

## Montenegro and the EUROJUST

Summary: 1. EUROJUST as a Bypass for National and International Gaps in Mutual Legal Assistance: Montenegrin View.

### *1. EUROJUST as a Bypass for National and International Gaps in Mutual Legal Assistance: A Montenegrin View.*

Global events, in the form of various conflicts, unfortunately often lead to an increase in crime. The formation of organised criminal groups is motivated by the creation of power circles, which in turn are created by money. Large sums of money are obtained through the most serious criminal offenses. Close cooperation between law enforcement agencies provides an adequate and strong response to these criminal structures in the form of confiscation of all income and property acquired through crime, which reduces their power. When the power disappears, the purpose of the existence of criminal organizations vanishes.

We strive for joint success in the fight against crime. State prosecutors of different countries must have legal bases on which they base their international cooperation in this fight against crime. However, perpetrators of criminal offenses do not need formal conditions for cooperation; they organise and collaborate worldwide.

The unpredictable and planetary operation of criminal organizations has shown us that state prosecutors must strengthen their mechanisms of direct cooperation. Since Montenegro is not a member of the European Union, the traditional system of international legal assistance in criminal matters is applied. International legal assistance is provided on the basis of multilateral (Conventions of the Council of Europe and the United Nations) and bilateral agreements, and if there is no international treaty, domestic legislation is applied. Bilateral agreements, especially with countries in the region, provide the possibility of effective cooperation, as a large number of international legal assistance cases formed in Montenegro involve individuals residing in the countries of the region.

<sup>▪</sup> State Prosecutor at the Supreme State Prosecution Office of Montenegro and Liaison Prosecutor to EUROJUST.

The Law on International Legal Assistance in Criminal Matters of Montenegro regulates the conditions and procedure for providing international legal assistance in criminal matters, and this law actually elaborates the norms contained in ratified conventions.

To provide international legal assistance, it is necessary to send a request, whereby the domestic judicial authority addresses the competent judicial authority of a foreign state, in order to collect certain information, data, and evidence necessary for effective proceedings in national criminal cases. The central communication organ for international legal assistance cases is the Ministry of Justice of Montenegro. However, among other things, with the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters from 1959, it is also possible to send and receive requests directly, i. e., competent judicial authorities can communicate directly.

In the case of direct cooperation, certain challenges may arise in terms of „identifying” the competent authority to whom the request should be sent, the form of the request, the content of the request in terms of its effective execution by the competent authority of the requested state, etc.

The possibility of overcoming these challenges in practice is enabled through cooperation with Eurojust — the European Agency for Judicial Cooperation in Criminal Justice. Through this agency, Montenegrin prosecutors have the opportunity to cooperate with prosecutors from EU member states, as well as with colleagues from third countries that have concluded cooperation agreements with Eurojust. The network of contact points for cooperation with Eurojust is spread across all continents.

The State Prosecutor’s Office of Montenegro achieves significant and successful cooperation with Eurojust. The cooperation was established based on the Law on Ratification of the Cooperation Agreement between Montenegro and Eurojust. Since December 2017, Montenegro has had its office at Eurojust. Since this date, the state liaison prosecutor for Eurojust has been performing work tasks, precisely in this office.

The multiple important aspects of cooperation through Eurojust are recognised in various forms. Through Eurojust, support is provided to Montenegrin prosecutors in dealing with cases with a foreign element. From receiving advice on how to initiate the process of international legal assistance, to the possibility of direct communication with colleagues from the states to which it is intended to send a request, and discussion of certain segments of this international request process through participation in coordination meetings and participation in joint investigative teams with colleagues from the EU member states’ prosecutors’ offices, these are just some of the advantages and benefits that cooperation through Eurojust provides.

Aware of the fact that the success of the fight against international crime depends on the intensive cooperation of prosecutors at the regional, European, and global level, we must strengthen mutual trust, which is the basis of successful prosecutorial cooperation, which shows that crime, no matter how complex its forms, cannot be more organised and stronger than united prosecutors.