

The Office for Suppression of Corruption and Organised Crime



USKOK

Državno odvjetništvo

Ured za suzbijanje korupcije i organiziranog kriminaliteta

International cooperation- The advantages of JITs

Sani Ljubičić
Deputy Head of Uskok



USKOK

Državno odvjetništvo

Ured za suzbijanje korupcije i organiziranog kriminaliteta

USKOK

- **USKOK is specialised state attorney' office competent for the suppression of corruption and organised crime**
- **It was established for the entire territory of the Republic of Croatia**
- **Headquarter of USKOK is in Zagreb**



USKOK

Državno odvjetništvo

Ured za suzbijanje korupcije i organiziranog kriminaliteta

Establishing USKOK

- **October 2001 - Act on USKOK entered into force**
- **December 2001 - The Office began to work**

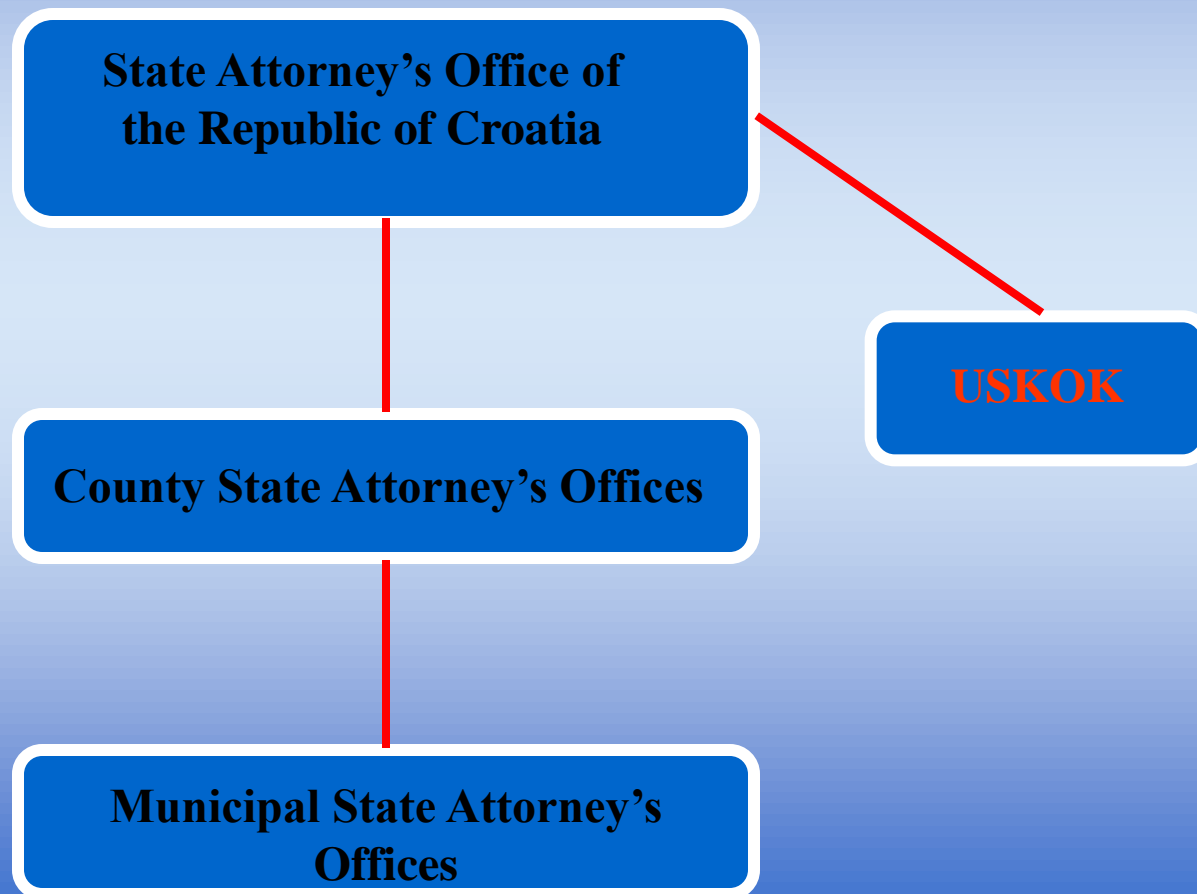


USKOK

Državno odvjetništvo

Ured za suzbijanje korupcije i organiziranog kriminaliteta

USKOK in the structure of the SAO



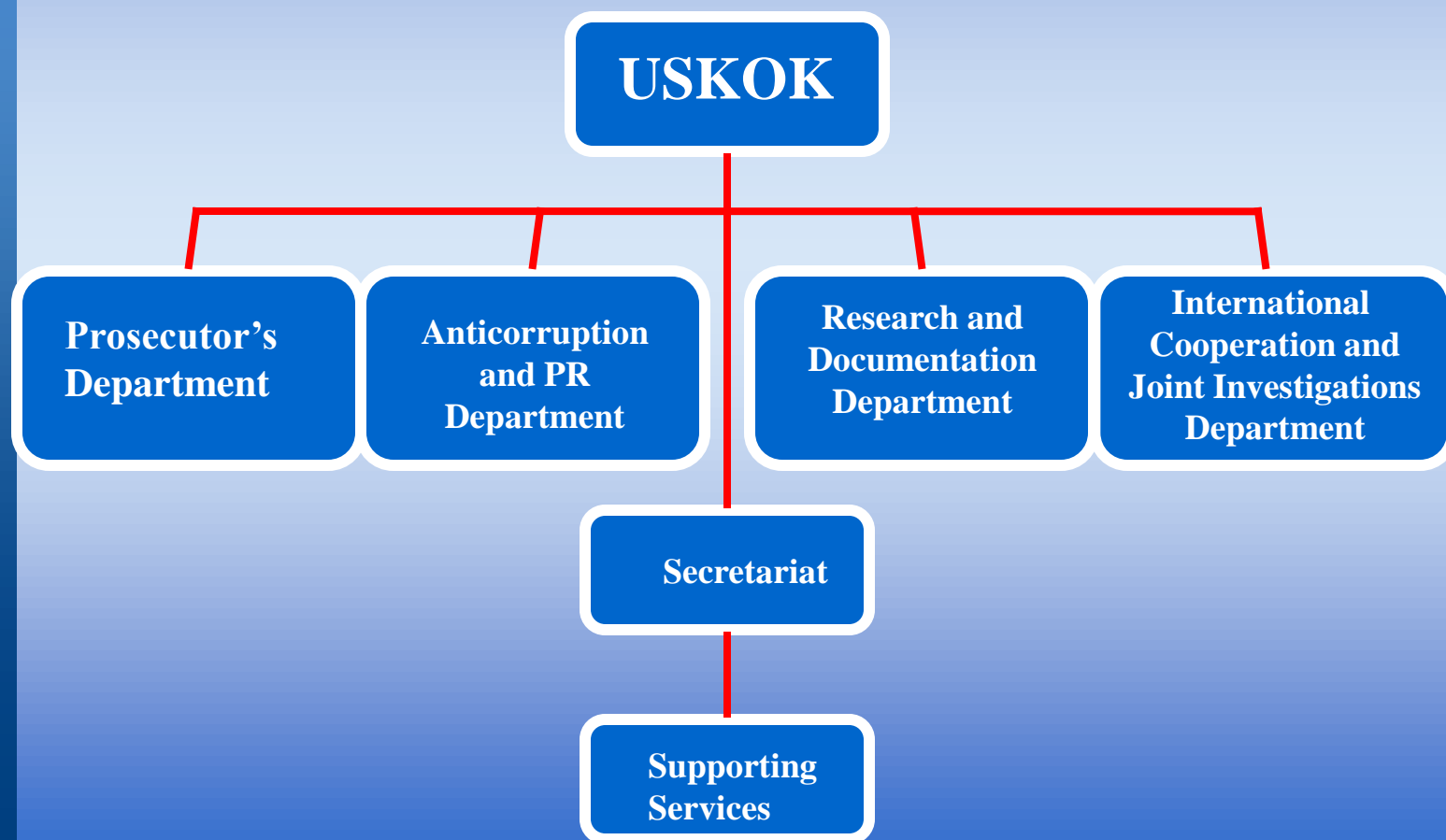


USKOK

Državno odvjetništvo

Ured za suzbijanje korupcije i organiziranog kriminaliteta

Organization of USKOK



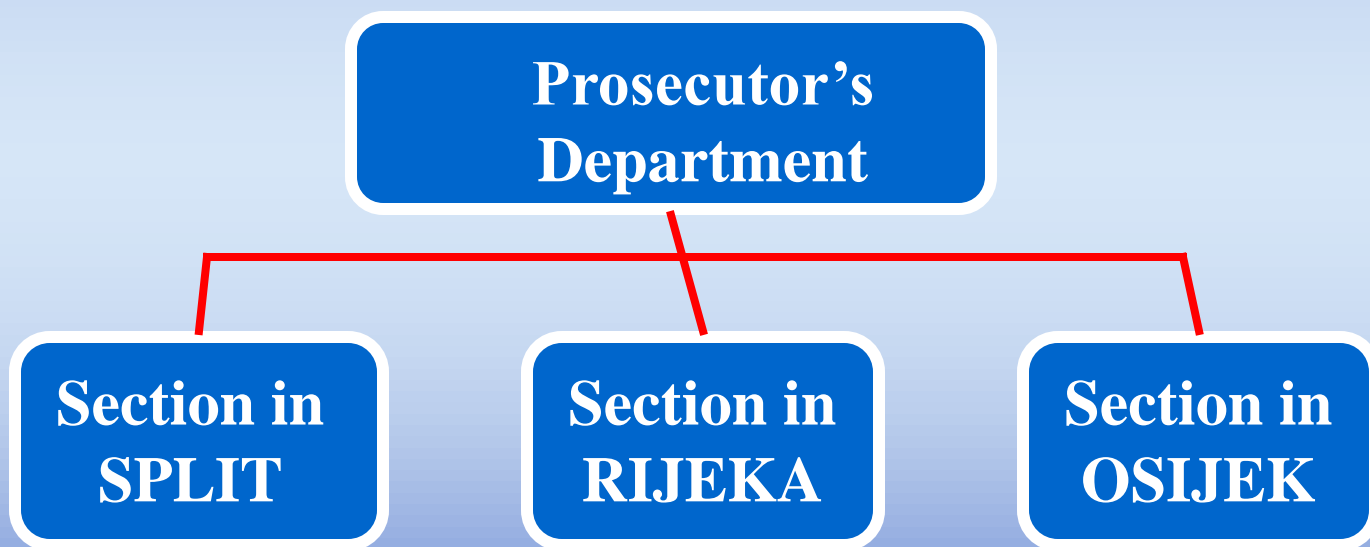


USKOK

Državno odvjetništvo

Ured za suzbijanje korupcije i organiziranog kriminaliteta

Sections of Prosecutor's Department





USKOK

Državno odvjetništvo

Ured za suzbijanje korupcije i organiziranog kriminaliteta

Prosecutor's Department

Performs all state attorney tasks pursuant to CPA and other regulations, and in particular:

- **directs** the police work and other LEAs in detecting the criminal offences within the scope of the USKOK
- **requests** the collection of data
- **proposes** the application of security measures of seizing the proceeds of crime



USKOK

Državno odvjetništvo

Ured za suzbijanje korupcije i organiziranog kriminaliteta

Research And Documentation Department

- systematically **collects** data on the occurrences of corruption and organised crime
- **creates** and **keeps** databases that may serve as a source of information in criminal proceedings within USKOK's responsibility
- **promotes** and **directs** co-operation among LEAs with a view to detecting the occurrences of corruption and organised crime



USKOK

Državno odvjetništvo

Ured za suzbijanje korupcije i organiziranog kriminaliteta

Anticorruption and PR Department

- keeps the public informed on dangers and harmful effects of corruption and the methods of its prevention
- **informs** the public on the work of the Office,
- **compiles** reports and makes analyses on the manifestations and causes of corruption, both in the public and private sector
- may propose to the Head to amend the existing regulations or to pass new ones



USKOK

Državno odvjetništvo

Ured za suzbijanje korupcije i organiziranog kriminaliteta

International Cooperation and Joint Investigations Dep.

- **cooperates** with relevant authorities of other states and international organisations in accordance with international agreements
- **designates** members for joint investigative teams and oversees its operation on the territory of the RC Croatia
- **receives** and **executes** requests for MLA



USKOK

Državno odvjetništvo

Ured za suzbijanje korupcije i organiziranog kriminaliteta

Staff

- **HEAD OF USKOK**

manages the work of the Office, appointed by the State Attorney General for the period of 4 years

- **DEPUTY HEADS**

assigned to the work at the Office by the State Attorney General for the period of 4 years

- **ADVISORS AND EXPERT ASSOCIATES**

- **employees**



USKOK

Državno odvjetništvo

Ured za suzbijanje korupcije i organiziranog kriminaliteta

Cooperation on National Level

- 1. All state bodies and legal entities have the duty to file criminal report or to inform USKOK if within their scope or in the performance of their activities, certain circumstances and information are brought to notice suggesting that one of the criminal offences listed in Article 21 of the Act on USKOK has been committed.**
- 2. USKOK is authorised to request information from those bodies, and initiate and direct investigation of criminal offences. Failure to act upon the USKOK's request or prolonged reluctance to comply with its request constitutes a serious breach of official duty.**



USKOK

Državno odvjetništvo

Ured za suzbijanje korupcije i organiziranog kriminaliteta

Cooperation on National Level

Agreements on **improving cooperation** in the fight against organised crime and corruption

- Memorandum of Understanding on promoting cooperation in fight against organized crime and corruption between **Tax Administration** and USKOK - signed in September 2006
- Agreement between USKOK and **Police Directorate** on the exchange of data in pre-investigatory stage of the proceedings was signed in August 2009



USKOK

Državno odvjetništvo

Ured za suzbijanje korupcije i organiziranog kriminaliteta

Cooperation on National Level

Improving cooperation in the fight against organised crime and corruption was component of the IPA 2007 twining project „Strnthening capacity of USKOK“ and as a result

Agreements signed between:

- **USKOK and administrative organisations of the Ministry of Finance - Financial Police, Customs Administration, Financial Inspectorate, Anti Money Laundering Department - signed in 2011. and 2012.**
- **USKOK and Central Public Procurament Office**



USKOK

Državno odvjetništvo

Ured za suzbijanje korupcije i organiziranog kriminaliteta

International cooperation

Important component of USKOK's work

- on the bases of multilateral agreements –
conventiones (CoE, UN)
- on the basis of the bilateral agreements on
MLA (governmental level)
- on the bases of the bilateral agreements on
prosecution cooperation
(SAG of the RC - Public Prosecutors
General of other states)



USKOK

Državno odvjetništvo

Ured za suzbijanje korupcije i organiziranog kriminaliteta

International cooperation

The advantages of JITs



Definition

Special form of **mutual legal assistance** in criminal matters to coordinate cross border investigations.

JIT is set up for a **specific purpose** and a **limited duration** and governed by an **written agreement** between investigating authorities of two or more states **to use information and evidence** gained by joint investigations without the need for further mutual legal assistance.



The legal framework

- **The United Nations Convention on Transnational Organized Crime (UNTOC), (Art. 19. Palermo I)**
- **EU Convention on Mutual Legal Assistance in Criminal Matters (Art. 13.)**
- **Council of Europe Framework Decision on Joint Investigation Teams**



The legal framework

- Second Additional Protocol to the European Convention on MLA (Art. 20.)**
- Convention on Mutual Assistance and Cooperation between Customs Administrations (Art. 24. Naples II)**
- Art. 17 of the Act on USKOK,**
- Art. 202. par. 35 of the Croatian CPC**



The legal framework

- **Art. 202. par. 35. of the Croatian CPC:**
- **„The common investigation means proceedings of the police, state attorney and the court according to an international agreement.”**



Art. 17 of the Act on USKOK

The International Cooperation and Joint Investigations Department:

- co-operates with relevant authorities of other states and international organisations in accordance with international agreements**
- designates members for joint investigative teams and oversees its operation on the territory of the Republic of Croatia**
- receives and executes requests for MLA**



JIT agreement

“Umbrella letter rogatory” between the participating states, containing:

- the parties,**
- the purpose,**
- the duration**
- the composition of the JIT.**

JIT agreements can be *amended* and *altered* at any time.



USKOK

Državno odvjetništvo

Ured za suzbijanje korupcije i organiziranog kriminaliteta

The parties

The states participating in the JIT;

Usually represented by the competent prosecution authority.



The purpose

Investigation of one or several criminal offences, usually – in these cases of investigation – involving a number of offenders.

The MLA Convention 2000 and the Second Protocol on MLA demand that the purpose of a JIT must be set out as clearly as possible.



USKOK

Državno odvjetništvo

Ured za suzbijanje korupcije i organiziranog kriminaliteta

The purpose

If suspects are known explicitly they must be named in the agreement.

To avoid amendments it may be wise to use certain abstract descriptions.



The purpose

E.g.

-“to find sufficient evidence against X and those that stand behind him in the criminal organization”;

-“the criminal offences committed by the criminal organization around X, in particular drugs trafficking and counterfeiting money.”



USKOK

Državno odvjetništvo
Ured za suzbijanje korupcije i organiziranog kriminaliteta

The team

The JIT agreement will name:

-a team leader or team leaders, and members.

In light of its resemblance with letters rogatory, it is usually recommended that the *team leader* will emanate from the state's prosecution.



The team

The states can agree on one person who will represent both or all states in the JIT and carry overall responsibility as a team leader.

The participating states will habitually choose their own representatives to lead their team.



USKOK

Državno odvjetništvo

Ured za suzbijanje korupcije i organiziranog kriminaliteta

The team

In order to avoid any complications it is crucial to incorporate the rights of the team leaders and team members to carry weapons on the territory of other participating states and to be present during interviews and investigative measures carried out in states other than their home states.



Participation of Third Parties

Third Parties may *participate* in the operation of the JIT:

- Eurojust, Europol and OLAF;**
- Members of police forces of a state totally unrelated to the investigation**
- Their role is described as “supportive and advisory”**



Participation of Eurojust/Europol

- **Useful in terms of expertise and funding**
- **However they can neither lead nor be a member of a JIT.**
- **If they participate they will be regarded as Third Parties.**
- **Recommendation is made to inform Eurojust in advance about the setting up of a JIT.**



Participation of Eurojust/Europol

- Eurojust can provide information and logistical support,
- arrange meetings between the parties of a JIT at the Eurojust office in The Hague even before an agreement has been entered into,
- can provide *financial assistance*.



The benefits of JITs

The joint investigations are more efficient, structured and quicker than those in parallel investigations dominated by traditional MLA.

Time and efforts could be reduced due to the fact that no (additional) letters rogatory were needed.



USKOK

Državno odvjetništvo
Ured za suzbijanje korupcije i organiziranog kriminaliteta

The benefits of JITs

Working together in multi-national teams developed mutual trust and understanding for the different legal systems and their practical implementation in the respective partner states.

Personal contacts are of worth also for the work in other cases unrelated to the JIT cases.



USKOK

Državno odvjetništvo

Ured za suzbijanje korupcije i organiziranog kriminaliteta

Strengthening Capacities of USKOK

The European Union's IPA 2007 Programme for Croatia - TWINNING PROJECT "Strengthening Capacities of USKOK":

- **Activity 3.1.2 Development of the Practical manual on managing of the international JIT**
- **MANUAL- Ms Doris Brehmeier-Metz, Mr Rainer Hüper, Mr Jürgen Kapplinghaus**



Strengthening Capacities of USKOK

The aim of manual is to reduce reservations and provide with advice about:

- **The preconditions under which JITs may be established;**
- **Potential solutions for practical problems in the phase of establishment and during the working phase;**
- **Safeguards for the use of evidence gathered by JITs during the criminal proceedings before the court.**



USKOK

Državno odvjetništvo
Ured za suzbijanje korupcije i organiziranog kriminaliteta

Strengthening Capacities of USKOK

The European Union's IPA 2010- Fight against organized crime and corruption:

Strengthening the Prosecutors Network

- Regional project covers the Western balkans
- Albania, Bosnia and Herzegovina, Croatia, the Former Yugoslav Republic of Macedonia, Montenegro, Serbia, Kosovo



USKOK

Državno odvjetništvo
Ured za suzbijanje korupcije i organiziranog kriminaliteta

Strengthening Capacities of USKOK

- Overall objective of the project seeks to improve cross border and international cooperation
- **Handbook on joint investigation teams**
- Valuable guide through the legislation of the states of the Western Balkans, relevant for establishing a JIT, as applicable in December 2013.

Thank you for your attention!