucrim-subscribe@csl.mpg.de to receive alerts for new releases.
The project is co-financed by the Union Anti-Fraud Programme (UAFP), managed by the European Anti-Fraud Office (OLAF).

Co-funded by
the European Union