

# THE PROSECUTION OF THE PERPETRATORS: INTERNATIONAL EXPERIENCE AND ADDED VALUE OF EUROJUST

4<sup>TH</sup> REGIONAL CONFERENCE  
ON THE MEDICRIME CONVENTION  
Larnaca, 10-11 November 2015

# OUTLINE

- ❑ EU policy cycle & *Medicrimes*
- ❑ EUROJUST added value
- ❑ “*Vigorali*” case
- ✓ Practical & legal issues
- ❑ Conclusions.

# EU policy cycle and Medicrimes

Council conclusions on setting the EU's priorities for the fight against serious and organised crime between 2014 and 2017 (June 2013):

*“To disrupt OCGs involved in the **production and distribution of counterfeit goods violating health, safety and food regulations** and those producing sub-standard goods.”*

But **not** specifically included in the College Decision 2014-4. adopting Eurojust's operational priorities 2014-2017 (21<sup>th</sup> January 2014) **nor** in the remit of EJ competences

# EUROJUST added value



## 28 EU PROSECUTORS/JUDGES



# EUROJUST objectives (art. 85 TFEU)

1. Improve **cooperation** between competent authorities by facilitating the execution of international MLA requests and EAWs.
2. Stimulate and improve coordination of investigations and prosecutions between Member States competent authorities
3. Support competent authorities in order to render their investigations more effective

# EUROJUST operational tools

- Operational instruments (particularly suitable for multilateral OC cases):
  - Operational Coordination Meetings
  - Operational Coordination Centres
  - JITS  **JITS** Network  
The Network of National Experts on Joint Investigation Teams
  - and, of course!, facilitation



# Coordination Meetings

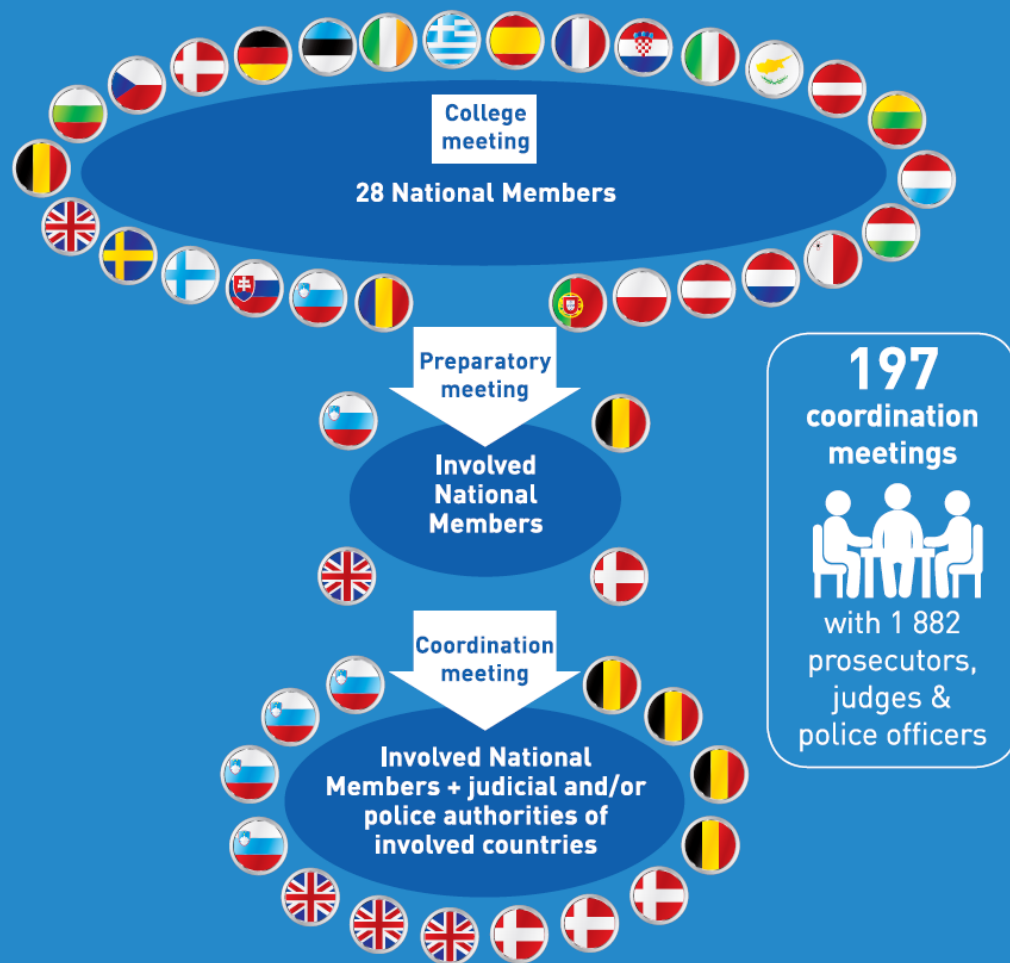


# Coordination meetings (2014)

1

## Judicial coordination meetings

Bringing together judicial and law enforcement authorities from Member States and third States.

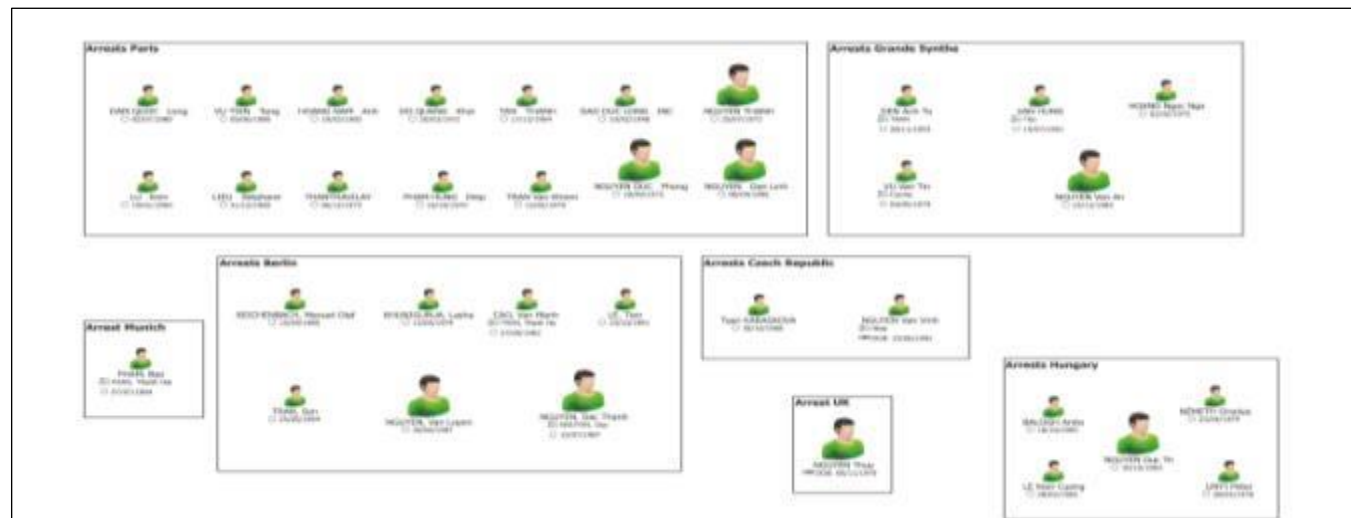




# Coordination Centres



Eurojust coordination centre facilitates the exchange in real time of information between Eurojust and countries involved during the “*action day*”



# Coordination centres (2014)

## 3 Coordination centres

Coordination centres enable coordination and real-time transmission of information in serious cross-border crimes among national authorities during action days.

**10**  
**Eurojust**  
**coordination**  
**centres**  
were held  
in 2014



**Gathering evidence correctly is important for  
successful future court proceedings**

# Joint Investigation Teams (JITs)

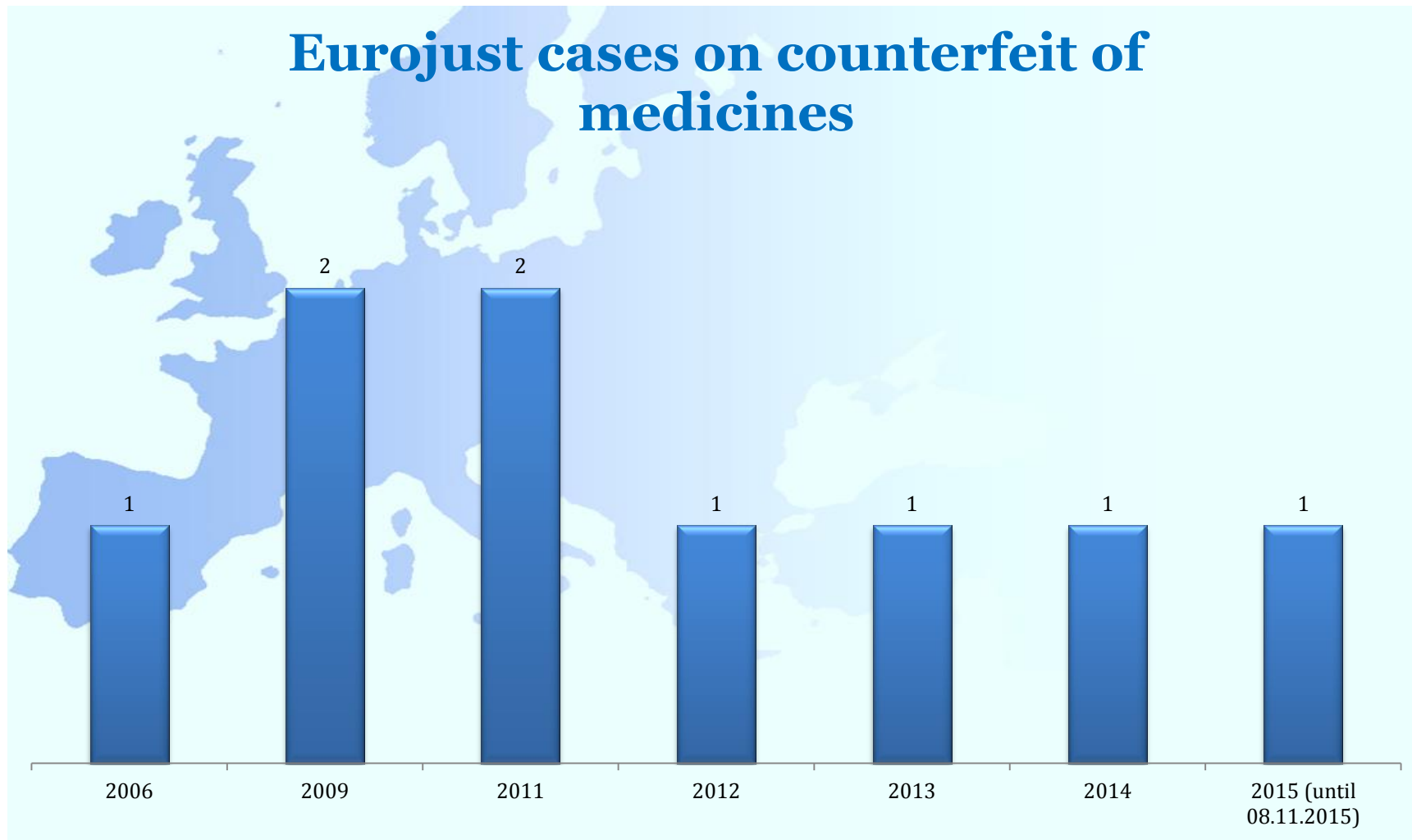
A Joint Investigation Team (JIT) is:

- SIT provided in Art. 13 2000 EU MLA Convention
- Based on an agreement between two or more EU Member States and/or competent authorities
- Set up for a fixed period
- For a specific purpose

**Non EU Member States may participate in a JIT with the agreement of all other parties**

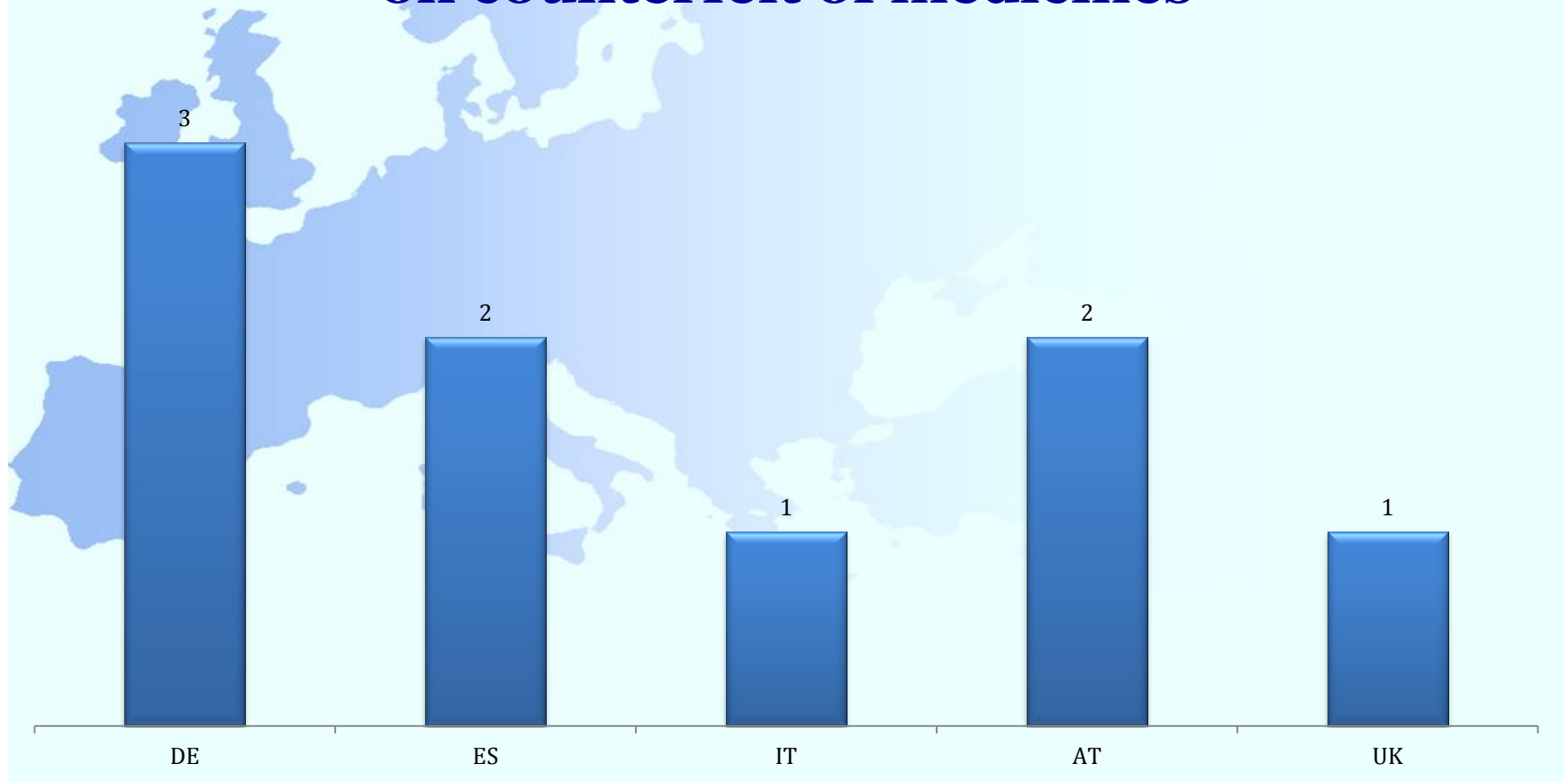
*An instrument of judicial cooperation most successful in the fight against cross-border crime*

# Casework figures



# Casework figures

## Requesting countries in Eurojust cases on counterfeit of medicines



# Casework figures

## Requested countries in Eurojust cases on counterfeit of medicines





# VIGORALI case:

online sell of lifestyle fake medicine products



# “VIGORALI” case.

## **BACKGROUND:**

- Investigating Judge N° 2 in Denia led the investigation supported by Guardia Civil.
- December 2012: 25.600 pills were seized on foot of information exchanged by MHRA.
- April 2013: 3 suspects were arrested and 22.833 additional pills seized (2.833 in 169 packages ready to be sent abroad+ 18.000).

# VIGORALI case

- In July 2013 AT, BE, ES, FI, FR, UK, NL & CY agreed to exchange information (Europol OM).
- AT investigation since 2012
- In December 2013 the ES Judge requested EUROJUST assistance.





# VIGORALI case

- January 2014 **EJ Level II meeting:**
  - ✓ AT Prosecutor didn't support the concentration of criminal proceedings and preferred to work in parallel: First JIT assessment
  - ✓ A French case appeared.
  - ✓ Facilitation of MLA requests aimed to gathering banking records (CY, BE,...)

# VIGORALI case

## March 2014 Coordination meeting

- with Judicial and Police authorities from ES, AT, FR, UK, DE, BE, NL + Case Analysis Unit of EUROJUST and Europol FP Copy and EARB.
- **JIT signature**  
between **ES-AT-FR-UK**
- Period covered: 1 year



# VIGORALI case Coordination Centre

**September 2014**

**“ACTION DAY” outcome:**

**AT:** 9 persons arrested; 20 searches; 1 million pills seized (worth 10 M EUR); €130.000 cash seized and 1M EUR frozen bank accounts. 3 EAWs issued.

**UK:** 2 persons arrested, 7 searches, £30,000 frozen bank accounts and \$2000 seized in cash, total assets restrained +/- £5.4 million including houses and real estate properties

Also bank accounts frozen in **CY**, **HU** and **SK**,

## Press releases

### Fake medicines targeted

Eurojust and Europol work together to stop counterfeit medicines

The Hague, 1 September 2014

In the early hours of this morning, law enforcement authorities in Austria, Belgium, Cyprus, Hungary and the United Kingdom took part in simultaneous operations to stop the distribution of counterfeit, prescription-only medicines (mainly erectile dysfunction pills), the laundering of the related proceeds, and to address the impact of these counterfeit medicines on public health in the European Union.



To support the operations, the Spanish National Desk at Eurojust set up a coordination centre with the assistance of the National Desks of all countries involved, Eurojust's Case Analysis Unit and Europol. The coordination centre facilitated the swift exchange of information, resolution of legal issues and the elaboration of a final overview of the results, tailor-made for the needs of the involved judicial authorities. At the same time, Europol provided valuable assistance by deploying a mobile office for real-time analysis and cross-checking. Simultaneously, experts and analysts from Europol assisted the police and provided forensic and analytical support during the action day.

Following intelligence gathered during an investigation carried out by the authorities in Spain that assisted further investigations in Austria, France and the UK and that also provided Europol with useful leads, several operational meetings were held to inform and exchange information with the concerned Member States and other involved countries. Eurojust organised a coordination meeting to discuss a common strategy among the authorities involved, including the establishment of a joint investigation team (JIT) among Spain, Austria, France and the UK and supported by the authorities in Cyprus, Hungary, and Slovakia, and common action days. Members of the JIT will now travel to other involved countries to facilitate the exchange of information.

Today's operations resulted in the seizure of several million pills with an estimated value well in excess of EUR 10 million, a large amount of cash and several vehicles, including luxury models, and the freezing of more than EUR 7.5 million in bank accounts and assets. In addition, 12 suspects were arrested.

These positive results were made possible by the JIT, which was part-financed by Eurojust, specifically to counter the activities of the organised crime group (OCG) behind the supply and distribution of counterfeit, prescription-only medicines via a number of websites. The OCG has been operating for more than two years throughout the European Union, and this is the first occasion that four Member States have joined forces against such distributors.

Since the beginning of the investigation in September 2012, more than 300 000 pills with an estimated value of EUR 2 million have been seized in Austria alone. However, it is believed that this represents only one-fifth of the total transactions made by the OCG in Austria. In France, payments totalling EUR 9 million were identified as having been processed over three years. In Spain, counterfeit goods worth more than EUR 1.5 million have been seized and three people arrested. Over the last two years, the UK authorities have identified more than EUR 12 million in transactions involving counterfeit and unlicensed medicines. The Hungarian authorities were involved in a similar investigation last year.

The counterfeit, prescription-only medicines targeted by this operation are imported into the European Union from China and India and often contain incorrect dosages and ingredients.

This operation shows that a multi-agency approach and a swift exchange of information can lead to important operational successes.



# Legal and practical issues

- Main Objective: dismantle OCG behind the whole scheme not only local suppliers and seized pills
- Financial investigation not only for assets recovery purposes but also for evidence gathering: tracing the money flows to figure out the UBO/masterminds.
- As online sale of lifestyle medicine case: issues related to internet bases or e-evidence gathering to identify the location of the servers and the owners of the illegal websites
- Jurisdictional issues linked to the use of proxy servers across multiple jurisdictions

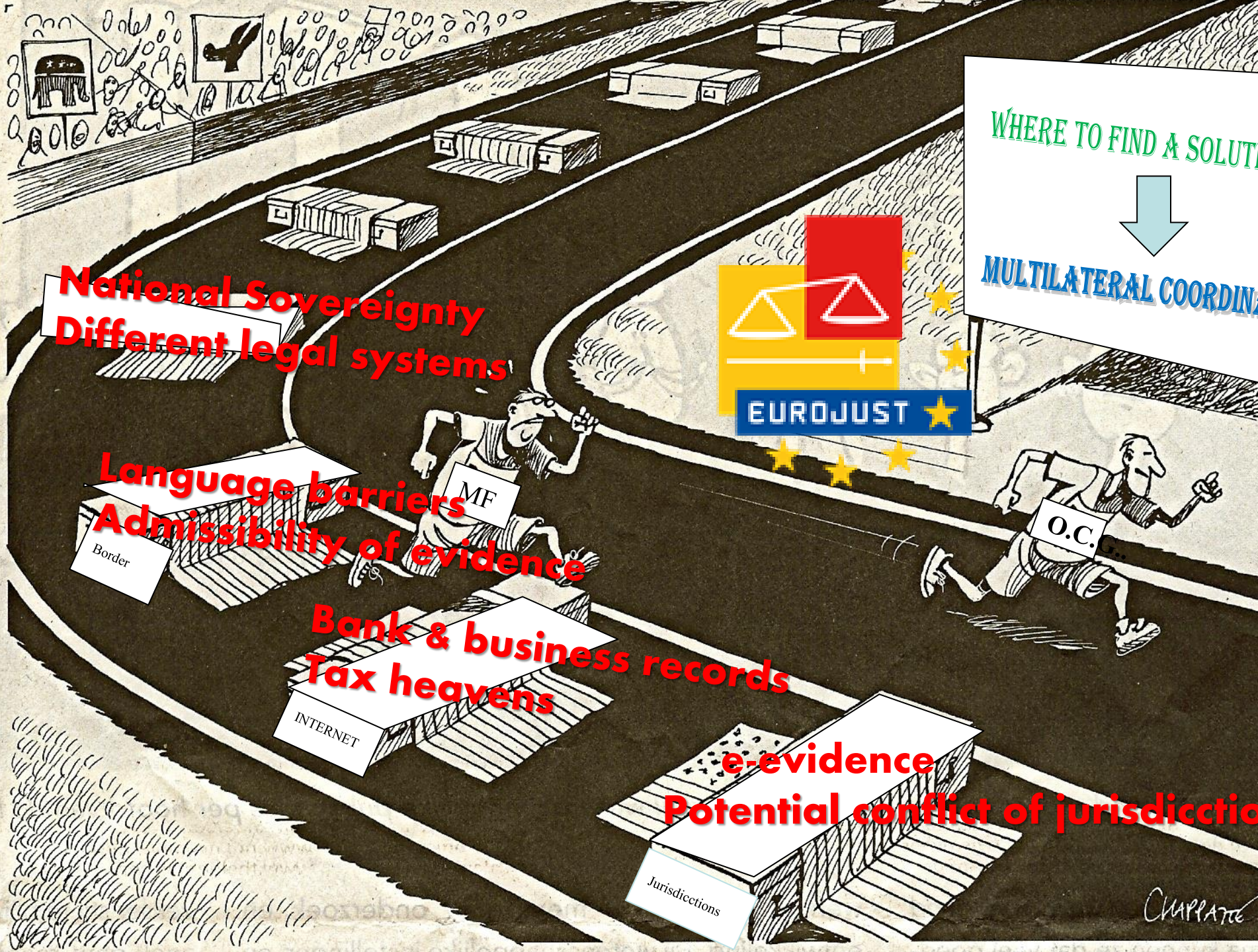
# Conclusions

1. *Pharmacrime* is a complex criminal phenomenon:  
Need of **multidisciplinary approach**:  
MEDICRIME holistic approach is a positive step
2. Raising awareness of the importance of these crimes is part of the EU criminal policy strategy
3. **Prosecutors** should be involved (on board) **from the outset** of the investigations: *gathering quality evidence to achieve conviction sentences.*
4. **Judicial response**: Need of an operational and prosecutorial common action plan: **JITs** are the best operational MLA tools to dismantle OCGs.

# Conclusions

5. *Pharmacrime* is a **global** criminal phenomenon: Cooperation oriented approach (SPOCs) is limited: Need of a **Multilateral/coordination approach** (EUROJUST) to have a wider picture.
6. “*Follow the money approach*”: **Financial Investigation** to be planned from the outset + ARO involvement
7. **Internet** as a **enabler** for this crimes: e-evidence judicially oriented (gathering & admissibility **e-evidence**/ precautionary measures).
8. Potential **conflicts of jurisdiction** should be discuss for the very beginning.





**National Sovereignty**  
**Different legal systems**

**Language barriers**  
**Admissibility of evidence**

**Bank & business records**  
**Tax heavens**

**e-evidence**  
**Potential conflict of jurisdiction**

WHERE TO FIND A SOLUTION  
↓  
MULTILATERAL COORDINATION



CHAPPELLE



**¡MUCHAS GRACIAS POR SU  
ATENCIÓN!**



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