

EUROJUST SUPPORT FOR THE TRANSMISSION, RECOGNITION AND EXECUTION OF FREEZING ORDERS WITHIN THE EU AND TOWARDS THIRD COUNTRIES

*Boštjan Lamešič**

One of the most effective tools in the fight against crime is the confiscation of the proceeds of crime. As complex criminal offences are increasingly transnational in nature, effective international cooperation in tracing, freezing and confiscation in criminal proceedings is essential.

One of the common objectives of the European Union (EU) in this area is to ensure the most effective mutual recognition and execution of freezing orders and confiscation orders within the territory of the EU Member States, with rules applicable in each Member State. The EU is quite active in this area and has adopted numerous applicable and/or harmonizing¹ legal instruments² such as:

1. Regulation 2018/1805 on the mutual recognition of freezing orders and confiscation orders³ : applicable since 19 December 2020 to all Member States except Denmark and Ireland.
2. Framework Decision 2003/577 on the execution in the EU of orders freezing property or evidence⁴ : still applicable only to Denmark and Ireland.
3. Framework Decision 2006/783 on confiscation orders⁵ : still applicable only to Denmark and Ireland.
4. Council Decision 2005/212 on the confiscation of crime-related proceeds, instrumentalities and property.⁶ Harmonizing measure.
5. Council Decision 2007/845 on cooperation between Asset Recovery Offices.⁷
6. Directive 2014/42 on the freezing and confiscation of instrumentalities and proceeds of crime in the EU⁸ sets minimum rules for national freezing and confiscation regimes, and replaces certain provisions

* Deputy National Member for Slovenia, Eurojust.

¹ Harmonisation in the area of EU criminal law only means the creation of minimum criminal rules and not their unification.

² A Regulation is a binding legislative act and it must be applied in its entirety across the EU once it enters into force. A Directive is a legislative act that sets out a goal that EU countries must achieve. However, it is up to the individual countries to devise their own laws on how to achieve these goals; therefore, it is not directly applicable in the Member States, but it must first be transposed into national law before it is applicable in each Member State. A Decision is binding on those to whom it is addressed (e.g. an EU country or an individual company) and is directly applicable. Decisions are EU laws relating to specific cases and are directed to individual or several Member States, companies or private individuals. They are binding on those to whom they are directed.

Framework Decisions, like Directives, when transposed into national law, serve to approximate legal systems, i.e. to harmonise a particular area of law so that it is regulated in practically the same way in the EU Member States that have implemented it, which greatly facilitates international legal cooperation. In the latter case, it should also be ensured that the foreign Member State concerned has implemented the Framework Decision in question (Member States do not do this at the same time) and in what way, as the principle of mutual recognition is the basis for judicial cooperation in criminal matters. If the Member State concerned has not yet implemented the Framework Decision, other (conventional or bilateral) legal bases may come into play.

³ <https://www.ejn-crimjust.europa.eu/ejn/libcategories/EN/163/-1/-1/-1>.

⁴ <https://www.ejn-crimjust.europa.eu/ejn/libcategories/EN/24/-1/-1/-1>.

⁵ <https://www.ejn-crimjust.europa.eu/ejn/libcategories/EN/34/-1/-1/-1>.

⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32005F0212>.

⁷ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32007D0845>.

⁸ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014L0042>.

of the Council Decision 2005/212.

7. Directive 2014/41 on the European Investigation Order;⁹ this is the applicable EU instrument for obtaining financial and banking information for all Member States except Denmark and Ireland.

Regulation 2018/1805 (hereinafter: the Regulation) on the mutual recognition of freezing orders and confiscation orders¹⁰ was adopted as previous legal instruments for the mutual recognition of freezing orders and confiscation orders were not fully effective,¹¹ as they were not implemented and applied uniformly in the Member States.¹² This resulted in insufficient mutual recognition and ineffective international cooperation. Therefore, it was necessary to improve the principle of mutual recognition and immediate execution of freezing orders and confiscation orders.

The Regulation has general and specific objectives.¹³ Its general objectives are:

1. to freeze and confiscate more assets derived from criminal activities in cross-border cases in order to prevent and combat crime, including terrorism and organized crime; and
2. improve the protection of victims in cross-border cases.

The specific objectives of the Regulation are:

1. to improve the mutual recognition of freezing and confiscation orders by extending the scope of the mutual recognition instrument;
2. to introduce faster/simpler procedures and certificates; and
3. to increase the number of victims receiving cross-border compensation.

Regulation 2018/1805 replaced the provisions of Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence as regards the freezing of property between the Member States and The Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders and is directly and uniformly applicable in the EU Member States, with the exception of Ireland and Denmark, which are not bound by it and are not subject to its application.¹⁴

The Regulation is systematically structured into five chapters: Chapter I defines the subject matter, definitions and scope; Chapter II deals with the transmission, recognition and execution of freezing orders; Chapter III deals with the transmission, recognition and execution of confiscation orders; the penultimate chapter contains general provisions such as the termination of the execution of a freezing order or confiscation order, the management and disposal of frozen and confiscated property and the restitution of frozen property to the victim; the final chapter contains final provisions such as the collection of statistics on the number of executed and refused freezing and confiscation orders.

The Regulation is based on the general principle of mutual recognition and immediate execution of judicial decisions, i.e. all judicial decisions in criminal matters taken in one Member State will normally be directly recognized and enforced by another Member State. However, this also presupposes confidence that

⁹ <https://www.ejn-crimjust.europa.eu/ejn/libcategories/EN/120/-1/-1/-1>.

¹⁰ The Regulation came into force on 18 December 2018 and has applied since 19 December 2020.

¹¹ Too few criminal assets were frozen and confiscated in cross-border cases, and there were no provisions for restitution and compensation to victims.

¹² Limited scope of mutual recognition instruments, uneven and inadequate implementation of existing legislation, complex procedures and certificates.

¹³ COMMISSION STAFF WORKING DOCUMENT IMPACT ASSESSMENT accompanying the document Proposal for a Regulation of the European Parliament and of the Council on the mutual recognition of freezing and confiscation orders; SWD/2016/0468 final - 2016/0412 (COD); <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A52016SC0468>.

¹⁴ Recitals 56 and 57 of the Regulation.

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the decisions to be recognized and executed will always be taken in compliance with the principles of legality, subsidiarity and proportionality.¹⁵

However, the execution of freezing orders and confiscation orders does not require verification of the double criminality of certain criminal offences that are listed in Article 3 of the Regulation.¹⁶ For other criminal offences, the executing State may make the recognition and execution of a freezing order or confiscation order subject to the condition that the acts giving rise to the freezing order or confiscation order constitute a criminal offence under the law of the executing State, whatever its constituent elements or however it is described under the law of the issuing State.¹⁷

As regards the recognition and execution of freezing orders in the other Member State, the Regulation provides for the use of a specific freezing certificate (a form) listed in Annex I of the Regulation. The freezing certificate is issued either by a judge, court or public prosecutor competent in the case concerned or by another competent authority designated as such by the issuing State,¹⁸ in which case it must be validated by a judge, court or public prosecutor before being transmitted to another EU Member State. As a general rule, the freezing certificate should suffice, but EU Member States may make a special declaration that the issuing authority must submit the original freezing order or a certified copy of it together with the freezing certificate. In this case, only the freezing certificate needs to be translated into an official language of the executing State or any other language accepted by the executing State.

If there are reasonable grounds to believe that the person against whom the freezing order was issued has property or income in a Member State, the issuing authority shall transmit the freezing certificate to that Member State or sometimes to more Member States.¹⁹ When transmitted, the freezing certificate must be accompanied by a confiscation certificate or at least contain an instruction that the property should remain frozen until the confiscation order has been transmitted and executed, and the estimated date of this transmission must be indicated in the freezing certificate.²⁰

The executing authority shall recognize and execute a transmitted freezing order in the same way as a domestic freezing order issued by an authority of the executing State, except in exceptional cases where the executing authority:

- decides not to recognize or execute the freezing order²¹ ;
- postpones the execution of the freezing order²² ; and
- considers that it is impossible to execute the freezing order.²³

¹⁵ Recital 15 of the Regulation.

¹⁶ (1) Participation in a criminal organization; (2) terrorism; (3) trafficking in human beings; (4) sexual exploitation of children and child pornography; (5) illicit trafficking in narcotic drugs and psychotropic substances; (6) illicit trafficking in weapons, munitions and explosives; (7) corruption; (8) fraud, including fraud and other criminal offences affecting the Union's financial interests as defined in Directive (EU) 2017/1371 of the European Parliament and of the Council (1); (9) laundering of the proceeds of crime; (10) counterfeiting of currency, including the euro; (11) computer-related crime; (12) environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties; (13) facilitation of unauthorised entry and residence; (14) murder or grievous bodily injury; (15) illicit trade in human organs and tissue; (16) kidnapping, illegal restraint or hostage-taking; (17) racism and xenophobia; (18) organized or armed robbery; (19) illicit trafficking in cultural goods, including antiques and works of art; (20) swindling; (21) racketeering and extortion; (22) counterfeiting and piracy of products; (23) forgery of administrative documents and trafficking therein; (24) forgery of means of payment; (25) illicit trafficking in hormonal substances and other growth promoters; (26) illicit trafficking in nuclear or radioactive materials; (27) trafficking in stolen vehicles; (28) rape; (29) arson; (30) crimes within the jurisdiction of the International Criminal Court; (31) unlawful seizure of aircraft or ships; (32) sabotage.

¹⁷ Article 3(2) of the Regulation.

¹⁸ »issuing authority«.

¹⁹ Article 5 of the Regulation.

²⁰ Article 4(6) of the Regulation.

²¹ Article 8 of the Regulation.

²² Article 10 of the Regulation.

²³ Article 13 of the Regulation.

The time limits for recognition and execution of freezing orders are quite strict, as the executing authority has to decide on the recognition of the freezing order no later than 48 hours after the receipt of the order, and once such a decision has been taken, the executing authority has no more than 48 hours take the necessary measures to execute the order.²⁴

In the age of internet banking and cryptocurrencies, the speed with which law enforcement and judicial authorities can freeze assets is of the outmost importance. In this regard, the EU has only adopted legal instruments, but it has also established agencies such as Eurojust, Europol, OLAF and EPPO, which are key EU agencies in facilitating cooperation and ensuring coordination between national investigating and prosecuting authorities in relation to criminal matters.

Eurojust acts through its National Members,²⁵ their deputies and assistants, who are seconded²⁶ by each Member State in accordance with its legal system. They have the status of a prosecutor, a judge or a representative of a judicial authority with powers equivalent to those of a prosecutor or judge under national law. In all stages²⁷ of the asset recovery process, the National Members have the power to:

1. facilitate direct contact and exchange information between the issuing/requesting and executing/requested authorities;
2. organize Level II meetings²⁸ with other National Members;
3. organize coordination meetings²⁹; and
4. set up a coordination centre.³⁰

National authorities can ask their National members in the *tracing stage* to: identify the competent authority; facilitate the spontaneous exchange of relevant financial information; transmit European Investigation Orders (EIOs)³¹ and Letters of Request (LoR) for financial and banking information; and obtain

²⁴ Article 9 of the Regulation.

²⁵ There are 26 National Members: Belgium, Bulgaria, Czech Republic, Germany, Estonia, Ireland, Greece, Spain, France, Croatia, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, the Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Slovak Republic, Finland and Sweden. There is also a representative from Denmark.

²⁶ For five years (renewable once).

²⁷ Tracing, freezing, confiscation and disposal stages.

²⁸ A Level II meeting is an informal meeting to discuss the legal/practical/operational issues at stake. The aim is to quickly and effectively identify solutions for legal/practical/operational issues that emerged and agree on the way forward. Level II meetings can take place at any stage of the case between two or more National Members and are organized as face-to-face meetings, as videoconferences or, particularly in bilateral cases, as telephone calls.

²⁹ A Level III meeting is a formal meeting of Eurojust on a particular case with the participation of the competent national authorities and is organized by the National Members. The aim is to reach an agreement on how to proceed in relation to the legal/operational/practical issues at stake. External participants may include prosecutors, investigative judges, Liaison Prosecutors and law enforcement officers from EU Member States or third countries, representatives of EU agencies/bodies and international organizations such as Europol, EPPO and OLAF. Participants meet face-to-face at Eurojust's premises in The Hague, the Netherlands or via videoconference with simultaneous interpretation. Prior to the meeting, legal, operational and practical issues are identified in a dedicated Level II preparatory meeting. During a coordination meeting, the national authorities present the state of play of the investigations/proceedings in their country, can address any questions and/or requests to other involved countries and share their thoughts on a possible way forward.

³⁰ National Members can decide to set up a coordination centre (CC) in a particular case to facilitate a coordinated and simultaneous execution of measures (such as arrests, hearings, searches and asset recovery measures) in several countries during a joint action day. A CC acts as a central information hub where joint operations are constantly monitored and coordinated by Eurojust, with all key stakeholders in direct and immediate contact with each other. The key to success is the continuous availability of the representatives of the National Desks and/or Liaison Prosecutors of the involved countries during the joint action day. Where appropriate, participation is extended to national judicial and law enforcement authorities and representatives of EU agencies and bodies. The participation of all key stakeholders allows Eurojust to provide timely legal and practical advice and to facilitate the issuing of critical judicial instruments, ensuring that the actions taken lead to successful prosecutions.

³¹ Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters defines the EIO as a judicial decision which has been issued or validated by a judicial authority of

information on the status of the execution of EIOs and LoRs. At the *freezing stage*, the National Member can provide advice and clarification on practical, legal and formal requirements relating to the freezing of assets, advise on the choice of legal instruments and serve as a channel for the transmission of freezing orders and LoRs. At the *confiscation stage*, National Members can also assist by providing advice on the choice of legal instrument and on the necessary documentation, identifying of the competent authority in the executing/requested State and transmitting the confiscation order and the confiscation certificate or LoR to the competent authorities in the executing/requested State; facilitating the exchange of information on the status of the recognition of the confiscation order or execution of the LoR, and the exchange of relevant documentation. At the *disposal stage*, the National Member can provide advice on the legal possibilities available in the executing/requested State for assessing the value of the confiscated assets; clarify the legal requirements of the executing/requested State to allow the return of the assets; facilitate the exchange of information and the transmission of supplementary confiscation certificates or LoR; and provide advice on the legal basis, procedural steps and appropriate channel of communication for potential asset-sharing agreements between the involved countries.

National Members can also facilitate the above-mentioned cooperation with Denmark through the Representative of Denmark to Eurojust³² and beyond the borders of the EU. Eurojust cooperates with third countries through their liaison prosecutors seconded to Eurojust³³ on the basis of an existing agreement of cooperation or through the Eurojust Contact Point designated by the third country. Eurojust maintains up-to-date contact details of the Eurojust Contact Points and the National Desks at Eurojust.³⁴

The existence of a Liaison Prosecutor indicates that a cooperation agreement has been concluded between Eurojust and the third country concerned. Eurojust has concluded agreements with 12 third countries.³⁵ The United Kingdom has had a Liaison Prosecutor at the Agency since 2021 under the EU-UK Trade and Cooperation Agreement and the Working Arrangement signed with Eurojust in the same year. These agreements create an enabling environment in which third countries can participate in and benefit from the practical cooperation tools offered through Eurojust. International agreements provide the possibility for the systematic exchange of operational information, including evidence and personal data, between Eurojust and the national authorities of the countries involved, as well as international organizations. They also allow for the secondment of Liaison Prosecutors from non-EU countries to Eurojust's premises. This enables direct operational cooperation between them, as prosecutors seconded from EU Member States and those seconded from non-EU countries are all under the same roof. This often results in more successful investigations and prosecutions. Although Eurojust is not mandated to support cases exclusively between third countries, the Liaison Prosecutors present at Eurojust can take advantage of their proximity and the exchange between them. Eurojust also provides a unique platform of services not available in all countries, such as fit-for-purpose meeting rooms, interpretation, specialized legal expertise with EU-wide understanding. These resources are offered to effectively coordinate the investigation and prosecution of serious crime to secure the necessary evidence.

The cooperation agreement clarifies the purpose of the agreement; the scope of cooperation; the competency for the execution of the agreement; the competencies of the seconded Liaison Prosecutor to Eurojust; regular consultations between the signatories; operational and strategic meetings; the exchange of

a Member State (the issuing State) to have one or several specific investigative measure(s) carried out in another Member State (the executing State) to obtain evidence.

³² EU Member State not taking part in the Eurojust Regulation.

³³ Liaison Prosecutors seconded to Eurojust are from Norway, United States of America, Switzerland, Montenegro, Ukraine, North Macedonia, Serbia, Georgia, United Kingdom and Albania.

³⁴ Designated Contact Points at Eurojust are from Argentina, Armenia, Australia, Azerbaijan, Bahrain, Belarus, Bolivia, Bosnia and Herzegovina, Brazil, Canada, Cape Verde, Chad, Chile, China, Colombia, Costa Rica, Ecuador, Egypt, El Salvador, The Gambia, Ghana, Guatemala, Honduras, Iceland, Iran, Iraq, Israel, Japan, Jordan, Republic of Kazakhstan, South Korea, Kosovo (this designation is without prejudice to position on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo Declaration of Independence), Lebanon, Libya, Liechtenstein, Maldives, Mauritius, Mexico, Moldova, Morocco, Niger, Palestinian Authority, Philippines, Panama, Paraguay, Peru, Russian Federation, San Marino, Saudi Arabia, Singapore, Somalia, South Africa, Sri Lanka, Taiwan (Republic of China), Tajikistan, Thailand, Togo, Tunisia, Türkiye, Uruguay and Uzbekistan.

³⁵ Albania, Montenegro, North Macedonia, Serbia, Georgia, Iceland, Liechtenstein, Moldova, Norway, Switzerland, Ukraine and the United States of America.

information and transfer of information to Eurojust; restrictions on use to protect personal and other data; the transmission of special categories of personal data; the processing of personal data supplied by both parties of the agreement; the rights of data subjects, namely the right of correction, blockage and deletion of personal data and time limits for the storage of personal data; liability; expenses; the settlement of disputes; the termination of the agreement; and the date of application. More details on the content of each cooperation agreement can be found on Eurojust's website.³⁶

Since 2019,³⁷ Eurojust can no longer negotiate or conclude international agreements, but the Agency works closely with the European Commission to develop four-year strategies to increase its international reach. These strategies identify the third countries and international organizations with which there is an operational need for cooperation. Based on this list, the Commission submits to the Council of the EU its Recommendation for a Decision authorizing the opening of negotiations on international cooperation agreements with Eurojust. The Commission therefore acts as the EU negotiator appointed by the Council and concludes an agreement between the EU and a third country on cooperation with Eurojust. In November 2019, Eurojust adopted its first four-year strategy, which included Argentina and Colombia. Although the Commission did not include these two countries in its Recommendation, the Council adopted its Decision on 1 March 2021 authorizing the opening of negotiations with 13 third countries (Algeria, Argentina, Armenia, Bosnia and Herzegovina, Brazil, Colombia, Egypt, Israel, Jordan, Lebanon, Morocco, Tunisia and Turkey).

Cooperation with third countries in the absence of an agreement is also possible on a case-by-case basis and is dealt with through a designated Eurojust Contact Point. This cooperation requires a formal appointment letter by the responsible authority or a working arrangement. In order to facilitate the appointment procedure and the transmission of relevant information on the Eurojust Contact Point(s), the appointing authorities are requested to submit a formal appointment letter to Eurojust, accompanied by an appointment form. The appointment of a Contact Point is a simple procedure. In the appointment form, the appointing authorities have to state the name and address of the appointing authority; the name, title, work address and corporate contact details³⁸ of the Eurojust Contact Point; the languages in which the Eurojust Contact Point can be contacted and its areas of expertise; and any other relevant information. Both documents should be sent to institutional.affairs@eurojust.europa.eu. It is not necessary to send a paper version; electronic versions are sufficient. Once a Contact Point is appointed, his/her contact details will become available to the National Desks and Liaison Prosecutors at Eurojust. Eurojust sets up a videoconference with newly appointed Contact Points to explain how and when they can contact Eurojust and vice versa.

National Members cannot exchange operational data with Contact Points unless an assessment for the transfer of operational personal data by Eurojust is carried out in accordance with Article 58(1)(b) of the Eurojust Regulation.

Requests from National Members to Eurojust's Data Protection Officer (DPO)³⁹ to carry out an assessment of a third country⁴⁰ consists of the Eurojust case number; a short description of the case and crime type; the

³⁶ <https://www.eurojust.europa.eu/states-and-partners/third-countries/international-agreements>.

³⁷ The Eurojust Regulation, which became applicable in December 2019 also transformed Eurojust's external relations policy.

³⁸ Phone number, mobile number, fax number, email address.

³⁹ Article 36 of the Eurojust Regulation.

⁴⁰ Any transfer shall be subject to the conditions laid down in Article 56(1) of the Eurojust Regulation: Eurojust may transfer operational personal data to a third country or international organization, subject to compliance with the applicable data protection rules and the other provisions of this Regulation, and only if the following conditions are met:

- a. the transfer is necessary for the performance of Eurojust's tasks;
- b. the authority of the third country or the international organization to which the operational personal data are transferred is competent in law enforcement and criminal matters;
- c. where the operational personal data to be transferred in accordance with this Article have been transmitted or made available to Eurojust by a Member State, Eurojust shall obtain prior authorization for the transfer from the relevant competent authority of that Member State in compliance with its national law, unless that Member State has authorized such transfers in general terms or subject to specific conditions;
- d. in the case of an onward transfer to another third country or international organization by a third country or international organization, Eurojust shall require the transferring third country or international organization to obtain prior authorization from Eurojust for that onward transfer.

Eurojust shall only grant authorization referred to in point (d) with prior authorization from the Member State from which

name of the third country; an indication of the specific categories of data⁴¹ that Eurojust would transfer to the third country; a specification of the data subjects⁴² whose data would be transferred; the seriousness of the offence⁴³; the amount of data exchanged and the time period for the exchange; the competent authority in the third country with whom one would be likely to exchange data with⁴⁴; a legally binding agreement with the third country⁴⁵; the death penalty and the human rights situation; and urgency.⁴⁶

The DPO will respond within ten working days or less in urgent cases. In particularly complex cases, the DPO and the National Member may agree on a longer time frame. The DPO will make an assessment on a case-by-case basis, addressing in particular the issues referred to in Articles 51 and 52 of the Eurojust Regulation. Following the DPO's assessment, the College⁴⁷ will decide whether to transfer the data to the third country in question. During the operational tour de table, the National Desk and the DPO will present the matter, and the College will then decide whether or not to approve the transfer of operational personal data in the specific case, following the DPO's assessment.

The role of the Eurojust Contact Point is to: facilitate communication regarding MLA or extradition requests (procedures, follow-up); facilitate direct contact with the competent national authorities; clarify provisions of national law or provide legal advice on the national legal system; facilitate the organization of or the competent authority's participation in coordination meetings or joint investigation teams; resolve general issues arising in the context of judicial cooperation with Eurojust; and send questions to National Members of Eurojust on specific cases or on particular provisions of the national law of the EU Member State concerned.

Although there are differences in approach and legislation and there is a lack of harmonization in the field of asset recovery within the EU, all Member States can seek the assistance of Eurojust regardless of the stage of their proceedings in order to simplify and speed up the cross-border execution of asset recovery measures. Over the years, Eurojust has continued to play an important role in improving cooperation in criminal matters between Member States and third countries, in particular by:

- a) facilitating the recognition and execution of freezing and confiscation orders and the execution of requests for judicial cooperation;
- b) assisting in the drafting of freezing and confiscation orders or LoRs, the identification of competent authorities in the executing or requested Member States, the exchange of information and the translation of relevant information;
- c) enabling the coordination of investigations and helping investigating and prosecuting authorities to act simultaneously in the execution of freezing orders;
- d) clarifying the legal requirements of both issuing and executing authorities, and solving practical problems arising from the various legal and procedural requirements in different legal systems;

the data originated, after taking due account of all relevant factors, including the seriousness of the criminal offence, the purpose for which the operational personal data were originally transferred and the level of personal data protection in the third country or international organization to which the operational personal data are to be transferred onward.

⁴¹ See Annex II of the Eurojust Regulation for a list of the categories of personal data referred to in Article 27 when defining the personal data that Eurojust may legally process and see Article 76 of Regulation 2018/1725.

⁴² E.g. suspect, victim, witness.

⁴³ What the maximum penalty would be for the type of offence being investigated.

⁴⁴ In accordance with Article 56(1)(c) of the Eurojust Regulation, the authority of the third country or the international organization in which the operational personal data are transferred is competent in law enforcement and criminal matters.

⁴⁵ Whether there is a relevant legally binding (international or JIT) agreement between the third country and the Member State in question.

⁴⁶ Article 56(4) of the Eurojust Regulation states: 'Eurojust may in urgent cases transfer operational personal data without prior authorization from a Member State in accordance with point (c) of paragraph 1. Eurojust shall only do so if the transfer of the operational personal data is necessary for the prevention of an immediate and serious threat to the public security of a Member State or of a third country or to the essential interests of a Member State, and where the prior authorization cannot be obtained in good time. The authority responsible for giving prior authorization shall be informed without delay.'

⁴⁷ Article 10 of the Eurojust Regulation.

- e) assisting Member States in reaching agreements on the disposal of confiscated property and the sharing of assets; and
- f) identifying best practices for the management of assets from the outset of an investigation.