

**THE STRATEGY AND EXPERIENCE OF EUROJUST REGARDING  
ANTI-CORRUPTION MEASURES**

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**I. INTRODUCTION**

Corruption has many complex social, political and economic implications and its criminal activity is taking place both within state borders and beyond them. Nowadays it is not unusual for perpetrators to commit corruption-related criminal offences in one State, hide or launder their illicitly gained proceeds in a second State and utilise the means of communication (telephone, postal service, internet) and the financial system of a third State. In this way, corruptive criminal offences are becoming transnational. Consequently, the law enforcement agencies and prosecution services responsible for the investigation and prosecution of such offences must have a thorough knowledge of international criminal law and its tools to properly address the challenges brought up by perpetrators whose activities affect different states. They have to know how to obtain information or evidence and assistance from another state, often in a form admissible before their domestic courts.

That is why anti-corruption measures not only fall within the remit of national politics and law making but also take the form of awareness that corruption is a problem that can only be addressed effectively by a collaborative approach between international actors.

This awareness is relatively high within the Member States of the European Union,<sup>1</sup> where 28 different national legal systems including EU law exist. This makes cooperation between law enforcement and judiciary challenging but necessary. Bear in mind that between Member States there is free movement of goods, people (no border controls), services and capital, but there is no EU police or EU prosecutor because jurisdiction ends at the borders of the Member State(s).

**II. EUROJUST AND ITS STRATEGIC AND OPERATIONAL ANTI-CORRUPTION MEASURES**

The awareness that corruption could be tackled by a collaborative approach within the EU was also recognised by EU Member States in 2002 with the establishment of the European Union's Judicial Cooperation Unit, or a body of the European Union which has legal personality and is capable of supporting national authorities in the fight against corruption in its international dimension<sup>2</sup>. This Unit referred to as Eurojust was set up by Council Decision 2002/187/JHA and further strengthened by Council Decision 2009/426/JHA. Eurojust is made up of 28 National Members who are experienced EU prosecutors, judges or police officers of equivalent competence<sup>3</sup> from each Member State and who are required to have their regular place of work at the premises of Eurojust, which is in The Hague, the Netherlands.

The main mission of Eurojust is to stimulate and improve the coordination of investigation and

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<sup>1</sup> Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the United Kingdom (Brexit: For the time being, the United Kingdom remains a full member of the EU and rights and obligations continue to fully apply in and to the UK).

<sup>2</sup> Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime (Official Journal L 063 of 6 March. 2002) and further strengthened by Council Decision 2009/426/JHA of 16 December 2008 on the strengthening of Eurojust and amending Decision 2002/187/JHA setting up Eurojust with a view to reinforcing the fight against serious crime ((Official Journal L 138 of 4 June 2009) hereinafter: Eurojust Decision).

<sup>3</sup> They could be supported by their Deputies, Assistants, Seconded National Experts or European Judicial Network Trainees.

prosecution among the competent judicial authorities of the European Union's Member States when they deal with serious cross-border and organised crime<sup>4</sup>. Eurojust may also assist investigations and prosecutions concerning a particular Member State and a non-Member State if a cooperation agreement between Eurojust and the non-Member State has been concluded or an essential interest in providing such assistance exists<sup>5</sup>. Such agreements may, in particular, concern the exchange of information, including personal data, and the secondment of liaison officers or liaison magistrates to Eurojust<sup>6</sup>. Eurojust has concluded such agreements with Switzerland, Montenegro, Norway, the United States of America and Ukraine to second their liaison officers or liaison magistrates to Eurojust. There is also an additional tool commonly used for improving cooperation between Member States and third States through Eurojust and this takes the form of the Eurojust Contact Points in third States<sup>7</sup>, but their involvement does not provide for the possibility of exchanging operational information, including personal data<sup>8</sup>. Eurojust is not limited to establishing and maintaining cooperative relations only with third States, but can also conclude agreements with organisations such as international organisations governed by public law, other bodies governed by public law based on an agreement between two or more States and with the International Criminal Police Organization (Interpol)<sup>9</sup>. So far Eurojust is also closely cooperating with several organisations<sup>10</sup>.

Eurojust is committed to supporting the Member States prosecutorial and judicial authorities in their efforts to fight corruption. This can be done through support at the strategic level and at the operational level.

### A. Strategic Anti-Corruption Measures

Support provided by Eurojust on a strategic level refers to the hosting of meetings of the Consultative Forum of Prosecutors General and Directors of Public Prosecutions of the Member States of the European Union (hereinafter: Consultative Forum), at which the participants share their opinions and exchange experiences of different topics relating to the fight against different types of crime including corruption. The Consultative Forum has dealt with the topic of corruption and the problems faced by prosecutors in corruption-related cases with an international element in its meeting on 23 June 2011<sup>11</sup> and meeting on 11

<sup>4</sup> According to Article 4 of Eurojust Decision, the general competence of Eurojust shall cover the same types of crime and offences as those for which Europol has competence, such as terrorism, drug trafficking, trafficking in human beings, counterfeiting, money laundering, computer crime, crime against property or public goods including fraud and corruption, criminal offences affecting the European Union's financial interests, environmental crime and participation in criminal organisations. Additionally, for other types of offences, Eurojust may assist in investigations and prosecutions at the request of a Member State.

<sup>5</sup> Article 3(1) of Eurojust Decision.

<sup>6</sup> Article 26a(2) of Eurojust Decision.

<sup>7</sup> So far Eurojust's network of judicial contact points in third States totals 44, namely: Albania, Algeria (there is no active contact point for Algeria at the moment and Eurojust is in the process of clarifying the status of the Contact Points with the Algerian authorities, so requests for cooperation and assistance to Algeria should be channelled via diplomatic routes), Argentina, Bolivia, Bosnia and Herzegovina, Brazil, Cape Verde, Canada, Chile, Colombia, Egypt, FYROM, Georgia, Iceland, India, Iraq, Israel, Jordan, Japan, Republic of Kazakhstan (informal contact), South Korea, Lebanon, Libya, Liechtenstein, Mauritius, Moldova, Mongolia, Montenegro, Niger, Nigeria, Norway, Palestinian Authority, Peru, Russian Federation, Saudi Arabia, Serbia, Singapore, Switzerland, Taiwan (Republic of China), Thailand, Tunisia and Turkey, Ukraine and the USA.

<sup>8</sup> Matters dealt by Eurojust Contact Points are speeding up or facilitating the execution of mutual legal assistance (MLA) requests or extradition requests; ensuring communication between Eurojust and the concerned third State, and providing information on the state of play of a particular case; clarifying particular provisions of the national law or legal advice related to the legal system of the third State concerned; providing assistance on how to submit a MLA request or an extradition; facilitating the organisation or the competent authority's participation in coordination meetings or in joint investigation teams; attendance of coordination meetings at Eurojust; identifying the national competent authorities and establishing contact with them and with central authorities; solving any kind of problems occurring in the framework of judicial cooperation with Eurojust; and sending queries to Eurojust National Members on specific cases or on particular provisions of the national law of the Member State concerned.

<sup>9</sup> Article 26a(1) of Eurojust Decision.

<sup>10</sup> International Criminal Court (ICC), La Red Iberoamericana de Cooperación Jurídica Internacional (IberRed), United Nations Office on Drugs and Crime (UNODC), European Judicial Training Network (EJTN), European Union Agency for Law Enforcement Training (CEPOL), European Anti-Fraud Office (OLAF), European Union Agency for Law Enforcement Cooperation (Europol), European Commission, International Criminal Police Organization (ICPO-INTERPOL), European Border and Coast Guard Agency (FRONTEX), The European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), European Union Agency for Fundamental Rights (FRA), European Union Naval Force Mediterranean (EUNAVFOR MED), European Union Intellectual Property Office (EUIPO) and European Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA).

June 2014.<sup>12</sup>

At the meeting held on 23 June 2011, the Consultative Forum identified the major obstacles to investigation and prosecution of corruption-related crimes, such as problems related to gathering of evidence and its admissibility before courts; insufficient coordination of investigations that are ongoing in different Member States simultaneously; difficulties in obtaining timely intelligence information; the attention of media and the general public in cases of high-level corruption and the impact of those cases on the political situation in the country and often fragmented national systems. Best practices were also identified and recommended, for instance the usefulness of Eurojust coordination meetings and establishment of joint investigation teams (hereinafter: JIT) in cross-border cases and their more extensive use; specialisation of prosecutors to fight corruption efficiently; establishment of specialised prosecution units, training and instructions on specific problems, features and legislation on corruption should be provided for prosecutors at all levels; prosecutors should be involved early on in the investigation of the corruption-related criminal offence; prosecutors should closely cooperate with financial and other experts in relevant professions; use of covert investigative measures with respect to basic fundamental rights and increased transparency in the area of taxation and use of public funds<sup>13</sup>. The Consultative Forum also touched upon the topic of seizure and confiscation of criminal assets and concluded that seizure, confiscation and recovery of the proceeds of crime are crucial tools in the fight against serious cross-border crime, in particular in the fight against corruption and money laundering, but due to prosecutors' lack of direct access to relevant registers (vehicles, vessels, real estate and bank accounts) there are many obstacles in identifying assets and asset holders in Member States and even more when hidden in third States. The Consultative Forum has therefore concluded that the lack of consolidated registers should be overcome and that direct access to them by prosecutors is essential. It was also proposed that the European Union should take certain measures through a clear and simple regulatory framework to ensure the development of common standards in anti-corruption legislation and its definitions; laws and regulations in specific areas of criminal procedure and in various areas of crimes, including corruption, should be further approximated; the reinforcement of the principle of mutual recognition; difficulties in judicial cooperation and execution of requests for mutual legal assistance could be overcome with minimum standards of criminal procedure; common standards for the gathering and admissibility of evidence are required and conflicts of jurisdiction must be addressed.

At the meeting held on 11 June 2014, the Consultative Forum members discussed their practical experiences of investigating and prosecuting complex high-profile corruption cases with an international dimension and their views on how best to tackle corruption. They reported that most common challenges arise from complex cross-border corruption cases involving the investigation and prosecution of information and communications technology, defence, transportation and public procurement sectors; delays identifying, gathering and assessing evidence and in connection with the execution of requests for mutual legal assistance; lack of a uniform approach to legislation, in particular regarding privileges and immunities and the use of intercept evidence. Consultative Forum members also shared their best practices, such as providing protection to whistle-blowers; providing specialised training to national authorities and stimulating cross-border coordination; access to relevant databases by national competent authorities; establishment of multidisciplinary teams or taskforces with the cooperation of different experts in relevant fields (tax, customs and excise, forensic IT, finance and accounting); adoption of legislative and non-legislative measures to increase transparency; ensuring the independence of the prosecution service and judiciary; establishment of a European public prosecution office; prioritising identification and asset recovery within the EU and in third States; raising awareness by publishing guidance and information about procedures, broadcasting trials or publishing judicial decisions and details of confiscation measures executed; and mutual recognition of judicial decisions.

At both these meetings of the Consultative Forum, the role of Eurojust was emphasised in facilitating and supporting judicial cooperation in corruption cases not only between Member States but also with third States. It was also stated that the practitioners should make more extensive use of the tools that Eurojust

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<sup>11</sup> Council of the European Union, Outcome report 17457/11 (Brussels, Belgium, 23 November 2011); <http://data.consilium.europa.eu/doc/document/ST-17457-2011-INIT/en/pdf>; accessed 12 September 2018.

<sup>12</sup> Council of the European Union, Outcome report 13581/14 (Brussels, Belgium, 24 September 2014); <http://data.consilium.europa.eu/doc/document/ST-13581-2014-INIT/en/pdf>; accessed 12 September 2018.

<sup>13</sup> Would a register of how much individuals earn and owe to tax authorities help transparency and discourage corruption?

could offer, in particular coordination meetings and the establishment and financing of JITs.

Furthermore, at strategic level Eurojust contributed to the European Commission’s first EU Anti-Corruption Report<sup>14</sup>. Eurojust provided information on its efforts in the fight against corruption, its corruption casework, including case specifications and involvement of third States, as well as corruption cases registered for the purpose of creating a JIT. Finally at strategic level, Eurojust has been participating as an observer in the Camden Asset Recovery Inter-Agency Network (CARIN) and in the Asset Recovery Offices Platform (ARO) since 2004 and 2008 respectively.

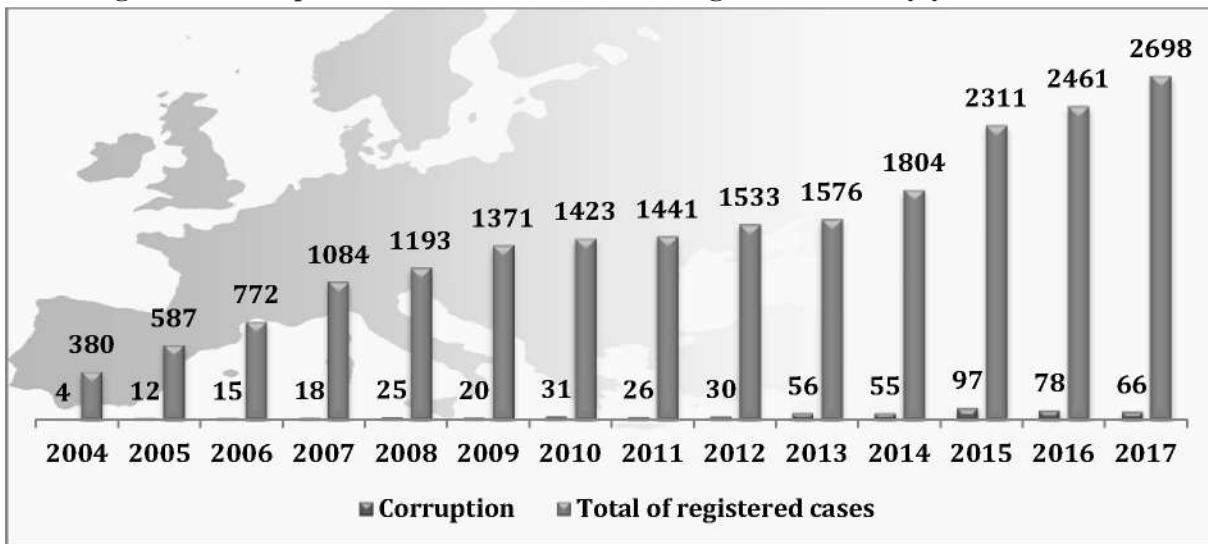
**B. Operational Anti-Corruption Measures**

At operational level, National Members at Eurojust are able to assist national authorities in Member States on a 24 hour/7 day basis<sup>15</sup> through facilitation and execution of Letters of Request (hereinafter: LoR) or European investigation orders, organising coordination meetings and coordination centres and through establishing and financing JITs, although their assistance and support may be given only upon request or notification by the Member States’ competent authorities.

1. Facilitation of Letters of Request or European Investigation Order

The competent authorities of Member States can send the mentioned requests to Eurojust either spontaneously or on the basis of the information exchanged pursuant to Article 13 of Eurojust Decision. In relation to corruption, the competent national authorities must inform their National Member “without undue delay of any case in which at least three Member States are directly involved and for which requests for or decisions on judicial cooperation, including regarding instruments giving effect to the principle of mutual recognition, have been transmitted to at least two Member States<sup>16</sup>.” Requests for assistance or information may also be received from other institutions or bodies, such as Europol, OLAF and the European Judicial Network (EJN). In the period from 2004 to 2017, 588 cases of corruption were registered at Eurojust. Chart 1 shows the number of corruption cases registered in comparison to all registered cases broken down by year<sup>17</sup>. Corruption cases were registered most frequently by Greece (102), Romania (58), Italy (34) and the United Kingdom (34).

**Chart 1: Registered corruption cases vs total number of registered cases by year**



<sup>14</sup> European Commission, EU Anti-Corruption Report, (Brussels, Belgium, 03.02.2014); [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/e-library/documents/policies/organized-crime-and-human-trafficking/corruption/docs/acr\\_2014\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/e-library/documents/policies/organized-crime-and-human-trafficking/corruption/docs/acr_2014_en.pdf) accessed on 12.09.2018.

<sup>15</sup> Article 5a of Eurojust Decision.

<sup>16</sup> Article 13(6) of Eurojust Decision.

<sup>17</sup> The Operations Department at Eurojust produced and analysed the relevant statistics covering the period from 1 January 2002 to 31 December 2017. There is no available data for the years 2002–2003. The sources for the statistics are the Case Management System (CMS) and data available on coordination meetings and JITs. Please note that Eurojust has only systematically collected information on coordination meetings and JITs from 2012 onwards. The data was retrieved on 20 September 2018.

Chart 2: Corruption cases registered by Member State

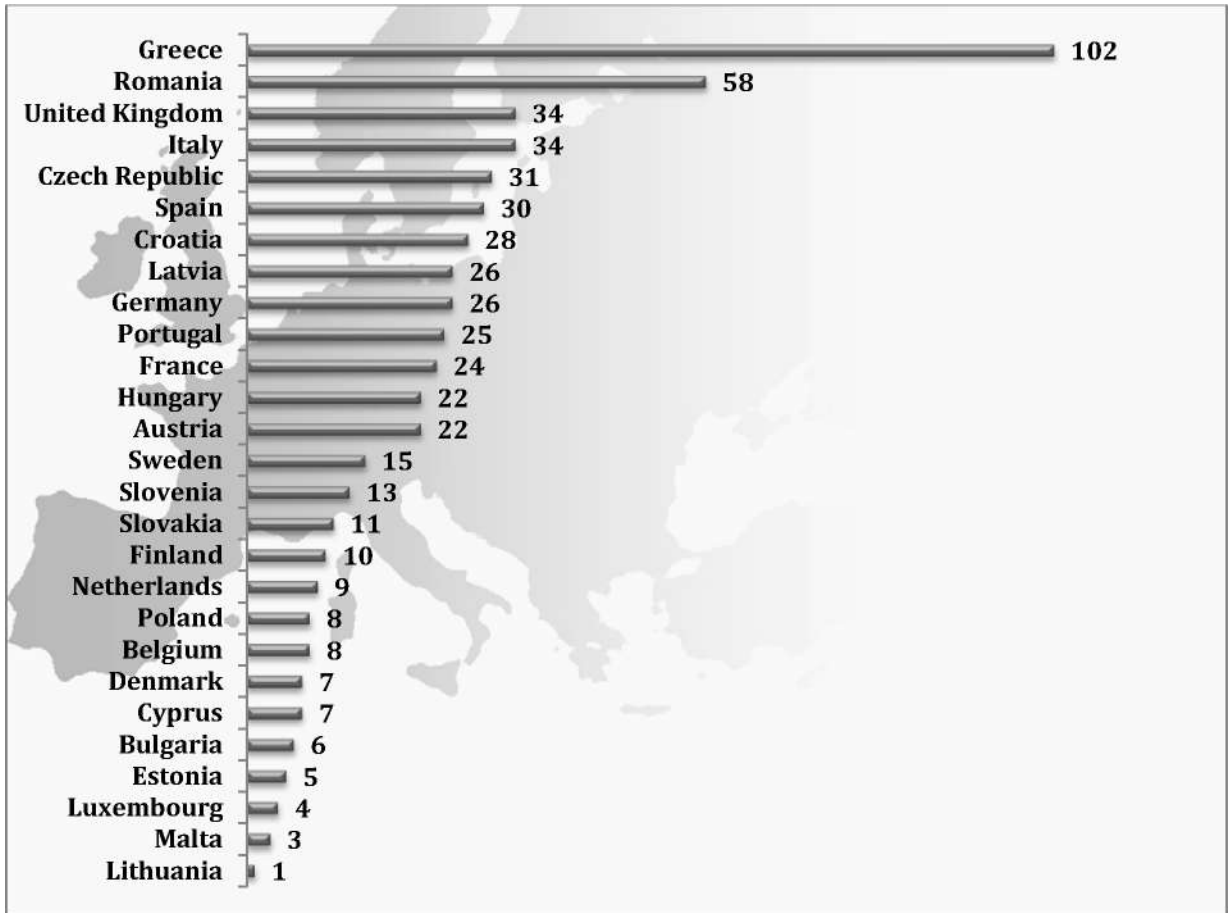
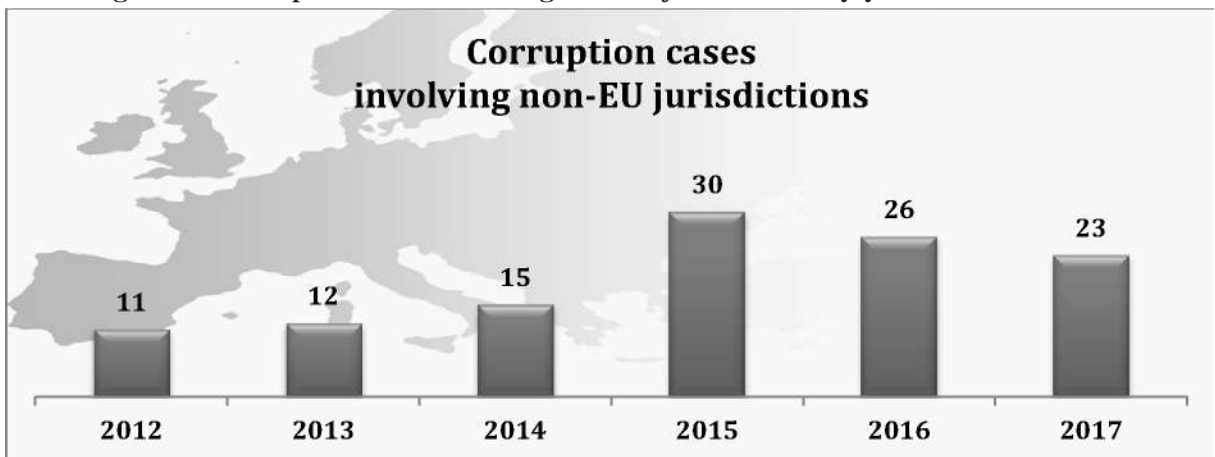


Chart 2 shows the number of cases registered by each Member State. Ireland did not register any corruption cases at all in this period.

A total of 117 Eurojust corruption cases involving non-EU jurisdictions were registered at Eurojust; these are shown broken down by year in Chart 3 and by country in Chart 4.

Chart 3: Registered corruption cases involving non-EU jurisdictions by year



**Chart 4: Registered corruption cases involving non-EU jurisdictions by country in the period from 2012 to 2017<sup>18</sup>**



After receiving an LoR or European investigation order from domestic national authorities or a National Member of another Member State, the request or European investigation order should be examined by the National Member visually<sup>19</sup>, linguistically<sup>20</sup> and for content<sup>21</sup>. Depending on the complexity of the case and possibility of resolving issues related to the request and its swift and efficient execution, the National Member may discuss at a preparatory meeting<sup>22</sup> with the National Member(s) concerned an assessment of the need, purpose and objective of a coordination meeting<sup>23</sup>.

## 2. Organisation of Coordination Meetings

The purpose of a coordination meeting is to stimulate and achieve agreement between national authorities on their cooperation and/or the coordination of investigations and prosecutions at national level. In order to organise a coordination meeting, the National Member(s) have to check the availability and necessity of the national authorities' participation at this coordination meeting<sup>24</sup>, the use of videoconferencing for all or some of the participants as an alternative to their being physically present at the coordination meeting, confidentiality and disclosure obligations, decide on whether interpretation services are required

<sup>18</sup> On 1 July 2013 Croatia joined the EU and Eurojust, so for that reason was not considered to be under EU jurisdiction before that date.

<sup>19</sup> Whether the request is signed, stamped and readable because sometimes scans of copies are not very good quality.

<sup>20</sup> Quality of translation.

<sup>21</sup> Description of the offence; statutory qualification of the offence and evidence on which suspicion rests; what is requested (perhaps publicly available information is requested and can be immediately provided by the National Member. For instance in Slovenia there is a register of bank account numbers assigned to legal persons but not physical persons; in order to obtain the bank account number of a physical person an LoR is needed); urgency of the case (statute of limitations is about to expire, detention, covert measures, media coverage); supplementary information for LoR possibly needed (missing information; mostly orders/decisions by competent authority).

<sup>22</sup> So-called Level II meeting.

<sup>23</sup> So-called Level III meeting.

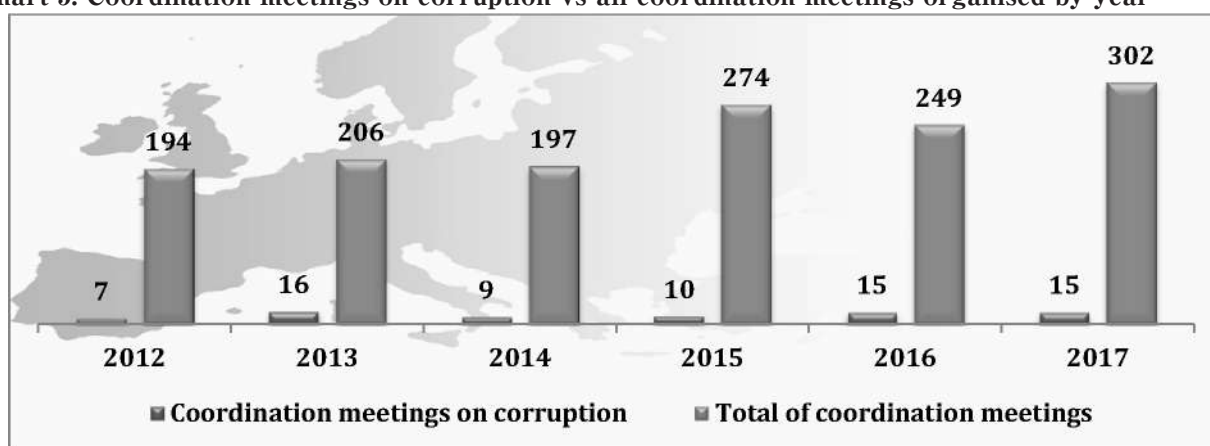
<sup>24</sup> If one Member State only has to provide bank records, it is not necessary for its authorities to participate in the coordination meeting.

during the coordination meeting and on the venue of the coordination meeting<sup>25</sup>.

For an efficient coordination meeting to take place, the National Member should explain the assistance requested for facilitation, support and coordination or information to their national authorities that are participating in the meeting<sup>26</sup> before the coordination meeting is actually held. National Member(s) should anticipate and propose to address practical and legal issues at the coordination meeting to participants of the coordination meeting and prepare the requested documents or evidence in advance so they can be shared at the coordination meeting. For reasons of efficiency, the participants of the coordination meeting are asked to prepare a short presentation briefly explaining the facts of the case and focusing on explaining what kind of evidence is in their possession and what requests they will make of other participants at the coordination meeting<sup>27</sup>. The presentations should be sent in advance to the responsible organiser at Eurojust in order to prepare the necessary materials for the meeting.

Chart 5 and Chart 6 show the number of coordination meetings on corruption in comparison to all coordination meetings organised broken down by year and which Member States organised and participated in them<sup>28</sup>.

**Chart 5: Coordination meetings on corruption vs all coordination meetings organised by year**



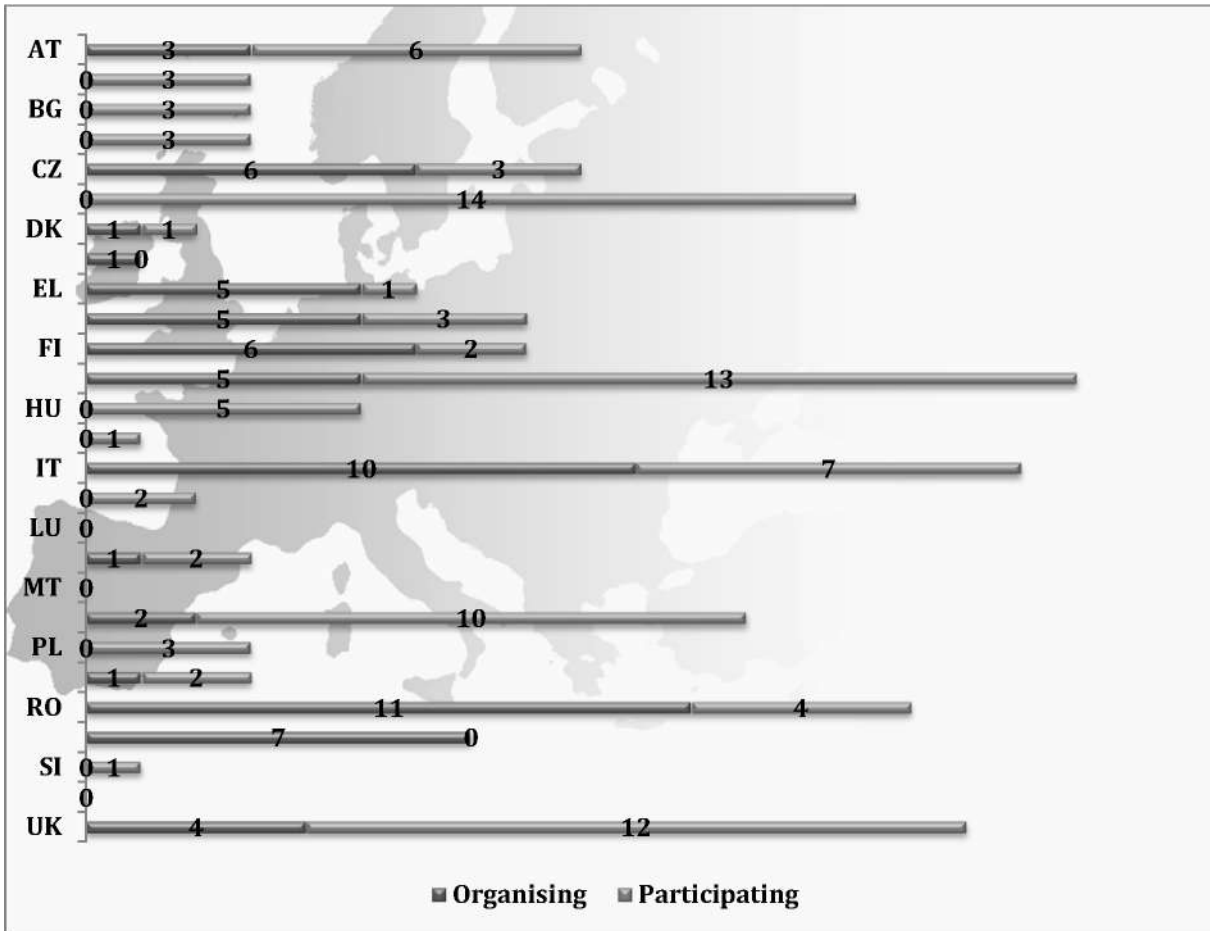
<sup>25</sup> In principle it should be held at Eurojust premises but it can be also elsewhere if this reduces costs, if critical participants in the Member State concerned are able to attend and for other reasons of convenience related to the operational needs of the case.

<sup>26</sup> Prosecutors, judges, magistrates, police officers or others from the national authorities who are in charge of the case and the National Members concerned. Liaison Magistrates and representatives from third States involved may be invited. If the coordination meeting is held in The Hague, Eurojust covers catering and lunch during the coordination meeting, accommodation for one night and travel expenses for only two participants from each involved State. Simultaneous interpretation could also be provided, which allows direct communication between the participants on legal and practical issues.

<sup>27</sup> Whether they are planning to issue or execute requests for additional evidence, discussion of prevention and/or settlement of conflicts of jurisdiction and related procedural steps; establishment of joint investigation teams; possibilities for transfer or taking over the proceeding, planning of a common action day and coordination centre etc.

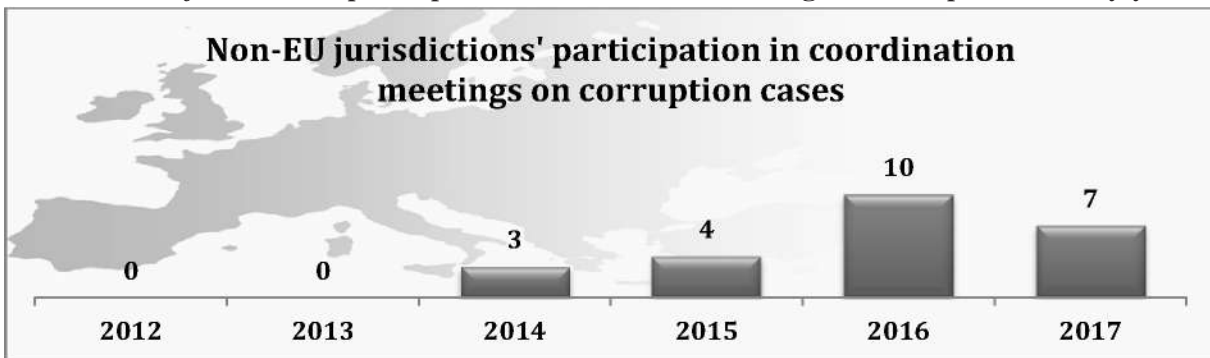
<sup>28</sup> Please note that Eurojust has only systematically collected information on coordination meetings from 2012 onwards.

Chart 6: Member States organising and participating in coordination meetings on corruption



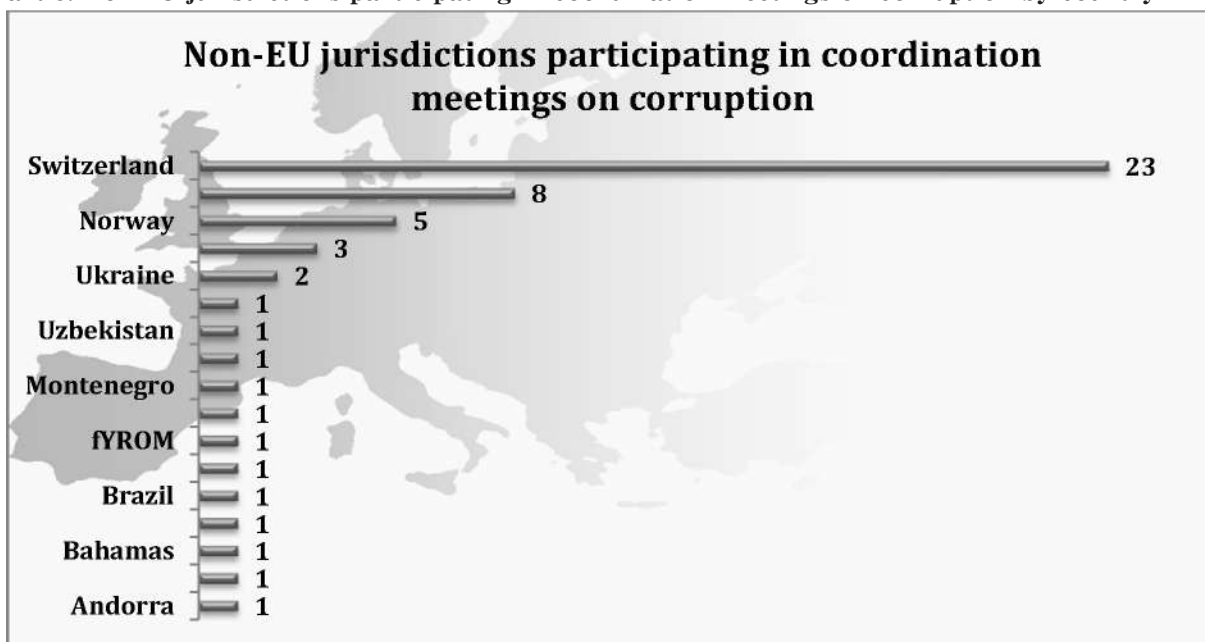
Representatives of non-EU jurisdictions participated in a total of 24 coordination meetings held on corruption cases in the period from 2012 to 2017 but please bear in mind that in 2012–2013 no third State representatives participated in any coordination meetings on corruption.

Chart 7: Non-EU jurisdictions participation in coordination meetings on corruption cases by year





**Chart 8: Non-EU jurisdictions participating in coordination meetings on corruption by country**



### 3. Setting Up and Financing of Joint Investigation Teams

The second international cooperation tool that Eurojust has to offer to practitioners in the fight against corruption is its assistance in establishing and financing JITs. Firstly I would like to briefly present some basic facts about JITs, such as the statutory framework and the prerequisites for their establishment; the content of JIT agreements; the structure and activities of JITs; and the benefits and problems associated with JITs.

A JIT is established with an agreement between competent authorities of two or more States to carry out criminal investigations on their territory for a limited time period. The statutory framework usually regulates the conditions under which the JIT must be set up and its working methods. There are regulations in place for the establishment and operation of JITs between EU Member States<sup>29</sup>, other regulations govern JITs between EU Member States and third States<sup>30</sup> and some regulations governing JITs were adopted by the United Nations General Assembly<sup>31</sup>.

The establishment of a JIT is required in cases where an ongoing investigation in one State requires

<sup>29</sup> Convention established by the Council in accordance with Article 34 of the Treaty on European Union, on Mutual Assistance in Criminal Matters between the Member States of the European Union; Article 13; Official Journal of the European Communities C 197/1 dated 12 July 2000 and Council Framework Decision of 13 June 2002 on Joint Investigation Teams (2002/465/JHA); Official Journal of the European Communities L 162 dated 20 June 2002.

<sup>30</sup> I. Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959; Article 20; Council of Europe; European Treaty Series – No. 182;

II. Agreement between the European Union and the Republic of Iceland and the Kingdom of Norway on the application of certain provisions of the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between the Member States of the European Union and the 2001 Protocol; Official Journal of the European Communities L 26 dated 29 January 2004;

III. Agreement between the EU and the US on mutual legal assistance; Article 5; Official Journal of the European Communities L 291, 7 November 2009;

IV. Police Cooperation Convention for Southeast Europe (PCC SEE) of 5 May 2006 applicable between several Member States (Austria, Bulgaria, Hungary, Romania and Slovenia) and countries of the Balkans (Albania, Bosnia and Herzegovina, FYROM, Moldova, Montenegro and Serbia); Article 27; and

V. Convention on Mutual Assistance and Co-Operation between Customs Administrations of 18.12.1997, Article 24.

<sup>31</sup> I. United Nations Convention against Transnational Organised Crime of 15 November 2000; Article 19;

II. United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 20 December 1988; Article 9;

III. United Nations Convention against Corruption of 14 December 2005; Article 49.

complex and demanding investigative activities by other States and where the circumstances of the case necessitate coordinated and harmonised action by all the States involved. A JIT should be established at as early a stage in the procedure as possible. Please bear in mind that the severity of the criminal offence committed is less important than its cross-border nature. Usually the request to establish a JIT comes from competent authorities of one State; it is rarely at the request of Eurojust. Before setting up a JIT, it is advisable for the competent authorities to meet and review the case files and exchange relevant documentation.

The content of an agreement for establishing a JIT is best defined at the beginning of operational activities. I propose that only general elements be defined in the agreement and that the description of the facts of the case and the type of the offence should be brief as possible. My advice would also be that rather than citing and presenting numerous domestic material and procedural criminal provisions in the agreement, the JIT parties should instead only state that JIT must carry out its operations in accordance with conditions stated in Article 13 of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union or another international document and the law of the (Member) State in which it operates and by stating only the provisions of domestic legislation regarding establishment of JIT.

A model agreement<sup>32</sup> has been developed<sup>33</sup> to facilitate the setting up of a JIT in 23 different official languages. National Members at Eurojust, with the help of the JITs Network Secretariat,<sup>34</sup> can provide assistance in drafting the JIT agreement and discussing which clauses are required to supplement or deviate from the model agreement. Parties to the agreement are national authorities and not necessarily persons in charge of the case. Nevertheless, parties designate the persons in charge of the case as JIT leaders and other members of the JIT. JIT objectives are to gather evidence and share relevant information, to identify those responsible and where appropriate to disrupt their activities and use evidence gathered for the purpose of prosecution and the seizure and confiscation of the proceeds of crime in involved States. Parties should agree not only on which authority should investigate but more importantly also on which authority will prosecute whom. Parties to the JIT should also agree in which involved States JIT will operate and its duration and scope. The parties may also agree on some other details<sup>35</sup>.

A JIT consists of a team leader, team members and team participants. The team leader is usually a prosecutor or judge due to the fact that a JIT is considered a special form of mutual legal assistance. The team should have one leader, but practice to date has shown that countries prefer multiple leaders to be appointed, i.e. one team leader for each involved State. The team leader must be informed about each investigative measure and operational activity. Team members are mostly representatives of law enforcement. The role, purpose and tasks of other team participants such as the National Member at Eurojust, Europol, OLAF or FBI should be clearly designated in the agreement. National Members are entitled to participate in JITs and National Members must be invited to participate when a JIT benefits from EU funding<sup>36</sup>. The question of whether other national authorities such as tax office, customs and excise administration, office for prevention of money laundering, court of audit, etc. could be a member of JIT can only be answered by domestic legislation. In Slovenia they cannot because Article 161b of the Slovenian Criminal Procedure Act states that the agreement on the establishment and operation of joint investigation teams in the territory of the Republic of Slovenia or other countries has to be concluded by the Public Prosecutor General after obtaining the opinion of the Director General of the Police, meaning that only these two organisations can participate in JITs.

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<sup>32</sup> This document can be downloaded from the Eurojust website: <http://www.eurojust.europa.eu/doclibrary/JITs/JITs%20framework/Model%20Agreement%20for%20setting%20up%20a%20Joint%20Investigation%20Team/JIT-2017-MODEL-EN.pdf> accessed on 13.09.2018.

<sup>33</sup> Council Resolution on a Model Agreement for setting up a Joint Investigation Team (JIT), Official Journal of the European Communities C 18 dated 19 January 2017.

<sup>34</sup> The JITs Network Secretariat was established in 2011 in accordance with Article 25a(2) of Eurojust Decision. The Secretariat promotes the activities of the Network, supports the National Experts in their work and since September 2013 it is also responsible for the funding of JITs.

<sup>35</sup> Such as possible changes to the agreement; performance assessment and work evaluation every three to six months or not at all; language of communication; communication with the media; right to carry firearms; costs/expenditures/insurance; translation/interpretation expenses; financial support for the JIT (submission of applications for EU funding – dedicated form); use of facilities (office accommodation, vehicles, other technical equipment); etc.

<sup>36</sup> Article 9f of Eurojust Decision.

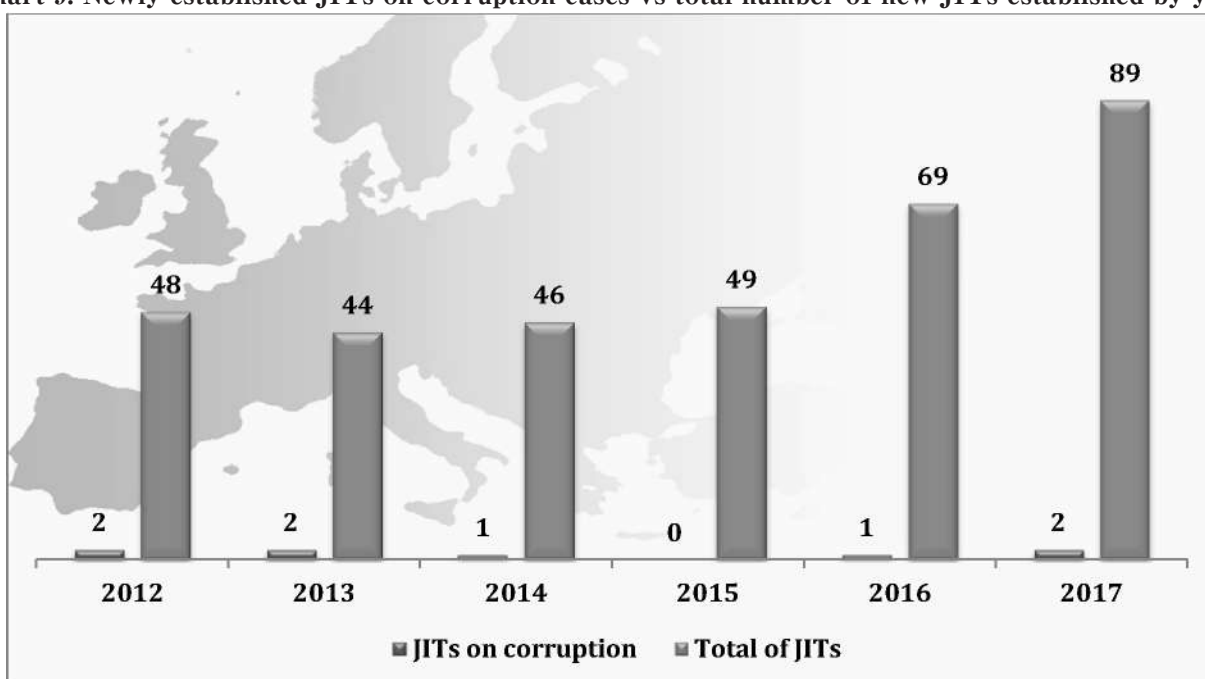
Team members must have clear information and guidelines regarding differences in criminal legislation of the involved States and evidence-gathering methods to ensure the admissibility of evidence. Team members should be aware of the hierarchy and competences of other JIT members or participants. A JIT is usually established in a State where the investigation is predominantly expected to take place but that does not mean that all members have to be physically in same the location. JIT members can regularly meet and exchange information in person, by exchanging emails or holding telephone conversations. In some cases, each State can undertake operational actions in its territory, but may act outside its territory if so agreed (house searches and interrogations, review of seized documents; presence on the spot). The JIT organisation should be determined on a case-by-case basis and consideration should also be given to the costs of making staff available, the length and nature of the investigation, number of judicial bodies, etc.

One of the best advantages of JIT in comparison with MLA requests is that each involved State operates in line with its own laws and that there is joint decision-making as to what operational activities should be carried out and when, and which authority will prosecute whom. There is direct exchange of information between JIT members and direct requests for investigative actions between team members, which means that MLA requests are not needed. As a consequence, JITs save time and money. Team members can also be present during home searches and the interrogation of witnesses and suspects, something which can bring added value to the investigation of criminal offences. Informal exchange of specific knowledge takes place between team members. When National Members at Eurojust are invited to participate in JITs, this means that JIT members and/or national authorities can also benefit from EU funding.

In complex cross-border cases where sometimes huge amounts of documents are gathered despite a JIT being established, lengthy and costly translations may delay investigation and prosecution. That is why it is important for the team members to be fluent in the language of another involved State. If that is not possible, then they should at least be fluent in a language that is used in communications and defined in the JIT agreement<sup>37</sup>. JIT members should also try to benefit from funding which is available and provided by Eurojust.

In the period from 2012 to 2017, 12 JITs on corruption (3.5% of all JITs, 345 JITs in total) were established. Chart 9 and Chart 10 illustrate the number of new JITs on corruption in comparison to all new JITs established broken down by year<sup>38</sup> and by participating country.

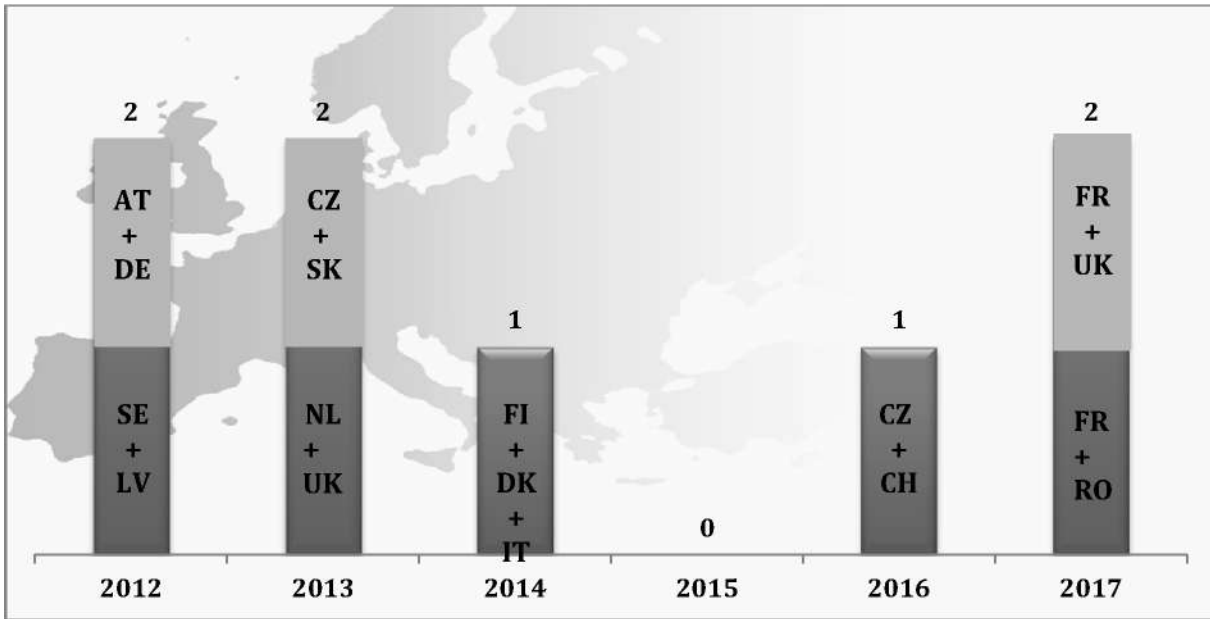
**Chart 9: Newly established JITs on corruption cases vs total number of new JITs established by year**



<sup>37</sup> Usually English is the language used.

<sup>38</sup> Please note that Eurojust has only systematically collected information on JITs from 2012 onwards.

**Chart 10: Newly established JITs on corruption cases by year and by participating country**



There was one corruption JIT with a third State (Switzerland) in 2016.

**4. Setting Up of Coordination Centres**

Eurojust can also offer a third international cooperation tool to practitioners in the fight against corruption: the organisation of coordination centres. In cases where involved States have a joint action day<sup>39</sup>, they should consider the possibility of coordinating their national authorities and immediate exchange of operational information and/or evidence or resolving any other legal and practical issues by setting up a coordination centre. A dedicated meeting room is available at Eurojust premises for this exact purpose. This room is equipped with the requisite technical equipment, such as computers, printers, telephones and videoconference facilities (dedicated lines), which can be used by participants from national authorities, National Members and Eurojust staff responsible for the technical facilities, other administrative matters and for the joint press release.

The first coordination centre was organised in 2012 and coordination centres started to be used as a tool for judicial cooperation in cross-border cases. A total of 50 coordination centres have been organised since then but none for a corruption case.

**III. CONCLUSION**

The fight against corruption does not manifest merely in implementing sets of reforms and regulations into national and international legislation; it is also manifested in law enforcement, prosecution and judicial proceedings. If the fight against corruption is not effective in cases when corruption-related criminal offences were detected, then we can say that crime does pay. Practitioners from Member States dealing with corruption cases usually have many legal and practical issues which they need to resolve and this is where Eurojust comes perfectly into play. The role and significance of Eurojust’s work in the field of multilateral judicial cooperation, coordination and exchange of information in cases involving serious cross-border crime is being increasingly recognised by practitioners in Member States because Eurojust is providing its effective coordination, cooperation and support services on a daily basis to national authorities in operational cases, mainly as follows:

- its ability to act on a 24 hour/7-day basis;
- facilitating transmission of information;

<sup>39</sup> Operational activities are executing simultaneously in involved States.

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- advising on drafting LoR and European investigation orders before their issue, including translation of these documents;
- speeding up the execution of LoR and European investigation orders;
- identifying and analysing legal issues and practical difficulties;
- providing possible solutions to legal issues and practical difficulties;
- collecting and analysing information coming from the Member States conducting investigations into possible further links and new aspects of investigation;
- organising coordination meetings and setting up coordination centres;
- stimulating further exchange of information during and after coordination meetings and coordination centres;
- developing and sharing best practices against corruption;
- raising awareness in the fight against corruption;
- avoiding duplication of investigations and prevention of the conflicts of jurisdiction and double jeopardy (“ne bis in idem”);
- numerous formal and informal contacts inside and outside the EU; and
- facilitating the setting up of JITs and their funding.