



D1.3. MINUTES OF THE 6 Project Meeting

20/07/2017



**Best practices for EUROpean COORDination on
investigative measures and evidence gathering**



EUROCOORD

Version FINAL

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Deliverable D1.3

Work Package WP1

Authors: Sandra Vilaplana on behalf of University of Burgos

Approved by Coordinator on: XX/XX/2017

Dissemination level: CO



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Abbreviations and Acronyms

UBU	University of Burgos
UCM	Complutense University of Madrid
UNIPA	University of degli Studi di Palermo
UJ	University Jagiellonski
WS	Work Stream
DoA	Description of Action (<i>Referred to Annex I Grant Agreement</i>)



1. Meeting information

Date	20 July 2017
Time	09:00 – 13:00
Location	University of Palermo. Faculty of Law

Participants

Name	Institution
Mar Jimeno	University of Burgos
Annalisa Mangiaracina	University of Palermo
Lorena Bachmaier	Complutense University of Madrid
Adam Gorski	University Jagiellonski
Sandra Vilaplana	K-veloce I+D+i

Other participants from the University of Palermo: Vincenzo Militello, Giuseppe Di Chiara, Lucia Parlato and Paola Maggio



2. Agenda

Time	Item	Speaker
09.00 - 09:30	Welcome and introduction to the EUROCOORD 6 PM	Annalisa Mangiaracina, UNIPA
09:30 - 10:15 (45 min)	WS1 <i>"Comparative analysis of specific national and European jurisprudence and legislation"</i> Work done / achievements / next steps	Annalisa Mangiaracina, UNIPA
10.15- 11.00 (45 min)	WS2 <i>"Comprehensive research on legal protection in the EU Member States under the EIO provision"</i> Work done / achievements / next steps	Mar Jimeno, UBU
11.00 -12	Coffee break	
12:00-12:30	WS4 <i>"Training and Dissemination"</i> <ul style="list-style-type: none"> - Dissemination plan - Dissemination activities (social media campaigning) - Work done / achievements / next steps 	Adam Gorsky, Jagiellonian University All
12:30-12:45	WS0 <i>"Management and Coordination of the Project"</i> Reporting and Financial issues Work done / achievements / next steps	Sandra Vilaplana K-veloce I+D+I on behalf of UBU.
12:45– 13:00	General questions and doubts: <i>establishing next project meeting</i>	All participants

3. Welcome and introduction to the EUROCOORD KoM

Ms. Annalisa main contact of University of Palermo within EUROCOORD partners welcomed Palermo to all partners, and introduced the meeting agenda for the second project meeting of the project.

4. WS1 “Comparative analysis of specific national and European jurisprudence and legislation”

Annalisa as leader of WS1 presented the activities carried done during last months since February 2016. She outlined the situation of EU Members states, specifically in the recent laws on European Cooperation in the gathering of evidences in Italy. Together with the project partners a discussion of the analysis of instruments on the gathering of evidence abroad and specific issues related to the EIO were discussed deeply, considering differences between the partner countries: Spain, Italy and Poland.

UOP has already started with the interviews with Public prosecutors, judges and defence lawyers, this activity is under Output 3: interviews addressed to judicial authorities and involved judicial practitioners (Prosecutors’ Office, judiciatures, etc.). She pointed out that there are not so many people experienced in this kind of fields, and the main problems are lack of knowledge of instruments to apply by these people and language. These interviews will continue until September.

Deliverable D1.1 is already done and in the following days will be submitted to the EC through electronical services (SYGMA).

Further details of the achievements and results performed within WS1 in the last reporting period are attached in the annex section.

5. WS2 “Comprehensive research on legal protection in the EU Member States under the EIO provision”

WS2 starts on February 17, Ms. Mar as project coordinator and leader of WS2 presented the activities performed from February to July in a methodological approach point of view. The common research and current situation (output N° 1 within WS2) and the interviews protocol with the questionnaires to interview the focus groups are already done. Two different groups have been set to address better:

1. QUESTIONS FOR JUDGES AND PUBLIC PROSECUTORS
2. QUESTIONS FOR DEFENCE LAWYERS

During the last months work done UBU was working in the following activities:

- Agreement between partners in order to elaborate different models of interview including same and different questions for:
 - o Judges and public prosecutors
 - o Lawyers and NGOs members
- Open interview was agreed between UBU and UCM including questions related to experience in EU judicial cooperation and cross-border evidence

- UJ suggested some closed questions but coordinator suggested to create specific questionnaire by UJ if it is the case in order to be sent by email; besides many of these questions addressed specific issues according to Polish law and practice on EAW
- Definitive version was redacted on March 16th, 2017 and sent to all partners in order to transcribe and record all interviews (this last case if there is agreement by interviewed person)
- Interviews shall be collected as anonymous

And the **achievements** performed:

Spain elaborated 2 lists with names of:

- 20 judges and public prosecutors belonging to European institutions (Eurojust, EJM, liaison magistrates) and Spanish courts (Supreme Court, National Court)
- 15 lawyers including independent lawyers as well as lawyers working on NGOs (Fair Trials International, Rights International Spain-RIS, International Amnesty)

Interviews are shared between UCM (M. Aguilera Morales and L. Bachmaier Winter) and UBU (M. Jimeno Bulnes)

Method: face to face if possible (mostly of them work in Madrid, not far either from Burgos), otherwise skype (eg, Spanish liaison magistrate attached to Morocco)

At the moment 8 judges/public prosecutors and 2 lawyers have been interviewed; other interviews are appointed in July and September

Unfortunately, not all planned interviews shall be possible, especially in the case of the lawyers (different reasons are argued by them eg, no practice, work)

Nevertheless, the interviews already carried out include very interesting information

Deliverable D2.1 Currents situation is already done and in the following days will be submitted to the EC through electronical services (SYGMA).

Further details of the achievements and results performed within WS2 in the last reporting period are attached in the annex section.

6. WS3 “Proposal for a Code of Best Practice: enactment, debate and training”

No presentation of WS3 was done due to activities related do not start yet.

7. WS4 “Training and Dissemination”

Mr. Adam leader of WS4 and from UJ showed its progress under training and dissemination work.

Dissemination plan (Deliverable 4.6) was presented to discuss its content. Moreover, a discussion of the dissemination scope took place to define major NGOs and public authorities in order to get involved in the project activities. Main platforms active in judicial cooperation. Journalist interested in legal issues was detected and in the following months project partners will contact them as



dissemination in scientific way. An executive summary of the project should be done to communicate the project and its results.

Concerning social media, UJ as has created the EUROCOORD twitter account (<https://twitter.com/eurocoord>) and in the following months website will be set up by UBU.

8. WSO “Management and Coordination of the Project”

Sandra on behalf of UBU, with the support of UBU outlined the project management and coordination to all partners. She emphasized that CA has already signed by all partners. Also announce to all of partners that in a workshop for legal and financial report should take in September or October addressed to the administrative contacts. The aims of this online workshop is to give all of them a detailed explanation of eligible costs and the procedure to report it to UBU in December 12, expected date for the interim report. UBU will inform the date.

9. Next steps

The next points show the activities and tasks that will focus the work in the coming months.

10. Next project meeting

3rd project meeting

3rd Project meeting concerning 12 months periodic meetings is scheduled in December around 20th in Madrid, where UCM is located. An email will be sent to confirm the date.

11. General questions and doubts

No questions and doubts were addressed.

Annalisa concluded the meeting and to thank all partners their participation.



EUROCOORD

Annex I: KoM presentations & attendance list



“Best practices for European Coordination on investigative measures and evidence gathering”

Kick-off Meeting

July 20th 2017
Università degli Studi di Palermo

WSO “Management and Coordination of the Project”
Sandra Vilaplana (K-veloce I+D+i)

Partners:





WSO. TABLE OF CONTENTS

- *Summary*
- *Objectives of this workstream*
- *Task List & Gantt Diagram*
- *Description of the work (activities)*
- *Outputs of WS*



SUMMARY

Work stream Number: 0	Workstream name: Management and Coordination of the Project				
WS Leader	UBU	Start date	1 (dec 16)	End date	24 (nov 18)
Person-months per participant	UBU	UCM	UOP	UJ	
	9	3	3	3	



Objectives of this workstream

Workstream 0 is intended for all activities related to the general management and coordination of the project (kick-off meetings, coordination, project monitoring and evaluation, financial management) and all the activities which are cross cutting and therefore difficult to assign just to one specific workstream.




Task List & Gantt Diagram

		Year 1												Year 2											
		dic-16	ene-17	feb-17	mar-17	abr-17	may-17	jun-17	jul-17	ago-17	sep-17	oct-17	nov-17	dic-17	ene-18	feb-18	mar-18	abr-18	may-18	jun-18	jul-18	ago-18	sep-18	oct-18	nov-18
Lead Organisation		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24
Workstream 0 (Management and Coord.)		UBU																							
1 Brussels Kick-off meeting	UBU	x			x																				
2 Project kick-off meeting	UBU	x		x																					
3 2nd Project meeting	UOP						x		x																
4 3rd Project meeting	UCM												x												
5 4th Project meeting	JU																		x						
6 Final Project Meeting	UBU																							x	
7 Project monitoring and steering committee	UBU		D		x				x				D				x				x			D	
8 Administrative and financial management	UBU																								
9 Ethics management	UBU																								
10 Preliminary and final evaluation	UBU						x					x						x					x		
Workstream 1 (National and European legislation)		UOP																							
1 Comparative research methodology	UOP																								
2 Jurisprudence analysis	UOP. All partners																								
3 Interviews	UOP. All partners						D																		
4 Analysis and assessment of the results	UOP								D																
Workstream 2 (legal protection)		UBU																							
1 Qualitative research methodology	UBU																								
2 Interviews and focus groups	UBU, UCM, UOP, UJ																								
3 Comprehensive and qualitative analysis	UBU, UOP, UJ												D												
Workstream 3 (Code of Best Practises)		UCM																							
1 First draft	UCM																	x							
2 Discussion groups	UCM. All partners																				D				
3 Final version	UCM																					x			
4 Training courses planning and syllabus	UBU																								
Workstream 4 (Dissemination and training)		JU																							
1 Main website and updates	UBU																								
2 Online debate and communication	UJ							D																	
3 Offline communication campaigns	UJ																								
4 Training courses and resources	UBU																								
5 European Observatory for the EIO	UJ, UBU, UOP																				D				
6 Dissemination to policy makers	UJ, UBU, UOP																								
7 Scientific dissemination	UJ, UBU, UOP																								D
8 Events and conferences	UCM																						x		D



Description of the work

Nº	Name and description of the activity		Partner	Month	
1	Brussels Kick-off meeting with the Commission (M0). Project coordinator and financial coordinator will attend one-day kick of meeting in Brussels with the Commission.	DONE	UBU	1 → 4	
2	Project 1 2 people outcome	<p>IMPORTANT: All partners are required to read carefully the KoM Brussels presentations provided by project officer. Uploaded in Dropbox\EUROCOORD\PROJECT MEETINGS\01_KoM_Brussels</p> 			1 → 3
3	2nd proje will mee impleme				6 → 8
4	3rd proje 2 people outcomes and implementation				12



DG Justice and Consumers

Reporting and payments

Kick-off Meeting – 28 March 2017
calls JUST-2015-JCOO-AG-1 and JUST-2015-JACC-AG1



Description of the work

Nº	Name and description of the activity		Partner	Month
1	Brussels Kick-off meeting with the Commission (M0). Project coordinator and financial coordinator will attend one-day kick of meeting in Brussels with the Commission.	DONE	UBU	1 → 4
2	Project kick- off meeting in Burgos (M1). 2 people of each partner will meet in Burgos to discuss project outcomes and implementation.	DONE	UBU	1 → 3
3	2nd project meeting in Palermo (M6). 2 people of each partner will meet in Palermo to discuss project outcomes and implementation. Associated partners will be invited.	DONE	UOP	6 → 8
4	3rd project meeting in Madrid (M12). 2 people of each partner will meet in Madrid to discuss project outcomes and implementation.	DIC 17¿?	UCM	12

Date should be discuss it in this meeting



Description of the work

Nº	Name and description of the activity		Partner	Month
5	4th project meeting in Poland (M18). 2 people of each partner will meet in Poland to discuss project outcomes and implementation. Associated partners will be invited.		JU	18
6	Final project meeting in Burgos (M24). 2 people of each partner will meet in Burgos to discuss project final results.		UBU	24
7	Project monitoring and steering committee. A monitoring strategy and steering committee will be established for a continued and informed steering of project implementation. This activity will be supported by an external evaluator.	DONE	UBU	4
8	Administrative and financial management (payments, financial statements and reporting)	In progress	UBU	
9	Ethics management The Ethical management will supports the Project Coordinator in ensuring the ethical procedures or the project.	In progress	UBU	
10	Preliminary and final evaluation (formative evaluation in order to assess adherence to objectives and results)		UBU	



Outputs

Nº	Output	Characteristics	Target group	
1	Project Handbook Manual (M2)	A manual (electronic) will be done to provide the information and processes of the project. Ethical issue process will be included. Language: English.	Partners - Internal documentation (CO)	D0.1 submitted on 21/3/17
2	Project Meetings reports	As a result of each project meeting an electronic report will be done. 5 status reports each 6 months, 1 final report. Language: English	Partners - Internal documentation (CO) – Associated partners Partners - Internal documentation (CO)	D0.2 submitted on 21/3/17
3	First Annual Periodic Activities report (M12)	UBU will provide a consolidated progress report to the European Commission. (M12). Ethical issues will be included. Language: English.	Partners - Internal documentation (CO)	Expected on Dec-17



Outputs

Nº	Output	Characteristics	Target group	
4	Second Annual Periodic Activities report (m24)	UBU will provide a consolidated progress report to the European Commission. (M12). Ethical issues will be included. Language: English.	Partners - Internal documentation (CO) – Associated partners	
5	Monitoring meetings with external evaluation	UBU will meet every 6 months with external evaluator to ensure that the project is implemented as planned. A monitoring report will be done each meeting (Months: 5,11,17,23). The evaluation will be presented in project meetings.	Partners - Internal documentation (CO) – Associated partners	
6	PSC meetings.	A steering committee will meet every four months in order to follow up on the progress of the project and discuss the preliminary results	Stakeholders (accused's rights) and Society (PU)	



Actions done

Nº	Name and description of the activity
1	Drobox as repository tool. UBU in charge of manage it.
2	Consortium Agreement → already signed and submitted on 13/07/2017 in electronic services (SyGMA)
3	Financial templates and instructions to complete them done by UBU.



FUTURE ACTIONS

Nº	Name and description of the activity
1	<p>Legal and financial workshop to report project costs on December 2017. <u>Responsible:</u> UBU <u>Addressed to:</u> partners. Specifically person in charge of European or international offices at universities. <u>When:</u> end September / beginning October. Not yet established, UBU will send date and agenda. <u>Description:</u> to give indications and instructions to fulfil with legal and financial issues related with project and Justice programme</p>
2	Monitoring meeting with external evaluation. M6 UBU
3	PSC meeting to monitor technical achievements UBU



Future actions

Nº	Name and description of the activity	Partner
3	<p>To monitor next Deliverables:</p> <ul style="list-style-type: none">- D0.3 2nd Project meeting minutes (UBU)- D0.7 1st Annual Periodic activities (UBU)- D0.9 1st monitoring report by external evaluator (UBU)- D0.13 1st Steering committee meeting report (UBU)- WS 1: D1.1 ene 17; D1.2 jun-17; D1.3 jun-17- WS 2: D2.1 mar 17- Web site- D4.6 dissemination plan	



i For each Deliverable, a single file (max 52MB) can be uploaded

WP No	Del Rel. No	Del No	Title	Lead Beneficiary	Nature	Dissemination Level	Est. Del. Date (annex I)	Receipt Date	Approval Date	Status	
WP1	D1.1	D1	Project Handbook Manu	UBU	Report	Confidential, only for m	31 Jan 2017	21 Mar 2017 ⚠		Submi...	
WP1	D1.2	D2	Project Meetings reports	UBU	Other	Confidential, only for m	31 Dec 2016	21 Mar 2017 ⚠		Submi...	
WP1	D1.3	D3	2nd Project meeting rep	UBU	Report	Confidential, only for m	30 Jun 2017			Pending	📄
WP1	D1.4	D4	3rd Project meeting rep	UBU	Report	Confidential, only for m	31 Dec 2017			Pending	📄
WP1	D1.5	D5	4th Project meeting rep	UBU	Report	Confidential, only for m	30 Jun 2018			Pending	📄
WP1	D1.6	D6	Final project meeting re	UBU	Report	Confidential, only for m	30 Nov 2018			Pending	📄
WP1	D1.7	D7	First Annual Periodic Act	UBU	Report	Confidential, only for m	30 Nov 2017			Pending	📄
WP1	D1.8	D8	Second Annual Periodic .	UBU	Report	Confidential, only for m	30 Nov 2018			Pending	📄
WP1	D1.9	D9	1st monitoring report by	UBU	Report	Confidential, only for m	31 May 2017			Pending	📄
WP1	D1.10	D10	2nd monitoring report b	UBU	Report	Confidential, only for m	30 Nov 2017			Pending	📄
WP1	D1.11	D11	3rd monitoring report b	UBU	Report	Confidential, only for m	31 May 2018			Pending	📄
WP1	D1.12	D12	4th monitoring report b	UBU	Report	Confidential, only for m	30 Nov 2018			Pending	📄
WP1	D1.13	D13	1st Steering committe r	UBU	Report	Confidential, only for m	31 May 2017			Pending	📄
WP1	D1.14	D14	2nd Steering committe r	UBU	Report	Confidential, only for m	30 Nov 2017			Pending	📄
WP1	D1.15	D15	3rd Steering committe n	UBU	Report	Confidential, only for m	31 May 2018			Pending	📄
WP1	D1.16	D16	4th Steering committe n	UBU	Report	Confidential, only for m	30 Nov 2018			Pending	📄
WP2	D2.1	D17	Compilation framework	UNIPA	Other	Confidential, only for m	31 Jan 2017			Pending	📄
WP2	D2.2	D18	relevant experience of p	UNIPA	Other	Confidential, only for m	30 Jun 2017			Pending	📄
WP2	D2.3	D19	Diagnosis of the current	UNIPA	Report	Public	30 Jun 2017			Pending	📄
WP2	D2.4	D20	National reports on EOI .	UNIPA	Report	Public	31 Jul 2017			Pending	📄
WP3	D3.1	D21	Current situation	UBU	Other	Confidential, only for m	31 Mar 2017			Pending	📄
WP3	D3.2	D22	Common practices relat	UBU	Other	Confidential, only for m	31 Oct 2017			Pending	📄
WP3	D3.3	D23	National reports on EIO .	UBU	Report	Public	30 Nov 2017			Pending	📄
WP4	D4.1	D24	First version of the Code	UCM	Report	Confidential, only for m	30 Apr 2018			Pending	📄
WP4	D4.2	D25	Open debate and trainin	UCM	Other	Public	31 Jul 2018			Pending	📄
WP4	D4.3	D26	Final version of the Cod	UCM	Report	Public	31 Aug 2018			Pending	📄
WP4	D4.4	D27	Code of Best Practice fo	UCM	Other	Public	30 Nov 2018			Pending	📄



In short - COMMENTS

- Next Project meeting Madrid. Second week of December. WS0 Will be finished.
- Legal and financial workshop to report project costs on December 2017.



¿Questions?



“Best practices for European Coordination on investigative measures and evidence gathering”

2nd PROJECT MEETING

July 20th 2017
Università degli Studi di Palermo

WS1 “Comparative analysis of specific national and European jurisprudence and
legislation”

ANNALISA MANGIARACINA

Partners:





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SUMMARY

Work stream Number: 1	Workstream name: Comparative analysis of specific national and European jurisprudence and legislation				
WS Leader	UOP	Start date	February	End date	July
Person-months per participant	UBU	UCM	UOP	UJ	
	5	5	6	5	



Objectives of this workstream

See p. 18 of Project description and implementation:

“TO COMPILE, IN A UNIFORM MANNER, CURRENT LEGISLATION AND JURISPRUDENCE RELATED WITH THE EIO AT EUROPEAN AND NATIONAL LEVEL”: Italy, Spain and Poland.



Status of transposition of the EIO

Deadline for transposition: 22 May 2017.

EU MEMBER STATES (updated on 14 July 2017)

Ongoing process: Austria, Bulgaria, Croatia, Cyprus, Czech Republic, Greece, Luxembourg, Malta, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden.

Approved: Belgium, Estonia, Finland, France, Germany, Hungary, Italy, Latvia, Lithuania, Netherlands, United Kingdom.

Denmark and Ireland are not bound.



Italian Legislation

RECENT LAWS ON EUROPEAN COOPERATION IN THE GATHERING OF EVIDENCE:

- Legislative Decree 5 April 2017 n° 97, has implemented the 2000 Convention on Mutual Legal Assistance in Criminal Matters between MS of the EU;
- Legislative Decree 21 June 2017, n° 108 has implemented Directive 2014/41/UE on EIO.

Directive 2014/41 replaces the corresponding provisions of some Conventions, included the 2000 Convention (art. 34). On this regard any provisional rule is provided for by Legislative Decree on the EIO.



Description of the work

N o	Name and description of the activity	Partner	Month
1	Qualitative research methodology The coordinator will state a common methodology to ensure all information is provided in a scientifically adequate approach	UBU	3 Feb 17
2	Interviews and focus groups: Phase 1) Professionals of the legal system, judicial institutions, experts, lawyers... Phase 2) Police officers, NGOs members and volunteers and anti-discrimination experts	UBU, UCM, UOP, UJ	4 – 10 From Mar to Sept 17)
3	Comprehensive qualitative analysis of the data collected	UBU, UOP, UJ	8 – 12 From July to Nov 17



Outputs

Nº	Output	Characteristics	Target group
1	Current situation	In order to ensure the information about national practices, a framework with specific items interview protocols will be stated.	Partners (CO)
2	Common practices related with EIO and evidence transfer in Spain, Italy and Poland	Analysis of practices in the countries of the Consortium (desk research and unstructured).	Partners (CO)
3	<u>DELIVERABLE</u> National reports on EIO application and practices	Electronic deliverable (English, Spanish, Italian and Polish) It will compile the common practices in these countries	Academia, Juridical Authorities defence lawyers and legal aid lawyers, law enforcement officers and NGOs (PU)



Work done (1)

1) Qualitative research methodology:

UOP has redacted the first draft of a «Common methodology» in order to compile legislation, jurisprudence and references: draft was approved by the Coordinator and also by other Partners following a discussion.

The idea behind WS1:

- A) First of all focusing on normative instruments on the gathering of evidence abroad;
- B) Then analysing national legislation on the EIO, not in general, but focusing on specific issues that were problematic also in the context of Letters Rogatory (and using the experience in the context of EAW).



Work done (1)

A) NORMATIVE INSTRUMENTS ON THE GATHERING OF EVIDENCE ABROAD:

Instruments analysed: FD 2003/577/JHA of 22 July 2013 on the execution in the EU of orders freezing property or evidence, its implementation in Italy by Legislative Decree 15 February 2016, n° 35; its relation with Directive 2014/42/EU on freezing and confiscation of instrumentalities and proceeds of crime in the EU and with Directive on the EIO which replace FD 2003/577/ only regarding freezing and not confiscation.

- Paper just published in Italian language.

B) SPECIFIC ISSUES RELATED TO THE EIO:

There is not still case-law. The legislative decree approved, at first sight, shows lights and shadows.



Work done (1)

1) **SUBJECTS:** who may request the issuing of an EIO (art. 1 § 3 Directive).

Art. 31 (Italian LD): EIO under request of defence:

- the lawyer of person under investigation/accused;
- the lawyer of person under the application of a «prevention measure» (such as confiscation);

Request submitted to the PP or to the judge, with the specification of the investigative measure and reasons that justify the measure itself.

If the request is refused, the PP adopts a reasoned decree.

The judge issues a decision («ordinanza») after having heard parties.

Weak points:

- the victim is not among subjects who may request the issuing of an EIO;



Work done (1)

- against the refusal is not provided a remedy.

NOTHING IS CHANGED?

Following case-law on Letters Rogatory, it should be possible to apply a remedy named «incidente di esecuzione» (in this sense see M.R. Marchetti, Member of the Commission that elaborated the draft of Legislative decree).



Work done (1)

PARTICIPATION IN THE EXECUTION OF THE EIO (art. 9 §§ 4 and 5 of Directive):

Art. 29 (Italian LD):

PP - by agreement with the executing authority – can participate directly or through one or more officials of the judiciary police in the execution of the EIO. With this aim the PP can also promote the setting up of a **joint investigation team** (in this case it applies d.lgs. 15.02.2016, n. 34).

The **judge** who issued the EIO may request the execution authority to participate in the execution of the EIO.

Any reference to the participation of the defence.



Work done (1)

INDICATIONS TO THE EXECUTING AUTHORITY (Art. 33 Italian LD)

- The issuing authority agree with the executing authority modalities to perform the investigative measure or the evidence, expressly indicating rights and faculties recognised by law to the parties and their lawyers.

If the defence lawyer participates to the gathering of evidence abroad, exercising faculties recognised by Italian law, the evidence is included in the file of the trial and can be used as full evidence by the judge at the trial.

See case law on Letters rogatory: request to participate.



Work done (1)

4) GROUNDS FOR NON-RECOGNITION OR NON EXECUTION (art. 11 Directive).

Art. 10 Italian LD:

- all grounds are mandatory;
- following the idea behind the EIO – free movement of evidence in a common space – among grounds for refusal is not provided the principle of territoriality (in the text of the Explanatory Memorandum on the Legislative Decree there is a specific reference to the fight against terrorism: indeed Directive 2017/541 of 15 March 2017, on the fight against terrorism provides the punishment of preparatory acts).
- human rights clause: relevance in the context of terrorism cases where guarantees provided by the ECHR – except artt. 2 and 3 – can be derogated.



Work done (1)

There is another ground for refusal:

when the investigative measure does not exist under the Italian law or there are not conditions provided by the Italian law for its performing, the PP may recourse – previous communication to the requesting authority - to an investigative measure other than that provided for in the EIO and which would have the same result.

The impossibility to execute the order is a specific ground for refusal.



Work done (2)

Interviews:

- UOP has contacted Public prosecutors, judges, and defence lawyers with experience in the field of judicial cooperation; and also police officers with experience in the field of interception of communications.
- Interviews are planned between the end of July and September.

In some cases we had informal discussions with Public Prosecutor and the frame is not really positive: there is not a full knowledge of normative instruments related to the gathering of evidence abroad (especially on the EIO and among defence lawyers).

Interview: to understand if there are other issues to consider in the Report.



Next steps

- Full National Report written on the basis of the model elaborated and approved by the Coordinator.

In September an analytic comment on Legislative Decree on the EIO will be published in Italian language in a Juridical review. In the perspective of dissemination it could be translated into English.

- Comparative analysis – Italy, Spain and Poland – and assessment of results.

Is the EIO really an “added value” in the field of gathering of evidence abroad?



¿Questions?



“Best practices for European Coordination on investigative measures and evidence gathering”

2nd PROJECT MEETING

July 20th 2017
Università degli Studi di Palermo

WS2 “COMPREHENSIVE RESEARCH ON LEGAL PROTECTION IN THE EU MEMBER STATES UNDER EIO PROVISION”

Mar Jimeno Bulnes - UBU

Partners:





WS2. TABLE OF CONTENTS

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- *Objectives of this workstream*
- *Task List & Gantt Diagram*
- *Description of the work (activities)*
- *Outputs of WS*
- *Work done*
- *Achievements*
- *Next steps*
- *Questions?*



SUMMARY

Work stream Number: 2	Workstream name: COMPREHENSIVE RESEARCH ON LEGAL PROTECTION IN THE EU MEMBER STATES UNDER EIO PROVISION				
WS Leader	UBU	Start date	3 (Feb – 17)	End date	12 (Nov – 17)
Person-months per participant	UBU	UCM	UOP	UJ	
	8	2	2	2	



Objectives of this workstream

Project description and implementation (p.19):

To analyse the current practices on juridical protection for accused individuals, evidence gathering and investigative measures in Spain, Italy and Poland.

It should be considered the qualitative assessment of the unstructured data, collected through interviews and focus groups.

Duration in months: 10



Task List & Gantt Diagram

		Year 1											
		dic-16	ene-17	feb-17	mar-17	abr-17	may-17	jun-17	jul-17	ago-17	sep-17	oct-17	nov-17
Workstream 2 (legal protection)	UBU												
1 Qualitative research methodology	UBU												
2 Interviews and focus groups	UBU, UCM, UOP, UJ												
3 Comprehensive and qualitative analysis	UBU, UOP, UJ												D



Description of the work

N o	Name and description of the activity	Partner	Month
1	Qualitative research methodology The coordinator will state a common methodology to ensure all information is provided in a scientifically adequate approach	UBU	3 Feb 17
2	Interviews and focus groups: Phase 1) Professionals of the legal system, judicial institutions, experts, lawyers... Phase 2) Police officers, NGOs members and volunteers and anti-discrimination experts	UBU, UCM, UOP, UJ	4 – 10 From Mar to Sept 17)
3	Comprehensive qualitative analysis of the data collected	UBU, UOP, UJ	8 – 12 From July to Nov 17



Outputs

Nº	Output	Characteristics	Target group
1	Current situation	In order to ensure the information about national practices, a framework with specific items interview protocols will be stated.	Partners (CO)
2	Common practices related with EIO and evidence transfer in Spain, Italy and Poland	Analysis of practices in the countries of the Consortium (desk research and unstructured).	Partners (CO)
3	<u>DELIVERABLE</u> National reports on EIO application and practices	Electronic deliverable (English, Spanish, Italian and Polish) It will compile the common practices in these countries	Academia, Juridical Authorities defence lawyers and legal aid lawyers, law enforcement officers and NGOs (PU)



Work done (I)

N o	Name and description of the activity	Partner	Month
1	Qualitative research methodology The coordinator stated a common interview in both different models for judges/public prosecutors and lawyers/NGOs	UBU	4 March 2017
2	Interviews and focus groups: Phase 1) Professionals of the judicial institutions such as judges and public prosecutors, lawyers Phase 2) NGOs members and lawyers on behalf of NGOs	UBU, UCM, UOP ? UJ ?	5 – 10 From April to Sept 17)



Work done (II)

- Agreement between partners in order to elaborate different models of interview including same and different questions for:
 - Judges and public prosecutors
 - Lawyers and NGOs members
- Open interview was agreed between UBU and UCM including questions related to experience in EU judicial cooperation and cross-border evidence
- UJ suggested some closed questions but coordinator suggested to create specific questionnaire by UJ if it is the case in order to be sent by email; besides many of these questions addressed specific issues according to Polish law and practice on EAW
- Definitive version was redacted on March 16th, 2017 and sent to all partners in order to transcribe and record all interviews (this last case if there is agreement by interviewed person)
- Interviews shall be collected as anonymous



Achievements (Spain)

- Spain elaborated 2 lists with names of:
 - 20 judges and public prosecutors belonging to European institutions (Eurojust, EJM, liaison magistrates) and Spanish courts (Supreme Court, National Court)
 - 15 lawyers including independent lawyers as well as lawyers working on NGOs (Fair Trials International, Rights International Spain-RIS, International Amnesty)
- Interviews are shared between UCM (M. Aguilera Morales and L. Bachmaier Winter) and UBU (M. Jimeno Bulnes)
- Method: face to face if possible (mostly of them work in Madrid, not far either from Burgos), otherwise skype (eg, Spanish liaison magistrate attached to Morocco)
- At the moment 8 judges/public prosecutors and 2 lawyers have been interviewed; other interviews are appointed in July and September
- Unfortunately not all planned interviews shall be possible, especially in the case of the lawyers (different reasons are argued by them eg, no practice, work)
- Nevertheless, the interviews already carried out include very interesting information



Next steps (Spain)

- Finish with appointed interviews between July and September as far as August is generally bank holiday in Justice's administration
- Try to obtain answer by silent addressees, especially lawyers (otherwise to substitute them with other names if possible)
- To analyse, read and listen all of them carefully in order to prepare national report
- Report shall include assessment on national practices according to information provided through answers to interviews in following topics:
 - Practices on EU judicial cooperation and cross-border evidence
 - Opinion on further implementation of EIO in Spain
- Report should identify present problems on the practice of EU judicial cooperation related to cross-border evidence before EIO implementation
- Months: October – November
- Methodology: to be discussed and agreed (Proposal: same as WS1)



¿Questions?



“Best practices for European Coordination on investigative measures and evidence gathering”

2nd PROJECT MEETING

July 20th 2017

Università degli Studi di Palermo

WS4 “Training and Dissemination ”

Dr hab. Adam Górski, Prof. UJ

Partners:





WS4. TABLE OF CONTENTS



-
- *Summary*
 - *Objectives of this workstream*
 - *Description of the work (activities)*
 - *Outputs of WS4*



SUMMARY



Work stream Number: 4	Workstream name: Training and Dissemination				
WS Leader	JU, Adam Górski	Start date	1 (1 Jan 2017)	End date	24 (1 Jan 2019)
Person-months per participant	UBU	UCM	UOP	UJ	
	5	4	4	6; for details see. GA pp. 21	



Objectives of this workstream



→ Due to its perpetual duration activities in WS4 are not divided in phases (see: General Agreement, PART B - SUBMISSION TEMPLATE PROJECT DESCRIPTION AND IMPLEMENTATION, description of WS and Activities pp. 21 - 23, and compare to pp. 18 – 19)

Dissemination activities description:

General:

Web page

Social media campaign

Leaflets

Participation in international events

Workshops

Local events

Other

For details see: “dissemination plan” in Dropbox



Objectives of this workstream

Detailed (Dossier for main aims, tools, responsible person, aims achievements and other):

WEB Site : UBU and UJ responsible of the coordination on this task (contents managing, translations, etc.) March 2017- November 2018;

Krzysztof Michalak shall be directly responsible for the content of website, under supervision of Adam Gorski (among UJ as participant):

MOODLE(learning platform) module of the WEB Site for training courses and materials;

Krzysztof Michalak, Adam Gorski, with Mar Jimeno Bulnes participation will be responsible for the content of moodle;

Establishment of presence, communication and debate on social media channels;



Objectives of this workstream

Detailed (Dossier for main aims, tools, responsible person, aims achievements and other):

Dissemination of research achievements will take place in common social medias such as: Twitter and other means;

Launching a dedicated blog concerning outcomes of EUROCOORD, which will be broadcasted (linked to) on several websites of Universities in Poland, Spain and Italy;

Achievement of specific objectives, such as: generation of the required knowledge to optimise the implementation of the EIO in criminal matters, specifically, the transmission of evidence;

Involvement of relevant stakeholders with the competencies and protocols needed in order to make easier the cooperation and admissibility of evidence across different countries;



Objectives of this workstream



Detailed (Dossier for main aims, tools, responsible person, aims achievements and other):

Aim is also to rise awareness, disseminate knowledge generated and train professionals with a multiplying potential;

Above mentioned will be achieved by tools such as: Main website and updates, Online debate and communication, Offline communication campaigns, Training courses and resources, European Observatory for the EIO, Dissemination to policy makers, Scientific dissemination, and dedicated events and conferences

Offline communication campaign, newspapers, professional publications and, in general, non-specific and specific press



¿Questions?

Contact us:

Euro Coord

eurocoord@gmail.com

Follow us on Twitter:

<https://twitter.com/eurocoord>