

EUROJUST

Eurojust reform in the age of digitalisation and war
**Implementation of the Core International
Crimes Evidence Database (“CICED”)**

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New mandate: preservation, analysis and storage of evidence relating to genocide, crimes against humanity, war crimes and related criminal offences (Regulation 2022/838)

- ▶ Role of EJ does not change: “collection of evidence” by Eurojust in accordance with Article 85 TFEU →, “formal acts of judicial procedure shall be carried out by the competent national officials” (EDPS opinion 6/2022)
- ▶ Recital (11) amended EJR: Eurojust has expertise and experience to support investigations and prosecutions of cross-border crimes, including genocide, crimes against humanity, war crimes and related criminal offences
- ▶ Support of EJ to national authorities regarding the storage/preservation/analysis of the evidence includes the preservation, analysis and storage of evidence as far as its admissibility before courts and its reliability are concerned.





Why CISED

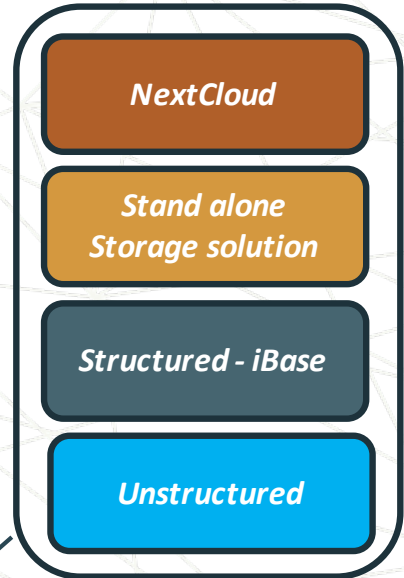
- ▶ Operational landscape: fragmented and complex
- ▶ Needs re. evidence:
 - where is it located, on which crimes, when/where were they committed, by whom, against whom
 - “systematic” elements to prove criminal conduct (e.g. for crimes against humanity)
- ▶ Database will allow to link evidence collected by national authorities (voluntary contributions) and provide a starting point for judicial cooperation and coordination

Derogation: operational data may be processed outside the CMS

- ▶ EJ is allowed to process **evidence** in a “automated data management and storage facility” outside the CMS due to technical limitations of “old CMS” until new CMS is in place.
- ▶ All DP provisions in EJR and EUDPR apply to this separate tool “in as far as they do not directly relate to the technical set-up of the CMS”.
- ▶ Huge challenge from technical and legal viewpoint, particularly due to huge sensitivity of the data at stake and importance of supporting the Ukrainian authorities. Compliance with DP rules needs to be ensured!
- ▶ In order to deal with this challenge approach chosen has been to work in phases and relying on different existing tools which are being used by other EU agencies and work on procedures around those

Scope & main technical components

- ▶  Receipt of information/evidence
- ▶  Processing & storing
- ▶  Data analysis
- ▶  Feedback to national authorities



step-by-step deployment

Some preliminary clarifications

- ▶ Meaning of the term “**Evidence**” → digital copies (originals stay at national authorities’ level)
- ▶ Approach to the transmission from National Authorities (**short form** with tick boxes, which allow a first basic analysis of the contents of the transmission. National authorities have to provide the “label” as to the categories of persons)
- ▶ Access to metadata (no personal data) via **Evidence Registration Log**, shared initially only within Eurojust National Desks and Liaison prosecutors
- ▶ **Access to the actual contributions** containing personal data (indicated by the provider in the registration form, full respect of ‘ownership principle’; initially granted in a “manual” way until database is in place)
- ▶ **Judicial use of the contributions** according to usual instruments (MLAs, EIOs, JIT...)

Eurojust-EDPS cooperation



- ▶ EJR foresees the need to consult EDPS via a notification of the DPO before the new “automated data management and storage facility” starts operation including:
 - (a) a general description of the processing operations envisaged;
 - (b) an assessment of the risks to the rights and freedoms of data subjects;
 - (c) the measures envisaged to address the risks referred to in point (b);
 - (d) safeguards, security measures and mechanisms to ensure the protection of personal data and to demonstrate compliance with this Regulation, taking into account the rights and legitimate interests of the data subjects and other persons concerned.
- ▶ “Prior consultation” with a term of 2 months for EDPS to provide an opinion.
- ▶ Cooperation with EDPS instrumental in this process: “phased approach” in the consultations

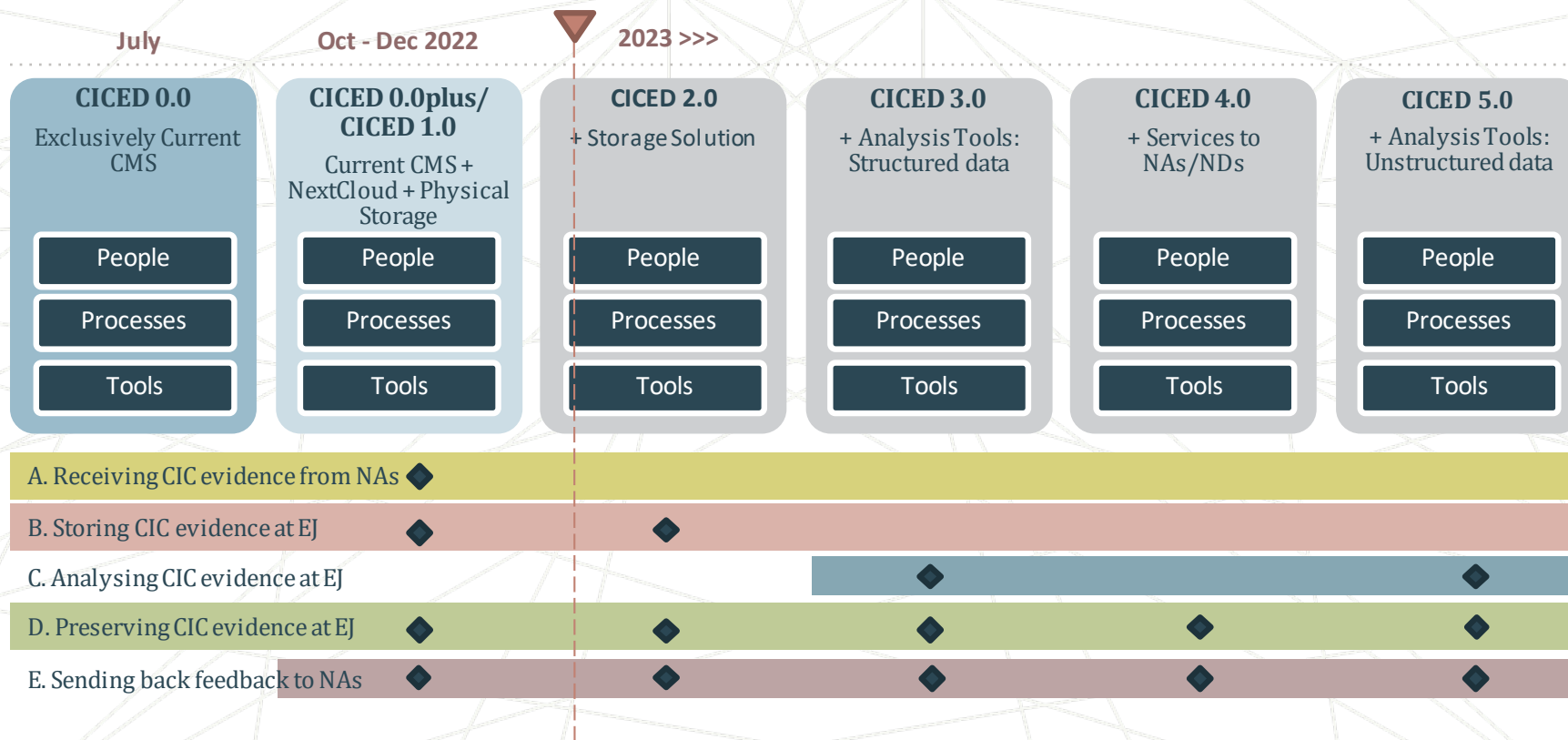
(Selection of) challenges

- ❑ Legal:
 - ▶ definition of additional types of data (amendments in Annex II)
 - ▶ how to implement some concepts/principles/rights of individuals with new types of data
- ❑ Practical:
 - ▶ how to ensure that every piece of evidence we receive is properly “labelled” as to the categories of persons concerned and types of data allowed by EJR (form). Commitment and resources of national authorities needed.
 - ▶ unclear what the volume of data received will be.
- ❑ DPO resources

State of play

- ▶ 1st consultation (including DPIA on mechanism for transmission of large files from MS) submitted to EDPS on 13/10/22.
- ▶ Presently EJ is working both in all steps to “go live” with that first part (including guidelines for NAs and NDs) and DPIA as to the second consultation on storage tools (target date 14/12)

CICED Project – state of play





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