



# WELCOME TO EUROJUST

European Union Agency for Criminal Justice Cooperation

# **ELI at 10 Prevention and Settlement of Conflicts of Exercise of Jurisdiction in Criminal Law**

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# Resolving jurisdiction conflicts

- ▶ No binding instrument establishing a mechanism to resolve conflicts of jurisdiction in criminal matters in the EU
- ▶ No prohibition against concurrent jurisdiction under international law
- ▶ Art.4 of Protocol No.7 to the ECHR prohibits consecutive proceedings but not concurrent proceedings

# Resolving jurisdiction conflicts in the EU

- ▶ Need to provide for procedural mechanisms to prevent parallel criminal proceedings
- ▶ Link with mutual recognition of judicial decisions in criminal matters
- ▶ Causes for positive conflicts of jurisdiction not changed through the years

# Principles upon which jurisdiction is exercised

- ▶ Principle of territoriality
- ▶ Principles of extraterritorial jurisdiction:
  - i. the personality principle (concerns the nationality of either the perpetrator or the victim)
  - ii. the universality principle (concerns crimes against humanity)
  - iii. the protective principle (it concerns acts endangering the sovereignty or national interest of the State)

# Urgency to address jurisdiction conflicts

- ▶ Transnational character of crime
- ▶ Cybercrime

# Available instruments in the EU

- ▶ Framework Decision 2009/948/JHA of 30 November 2009 on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings
- ▶ EJ (Art.4 para 4 Regulation 2018/1727 of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation Eurojust: written opinion; the competent authorities of the Member States **may refuse to follow the written opinion** if doing so **would harm essential national security interests, would jeopardise the success of an ongoing investigation or would jeopardise the safety of an individual**)

# Guidelines for deciding “Which jurisdiction should prosecute?”

- ▶ Key principles
- ▶ What to do? Or What we do?
- ▶ Most relevant factors



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