

Guest editorial eucrim 3-2025

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eucrim

European Law Forum: Prevention • Investigation • Prosecution

Editorial

EDITORIAL

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CITATION SUGGESTION

M. Schmid, "Guest editorial eucrim
3-2025", 2025, Vol. 20(3), eucrim,
p185. DOI: [https://doi.org/10.30709/
eucrim-2025-015](https://doi.org/10.30709/eucrim-2025-015)

Published in
2025, Vol. 20(3) eucrim p 185
ISSN: 1862-6947
<https://eucrim.eu>



Dear Readers,

According to the Japanese scholar and art historian *Kakuzō Okakura*, “The art of life lies in a constant readjustment to our surroundings.” This call for gradual and prudent reform can serve as a guiding principle for judicial cooperation and is particularly well-suited to the role that our agency, Eurojust, plays.

The current system of judicial cooperation and mutual recognition, and Eurojust, are, in the meantime, the grown-up children of the 1999 Tampere Programme. Decades of experience show that, in principle, they are working well.

In matters of cooperation, this is illustrated by the experience gathered in our daily casework, which is regularly compiled in reports on the matter. As regards Eurojust, this success is confirmed by the recent evaluation of our legal basis, Regulation (EU) 2018/1727. The underlying study concluded that Eurojust has been successful in supporting investigations and prosecutions, and that the relevance of the agency is increasing.

At the same time, however, society and the criminal landscape – and with them the challenges and opportunities for law enforcement and prosecution – are evolving. We need to adapt to keep up with these developments. With regard to judicial cooperation, an obvious example would be the introduction of the European Preservation and Production Orders under the e-evidence Regulation. And for Eurojust, the anticipated upcoming proposal for a revision of our Regulation offers the opportunity to update our support to the national authorities.

A clear trend in our casework is that cases increasingly have a link to non-EU Member States. It is therefore essential to strengthen our cooperation with them. Ideally, this would mean increasing the current number of Liaison Prosecutors (twelve) seconded to The Hague. In my experience, Liaison Prosecutors expedite cooperation with our partners outside the EU, as they are able to provide their home authorities with the same support available to their EU counterparts. In order to have more Liaison Prosecutors, we need a simpler legal basis for their secondments than the existing international agreements; these are cumbersome to negotiate and have so far proven impossible to implement.

Furthermore, operational cases reveal a demand for more support and guidance when it comes to “all things online”. Access to and use of communication data – especially encrypted data, cryptocurrencies, artificial intelligence and, presumably in the future, the new instruments for e-evidence mentioned above – present complex legal and technical challenges for prosecutors and judges. A revised Eurojust Regulation could give us a more explicit mandate as a judicial centre of expertise in this domain.

Additional ways to enhance our support to national authorities include semi-permanent platforms that enable the temporary secondment of joint investigation team members to Eurojust, as well as taking on a more proactive role in analysing data received from other EU agencies and private partners and providing it to national authorities.

Finally, we need to carefully improve the speed and efficiency of our governance and decision-making. This requires a clear delineation of the competences within Eurojust’s different bodies; several competences could be shifted from the College to the Executive Board.

Some changes are necessary, but we should preserve what works well. Today’s excellent cooperation with, and the trust of, prosecutors and judges in the Member States is based on Eurojust’s judicial independence and the perception that we are an agency run by practitioners for practitioners. A shift in the governance

structure that takes powers away from the National Members would jeopardise this, as would binding powers to open proceedings against the will of the national authorities.

Many recent initiatives in the field of criminal justice have focused on law enforcement. I would like to call on all of us, as members of the judiciary, to make sure we maintain our strong standing in order to effectively prosecute criminals and ensure fundamental rights and the rule of law.

With this in mind, I wish you an insightful reading of this issue!

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Editorially reviewed articles published in English, French, or German, are complemented by timely news and analysis of legal and policy developments across Europe.

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The project is co-financed by the [Union Anti-Fraud Programme \(UAFP\)](#), managed by the [European Anti-Fraud Office \(OLAF\)](#).



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