



Screening Serbia
Analytical examination of the acquis
Chapter 24 – Justice, freedom and Security
Bruxelles – 03 October 2013
EU MLA Convention, in particular JITs



European Commission
Justice

The 2000 Convention on Mutual Assistance in Criminal Matters between EU MS

- Supplementing the 1959 Council of Europe Convention on MLA in criminal matters
- Aimed at strengthening judicial cooperation
- Principle of proportionality
- Beyond traditional Mutual Legal Assistance
- Safeguard for the application of more favourable provisions

The 2000 Convention on Mutual Assistance in Criminal Matters between EU MS- New Principles

- Obligation to comply with **formalities and procedures indicated by the requesting Member State (art. 4)**
- **Direct contacts** between judicial authorities (art. 6)
- **Spontaneous exchange of information (art. 7)**

The 2000 Convention on Mutual Assistance in Criminal Matters between EU MS – New means of cooperation

- **Hearing by videoconference (art. 10)**
- **Hearing of witnesses and experts by telephone conference (art. 11)**
- **Controlled deliveries (art. 12)**
- **Joint Investigation teams (art. 13)**
- **Covert investigations (art. 14)**
- **Rules for interception of communications (title III)**

The 2001 Protocol to the Convention on Mutual Assistance in Criminal Matters between EU MS

- Need for additional measures in the field for the purpose of the fight against crime, in particular organised crime, money laundering and financial crime
- Rules for requests for information on bank accounts, information on banking transactions, monitoring of banking transactions
- Exclusion as ground for refusal of banking secrecy, fiscal offences, political offences

Joint investigation teams (JITs) – Art. 13 MLA 2000 EU Convention - FD 2002

- **Council Framework Decision of 13 June 2002** – priority in having the legal framework for JITs in place
- JITs setting up: subject to mutual agreements between two or more Member States, the competent authorities of the respective States may set up a JIT for a specific purpose and for a limited period of time.
- The time period may be extended by mutual consent.
- Any Member State concerned with the investigation of offences with a cross-border dimension may request the setting up of a JIT.
- The composition of the team will consist of law enforcement officers, prosecutors and judges and other relevant personnel. The team will be led by a person from the State in which the JIT operates.
- Members of the team are to carry out their duties in accordance with the national law of the territory where the investigation is taking place.
- Investigations may be carried out in the Member State of operation by seconded members provided the approval is granted by the Member State of operation and seconded Member State.
- Possibility for seconded members stationed abroad with the team to request investigative measures from their competent national authorities without the need for any further requests under the traditional mutual legal assistance regime. Such requests shall be regarded as if they were put forward on national territory within a national investigation.
- Members of a JIT may make available to the team relevant information accessible in his or her State, in accordance with national law and within the limits of their competence.
- When necessary, the State of operation may, in accordance with relevant procedures, make a request to a third State, not party to the JIT, to assist in the investigation.

JITs – Role of Eurojust and Europol

- **Eurojust** has the capacity to make an official request to the competent authorities in EU Member States to set up a JIT (Articles 6 and 7 of the Eurojust Decision)
- Under Art.6 National Members may ask the competent authorities to consider setting up a JIT - right to request the Member States to reflect on the possibility of setting up a JIT in a particular case.
- Under Art. 7 the College may ask the competent authorities to set up a JIT, giving its reasons for making such a request. If the competent authorities in the Member State concerned decide not to comply, they must give their reasons to Eurojust.
- Europol has possibility to participate in a support capacity in JITs (Art.3 a of the Europol Convention – now art. 6 of the 2009 Europol Decision)
- Europol officials may assist in all activities and exchange information with all members of the JIT, without taking part in coercive measures
- Officials of Europol may liaise directly with JIT members and provide them with information from any of the components of the computerised system of collected information that Europol maintains.
- Information obtained by a Europol official participating in the JIT may be included in the computerised system under the conditions laid down in the Europol Convention.

Model Agreement for JITs

- Council recommendation of 8 May 2003 on a model agreement for setting up a joint investigation team
- Need for a model agreement to facilitate the setting up of JITs in order to implement swiftly the relevant FD
- Revised by Council Resolution of 26 February 2010 on the same issue
- Revision based on best practices derived from experience
- Flexible model describing parties of the agreement, purpose of the JIT, Member States in which the JIT will operate, leader (s), members, evidence, specific arrangements

Why a JIT?

- A number of Member States are conducting investigations into criminal offences in which the **circumstances of the case** necessitate **coordinated, concerted action** in the Member States involved.
- Specific form of cross border legal assistance
- Regulated by an Agreement between judicial/police authorities of at least two Member States
- No need of traditional Mutual Legal Assistance requests between the signing States in the case of a JIT (i.e. clear definition of the case – purpose – duration – composition, as indicated in Art 13 of the 2000 MLA Convention + national legislation)
- Enable direct exchange of information between the signing Authorities Issues that may arise as of admissibility of evidence can be solved in advance

Continuous assessment and funding

- Annual meetings of the network of national experts on JITs
- Hosted alternatively by Europol and Eurojust
- JITs' Network Secretariat established within Eurojust
- **JITs Funding programme managed by Eurojust** - may cover reimbursement of costs (travel, accommodation, translation, interpretation) and loan of equipments (mobile phones, laptops, mobile scanners and printers). Priority to JITs related to OCTA priorities, or including more than 2 MS, or having considered the importance of the action

JITs Network Secretariat

- Pursuant to Article 25a paragraph 2 of the new Eurojust Decision, the Secretariat of the Network for Joint Investigation Teams:
- *shall form part of the staff of Eurojust*
- *shall function as a separate Unit*
- *may draw on the administrative resources of Eurojust which are necessary for the performance of its tasks.*
- *Coordination of the Secretariats shall be ensured by Eurojust'.*

JITs Network Secretariat

- Collect and receive information about best practices, obstacles, problems encountered in setting up and the organization of the JIT
- Supporting the setting up of JITs (Conferences, training sessions, seminars, etc.)
- Collect all national JIT related experience and set up national regular training sessions for target audience
- Maintain at national level regular contacts between the national experts/contact points/units, Eurojust, Europol.
- Centre of information

JITs manual

- **Joint Investigation Teams (JITs) Manual**, available in all EU official languages
(http://www.eurojust.europa.eu/jit_manual.htm)

Possible future developments of JITs

- From free sharing of information within JITs to use of evidence automatically admissible where gathered by a JIT
- From bilateral to standard multilateral JITs
- From EU MS JITs to JITs including as members 3rd countries' authorities
- From JITs involving Europol, Eurojust, Frontex, OLAF to JITs involving social services and academy
- From JITs members observers to JITs members with coercive powers

Хвала вам на пажњи!
На располагању за питања.