WARSAW DECLARATION
OF THE PROSECUTORS GENERAL
OF THE VISEGRAD GROUP STATES

WARSAW, 29 MAY 2019

The Prosecutors General of the Visegrad Group States met on their 8th meeting from 27 to 29 May 2019 in Poland and agreed on the following:

1. Improving judicial cooperation in criminal matters between the Member States of the European Union

The Prosecutors General of the Visegrad Group States are attentively following the development of legal instruments for cooperation in criminal matters in the European Union, based on the principle of mutual recognition. At the same time, they notice that there are disproportions in their practical use.

They point out that some of these legal instruments, such as the European Arrest Warrant and the European Investigation Order, or institutions for the mutual enforcement of financial penalties and imprisonment enforcement decisions - are often used by practitioners, while others, such as the European Protection Order, confiscation orders or the instruments for the mutual enforcement of property freezing orders, supervision measures, probation measures and alternative sanction decisions - are used only occasionally or not at all.

The Prosecutors General of the Visegrad Group States support activities aimed at examining the reasons for the less frequent use of the latter forms of cooperation. In 2018, this phenomenon was already the subject of preliminary analysis by the European Judicial Network, which brings together practitioners from all the Member States of the European Union. Further comprehensive analyses and recommendations to improve the use of hitherto ineffective forms of cooperation should be provided by the upcoming 9th round of peer reviews, aimed at exploring specific aspects of the practical use of certain mutual recognition instruments.

The Prosecutors General of the Visegrad Group acknowledge that the principle of mutual recognition is intrinsically linked to the principle of mutual trust. They observe how an increasing lack of mutual trust is negatively impacting the effectiveness of legal instruments

for cooperation in criminal matters. Part of this negative impact is offset by the growing number of cases where Eurojust facilitates the swift exchange of additional information, ensuring that mutual legal assistance requests are eventually executed.

The Prosecutors General of the Visegrad Group Member States make also an urgent appeal to provide Eurojust with sufficient resources in the EU's Multiannual Financial Framework (MFF) 2021-2027. They recall that since 2002, prosecutors across the EU have benefitted from Eurojust's support when dealing with complex, cross-border cases of organised crime or terrorism. They emphasise that the demand for support from Eurojust continues to steadily grow, that the cases referred to Eurojust are increasingly complex and that current and future large scale investments in law enforcement at EU level will also lead to more cases that require a judicial follow up both in EU and towards non-EU countries.

The Prosecutors General of the Visegrad Group States reaffirm their positions from the 2018 Visegrad Declaration on the need to regulate the mutual relations between the European Public Prosecutor's Office and the Member States that have not joined the enhanced cooperation in establishing this body in a way that ensures their smooth cooperation. In particular, it should be considered necessary to regulate issues relating to mutual legal assistance, extradition, resolution of conflicts of jurisdiction that may arise in practice, transfer of proceedings and exchange of information between the European Public Prosecutor's Office and the national public prosecutor's offices of non-participating countries.

The Prosecutors General of the Visegrad Group States are aware of the presumable changes within the framework of international criminal cooperation with the judicial authorities of the United Kingdom of Great Britain and Northern Ireland in connection with Brexit. Notwithstanding the final conclusions in this respect, they hope to maintain the current high level of cooperation.

2. Cross-border access to e-evidence - new tools in the hands of prosecutors

The General Prosecutors of the Visegrad Group States confirm the position adopted in the 2018 Visegrad Declaration on the need for a new approach on the part of prosecutors, who must keep pace with the rapid development of information technologies and be familiar with innovative technologies used by criminals. Close cooperation with law enforcement agencies and IT experts, exchange of best practices and continuous training are essential prerequisites for success and efficiency.

Particular emphasis should be placed on the fastest possible adoption, at the EU level, of regulations allowing law enforcement access to data processed by entities established in other countries, including in particular data relating to subscribers of services and traffic data. A step in the desired direction will be the adoption of a Regulation of the European Parliament and of the Council on the European Production and Preservation Orders for electronic evidence in criminal matters and a Directive of the European Parliament and of the Council laying down a harmonised rules on the appointment of legal representatives for the purpose of gathering evidence in criminal proceedings.

Further work is also needed in relation to the necessity to prepare a legal framework on mutual recognition of decisions related to the interception of content data in real time.

The Prosecutors General of the Visegrad Group States recognize the importance of the European Judicial Cybercrime Network (EJCN). In order to increase its practical contribution to prosecution bodies, they expect that it will receive sufficient support for its activities from European Union bodies, including the establishment of the EJCN Secretariat.

At the same time, they wish to see greater cooperation between national prosecution networks involved in the fight against cybercrime, which would allow for a better understanding of the problems faced by judicial authorities in this area in the Visegrad Group States.

The Prosecutors General of the Visegrad Group States express their willingness to ensure that the evidence necessary to identify users, secure electronic evidence and make illegal online content inaccessible is exchanged in order to take effective action against cybercrime, as well as to ensure timely international cooperation among themselves and with other Member States of the European Union.

3. Challenges in the fight against public security crime

The Prosecutors General of the Visegrad Group States, within the extent of their national competence, pay particular attention to the risks associated with the export of goods, technologies and services of strategic importance, including mainly dual-use items. Lack of proper control in this respect may result in their use for terrorist purposes or other purposes causing social, economic or political instability.

Therefore, the Prosecutors General of the Visegrad Group States are of the opinion that only closer mutual cooperation will make it possible to reduce and ultimately eliminate the dangers associated with the movement of the aforementioned goods, technologies and services.

The Prosecutors General of the Visegrad Group States stress the need for close cooperation between representatives of border security services and authorities responsible for ensuring internal security in the context of halting the growing terrorist threat, including by encouraging the exchange of experiences and participation in international conferences devoted to this issue, in order to ensure increased awareness and the development of good practices.

The Prosecutors General of the Visegrad Group States welcome and recommend the creation of inter-ministerial cooperation programs between agencies, institutions and offices of individual states, implemented in the event of an incident involving the proliferation of weapons of mass destruction (WMD). Their development strengthens the role of individual

states and, as a result, the role of the whole region in combating dangerous phenomena that may pose a threat to integrity and stability.

Along with the rapid development of new forms of communication, expansion of IT networks and implementation of new, previously unknown tools, in combination with the dynamically changing geopolitical situation, the Prosecutors General of the Visegrad Group States, within the extent of their national competence, follow the current threats related to the emergence of new forms of espionage.

The Prosecutors General of the Visegrad Group States acknowledge the importance of specialization in the fight against modern espionage and the importance of professional training for experts working in this area. They also welcome initiatives leading to increased interest in the matter and the adoption of measures to prevent potential dangers.