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From:	Presidency
To:	Permanent Representatives Committee/Council
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Subject:	Towards Digital Criminal Justice in the EU - Presentation by Eurojust

Delegations will find attached a paper by Eurojust entitled '*Towards Digital Criminal Justice in the EU*', which contains a question addressed to the Ministers.

When CATS examined this paper at its meeting on 21 November, a large majority of delegations expressed support for the Eurojust initiative to assess what could and should be done in order to achieve a fast, reliable and secure IT infrastructure for transmitting information between prosecutors and Eurojust, and between prosecutors across the Union. It was observed, however, that when making this assessment, existing systems and projects should be duly taken into account, as well as the need to achieve interoperability between the systems that are (going to be) used by other agencies and bodies, such as Europol, Frontex and the EPPO. Furthermore, it was pointed out that the interaction of this initiative with the draft 2019-2023 e-Justice Strategy (14200/18) would need to be taken into account. Finally, it was stated that due attention should be paid to budgetary aspects of the proposed exercise, and that it would be advisable to have more information in that regard.

Towards Digital Criminal Justice in the EU**Introduction**

Information sharing between judicial authorities has never been more important. Prosecutors need to know if their colleagues across the border are investigating the same suspect, if there is a link to a larger criminal or terrorist network, or if there is evidence available abroad that might help them to secure a conviction. Only then can Member States effectively investigate and prosecute cross-border cases and a comprehensive picture of criminal phenomena be developed at European level.

Present state of affairs

In recent years, the Member States have heavily invested in the Home Affairs agencies (Europol, EU-Lisa, Frontex), equipping them with state-of-the-art information gathering and sharing tools. Law enforcement authorities and EU Home Affairs agencies are now exchanging and processing operational information in a structured, encrypted, fully automated and interoperable way. While this is certainly a step in the right direction, it is important not to stop half-way.

Law enforcement and judicial cooperation are two sides of the same coin and information exchanged between police authorities today, should become admissible evidence in court tomorrow. Or to put it simply: there is no point in arresting suspects, if we do not manage to successfully bring them before a court.

There is currently no structured and integrated information system to support operational exchanges between judges and prosecutors at EU level. National prosecutors continue to work with systems that were not designed to exchange information with their colleagues abroad or with Eurojust. At the same time, Eurojust's own information sharing system still heavily relies on manual data entry and does not connect to other databases. As a result, there is a risk that 1) shared information is incomplete or not updated; 2) connected cases are not always timely identified; and 3) conflicts of jurisdiction are not detected or solved in time.

This means that Eurojust is not always in a position to provide Member States with the service that is expected by them, i.e. a complete and reliable feedback on cross-border judicial cases. This feedback is particularly crucial when it comes to information on counter-terrorism proceedings¹, as recognized in the Joint statement issued by seven Member States on 5 November 2018², calling for the creation of a ‘European Judicial counter-terrorism register’ at Eurojust.

Towards Digital Criminal Justice in the EU

In the Conclusions of the 18 October 2018 European Council meeting, the EU heads of state and government made an official call to provide Eurojust with “*adequate resources to face new challenges posed by technological developments and the evolving security threat landscape, including through (...) interagency cooperation and improved access to data*”. With this, they clearly acknowledged the need to modernise judicial cooperation in criminal cases across the EU.

Prosecutors in the Member States need tools to interact efficiently with their counterparts, as well as with Eurojust, the agency providing support in the field of EU judicial cooperation. Together, these tools would lead to a fast, reliable and secure IT infrastructure called *Digital Criminal Justice*.

With Digital Criminal Justice, prosecutors would no longer have to manually send case related information to Eurojust, because this is finally done in an automated and dedicated way.

Prosecutors who are members of the Eurojust National Coordination System (ENCS) would be able to remotely access Eurojust’s database and exchange, in real time, case-related information from their desks. All national authorities participating in a joint investigation team (JIT) would be able to plan operations and exchange information and evidence in a secure online environment.

This new approach to the EU’s information exchange infrastructure in the field of judicial cooperation should be easily accessible, user-friendly, swift, secure (encrypted), automated and interoperable between national authorities, Eurojust and other JHA agencies.

¹ In accordance with Council Decision 2005/671/JHA.

² http://www.eurojust.europa.eu/press/PressReleases/PublishingImages/2018-11-05_Ministers-Declaration_EN.JPG

The way forward

A general endorsement of the need to enhance information sharing systems in the areas of judicial cooperation highlighted in this discussion paper would be an important first step towards an EU Digital Criminal Justice – that is, towards building the fast, reliable and secure IT infrastructure prosecutors across the EU need to ensure a safer Europe.

It is acknowledged that Member States will need more detailed information to make a final decision. Eurojust is prepared to develop a set of concrete proposals towards enhancing information sharing systems in the areas of criminal justice.

Point for discussion by Ministers:

➔ *Do Ministers agree that Eurojust – in close liaison with partners and stakeholders – develops and presents to the Council concrete proposals towards enhancing information sharing systems in the area of criminal justice?*
