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**NOTE**

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From: Presidency  
To: Permanent Representatives Committee/Council

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Subject: Draft Council Conclusions on enhancing the capacities of the European  
Judicial Cybercrime Network (EJCN)  
- Approval

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Further to discussions at the meeting of JHA Counsellors on 22 November 2022, and following an informal silence procedure that ended on 25 November 2022, the Presidency concludes that there is no objection to the text of the draft conclusions as set out in annex to this note.

Subject to confirmation by Coreper, the Council is invited to approve the conclusions as set out in annex to this note.

**DRAFT COUNCIL CONCLUSIONS ON ENHANCING THE CAPACITIES OF THE  
EUROPEAN JUDICIAL CYBERCRIME NETWORK**

**Background**

1. The December 2021 Europol Internet Organised Crime Threat Assessment (IOCTA) emphasizes the continued threat cybercrime poses to our society.<sup>1</sup> The latest EMPACT priorities (2022-2025) highlight the fight against cybercrime, including cyber attacks, child sexual exploitation and online fraud, as a priority of the European Union in the fight against serious and organised crime.<sup>2</sup> The fight against this type of crime has been a priority for national, European and international law enforcement for decades.
2. It is in the context of this threat that the Council conclusions of 9 June 2016 on the European Judicial Cybercrime Network<sup>3</sup> called for the setting up of a European Judicial Cybercrime Network (hereafter ‘EJCN’) that would provide a centre of specialised expertise supporting judicial authorities, i.e. prosecutors and judges dealing with cybercrime, cyber-enabled crime and investigations in cyberspace. To this end, the Network would facilitate and enhance cooperation between the competent judicial authorities dealing with cybercrime, cyber-enabled crime and investigations in cyberspace, respecting the structure and the competence within Eurojust and of the EJC.

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<sup>1</sup> <https://www.europol.europa.eu/publications-events/main-reports/iocta>

<sup>2</sup> Council conclusions of 26 May 2021 setting the EU's priorities for the fight against serious and organised crime for EMPACT 2022 – 2025, doc. 8665/21

<sup>3</sup> <https://www.consilium.europa.eu/media/24301/network-en.pdf>

3. Following the adoption of the conclusions, the EJCN was created in the form of an operationally autonomous network hosted by Eurojust. The synergies between the EJCN and Eurojust or between the EJCN and other networks would be ensured in line with Council conclusions ‘Synergies between Eurojust and the networks established by the Council in the area of judicial cooperation in criminal matters’ of 18 June 2019.<sup>4</sup>
4. Since 2016, the EJCN has organised two plenary meetings per year and has set up five subgroups with specific activities and deliverables on e-evidence, virtual currencies, case-building, data retention and training. The Network and the work of the subgroups have given most valuable contributions to the fight against cybercrime.
5. Eurojust provides logistical and organisational support to the Network through the EJCN Support Team, composed of one fully designated Seconded National Expert and another four Eurojust staff members who are, however, able to support EJCN activities only partially. The current setup is thus not sufficient to fully meet all EJCN needs.

### **State of play**

6. In the last few years, threats from cybercrime and cyber-enabled crime have continued to rise exponentially.<sup>5</sup> The 2021 Europol IOCTA also sets out that the COVID-19 pandemic has strengthened this rise, as online activities increased considerably during the periods of restricted movement in many states. In this context, the EJCN has already proven its value as a key actor in the fight against cybercrime at Union level.

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<sup>4</sup> [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52019XG0618\(01\)&from=GA](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52019XG0618(01)&from=GA)

<sup>5</sup> See for example Europol Internet Organised Crime Threat Assessment, <https://www.europol.europa.eu/publications-events/main-reports/iocta> and the ENISA Threat Landscape report, <https://www.enisa.europa.eu/publications/enisa-threat-landscape-2021>.

7. However, it appears evident that the full potential of the EJCEN cannot be reached as long as it lacks its own organisation and operates to a large extent on an ad hoc basis. The Council has already noted the weakness of the current structure. In the Council conclusions ‘Synergies between Eurojust and the networks established by the Council in the area of judicial cooperation in criminal matters’ of 18 June 2019<sup>6</sup>, the need for the establishment of a formal EJCEN Secretariat to support EJCEN activities was highlighted. However, this call for action has still not produced any results.

### The way forward

8. Over the coming years, there is a need for more effective support and guidance for European judicial authorities on a number of relevant but complex issues, such as:
- Modern technologies and their abuse by criminals are evolving quickly, from encryption and ransomware to cryptocurrencies and the use of the dark web. Dealing with these topics in the context of an investigation requires support based on highly specialised knowledge.
  - The availability of digital data and e-evidence for judicial authorities. Judicial authorities need hands-on support in overcoming recurring challenges resulting in particular from divergent data retention rules, encryption and cooperation with the private sector.
  - The implications of the changing legal framework (e.g. the Second Additional Protocol to the Council of Europe ‘Budapest’ Convention on Cybercrime, future new legislation on European Preservation and Production Orders for electronic evidence in criminal matters, harmonised rules on Artificial Intelligence) as well as guidance on new developments in key third countries (e.g. the United States Clarifying Lawful Overseas Use of Data (CLOUD) Act).

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<sup>6</sup> [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52019XG0618\(01\)&from=GA](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52019XG0618(01)&from=GA)

The EJCEN could provide effective support and guidance to judicial authorities on these and other issues. However, in order to do so in an efficient and effective way it must be provided with appropriate and sufficient tools and resources.

9. In this sense, the creation of a permanent EJCEN support structure, subject to the allocation of additional financial and staff resources, without prejudice to point 130 of the European Council conclusions of July 2020 on optimisation of staff resources at the current level and on deepening interinstitutional cooperation<sup>7</sup>, would appear to meet a real and pressing need of qualified support for the EJCEN. This can be achieved by establishing a permanent Secretariat to the European Judicial Cybercrime Network (EJCEN Secretariat), which would support the activities of the EJCEN.
10. The EJCEN Secretariat should function as a necessary support structure for the EJCEN to enable the EJCEN to meet the needs and expectations of practitioners involved in the field of cybercrime as well as to maintain and further develop synergies between the EJCEN and other networks and between the EJCEN and Eurojust. In particular, cooperation of the EJCEN with the European Cybercrime Centre (EC3) at Europol and the synergies between the two would need to be strengthened. Establishing the Secretariat at Eurojust would be in line with the current situation of the secretariats of the other networks.
11. The EJCEN Secretariat should support the EJCEN in providing a centre of specialized expertise and information supporting practitioners as well as assist the EJCEN with the preparation of its meetings, documents and similar tasks. The EJCEN Secretariat should also support the EJCEN's efforts to continue and strengthen the cooperation with private entities as this seems to be one of the ways of investigating cybercrime and cyber-related crimes. In addition, as cyber-world is developing rapidly, the EJCEN Secretariat should support the EJCEN in maintaining a close contact with universities and researchers in order to identify recent trends and thus being able to prepare practitioners for problems that might come.

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<sup>7</sup> European Council conclusions of July 2020, doc. EUCO 10/20

12. The Council encourages further discussions and activities of the EJCN, Eurojust and other subjects concerned with the aim to increase the support of the practitioners in the area of combating the cybercrime to ensure adequate and future proof functioning support of their activities.

**THE COUNCIL OF THE EUROPEAN UNION  
THEREFORE CONCLUDES THAT**

- A.** The European Judicial Cybercrime Network has proven to be an important and valuable actor in the Union's efforts to fight cybercrime. It must be ensured that this operationally autonomous Network can continue and develop its work further.
- B.** A permanent support structure in the form of the Secretariat to the European Judicial Cybercrime Network with sufficient resources should be created as a matter of priority.
- C.** Eurojust is encouraged to continue to support the EJCN.