



JOINT INVESTIGATION TEAMS (JITs): LEGAL FRAMEWORK, STRUCTURE, COMPETENCE AND FUNCTIONING

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Why did the EU see JITs as a NECESSITY?



Let us take a look in the Past

at the Legal Background

1959 European Convention on Mutual Assistance in Criminal Matters

The traditional instruments

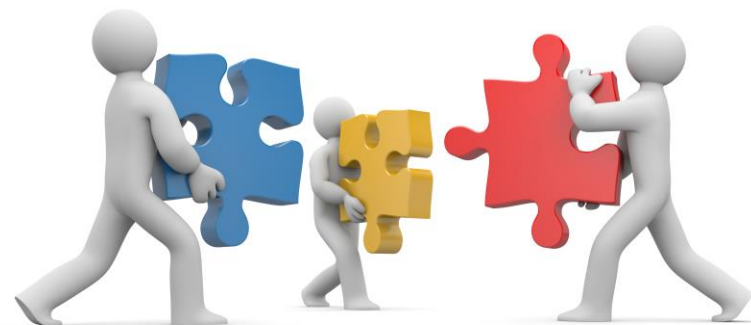
- ❖ Rogatory Letters
- ❖ Transfer of Criminal Proceedings
- ❖ Witness Appearance

The traditional instruments

- UNSOLVED PROBLEMS
 - ✓ The need to swiftly address transnational crime
 - ✓ Coordination
 - ✓ Parallel prosecutions in several states
- DISADVANTAGES
 - ✓ Rogatories are time-consuming and ineffective
 - ✓ Number of national authorities involved
 - ✓ Delays in receiving information

WHAT IS A JOINT INVESTIGATIVE TEAM?

A joint investigation team is an **international cooperation** tool based on an **agreement** between competent authorities - both judicial (judges, prosecutors, investigative judges...) and law enforcement - of **two or more States**, established for a **limited duration** and for a **specific purpose**, to carry out criminal investigations in one or more of the involved states.



Compared to traditional forms of police and judicial cooperation, JITs have the following added value:

JITs enable the direct gathering and exchange of information and evidence without the need to use traditional channels of mutual legal assistance (MLA).

Information and evidence collected in accordance with the legislation of the state in which the team operates can be shared on the (sole) basis of the JIT agreement;

Seconded members of the team are entitled to be present and to take part (within the limits foreseen by national legislation and/or specified by the JIT leader) in investigative measures conducted outside their state of origin.

EU Legal Framework and multilateral and bilateral agreements



ARTICLE 13, 2000 EU MLA
CONVENTION



ARTICLE 1, 2002 EU
FRAMEWORK DECISION



ARTICLE 5, EU-US MLA
CONVENTION



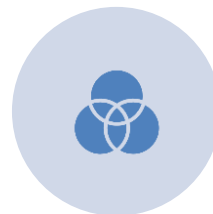
ARTICLE 24, CUSTOMS
COOPERATION
CONVENTION (NAPLES II)



ARTICLE 27, POLICE
COOPERATION
CONVENTION FOR
SOUTHEAST EUROPE (PC
SEE)



ARTICLE 20, 2ND
ADDITIONAL PROTOCOL TO
1959 CONVENTION



ARTICLE 19, UN
CONVENTION AGAINST
TRANSNATIONAL
ORGANIZED CRIME
(UNTOC)



ARTICLE 49, UN
CONVENTION AGAINST
CORRUPTION (UNCAC)

Conditions and Cases for Establishment of JITs



EU instruments describe two particular situations in which a JIT can be established:



Demanding cross-border investigations: a JIT can be set up when investigations into criminal offences require other difficult investigations having connections with other Member State.



Connected investigations requiring coordination: a JIT can be set up when two or more Member States are conducting investigations into criminal offences, which require a proper coordination of the activities to ensure the effectiveness.



Similar provisions can be found in other instruments referred above.

JIT Agreement

Article 1 of Framework Decision 2002/465 JHA

“By mutual agreement, the competent authorities of two or more Member States may set up a joint investigation team for a specific purpose and a limited period, which may be extended by mutual consent, to carry out criminal investigations in one or more of the Member States setting up the team. The composition of the team shall be set out in the agreement”

Structure of the Team

- **Each Party shall appoint**

The JIT leader(s)

With the competence in particular of supervising JIT activities when the team leads the investigation on the territory of the concerned State. Each State usually specifies which authorities are competent to establish a JIT and to act as a JIT leader.

The JIT members

They will perform the investigative measures activities. Sometimes the JITs are set up between a higher numbers of partners, which may justify that specific arrangements are taken to facilitate the exchange of information and evidence.

Operation of JITs

Applicable instruments include the following principles concerning JIT operations:

JIT activities are carried out in accordance with the legislation of the State where it is operational;

Seconded members are entitled to be present during the investigation

Seconded members can be tasked by the JIT leader to carry out investigative measures, with the consent of the State of operation and the other member State that have seconded them;

Seconded members are able to share with the team information available in the State having seconded them. The Use of the information exchanged within a JIT is limited : such information may in principle be used (only) for the purposes of the JITs. However, in the JIT Agreement a more extensive use of the information could be provided .

Seconded members shall be considered in the performance of their duties in the State of operation as officials of this State with respect to offences committed against them or by them. Practice reveals considerable variety in the use of JITs and this is the evidence of the flexibility of the tool and its capacity to adapt to the specific needs of a case. In many cases the investigations are carried out in parallel by the different States involved

KEY ISSUES For JITs Operations

- Investigative objectives (both short & medium term)
- Coordination of investigative measures
- Prosecution strategies
- Admissibility and **utilization** of the evidence collection by JITs
- Funding



Questions are Welcome