

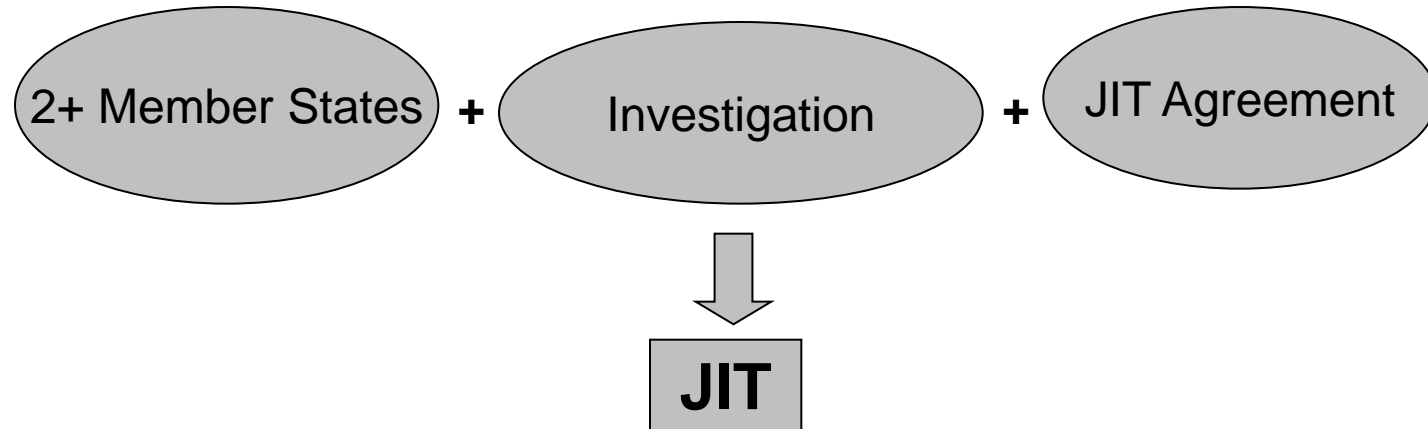
**International Conference on
Enhancing cooperation in the Anti-Corruption area**

Joint Investigation Teams

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JIT – What is it?



- **cooperation of investigation teams**
- **consisting of investigation teams of two or more EU Member States or/and third Countries**
- **working together on the same case**
- **for a limited period of time**
- **conditions laid down in a written contract**

Legal basis of JITs

1. Between EU MS

- Article 13 of the Council Act of 29 May 2000 establishing in accordance with Article 34 of the Treaty on European Union the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union
- JIT Framework Decision

2. Between EU MS and third countries

- International legal instruments
 - Second Additional Protocol to CoE Convention
 - UN Convention against Transnational Organized Crime
 - Police Cooperation Convention for Southeast Europe
 - EU/US Agreement on Mutual Legal Assistance
- Bilateral agreements
- Multilateral agreements
- National legislation (e.g. articles of the code of criminal procedure)

Basic principles

1. Necessity and proportionality analysis before establishing a JIT in order to investigate a serious offence; must be related to at least two Member States
2. Conclusion of a contract (JIT agreement)
3. Determine a JIT leader in each participating country
4. Limited period of time (extension possible)
5. Team members must be known by name

Terminology

1. Agreement: between EU MS
2. Arrangement: between EU MS and Europol
3. JIT members: EU MS (full rights, full access)
4. JIT participants: others (limited rights, limited access)
5. Seconded members: representatives from other EU MS
6. Supporting members: Europol, Eurojust and other authorities from third countries/entities

Drafting the contract...

1. Making reference to the relevant legal basis
2. Operational plan (internal plan, not public)
3. Contracting partners
 - ⇒ department conducting the investigations
4. Objective of the JIT
 - ⇒ short description of the facts
 - ⇒ scheduled measures
 - ⇒ members of the JIT
5. Leader of the JIT in every participating Member State

Drafting the contract – essential elements!

- Confidentiality
- Organizational agreements: costs, language
- Period of validity: determine end date (extension possible)
- Evaluation of the investigations:
 - determine regular meetings
 - evaluation at the end of the JIT: benefits, additional value, disadvantages, etc.
 - report to Eurojust

Benefits

1. Direct information exchange between the JIT members (without any formalities)
2. Possibility to ask the JIT members of another country for interrogations, house searches or searches for accounts without a written LoR
3. Duty to carry out the requested investigative measures
4. Ability and right to join investigative measures in the country of the JIT member
5. Support available from Europol and Eurojust (logistic, analytical and forensic support: drafting of the contract, sharing of experience, funding for meetings and translations, etc.)

Benefits

6. Added value because of the specific and different experience and expert knowledge of the JIT members
7. Division of labour
8. Swift detection and seizure of assets
9. Coordination of the indictments
10. Possibility to ask Europol or/and Eurojust for help

Problems

1. Different legal situations in the Member States
2. Language barriers
3. The time saved (less formalities) can get lost for translating documents
4. Costs

JIT between FIN-SLO-AT

2007

- Suspicious money transactions (Finland - Austria – Liechtenstein - Thailand – Slovenia - Austria) in February 2007
- First investigations carried out by Finland
- Citizens from Finland, Austria and Slovenia involved
- Suspicion of serious bribery and money laundering
- Interpol dispatch

2008

- Proposal by Finnish prosecutor to set up a JIT
- June 2008: JIT agreement signed between Slovenia and Finland:
 - JIT leaders and members
 - provisions
 - operational plan

JIT between FIN-SLO-AT

2009

- 1 April 2009: Austria became part of the JIT
- Period was extended until 1 Dec. 2009
- Working meetings
- Exchange of information and pieces of evidence
- September/October 2009: interrogations in Austria and Slovenia
- Each country prosecutes its suspects/offenders
- Eurojust was involved (MLA requests)
- JIT was extended until 30 June 2010

JIT between FIN-SLO-AT

Results

- Indictments in Slovenia regarding several criminal offences
- Indictments in Austria regarding several criminal offences:
 - > Building a criminal organization (§278 Austrian Penal Code)
 - > Bribing officials (§§ 12 and 307 Austrian Penal Code)
 - > Money laundering (§ 165 Austrian Penal Code)
 - > Serious fraud (§§ 15, 146 and 147/3 Austrian Penal Code)
 - > Industrial espionage (§§ 12/2 and 124 Austrian Penal Code)
 - > Tax evasion (§§ 33 and 53 Financial Criminal Law)

JIT between FIN-SLO-AT

Conclusion

Benefits

- Direct information
- Division of labour
- Swift detection
- Exchange of experience and knowledge
- Less formalities (house searches and interrogations without a separate letter of request, duty to carry out the requested investigative measures, right to join investigative measures in the JIT partner country)

Problems

- Different legal situation
- Language barrier
- Translations
- Costs
- Authorities of JIT member countries: different responsibilities concerning the acceptance of evidence