JOINT INVESTIGATION TEAMS (JITS) OVERVIEW EUROJUST ROLE

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Outline

• Legal bases and main features

• Eurojust support:
  - Setting-up phase
  - During JIT’s life
  - Other tools:
    • JITs Manual
    • Model agreement and operational action plan
    • JITs Network
    • Funding

• Trends and perspectives
LEGAL BASES

• From EU concept...
  - Article 13 of 2000 EU Mutual Legal Assistance (MLA) Convention
  - Article 1 of 2002 EU Framework Decision
  - Article 5 of EU-US MLA Convention
  - Article 24 of customs cooperation convention (Naples II)

• ... to regional and universal legal basis
  - Article 27 of Police Cooperation Convention for Southeast Europe (PC SEE)
  - Article 20 of Second additional Protocol to 1959 Convention
  - Article 19 of United Nations Convention against transnational organized crime (UNTOC)
  - Article 49 of United Nations Convention against corruption (UNCAC)
A law enforcement and judicial tool

• **Police cooperation**: informal exchange of operational information - in principle cannot serve as evidence

• **Judicial cooperation**:  
  - Cooperation aimed at collecting evidence in criminal matters: mutual legal assistance

• **Complementarity between police and judicial cooperation**: from intelligence to evidence

JITs = (not a ‘panacea’ but) a tool adapted to the fight against cross-border crime?
Composition of the team
Parties vs. Participants

SIGNATORIES/PARTIES (PRIOR AUTHORIZATION ?)

JIT LEADER      JIT LEADER  
STATE A         STATE B  

JIT MEMBERS    JIT MEMBERS  
STATE A         STATE B  

COORDINATION support

EUROJUST (Participant)

Optional

EUROPOL (Participant)

Optional

Analytical support
Operational support (in the field)
The JIT concept
Exchange of information and evidence within a JIT

- Access to domestic information
- ability to carry out/request investigative measures

Real-time exchange of information/evidence
On the (sole) basis of the agreement

- Access to domestic information
- ability to carry out/request investigative measures
The JIT concept
Joint Investigative activities

STATE A

JIT LEADER
STATE A

JIT MEMBERS
STATE A

STATE B

JIT LEADER
STATE B

JIT MEMBERS
STATE B

Legislation
State A

Participation (seconded)
members B

Supervision
JIT leader A

Supervision
JIT leader B

Participation (seconded)
members A

Legislation
State B
A JIT for which cases?

- **Features of the case:**
  - An organised / complex / swiftly evolving criminal organisation
  - Close connexion with other countries:
    - important investigations to be carried out abroad
    - other countries “impacted”
    - Police cooperation/Europol role in assessing the “international” picture of the case

- **Relations between domestic investigations**
  - Existence of parallel proceedings a prerequisite?
  - State of play of respective investigations: importance of coordination / Eurojust role
  - A JIT with all or certain involved countries?
What is Eurojust?

What possibilities does it offer?

- Set up by a Council Decision of 2002
  - revised in 2008
  - Draft Regulation under discussion

- A simple idea: **bringing together in one place prosecuting authorities from the 28 Member States.**

- Two missions:
  - Support to judicial cooperation in criminal matters
  - Coordination of national prosecutions.

- Contribution to the finding of a **common strategy for investigation and prosecution:** simultaneous and coordinated investigations in several countries, contribution to the resolution of conflicts of jurisdiction, setting up of a joint investigation team...).

- In practice: **an increasing involvement in JITS:** 20 new JITs in 2010, 33 in 2011, 47 in 2012, 40 in 2013. Currently, 101 active JITs.
LEVEL I

28 National Members

LEVEL II

Concerned desks

LEVEL III

CONCERNED DESKS
+ JUDICIAL AUTHORITIES
AND/OR POLICE
OF CONCERNED COUNTRIES
interpretation – costs covered

...
Eurojust role (1)
setting-up phase

• Facilitates discussions/agreement on the use of the JIT tool

• In the absence of parallel proceedings, triggers the opening of parallel investigations (Article 7 2000 Convention)

• Assistance drafting/negotiation JIT agreement (to be finalized asap !)

• Discussion on principal terms/conditions: exchange of information, limits of seconded members’ participation in investigative measures, carrying/use of weapons, operational objectives, admissibility requirements, press communication, responsibilities in relation to funding.

• Right after signature: first objectives, initiation and planning of contacts between JIT partners
Eurojust role (2)
operation and closure of the JIT

- Eurojust involvement after signature?

- Assistance in solving **legal and practical difficulties**:
  - Admissibility
  - Discrepancies in disclosure regimes;
  - Lack of communication. incidents

- Facilitates **coordination of investigations/operational objectives** /**prosecutions** (to be considered asap!)

- **Preparation and support operational phase**:
  - scope and legal framework of operations;
  - involvement of MS no parties to the JIT;
  - coordination centre.

- **Debriefing / Evaluation**: lessons learned?
OTHER SUPPORTING TOOLS
Available on Eurojust website in all official languages
The JITs Network and its Secretariat

• **Experts role at national level**
  - awareness-raising
  - Information and expertise
  - “linkin point”: statistics, obstacles encountered...
  - In most cases: 1 ‘law enforcement’, 1 ‘Justice’

• **Experts’ role in the Network**
  - Sharing of experiences
  - Contribution to improvement of the tool (updated of model agreement, JIT evaluation form...)

• **Secretariat hosted by Eurojust** (Article 25a Eurojust Decision)
  - A « support center » on JITs?
  - Responsible for management of Eurojust JITs Funding
Annual meetings

Conclusions published on Eurojust website
Tools aimed at enhancing knowledge

• JITs webplatform : single repository
  - information on national legislations (« fiches espagnoles »)
  - Model agreements,
  - case-law
  - News and announcements

• JITs evaluation form / process.
JITS funding

• **Unique EU funding programme** specific to JITs activities

• Based on **grants legal framework**:
  - annual budget (€650,000 for 2014) - 8 calls for proposals
  - evaluation (**importance/performance of the JIT**)
  - Funded actions to be performed in a given period of 3 months (limit = urgent needs)

• **Costs covered**: linked to cross-border investigative activities
  - (non-domestic) travel, accommodation
  - interpretation, translation
  - loan of equipment

• **Invitation of Eurojust** to participate = pre-requisite

• **Reimbursement** (no pre-financing)
• From bilateral JITs to **multilateral JITs** : what impact ?

• Use of JITs for a **wide range of crime types** : VAT fraud, cybercrime

• Use of JITs **not limited to « high-profile » cases anymore** :
  – JITs, part of the « routine » law enforcement and judicial practice ?
  – Or a way to efficiently coordinate parallel proceedings ?

• Progressive **involvement of non-EU States**

• More frequent integration of **asset recovery dimension**
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