



# MINUTES OF THE 4th Project Meeting

02/11/2018



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



**EUROCOORD**

**Version Final**

**Preparation date:** 2 november 2018

**Deliverable D1.5 - 4th Project meeting report**

**Work Package WP1**

**Authors:** JULIO AGUSTIN PEREZ GIL

**Approved by Coordinator on:** 26/11/2018

**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
WP	Work package
DoA	Description of Action ( <i>Referred to Annex I Grant Agreement</i> )

## 1. Meeting information

<b>Date</b>	2 November 2018
<b>Time</b>	09:00 – 15:30
<b>Location</b>	University Jagiellonski

### Participants

<b>Name</b>	<b>Institution</b>
Mar Jimeno	University of Burgos
Julio Pérez Gil	University of Burgos
Annalisa Mangiaracina	University of Palermo
Costanza di Francesco Maesa	Complutense University of Madrid
Adam Gorski	University Jagiellonski
Krzysztof Michalak	University Jagiellonski
Martyna Kusak	University Jagiellonski (by invitation)
Ariel Falkiwicz	University Jagiellonski (by invitation)



## 2. Agenda

Meeting venue:

**Jagiellonian University**

**Venue:** Bracka st, no 12; 31-005 Krakow

<b>Time</b>	<b>Item</b>	<b>Speaker</b>
09.00 - 09:15	Welcome and introduction to the EUROCOORD 4 <sup>th</sup> Project meeting	Adam Gorski / Krzysztof Michalak (Jagiellonian University)
09:15 - 10:00 (45 min)	WS1 <i>"Comparative analysis of specific national and European jurisprudence and legislation"</i> <b>Work done / achievements / next steps</b>	Annalisa Mangiaracina, (UNIPA)
10.00- 10.45 (45 min)	WS2 <i>"Comprehensive research on legal protection in the EU Member States under the EIO provision"</i> <b>Work done / achievements / next steps</b>	Mar Jimeno / Julio Pérez Gil (UBU)
<b>10.45 -11:15</b>	<b>Coffee break</b>	
11:15-12:00	WS3 <i>"Proposal of a Code of Best Practice: enactment, debate and training"</i> <b>Work done / achievements / next steps</b>	Lorena Bachmaier, (UCM)
12:00 – 13:00	WS4 <i>"Training and Dissemination"</i> <b>Work done / achievements / next steps</b>	Adam Gorsky, Jagiellonian University All
<b>13:00 -14:30</b>	<b>Lunch break</b>	
14:30-15:00	WS0 <i>"Management and Coordination of the Project"</i> Reporting and Financial issues <b>Work done / achievements / next steps</b>	Mar Jimeno (UBU)
15:00– 15:30	General questions and doubts: <i>Stablishing final project meeting and final project conference</i>	All participants

### 3. Welcome and introduction to the EUROCOORD 4<sup>th</sup> Project meeting

Mr. Adam Gorsky, representing Jagiellonian University of Krakow in the EUROCOORD project welcomed to all partners, and introduced the meeting agenda for the fourth project meeting.

All the participants take note that:

- Lorena Bachmaier has not been able to come because of an inescapable professional question. Costanza di Francesco will represent the University Complutense in this meeting.
- Annalisa Mangiaracina has unfortunately not been able to get to Krakow because her flight has suffered a long delay due to bad weather throughout Italy and especially in Sicily. However, she will participate in the meeting via Skype.

Presentations have been uploaded to the Dropbox directory: PROJECT MEETINGS\06\_4th Project Meeting\_Krakow\Presentations

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

Ms. Annalisa Mangiaracina, as leader of WS1, presented by Skype the activities and action done under WS1 (or WP2).

She focused her presentation on following points (which were discussed among project partners):

- The review of the compilation framework a national reports on EIO and common practice
- The State of the implementation of the Directive: all Member States have implemented DEIO (September 2018)
- Results of the comparison: There are no significant differences among the three countries. Aspects considered: issuing authorities (judicial); role of defence; types of proceedings (just criminal proceedings, excluding the administrative ones); grounds for refusal.
- How to relate DEIO with European Production and Preservation Orders? (Proposal for a Regulation of the European Parliament and of the Council on European Production and Preservation Orders for electronic evidence in criminal matters, 17<sup>th</sup> April 2018)
- Problems on interceptions without technical assistance in Italy
- Problems on data protection. Not enough consideration

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

Ms. Mar Jimeno as project leader of WS2 (or WP3) presented the WS2 points.

Specifically, following points were presented and discussed among project partners:

- After the approval of the amendment, the project it’s extended until Feb 2019 (instead of finish November 2018). The main reason is the delays in transposition laws; Italy: 21<sup>st</sup> Julio 2017; Poland: Amendment of Criminal Procedure Code on Feb 8<sup>th</sup>, 2018; Spain Law 3/2018, of 11 June, amending the Act 23/2014, of 20 November, on mutual recognition of judicial decisions in criminal matters in the EU)



- Common methodology document (D3.2), as a guide useful to elaborate national reports. She reminds that D.3.3 (compilation) is the deliverable (not each national report). Therefore all national reports must be available as soon as possible!
- Main parts of each document in WS2 must be: a) Basic information of the interviews; b) Legal issues; c) Practical issues; d) Expectations; e) Conclusions
- Provisional versions of national reports Italy and Spain are available in Dropbox for all participants. It is still pending Polish one. Until it is delivered, it cannot be elaborated the deliverable D3.3.

Julio Pérez Gil, as responsible for WS2 in UBU, speaks on the achievements and on his personal impressions, making special consideration of some of the provisional conclusions of the Spanish report. He highlighted the following aspects: a) Willing to collaborate; b) Delays in cooperation; c) Worries on decrease of procedural rights; d) Costs (Who pays and what is to be paid?); e) Need for training and specialization

Mar Jimeno, highlighted the urgent necessity of having the Polish report. Krzysztof Michalak raised some doubts about the way to make the report. After being discussed and clarified this topic, it was decided that the report will be delivered within fifteen days.

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

Ms. Costanza di Francesco Maesa as representative of WS3 team presented her presentation on ‘Best practices for European Coordination on investigative measures and evidence gathering’.

She highlighted following points:

- Issuing and executing authorities. Definition of “judicial authority”
- Central authorities
- Actors legitimated to request the issuing of an EIO. Possibility to request by the suspected/accused person?
- Identification of the authority to whom the EIO shall be forwarded.
- Form of the EIO and judicial decision
- Return of the EIO issued or validated by the public prosecutor when it includes measures restricting the fundamental rights the adoption of which is reserved to the judge/judicial authority in the executing State
- Participation of the defence attorneys and other parties in the process of the execution of an EIO
- Speciality principle, duty of confidentiality and transfer of data between competent authorities of different Member States
- Exchange of information on bank accounts and banking and other financial operations
- Relationship between articles 26 (2) and 27 (2) (information concerning a bank) and article 10 (1)(5) DEIO (Does apply EIO?)
- Relationship between article 10 (1)(5) DEIO and article 28 (1) DEIO. Definition of “would not be authorised in a similar domestic case” and “similar case”
- Relationship between articles 26, 27, 28 DEIO and article 11 DEIO



## 7. WS4 “Training and Dissemination”

Mr. Krzysztof Michalak representing UJ, leader of WS4 (or WP5) presented the dissemination activities included in WS4 (or WP5) which are being considered: Web page; Social media campaign (Twitter account administrated by him and Adam); Leaflets; Participation in international events; Workshops; Local events

The discussion was focused on the website eurocoord.eu, administrated by UBU. Mar Jimeno beg to include every possible dissemination activity (public seminars, academic congress,...)

It was discussed about the convenience of publish a book. There were problems about the compatibility with open access of the deliverables. It must be checked if it is an eligible cost.

After that, two external speakers, experts in matters intimately related to the project took the floor, were presented:

A) Martyna Kusak (Adam Mickiewicz University in Poznan) spoke on the problems derived of telephone tapping in cross border criminal investigation, in relation with EIO. To this purpose she presented the book derived of her PhD: *Mutual admissibility of evidence in criminal matters in the EU. A study of telephone tapping and house search* (It is upload to the Dropbox and available at [https://prawo.amu.edu.pl/\\_\\_data/assets/pdf\\_file/0011/326909/IRCP-53-M-Kusak-Mutual-admissibility-E-version.pdf](https://prawo.amu.edu.pl/__data/assets/pdf_file/0011/326909/IRCP-53-M-Kusak-Mutual-admissibility-E-version.pdf))

B) Ariel Falkivicz made a speech titled “Human rights clause as a ground for non recognition or non-execution of an EIO (after the Celmer’s case) – practical aspects”. The matter is relevant because EIO is considered as an alternative to EAW mechanism After analysing this very recent case in the jurisprudence of European Court of Justice (ECLI:EU:C:2018:586; Case C-216/18 PPU) he concluded as follows:

- The degree of infringements of human rights in the field of evidence is much lower than in surrender procedure (with detention, etc.)
- Two-step test, proposed by de ECJ in the Celmer’s Case, should not be referred to the procedure of execution an EIO

Finishing this part of the meeting, Adam Gorski made two propositions to take into account in our code of best practices:

- Presence of lawyers in defendant statement
- Immunities and privilege (lawyers, doctors, journalists)

## 8. WS0 “Management and Coordination of the Project”

Ms Mar Jimeno, as project coordinator of the Project, reminds that the project should have be finished November but was extended until February 2019 (Not longer!). All the activities and all expenses must be done prior this date.

Specifically, following points were presented, discussed and agreed among partners:

a) Website ‘eurocoord.eu’



UBU is dealing with website, where all submitted deliverables are available. At a later time, there will be available some further information about the project.

Any event (conference, publication or other) organised or known by the partners in relation with EIO must be send to Serena Cacciatore (sscacciatore@ubu.es) in order to be posted. As further step we would like to include legislation, case-law and literature in a moderate way.

UJ should keep in touch with UBU as far as they are also in charge of WS4 (please Adam and/or Krzysztof address to Serena).

#### b) Training courses

Partners should elaborate 3 courses addressed to different targets (judges/prosecutors/lawyers). They should include the contents of each WS, prepared by each responsible partner of each WS. They will include a ppt presentation and a questionnaire.

UJ, in charge of WS4, shall anticipate a common structure on such presentation and questionnaire (specifically: extension, first slide and format, number of questions in questionnaire...) plus introductory letter in order to address national authorities.

## 9. Next project meeting

### Final project meeting and project conference

It will take place in the Law School of the Complutense University (Madrid, Spain), in two days' time.

Sandra will prepare and send to all participants a 'doodle' in order to decide the date of the meeting and the conference. We have to choose 2 days between 14-15-16 and 21-22-23 February 2019.

Conference shall include presentation of each WS but, if possible, other speakers could also participate.

We intend to invite the officer.

We must ask what the eligible costs for preparing the conference are (ie, possible attendance of payment of persons different to partners).

## 10. General questions and doubts

Mar Jimeno, as leader of the project, and Adam Gorski as host in the Jageillonian University concluded the meeting and thanks all partners their participation.

## 1. Next steps – Action plan

Action to be taken	Responsible	Deadline
<b>WS2 (or WP3)</b>		
Polish report	UJ	16/11/18
To finish and submit last D3.3 once polish part is integrated	UBU	30/11/18
<b>WS3 (or WP4)</b>		
D4.1 First version of the Code of Best Practice	UCM	30/11/18
D4.2 Open Debate and training	UCM	30/11/18
D4.3 and D4.4 Code of Best Practices	UCM	30/11/18
<b>WS4 (or WP5)</b>		
Training courses structure	UJ	16/11/18
Training courses content	All partners	30/11/18
Report dissemination and communication activities	UJ	28/2/19
To manage website and social media	UJ	28/2/19
<b>WS0</b>		
To send doodle tool to establish final project meeting and conference date	UBU	Done
To send technical final report template	UBU	Jan 19
To give final specific instructions about financial-administrative matters	UBU	30/11/2018



**EUROCOORD**

## Annex I: Presentations & attendance list



# EUROCOORD

Best practices for EUROpean COORDination on investigative measures and evidence gathering

## 4<sup>th</sup> Project Periodic Meeting

November 2nd 2018

Jagiellonian University

Venue: Bracka st, no 12; 31-005 Krakow;

### ATTENDANCE LIST

ATTENDEE	PARTNER	SIGNATURE
Costanza DI FRANCESCO MAESA	Universidad Complutense Madrid	<i>Costanza Di Francesco</i>
Krzysztof MICHALAK	UJ	<i>Krzysztof Michalak</i>
Tar Lomero Siles	URU	<i>Tar Lomero Siles</i>
Jesús Pérez Gil	URU	<i>Jesús Pérez Gil</i>
Adam Girek	UT	<i>Adam Girek</i>
MARTYNA KUSAŁA	UAM	<i>Martyna Kusała</i>
Anel Felkner	UJ	<i>Anel Felkner</i>

This project is funded by the EU's Justice programme. JUST-2015-JCOO-AG-1 n° ref. 723198





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

## 4th Periodic Meeting

November 2nd 2018  
Jagellonian University (Poland)

WP1 “Management and Coordination of the Project”  
*Miriam Manrique (UBU) and Sandra Vilaplana (K-veloce I+D+i)*

Partners:





# Table of the contents

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- *Management part*
  - *Summary*
  - *Admendment – accepted changes*
  - *Project figures updated: Gantt, milestones and deliverables*
  - *Description of work*
  - *Next steps*
- *Financial part*
  - *Payments*



# SUMMARY

<b>Work package Number: 0</b>	<b>Work package name: Management and Coordination of the Project</b>				
<b>WP Leader</b>	UBU	<b>Start date</b>	1 (dec 16)	<b>End date</b>	24 (nov 18)
Person-months per participant	UBU	UCM	UOP	UJ	
	9	3	3	3	

## *Objectives of this workstream*


**WP1** 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.





# AMENDMENT


Entered in force: 17/10/2018


 **Consortium Requested Amendment**  
AMD-723198-4

30 Jul 2018


▶ ● — ● — ● — ● — ● ◀◀







Launched      Prepared      Submitted      Admissible      Decision

▶  **Process documents**

▼  **Process communications**

No topics

▼  **Process history**

-  EU closed the process on 17 Oct 2018 12:36
-  **EU accepted the amendment on 17 Oct 2018 12:36**
-  EU admitted the amendment request on 03 Oct 2018 13:04
-  **UBU (GARCIA, José Miguel)** signed and submitted the amendment request on 18 Sep 2018 09:40
-  **Coordinator** started to draft the amendment request on 30 Jul 2018 16:19
-  **Coordinator** launched the amendment process on 30 Jul 2018 16:19



# AMENDMENT (Changes accepted)

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## 1. 3-month project extension

Initial scenario: from 1<sup>st</sup> December 2016 to November 2018 (Duration 24 months)

Accepted scenario from: 1<sup>st</sup> December to 28<sup>th</sup> February 2019 (Duration 27 months)

## 2. Extension of the WS1 (WP2) duration.

Initial scenario: from 1<sup>st</sup> December 2016 to July 31<sup>st</sup>, 2017. (Duration 8 months)

Accepted scenario: from 1<sup>st</sup> December 2016 to September 30<sup>th</sup> 2018 (Duration 22 months)

## 3. Extension of the WS2 (WP3) duration.

Initial scenario: from 1<sup>st</sup> February 2017 to July 30<sup>th</sup> 2017 (prior proposed extension to July 31<sup>st</sup>, 2017 in prior request) (Duration 12 months)

Accepted scenario: from 1<sup>st</sup> February 2017 to September 30<sup>th</sup> 2018. (Duration 22 months)



# AMENDMENT (Changes accepted)

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## 4. Extension of the WS4 (WP5) duration.

Initial scenario: from 1<sup>st</sup> December 2016 to November 2018 (Duration 24 months)

Accepted scenario from: 1<sup>st</sup> December to 28<sup>th</sup> February 2019 (Duration 27 months)

## 5. To eliminate the deliverables D2.2 and D2.3

## 6. To eliminate following deliverables D1.13, D1.14, D1.15, D1.16



# AMENDMENT (Documents)

Documents are available in participant portal IT tool, and Dropbox project folder:

<https://www.dropbox.com/sh/hqdeucaqwlkgtjs/AADtVv45OkaRqjrrcXLoAhY5a?dl=0>

RESEARCH & INNOVATION  
Participant Portal - Grant Management Services

MY PROJECT

Call: JUST-2015-JCOO-AG-1  
Type of Action: JUST-AG  
Acronym: EUROCOORD  
Current Phases: Grant Management  
Number: 723198  
Duration: 27 months  
GA based on the: JUST\_REC  
MGA -- Multi - 2.0  
Start Date: 01 Dec 2016  
Estimated Project Cost: €493,277.00  
Requested EU Contribution: €394,701.00  
Contact: Barbara BEDNARZ

Documents

Date	Documents
January 2016	Proposal (1)
June 2016	Evaluation Summary (1) Grant Agreement (1)
July 2016	Evaluation Result Letter (1) Grant Declaration (1)
October 2016	GrantData (1)
December 2016	Prefinancing (1)
March 2017	Deliverables (2)
September 2017	Deliverables (3)
April 2018	Deliverable Assessment (1) Deliverables (4)
May 2018	Deliverable Assessment (1) Deliverables (2)
July 2018	Amendment (1)
September 2018	Amendment (1) Deliverables (1)

H2020 ONLINE MANUAL

HOW TO



# Task List & Gantt Diagram (update)

		GANTT																										
UPDATED 15/12/2017		Year 1												Year 2														
Lead Organisation		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	dic-18	ene-19	feb-19
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27
<b>Work Package 1 (Management and Coord.)</b>		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																											
7 Project monitoring and steering committee	UBU		D		x				x				D				x					x						
8 Administrative and financial management	UBU																											
9 Ethics management	UBU																											
10 Preliminary and final evaluation	UBU					x												x										
<b>Workpackage 2 (National and European legislation)</b>		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																			
<b>Work package 3 (legal protection)</b>		UBU																										
1 Qualitative research methodology	UBU																											
2 Interviews and focus groups	UBU, UCM, UOP, UJ																											
3 Comprehensive and qualitative analysis	UBU, UOP, UJ												D															
<b>Work package 4 (Code of Best Practises)</b>		UCM																										
1 First draft	UCM																											
2 Discussion groups	UCM. All partners																											
3 Final version	UCM																											
4 Training courses planning and syllabus	UBU																											
<b>Work package 5 (Dissemination and training)</b>		JU																										
1 Main website and updates	UBU																											
2 Online debate and communication	UJ																											
3 Offline communication campaigns	UJ																											
4 Training courses and resources	UBU																											
5 European Observatory for the EIO	UJ, UBU, UOP																											
6 Dissemination to policy makers	UJ, UBU, UOP																											
7 Scientific dissemination	UJ, UBU, UOP																											
8 Events and conferences	UCM																											



# Work packages (update)

WORK PACKAGES					
WP Number	WS Title	Lead Beneficiary	Person-months	Start months	End Month
WP1	Management and Coordination of the Project	1- UBU	18	M1 (1 sep 17)	M27 (28 feb 2019)
WP2	Comparative analysis of specific national and European jurisprudence and legislation	3 - UNIPA	21	1	22
WP3	Comprehensive research on legal protection in the EU Member States under the EIO provision	1 - UBU	14	3	22
WP4	Proposal of a Code of Best Practice: enactment, debate and training	2 - UCM	17	13	24
WP5	Training and Dissemination	4 - UJ	19	1	27



# Milestones (updated)

MILESTONES							
Milestones number	Milestone title	WS number	Lead Beneficiary	Due Date	Date	Means of verification	Achieved
MS1	Project Kick-off meetings (Brussels and Burgos)	WP1	1-UBU	1	dic-17	Two kick-off meetings will take place: the first session will be organised in Brussels, joining the entire consortium and the European Commission (Project Officer). The second one will be held at Burgos.	yes
MS2	Preliminary evaluation	WP1	1-UBU	3	feb-17	Introductory research into the current situation regarding the EIO application and standard practices, state of the art, main communication and networking strategies and channels, adequateness of the workstream and timestream, etc.	yes
MS3	Dissemination and Communication strategy, plan and implementation	WP2	4-UJ	4	mar-17	Plans developed, and Targeted audience reached through the specific and planned activities. Establishment of presence, communication and debate. At least, four peer-reviewed articles should be published. It includes online and offline activities.	yes
MS4	Final data collection and comparative research into the EOJ judicial framework, legal protection and analysis of the current situation from stakeholders	WP2, WP3	3-UNIPA	9	ago-17	Interviews addressed to judicial authorities, practitioners, and any other stakeholder involved (e.g., NGOs, police officers, etc.). Analysis of the national legislation on the implementation of the EIO, legal cooperation practices, EU legal instruments, the intervention of the leading institutions, etc.	Delayed set 18



# Milestones (updated) (II)

MILESTONES						
Milestones number	Milestone title	WS number	Lead Beneficiary	Due Date	Date	Means of verification
MS5	Long-life training: courses and seminars implementation	WP5	1-UBU	27	nov-18	Introduce and assess the online courses, their syllabus, resources and seminars in the field of the European Investigation Order.
MS6	Development of a Code of Best Practices and Evaluation report on the first draft and final version	WP4	2-UCM	27	nov-18	Final analysis of stakeholders contribution. Focus groups and coordination to elaborate the first draft and the final version of the Code Of Best Practices, marking the beginning of the European Observatory
MS7	Launch of the European Observatory on EOI and beyond on criminal matters	WP5	4-UJ	27	nov-18	Open the debate about the EIO, involve the entire community of stakeholders and establish the conditions for a collaborative, scientific driven, networking approach and its success and sustainability over time
MS8	Final evaluation	WP1	1-UBU	27	nov-18	Plans to ensure the long-term viability of the European Observatory on EOI and to fix the potential gaps that have arisen within the project lifecycle





# Deliverables (updated)

Work package 1 (Management and Coord.)		
DELIVERABLES		
<b>D1.01</b>	Project Handbook Manual. UBU. Enero 2017	Submitted
<b>D1.02</b>	Project Meetings reports. UBU. Diciembre 2016	Submitted
<b>D1.03</b>	2nd Project Meeting report. UBU. Junio 2017	Submitted
<b>D1.04</b>	3rd Project Meeting report. UBU. Diciembre 2017.	Submitted
<b>D1.05</b>	4th Project Meeting report. UBU November 2018	
<b>D1.06</b>	Final report meeting report. UBU. Noviembre 2018.	
<b>D1.07</b>	First Annual Periodic Activities. UBU. Noviembre 2017	Submitted
<b>D1.08</b>	Second Annual Periodic Activities report (M24). UBU. November 2018	
<b>D1.09</b>	1st monitoring report by external evaluator. UBU. May 2017	Delayed
<b>D0.10</b>	2nd monitoring report by external evaluator. UBU. November 2017	Delayed
<b>D0.11</b>	3rd monitoring report by external evaluator. UBU. May 2018	Delayed
<b>D0.12</b>	4th monitoring report by external evaluator. UBU November 2018	



# Deliverables (updated) (II)

DELIVERABLES (WP2)		
D2.1	Compilation framework. UNIPA. Enero 2017	Submitted 7/09/2017
D2.4	National reports on EOI and common practices. UNIPA. Julio 2017	Submitted 17/09/2018
DELIVERABLES (WP3)		
D3.1	Current situation. UBU. Marzo 2017.	Submitted 12/9/2017
D3.2	Common practices related with EIO and evidence transfer in Spain, Italy and Poland. UBU. Noviembre. UBU. Octubre 2017	Submitted 17/9/2018
D3.3	National reports on EOI and common practices. UBU.	Delayed



# Deliverables (update) (III)

DELIVERABLES (WP4)		
D4.1	First version of the Code of Best Practice. UCM. Abril 2018	
D4.2	Open debate and training. UMC. Julio 2018	
D4.3	Final version of the Code of Best Practice. UCM. Agosto 2018	
D4.4	Code of Best Practice for European investigation order in criminal proceedings. UCM. Noviembre 2018	

DELIVERABLES (WP5)		
D5.1	Social media: presence, communication and debate. UJ. February 2019	
D5.2	Consolidation of European Observatory on EIO. UJ. February 2019	
D5.3	Scientific dissemination. UJ. February 2019	
D5.4	Project Main website. UBU. Feb 2017	Submitted
D5.5	Training courses materials. UBU. February 2019	
D5.6	Dissemination and Exploitation plan. UJ. May 2017.	Submitted
D5.7	Report on dissemination activities, participation in events, articles published, etc. UJ. February 2019	



# Description of the work

N o	Name and description of the activity		Partner	Month
1	<b>Brussels Kick-off meeting with the Commission (M0).</b> Project coordinator and financial coordinator will attend one-day kick of meeting in Brussels with the Commission.	DONE	UBU	1 → 4
2	<b>Project kick- off meeting in Burgos (M1).</b> 2 people of each partner will meet in Burgos to discuss project outcomes and implementation.	DONE	UBU	1 → 3
3	<b>2<sup>nd</sup> project meeting in Palermo (M6).</b> 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	<b>3<sup>rd</sup> project meeting in Madrid (M12).</b> 2 people of each partner will meet in Madrid to discuss project outcomes and implementation.	DONE	UCM	12 → 13



# Description of the work

Nº	Name and description of the activity		Partner	Month
5	<b>4<sup>th</sup> project meeting in Poland (M18).</b> 2 people of each partner will meet in Poland to discuss project outcomes and implementation. Associated partners will be invited.	DONE	JU	18 → 22
6	<b>Final project meeting in Burgos (M24).</b> 2 people of each partner will meet in Burgos to discuss project final results. <b>Place and date should be discussed among partner: Could it be Madrid? Together with Final project Conference</b>		UBU	24
7	<b>Project monitoring and steering committee.</b> 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	<b>Administrative and financial management</b> (payments, financial statements and reporting)	In progress	UBU	
9	<b>Ethics management</b> The Ethical management will supports the Project Coordinator in ensuring the ethical procedures or the project.	In progress	UBU	
10	<b>Preliminary and final evaluation</b> (formative evaluation in order to assess adherence to objectives and results)	In progress	UBU	



# Actions already done

Nº	Name and description of the activity
1	<b>Drobox as repository tool. UBU in charge of manage it.</b>
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
4	<b>Legal and financial instructions to report project costs on December 2017.</b> <u>Responsible:</u> UBU <u>Addressed to:</u> partners. <b>Specifically person in charge of European or international offices at universities.</b> <u>When:</u> November 2017. <u>Description:</u> to give indications and instructions to fulfil with legal and financial issues related with project and Justice programme
5	Organization of two teleconferences to monitor project activities: June 11th and July 9th.



# FUTURE ACTIONS

Nº	Name and description of the activity	
1	Monitor project activities and its results	UBU
2	Final project meeting organisation	UBU
3	Collect technical and economic information for the final report, according to the templates. Final Technical report template is already available in dropbox. Coordinator will send the instructions soon	UBU



# Financial part

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# Payments

Payments:

	Date of transmission to the coordinator of the evidences	Date of payment after validation by the coordinator	Percentage of the paid subsidy	Amount
	<b>DONE</b>	At the signature of the Consortium Agreement	30%	73.675,80 €
<b>Next one:</b>	31 December 2017 Subject to having used around 50% of the budget allocated and subject to the receipt of financial and technical documents. The Beneficiary must have fulfilled all his obligations in the Grant Agreement on time	15/02/2018 <b>DONE</b>	25%	61.396,50 €
	30 April 2018 Justification of around 85% of the expenses. Breakdown of the amounts claimed Technical report providing details of the implementation and results of the actions. The Beneficiary must have fulfilled all his obligations in the Grant Agreement on time	15/06/2018 <b>DONE</b>	10%	24.558,60 €



# Payments

Payments:

	Date of transmission to the coordinator of the evidences	Date of payment after validation by the coordinator	Percentage of the paid subsidy	Amount
	<b>DONE</b>	At the signature of the Consortium Agreement	30%	73.675,80 €
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	30 April 2018 Justification of around 85% of the expenses. Breakdown of the amounts claimed Technical report providing details of the implementation and results of the actions. The Beneficiary must have fulfilled all his obligations in the Grant Agreement on time	15/06/2018 <b>Poland-UBU for update and evaluation</b>	10%	24.558,60 €



# Reporting

---

Kind remind: C.A. page 7.

## **Article 11 – Reports**

1. The **Beneficiaries** shall provide the **Coordinator** with any information and document required for the preparation of the Final report, with certified copies of all the necessary supporting documents *completed and signed by the legal representative* by 31/12/2017, 30/04/2018 and by **28/02/2019**, at the latest.

## **Timesheets**



---

Kind remind: C.A. page 7.

## **Why?**

The project does not foreseen an audit BUT it is **SUBJECT TO BE** audited.

The officer can ask for proof documents when deemed necessary and at the end of the project for a representative collection.

The coordinator can review the expenses allocated.

**Questions? Difficulties within entities?**



---

Kind remind: C.A. page 7.

## **Reporting:**

- Scan documentation from the beginning of the project.
- Establish a periodicity of documentation collection (quarterly, for example).
- Update the template with the expenses executed quarterly.
- Fill in the Timesheet monthly.
- Monitoring and scanning of Trips-docs and invoice<sup>c</sup>

## **UPLOAD IN DROPBOX**





# OVERALL BUDGET

	[A] Direct Personnel Costs (€)	[B.1] Direct travel costs (€)	[B.2] Direct subsistence costs (€)	[C] Direct costs of subcontracting (€)	[D] Direct costs of providing financial support (€)	[E] Other direct costs	[F] Indirect costs (€) Max 7% of direct costs (sum of budget categories A-E)	[G] Total costs (€) (A)+(B)+(C)+(D)+€+(F)	[H] Receipts	[I] Other Income (G-H-J)	[J] Requested grant
UBU	128.000 €	4.300 €	3.400 €	16.000 €	0 €	22.500 €	12.194 €	186.394 €	0 €	37.279 €	149.115 €
UCM	100.000 €	2.400 €	1.800 €	0 €	0 €	500 €	7.329 €	112.029 €	0 €	22.406 €	89.623 €
UOP	86.400 €	4.800 €	3.000 €	0 €	0 €	1.500 €	6.699 €	102.399 €	0 €	20.480 €	81.919 €
UJ	<b>76.000 €</b>	6.000 €	3.000 €	0 €	0 €	1.500 €	<b>6.055 €</b>	92.555 €	0 €	<b>18.511 €</b>	74.044 €
	390.400 €	17.500 €	11.200 €	16.000 €	0 €	26.000 €	32.277 €	493.377 €	0 €	<b>98.675 €</b>	394.702 €



# Discussion points

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- Next Project meeting and project final conference: date and place



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¿Questions?

Please contact directly by email/skype to Miriam Manrique or Sandra Vilaplana





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

## 4th Project meeting

November 2nd 2018  
University of Jagellonian

*WS1 “Comparative analysis of specific national and European jurisprudence and legislation”*  
Presented by: ANNALISA MANGIARACINA

Partners:



UNIVERSITÀ  
DEGLI STUDI  
DI PALERMO



# WS1 TABLE OF CONTENTS

---

- *Summary*
- *Objectives of this workstream*
- *Status of transposition of DEIO*
- *Description of the work*
- *Work done and deliverables*
- *Results of the activity*
- *Future actions*



# SUMMARY

<b>Workpackage Number: 2</b>	<b>Workpackage name: Comparative analysis of specific national and European jurisprudence and legislation</b>				
<b>WP Leader</b>	<b>UOP</b>	<b>Start date</b>	<b>January 2017</b>	<b>End date</b>	<b>August 2018</b>
<b>Person-months per participant</b>	<b>UBU</b>	<b>UCM</b>	<b>UOP</b>	<b>UJ</b>	
	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 DEIO

---

**September 2018:** Fully implemented (last MS was Luxembourg in September 2018).



# Description of the work

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- **Compilation Framework:** common methodology to ensure all information is provided in a uniform approach.

Following the entry into force of national legislations that have implemented the DEIO, each country involved in the current Project – Italy, Poland and Spain – has written its national Report following the common methodology established in WS1, *sub* D2.1.

- **National Reports on EIO and common practice,** written on the basis of the methodology approved.

The Report is aimed at comparing Italian, Spanish and Polish Reports on the implementation in each national systems of Directive 2014/41/EU on the EIO. In comparing national legislations, the present Report addresses specific topics which are considered to be the most interesting and problematic ones in applying the EIO in all EU Member States, on the basis of the same methodology used in D2.1.



# Work done and deliverables

---

D2.1 COMPILATION FRAMEWORK

D2.2: ELIMINATED

D2.3: ELIMINATED

D2.4 NATIONAL REPORTS ON EIO AND COMMON PRACTICES



# Results of the activity

---

Concerning Art. 34 DEIO on transitional situations it is to say that all MS have implemented it (according to data update to September 2018 the last MS was Luxembourg).

## **Main results of the comparison:**

**SUBJECTS:** It should be noted there are no significant differences among the three countries. In all of them the authority who can issue or validate the EIO is a “judicial” authority and any role is recognised by the administrative authority.

The meaning of the concept “judicial authority” depends on the structure of each normative procedural system.





# Results of the activity

---

**THE ROLE OF DEFENCE:** all States have implemented the Directive in this part. In Italy and in Poland the request submitted by the defence is just a proposal and not a proper standing.

**TYPES OF PROCEEDINGS:** Concerning types of proceedings for which the EIO can be issued (Art. 4 DEIO), in all the considered countries the EIO can be issued within a “criminal” proceedings, excluding the administrative proceedings.

**GROUND FOR REFUSAL:** mandatory in Italy and Spain. Regarding Poland there is a difference among each ground.



# FUTURE ACTIONS

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WP3: UNIVERSITY OF BURGOS (submitted D3.2 on the basis of interviews with professionals)

WP4: TRAINING AND DISSEMINATION

How to relate DEIO with the Proposal of the Commission on electronic evidence?

Problems on interceptions without technical assistance in Italy



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**QUESTIONS???**



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

## 4th Project meeting

November 2nd 2018  
Jagiellonian University

*Comprehensive research on legal protection in the EU Member States under the EIO provision*  
**Mar Jimeno Bulnes / Julio Pérez Gil**

Partners:



UNIVERSITÀ  
DEGLI STUDI  
DI PALERMO



# WS2. TABLE OF CONTENTS

---

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



# SUMMARY

<b>Work stream Number: 2</b>	<b>Workstream name:</b> COMPREHENSIVE RESEARCH ON LEGAL PROTECTION IN THE EU MEMBER STATES UNDER EIO PROVISION				
<b>WS Leader</b>	UBU	<b>Start date</b>	3 (Feb – 17)	<b>End date</b>	12 (Nov – 17) Now Feb 28th, 2019
<b>Person-months per participant</b>	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: initially 10 months, now 22**

- **Initial scenario: Nov 30th, 2017**
- **Current scenario: Sept 30th, 2018**



# 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
<b>Workstream 2 (legal protection)</b>	<b>UBU</b>												
1 Qualitative research methodology	UBU												
2 Interviews and focus groups	UBU, UCM, UOP, UJ												
3 Comprehensive and qualitative analysis	UBU, UOP, UJ												D





# Extension and amendment

---

Proposal for amendment in relation to extension of Eurocooord addressed to EU

Justification: delay on EIO implementation in some countries according to D2.4

- *Decreto legislativo* n. 108 on June 21<sup>st</sup>, 2017 in Italy)
- Amendment of Criminal Procedure Code on Feb 8<sup>th</sup>, 2018, in Poland
- Law 3/2018, of 11 June, amending the Act 23/2014, of 20 November, on mutual recognition of judicial decisions in criminal matters in the EU

Extension of the project at a whole till Feb. 2019 instead initial scenario: Nov 2018

WS2: still pending D3.3 due to the lack of all national reports for compilation similarly to D2.4 (initial versions by Italy and Spain, still missing Poland)



# Description of the work

N o	Name and description of the activity	Partner	Month
1	<b>Qualitative research methodology</b> The coordinator will state a common methodology to ensure all information is provided in a scientifically adequate approach	UBU	3 Feb 17
2	<b>Interviews and focus groups:</b> 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	<b>Comprehensive qualitative analysis of the data collected</b>	UBU, UOP, UJ	8 – 12 From July to Nov 17 and now Sept 2018



# 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 (D3.1)	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).  Common methodology shall be issued (D3.2)	Partners (CO)
3	National reports on EIO application and practices	Comparative assessment of common practices (D3.3)  It will compile the common practices in Italy, Poland and Spain according to national reports	Academia, Juridical Authorities defence lawyers and legal aid lawyers, law enforcement officers and NGOs (PU)



# Work done and deliverables

---

- D3.1: CURRENT SITUATION (submitted)
  - 2 different models of interviews for judges/prosecutors and lawyers
  - Purpose: to obtain information on judicial practices of experience on transnational evidence prior to EIO and EIO if it is the case
  - Interviews made along 2017 by partners (in Spain by M. Jimeno Bulnes, L. Bachmaier Winter and M. Aguilera Morales)
  - Exposition of their content and methodology on 3<sup>rd</sup> project meeting last Dec 20<sup>th</sup>, 2017, in Madrid
  - All of them are available in dropbox folder WS2 (interviews)
  
- D3.2: METHODOLOGY GUIDELINE TO COMPILE JUDICIAL PRACTICES TO EVIDENCE TRANSFER IN SPAIN, ITALY AND POLAND (submitted)
  - Common methodology in order to redact final report on judicial partners by all partners
  - Redacted by J. Pérez Gil (UBU) accordingly to D2.1
  
- D3.3 still pending although deadline expired last Sept 30<sup>th</sup>, 2018. Reasons
  - Recent reports by Italy (A. Mangiaracina) and Spain (F. Valbuena González and J. Pérez Gil)
  - Waiting for Polish report, please **asap**



# Achievements\_1

---

- Interesting information provided by interviews (D3.1):
  - More information becoming from judges and prosecutors than lawyers
  - Difficulties to obtain interviews from lawyers
  - Great differences on judicial cooperation between EU Member States and third countries
  - Great differences between theory and practice, especially in relation to interception of communications (to be considered in WS3)
  - Other relevant issues were pointed in Madrid, 3<sup>rd</sup> project meeting but as summary:
    - Great hope on EIO by opposition to prior instruments, eg, Conventions 1959, 2000...
    - Problems on admissibility of evidence with respect some countries, eg, Police questioning without defence lawyer (UK and Germany), no admission of videoconferencing by some countries (France), intervention of communications in some countries do not require judicial order...
    - Specific difficulties pointed by lawyers eg, need of specific legal aid provision in relation to EAW (now in Madrid only concerning National Court), poor quality of translations, lack of knowledge on judicial cooperation by judicial civil servants...
  
- Achievements in relation to D3.2 and D3.3 to be commented by J. Pérez Gil



# Achievements\_2

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- Common methodology (D3.2)
  - Basic information about the interviewees
    - Purpose
    - 'Target subjects'
  - Legal issues
    - International legal instruments prior EIO
    - Mutual recognition instruments (EEW)
  - Practical issues
    - Judicial experiences in cross-border evidence
    - Problems
  - Expectations
    - Differences between partners depending on
      - The date of EIO implementation
      - The date of interviews
  - Conclusions



# Achievements\_3

---

- Interesting methodology
  - information comes from direct from 'users'
  - different points of view (also within the groups)
- But... it must be fulfilled (legal aspects, most recent case law, etc.)
  - Valuable information... but 'raw'
    - Selection
    - Extract or complete
    - Catalogue
  - Limited knowledge / experience:
    - *'I know what I do'* (i.e. in lawful interception of communications)

Our commitment is reinforced since the necessity of **'Code of best Practice'** does exist



# Achievements\_4

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- Difficulties
  - Training / specialization
  - Language skills
  - Heterogeneous procedural systems
  
- Claims
  - Unjustified duration of the proceedings
  - Special consideration for electronic evidence
  
- Worries
  - Procedural guarantees disappear between *lex fori* y *lex loci*
  - Inequality of arms in favour of the prosecution
  - Violation of sovereignty (interception of communications)





# Achievements\_5 (Conclusions)

---

- Will to collaborate / cooperate
  - Principle *favor cooperationis*
- Takes too much time
  - Electronic formats can make cooperation easier
- Decrease in procedural rights and guarantees?
  - Magistrates: not at all
  - Lawyers: Yes... it could be
- Costs: it is necessary to make the system clearer
  - Who pays?
  - What must be paid?
  - Limits? Proportionality criteria
- Need for training and specialization



# Next steps

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- To obtain all national reports in definitive version **asap in following days** (especially Poland, which first version is still missing)
- National reports 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 and practice of EIO
- Reports should identify present problems on the practice of EU judicial cooperation related to cross-border evidence before EIO implementation in order to prepare WS3 (Code of best practices)
- D3.3 shall compile all national reports similarly to D2.4 as comparative study between 3 participant countries (Italy, Poland and Spain)
- D3.3 deadline expired last Sept 30<sup>th</sup>, 2017 but it should be submitted before **Nov 30th**



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¿Questions?



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

## 4th Project meeting

November 2nd 2018  
University of Jagellonian

*Proposal for a Code of Best Practice*  
*Presented by:*  
*Costanza Di Francesco Maesa*

Partners:





## Issuing and executing authorities. Definition of “judicial authority”.

---

**Problem:** What if the issuing State considers to be judicial an authority which is not considered as having a judicial nature under the law of the executing State? Can the executing authority check/control whether the issuing authority has judicial nature or not under its national law?

**Best practice identified:** In general, the executing authority can NOT check whether the issuing authority has judicial nature under its national law. Only exceptionally may the executing State check it on the condition that coercive measures are concerned, and under its national law, according to fundamental constitutional principles, this authority can not be considered a judicial one. In this case, it can ask the issuing State to have the EIO validated by a judicial authority and if the latter does not validate it, it may refuse it or refer a preliminary question to the ECJ.



## Central authorities

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**Question:** what is the role of central authorities in Italy, Poland and Spain?



## Actors legitimated to request the issuing of an EIO

---

**Problem:** possibility to request the issuing of the EIO by the suspected/accused person, the victim or other parties to the proceeding.

**Best practice recommended:** It is recommended that the decision on the request concerning the issuing of the EIO is motivated, especially when the request is rejected and it comes from the suspected/accused person (or his/her lawyer). It should also be possible, if the successful outcome of the investigations is not frustrated, to hear the parties to the process/proceeding before taking a decision on the issuing of the EIO.



## Identification of the authority to whom the EIO shall be forwarded

---

**Problem:** how to identify the authority to whom the EIO shall be forwarded?

**Best practice recommended:** it is recommended to follow the Spanish system, according to which there is one centralised receiving authority; thus, the problems of identifying to whom to send the EIO are avoided, the statistics are facilitated and it is easier to monitor of compliance.





## Form of the EIO and judicial decision

---

**Problem:** is the form of the EIO enough to be sent to the EX AUTH or must the ISS AUTH attach to the form also the judicial resolution?

**Best practice identified:** as a general rule, the form is enough and there is no need to attach the judicial decision. However, as an exception, if the executing State needs more information which are not possible to obtain from the form, it may request the issuing authority to send the judicial decision. It is however recommended that the issuing authority include in the EIO certain additional data with a view to seek the admissibility of evidence and/or facilitate the role of the executing authority. Thus, it is desirable that in Section I, besides recording the formalities and procedures required for the execution of the EIO, there are set out the measures or actions which can not be carried out in a “in a similar domestic case”.



Return of the EIO issued or validated by the public prosecutor when it includes measures restricting the fundamental rights the adoption of which is reserved to the judge/judicial authority in the executing State

---

**Problem:** should an EIO issued or validated by the public prosecutor be returned or rejected when it includes measures restricting fundamental rights the adoption of which is reserved to the judge/judicial authority in the executing State?

**Best practice recommended:** No, in order to ensure the respect for the principle of mutual recognition.

**Question:** What is the practice in Italy, Spain and Poland?



## Participation of the defence attorneys and other parties in the process of the execution of an EIO

---

**Problem:** Can defence attorneys and other parties to the process participate in the execution of the EIO?

**Best practice recommended:** it is recommended (ONLY A RECOMMENDATION) the participation of the defence attorneys in the execution of the EIO as the participation of the lawyers in the taking of evidence in the executing State has a favourable impact on the proceeding of gathering of evidence and on its admissibility. Thus, as long as it is compatible with the investigations and those are not secret, the intervention of the lawyers in the execution of the measures carried out in another Member State it is recommended to be ensured. However, there is no right deriving from the DEIO to that effect. Thus, in this respect, national provisions apply.



## Speciality principle, duty of confidentiality and transfer of data between competent authorities of different Member States.

---

**Problem:** May the information obtained by Member State A in execution of an EIO be forwarded to another Member State (“C”) without the consent of the executing Member State B that transmitted these information for the specific purpose indicated in the EIO?

**Best practice identified:** In case Member State A is requested to forward to Member State C via an EIO the information obtained from Member State B in execution of an EIO, it is recommended that, in case of non-coercive measures Member State A forward the information without needing to ask for the consent/authorisation of Member State B from which it obtained the information. On the contrary, in case of coercive measures, it is recommended that Member State A, either ask for the consent of Member State B or of the data subject, or assess itself whether the processing of the information for this other purpose is necessary and proportionate for this other purpose in accordance with national and European law.

**Questions:** what is the legal framework and practice in the MSs, particularly IT and PL?



## Exchange of information on bank accounts and banking and other financial operations

---

**Problem:** Do the rules referred to in articles 10 and 11 of the DEIO apply with regard to the exchange of information on bank accounts and banking and other financial operations?



## Relationship between articles 26 (2) and 27 (2) and article 10 (1)(5) DEIO

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**Problem:** Relationship between artt. 26 (2), 27 (2) and 10 (1)(5) DEIO.

**Best Practice identified:** if the information requested via the EIO concerns a bank, the ground for non-execution referred to in article 10 (1)(5) of the EIO does not apply. Member States shall comply with articles 26(2) and 27(2) DEIO.

**However, *quid iuris*** if, despite the obligation to provide the necessary measures to enable the gathering of the information referred to in paragraphs 1 of articles 26 and 27, the legal framework of a given Member State does not provide for a specific measure to obtain information on bank accounts, banking and financial operations?

**Question:** is that an issue in practice? Are there cases of refusal of bank information requests on this ground?



## Relationship between article 10 (1)(5) DEIO and article 28 (1) DEIO.

---

**Problem:** Relationship between article 10 (1)(5) and article 28 (1) DEIO.

**Best practice identified:** article 28 provides for a special ground for refusal, thus article 10 (1)(5) does not apply in regard of article 28 DEIO as far as article 10 (1)(5) establishes that before refusing the execution of the EIO the executing authority “shall have, wherever possible, recourse to an investigative measure other than that provided for in the EIO”. **Problem in practice:** definition of the expression “would not be authorised in a similar domestic case” and of the concept of “similar case”.

**Question:** May this problem arise in practice in the three MSs concerned? When may an investigative measure concerning bank information not be authorised in a similar domestic case?



## Relationship between articles 26, 27, 28 DEIO and article 11 DEIO.

---

**Problem:** Relationship between articles 26, 27, 28 DEIO and article 11 DEIO.

**Best practice identified:** the general grounds for refusal under article 11 DEIO apply also in respect of articles 26 and 27 DEIO.





## Articles 26 (5) DEIO, 27 (4) DEIO and 28 (3) DEIO. Reasons justifying the EIO request of bank information.

---

**Problem:** Apart from the fact that the criteria on the basis of which the request must be justified are not clear, none of the three provisions, i.e. articles 26, 27 and 28, establishes which consequences follow if the reasons given by the issuing authority are not detailed enough or if the issuing authority does not indicate any reasons justifying the issuing of the EIO. May the executing authority refuse to execute an EIO issued in order to obtain information on bank accounts and banking operations on the ground that there are no reasons justifying the request or that the reasons indicated are not enough detailed?

**Best practice identified:** No, the executing authority may not refuse to execute the EIO, but it must ask for further details from the issuing State.



Costanza Di Francesco Maesa

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Thank you for your attention!



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

## 4<sup>th</sup> PROJECT MEETING

2<sup>nd</sup> November JU Kraków

WS4 “DISSEMINATION”

*JU*

Partners:





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  - *Objectives of this workstream*
  - *Task List (scheduled and already made)*
  - *General description of the work (activities)*
  - *Outputs of WS4*
  - *Other inquiries/matters*
  - *Summary*



# SUMMARY



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



# WS 4 ACTIVITIES



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→ 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**



# WS 4 ACTIVITIES



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

Website (till January 2019)

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

Dissemination of research achievements take place in social medias such as: Twitter;

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

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



# WS 4 ACTIVITIES



- 
- **agreements and intent letters with NGOs and public institutions;**
  - **interviews with law professionals;**
  - **EU – funding visibility logo;**
  - **websites;**
  - **publications;**
  - **social media campaign;**
  - **other;**





# WS 4 ACTIVITIES



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## **Agreements and intent letters with NGOs and public institutions:**

- Commissioner for Human Rights in Poland (Ombudsman)



# WS 4 ACTIVITIES



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## Publications:

- Publications in widely read press such as „Rzeczpospolita”, about polish legislative undertakings in implementation of EIO;
- (Professor A. Górski, PhD A.Falkiewicz)



# Description of the work



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



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	<b><u>DELIVERABLE</u></b> 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)



# Future actions



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Nº	Name and description of the activity	Partner
1	<b>Qualitative research methodology</b>	UBU



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Thank for your attention