



Council of the
European Union

Brussels, 12 January 2021
(OR. en)

5196/21

JAI 21
COPEN 13
EUROJUST 6
EJN 5

NOTE

From: General Secretariat of the Council
To: Delegations

Subject: Conclusions of 16th Annual Meeting of the National Experts on Joint Investigation Teams - 10 November 2020, Eurojust, The Hague

Delegations will find in the Annex the Conclusions of 16th Annual Meeting of the National Experts on Joint Investigation Teams (JITs), which took place on Tuesday 10 November 2020 and was conducted using the videoconferencing tool at Eurojust, The Hague.



Conclusions of 16th Annual Meeting of the National Experts on Joint Investigation Teams
10 November 2020, Eurojust, The Hague

The 16th Annual Meeting of National Experts on Joint Investigation Teams (JITs) was organised by the JITs Network Secretariat in close cooperation with Eurojust and Europol on 10 November 2020, and was conducted using the Eurojust WEBEX videoconferencing tool. The meeting brought together experts from Member States and representatives of EU institutions and agencies, as well as other practitioners and stakeholders involved in this area.

The main topic of this year's meeting was **“Solutions for Challenging JITs – JITs in the Digital Era”**. JITs practitioners exchanged views on possible solutions for challenging JITs (e.g. due to the complex nature of cases, the multilateral dimensions of JITs, the differing prosecution strategies, JITs with third States, etc.), as well as challenges linked to the use of modern techniques in the Digital World. The meeting also gave an opportunity to discuss some of the JITs Network's ongoing projects and possible follow-up activities.

The meeting was opened by Mr Ladislav Hamran, President of Eurojust, and Ms Catherine De Bolle, Executive Director of Europol. Both speakers emphasised how the need for digitalisation of cross-border cooperation has become even more evident during the COVID-19 pandemic, and presented the measures each of their respective EU Agencies has adapted to respond to these new challenges through the use of digital solutions.

In particular, the Eurojust President indicated that necessary steps have been taken to modernise the way prosecutors and judges collaborate, in overcoming physical distance by using secure virtual connections to exchange information and evidence, and for videoconferencing. Despite the current difficulties in meeting in person, 50 new JITs have been set up since January 2020. Eurojust continues to provide its support to both these newly signed JITs and those ongoing from previous years, with the result that as to the beginning of November, Eurojust was able to **facilitate 238 JITs** (50 new and 188 ongoing from previous years).

Europol reiterated the message that the use of digital tools turned out to be extremely useful in supporting cross-border operations during COVID-19 times (such as encrypted and secure videoconferencing). Europol's Executive Director highlighted the importance of the existing tools (e.g. the Virtual Command Post) but also referred to the Europol Innovation Lab's role in conducting an analysis of existing solutions, requirements and gaps in the field of secure communications for law enforcement.

Europol continues to extend its support towards JITs and is there to offer operational and analytical expertise during operational activities.

1. JITs in the Digital Era: recent developments

Digital Criminal Justice

The plenary session was opened with a presentation by the European Commission (DG Justice) on a synopsis of the Cross-border Digital Criminal Justice study, published in June 2020. The Digital Criminal Justice initiative aims at creating an EU-wide digital platform to enable the European judicial community to quickly and efficiently interact and exchange critical information and evidence during criminal investigations. It focuses on providing cooperation tools based on modern and digital ecosystems (such as the e-signature of documents, e-translation tools, secure transmission of information and evidence, etc.). The seven different solutions identified in the Study to overcome legal, operational and technical challenges of judicial cooperation were presented, namely: a *Secure Communication Channel*; a *Communication Tool*; the *Redesigned Eurojust Case Management System*; a *JIT Collaboration Platform*; *Exchange of data between the JHA agencies and EU bodies*; *Judicial Cases Cross-Check*; and *Large Files Solution*.

The presentation on the **JIT Collaboration Platform** was of particular interest for the meeting participants as a digital facilitator of future JIT operations. Once enacted, the JIT Collaboration Platform will enable practitioners to set up JITs in a swifter manner (via online meetings, videoconference calls and e-signature function), and expedite operations thanks to real-time updates of the planning of meetings. Its capacities will also be of benefit to both the operational phase of JITs (through live audio and video streaming, secure instant messaging between JIT participants, asset tracking and connections with external devices, etc.) and the post-operational phase of JITs (to upload multiple files and create reports and statistics on the outcome of a JIT).

In addition, the Commission presented its legislative plans for 2021, including a regulation on the creation of the JIT Collaboration Platform, and the revision of the Framework Decision of 13 June 2002 on joint investigation teams in order to raise data protection standards.

Eurojust involvement in the **Digital Criminal Justice project** was presented from technical and operational perspectives by the Eurojust Data Management Unit. Digitalisation of Justice is essential in order to ensure swift and effective judicial cooperation. Eurojust is committed to continue working in a collaboration with EU institutions and agencies on advances in this field. Eurojust will be engaged in upgrading its Case Management System, and in supporting the European Commission with the establishment of the Secure Communication Channel and the JITs Collaboration Platform. A **new Case Management System** will reduce the need for manual data entry; will improve reporting; and will allow Eurojust to focus on quality of data in legal and analytical work. All of these factors will enable Eurojust to exchange more data in a more secure way whilst assisting Member States in their efforts to combat serious and organised crime. The future IT-systems required for this Digitalisation of Justice need to be developed in a complementary way to the systems already in place; thus providing conscientious yet efficient cooperation between Member States, practitioners and EU agencies.

Virtual Command Post and New Environment for Operations: upgraded SIENA and QUEST

Europol presented two new operational products and services that are available to EU Member States and third partners; namely, the Virtual Command Post, and the new SIENA and QUEST.

Developed in 2017, the **Virtual Command Post** (VCP) is a collaboration tool of which the main objective is to provide competent authorities (including law enforcement and judicial authorities) with a secure platform for real-time communications during an operation or emergency response. It enables media transfers, investigative history and reports, situational awareness data; and it is currently hosted on-premises at Europol in The Hague. The VCP consists of two platforms: a mobile application (for instant messaging, audio and video streaming, asset tracking, and distress signals) and a desktop version (a desktop application and virtual command centre, providing real-time monitoring and tracking of colleagues). The VCP is intended for live channels of communications and team command during crucial times in operational activities. Consequently, the virtual environment is accessible only on a temporary basis, for the duration of the operation. When the operation is concluded, it is mandatory to transfer the data from the VCP and upload it to SIENA.

Europol raised the possibility that JITs could also explore the use of their VCP within the scope of JIT operational activities.

Europol has also developed a **New Environment for Operations (NEO)** – a multi-annual programme that, among other things, focuses on upgrading the Secure Information Exchange Network Application (SIENA) and the Querying Europol’s systems (QUEST).

SIENA is the platform for information exchange that connects more than 15.000 users, namely, all EU Member States and third parties with which Europol has cooperation agreements, as well as JHA agencies and bodies (Eurojust, Frontex, OLAF and, in the near future, EPPO).

Europol invested in “Smart Services” in SIENA, such as a secure translation tool. JITs can gain particular benefit from this feature in instances where the JIT practitioners do not have a strong command of the English language; the functionality is similar to that of Google Translate, but the language translations are undertaken within a secured environment. Another tool is Entity Extraction, which allows the electronic analysis of written text in order to extract identified entities and links by way of the use of Artificial Intelligence. Whilst currently only available internally within Europol, during 2021 the plan is that it will be deployed to external users in the EU Member States and third parties.

QUEST is a web service created to query data hosted by Europol in an automated way. QUEST+ (pilot project) is the newest large-scale system, an extension of QUEST, which is to be piloted during 2021. QUEST+ is making available Analyses Projects based upon suspects and convicts “hit/no hit” searches, which are requested by Member States. In 2021, 5 EU Member States will participate in a pilot on all SOC Analyses Projects.

2. Challenging JITs

Case presentation

The meeting provided an opportunity to once again share information and exchange views on operational issues stemming from practical experience gained in the scope of JITs cooperation. This year the case presentation focused on an investigation into phishing, computer fraud and cybercrime, which was underpinned by a JIT between Romania, Lithuania and Estonia, and included the participation of Eurojust and Europol. The case presentation provided an opportunity to address a number of challenges identified throughout the lifecycle of the cooperation; such as problems with deployment of seconded members due to the outbreak of COVID-19, different stages of investigation, different investigation strategies; and how the cooperation within the JIT assisted in overcoming these.

Presentation of results of the Questionnaire on challenging JITs

Even though practitioners continuously endorse cooperation within JITs as very successful and efficient, they might still encounter different challenges. Prior to this meeting, the Secretariat prepared a questionnaire which was disseminated amongst the JITs National Experts, with the aim of identifying challenges and obstacles that are still faced within JIT working practice, as well as offering potential solutions to better overcome them. During the meeting, an overview of the replies was presented to all the participants. The main findings can be summarised as follows:

a) Challenges, best practices and proposed solutions:

Challenges identified

In the setting up phase:

- ▶ Lack of ongoing investigations, or different stages in the criminal proceedings in the States involved;
- ▶ Existing differences in national legislation that might hamper a smooth setting up of a JIT (e.g. signature process; legal issues specific to some MS, like sharing of asset; etc.);
- ▶ Cooperation with third States.

In the operational phase:

- ▶ Uncoordinated investigations due to lack of communication;
- ▶ Differences in national legislation, different stages of investigations, different legal requirements to obtain evidence in the JIT parties;
- ▶ Lack of a common language which hinders fluid communication and generates high costs for translations;
- ▶ Sharing of information and evidence collected within the JIT and with other countries not party to the JIT.

Best practice/lessons learned:

- ▶ Need to manage expectations through good preparation; clear formulation of the purpose of a JIT; development of common strategies to ensure admissibility of evidence, discuss and resolve jurisdiction issues;
- ▶ Early involvement of Eurojust and Europol;
- ▶ Secondment of officers for a longer period of time to prepare the action day;
- ▶ Inclusion of a provision in the JIT agreement on how to share information with non JIT-parties.

Proposed solutions:

- ▶ Inform JIT National Expert about coordination meetings where JITs are discussed to be able to provide support;
- ▶ Appoint one or more JIT members responsible to ensure good communications amongst JIT parties;
- ▶ Aspects of communication and investigation speed to be included in national trainings;
- ▶ Preparation of guidelines to be considered by JIT members when preparing a Joint Action Day.

b) Secure exchange of information and evidence:

JIT National Experts reported the following issues related to secure exchange of information and evidence:

- ▶ There are still no appropriate tools to share large files;
- ▶ Secure tools for real-time communication amongst JIT parties are missing;
- ▶ SIENA is not always a suitable solution (e.g. in many countries, SIENA is not available to prosecutors or law enforcement officials at local level);
- ▶ Eurojust Secure Laptops are not always a solution, as they might not be accessible when it is necessary;
- ▶ Lack of appropriate trainings on the use of digital tools that are currently available to practitioners.

Participants re-iterated the need for an ‘operational online collaborative environment’, enabling law enforcement and judicial authorities involved in a JIT to securely exchange information and evidence in conditions facilitating the traceability (and thus further admissibility) of evidence, that is in line with the findings of the Digital Justice Study. This topic was already touched upon by national experts during the [13th Annual Meeting](#) in 2017, where the need to have at their disposal a ‘single point of communication’ enabling the secure ‘posting’ of information and evidence was first raised.

c) Issues specific to COVID-19 times:

- ▶ More difficulties in engaging JIT members and partners in the JIT activities;
- ▶ No training programmes on organisation and delivery of remote meetings;
- ▶ Need to extensively use traditional means of communication, such as phone calls;
- ▶ Problems with deployment of JIT members because of travel restrictions.

d) Legal basis in multilateral JITs involving the United Kingdom:

One of the recent challenges faced by JIT practitioners was how to find an adequate legal basis to set up a multilateral JIT involving the United Kingdom. As explained by the UK representative in attendance during the 15th JITs Annual Meeting of the JITs National Experts, all JITs involving the UK will be set up based on a single legal basis, i.e. one that is applicable to all JIT members. On the other hand, the majority of JIT national experts argue that multilateral JITs involving third States can also be based on multiple legal bases; either by way of the international basis (i.e. Second Additional Protocol to 1959 MLA Convention/ or UN Conventions), or by use of EU legal bases.

The Dutch National Expert shared with the participants a practical solution found, with the assistance of other JIT experts and Eurojust National Desks, in a recent multilateral JIT involving the UK. In this particular case, the parties agreed to set up a JIT based on the Second Additional Protocol to the 1959 Convention on Mutual Assistance in Criminal Matters. At the same time, they all agreed to include in the JIT agreement a paragraph stating that all safeguards and rules of the EU legal framework shall apply to the EU Member States involved in the JIT.

3. Panel Discussions: JITs Network Projects – A WAY FORWARD

During the second part of the meeting, participants had the opportunity to familiarise themselves with the recent achievements of ongoing JITs Network Projects, and to discuss the way forward in a panel discussion.

a) Training and raising awareness on JITs- a role for JITs National Experts:

Pursuant to the [Guidelines on the Network of National Experts on Joint Investigation Teams](#) adopted by the JITs Network during its [14th JITs Annual Meeting](#) in July 2018, “*support JITs-related training and awareness-raising activities*” was identified as one of the core tasks of JIT National Experts. During the Working Group meeting in January 2020, the experts decided to set up a project group to further analyse training needs of JIT practitioners, and to develop a set of practical tools to help national experts involved in the delivery of JIT trainings.

As a result, the **Project Group on Training and raising awareness on JITs- a role for JITs National Experts** was set up; which dealt with the following topics:

- ▶ **Preparation of checklists on “must-have items” for basic or advanced JITs trainings**- the checklists set out topics to be covered when providing basic and advanced JITs trainings respectively (both are available on the JITs Restricted Area).
- ▶ **Creation of a pool of JITs Trainers from the JITs National Experts** – at the request of the JITs National Experts, the Secretariat created a pool of JITs trainers open to JITs National Experts interested in delivering training on JITs. This pool will be shared with training organisations upon receipt by the Secretariat of invitations to various future events where JITs will be a topic.
- ▶ **Creation of a folder dedicated to JITs training materials** – the folder includes training materials developed by national experts based on previous trainings attended, alongside materials developed by the Project Groups; and is accessible on the JITs Restricted Area by all national experts interested in providing trainings.
- ▶ **Development of a model case scenario for various training purposes** – a restricted group of experts was set up to produce a model case scenario. The experts met in October 2020, and during their deliberations determined that the model case scenario should comprise elements common in all different crime types, and should clearly lay out the steps to be taken in setting up a JIT. Furthermore, the model case scenario should also identify specific learning objectives for each of the training sessions, and the methodologies that could be applied to achieve these objectives.

The National Experts confirmed their interest in developing such a model case scenario, which could be used during trainings on both national and international levels. The Experts also gave insight into their own experiences, and on the different methodologies followed while providing domestic training to practitioners; such as the use of promotional videos, and real case scenarios as a means to demonstrate obstacles faced and lessons learned in JIT working practice. The Experts also agreed on the need to inform training organisations such as the EJTN, CEPOL and ERA about their activities in this particular field, and that their expertise in this area could be offered to such institutions.

b) Fiches Espagnoles- a way forward:

The *Fiches Espagnoles* project was launched in 2013 as a follow-up to a suggestion from Spanish JITs National Experts during the [9th JITs Annual Meeting](#). The purpose of the project was to collect and make available to practitioners, via the JITs Restricted Area, summaries of the national legislation of Member States and selected Third States relevant to the setting-up and operating of JITs¹.

During the Working Group meeting in January 2020 the National Experts raised the possibility of revisiting the *Fiches Espagnoles*, with the aim of making them more accessible and user-friendly. In response to the request of the National Experts to address this topic further within a small group setting, the **Project Group on the *Fiches Espagnoles*** was established in May 2020. The Project Group discussed in particular the future format of the *Fiches*; whether to keep the *Fiches Espagnoles* in their current format, or to create simpler versions (i.e. “mini-fiches”) which would focus solely on the most pertinent information. As the Project Group could not reach any conclusive decisions, it was therefore agreed to consult the Network on this matter.

During the meeting, the majority of the Experts present confirmed that they would be in favour of keeping *Fiches Espagnoles* in the current longer format. Furthermore, the Experts agreed that the accessibility of the *Fiches Espagnoles*, currently published only on the JIT Restricted Area, could be further improved.

¹ Currently, there are *Fiches Espagnoles* from 25 Member States and 5 Non-EU States available on the JITs Restricted Area. In 2018, during the 14th Annual Meeting, National Experts acknowledged that legislation in some States may have changed and, as a result, some of the summaries might need an update. The update is in progress; however, not all National Experts have provided a feedback on their respective Fiche.

c) JIT Evaluation- a way forward:

On several prior occasions, the JITs National Experts have suggested to revisit the JIT Evaluation Form, in a bid to make it more concise and user-friendly.

During the JITs Working Group meeting in January 2020, the Experts suggested that this task should also be explored further in a small group setting. Consequently, in May 2020 the **Project Group on the JIT Evaluation** was established.

The Project Group met on 11 June and 8 July 2020 and dealt with the following topics:

- ▶ **Revision of the JIT Evaluation Form-** based on the findings of the Project Group's meetings, a shorter and simpler version of the JIT Evaluation Form was prepared by the JITs Network Secretariat. During the meeting, the Experts confirmed their approval of the content of this shortened and simplified Form. Once the revised Form has been created as an interactive version, it will replace the existing JIT Evaluation Form, and will be subsequently published on the Eurojust webpage.
- ▶ **New approach to the evaluation process** – the Experts supported a proposal from both the Project Group and the Secretariat to initiate the evaluation process more proactively by sending the JIT Evaluation Form to the National Experts upon expiry of a JIT. It was decided that an email would be sent upon the expiration of a JIT to the JIT Expert of each involved Member State/Third State, with a request to contact the relevant JIT leaders to encourage the undertaking of a JIT evaluation. Additionally, the Secretariat will, where possible, help the National Experts with the completion of the Evaluation Form, with the aim of expediting the evaluation process for all involved.
- ▶ **Evaluation meetings: how to collect the most interesting findings on the setting up and operation of JITs-** based on previous experience, evaluation meetings are a highly valuable source of feedback on the operation of a JIT. As it is not feasible for national authorities to engage in evaluation meetings for every JIT, the Project Group considered that it might be of benefit to create a list of criteria to determine which JITs are most suitable to be evaluated in such meetings.

The National Experts agreed to prioritise the evaluation of JITs, which fulfil the following criteria: (i) JITs involving more than two parties, (ii) JITs involving a third State, (iii) complex investigations involving secondment of JIT members or a Common Action Day, (iv) JITs in which participation of Eurojust, Europol and OLAF provided significant effect (vi) JITs which experienced specific challenges/ lessons learned/best practices.

4. JITs Network activities and projects

During the last part of the meeting, participants were updated on ongoing projects and activities of the JITs Network Secretariat:

- ▶ **The JITs Restricted Area** – the JIT Restricted Area has been adjusted to complement the new Eurojust visual identity, and upgraded by designing a new outlook, and making several changes content-wise. New folders accessible only to JITs national experts have been added, covering *inter alia* a new Library folder, alongside separate folders for the achievements of each of the three Project Groups on JITs.
- ▶ **Third JIT Evaluation Report** – the Third Evaluation Report was published in March 2020. It is based on findings from 99 JIT Evaluation Forms, completed by JIT practitioners between November 2017 and November 2019. The Report presents specific challenges and best practices in the setting up, operational and prosecution phases of a JIT as identified by practitioners. It also addresses Eurojust’s experience in JITs with third States and the types of support Eurojust can offer in cooperation with third States through its extensive network of liaison prosecutors and contact points, coordination meetings and centres, financial support, and so on. The report is available on the Eurojust webpage.
- ▶ **JITs with third States – checklist for practitioners** – to facilitate the setting up of JITs involving third States, a checklist outlining the steps to be taken into account during the setting up and operational phases of a JIT with non-EU Member States has been drafted for the benefit of JITs practitioners. The checklist has been translated into all EU languages, and these are now available on the Eurojust webpage.
- ▶ **New *Fiches Espagnoles***- Two new *Fiches Espagnoles* have been developed, for Albania and Montenegro; these are uploaded for access on the JITs Restricted Area.

Eurojust JIT Funding

The JITs Network Secretariat presented recent trends, updates and statistics regarding JIT funding.

The impact of Covid-19 has been felt in terms of a decrease in number of Funding Applications received; and of lower amounts of financial support requested in 2020 when compared to 2019.

The outbreak of the COVID-19 pandemic also resulted in a few adjustments to the Terms and Conditions for Financial Support to JITs as of Call 6/2020. These were implemented to ensure that the funding program would still be able to best meet the different operational needs of JITs practitioners.

Based on feedback received from the JITs National Experts and the National Desks of Eurojust on the subject of the funding mechanism, this will also undergo updates in 2021 and 2022. New cost categories (e.g. forensic examinations) will be included; the Funding Application Form will be simplified; and the evaluation process amended. In line with the provisions of Article 64(2) of the Eurojust Regulation, the Secretariat will also prepare rules to enable the possibility of awarding JITs funding without a call for proposals.

Joint Eurojust – Europol Funding Schemes flyer

Europol presented the joint Funding Schemes flyer, which is the result of a collaborative project between Eurojust and Europol. The document provides practitioners with a high-level overview of the different categories of costs and types of activities that may be financially supported by the two agencies. The Experts were also informed that, after the meeting the flyer would be published on both the Eurojust and Europol webpages.

The present flyer is the first issue. Further versions will follow whenever either Europol or Eurojust can offer new funding opportunities.

Europol Appendix to JIT Agreement

Europol presented an updated version of the Europol Appendix. The main changes relate to the need to comply with security and data protection standards laid down in *Regulation 2018/1725 of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data*. The participants were advised that the Europol Appendix should be read in conjunction with the Europol JIT Participation Guidance, a document outlining the procedure to be followed when seeking to involve Europol in a JIT.

Participants were informed that the revised version of the Europol Appendix template, along with the Europol JIT Participation Guidance, have been published on the JITs Restricted Area and are available in English. Europol has prepared courtesy translations of the Appendix in all EU official languages (also available in the JIT Restricted Area).

Promotional video on JITs National Experts

Eurojust presented a short promotional video. The content covers the role of JITs National Experts at national as well as international level; the tools for JIT practitioners, projects of the Network; and the support provided by the Secretariat. The video is available on the Eurojust webpage.

JITs Factsheet: Supporting judicial authorities in the use of JOINT INVESTIGATION TEAMS

The JIT Factsheet, published in 2020, was prepared in close cooperation between Eurojust and the JITs Network Secretariat; it offers practical advice and guidance to JIT practitioners. The contents include information on the support that Eurojust can offer to JITs during their lifecycle, and the supporting tools for practitioners (JIT Model Agreement, JITs Practical Guide, JIT Evaluation Reports and JITs Funding Portal) alongside JIT statistical data and some successful JIT cases.