



GUIDELINES ON THE USE OF JOINT INVESTIGATION TEAMS



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When we discuss international police cooperation, we can easily conclude that one of the difficulties in achieving efficient international investigations is a lack of a common investigative space where law enforcement agencies would be able to cooperate quickly and without any difficulty.

Concerned over this, European countries have been increasing their efforts to enhance international police cooperation with a view to eliminating or reducing obstacles encountered by investigators in cross-border police cooperation in priority areas such as Trafficking in Human Beings.

Consequently, new investigative tools and approaches are introduced that contribute to the creation of a common investigative space in the EU and also in Southeast Europe. One of them is the use of Joint Investigation Teams as a tool of international cooperation in criminal matters, which, according to the opinion of some experts, represents one of the most powerful working methods available.

To make this tool functional and effective, not only are countries required to create the necessary legal framework, both at the international and national levels, but also practitioners at the local level should be aware of the legal possibilities and tools such as JITs at their disposal. Additionally, the right atmosphere is indispensable. The latter element entails the trust between law enforcement authorities and their field officers across borders.

All the above requirements for effective use of JITs formed a constituent part of goals of two projects, i.e. “The Introductions of

the Requirements for Establishing Joint Investigation Teams to fight Trafficking in Human Beings in SEE” and “The Use of Joint Investigation Teams to Fight Trafficking in Human Beings in the Western Balkans at the Local Level”, implemented by Slovenia together with Bulgaria as a partner country.

The first project was based on creating the conditions for establishing joint investigation teams and more efficient fight against trafficking in human beings in Southeast Europe. It was focused on setting up strategic activities, which will provide the necessary logistic platform for further operational activity. Beneficiaries of the projects were representatives of prosecutor’s offices and police forces of Southeast European countries. The core of the projects were workshops aimed at encouraging experts to use JITs, which can bring added value to investigations and help in the development of international cooperation in criminal matters. Also taking part in the project were the Office of the State Prosecutor General of the Republic of Slovenia and Europol and Eurojust. The project lasted two years.

After the first project it became apparent that bottom-up approach to set up JITs was very important due to the fact that law enforcement officers then have a stronger interest and knowledge with regards to using JITs.

A careful analysis of feedback showed that a wide circle of practitioners (prosecutors and police officers) who deal with these issues directly want to get more knowledge on the conditions of establishing JITs. On this basis the initiative for a new project was born, which would comprise of workshops in participating countries to train a large number of prosecutors and police officers. The project was approved by the European Commission, and workshops soon followed in all the participating countries as well as the closing conference in Slovenia. During the project an operational JIT was established, with the participation of one of

the project's beneficiary countries. The project was extended to another two workshops, where concrete results of the aforementioned JIT were presented.

The contributions of all participants are contained in a Manual, which includes instructions and legal bases for establishing JITs and a review of national legislation of different countries in the field of trafficking in human beings. The Manual has been translated into the languages of all the participating countries and is accompanied by excellent commentaries of Europol and Eurojust experts, who kindly shared their knowledge and experience with participants of workshops.

JOINT INVESTIGATION TEAM

A JIT is an investigation team that is set up with the aim of investigating a specific complex criminal offence with a clear international dimension and composed of competent authorities from different Countries. According to officials participated in project who had some experience with JITs, the advantages of using a JIT are: establishment of contacts with foreign partners, quicker flow of information and intelligence, higher trust among team members, possibility for financing from EU agencies, exchange of experts, facilitation of the evidence collection

Basic elements of JITs are:

- **International dimension:** the nature of the case required coordinated and concerted investigation in different countries;
- **Specific criminal offence:** JIT is not possible to use as a generic task force to deal with certain type of crime. The criminal offence that is to be investigated must be well defined and suspects must be identifiable and their role in criminal offence determinable. JIT can be used for different methods of investigations: reactive (complaint – response principle); disruptive (actions are taken in order to disrupt OCGs activities); financial (identification and seizure of assets); Intelligence operation (JIT can be purely devote to information and intelligence collection and exchange).
- **Limited duration:** due to the fact that JIT can be establish for the specific purpose, also its duration shall be set up for a limited period of time.
- **Formal agreement:** besides the period of time and identification of the case, this agreement further set up the legal basis, composition, purpose and location in which the JIT will operate;

- **Joint investigation:** by using JIT for investigating a complex cross-border crime, several advantages are created as compared to traditional investigation. For example: the operation is headed by one leader, JIT members have possibility to share information without formal require, possibility to request investigative measures between them without the need for Letters Rogatory, possibility to be involved in operational activities in all jurisdictions covered, etc.

7 steps to setting up a JIT between EU Member States and non – EU Member States:

1. **Defining the criminal offence:** A first step concerning setting up a JIT is to collect and analyse all available information about the cross-border criminal offence to confirm that investigation into that criminal offence require co-ordinated and concerted action in all involved states and consequently to make an informed decision about setting up a JIT.
2. **Identifying a suitable legal basis:** JITs can be set up with and between countries outside of the European Union, provided that a legal basis for the creation of such JITs exists. It is necessary to determine the legal basis on which the JIT agreement will be based (an international legal instrument, a bilateral agreement, a multilateral Agreement, national legislation). The following international legal instruments are already available and might provide a suitable legal basis for a JIT between EU Member States and non – EU Member States:
 - Police Cooperation Convention for Southeast Europe (PCC SEE), 5 May 2006 (Article 27)
 - The Second Additional Protocol to the Council of Europe Convention on Mutual Assistance in Criminal Matters of 20 April 1959 (Article 20)

- UN Convention against Transnational Organized Crime, 15 November 2000 (Article 19)
 - The Convention on mutual assistance and co-operation between customs administrations (Naples II Convention), 18 December 1997 (Article 24)
 - UN Convention against corruption (article 49)
 - Convention on laundering, search, seizure and confiscation of the proceeds from crime and on the financing of Terrorism (Chapter IV, Section 2 – Article 16)
 - Convention on Cybercrime (Title 3 – Article 25)
3. **Contacting the foreign authorities:** Next step is establishing contact with the authorities from the other potential JIT members to exchange information about the case and explore the possibilities of establishing of a JIT in concrete case. Europol and Eurojust can help EU Member States and non – EU Member States in this activities. It is wise to exchange informally information about possibilities and willingness with other potential JIT members about establishing of a JIT, before we send official request for setting up a JIT.
4. **Request for setting up a JIT:** after obtaining an informal consent to set up a JIT from all the countries involved, the prosecutor’s office prepares a formal request to set up a JIT. It is recommended that investigators, prosecutors and/or judges from the States considering the setting up a JIT, together with officials from Eurojust and Europol, meet to discuss the matter at the earliest opportunity before a formal request is made. Europol can support a JIT with analytical capacities and systems for information recording and secure information exchange.

5. **Drafting the formal agreement:** Due to the fact that a JIT is a “contract” between at least two States or more, with certain goal, for a certain period of time, set up in order to conduct joint investigation, it is necessary to prepare the formal agreement for a JIT. The agreement should have all the necessary elements listed in the JIT Model Agreement. The crucial elements of a JIT agreement are: the purpose of a JIT, legal possibilities and/or limitations, JIT leader, members and participants, financing and possible support from Europol and Eurojust, that are available at any time to assist in drafting an agreement. A minimum duration of a JIT in agreement is not required to define, however it is recommended to set it for 12 months with possibility of extending this period.

6. **Signing the Agreement:** When the final draft of the agreement is agreed by all participating Countries, the formal procedure of signing the agreement can be carried out. Due to the fact that JIT agreement is an international contract, this phase should strictly follow formal rules. Because the agreement can be amended at any time, a speedy processing of the agreement should be given preference rather than holding lengthy discussions about every detail. It is also important to be aware that the content of the JIT Agreement may be subject to disclosure proceedings in certain jurisdictions.

7. **Carrying out the agreement – Operational Action Plan (OAP):** OAP is a document in which it is foreseen how the work in a JIT will be carried out. In OAP we should define the practical, operational aspects of the agreement (description of the purpose of the JIT; identifications of locations; description of the role of members and participants; list of special operations/ investigative techniques that will be used; description of the way of communication and formation exchange; decision on information collection, analysis, and tasking; decision about financial investigation and prosecution; care for the victims;

specification of the evidence gathering; preparing and training on how JIT members will introduced evidence at the court; decision about operational and strategic meeting; provisions on administration and logistics, etc.). When writing OAP, not only the current state-of-play, but also the future should be considered, however OAP can be amended according to the changed circumstances. OAP can be disclosed at court proceedings, its contents should be carefully determined.

