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NOTE

From: EUROJUST
To: Delegations

Subject: Meeting with Eurojust Contact Points and Liaison Magistrates appointed by
Member States
- Outcome report

Delegations will find attached the outcome report of Eurojust Contact Points and Liaison
Magistrates appointed by Member States.

MEETING WITH EUROJUST CONTACT POINTS AND LIAISON MAGISTRATES APPOINTED BY MEMBER STATES

COMPLEMENTARITY, SYNERGIES AND COOPERATION

THE HAGUE, 16-17 OCTOBER 2014

OUTCOME REPORT

1. Background

The meeting with Eurojust Contact Points and Liaison Magistrates appointed by Member States, organised by and hosted at Eurojust, was held on 16-17 October 2014. The meeting focused on the cooperation between Eurojust and Eurojust Contact Points (Eurojust CPs), and the cooperation between Eurojust and Liaison Magistrates (LMs) appointed by Member States (MSs). The objectives of the meeting were to discuss complementarity, synergies and cooperation by exchanging views on case examples, raising awareness of the role of Eurojust in cases related to third States, including the exchange of information with third States, identifying possible ways to improve working methodologies, and following up on the previous meeting, which took place in 2007.

A total of 79 participants attended the meeting, 17 of which were Eurojust CPs, and 20 LMs appointed by MSs. A total of 18 third States were represented (Albania, Bosnia and Herzegovina, Brazil, Canada, Georgia, Iceland, Japan, Korea, Liechtenstein, Moldova, Montenegro, Norway, Russia, Serbia, Singapore, Switzerland, Taiwan, and the USA). Representatives of the Ibero-American Network of International Legal Cooperation (IberRed), the European Commission and the Secretariat of the European Judicial Network (EJN) also participated.

The meeting consisted of presentations from Eurojust, Eurojust CPs, and LMs appointed by MSs, plenary discussions and two workshops. The meeting's supporting documents, including a draft *Guide for Cooperation between Eurojust and Eurojust Contact Points*, were prepared by Eurojust on the basis of the replies from Eurojust, Eurojust CPs and LMs appointed by MSs to Eurojust questionnaires on the state of play of cooperation.

This outcome report follows the structure of the agenda of the meeting, covering the main points of the interventions made by the numerous speakers that took part in it, and of the discussions, notably the identification of difficulties, best practice, and further steps towards effective cooperation. The meeting agenda and the *Guide for Cooperation between Eurojust and Eurojust Contact Points* are annexed.

2. What Eurojust can offer

The session dealt with what **Eurojust** can offer in terms of International Legal Assistance. Eurojust may assist investigations and prosecutions concerning a Member State and a third State at the request of a Member State's competent authority and in situations in which a cooperation agreement is in place between Eurojust and the concerned third State or, in the absence of such an agreement, in situations in which an essential interest exists in providing assistance in a specific case. With the agreement of the Member States concerned, Eurojust is also competent to coordinate the execution of MLA requests issued by third States, if the MLA requests issued by the third State are part of the same investigation and require execution in at least two Member States.

To date, Eurojust has concluded cooperation agreements with Norway, Iceland, the USA, Switzerland, the former Yugoslav Republic of Macedonia (fYROM), Liechtenstein and Moldova. Moreover, to date, Norway and the USA have seconded Liaison Prosecutors to Eurojust. Eurojust has also concluded Memoranda of Understanding with the United Nations Office on Drugs and Crime (UNODC), the International Criminal Police Organisation (ICPO - INTERPOL), and IberRed. An overview of Eurojust's casework involving third States between 2006 and 2013 was also presented. In this period, the assistance of third States was requested by Eurojust on 1591 occasions.

The importance of Eurojust CPs in third States and the role they play in the facilitation of judicial cooperation in criminal matters between Member States and third States was also emphasized. This informal network is promoted by Eurojust and commonly used by it for improving cooperation between Member States and third States by facilitating contacts. Eurojust continuously works on the further development of the list of Eurojust CPs. To date, 32 third States (Albania, Argentina, Bolivia, Bosnia and Herzegovina, Brazil, Canada, Cape Verde, Egypt, FYROM, Georgia, Iceland, India, Israel, Japan, Kazakhstan, Korea, Liechtenstein, Moldova, Mongolia, Montenegro, Norway, Peru, Russian Federation, Serbia, Singapore, Switzerland, Taiwan (Republic of China), Thailand, Tunisia, Turkey, Ukraine, and USA) have appointed Eurojust CPs.

The importance of LMs posted by MSs and the role they play in the facilitation of judicial cooperation in criminal matters was also highlighted. While they are primarily involved in cases involving their home country and the country(ies) of secondment, their possible involvement through Eurojust was also recognised: *i*) in multilateral cases in which their assistance in relation to one or more of the involved countries in the Eurojust case(s) is requested by Eurojust or *ii*) when they refer cases to/bring cases to the attention of/recommend to their national authorities that cases that are initially bilateral but became multilateral or are very complex in nature are referred to Eurojust. In this regard, Eurojust's experience shows that the participation of LMs posted by MSs, particularly those posted to third States, in coordination meetings is highly beneficial, especially when the competent authorities from the third States are unable to attend.

With regard to the requirements for exchange of information with third States, an overview of the data protection regime at Eurojust and its legal framework, *inter alia*, the Eurojust Decision and the Data Protection Rules, was provided. Data protection was described as a factor that can strongly influence Eurojust's successful performance and the level of trust that other organisations have in Eurojust. The main data protection principles and the system of supervision in place at Eurojust were presented, and the importance of data protection requirements in concluding agreements with third States was underlined.

3. What Eurojust Contact Points and Liaison Magistrates can offer

Overviews of what Eurojust CPs, and LMs appointed by MSs (both to other MSs and to third States) can offer were provided.

With regard to what **Eurojust CPs** can offer, speakers generally noted that the scope of cooperation with Eurojust and the matters dealt by them will differ and, *inter alia*, depend on their domestic competences, their areas of expertise and the legal basis for cooperation, including whether a cooperation agreement is in place between Eurojust and the concerned third State. Their assistance to Eurojust includes: *i*) provision of information on how to submit a request for assistance in their legal system (*e.g.* hearing of witnesses, controlled deliveries, transfer of criminal proceedings, service of summons), or on the state of play of execution of a request; *ii*) speeding up the execution of a request; *iii*) coordination with other state authorities; and *iv*) attendance at coordination meetings at Eurojust. Speakers also highlighted their positive experience with Eurojust. Nonetheless, the following **practical and legal difficulties** were identified: *i*) differences in legal systems; *ii*) human resource difficulties; and *iii*) time-related difficulties. With regard to **best practice**, the following were identified: *i*) early direct communication with the Eurojust CP; *ii*) discussion of institutional and legal requirements and of the most efficient approach; *iii*) coordination of organisational details; and *iv*) obtaining the required information to assist in locating and facilitating the execution of MLA requests.

With regard to what **LMs** can offer, speakers generally noted that this offer will very much depend on bilateral or multilateral agreements, but that it may include: *i*) providing understanding of the legal system of the country in which they are posted to home country colleagues, and of the home country's legal system(s) to colleagues in the host country (*e.g.* bilateral conferences); *ii*) identifying key partners in the host country(ies); *iii*) guidance on domestic legislation and procedure; *iv*) advice on domestic practice; *v*) information on timescales; *vi*) managing expectations; *vii*) coordinating with partners in the home country; *viii*) informal coordination of the exchange of information; and *ix*) assisting in the drafting and execution of MLA requests, transfer of criminal proceedings, sentenced persons requests, EAW or extradition requests, confiscation orders, or orders for the restraint of assets from both the home country and host country(ies).

With regard to **challenges** encountered by **LMs** appointed by **MSs**, the following were identified: *i*) in terrorism cases, the presence of their competent authorities in the conduct of the requested measures in the third State (*e.g.* Morocco) is required under the law of the requesting Member State (*e.g.* Spain); *ii*) security issues (especially in third States); *iii*) language barriers and related translation issues (especially with third States); *iv*) gift culture associated with lack of understanding regarding beneficial ownership (particularly in third States where cultural differences are more pronounced); and *v*) lack of resources or expertise. With regard to **best practice**, the following were identified: *i*) use of the mechanism for spontaneous exchange of information to allow the host country (*e.g.* Morocco) to initiate its own criminal investigation when the host country is unable (either for legal or time-related reasons) to execute a request for assistance; *ii*) extension of the assistance provided by the LM beyond the country(ies) of secondment to neighbouring countries; and *iii*) the LM's membership in different local or regional networks as an important tool for gathering information, establishing contacts and obtaining a wider perspective of judicial cooperation developments in the region.

Presentations benefitted from the consideration of actual cases in which the assistance of LMs posted by MSs was very successful, and in which the involvement of a Eurojust CP in a Eurojust case was extremely beneficial. In this latter situation, with the assistance of the Eurojust CP for Serbia, an urgent MLA request from Slovenia to Serbia was executed in due time, preventing the expiry of the time bar for detention and release of suspects believed to belong to an international organised criminal group.

4. Outcome of the workshop, *How can Eurojust and Liaison Magistrates better serve each other?*

On the basis of a case example, participants engaged in a discussion on the role of **LMs** posted by MSs in the setting up and functioning of joint investigation teams (JITs). The discussion showed that, in a number of cases, LMs appointed by MSs have been involved in JIT cases, performing different tasks at the stage in which the case is still of a bilateral nature. In most cases, LMs *i)* were involved in the initial arrangements; *ii)* were requested to assist in the identification of the competent authority in their host country to participate in the JIT; or *iii)* were requested to assist in persuading the competent authorities to consider establishing a JIT. Participants noted that in JITs cases involving third States, LMs appointed by MSs have experienced more difficulties in persuading competent authorities of these countries to participate in JITs. One case was mentioned in which an LM was involved until the signing of the JIT agreement at Eurojust. Participants agreed that the involvement of LMs in the initial arrangements for the setting up of JITs is useful, particularly to assist in the identification of competent authorities.

In most of the mentioned cases, when the case became multilateral, LMs were not involved in the further stages of the setting up and functioning of the JIT. The participating LMs expressed their wish to be informed of the setting up of JITs, their functioning and follow-up, with a view to ensuring transparency. Participants acknowledged, however, that Eurojust is not always informed of all the details in relation to the functioning and follow-up of JITs, since national competent authorities most often tend to contact Eurojust when an issue arises. Therefore, in this context, liaising directly with the competent authorities concerned was suggested. A further challenge identified by participants was the fact that national competent authorities request the assistance of LMs and Eurojust in parallel or consecutively, without transparency. As a possible way to provide the needed transparency and avoid parallel communication in JITs, participants suggested that JIT agreements could include a clause to the effect that: ‘National authorities are requested to use only one channel. If more channels are used, the involved parties should be informed.’

Participants further discussed possible ways to **improve cooperation between Eurojust and LMs**, and agreed that a specific guide to cooperation was not needed; however, participants considered a collection of best practice to be useful. The following **best practice** for future cooperation were identified: *i*) need to clarify, on a case-by-case basis, the competence of Eurojust and LMs to avoid overlaps; *ii*) if a case is multilateral and/or coordination is needed, it is recommended that LMs ask competent national authorities to contact Eurojust; *iii*) LMs could be appointed as EJM Contact Points; *iv*) in an MLA request, the requesting authority should make an outline of the case as complete as possible and indicate whether Eurojust or other channels have been contacted; and *v*) National Desks at Eurojust to engage with LMs at the earliest opportunity in situations in which they both may have an interest. In addition, compilation of a list of LMs by Eurojust was welcomed.

Participants also acknowledged the assistance that can be provided by LMs posted in third States in Eurojust cases: *i*) the Spanish LM posted in Morocco offered the possibility to assist in Eurojust cases (even in cases in which Spain is not involved) *via* the Spanish Desk at Eurojust; *ii*) the UK LM posted to the United Arab Emirates pointed out that assistance could only be provided by him if a connection with a UK case is present, due to the need for a formal basis for his assistance; and *iii*) LMs from MSs with bilateral or multilateral agreements with third States could facilitate the assistance to other MSs needing to contact the given third State, *e.g.* Spain and Portugal could facilitate contacts with IberRed contact points.

Participants agreed on the sharing of information between the different actors involved in assistance in criminal matters to ensure transparency and to avoid possible misunderstandings. In this respect, participants also noted that to avoid possible overlaps between *i*) a National Desk at Eurojust, *ii*) LMs of the concerned MS, *iii*) EJM Contact Points, as well as *iv*) Liaison Prosecutors from third States posted to Eurojust, if any of them find that they are dealing with the same case, they may agree between them on who is best placed to assist or how their assistance can be complementary.

5. Outcome of the workshop, *How can Eurojust and Eurojust Contact Points better serve each other?*

On the basis of a case example involving two Member States and a third State, in which reciprocal assistance is needed (MLA requests to and from a third State), participants discussed *i*) cooperation between Eurojust and a Eurojust CP, *ii*) participation of Eurojust CPs in coordination meetings at Eurojust to coordinate actions between various MSs concerned and the third State, and *iii*) possibilities of establishing a JIT involving third States. The purpose of the discussion was to find ways for Eurojust and **Eurojust CPs** to better serve each other. Participants also discussed the draft *Guide for Cooperation between Eurojust and Eurojust Contact Points*, prepared by Eurojust on the basis of the written input from Eurojust CPs and Eurojust prior to the meeting.

Generally, Eurojust CPs and National Desks have had positive experience in dealing with each other and find cooperation effective. Eurojust CPs are the interface between Eurojust and third States. Participants identified the following **best practice** and **ideas for improvement**: *i*) reinforcement of the contacts between Eurojust and Eurojust CPs; *ii*) that Eurojust and Eurojust CPs better understand each other's roles and needs; *iii*) that the Eurojust CP is involved as early as possible to discuss the drafting of requests for assistance; *iv*) that when Eurojust CPs are approached in a case, they are kept informed of future correspondence related to the case (*e.g.* by being put in copy); *v*) that the participation of Eurojust CPs in coordination meetings at Eurojust is facilitated, particularly with third States geographically more distant; *vi*) that Eurojust CPs are informed of the date of a coordination meeting at Eurojust with sufficient notice to enable them to attend or make the necessary arrangements for the appropriate person to attend; *vii*) that when Eurojust CPs (from third States with which Eurojust has not concluded a cooperation agreement) have queries, they may contact the External Relations Team (ERT) at Eurojust so that the ERT can then internally forward their query to the relevant person at Eurojust; *viii*) use of videoconferencing between Eurojust and Eurojust CPs when the matter at hand is the general understanding of the MLA or extradition processes in the third State in question; *ix*) Eurojust CPs could assist in

identifying a point of contact in a neighbouring country in which no Eurojust CP has been appointed; *x*) more exchange of information between Eurojust and Eurojust CPs on the number of occasions or queries addressed between them (not necessarily regarding MLA requests or extradition requests); *xi*) depending on the size, and if possible under the legal system of the concerned third State, the third State could appoint more than one Eurojust CP (*e.g.* in the Ministry of Justice, General Prosecution Service, central authority or court); *xii*) more training (particularly to newly appointed Eurojust CPs) is provided in cooperation with Eurojust; and *xiii*) that events similar to this meeting or joint seminars/conferences or similar initiatives be regularly organised.

The *Guide for Cooperation between Eurojust and Eurojust Contact Points* (see Annex II) was welcomed and was considered a useful tool for facilitating cooperation between Eurojust and Eurojust CPs. Participants agreed that the *Guide* is a non-binding, living document that can be updated and further improved as a result of feedback both from Eurojust CPs and Eurojust, notably as a result of discussions held during the workshop. Linked with the discussions on the participation of third States in JITs held in the framework of the case example, participants also welcomed the annex to the *Guide*, which contains information on possible legal instruments for the setting up of JITs with third States. *N.B. The Guide is presented in more detail under section 7 of this Report.*

6. Working methodology between Eurojust and Liaison Magistrates

This session dealt with the working methodology between Eurojust and **LMs**, and the role of the EJM. An overview of the Joint Task Force Paper on the *Assistance in International Cooperation in Criminal Matters for Practitioners - European Judicial Network and Eurojust – What can we do for you?* (the Joint Paper), prepared by the EJM and Eurojust, was presented. The Joint Paper provides practitioners with information on the services and assistance in international cooperation that can be provided by the EJM and Eurojust, and also covers the use of the Eurojust National Coordination System (ENCS). The EJM website, an *e*-tool to enhance cooperation, was also presented. The

importance of the following main parts the website were stressed: *i*) the *Fiches Belges*, which provide essential information on up to 48 measures of investigation; *ii*) the European Judicial Atlas (Atlas), which facilitates direct contacts by identifying the locally competent authorities of MSs to which to directly send MLA requests; *iii*) the Compendium, which facilitates the creation of Rogatory Letters; and *iv*) the Judicial Library, which contains legal and practical information on judicial cooperation in criminal matters.

The following presentations from an LM posted to a MS and an LM posted to a third State covered issues such as *i*) areas in which the competences of Eurojust and LMs appointed by MSs compete; *ii*) the risks involved in the absence of a broad working methodology, namely overlap; *iii*) the differences in the mandates of Eurojust and LMs appointed by MSs; *iv*) areas in which their roles complement each other; and *v*) differences in the scope of competence and working methodologies among LMs.

While acknowledging the need for a flexible working methodology, the **following points were made**: *i*) communication between Eurojust and LMs is key; *ii*) as soon as a case is opened at Eurojust, all stakeholders involved could be notified; *iii*) preparation by Eurojust of a list of LMs posted to third States would be useful; *iv*) creation of a new tool, an *International Association of Liaison Magistrates*, could be a resource for learning which stakeholders could be involved in a case; *v*) on a case-by-case basis, agreement on the ‘leading’ stakeholder of the case, to avoid overlaps and misunderstandings; *vi*) more structural possible solutions for the future could be the secondment of Eurojust LMs to third States (as foreseen in the Eurojust Decision) or the designation of LMs appointed by MSs to third States as Eurojust correspondents.

7. Working methodology between Eurojust and Eurojust Contact Points

The focus of this session was the working methodology between Eurojust and **Eurojust CPs**. The *Guide for Cooperation between Eurojust and Eurojust Contact Points*, discussed in the workshop, *How can Eurojust and Eurojust Contact Points better serve each other?*, was presented to all participants. This *Guide* is the result of a common effort between Eurojust and Eurojust CPs. It was prepared by Eurojust on the basis of the written input from Eurojust CPs and Eurojust received prior to the meeting. It is a non-binding, living document, which does not intend to replace any domestic provisions or guidelines. The *Guide* contains an informative section on the roles of Eurojust and the Eurojust CPs, and on Eurojust's relations with partners, including third States, as well as proposals for best practice between Eurojust and Eurojust CPs. The objectives of the proposals for best practice are maintaining and reinforcing contacts between Eurojust and Eurojust CPs and improving cooperation. The *Guide* is accompanied by an Annex containing a non-exhaustive list of legal instruments for the setting up of a JIT with non-EU Member States. The *Guide* will be updated and further improved by Eurojust as a result of the discussions in the workshop, *How can Eurojust and Eurojust Contact Points better serve each other?*, and feedback from both Eurojust CPs and Eurojust.

The following presentations from Eurojust CPs highlighted that every case requires an individual analysis to decide how best to deal with it. In this regard, the importance of the *Guide for Cooperation between Eurojust and Eurojust Contact Points*, and the Joint Task Force Paper on the EJN and Eurojust was stressed, as they provide a very good overview of the roles of Eurojust, Eurojust CPs, and the EJN CPs, and, in the case of the *Guide*, very useful proposals for best practice.

Speakers also noted that the adopted working methodology between Eurojust and Eurojust CPs will differ from case to case and will always take into account the geographical location and criminal justice system of the third State, and the framework for cooperation with Eurojust (*e.g.* whether a cooperation agreement between Eurojust and the third State concerned is in place). To better cooperate, practitioners should fully understand the role of Eurojust (what Eurojust can offer), and, likewise, Eurojust should have a better understanding of third States' judicial systems and the roles of Eurojust CPs. In this respect, the *Guide* contains a pool of proposals for best practice, and is helpful for establishing, selecting and arranging the working methodologies that best suit the individual third State concerned.

8. Further steps towards effective cooperation between Eurojust, LMs and Eurojust CPs

The conclusion of the meeting consisted of an **overview of the preceding debate**, shared by Eurojust, Eurojust CPs and LMs, and **reflections on further steps** towards effective cooperation between them. Discussions, especially in the workshops, resulted in the identification of possible ways to improve working methodologies and proposals for concrete actions. Among them, the *Guide for Cooperation between Eurojust and Eurojust Contact Points*, and the agreement on the development of a collection of best practice for cooperation between Eurojust and LMs appointed by Member States are worth emphasizing.

With regard to cooperation between **Eurojust and LMs** appointed by MSs, and in keeping with the conclusions of the workshop and the overall debate, the importance of clarification of the roles of Eurojust and LMs and transparency was acknowledged. The following further steps were highlighted: *i*) LMs could be appointed as EJM CPs; *ii*) on a case-by-case basis, LMs could be involved in Eurojust's activities with third States belonging to the region where the LMs develop their main functions; *iii*) LMs appointed by MSs with bilateral or multilateral agreements with third States could facilitate assistance to other MSs needing to contact the given third State; *iv*) list of LMs appointed by MSs to be prepared by Eurojust; and *v*) consideration of other methodologies for improving cooperation, such as Strengths, Weaknesses, Opportunities, Threats (SWOT).

With regard to cooperation between **Eurojust and Eurojust CPs**, and over and above the conclusions of the workshop dealing with this topic and the overall debate, the following further steps were also put forward: *i*) Eurojust informs Eurojust CPs about its activities, namely by making available to them the Eurojust Annual Report, Eurojust's newsletters or other publicly available reports linked to its activities; *ii*) Eurojust would welcome more feedback from Eurojust CPs on their experience in working with Eurojust and proposals for improvement; *iii*) new Eurojust CPs to be designated in key regional areas; *iv*) Eurojust would welcome action by the authority in the third State competent to appoint the Eurojust CP(s), when informing Eurojust of such appointment, to also inform other relevant authorities in their country of such appointment and the role of Eurojust; *v*) further dissemination of information on the legal framework and other types of information related to judicial cooperation in criminal matters; and *vi*) with a view to preparing a list, Eurojust to seek the consent of all Eurojust CPs, LMs appointed by MSs and Eurojust National Desks for their contact details to be shared among themselves.

ANNEX I

MEETING WITH EUROJUST CONTACT POINTS AND LIAISON MAGISTRATES APPOINTED BY MEMBER STATES

Complementarity, synergies and cooperation

THE HAGUE, THE NETHERLANDS

16-17 October 2014

AGENDA

<i>DAY 1</i>	
08:00 – 09:00	Registration of participants
OPENING SESSION AND WELCOME SPEECHES	
09:00 – 09:15	Ms Michèle Coninx, President of Eurojust Ms Malči Gabrijelčič, Chair of the External Relations Team, Eurojust Ms Jolien Kuitert, Chair of the EJN & Liaison Magistrates Team, Eurojust
FIRST SESSION <i>Chaired jointly by Ms Malči Gabrijelčič, National Member for Slovenia and Chair of the External Relations Team, and Ms Jolien Kuitert, Deputy to the National Member for the Netherlands and Chair of the EJN & Liaison Magistrates Team</i>	
09:15 – 10:30	<i>Tour de table</i> – a brief introduction of the external participants to the meeting, their expectations, and their experience with Eurojust to date

10:30 – 10:45	COFFEE BREAK
<p>SECOND SESSION WHAT EUROJUST CAN OFFER</p> <p><i>Chaired jointly by Ms Malči Gabrijelčič, National Member for Slovenia and Chair of the External Relations Team, and Ms Jolien Kuitert, Deputy to the National Member for the Netherlands and Chair of the EJM & Liaison Magistrates Team</i></p>	
10:45 – 12:15	<p>International Legal Assistance</p> <ul style="list-style-type: none"> ➤ <i>General presentation by Ms Laima Čekelienė, National Member for Lithuania, and Ms Teresa-Angela Camelio, Assistant to the National Member for Italy (30')</i> <p>Requirements for exchange of information with third States</p> <ul style="list-style-type: none"> ➤ <i>Presentation by Ms Diana Alonso Blas, Data Protection Officer (30')</i> <p>Discussion (30')</p>
12:15 – 13:15	SANDWICH LUNCH
<p>THIRD SESSION WHAT EUROJUST CONTACT POINTS AND LIAISON MAGISTRATES CAN OFFER</p> <p><i>Chaired jointly by Ms Malči Gabrijelčič, National Member for Slovenia and Chair of the External Relations Team, and Ms Jolien Kuitert, Deputy to the National Member for the Netherlands and Chair of the EJM & Liaison Magistrates Team</i></p>	
13:15 – 14:45	<ul style="list-style-type: none"> ➤ <i>Liaison Magistrates posted to Member States</i> <i>Ms Sally Cullen, Liaison Magistrate for the United Kingdom in Italy (10')</i> ➤ <i>Liaison Magistrates posted to third States</i> <i>Mr Luis Francisco De Jorge Mesas, Liaison Magistrate for Spain in Morocco (10')</i> <i>Mr Shane Nainappan, UK Senior Liaison Prosecutor to the United Arab Emirates (10')</i> ➤ <i>Eurojust Contact Points in third States</i> <i>Ms Gordana Janicijevic, Deputy Public Prosecutor, Contact Point for Eurojust in Serbia (10')</i> <i>Mr Matjaz Vlahovic, Lawyer, Contact Point for Eurojust in Switzerland (10')</i>

	Discussion (40')
14:45-15:00	COFFEE BREAK
FOURTH SESSION COOPERATION BETWEEN EUROJUST AND LIAISON MAGISTRATES/COOPERATION BETWEEN EUROJUST AND EUROJUST CONTACT POINTS (WORKSHOPS)	
15:00 – 17:30	<p>Workshop 1: How can Eurojust and Liaison Magistrates better serve each other? Case examples, potential need for a <i>Guide for cooperation between Eurojust and Liaison Magistrates</i>, discussion</p> <p><i>Chaired by Ms Sylvie Petit-Leclair, General Prosecutor of the Court of Appeal in Caen</i></p> <ul style="list-style-type: none"> ➤ <i>Eurojust</i> ➤ <i>Liaison Magistrates posted to Member States</i> ➤ <i>Liaison Magistrates posted to third States</i> <p>Workshop 2: How can Eurojust and Eurojust Contact Points better serve each other? Case examples, draft <i>Guide for cooperation between Eurojust and Eurojust Contact Points</i>, discussion</p> <p><i>Chaired by Mr Francisco Jiménez-Villarejo, National Member for Spain and Vice-President of Eurojust</i></p> <ul style="list-style-type: none"> ➤ <i>Eurojust</i> ➤ <i>Eurojust Contact Points in third States</i>
19:00 – 21:30	Dinner hosted by Eurojust

DAY 2	
FIFTH SESSION WORKING METHODOLOGY BETWEEN EUROJUST AND LIAISON MAGISTRATES <i>Chaired by Ms Jolien Kuitert, Deputy to the National Member for the Netherlands and Chair of the EJM & Liaison Magistrates Team</i>	
09:00 -10:20	<p style="text-align: center;">Workshop Conclusions</p> <p>➤ <i>Chair of Workshop 1 (10')</i></p> <p style="text-align: center;">Working methodology between Eurojust and Liaison Magistrates. The role of the European Judicial Network (EJN)</p> <p>➤ <i>Presentation by Ms Jolien Kuitert, Deputy to the National Member for the Netherlands (10')</i></p> <p>➤ <i>Presentation by the EJN regarding the EJN website (15')</i></p> <p>➤ <i>Presentations by Liaison Magistrates posted to a Member State and to a third State (10'+ 10')</i></p> <p style="margin-left: 40px;"><i>Ms Kristel Pous, Liaison Magistrate for the UK in France</i></p> <p style="margin-left: 40px;"><i>Mr Nicolas Guillou, Liaison Magistrate for France in the United States of America</i></p> <p>➤ <i>Discussion (25')</i></p>
10:20 – 10:45	COFFEE BREAK
SIXTH SESSION WORKING METHODOLOGY BETWEEN EUROJUST AND CONTACT POINTS <i>Chaired by Ms Malči Gabrijelčič, National Member for Slovenia and Chair of the External Relations Team</i>	

<p>10:45 - 12:05</p>	<p>Workshop Conclusions</p> <ul style="list-style-type: none"> ➤ <i>Chair(s) of Workshop 2 (10')</i> <p>Working methodology between Eurojust and Eurojust Contact Points</p> <ul style="list-style-type: none"> ➤ <i>Draft Guide for Cooperation between Eurojust and Eurojust Contact Points, presentation by Mr Lukáš Starý, National Member for the Czech Republic (10')</i> ➤ <i>Presentations by Eurojust Contact Points (10'+ 10')</i> <p><i>Ms Brigitte Kaiser, Contact Point for Eurojust in Principality of Liechtenstein</i></p> <p><i>Mr Tomonori Karaki, Contact Point for Eurojust in Japan</i></p> <ul style="list-style-type: none"> ➤ <i>Discussion (40')</i>
<p>SEVENTH SESSION</p>	<p>CONCLUSIONS</p>
<p>12:05 -12:35</p>	<p>Towards effective cooperation between Eurojust, Liaison Magistrates and Eurojust Contact Points: further steps</p> <ul style="list-style-type: none"> ➤ <i>Eurojust (10')</i> <p><i>Mr Josip Čule, National Member for Croatia</i></p> <ul style="list-style-type: none"> ➤ <i>Liaison Magistrates posted to a Member State and to a third State (5'+ 5')</i> <p><i>Mr Dragos-Nicolae Dumitru, Liaison Magistrate for Romania in France</i></p> <p><i>Ms Carla Deveille-Fontinha, Liaison Magistrate for France in Brazil, Bolivia and Venezuela</i></p> <ul style="list-style-type: none"> ➤ <i>Eurojust Contact Points (5'+ 5')</i> <p><i>Mr Grenko Arapović, Contact Point for Eurojust in Bosnia and Hercegovina</i></p> <p><i>Mr Helgi Magnús Gunnarsson, Contact Point for Eurojust in Iceland</i></p>
<p>12:35 – 12:45</p>	<p>Ms Michèle Coninx, President of Eurojust</p>
<p>12:45 – 13:45</p>	<p>SANDWICH LUNCH</p>

GUIDE FOR COOPERATION BETWEEN EUROJUST AND EUROJUST CONTACT POINTS

This *Guide* is the result of a common effort of Eurojust and the Eurojust Contact Points to provide general guidance in relation to their cooperation.

This *Guide* is intended to be a flexible document. It takes into account the differences in domestic competences in the field of mutual legal assistance and extradition, and areas of expertise of the Eurojust Contact Points, and whether a cooperation agreement is in place between Eurojust and the concerned third State. It also takes into consideration that the manner in which Eurojust and Eurojust Contact Points interact will very much depend on the circumstances of the specific case.

This *Guide* is a non-binding, living document and is not intended to replace any domestic provisions or guidelines on cooperation between Eurojust and Eurojust Contact Points. It was first presented at the meeting with Eurojust Contact Points and Liaison Magistrates appointed by Member States held at the premises of Eurojust on 16-17 October 2014. It has been updated and further improved by Eurojust as a result of the discussions that took place during the meeting and feedback both from Eurojust Contact Points and Eurojust.

This *Guide* is divided into the following sections:

- I) Eurojust
- II) Eurojust's relations with partners including third States
- III) Eurojust Contact Points
- IV) Proposals for best practice between Eurojust and Eurojust Contact Points

It also includes in the annex a non-exhaustive list of legal instruments for the setting up of a JIT with non-EU Member States.

I. Eurojust

Eurojust is the European Union Judicial Cooperation Unit. The goal of Eurojust is to stimulate and improve the coordination of investigations and prosecutions between the competent authorities in the Member States and to improve cooperation between the competent authorities of the Member States, in particular by facilitating the execution of international mutual legal assistance requests, European arrest warrants and extradition requests. Eurojust's objective is to support in any way possible the competent authorities of the Member States to render their investigations and prosecutions more effective when dealing with serious crime, particularly when it is organised.

At the request of a Member State, Eurojust may assist investigations and prosecutions concerning that particular Member State and a non-Member State if a cooperation agreement has been concluded or an essential interest in providing such assistance is demonstrated. Eurojust may also, with the agreement of the Member States concerned, coordinate the execution of requests for judicial cooperation issued by a third State if these requests are part of the same investigation and require execution in at least two Member States.

Eurojust's competence covers the same types of crimes and offences for which Europol has competence, such as terrorism, drug trafficking, trafficking in human beings, counterfeiting, money laundering, computer crime, crime against property or public goods including fraud and corruption, criminal offences affecting the European Community's financial interests, environmental crime and participation in a criminal organisation. For other types of offences, Eurojust may assist in investigations and prosecutions at the request of a Member State.

Eurojust may ask the competent authorities of the Member States concerned:

- ✓ to investigate or prosecute specific acts;
- ✓ to coordinate with one another;
- ✓ to accept that one country is better placed to prosecute than another;
- ✓ to set up a joint investigation team; and
- ✓ to provide Eurojust with information necessary to carry out its tasks.

Furthermore, Eurojust:

- ✓ shall ensure that the competent authorities inform each other of investigations and prosecutions of which they have been informed;
- ✓ shall assist the competent authorities in ensuring the best possible coordination of investigations and prosecutions;
- ✓ shall give assistance to improve cooperation between the competent national authorities, particularly based on Europol's analyses;
- ✓ shall cooperate and consult with the European Judicial Network (EJN), and make use of and contribute to the improvement of its documentary database;
- ✓ may, in accordance with its objectives, try to improve cooperation and coordination between the competent authorities, and forward requests for judicial assistance when they: (i) are made by the competent authority of a Member State, (ii) concern an investigation or prosecution conducted by that authority in a specific case, and (iii) necessitate its intervention with a view to coordinated action;
- ✓ may assist Europol, particularly with opinions based on analyses carried out by Europol; and
- ✓ may supply logistical support, *e.g.* assistance in translation, interpretation and the organisation of coordination meetings.

II. Eurojust's relations with partners including third States

To carry out its tasks, Eurojust maintains privileged relationships with the European Judicial Network EJN, the European Union's Law Enforcement Agency (Europol), the European Anti-Fraud Office (OLAF), and Liaison Magistrates. It can also conclude cooperation agreements with third States and international organisations or bodies for the exchange of information or the secondment of officers.

Eurojust has concluded cooperation agreements with the following third States: Norway, Iceland, USA, Swiss Confederation, the former Yugoslav Republic of Macedonia (fYROM), Liechtenstein and Moldova.

The conclusion of cooperation agreements between Eurojust and third States is essential for enabling the exchange of operational information, including personal data. Cooperation agreements may also concern the secondment of Liaison Magistrates from third States to Eurojust. To date, Norway, the USA, and Croatia prior to its accession to the European Union, have seconded Liaison Prosecutors to Eurojust. Eurojust has also concluded Memoranda of Understanding with the United Nations Office on Drugs and Crime (UNODC), the International Criminal Police Organisation (ICPO-INTERPOL), and the Ibero-American Network of International Legal Cooperation (IberRed).

In the particular field of joint investigation teams (JITs) involving third States, since January 2014, JIT grants for financial and logistical assistance *via* Eurojust can cover costs incurred by non-EU Member States that are members of or participants in JITs. For a non-exhaustive list of legal instruments for the setting up of a JIT with non-EU Member States, *see* Annex.

III. Eurojust Contact Points

The appointment of Eurojust Contact Points in third States is a tool commonly used for improving cooperation between Member States and third States through Eurojust. The involvement of Eurojust Contact Points does not provide for the possibility to exchange operational information, including personal data, unless a cooperation agreement is in place between Eurojust and that third State.

Eurojust Contact Points are normally appointed by third States from within the General Prosecution Office or a local prosecution office, national courts or the Ministry of Justice, or hold diplomatic positions outside their country. They are points of contact in a given third State between the competent authorities in their country and Eurojust.

The following 32 third States have appointed Eurojust contact points: Albania, Argentina, Bolivia, Bosnia and Herzegovina, Brazil, Canada, Cape Verde, Egypt, FYROM, Georgia, Iceland, India, Israel, Japan, Kazakhstan, Korea, Liechtenstein, Moldova, Mongolia, Montenegro, Norway (Liaison Prosecutor seconded to Eurojust), Peru, Russian Federation, Serbia, Singapore, Switzerland, Taiwan (Republic of China), Thailand, Tunisia, Turkey, Ukraine, USA (Liaison Prosecutor seconded to Eurojust).

Matters dealt with by Eurojust Contact Points include:

- ✓ Speeding up or facilitating the execution of mutual legal assistance (MLA) requests or extradition requests;
- ✓ Ensuring communication between Eurojust and the concerned third State, and providing information on the state of play of a particular case;
- ✓ Clarifying particular provisions of the national law or providing legal advice related to the legal system of the third State concerned;
- ✓ Providing assistance on how to submit an MLA request or an extradition request to the concerned third State;
- ✓ Providing information on how to transmit an urgent request to the concerned third State, as the procedure to be followed for transmission may be different from non-urgent requests;
- ✓ Facilitating the organisation or the competent authority's participation in coordination meetings or in JITs;
- ✓ Attending coordination meetings at Eurojust;
- ✓ Coordinating the execution of MLA requests in a given case;
- ✓ Identifying the national competent authorities and establishing contact with them and with central authorities;
- ✓ Solving any kind of problems occurring in the framework of judicial cooperation with Eurojust; and
- ✓ Sending queries to Eurojust National Members in respect of specific cases or requesting clarification of particular provisions of national law or the provision of legal advice in relation to the legal system of the Member State concerned.

IV. Proposals for best practice between Eurojust and Eurojust Contact Points

4.1. Maintaining and reinforcing contacts

- ✓ Eurojust maintains concrete and pragmatic contact with Eurojust Contact Points, and they are more familiar with the operational work at Eurojust and Eurojust's expectations, as well as Eurojust's needs, in this field;
- ✓ Eurojust maintains updated contact details of the Eurojust Contact Points and the National Desks at Eurojust;
- ✓ Eurojust Contact Points inform Eurojust of:
 - the languages in which they can be contacted;
 - their areas of expertise, if applicable;
 - any change in their contact details, including e-mail address, telephone number, postal address, job title; and
 - the period they will be unavailable (e.g. on leave, out of office), and/or, who can be contacted in their absence (e.g. by using an automatic out-of-office reply);

- ✓ Depending on the size, and if possible under the legal system of the concerned third State, the third State could appoint more than one Eurojust Contact Point (*e.g.* in the Ministry of Justice, General Prosecution Service, central authority or court);
- ✓ When more than one Eurojust Contact Point is appointed in a third State, they could maintain contact with each other and inform each other in the event of unavailability;
- ✓ The authority in the third State competent to appoint the Eurojust Contact Point, when informing Eurojust of such appointment, also informs other relevant authorities in their country of such appointment and the role of Eurojust;
- ✓ When Eurojust Contact Points from third States with which Eurojust has not concluded a cooperation agreement have queries, they may contact the External Relations Team (ERT) at Eurojust so that the ERT can then internally forward their query to the relevant person at Eurojust; and
- ✓ Eurojust Contact Points provide more feedback to Eurojust on their experience concerning working with Eurojust, and make proposals for improvement.

4.2. Improvement of cooperation

- ✓ Early involvement of the Eurojust Contact Point;
- ✓ Use of direct communication channels and maintenance of close connection between Eurojust and Eurojust Contact Points;
- ✓ Discussion of the drafting of MLA/extradition requests as early as possible, preferably prior their issuance;
- ✓ Clear determination, through dialogue, of the assistance that is requested either from the Eurojust Contact Point or from the Eurojust National Desk at Eurojust;
- ✓ Use of videoconferencing between Eurojust and the Eurojust Contact Point when the matter is the general understanding of the MLA or extradition processes in the third State in question;
- ✓ If assistance is requested from a Eurojust Contact Point, the Contact Point is informed, if applicable, of the contact details of the national authority of the third State to whom the MLA or extradition request has been sent, to allow internal communication and avoid duplication of efforts;
- ✓ Eurojust Contact Points inform Eurojust of:
 - Receipt of request for assistance from Eurojust, and indication that the request is being handled, and, if possible, the contact details of the person responsible for dealing with the request; and
 - The steps/actions taken in response to a request or a query, particularly when they have been unable to provide the requested assistance.

4.3. Involvement of Eurojust Contact Points in Eurojust coordination meetings

- ✓ Coordination meetings at Eurojust preceded by the involvement of the Eurojust Contact Point, with a view to assisting in the identification of the best placed authority in the involved third State to attend the coordination meeting, and establishing/managing the expected assistance;
- ✓ Attendance of Eurojust Contact Points at coordination meetings at Eurojust (or in the concerned third State), when necessary;
- ✓ Eurojust Contact Points are informed of the date of a coordination meeting at Eurojust with sufficient notice to enable them to attend or make the necessary arrangements for the appropriate national authority to attend; and
- ✓ Participation of Eurojust Contact Points in coordination meetings at Eurojust is facilitated, particularly with third States geographically more distant.

4.4. Further best practice

- ✓ More training (particularly to newly appointed Eurojust Contact Points) is provided in cooperation with Eurojust;
- ✓ Meetings, joint seminars, conferences or similar cooperative events between Eurojust and Contact Points are organised more regularly;
- ✓ Dissemination of information on the legal framework and other types of information related to judicial cooperation in criminal matters;
- ✓ Eurojust informs the Eurojust Contact Points about its activities, *e.g.* by making available to them Eurojust's Annual Report, Eurojust's newsletters or other publicly available reports linked to its activities;
- ✓ Enhanced exchange of information between Eurojust and Eurojust Contact Points on the number of occasions or queries addressed between them (not necessarily regarding specific MLA requests and extradition requests);
- ✓ Eurojust Contact Points could assist in identifying a point of contact in a neighbouring country where no Eurojust Contact Point has been appointed; and
- ✓ Designation of new Eurojust Contact Points in key regional areas as a result of constantly evolving operational needs.

ANNEX

NON-EXHAUSTIVE LIST OF LEGAL INSTRUMENTS FOR THE SETTING UP OF A JIT WITH NON-EU MEMBER STATES

- ✓ United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1998) – Article 9(1)(c)
- ✓ United Nations Convention against Transnational Organized Crime (2000) – Article 19
- ✓ United Nations Convention against Corruption (2003) – Article 49
- ✓ Second Additional Protocol to the 1959 European Convention on Mutual Assistance in Criminal Matters (2001) – Article 20
- ✓ Police Cooperation Convention for South East Europe (2006) – Article 27
- ✓ Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between the Member States of the European Union – Article 13; Council Framework Decision of 13 June 2002 on Joint Investigation Teams (2002/465/JHA) – Recital 9 and Article 1(12)
- ✓ Agreement on Mutual Legal Assistance between the European Union and the United States of America (2003) – Article 5
- ✓ Agreement between the European Union and the Republic of Iceland and the Kingdom of Norway on the application of certain provisions of the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between the Member States of the European Union and the 2001 Protocol thereto (2004/79/EC) – Article 1

In addition to the non-exhaustive list of legal bases provided above, a JIT agreement may be also be concluded between a Member State(s) and a third State if there is a bilateral or multilateral agreement between the involved countries that so provides. Below is a non-exhaustive list of some existing bilateral agreements:

- ✓ Cooperation agreement between the European Community and its Member States, of the one part, and the Swiss confederation, of the other part, to combat fraud and any other illegal activity to the detriment of their financial interests (Luxembourg, 2004) – Article 22
- ✓ Agreement between Italy and Switzerland integrating the European Convention on Mutual Assistance in Criminal Matters (1959) and facilitating its application (Rome, 1998) – Article XXI

- ✓ Agreement between Italy and Albania integrating the European Convention on Extradition (1957) and the European Convention on Mutual Assistance in Criminal Matters (1959) and facilitating its application (Tirana, 2007) – Article X
 - ✓ Agreement between the Kingdom of Spain and the Republic of Cape Verde on judicial cooperation in criminal matters (2007) – Article 21
 - ✓ Additional Protocol to the Convention of Mutual Legal Assistance in Criminal Matters between the Kingdom of Spain and the Republic of Colombia of 29 May 1997 – Article 8
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