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**NOTE**

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Subject: Joint Eurojust-Europol Annual Report 2019

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Delegations will find enclosed the Joint Eurojust-Europol Annual Report 2019, as it has been submitted by these Agencies to the Council, the European Parliament and the Commission.



## Joint Eurojust-Europol Annual Report 2019

### 1. Introduction

Eurojust and Europol have continued to maintain close cooperation and, in the course of 2019, both agencies have successfully identified and implemented procedural synergies in aid of the effective performance of their respective tasks.

This report highlights some important results of that cooperation, achieved both operationally and strategically in the course of the year. Note in particular:

- The development of effective communication between Eurojust Contact Points and Europol Analysis Projects has resulted in more streamlined strategic and operational cooperation between the two agencies.
- The conclusion of a Memorandum of Understanding on the new Europol Satellite Building, part of Eurojust Headquarters, and the actual occupation of it, offered an opportunity to further strengthen cooperation between Eurojust and Europol.
- The gradual implementation of the provisions in both agencies' Regulations related to reciprocal hit/no hit access to information started.
- The unique collaboration between the two agencies has led to important developments of the SIRIUS Project.

- A new format of the Eurojust-Europol exchange programme was successfully launched in autumn.

In addition, close cooperation has been established at a high-level within both agencies, allowing for regular exchanges of views on issues of common concern, with the potential of a coordinated approach.

Case examples in the annex to this report demonstrate the essential support provided by both agencies to investigations and prosecutions in the Member States.

## **2. Joint Investigation Teams (JITs)**

Eurojust and Europol worked together to ensure smooth implementation of the Memorandum of Understanding on the joint establishment of rules and conditions for financial support to JITs of 1 June 2018. Following the recommendations of IAS audit implemented at Eurojust, both agencies have agreed on measures to enhance information flow on detecting and preventing possible double funding of JIT activities. Furthermore, both agencies have gathered information in order to issue in 2020 a joint infographic flyer informing about their funding schemes available for support to operational work in the Member States.

Both agencies contribute each year to JIT training organised for law enforcement and prosecutors, therefore, they jointly reviewed and updated the JIT training curriculum to be applied from 2020 by CEPOL.

The 15<sup>th</sup> Annual Meeting of National Experts on Joint Investigation Teams - organised by the JITs Network Secretariat in close cooperation with Eurojust and Europol - took place at Eurojust on 5-6 June 2019. The topic of the two-day meeting was “JITs in cybercrime cases: challenges and opportunities”.

Both the President of Eurojust and the Executive Director of Europol highlighted the complementary role of Eurojust and Europol in providing support to JITs. The plenary sessions and workshops discussions were complemented by information about Europol's support for investigations and JITs, including in cybercrime cases.

For the first time the JIT National Experts were also invited to Europol to meet the respective Heads of the Liaison Bureaux. Their discussions were related to the role of the Liaison Bureaux and national experts in JITs, taking into account the specific situation in each country.

The conclusions of the 15<sup>th</sup> Annual Meeting were published as a Council document in November 2019 (13752/19): in order to increase visibility, Eurojust and Europol will liaise with the Council and Presidency of the Council of the EU to present them jointly to COSI in 2020.

### **3. Europol Analysis Projects and Eurojust Contact Points**

On 16 October 2019, Eurojust hosted the second joint meeting of Eurojust Contact Points (CPs) and the Europol Analysis Projects (APs). Altogether around 60 participants gathered to discuss ways of enhancing cooperation and creating synergies.

It was acknowledged that there is a difference in the governance structure of Europol and Eurojust. Although Eurojust CPs and Europol APs differ, in particular with regard to their access to operational and strategic information, an effective cooperation between APs and CPs can contribute to improving the operational cooperation between the two agencies.

Since the joint meeting held in 2018, it has been demonstrated that operational cooperation has improved in terms of information exchange and earlier involvement in coordination and operational meetings.

Following what proved to be a frank and fruitful exchange of views, a number of conclusions and follow up actions were agreed. One of the conclusions was that both agencies would share their strategic products, reports and information for greater outreach and promotion and would enhance their efforts in promoting the role and involvement of the other agency.

Both agencies agreed that the joint meeting was successful and should continue to be organised once a year.

As a follow up to the joint meeting mentioned above, in December 2019, Europol invited Eurojust to join their newly created AP Dark Web established for assisting Member States in fighting the criminal use of the Dark Web. Eurojust gladly welcomed this invitation and the College appointed two Contact Points from the Cybercrime Team in February 2020.

#### **4. Eurojust presence at and participation in Europol Centres**

The Eurojust SNEs posted to the European Cybercrime Centre (EC3), and the European Counter-Terrorism Centre (ECTC), have proved particularly effective to enhance cooperation between the two agencies. The former participates also in the weekly EC3 and Europol's Joint Cybercrime Action Taskforce (J-CAT) operational meetings thus supporting the Taskforce with judicial advice on cybercrime cases. A further pilot project was launched in 2018 with respect to Analysis Project (AP) Copy in the area of intellectual property crime. The pilot project ended with a positive outcome and Eurojust is currently working on a closer cooperation with Europol and EUIPO. Cooperation between the anti-trafficking team at Eurojust and the European Migrant Smuggling Centre (EMSC) intensified, in particular Eurojust participation in EMPACT operational activities and joint involvement in operational meetings, with a dedicated strategic meeting that was held on 14 March 2019.

#### **5. Third edition of the joint Eurojust/Europol report on common challenges in combating cybercrime**

The joint Eurojust/Europol report on common challenges in combating cybercrime was first developed by Eurojust and the European Cybercrime Centre at Europol (EC3) in 2015 to provide an overview of the challenges in combating cybercrime (including cyber-enabled crime and investigations in cyberspace) from a judicial and law enforcement perspective.

After the first update in 2017, Eurojust and Europol issued the third edition of the joint report in July 2019. Common challenges in combating cybercrime are identified and categorised into five main areas: loss of data; loss of location; challenges associated with national legal frameworks; obstacles to international cooperation; challenges of public-private partnerships.

The report further examines ongoing initiatives at policy level addressing the identified challenges as well as remaining open issues. In its conclusions, the report emphasises the importance of cooperation between all parties involved and provision of platforms and networks dedicated to sharing knowledge and best practice, such as the European Judicial Cybercrime Network (EJCN) and the Joint Cybercrime Action Taskforce (J-CAT).

## **6. Observatory function on encryption**

In the context of the Encryption Observatory function, in 2019 Europol and Eurojust prepared the second joint report at the request of the Commission (DG HOME). The document was published in February 2020.

Whereas the first report, published in January 2019, provided a background on encryption, the second report functions as an update. This means that the focus is on a number of key developments with respect to encryption and related issues and their impact on the work of law enforcement and judicial authorities in the area of criminal investigations.

## **7. High Value Targets and Operational Task Forces: cooperation opportunities**

The HVTs/OTFs concept is a new prioritisation mechanism, created at the end of 2018 and endorsed by the HENUs and the Europol Management Board following a Member States' request to assist in the selection and to approach High Value Targets.

HVTs are based on Member States' initiative and on a need for a rapid response to a serious threat. Europol provides analysis and data checks. Once links with other Member States are detected, those Member States are invited to join and to form the so-called Operational Task Force. Considerations regarding the potential complimentary role that Eurojust could play in the HVT/OTF process will continue in 2020, following the discussions initiated at the Steering Committee meeting in December 2019. The agencies have considered proposing a pilot project based on a case with possible judicial dimension to better define the role and cooperation opportunities of Eurojust.

## **8. Cooperation within the SIRIUS project**

SIRIUS is an innovative project, which includes an interactive knowledge-sharing platform accessible to law enforcement and judicial authorities, and aims to produce and disseminate trainings and guidelines to improve (mainly) EU-US cooperation on cross-border access to electronic information.

The SIRIUS project was created by Europol in October 2017 to respond to the need of EU law enforcement to access electronic evidence for internet-based investigations. Thanks to a close partnership with Eurojust and the European Judicial Network, the SIRIUS project is able to support both the EU law enforcement and judicial community. Europol and Eurojust share the execution of project activities and deliverables. Europol is in charge of the law enforcement component of the project, and Eurojust focuses on the development and management of the judicial component of the project, and is a member of the Advisory Board.

On 19 December 2019, Eurojust and Europol have submitted the expansion proposal for the SIRIUS project, which envisages implementation of the project via a Contribution Agreement set up by the European Commission with Eurojust and Europol being beneficiaries of the funding. The Contribution Agreement will be funded via the European Commission's Service for Foreign Policy Instruments (FPI). The proposal concerns expansion of the deliverables as well as overall duration of the project.

In October 2019, an additional staff member was recruited by Europol to support the work of Eurojust in reaching out to the judicial community and ensuring visibility of the SIRIUS project. A placement agreement between Eurojust and Europol, setting out the purpose and administrative details for the temporary posting of a Europol representative within the Eurojust premises, is currently under finalisation.

On 23-24 October 2019, the third annual SIRIUS conference, co-organised by Eurojust and Europol, gathered over 300 judicial and law enforcement authorities from 40 countries, as well as representatives from Google, Microsoft, eBay, Cloudflare and Twitter, to address issues and challenges when conducting Internet-based investigations.

## **9. Reciprocal access to information**

There is a legal obligation for both agencies to grant each other indirect access based on hit/no hit system to certain processed data.

The sub-group, established by the Europol-Eurojust Steering Committee to focus on reciprocal hit/no hit access and secure communication, met in 2019 to discuss the requirements for establishing indirect access to information and preparing a proposal for the way forward.

The sub-group looked at the short-term and longer term implications, at a number of specificities related to the hit/no hit methodology, e.g. difference in terminology, data to be exchanged, format of the data to be exchanged, identified some initial risks for the organisations and started preparing the process workflows.

Having analysed the current situation of available solutions and IT planning at Europol and Eurojust, the sub-group suggested a gradual implementation. A short-term solution using the existing capabilities is proposed to start implementation. A more elaborated IT-based solution is a part of the functionality discussed for a new Eurojust Case Management System (CMS) in the Digital Criminal Justice Study.



The sub-group will continue its activities in 2020, having in mind the legal requirements stemming from the respective Regulations.

## **10. Shared facilities**

As of 4 November 2019, the new Europol Temporary Satellite Building, originally intended for the expansion of Eurojust, was ready to accommodate a maximum of 170 Europol staff members. The building is expected to be returned to Eurojust by the end of 2023.

The move came after the conclusion of a Memorandum of Understanding.

The opening of the Europol Temporary Building offers an opportunity to strengthen further the cooperation between Eurojust and Europol, creating the possibility to seek shared services in several domains.

In addition, both agencies continue to support each other with regard to meeting room facilities.

## **11. Communication strategies**

Both agencies have initiated discussions towards finding synergies in their communication strategies. The Steering Committee in June 2019 confirmed the need for a common approach based on joint outreach to promote common projects and work closely in the communication area. The proposal is to be finalised in 2020.

## **12. Meetings**

### **a. High-level Meetings**

Europol's Executive Director and the President of Eurojust met each other on various occasions.

## **b. Steering Committee**

The Steering Committees on operational and strategic matters met twice in 2019: on 17 June at Europol and on 16 December at Eurojust.

Several matters of common interest were touched upon, including the Digital Criminal Justice project, 5G technology, preparations for the establishment of the EPPO and updates on data retention.

## **c. Exchange programme**

A new format of the exchange programme has been agreed by the Steering Committee in December 2018 and June 2019. The new format, with a starting date of autumn 2019, would involve an “open day” for a large group and separate “individual exchanges” between the staff sharing their specialised expertise.

Both agencies expressed their satisfaction with the staff exchange programme – open days organised at Europol on 14 October and at Eurojust on 21 November. The individual exchanges are planned to start in 2020.

Based on feedback received by staff participating in open days and individual exchanges, the MoU on the establishment of the exchange programme will be amended to reflect the new format.

## **d. Operational meetings**

It is the policy of both organisations to provide information, about the upcoming coordination meetings at Eurojust and operational meetings at Europol so that each agency is aware of the others support to relevant operational activities and provides the possibility to seek participation (subject to approval from the national authorities). Such participation offers the potential to feed the process of each case, with analytical and operational support, and to facilitate judicial follow-up, as appropriate.

#### **e. Other meetings**

Eurojust regularly attends the meetings of the Heads of Europol National Units (HENUs), as an observer, and is invited to all strategic EMPACT meetings.

Europol has been invited to attend the Meeting of the Consultative Forum of Prosecutors General and Directors of Public Prosecution. EC3 attended and contributed to the meetings of the EJCN. Eurojust participated in the 2019 European Police Chiefs Convention at Europol's headquarters, in the meetings of the EC3 Programme Board, in the meetings of the European Union Cybercrime Task Force (EUCTF) and in various expert and advisory group meetings such as the Europol expert group on 5G technology.

In November 2019 Eurojust and Europol, together with the Audio-visual Anti-Piracy Alliance (AAPA), representing the industry of protected audio-visual content, joined forces to improve the sharing of expertise to tackle audio-visual piracy via IPTV networks.

More than 70 judicial and law enforcement authorities from EU Member States and representatives from Eurojust and Europol discussed, during a two-day seminar at Eurojust, about information needed to identify, investigate and prosecute two forms of audio-visual piracy: card-sharing and illegal streaming.

The main points of discussion were how to identify a pirate service, investigative tools and the challenges faced by the private sector in investigating piracy, as well as the scale and impact of audio-visual piracy and its links to organised crime. Further sessions included knowledge sharing on how to achieve successful prosecutions and how the judiciary could work with the private sector.

### 13. Conclusions

Eurojust and Europol recognise the need for strong operational partnership as an essential element in the fight against organised and serious cross-border crime and terrorism. Both agencies retain their commitment to close and effective collaboration in support of their respective mandates.

The Eurojust Regulation entered into application on 12 December 2019 and provided Eurojust with a new legal basis for cooperation with third countries similar to the Europol Regulation. Currently, the Commission is negotiating with several non-EU countries international agreements for the exchange of personal data with Europol. To make best use of the work done and to exploit synergies, Eurojust suggests updating the negotiation mandates so that they cover also the exchange of personal data with Eurojust.

Europol chaired in 2019 and Eurojust will chair the Network of Justice and Home Affairs Agencies in 2020. Both agencies have undertaken to support each other in focusing the Network's activities on issues of common concern and to provide concise reports with recommendations to COSI.