EIPA European Institute of Public Administration

KRAJOWA SZKOŁA SĄDOWNICTWA I PROKURATURY

Crimes against financial interests of the EU

PIF Directive - Corruption

Funded by the European Union

EU's competence on corruption

Considered a money laundering predicate offence under EU Law

Article 67 TFEU

» The EU should ensure a high level of security, including through the prevention & combating of crime as well as the approximation of laws

Article 83 TFEU

» Provision designates corruption as a 'euro crime'

Article 325 TFEU

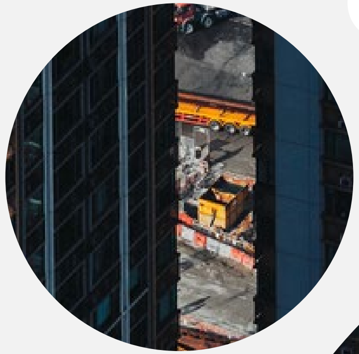
» The EU and the MS shall counter fraud and any other illegal activities affecting the financial interests through measures which shall act as a deterrent and be such as to afford effective protections in the MS and in all the Union's institutions, bodies, offices and agencies.

Legal basis for corruption as a criminal offence

PIF Directive

Member states shall take the necessary measures to ensure that passive and active corruption, when committed intentionally, constitute criminal offences

- Constitutes a particularly serious threat to the Union’s financial interests



Directive (EU) 2017/1371 on the fight against fraud to the Union’s financial interests by means of criminal law

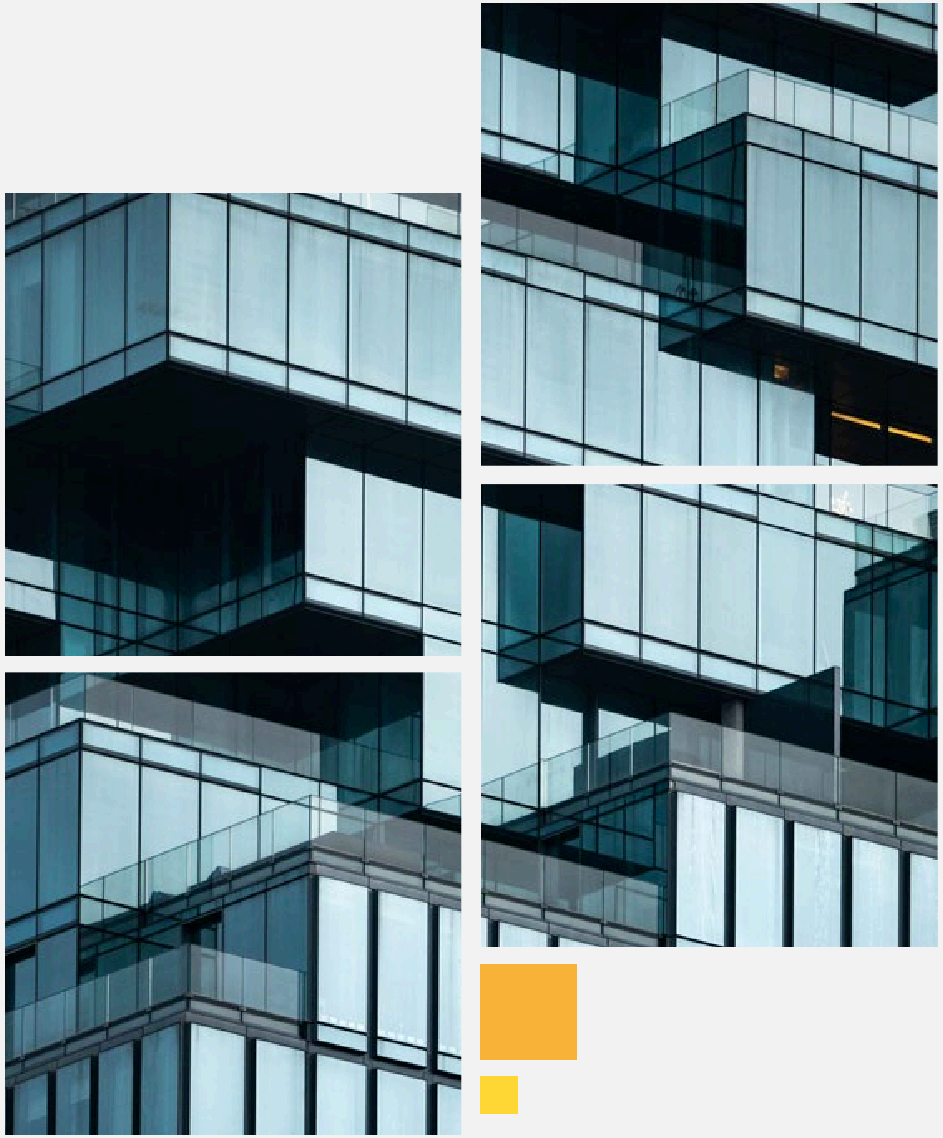
Article 4(2)

Passive corruption

Action of a public official who, directly or through an intermediary, requests or receives advantages of any kind, for himself or for a third party, or accepts a promise of such an advantage, to act or to refrain from acting in accordance with his duty or in the exercise of his functions in a way which damages or is likely to damage the Union's financial interests

Active corruption

Action of a person who promises, offers or gives, directly or through an intermediary, an advantage of any kind to a public official for himself or for a third party for him to act or to refrain from acting in accordance with his duty or in the exercise of his functions in a way which damages or is likely to damage the Union's financial interests



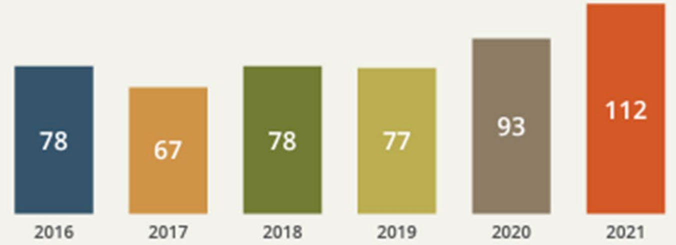
Public officials have a duty to exercise judgment or discretion impartially

1. Eurojust corruption casework at a glance

EUROJUST CASEWORK ON CORRUPTION 2016-2021

Corruption cases registered

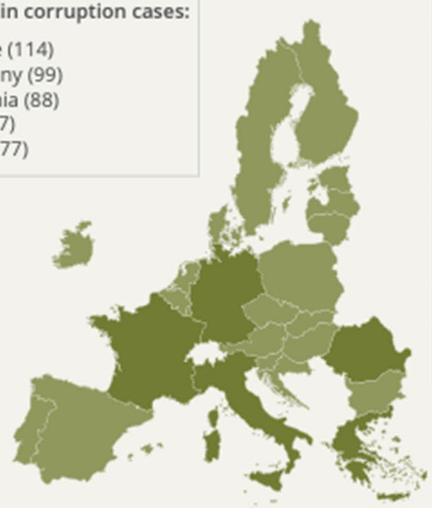
The number of corruption cases, while still low relative to overall casework registered at Eurojust in the 2016-2021 period, has been steadily increasing.



EU Member State involvement in registered corruption cases 2016-2021

Top 5 Member States involved in corruption cases:

- Greece (114)
- Germany (99)
- Romania (88)
- Italy (87)
- Spain (77)

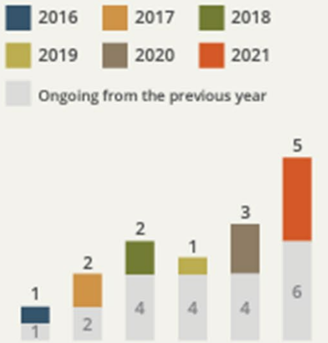


Member State	As owner	As requested participant	Total
Belgium	8	28	36
Bulgaria	22	16	38
Czech Rep.	13	21	34
Denmark	1	6	7
Germany	12	87	99
Estonia	1	10	11
Ireland	0	18	18
Greece	92	22	114
Spain	23	54	77
France	21	52	73
Croatia	24	13	37
Italy	34	53	87
Cyprus	6	38	44
Latvia	12	17	29
Lithuania	5	14	19
Luxembourg	1	19	20
Hungary	13	21	34
Malta	4	13	17
Netherlands	20	40	60
Austria	6	37	43
Poland	8	24	32
Portugal	17	13	30
Romania	71	17	88
Slovenia	4	10	14
Slovakia	15	13	28
Finland	2	10	12
Sweden	12	9	21

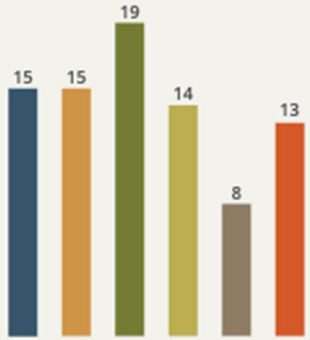
As owner · As requested participant · Total

Access to judicial cooperation tools

84 coordination meetings were organised in the 2016-2021 period to address corruption cases, enabling national authorities involved to share information and resolve legal and practical issues. Eurojust also supported **8 action days**, with real-time exchanges of information and evidence and synchronised operations, and **14 new joint investigation teams** (JITs).



Support to new and ongoing JITs



Coordination meetings

Access to jurisdictions worldwide

42 third countries were involved in Eurojust corruption cases in the period under review, highlighting the importance and added value of having a global network of contact points and Liaison Prosecutors stationed at Eurojust.

Top 10 non-EU states involved in corruption cases:

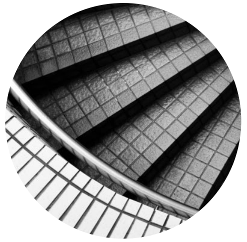
- Switzerland (92)
- Ukraine (28)
- United Kingdom (23)*
- United States (14)
- Serbia (12)
- Norway (10)
- Liechtenstein (9)
- North Macedonia (8)
- Moldova (7)
- Montenegro (6)

* data for UK considered from 1/2/2020

EUROJUST'S casework on corruption: 2016-2021 insights

» Includes predicate offences

Corruption as a financial crime



Recitals 8 jo. 9 of the PIF Directive

Should be included in the definition of corruption, irrespective of the law or regulations applicable in the official's country or to the international organization concerned

- Conducts by public officials such as taking bribes can negatively affect the Union's financial interests especially those entrusted with the management of funds or assets

Recitals 10 of the PIF Directive jo. Art. 83(1) TFEU

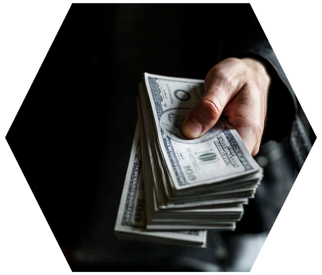
The element of intention is what distinguishes fraud/corruption from irregularities. Corruption is also included in the list of conducts that the EU is competent to criminalize

- Think of corrupt payments that facilitate other frauds such as false invoices, phantom expenditures, and failure to meet contract specifications among others

Fighting active and passive corruption in practice depends largely on the conditions that member states require to fulfill in order to fall under its scope

Some MS for instance require 'breach of duties' for both types of corruption

Other types of corruption



Bribery of national & public officials

Embezzlement, misappropriation & other diversion of property

Abuse of function

Illicit enrichment

Bribery & embezzlement of property in the private sector

Trading in influence

UN Convention against Corruption provided some examples of specific offences

Prosecutors across the EU are turning to Eurojust for:

EUROJUST

Rapid response (24/7) to judicial cooperation needs

Coordinated cross-border operations at Eurojust premises

Establishment and funding of **joint investigation teams (JITs)**

Advice and facilitation with the application of **European judicial instruments** (EAWs, EIOs, MLA requests)

OPERATIONAL RESULTS

- Solving conflicts of jurisdiction
- Arrests and surrenders
- Seizures of drugs and weapons
- Securing evidence
- Seizure/freezing of criminal assets

CRIME TYPES

- Terrorism
- Cybercrime
- Organised crime
- Crimes against life and limb
- Trafficking in human beings
- Drug trafficking
- Migrant smuggling
- Environmental crime
- Intellectual property crime
- Corruption
- Money laundering
- Swindling and fraud
- Other serious cross-border crimes

PIF crimes:

- Non-EPPO Member States
- Fraud against EU budget < €10 000
- VAT fraud < €10 million
- Involvement of non-EU countries
- Cases where the EPPO does not exercise its competence

Through its cooperation agreements, Liaison Prosecutors and contact points, Eurojust unlocks **global access to more than 60 jurisdictions**

privileged partnership

European Anti-Fraud Office (OLAF)

Administrative inquiries into irregularities of the EU budget

European Public Prosecutor's Office

EPPO EUROPEAN PUBLIC PROSECUTOR'S OFFICE

PIF crimes

Crimes against EU financial interests

OLAF and EUROJUST signed a MOA in 2003 highlighting the practical arrangements for cooperation and exchange of information

- Inform each other without delay of any info that concerns the other
- Establish contact points via magistrates' units

OLAF and EUROJUST signed a practical agreement in 2008 to enhance transparency & coordination of efforts

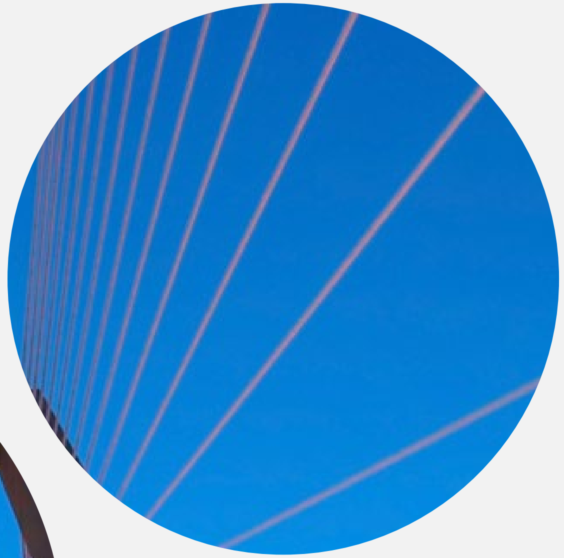
- Maintain close & regular contacts
- Regulate operation & strategic cooperation
- Collaborates in JITs
- Be involved in trainings and workshops

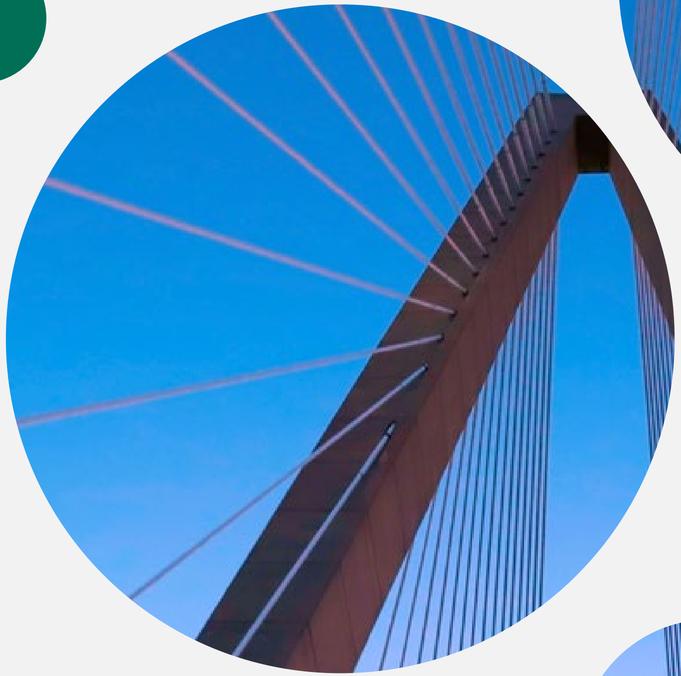
European Anti-Fraud Office

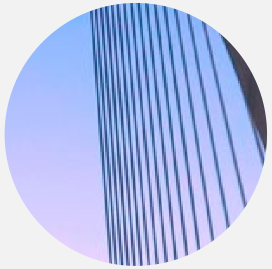
- Carries out independent investigations into fraud and corruption involving EU funds
- Develops EU anti-fraud policy to fight fraud & corruption
- Underwent reorganization in 2020 to strengthen its investigative capacity, internal controls & financial management as well as capitalize on the potential of its staff’s skills & experience

Carries out independent investigations into both fraud and corruption.

EU's anti-corruption proposals in 2023







EU network against corruption	
Proposed Directive on combating corruption aimed at modernizing existing EU anti-corruption legal frameworks	Expanding the CFSP sanctions toolbox to cover serious acts of corruption

2022 state of the union address by Commission Pres. Von der Leyen