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From:	General Secretariat of the Council
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Subject:	Joint Investigation Teams (JITs) - Highlights of the Annual Meeting of the Network of National Experts on Joint Investigation Teams (12 and 13 October 2023, Eurojust, The Hague)

Delegations will find attached the above-mentioned document.

Highlights of the Annual Meeting of the Network of National Experts on Joint Investigation Teams

12 and 13 October 2023, Eurojust, The Hague

The 19th Annual Meeting of the Network of National Experts on Joint Investigation Teams (JITs) was organised by the JITs Network Secretariat in close cooperation with Eurojust and Europol on 12 and 13 October 2023. The meeting brought together JIT National Experts from EU Member States and Observer States alongside representatives of EU institutions and agencies, as well as practitioners from Latin American countries.

The main topic of this year's meeting was *"JITs with Latin American countries"*. In recent years, judicial cooperation in criminal matters between the EU and Latin American countries has intensified. This has given rise to the first four JITs involving Argentina, Brazil and Ecuador being established with the support of Eurojust. The meeting explored how to step up judicial and law enforcement cooperation between EU Member States and Latin American countries in the fight against serious organised crime, in particular by using JITs.

Mr Ladislav Hamran, President of Eurojust, and Mr Burkhard Mühl, Head of the European Financial & Economic Crime Centre at Europol, opened the meeting.

The Eurojust President reiterated the message that JITs are one of the most significant instruments in the field of international judicial cooperation. Moreover, JITs have the ability to bring together different jurisdictions and cultures around the world, making them a symbol of cutting edge and efficient judicial cooperation.

Mr Hamran highlighted that Eurojust brings together judicial practitioners in an attempt to tackle all forms of serious cross-border crime. At Eurojust, prosecutors and investigative judges from twenty-seven (27) EU Member States work together with Liaison Prosecutors from ten (10) non-EU countries on a daily basis. Furthermore, the crucial role played by the Liaison Prosecutors posted at Eurojust is reflected in the number of JITs involving their respective countries.

Mr Mühl explained that Latin American criminal networks play a major role in drug trafficking and often collaborate with EU-based criminal groups. As a result, vast quantities of cocaine are trafficked from Latin America to the EU, generating huge profits for criminals in both regions. This trade also fuels criminal enterprises, undermining the EU's economy, institutions and society.

Furthermore, he outlined the importance of existing working agreements and operational agreements with Latin American countries that offer them the possibility to deploy Liaison Officers at Europol, or to establish a SIENA connection. He reaffirmed Europol's readiness to provide services to JITs, including those JITs involving Latin American countries.

Both speakers underlined that cooperation with these countries can also be challenging and face limitations arising from diverse legal systems. It is, therefore, very important to learn from those who have been directly involved in such cases and to identify possible solutions which would lead to a successful cooperation, and the eventual take down of criminal networks.

1. JITs between EU and Latin American countries: challenges and best practices

Case presentation (1)

Prosecutors supporting an active JIT between Italy and Brazil, established on the basis of the United Nations Convention on Transnational Organized Crime (UNTOC), shared their first-hand observations and knowledge on practical and operational issues arising from their experience in the JIT.

The Anti-Mafia Public Prosecutor of Palermo presented some of the challenges related to the differences in legal systems, including the identification of relevant partners/competent authorities in specific cases. It was noted that support of Eurojust was essential to facilitate this process.

She underlined the importance to acknowledge from the outset that JIT partners have different legal traditions; and to therefore study and become familiar with the particularities of each other's systems. To this end, Liaison Officers posted in partner countries and Eurojust Contact Points can be very useful as they can present details of specific legal systems that must be taken into account.

Another factor identified as essential in cooperation within a JIT was to agree on the ways for sharing information and evidence in a secure way whilst respecting the data protection rules of all involved countries. In the presented case, an iCloud was created by Italy for securely uploading documents and evidence in compliance with data protection under Italian law.

The Legal Advisor of the International Cooperation Unit of the Office of the Prosecutor General in Brazil presented the possible legal options and the necessary steps to be undertaken for Brazil's involvement in JITs, including the role of the Brazilian Central Authority.

The Speaker highlighted the importance of personal contacts between the JIT members in establishing mutual trust, and referenced successful coordination of the activities with the Italian counterparts through field trips and regular in-person meetings. This fostered an environment where all the JIT members were engaged and committed to the JIT and its activities.

Both speakers expressed their gratitude to Eurojust for its role in facilitating coordination meetings, support in drafting the JIT agreement, and provision of financial and technical support.

Case presentation (2)

A Former Public Prosecutor from Chile Mr. Segovia Arancibia presented an overview of the JITs established within the Latin American region, comprising of more than fifteen (15) JITs to date.

Until as recently as a couple of years ago, JITs were not very well known in the Latin American region. Since 2016, Latin American practitioners recognised the benefits that can be gained via cooperation within a JIT, and this process was supported by regional initiatives such as MERCOSUR and REDCOOP-AIAMP¹

¹ The Southern Common Market, commonly known by Spanish abbreviation Mercosur, and Portuguese Mercosul, is a South American trade bloc established by the Treaty of Asunción in 1991 and Protocol of Ouro Preto in 1994. Its full members are Argentina, Brazil, Paraguay, and Uruguay.

AIAMP is the association which represents 22 Ibero-American Public Ministries and national Public Prosecutor's Offices and was founded in 1954 in Brazil. AIAMP has set up seven permanent specialised Ibero-American cooperation networks comprised of specialised public prosecutors from all the Ibero-American Public Prosecutor's Offices, one of them being AIAMP Criminal Cooperation Network (REDCOOP).

A prerequisite to establishing JITs between EU and Latin American countries is the identification of an appropriate legal basis, i.e. Second Additional Protocol to the Council of Europe (CoE) 1959 MLA Convention (only Chile is a Party), UN Conventions, bilateral treaties, principle of reciprocity.

While UN Conventions are most probable legal bases to be used to set up JITs between EU and Latin American countries, according to the Speaker they are not without some issues (i.e. thematic conventions; very general provisions; how to interpret “agreements” between competent authorities).

Mr. Segovia Arancibia then addressed some operational challenges that such JITs might face, in particular data protection issues, high costs of investigations and jurisdictional issues. The Speaker reiterated the message that some of these issues can be overcome with the support available from Eurojust.

The Speaker concluded his presentation with some proposals on how to facilitate setting up of JITs between the countries of the two regions:

- encouraging the signature of the Second Additional Protocol to the 1959 CoE MLA Convention among Latin American countries,
- establishing protocols and guidelines on the setting up of JITs between Latin American countries and EU Member States, and
- strengthening the cooperation with Eurojust through contact points, strategic and operational agreements and mutual trainings.

3. Eurojust: Latest developments in JITs

Mr Vincent Jamin, Eurojust Administrative Director, presented the latest developments regarding the JIT with Ukraine for which Eurojust is providing dedicated operational resources and capabilities, as well as legal and financial support. In particular, Eurojust established the Core International Crimes Evidence Database (CICED), a unique, tailor-made judicial database set up to preserve, securely store and analyse evidence of core international crimes. CICED’s centralised approach will support national and international investigations by shedding light on not only individual cases, but also unveiling the systemic actions behind them. CICED consists of three components: a safe digital data transmission method, a secure data storage, and advanced analysis tools.

The Administrative Director referenced the recent addition of Europol as participant to the JIT with Ukraine. Europol will make available its expertise and experience in the field of war crimes, crimes against humanity and other international crimes via the Analysis Project on Core International Crimes (AP CIC). Furthermore, Europol’s participation will reinforce complementarity and coordination between the two Agencies based on the identified needs of the JIT parties.

In the second part of his presentation, Mr Jamin outlined Eurojust involvement with Latin American countries. He highlighted a total number of twenty-four (24) ongoing cases involving Latin American countries up to September 2023, listing organised crime, drug trafficking and money laundering as the most frequent crime types. The Speaker presented the key role played by Eurojust in facilitating cooperation with these countries, in particular by involving them in coordination meetings, coordination centres and by supporting regional projects, such as EL PAaCTO.

The next step in enhancing cooperation with these countries would be having international cooperation agreements in place. Eurojust is therefore supporting the European Commission’s priorities to conclude such agreements with Argentina, Brazil and Colombia.

4. Europol's response to high risk organised crime

Mr Georgios Raskos, Head of the Organised Crime Unit, European Serious and Organised Crime Centre at Europol, presented Europol's role in providing operational support to investigations involving EU and Latin American countries. The Speaker focused on Europol's Operational Task Forces (OTFs) and the significant impact of real-time exchanges of information on providing adequate support to JITs.

Mr Raskos explained that at Europol, it is being observed that that nature of cooperation itself with Latin America is evolving, and going beyond the border of "traditional criminality". For instance, support is being sought for other forms of crime, such as crimes of robbery, timber trafficking and illegal mining.

5. Exchange of personal data with non-EU countries in the framework of a JIT

The Head of the Data Protection Office at Eurojust presented a short update on discussion related to exchange of personal data with non-EU countries in the framework of a JIT. Ms Alonso Blas recalled the EU legal framework for transferring personal data to non-EU countries, in particular EU standards enshrined in the Directive 2016/680 as well as provisions included in Eurojust Regulation, and demonstrated the need for making a case-by-case assessment before any data transfer takes place.

Participants were informed that Eurojust, together with the JITs Network Secretariat, is examining how and whether a JIT agreement can be considered a sufficient legal basis for the transfer of personal data to third countries; and if so, then what specific clauses should be included in the JIT agreement for this purpose.

The inclusion of data protection clauses into JIT agreements would be at the discretion of the JIT parties involved. The European Data Protection Supervisor (EDPS) is being consulted on the content of draft clauses and after their feedback is received, Eurojust will resume the discussions on this topic and seek the active participation and input of the JITs Network.

Workshop 1: Supporting JITs with Latin American Countries

The workshop "*Supporting JITs with Latin American Countries*" was chaired by the Eurojust National Member for Spain. The workshop focused on exploring ways to increase cooperation between EU Member States and Latin American countries in the area of JITs, with the goal of enhancing the response to transnational organised crime.

The chair presented existing tools for cooperation between EU Member States and Latin American countries, including IBERRED – IBER@ and Eurojust assistance Projects such as EMPACT and EL PAaCTO, that promote interconnection of EU practitioners in the fields of security and justice with their Latin American counterparts, were also mentioned. In the future, international agreements with Argentina, Brazil and Colombia that are currently negotiated by European Commission and Eurojust's working arrangement with Panama will put cooperation on a higher level.

Workshop participants agreed that Latin American criminal networks play a significant role in massive amounts of cocaine being trafficked from Latin America to the EU, generating huge profits for criminals in both regions.

Based on their experiences in setting up JITs with non-EU countries, participants underlined the importance of rapidly identifying the context of the investigations, the authorities involved and the objectives of all the concerned partners. The essential role that Eurojust plays in facilitating direct contacts between the involved national authorities was underlined.

The significance of Liaison Prosecutors and Contact Points emerged as a key factor in easing cooperation with non-EU countries. Participants spoke about the importance of knowing the steps to get in contact with relevant authorities in order to establish connections leading to efficient cooperation.

In light of these considerations, the participants proposed the following actions:

- create a dedicated JIT model agreement, checklists or guides to facilitate setting up JITs between EU and Latin American countries;
- organise thematic workshops and seminars to build knowledge and increase awareness among stakeholders regarding JITs and cooperation between the EU and Latin American countries.

Workshop 2: Limitations to a JIT; specific requirements related to investigative measures, lessons learnt and best practices

The workshop “*Limitations to a JIT, specific requirements related to investigative measures*” was chaired by the Eurojust Deputy National Member for the Czech Republic. The workshop aimed to identify possible limitations related to investigative measures conducted within a JIT; and whether situations arose where, despite having a JIT in place, the issuing of a European Investigation Order (EIO) or a requests for Mutual Legal Assistance (MLA) for certain types of evidence or investigative measures are still a requisite.

Some of the participants voiced that it is possible to be a party to a JIT without having a domestic investigation ongoing, whereas the majority confirmed that a domestic investigation is needed in order to be able to set up a JIT.

Participants recognised that a JIT agreement serves as a legal basis for requesting and conducting measures; however, in some instances measures such as asset recovery in relation to non-EU countries could be out of the scope of the JIT agreement and therefore EIOs or MLAs would need to be issued.

Most of the participants agreed that a lack of competence of a JIT authority (prosecutor/law enforcement) is not an obstacle for conducting a requested measure, as the executing party would apply domestic rules in order for the request to be approved and executed by the competent authority.

According to the participants, in some instances the sharing of evidence gathered from a country who is not a JIT party can create a problem.

Furthermore, freezing of assets and subsequent confiscation can trigger problems related to: i) whether these measures actually fall under the scope of the JIT cooperation, and ii) how to agree on asset sharing. A proposed solution was to discuss this issue from the beginning when setting up a JIT, alongside with the inclusion of the relevant provision within the JIT agreement itself.

Workshop 3: Procedural rights of victims within the context of JITs

The workshop “*Procedural rights of victims within the context of JITs*” was chaired by a Senior Public Prosecutor of Bamberg, Germany. The aim of this workshop was to exchange ideas, lessons learned and best practices on how JITs can contribute to identifying, rescuing and protecting victims, as well as ensuring the involvement of victims in legal proceedings.

Victims of crime in the EU are entitled to a series of rights regardless of nationality, place of residence, the type of crime and the place where the crime was committed. These rights are enshrined in a number of EU Directives and include, for example, the right to be heard, the right to information, and the right to protection as well as to compensation.

The systematic inclusion of this topic could promote the victims' rights dimension in the prosecution strategies discussed and agreed upon with Eurojust's support, including when setting up a JIT.

Participants of the workshop confirmed that they are well aware of their national legislation related to victims' rights; however, this knowledge, and the potential for future issues, is not something that would usually be exchanged between the JIT parties.

It was highlighted that, for this discussion it is important to distinguish between the different stages of investigations, and the roles victims have in each of them: identification, rescuing and protecting, testimonies at trial, and eventually, compensation. In some cases, it is important to already make necessary arrangements at an early stage of cooperation to allow for an appropriate victim's strategy and optimal results. Participants agreed that this is something that could be much more easily achieved via discussions between JITs parties. How and when to address victims' needs and rights depends on the crime investigated in the JIT (THB, fraud, terrorism).

Another factor mentioned by participants was the distinction between procedural rights of the victims and their rights for protection. Participants acknowledged that while prosecutors have a vested interest in respecting suspects' rights, this is not necessarily the case for victims' rights, and this should be improved.

Importance of locating assets (in view of compensation of the victims) was another relevant aspect of victim's strategy that raised during the discussions.

The participants also agreed on the potential added value of JIT funding that is available for supporting JIT activities related to victims (in particular, travel and accommodation costs) and expressed the need for further promotion of this possibility.

Taking into account these general considerations, participants recommended the following actions:

- include a "victims clause" in the JIT model agreement using a succinct wording. The aim is to alert JIT members to possible problems and raise their awareness;
- expand Fiches Espagnoles, to also cover information on the challenging aspects of national legislation governing victims' rights;
- address training needs for practitioners on how to best ensure implementation of victims' rights.

6. Update on the JIT Collaboration Platform

Mr Janis Jakobs, DG JUST, European Commission, gave an update on the development of the JIT Collaboration Platform (JCP). The purpose of the JCP is to coordinate and manage JITs through a set of functions:

- secure exchange and temporary storage of operational data;
- secure communication, including instant messaging, chat, audio-conferencing and video-conferencing;
- traceability of exchanges of evidence via an advanced logging and tracking mechanism surveilling all exchange of evidence, including its access and processing; and
- evaluation of JITs via a dedicated evaluation process.

The Speaker presented the key actors involved in the development and future use of the JCP and their specific roles. eu-LISA will design and develop the physical architecture of the JCP; whilst the JITs Network Secretariat will assure administrative, legal and technical support, alongside promoting the use of the JCP amongst JIT practitioners.

Finally, Mr Jakobs explained that the use of the JCP would be voluntary, and that the decision about the use of the JCP will need to be agreed by JIT parties and included in the JIT agreement. The start of operations will be determined by the Commission, and will be based upon the adoption of implementing acts and the comprehensive technical tests of the platform, latest by 7 December 2025.

Europol reminded the new Directive on the information exchange between the law enforcement authorities where SIENA is to become the obligatory communication channel for law enforcement, furthermore the national electronic case management system has to be interoperable with SIENA. This might create challenges when law enforcement and Europol are involved in a JIT. Making use of the existing functionalities of SIENA to ensure complementarity when designing, developing and operating the JITs collaboration platform could be key element.

7. JITs Network: update on ongoing project and activities

Ms Tatiana Jancewicz, Head of the JITs Network Secretariat, presented the state of play of the ongoing projects and activities of the JITs Network. She announced that on 25 July 2023, after consultation with the JIT National Experts and obtaining their unanimous approval, the Office of the Prosecutor of the International Criminal Court (ICC-OTP) became an Associate Partner to the JITs Network.

Mr Jonathan Agar, Special Assistant to the Prosecutor, and Ms Julie Andre, Judicial Cooperation Advisor, made a presentation of a Factsheet outlining how to involve the ICC-OTP in JITs. This Factsheet was developed in close cooperation between the JIT Network Secretariat and ICC-OTP and aims at presenting the ways in which the ICC-OTP may be involved in JITs, the benefits of their involvement, and the support that Eurojust and the JITs Network Secretariat may also offer to JITs involving the ICC-OTP.

The *Fiches Espagnoles* for all EU Member States, as well as nine (9) non-EU countries (Albania, Georgia, Montenegro, North-Macedonia, Norway, Serbia, Switzerland, Ukraine, and the United Kingdom) have been recently reviewed and updated where necessary. The majority of the Fiches are now, in addition to the JITs Restricted Area, available on the Eurojust Intranet. This gives Fiches more visibility, and permits the Eurojust National Desks to have direct access to the relevant Fiches at their convenience.

The aim of the Project on Assessment of the JITs Network and its Activities is to improve the overall level of engagement and functioning of the JITs Network, and to further strengthen its position as a key player in the area of JITs. To this end, a Project Group has been formed by the JITs Network Secretariat; followed by a questionnaire being sent out to all JIT National Experts (resulting in twenty-seven (27) replies received) and which led into discussion sessions with fourteen (14) JIT National Experts. The draft Report and Action Plan were shared with the Network at the end of September 2023. Further feedback will be gathered from the JITs Network, before the adoption of the final documents.

Ms Jancewicz outlined the JIT training activities that had been undertaken in the last year, focusing on the first implementation of the JITs Model Case Scenario (MCS), developed by JIT National Experts, during the CEPOL- EJTN training in Trier in September 2023.

Finally, the launch of the new JITs Restricted Area (RA) in July 2023 was announced. The JITs RA is now accessible from both the Eurojust website and Intranet. This new version provides an improved user experience through an easy-to-navigate homepage and a menu with direct links to the most important resources. The new version also offers the possibility to compare the *Fiches Espagnoles* from two countries.

8. JITs funding

The JITs Network Secretariat shared several novelties to be introduced to the JITs Portal, such as the use of a multi factor authentication for logging in to this online tool. The JITs Network Secretariat further informed the delegation about the upcoming implementation of the new Claims Module, developed for the online submission of claims. In concluding the update, the JITs Funding Team announced further developments to the JITs Funding Programme are anticipated during 2024.

Summary of the main meeting conclusions “JITs with Latin American Countries”

- Meeting participants attested the **growing demand for effective judicial and police cooperation beyond the EU’s external borders and recognised the significance of JITs with Latin American Countries** to address common challenges posed by transnational organised crime.
- Prosecutors from both EU and Latin American countries **presented cases on JITs involving countries from both regions**. Challenges and best practises were identified in this field. All the speakers recognised the fundamental role of Eurojust in facilitating cooperation.
- Eurojust and Europol presented **an overview of the Agencies’ tools and experiences in supporting JITs with Latin American countries and key ways in which they are aiding and supporting the investigations**.
- Eurojust presented the latest developments related to the support offered to JITs with Ukraine, including the **developments related to CISED**. It was also acknowledged **that Europol recently joined this JIT as a participant**.
- Europol presented its role in providing operational support to investigations involving EU and Latin American countries. The Speaker **focused on Europol’s Operational Task Forces (OTFs)** and the importance of a real-time exchange of information to provide adequate support to JITs.
- Eurojust DPO presented ongoing discussion on whether the **inclusion of specific clauses in the JIT agreement could facilitate and assist the required assessment of data protection standards in cooperation with non-EU countries**. An update on this subject is expected after the consultation with the EDPS. The JITs Network Secretariat will facilitate further discussion on this topic with active participation of the JITs Network.
- The European Commission updated the delegation on **the state of play of the JIT Collaboration Platform**. Purposes of the JCP and key actors were presented. The use of the JCP will be voluntary. The start of operations will be determined by the Commission, upon the adoption of implementing acts and technical tests, latest by 7 December 2025.
- In the workshop “**Supporting JITs with Latin American Countries**”, participants underlined the importance of Liaison Prosecutors and Contact Points as key to facilitating judicial cooperation with Latin American countries. Efficiently establishing contacts with the relevant authorities in Latin American countries was highlighted as a crucial first step in starting cooperation. Participants suggested creating model agreements, checklists and guides for setting up JITs as well as thematic workshops and seminars to raise awareness in this particular field of judicial cooperation.

- In the workshop “**Limitations to a JIT, specific requirements related to investigative measures**”, participants addressed the matter of situations where a need occurs to issue EIO(s)/MLA(s) despite having an active JIT in place.
- In the workshop “**Procedural rights of victims within the context of JITs**”, participants exchanged ideas, lessons learned and best practices on how JITs can contribute to identifying, rescuing and protecting victims, as well as ensuring the involvement of victims in legal proceedings.
- The **Factsheet on how to involve the ICC-OTP in JITs jointly developed by JITs Network Secretariat and ICC-OTP** was presented. The JITs Network Secretariat will continue to work on a design and publication of the document (online and printed brochure).
- The **draft Report and Action Plan on the “Assessment of the Network and its Activities”** are important documents for the Network, therefore it was decided to gather more input from JIT National Experts before adopting and publishing the final documents.
- The **Fiches Espagnoles** for all EU Member States, as well as nine (9) non-EU countries (Albania, Georgia, Montenegro, North-Macedonia, Norway, Serbia, Switzerland, Ukraine, and the United Kingdom) have been reviewed and updated. Majority of Fiches are now also available on the **Eurojust Intranet** as well as on the **JITs Restricted Area**.
- The **JITs Funding Claims Module is about to be introduced!** This module will form part of the JITs Portal, and will be used for the online submission of JITs funding reimbursement claims.