



Brussels, 11 December 2024  
(OR. en)

16822/24

COPEN 545  
EUROJUST 93  
JAI 1860

**NOTE**

From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	16901/23
Subject:	Joint Investigation Teams (JITs) - Highlights of the Annual Meeting of the Network of National Experts on Joint Investigation Teams (23 and 24 October 2024, Eurojust, The Hague)

Delegations will find attached the above-mentioned report.

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

23 and 24 October 2024, Eurojust, The Hague

The 20th 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 23 and 24 October 2024. The meeting brought together JIT National Experts from EU Member States and Observer States alongside representatives of EU institutions and agencies.

The main topic of this year's meeting was "**Admissibility of (e-) evidence gathered in JITs**". The meeting served as an opportunity for JIT practitioners to exchange experiences in relation to admissibility of evidence gathered in JITs; to address challenges encountered when collecting, safeguarding, and presenting electronic evidence with a view to ensuring its admissibility in legal proceedings; and engage in deliberations on how JITs can further enhance and facilitate cooperation in this context.

The Head of JITs Network Secretariat (*ad interim*) addressed the participants as chair and opened the meeting.

The President of Eurojust and the Executive Director of Europol both offered welcoming remarks.

The Eurojust President emphasised positive developments with the increasing number of JITs supported by Eurojust, noting that this upward trend reflects the success of this cooperation tool. He reiterated the message that JITs are one of the most significant instruments in the field of international judicial cooperation.

It was highlighted that the success of the tool results from the dedication of individuals working together to efficiently fight cross-border criminality as well as the continuous support provided by Eurojust and other partners. In this regard, he emphasised that the efforts of the IITs Network to promote, facilitate and improve the tool are invaluable.

The Executive Director of Europol underlined that use of new technologies is embedded in criminal networks, which are able to quickly adopt and exploit new tools and opportunities for conducting criminal activities. The use of cryptocurrencies is also on the rise and criminals are ready to exploit legal gaps to their advantage. Europol is at the forefront of tackling these type of crimes. She stressed that it is essential for law enforcement and the judiciary to work together to combat the criminality driven by new technologies. JITs and Operational Task Forces (OTFs) serve as a prime example, with complementarity of various instruments being the key in navigating complex challenges.

The Executive Director also stressed that from an operational perspective, the main difficulty lies in lawfully accessing the data. There is a need to strike the right balance between enabling investigations and protection of digital safety and privacy as well as improving the relevant legal framework. Europol has established and holds the Secretariat of the EU Innovation Hub for Internal Security – a multi-agency project with the aim of identifying, promoting and developing innovative solutions to support the operational work of EU Member States. This initiative seeks to help investigators and analysts to maximise the opportunities offered by new technologies, avoid the duplication of work, create synergies, and pool resources.

The Head of Operations Department at Eurojust briefly introduced the topic of the meeting and the role of Eurojust in supporting JIT practitioners in the gathering and exchange of electronic evidence. She emphasised that, as technology continues to evolve and criminals find new ways to exploit digital platforms, JITs can play an indispensable role by way of working together efficiently and swiftly across jurisdictions; by providing platforms to address differences in national laws, legal requirements and national rules in timely manner, ensuring that the electronic evidence collected is admissible in courts across different jurisdictions; and by sharing knowledge, resources and expertise on innovative strategies for combatting an ever-evolving landscape of digital criminality.

## **Admissibility of (e-) evidence gathered in JITs**

### **Issues related to admissibility of evidence (Summary of replies to the Questionnaire)**

A representative of the JITs Network Secretariat opened the morning plenary session with a presentation summarising the replies of JITs National Experts to the Questionnaire “Issues related to the admissibility of (e-) evidence gathered in JITs.” The aim of the questionnaire was to collect the experiences of the JIT National Experts in relation to the collection, preservation and transmission of (e-) evidence, including any possible issues of admissibility.

In their replies, the JITs National Experts noted the differences between the legal systems and legislations of JIT partners. Despite these differences, there was not significant number of countries experiencing issues related to admissibility of evidence. The JIT National Experts also shared insights on the collection, preservation and transmission of e-evidence, highlighting the importance of having a channel for secure and efficient data transfer.

### **Admissibility of evidence in JITs – Practical examples, challenges and solutions**

A Prosecutor from DIICOT, and one of the JITs National Experts for Romania, presented an overview of practical examples, challenges, and solutions related to cases where evidence gathered within JITs was challenged by defence lawyers. He underlined that admissibility of evidence is governed by national law, not European or international law.

The speaker recommended early sharing of legislative specifics among JIT partners, agreeing on specific arrangements, planning ahead, discussing, and being transparent with courts on the origin of the evidence, in order to avoid inadmissibility of evidence.

### **Cryptophone cases: overview of relevant national case law**

The Team Leader from the the cybercrime cluster at Eurojust Operations Department gave an overview of relevant national case law on Cryptophone cases. Cryptophones are encrypted communication tools that ensure anonymity (through specific SIM cards and lack of traceability), discretion (with no camera, microphone, GPS and USB port), and non-treacability (via automatic message deletion and remote erasure). These features make them widely used by organised crime groups as a key criminal technological service.

To date, several JITs were set up with the aim of dismantling criminal communication platforms such as EncroChat and SKY ECC. The speaker first presented the SKY-ECC case and continued with an overview of case-law in these type of cases, where the admissibility of evidence has been challenged in courts. The argument of bulk interception was countered, as the JIT members adopted a gradual approach and used targeted investigative measures, whilst paying special attention to legal frameworks on data access, retention and thus the right to privacy and the right to a fair trial. Evidence collected in this case was used in numerous proceedings in different countries and while defence raised several challenges, so far evidence was declared admissible.

### **Eurojust: The SIRIUS Project – support to cross-border gathering of electronic evidence**

A Judicial Cooperation Officer from the SIRIUS Project Team at Eurojust presented the SIRIUS Project: co-implemented by Eurojust and Europol, SIRIUS Project is a central reference point in the EU for knowledge sharing on cross-border access to electronic evidence. It offers a variety of services, such as guidelines, trainings and tools, to help with accessing data held by Service Providers (SPs). These services are available to law enforcement and judicial authorities via the Europol Platform of Experts (EPE) and an application. Judicial authorities (prosecutors, investigative judges, judges, etc.) can apply for membership by contacting [sirius.eurojust@eurojust.europa.eu](mailto:sirius.eurojust@eurojust.europa.eu). The speaker presented channels for obtaining data from SPs and highlighted the importance of legal frameworks as well as SPs policies. Participants were also introduced to the stages of data acquisition from foreign-based SPs and best practices to consider in this area.

### **Europol: Countering ransomware attacks while they are happening**

The Head of Operations at Europol European Cybercrime Centre presented a case study of a real-time ransomware attack response. The operation targets ransomware groups that gain system access, exfiltrate data, and pressure victims to pay ransoms. A new method which is being piloted with this particular case is channelling private sector information positions on early-stage ransomware attacks, disrupting attacks before they come to execution.

## **Gathering of e-evidence within the JIT – best practices**

A Senior Public Prosecutor at the Bavarian Central Office for the Prosecution of Cybercrime, Germany, shared best practices on the gathering of e-evidence within JITs investigating cyber fraud (forex scam, CFD scam, crypto fraud). He highlighted challenges such as complex international connections, victim recovery efforts, jurisdictional conflicts, and secure cross-border access to evidence. He shared an example of a successful cyber fraud prosecution through JIT cooperation, where mobile forensic labs enabled real-time evidence processing. However, privacy policies, IT security, and encryption continue to pose challenges in cross-border investigations, including within JITs.

## **JITs Network Activities and Projects**

### **Update on the JIT Collaboration Platform**

A representative from DG Just, European Commission (COM), and the Chairperson of the JITs CP Advisory Group, eu-LISA, gave a joint update on the JIT Collaboration Platform (JITs CP).

The representative from COM presented the key actors involved in the development and future use of the JITs CP and their specific roles. eu-LISA will design and develop the physical architecture of the JITs CP and maintain the platform after entry into operations; whilst the JITs Network Secretariat will ensure administrative and legal support and the promotion of the use of the JITs CP amongst JIT practitioners. According to the JITs CP Regulation, the latest date of the start of operations of the JITs CP is 7 December 2025.

The JITs CP will include a centralised information system allowing temporary central data storage, a communication software with local storage of communication data on the users' devices, and a connection between the centralised information system and relevant IT tools managed by the JITs Network Secretariat. The use of the JITs CP will be voluntary; the decision to use the JITs CP will have to be agreed by JIT parties and included in the JIT agreement. For a JIT to be able to make use of the JITs CP, at least two (2) Member States will need to be involved. It is currently discussed if additional user profiles with limited access rights (for example, only providing access to the communication software) should be introduced to reflect the different situations and requirements within a JIT. A data size limit will be defined by eu-LISA and agreed with the Advisory Groups members (represented by Member States, JNS and the European Commission).

The representative from eu-LISA updated the JIT Experts on the technical developments and current state of play. Furthermore, she presented the main functionalities of the platform i.e. JIT space dashboard, upload/download functionality, JIT funding retrieval module, calendar/management module, evaluation module and communication app.

## JITs Network: update on ongoing projects and activities

The Head of the JITs Network Secretariat (*ad interim*) and members of the Secretariat presented the state of play of the ongoing projects and activities of the JITs Network.

The *Fiches Espagnoles* for all EU Member States, as well as eight (8) non-EU countries (Albania, Georgia, Montenegro, North Macedonia, Norway, Serbia, Switzerland and Ukraine) have been reviewed and updated where necessary. They are available on both the JITs Restricted Area and the Eurojust Intranet.

Following on from the conclusions of the 19<sup>th</sup> JITs Annual Meeting regarding the enhancement of victim's rights in JITs, the JITs Network Secretariat is seeking to include additional information in the existing *Fiches*; in particular, whether there are specific rights related to the protection of victims within the national legislation of a country that should be considered in the scope of a JIT.

To prepare for the 5<sup>th</sup> JITs Evaluation Report (to be finalised at the beginning of 2025), the JITs Network Secretariat requested the assistance of JIT National Experts in facilitating the completion of JIT Evaluation Forms upon JIT expiry. The JITs Network Secretariat will collect the forms, analyse and interpret the gathered data, and channel the information into this next Evaluation Report. So far, a total of twenty-nine (29) JIT evaluations have been completed through joint efforts, with eighteen (18) of these conducted *via* coordination meetings; twenty-five (25) have been completed unilaterally by one of the parties of the JIT.

This year, the JITs Network Secretariat promoted JITs among practitioners by sharing knowledge during numerous seminars and trainings. Particularly, in July 2024, the first JITs training tailored for Western Balkan practitioners took place at the Eurojust premises. Insights, case studies, best practices, perspectives, and solutions were shared with the participants.

The JITs Network Secretariat presented a new training tool that is under development and which is aiming to introduce an interactive session to learn about the setting up and operation of a JIT, based on a case example.

The representative of the Casework Unit at Eurojust informed about the progress related to the model JIT agreement to be used between EPPO and non-participating EU States: the draft has been prepared and is now undergoing an approval mechanism. This model JIT agreement will be an internal document for the use of EPPO and practitioners from non-participating EU States.

## **Update on JITs funding**

The JITs Network Secretariat shared updates on changes introduced within the JITs Funding Programme in 2024. The participants were also briefed on the state of play of the development of the JITs Portal Claims Module and on how to submit reimbursement claims online *via* this tool. JITs funding statistics (such as number of awarded grants within both funding schemes) and the updated JITs Funding Flyer created jointly with Europol were also presented to the JIT Experts.

## **ICC-OTP, JIT Technology Progress**

The International Cooperation Adviser from the ICC gave a presentation on technology progresses made by ICC-OTP on the gathering and safeguarding of e-evidence. She informed about the OTP new technical toolset for evidence collection, storage, processing, analysis, and disclosure. This internal tool, which allows more capacity, accessibility, and protection for the data, is also available for Member States, including JIT parties.

## **Outcome of the workshops**

### **Workshop 1: Gathering and exchanging e-evidence in the context of JITs (challenges and best practices)**

The workshop “Gathering and exchanging e-evidence in the context of JITs” was chaired by the Eurojust Deputy National Member for Spain.

The workshop aimed to discuss how could JITs overcome challenges posed by varying national legal frameworks, ensure the integrity and authenticity of e-evidence, and address privacy concerns while facilitating cross-border access to and exchange of e-evidence. Additionally, the role of EU agencies like Eurojust in supporting JITs to navigate these legal, technical, and privacy challenges during the collection, transfer, and presentation of evidence in court was discussed

Following an open discussion among the participants, the following conclusions were reached.

JITs face significant challenges posed by varying national legal frameworks, but they offer a unique platform for overcoming these challenges through cooperation and flexibility. The standard clause in JIT agreements, which ensures the legality of adopted measures, is vital to address the legal needs of all parties involved. When third countries are part of the investigation, a close working relationship within the JIT can foster mutual trust, especially through the promotion of the non-inquiry principle, which helps safeguard the validity of evidence.



Constant interaction within JITs also aids in selecting appropriate technical solutions for gathering and transferring e-evidence, based on the technical capabilities of the involved parties. Best practices include preparing and disseminating reports, such as the Dutch Forensics Report in the EncroChat case, which can benefit all signatories. The anticipated JIT Collaboration Platform is expected to improve technical cooperation, though concerns remain about its capabilities and the limitations for third-country participation.

Eurojust's role is seen as crucial throughout all phases of the JIT, from preparation to operational development and evaluation. The JIT Network's support is essential for financing and coordinating efforts; and the involvement of expert networks like EJNI, EJCNI, Genocide Network and the recently established EJOEN (European Judicial Organised Crime Network) and the possibility to rely on the SIRIUS Project, especially in training, is welcomed. Police and judicial cooperation, supported by Europol and OLAF, is necessary for seamless coordination, particularly in complex investigations.

Finally, all parties must carefully consider the confidentiality of linked investigations, including when disclosing information to the defence, to protect sensitive legal processes. The proper development of the JIT Collaboration Platform will address privacy concerns and improve the effectiveness of cross-border data sharing in criminal investigations.

## **Workshop 2: Admissibility of (e-) evidence within JITs**

The workshop Admissibility of (e-) evidence within JITs was chaired by the Eurojust Deputy National Member for the Czech Republic.

The workshop aimed to identify possible challenges related to gathering of evidence within a JIT, including whether situations arose where the evidence gathered in the framework of a JIT was declared inadmissible by the court.

Firstly, participants discussed their experiences with gathering evidence within JITs. A discussion highlighted differences between common law and continental systems, in particular with regard to different understanding of intelligence vs. evidence (i.e. in some jurisdictions, phone interceptions are considered only as intelligence). It was highlighted that communication between JIT members is a crucial part of a JIT cooperation and a way to prevent possible admissibility issues.

Some of the participants voiced that they were involved in cases where a proportionality, in terms of conducting less intrusive measures than requested by the JIT partner, was considered. For instance, in one case a JIT partner requested a search of a big brewery, but it was decided that the search would not be proportionate in the case and the respective company could be instead asked to hand over the requested items. The participants acknowledged that the JIT as a tool is a very good frame to find a solution in such situations, as it offers the opportunity for JIT members to directly discuss the necessity and proportionality of requested measures.



Most of the participants confirmed that they are not aware of any specific examples of judicial decisions on inadmissibility of evidence gathered in JITs. In one case where admissibility of evidence gathered in a house search was challenged before a court, a judge dismissed it following the 'lex loci' principle. According to the participants, defence lawyers challenge more often the evidence gathered in national procedures or via traditional EIO/MLA mechanism than that gathered via JITs. In some instances where the evidence gathered in JITs was objected, it was not declared as inadmissible by courts. In this context, participants furthermore informed that in their national systems there is no difference between scrutiny of admissibility of evidence gathered via the MLA/EIO procedure and within JITs.

Further differences between the common law and continental law systems were stressed during the discussion; i.e. a need to formalise the evidence gathered in Ireland via MLA, possible issues with non-involvement of prosecutors as judicial authorities in the evidence exchange under the JIT.

Finally, the participants suggested that it might be beneficial to start broader discussions regarding a need for a set of common rules pertaining to the admissibility of evidence.

### **Workshop 3: Specific issues in JIT investigations: encryption, cyber currencies, AI (challenges and opportunities for judicial and law enforcement authorities)**

The workshop "Specific issues in JIT investigations: encryption, cyber currencies, AI" was co-chaired by the Head of Europol Digital Support Unit and a Judicial Cooperation Officer from the Eurojust Casework Unit.

The workshop highlighted critical challenges that JITs face in cybercrime investigations, especially concerning jurisdictional issues where perpetrators operate across borders with differing legal systems.

Discussions focused on strategies and tactics to trace and freeze cryptocurrency assets despite their pseudonymous nature, including using advanced tools like Chain analysis, or other in-house-developed tools and techniques at Europol for tracking. Addressing the complexities of encrypted and anonymised data, the workshop underscored the need for better tools and expertise to manage electronic evidence, as cybercriminals increasingly use encryption and AI.

Participants stressed the importance of strengthening international cooperation and sharing best practices to improve efficiency in handling digital assets in cybercrime cases.

A key outcome was the call for deeper collaboration between Europol, Eurojust, and JITs practitioners, specifically to aid judicial authorities in understanding handling codes applied during sharing of information via SIENA, which restrict data use based on the decision by the data owner, and to enhance case prioritisation and smoother data flow between law enforcement and judicial bodies.

## **In-House Study Visit: the Netherlands Forensic Institute**

The 20<sup>th</sup> JITs Annual Meeting in –house study visit was dedicated for introduction of the work of the Netherlands Forensic Institute (NFI).

NFI's representatives explained that NFI is an agency of the Ministry of Justice and Security and falls under the Directorate General of Law Enforcement. Furthermore, the NFI is an international knowledge and expertise center for forensic research. The institute has almost forty different forensic expertise areas under one roof and is involved in, amongst other things, DNA research, conducting judicial autopsies, examining fibers or opening, reading and decrypting digital information from suspects' phones.

With these investigations, the transfer of knowledge and through innovation, the NFI contributes to investigation and truth-finding in criminal investigations, both nationally and internationally. Further to the general overview, specific session was dedicated to NFI's work on digital forensics, especially how to extract information from a phone. Participants learned how best to preserve digital devices, to enable experts to gather as much information as possible.

### **Reflections: looking back on twenty (20) years of the JITs Network**

One of the former Heads of the JITs Network Secretariat and the current Administrative Director of Eurojust, and the current Head of the JITs Network Secretariat and Head of Casework Unit (*ad interim*) both reminisced about the evolution of the JITs Network. They highlighted the unique role of JITs Network as being the only forum focused on this subject, the important contribution it has had on the growing number of JITs, and in sharing expertise and best practices in EU and beyond.

They both saluted the work of the JITs Network Secretariat as well as all the JIT National Experts. The JITs Network is a successful example of cooperation; not only just between national authorities but also between EU agencies such as Eurojust and Europol. As we find ourselves in a more complex world, with more complex organised crime groups, and practitioners need all the tools and support available in order to tackle this phenomenon - the JITs Network plays an important role as a centre of expertise aiming at enhancing the use and efficiency of JITs.

### **Summary of the Main Meeting Highlights: Admissibility of (E-) Evidence Gathered in JITs**

- **JITs Network Secretariat** presented a summary of the responses of JIT National Experts to the questionnaire on the admissibility of (e-) evidence gathered in JITs.

- A **prosecutor from an EU Member State** shared experiences from cases where evidence collected within JITs was challenged by defence lawyers. A set of recommendations were provided to help JITs avoid potential inadmissibility of evidence.
- A **Eurojust representative** provided an insight into the SKY ECC communication platform used for organised crime activities. It was explained how JIT members collaborated to dismantle the platform whilst taking special precautions to address the challenges that could lead to inadmissibility of evidence.
- Another **Eurojust representative** presented the SIRIUS Project, a central reference point in the EU for knowledge sharing on cross-border access to electronic evidence.
- A **Europol representative** showcased an operation focused on ransomware attacks, highlighting real-time response capabilities and asset-tracing techniques.
- A **prosecutor from an EU Member State** shared best practices for gathering e-evidence. Examples of successful cases included JITs employing mobile forensic labs. Challenges such as encryption, jurisdictional conflicts, and IT security were also discussed.
- **The European Commission** provided updates on the development of the JIT Collaboration Platform (JCP), including details on different user profiles and access levels.
- A **Representative of eu-LISA** outlined the main functionalities of the platform and updated the JITs Experts on the current state of play of technical developments.
- **JITs Network Secretariat representatives** shared updates on ongoing activities and projects, including:
  - *Fiches Espagnoles*: Updated versions for all EU Member States and eight non-EU countries are available on Restricted Area and Eurojust Intranet. Additional information on victim protection is still being collected.
  - 5<sup>th</sup> JIT Evaluation Report: data collection is ongoing, with 29 evaluations completed to date.
  - Model JIT Agreement with EPPO: a draft agreement for EPPO and non-participating EU Member States is under review.
- **JITs Funding Updates** focused on the state of play of the development of the JITs Portal Claims Module. JITs funding statistics and the updated JITs Funding Flyer created jointly with Europol were presented to the JIT Experts.
- An **ICC representative** introduced a new OTP Technical Toolset for evidence management that focuses on data protection, capacity, and usability improvements.

- In the **Workshop “Gathering and Exchanging E-Evidence”**, participants discussed how JITs could help overcome challenges posed by varying national legal frameworks, ensure the integrity and authenticity of e-evidence, and address privacy concerns.
  - In the **Workshop “Admissibility of Evidence”**, participants addressed challenges related to gathering of evidence within a JIT, including differences between common law and continental systems. They stressed the need to discuss proportionality of investigative measures and early communication between involved countries.
  - In the **Workshop “Encryption, Cyber Currencies, and AI”**, participants explored challenges in tracing cryptocurrencies and gathering encrypted data. They highlighted the need to improve understanding of Europol tools and the restrictions applied during the information exchange via SIENA, which may hinder the using of the information as an evidence during the judicial phase.
  - During an In-House Study Visit by representatives of the **Netherlands Forensic Institute (NFI)**, participants gained insights into digital forensic techniques and evidence preservation. Best practices for handling digital devices were discussed.
-