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To: Delegations

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Subject: Conclusions of the Council of the European Union on the European
Judicial Cybercrime Network
- Council conclusions (9 June 2016)

Delegations will find in the annex the Council conclusions on the European Judicial Cybercrime Network, adopted by the Council at its 3473rd meeting held on 9 June 2016.

**Conclusions of the Council of the European Union on the
European Judicial Cybercrime Network**

THE COUNCIL OF THE EUROPEAN UNION,

ALERT that cyberspace has grown into an essential element of modern life, the protection of which from incidents, malicious activities and misuse is crucial to our economies and societies, and that cybercrime is one of the fastest growing forms of crime,

AWARE that the borderless nature of cyberspace poses special challenges for law enforcement and judicial authorities thus impeding successful criminal investigations and prosecutions and therefore often leading to impunity,

CONSIDERING the cross-border nature of cybercrime and the importance of judicial cooperation for conducting effective investigations in cyberspace and obtaining electronic evidence,

NOTING the need to enhance existing exchange between judicial authorities and experts in the field of cybercrime and investigations in cyberspace expressed most recently by practitioners in the context of the Illegal Trade on Online Marketplaces (ITOM) Project,

UNDERLINING that the challenges regarding cybercrime, cyber-enabled crime and investigations in cyberspace require coordination and synergies between the activities of existing practitioners networks, including in the use of existing electronic platforms for communication,

RECALLING the Council of Europe Convention on Cybercrime of 23 November 2001 and its Additional Protocol and Directive 2013/40/EU on attacks against information systems which calls for increased, rapid and well-functioning international co-operation in criminal matters through the operational national point of contacts in the existing 24/7 cooperation networks,

UNDERLINING the need to enhance cooperation between Member States in particular between their judicial authorities to improve law enforcement and judicial action for an effective rule of law in cyberspace,

RECALLING that fighting cybercrime is a recognised priority under the European Agenda on Security of 28 April 2015 and the existing obstacles to cybercrime investigations are being addressed in the process of its implementation,

RECALLING the discussion of the Ministers of Justice at the Council of 3 December 2015 and on 26 January 2016 on how to address the challenges related to collection and use of e-evidence in criminal proceedings in order to ensure effective criminal justice in the digital age, as well as the Joint statement of EU Ministers for Justice and Home Affairs and representatives of EU institutions following the terrorist attacks in Brussels on 22 March 2016, adopted on 24 March 2016, which emphasised the need address this issue as a matter of priority¹,

NOTING the adoption by COSI of a set of recommendations to improve operational cooperation in criminal investigations in cyberspace²,

NOTING the ongoing 7th round of mutual evaluations devoted to the practical implementation and operation of the European policies on prevention and combating cybercrime as an important contribution to the efforts to step up the fight against cybercrime,

CONCLUDES that existing exchange between judicial authorities and experts in the field of cybercrime and investigations in cyberspace should be formalised and enhanced under the European Judicial Cybercrime Network supported by Eurojust within the framework set out below:

¹ doc. 7371/16

² doc. 8634/2/16 REV 2

Aims, Objectives and Tasks

1. The European Judicial Cybercrime Network (hereinafter: "the Network") will provide a centre of specialised expertise supporting judicial authorities, i.e. prosecutors and judges dealing with cybercrime, cyber-enabled crime and investigations in cyberspace.
2. To this end, the Network will facilitate and enhance cooperation between the competent judicial authorities dealing with cybercrime, cyber-enabled crime and investigations in cyberspace, respecting the structure and the competence within Eurojust and of the EJM in particular by:
 - a) facilitating exchange of expertise, best practices and other relevant knowledge and experience on the investigation and prosecution of cybercrime, cyber-enabled crime and investigations in cyberspace, including on the practical application of current legal frameworks and relevant case law and effective cross-border judicial cooperation;
 - b) foster dialogue among different actors and stakeholders that have a role in ensuring the rule of law in cyberspace, such as Europol/EC3, Eurojust, ENISA, CEPOL, Interpol, the Council of Europe, the private sector, in particular service providers, and other relevant cyber security bodies and networks.
3. In particular, the Network will:
 - a) provide access to and disseminate information, including via a website or portal using existing electronic platforms;
 - b) provide a forum for discussions of practical and legal problems, encountered by practitioners in the field of cybercrime, including the obstacles to secure and obtain e-evidence effectively;
 - c) exchange information on domestic legislation, relevant case law and jurisprudence, international cooperation and best practices between Member States, and provide tools for practitioners;
 - d) promote the use of Eurojust in cross-border cases related to cybercrime, cyber-enabled crime and investigations in cyberspace.

Composition

4. Each Member State is requested, according to its national procedure, to designate at least one national representative of the judicial authorities with appropriate expertise to participate in the Network.

Organisation and funding

5. The Network will base its work on a two-year work programme drafted in the first quarter of every second year in consultation with the relevant EU institutions, agencies and bodies.
 6. The Network should meet regularly depending on the needs of the members, in principle twice a year, hosted by Eurojust.
 7. Eurojust will provide the support required for the tasks set out in point 3, ensuring alignment with the work of the European Judicial Network and in relation to the e-Justice portal.
 8. The allocation of resources to Eurojust for the purpose of the network should be subject to the decision of the budgetary authorities and without prejudice to the Multi-annual Financial Framework.
 9. The Council will assess the functioning of the Network on the basis of a report drawn up by Eurojust after completion of the first two-year work programme.
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