



FRANCE22
PRÉSIDENTE FRANÇAISE
DU CONSEIL DE L'UNION
EUROPÉENNE

Agenda

EuroMed Justice Programme Conference on e-evidence and data protection in criminal matters in the Euro-Mediterranean Region

31 May-02 June 2022

Lyon, France

***Hôtel Mercure Lyon Centre Saxe Lafayette,
29 Rue de Bonnel, 69003 Lyon, France***

Official event under French Presidency to The EU Council

Background information

EuroMed Justice Programme

EuroMed Justice (EMJ) is a capacity-building program designed to develop a sustainable cross-regional mechanism of judicial cooperation in criminal matters between EU Member States (EU MS), the South Partner Countries (SPCs) – Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Palestine* and Tunisia – and EU JHA Agencies. The main purpose of the programme is to strengthen international cooperation in criminal matters between SPCs and EU MSs and EU JHA Agencies.

The Conference

As the use of and reliance on information and technology has become increasingly important in society, the targeting and exploitation of computer systems has also become more common. Crimes involving IT have rapidly increased in number and sophistication, and cybercrime and electronic evidence present transnational challenges. Criminal justice authorities are therefore increasingly dependent on electronic evidence located or controlled in foreign jurisdictions to prevent, investigate, prosecute and adjudicate serious and organized crime. The legal process for the preservation, acquisition and subsequent use of electronic evidence located or controlled outside of state jurisdiction can be cumbersome, unpredictable and daunting for criminal justice authorities. Relevant international legal frameworks, such as the Council of Europe Budapest Convention on cybercrime, Arab Treaty on Countering Information Technology Offences (2010) and African Union Convention on Cyber Security and Personal Data Protection (2014) include provisions allowing criminal justice authorities to secure/ collect/ transfer e-evidence in criminal matters, in specific situations. The second additional protocol to the Budapest Convention, adopted in Strasbourg on 17 November 2021, goes further, providing a legal basis for disclosure of domain name registration information and for direct co-operation with service providers for subscriber information, effective means to obtain subscriber information and traffic data, immediate co-operation in emergencies, mutual assistance tools, as well as personal data protection safeguards. The text should be opened for signatures in May 2022.

At the same time, the transfer of electronic evidence from one state to another requires the processing of personal data of parties to criminal cases, including transfer of data to third countries. While for the EU MSs, data protection standards in criminal procedures are established in a common and similar manner at

EU level¹, for the countries from Middle East and North Africa, the SPCs, the data protection legal frameworks differ from one country to another. All EU MSs and Morocco and Tunisia are Parties to the Council of Europe Convention 108. Both EU MSs and SPCs criminal justice authorities are not familiar with the legal systems and the data protection requirements existing in the countries from the opposite shore of the Mediterranean and this negatively affects the cross-regional judicial cooperation.

The number of cases requiring police or judicial cooperation between EU MSs and SPCs, where electronic evidence is necessary to prevent, investigate or prosecute crime, is increasing every year. During the CrimEx (EuroMed Justice Group of Experts – established in 2017) and EuroMed Forum of Prosecutor's General (established in 2018) meetings, criminal justice practitioners mentioned that the challenges to identify, preserve and transfer e-evidence from one jurisdiction to another and the unknown data protection standards are key obstacles to address efficiently cross-border crime.

Therefore, the EuroMed Justice Program, CrimEx and the Forum of Prosecutor's General placed e-evidence and data protection in judicial cooperation in criminal matters in the Euro-Mediterranean region as priority topics to be addressed. In this respect, in 2019, the Joint EuroMed Justice and Police Manual on Digital Evidence² constitutes the first international tool for successful cross-border investigations and prosecutions, creating a common guideline for the Law Enforcement Agencies and Judicial Authorities to address the requests for cross-border digital evidence. It focus on the practical measures that could help judges, prosecutors and law enforcement officers to mitigate the malicious use by the terrorists and organised criminal groups of Internet.

In the current phase of the programme, by the end of 2022, EuroMed Justice will update and develop new practical tools: two on e-evidence (the Digital Evidence Manual and the Legal and Gap Analysis on e-Evidence) and one on data protection (the Legal and Gap Study on Data Protection in Criminal Cases) focusing on criminal cases and cross-Mediterranean judicial cooperation. In addition, several events to be organised in the framework of EuroMed Justice Programme address these topics and the training component of the programme, implemented by SAFE/ EPLO Consortium, includes an important part dedicated to cross-border e-evidence and data protection.

In close coordination with the French Ministry of Justice and under the French Presidency to the EU Council, EuroMed Justice Programme is organising the Conference on e-evidence and data protection in criminal matters in the cross-Euro-Mediterranean region reuniting practitioners and experts from the countries involved in the Programme and the EU Agencies and International Organisations collaborating for the implementation of the programme.

Working languages

Interpretation in **Arabic, French and English** will be assured during the working sessions.

¹ **Directive (EU) 2016/680** of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA;

Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC;

Regulation (EU) 2018/1725 on the protection of natural persons with regard to the processing of personal data by the EU institutions, bodies, offices and agencies and on the free movement of such data;

Regulation (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation (Eurojust), and replacing and repealing Council Decision 2002/187/JHA

Objectives of the conference

The main objective of the conference is to strengthen the capacity of the criminal justice authorities of the EU MSs and SPCs to fight serious and organized crime through the lawful and efficient collection of electronic evidence outside national jurisdiction, in compliance with human rights standards (in particular with the data protection standards) by raising awareness on the existing legal framework, procedures and standards on e-evidence and data protection in criminal matters and international cooperation in criminal matters in the EuroMed Justice countries.

Expected results

The Conference is expected to:

- Increase participants' knowledge of the legal framework for the acquisition of electronic evidence and the applicable data protection standards in international judicial cooperation.
- Familiarize participants with the EuroMed Justice practical tools on e-evidence (the Digital Evidence Manual and the Legal and Gap Analysis on e-Evidence) and on data protection (the Legal and Gap Study on Data Protection in Criminal Cases) focusing on criminal cases and cross-Mediterranean judicial cooperation;
- Share with the participants the experience of EC, EU JHA Agencies, International Organisations and Private sector;
- Foster cooperation between judicial authorities of EU MSs and SPCs;
- Strengthen the confidence between the criminal justice authorities from the two shores of the Mediterranean.

Expected participants

- Representatives of criminal justice authorities (judges, prosecutors, ministry of justice representatives, police) from EU MSs and SPCs.
- Representatives of EC DG JUST and NEAR, EU JHA agencies and International organizations (Eurojust, EJC, EJP, Europol, CEPOL, SELEC, Council of Europe, UNODC, UNCTED, Interpol, IAP-GPEN) and of other partner projects (EuroMed Police, SIRIUS, CT Inflow, CyberSouth, South IV, GLACY +)
- Experts involved in the development of the EuroMed Justice practical tools (E-evidence, cybercrime and data protection);
- EuroMed Justice Programme Team;

Links to EuroMed Justice tools on cybercrime and e-evidence

- Digital Evidence Manual (2019)
<https://euromedjustice.eu/wp-content/uploads/publications/manual-on-digital-evidence%204-4-19.pdf>
- Legal and Gaps Analysis Cybercrime
https://euromedjustice.eu/wp-content/uploads/publications/5_lga_cybercrime_en_0.pdf
- Legal and Gaps Analysis Special Investigations Techniques
https://euromedjustice.eu/wp-content/uploads/publications/4_lga_special_investigation_techniques_en_0.pdf

Agenda

Tuesday 31 May 2022 – First Day

09.00 Registration of participants

09.30 Opening and Welcome

Moderator – Virgil Constantin Ivan-Cucu, Project Coordinator, EuroMed Justice Programme

- **Anthony Manwaring**, Délégué aux Affaires européennes et internationales, French Ministry of Justice;
- **Lukáš Starý**, Eurojust, Chair of the Board on relations with partners, National Member for Czech Republic to Eurojust;
- **Pascal Odul**, Head of Sector, DG NEAR, European Commission

10.00 EuroMed Justice Programme and the e-evidence and data protection component

Virgil Constantin Ivan-Cucu, Programme Coordinator and **Alexandru Frunza-Nicolescu**, Legal Officer, EuroMed Justice Programme

10.20 EuroMed Justice practical tools on e-evidence (Digital Evidence Manual and the Legal and Gap Analysis on e-Evidence – presentation of the initial key findings by the group of experts who developed the first drafts)

- **Miriam Bahamonde Blanco**, Senior Prosecutor, Adviser of the Directorate General for International Legal Cooperation and Human Rights, Ministry of Justice, Spain
- **Mohamed Hemdani**, Chief Judge, Member of the Legislation Department, Egyptian Ministry of Justice;
- **Pierluigi Perri**, Professor, Lawyer, Aggr. Prof. of "Information security, privacy and protection of sensitive data", Coordinator of the Advanced Course in Data protection and data governance, Milan University, Italy;

Follow up and questions

11.15 Coffee Break

11.45 Introduction of the e-evidence and data protection Simulated Case (the case will concern cross-border e-evidence collection and data protection aspects in relation to EU – SPCs cooperation in criminal matters)

12.15 Data protection and the cross-border judicial cooperation – challenges and opportunities – the European perspective (part 1)

- **Lukáš Starý**, Eurojust, Chair of the Board on relations with partners, National Member for Czech Republic to Eurojust;

12.45 Lunch break

Moderator - Lukáš Starý, Eurojust, Chair of the Board on relations with partners, National Member for Czech Republic to Eurojust

13.45 The French experience on cross-border e-evidence collection in relation to the cross-Mediterranean judicial cooperation

- **Christophe Durand**, Commissaire de police, Deputy Head of the Central Office of the Fight against Criminality related to Information and Communication Technologies (OCLCTIC);
- **Vadim MELKA**, Specialized Officer, Mission of prevention and fight against cybercrime, Directorate of Criminal Affairs and Graces, Ministry of Justice

14.15 The current situation, the challenges and possible solutions to these challenges, for cross-border e-evidence collection from EU MSs – the South Partner Countries perspective

Speakers - representatives of the SPCs (10–15 minutes/ SPC)

- **Algeria**
- **Egypt**
- **Israel**
- **Jordan**
- **Lebanon**
- **Morocco**
- **Palestine**

15.30 Coffee break

16.00 International and EU standards, approaches and policies on cross-border e-evidence collection

- **Virgil Spiridon**, Head of of Operation, C-Proc Office, Council of Europe
- **Snejana MALEEVA**, Director General of SELEC (Southeast European Law Enforcement Center)
- **Nicole El Khoury**, Legal officer, UNCTED;

17.00 End of day 1

19.30 Social dinner

Wednesday 01 June 2022 – Second Day

Moderator – Alexandru Frunza-Nicolescu, Legal Officer, EuroMed Justice

09.30 EuroMed Justice practical tools on data protection in criminal matters and international cooperation in criminal matters (Legal and Gap Study on Data Protection in Criminal Cases – presentation of the initial key findings by the group of experts who developed the first drafts)

- **Pierluigi Perri**, Professor, Lawyer, Aggr. Prof. of "Information security, privacy and protection of sensitive data", Coordinator of the Advanced Course in Data protection and data governance, Milan University, Italy;
- **Adrian Sandru**, Lawyer, Romania;
- **Mohamed Hemdani**, Chief Judge, Member of the Legislation Department, Egyptian Ministry of Justice

Follow up and questions

10.30 Data protection in criminal matters – the perspective of criminal justice agencies

- **Jan Ellerman**, Senior Specialist, Data Protection Function, Europol;
- **Xavier Tracol**, Senior Legal Officer Eurojust's Data Protection Office

11.15 Coffee Break

11.45 Collecting cross border e-evidence from third countries to address serious and organised crime – challenges and opportunities – perspective of partner countries

- **Milanko Kajganic**, Acting Chief Prosecutor, Bosnia and Herzegovina

12.05 Data protection and the cross-border judicial cooperation – challenges and opportunities – the European perspective (part 2)

- **Dr Ralf Sauer**, the Deputy Head of Unit for International Data Flows, DG Justice, European Commission;
- **Pedro Pérez Enciso**, International Cooperation Unit, Prosecutor General's Office of Spain, EJNI Contact Point in Spain;
- **Peter Kimpian**, Legal Officer, Data Protection Unit, Council of Europe (pre-recorded intervention)

13.00 Lunch break

Moderator Virgil Constantin Ivan-Cucu, Project Coordinator EuroMed Justice

14.15 Cross-border e-evidence collection and data protection standards in the Euro- MENA cooperation – how to build capacities

- **Virgil Spiridon**, Head of Operations, Council of Europe C-Proc Office
- **Ksenija Krizman**, Senior Project Officer, CEPOL, CT-Inflow Project
- **Lina Aksu**, Judicial Cooperation Officer, Eurojust, SIRIUS Project
- **Alexandru Frunza-Nicolescu**, Legal Officer, EuroMed Justice

15.30 Coffee break

16.00 Follow up on the simulated case (part 1) (SPCs and EU MSs will follow up on the simulated case circulated before the meeting and presented in the first day of the meeting)

- **Algeria**
- **Egypt**
- **Jordan**
- **Israel**
- **Lebanon**
- **Morocco**
- **Palestine**

17.00 End of day two

Thursday 02 June 2022 – Third Day

Moderator (TBC)

10.00 When e-evidence and data protection challenges are transformed in opportunities - success stories of justice done with effective cross-regional judicial cooperation - presentation of practical cases

- **Valentin Mihai**, Chief Prosecutor, Cybcrime Department, Directorate for Investigating Organized Crime and Terrorism;

10.30 Follow up on the simulated case (part 2) (SPCs and EU MSs will follow up on the simulated case circulated before the meeting and presented in the first day of the meeting)

- **Bulgaria**
- **Belgium**
- **The Netherlands**
- **Portugal**
- **Romania**
- **Slovenia**
- **Spain**

11.30 Coffee break

12.00 Open mic on how to improve current status on cross-Mediterranean judicial cooperation on e-evidence collection while protecting personal data rights

12.30 Closing of the conference

Virgil Constantin Ivan-Cucu, Programme Coordinator, EuroMed Justice Programme