


# JOINT INVESTIGATION TEAMS PRACTICAL GUIDE





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# Introduction

The objective of this Practical Guide is to provide information, guidance and advice to practitioners on the setting up and operation of joint investigation teams (JITs). It was developed by the EU Network of National Experts on Joint Investigation Teams (JITs Network) in cooperation with the European Union Agency for Criminal Justice Cooperation (Eurojust), the European Union Agency for Law Enforcement Cooperation (Europol) and the European Anti-Fraud Office (OLAF). The first version of the Guide was published in March 2017, based on the practical experience acquired until then. This version provides a necessary update in response to legislative changes affecting cooperation in JITs and addresses the recent developments in the setting up and operation of JITs.

## ▾ THE JITs NETWORK



The EU Network of National Experts on JITs (the JITs Network) was established in 2005 to promote the use of JITs by practitioners. Each Member State has appointed one or more National Experts who represent both the judicial (judges, prosecutors, ministries of justice) and the law enforcement (police officers, ministries of the interior) dimensions

of a JIT. At national level, the National Experts act as contact points that practitioners wanting to set up a JIT can approach for advice. As members of the JITs Network, they have expertise in the functioning of JITs in their Member State and have access to information concerning the practicalities of JITs with other Member States. Hosted by Eurojust since 2011, the Secretariat promotes, supports and stimulates the activities of the JITs Network.

In 2018, during the 14th JITs Annual Meeting, the JITs Network adopted the **Guidelines on the Network of National Experts on Joint Investigation Teams**. This document provides guidance on the composition of the Network and its activities and on cooperation with external partners and non-EU countries, and elaborates on the tasks and profile of the JIT National Experts.

The main roles of JIT National Experts are to:

- facilitate the setting up of JITs at national level, including by providing support/guidance in individual cases;
- contribute to the drafting of JIT agreements;
- collect and disseminate information on best practice and legal and practical issues in relation to the setting up and operation of JITs;
- support JITs-related training and awareness-raising activities among prosecutors and law enforcement authorities, both at national and at EU/international levels, and so on.

↳ *Should you need to contact your JIT National Expert(s), please check the available domestic channels (intranet, etc.). If you cannot find the necessary information, please send an email to the JITs Network Secretariat at the following address: [jitsnetworksecretariat@eurojust.europa.eu](mailto:jitsnetworksecretariat@eurojust.europa.eu)*

# Concept, setup and operations

# 01







# CHAPTER 1

## CONCEPT, SETUP AND OPERATIONS

### 1.1. Concept of joint investigation teams and legal framework

#### 1.1.1. Definition

A JIT is an international cooperation tool based on an agreement between competent authorities – both judicial (judges, prosecutors and investigative judges) and law enforcement authorities – of two or more states, established for a limited duration and for a specific purpose, that conducts criminal investigations in one or more of the states involved.



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

- They enable the direct gathering and exchange of information and evidence without the need to use traditional channels of mutual legal assistance (MLA) or European Investigation Orders (EIOs) <sup>(1)</sup>. 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; and
- Seconded members of the team (i.e. those originating from a state other than the one in which the JIT operates) are entitled to be present and to take part – within the limits provided for by national legislation and/or specified by the JIT leader – in investigative measures conducted outside their state of origin.

For these reasons, JITs constitute a very efficient and effective cooperation tool, which facilitates the coordination of investigations and prosecutions conducted in parallel across several states.

A JIT can be established between competent authorities of at least two states. In practice, it is not uncommon that JITs are set up between a larger number of partners, which may justify that specific arrangements are made to facilitate the exchange of information and evidence.

*An overview of the main differences between MLA/EIOs and JITs is provided in the following tables.*

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1 Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters, OJ L 130, 1.5.2014, p. 1.

## Main differences between a Mutual Legal Assistance request and a Joint Investigation Team

Mutual Legal Assistance request	Joint Investigation Team
<p><b>Request or reply to request</b></p> <ul style="list-style-type: none"> <li>■ Cooperation limited to a specific request</li> <li>■ Additional measures → new request(s)</li> </ul> <p><b>Mostly bilateral setting – requesting versus requested state</b></p>	<p><b>Joint initiative with a common purpose</b></p> <ul style="list-style-type: none"> <li>■ Partners on an equal footing → no lead role</li> <li>■ Single written agreement</li> <li>■ Suitable also for multilateral settings</li> </ul>
<p><b>Information/evidence transmitted after execution of the MLA</b></p>	<p><b>Unlimited, real-time exchange of information/evidence</b></p>
<p><b>Limited participation of requesting authority</b></p>	<p><b>Active participation of seconded members</b></p>
<p><b>In principle, no investigation in the executing state</b></p>	<p><b>Demanding/connected cross-border investigations requiring coordination</b></p> <ul style="list-style-type: none"> <li>■ Common operational objectives</li> <li>■ Agreement on investigative and/or prosecution strategies</li> </ul>

## Main differences between a European Investigation Order and a Joint Investigation Team

European Investigation Order	Joint Investigation Team
<p><b>EU mutual recognition instrument</b></p> <ul style="list-style-type: none"> <li>■ Applicable in all EU Member States except Denmark and Ireland</li> <li>■ Cooperation limited to specific investigative measure(s) that were requested. Additional measures → new EIO</li> <li>■ More formal process (e.g. EIO form)</li> </ul>	<p><b>Joint initiative with common purpose</b></p> <ul style="list-style-type: none"> <li>■ Suitable also for multilateral settings</li> <li>■ Partners on equal footing → no lead role</li> <li>■ Suitable also for cooperation with non-EU countries</li> </ul>
<p><b>Evidence transmitted after execution of the EIO</b></p>	<p><b>Unlimited, real-time exchange of information/evidence</b></p>
<p><b>Limited participation of the issuing authority</b></p>	<p><b>Active participation of seconded members</b></p>
<p><b>In principle, no investigation in the executing state</b></p>	<p><b>Demanding/connected cross-border investigations requiring coordination</b></p> <ul style="list-style-type: none"> <li>■ Common operational objectives</li> <li>■ Agreement on investigative and/or prosecution strategies</li> </ul>

### 1.1.2. Legal Framework

The European Union legal framework for setting up JITs between Member States can be found in Article 13 of the 2000 EU Convention on Mutual Assistance in Criminal Matters (2000 EU MLA Convention) <sup>(2)</sup> and the 2002 Council framework decision on JITs (2002 FD on JITs) <sup>(3)</sup>. To date, all Member States have implemented one or both of these legal bases.

2 OJ C 197, 12.7.2000, p. 1.

3 Council framework decision of 13 June 2002 on joint investigation teams, OJ L 162, 20.6.2002, p. 1

An EIO cannot be used to request the setting up of a JIT (Article 3 of the EIO Directive).

JITs can also be set up on the basis of other international instruments, particularly with and between competent authorities of states outside the EU.

The following instruments include a legal basis for setting up JITs:

- Article 20 of the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters <sup>(4)</sup>;
- Article 9 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances <sup>(5)</sup>;
- Article 19 of the United Nations Convention against Transnational Organized Crime (UNTOC) <sup>(6)</sup>;
- Article 49 of the United Nations Convention against Corruption (UNCAC) <sup>(7)</sup>;
- Agreement between the European Union and the Republic of Iceland and the Kingdom of Norway on the application of certain provisions of the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between the Member States of the European Union and the 2001 Protocol thereto <sup>(8)</sup>;
- Article 5 of the Agreement on Mutual Legal Assistance between the European Union and the United States of America <sup>(9)</sup>;
- Bilateral agreements between the states involved.

During the 10th Annual Meeting of the National Experts on JITs, the National Experts acknowledged that in the absence of an applicable legal framework the principle of reciprocity might also serve as a legal basis, and the possibility of setting up a JIT based on this principle was not excluded <sup>(10)</sup>. The national legislations of the countries involved would need to allow for the use of reciprocity in such cases, and a number of elements would also need to be considered, for example domestic provisions on JITs, data protection rules, admissibility of evidence, disclosure and human rights issues.

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4 European Treaty Series, No. 182, 8.11.2011.

5 United Nations Treaty Series, Vol. 1582, p. 95.

6 United Nations Treaty Series, Vol. 2225, p. 209.

7 United Nations Treaty Series, Vol. 2349, p. 41.

8 OJ L 26, 29.1.2004, p. 3

9 OJ L 181, 19.7.2003, p. 34.

10 See Section 1b 'Legal bases and related issues' of the Conclusions of the 10th annual meeting of the National Experts on joint investigation teams (25–26 June 2014, The Hague).

Not all the above instruments are applicable between the same states. Therefore, if not in contradiction of national law, referring to several of these legal bases in the JIT agreement may be advisable in JITs involving non-EU countries.

For specific cases in which a JIT is set up between two (or more) Member States and the United Kingdom, Article 642 of the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, of 30 April 2021 <sup>(11)</sup> states that ‘If the competent authorities of States set up a Joint Investigation Team, the relationship between Member States within the Joint Investigation Team shall be governed by Union law, notwithstanding the legal basis referred to in the Agreement on the setting up of the Joint Investigation Team.’

Furthermore, the content and level of detail in relation to the provisions on JITs vary from one instrument to another. It should be noted that the provisions on JITs included in the two EU instruments (2000 EU MLA Convention and 2002 FD on JITs) and the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters are almost identical.

The JIT provisions stemming from UN instruments are generally considered as ‘enabling clauses’ that require the conclusion of bilateral or multilateral agreements or arrangements or, in the absence of the latter, an agreement on a case-by-case basis. Furthermore, the provisions included in UN instruments are far less detailed and leave open a number of issues, which will need to be regulated in the JIT agreement between the participating states.

The **conclusions of the 10th Annual Meeting of JIT National Experts** can be consulted to obtain an overview of the specific challenges of JITs involving non-EU countries and possible solutions.

In October 2021, during the 17th Annual Meeting of the JITs Network, National Experts had an opportunity to discuss the development of cooperation in JITs involving non-EU countries over the past few years, as well as recent trends, recurring issues, best practices and the way forward. **The conclusions of the meeting** can be consulted for a summary of these discussions.

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11 OJ L 149, 30.4.2021, p. 10.

The **Third JIT Evaluation Report**, published in March 2020, while focusing on the setting up and operation of JITs in practice, also includes a special chapter on Eurojust's experiences concerning JITs involving non-EU countries, in particular the main challenges and best practices identified, including the possibility of obtaining support from Liaison Prosecutors from several non-EU countries posted at Eurojust.

To facilitate the setting up of JITs involving non-EU countries, a **checklist for practitioners** was developed by the JITs Network Secretariat and Eurojust. The checklist outlines the steps to be considered during the setting up and operational phases of a JIT involving non-EU countries. The checklist has been translated into all languages of the EU.

## **1.2. Setting up of a JIT**

EU practitioners who wish to set up a JIT can easily avail themselves of expert advice and guidance by contacting the JIT National Expert(s) appointed in their Member State. They can also request support from Eurojust and/or Europol to assess the suitability of the case and determine the legal/practical steps to be taken to establish the JIT <sup>(12)</sup>.

### **1.2.1. A JIT for which case?**

#### **>>> Suitable cases**

The European Union legal framework describes two particular situations in which a JIT can be established.

- **Demanding cross-border investigations.** A JIT can be set up when 'a Member State's investigations into criminal offences require difficult and demanding investigations having links with other Member States'.
- **Connected investigations requiring coordination.** A JIT can be set up when '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'.

Similar provisions can be found in several of the other instruments referred to above (2000 EU MLA Convention, 2002 FD on JITs and Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters).

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<sup>12</sup> More details concerning operational support provided by Eurojust and Europol can be found in Chapter 3.

## >>> Practical considerations

Apart from the legal requirements, practical considerations should be taken into account when assessing the need for a JIT. These include:

- the complexity and sophistication of the criminal network/activities under investigation;
- the number and complexity of investigative measures to be carried out in the states involved; and
- the degree of connection of the investigation between the states involved and the respective stage of national investigations.

In the vast majority of cases for which JITs are established, parallel investigations are ongoing in the states concerned. However, investigations may not always have been opened in all states concerned when a JIT is considered (they may have been opened in only one or in some states). In such situations, the first step is often to trigger the opening of domestic investigations in the other states concerned.

No uniform practice is followed among Member States concerning whether the opening of a domestic investigation should be regarded as a prerequisite to involvement in a JIT. Some Member States consider that the wording of Article 13 of the 2000 EU MLA Convention allows for the setting up of JITs to support demanding investigations even in the absence of ongoing proceedings in the Member State concerned. In such situations, the JIT agreement serves (only) as a legal framework to carry out investigative measures needed by the JIT partner(s) in the Member State concerned.

When already ongoing, the respective stage of national investigations can play a role; in particular, national authorities may be more inclined to engage in a JIT when their investigation is still at a relatively preliminary stage and when investigations carried out in other countries are at an equivalent stage.

When a case has connections between more than two countries, their respective level of involvement is also taken into account; sometimes it is agreed as a first step that a JIT will not be established between all countries concerned but only between those that are most involved, while the cooperation of others will be sought through an EIO and/or through MLA.



If one or several countries wish to join the JIT at a later stage, it is possible to amend the initial agreement. With this in mind, it is recommended that law enforcement and judicial authorities from the states considering the creation of a JIT meet to discuss the matter at the earliest opportunity before a formal proposal and agreement are set out.

Eurojust and Europol can play a key role in this respect by enabling national authorities – during operational or coordination meetings – to:

- obtain a more complete international picture of the case;
- discuss the advisability of opening parallel investigations and their modalities, with a view to setting up a JIT; and
- clarify domestic requirements concerning the submission of a formal request to set up a JIT (which in some states constitutes a prerequisite to its setting up) <sup>(13)</sup>.

### 1.2.2. The JIT agreement

A model agreement <sup>(14)</sup> has been developed to facilitate the setting up of a JIT. This document can be downloaded, in all the official languages of the EU and in an editable format, from the websites of Eurojust and Europol. It is also included in Chapter 4 of this Practical Guide.

The JIT model agreement represents a common non-binding baseline that practitioners can tailor to the specific needs of their case. Hence, standard provisions are sometimes reworded to reflect the requirements of national legislation or *ad hoc* arrangements. The model agreement also provides a useful list covering most of the points that need to be addressed for a JIT to perform its activities in a secure manner.

In practice, the JIT model agreement is used in the vast majority of JITs set up between EU Member States. Furthermore, this model has proved to be sufficiently flexible to serve as a basis for discussions with non-EU countries, with some adaptation to the different legal bases.

Some Member States have also developed bilateral model agreements that may be helpful in anticipating issues that are likely to arise in this specific context and speeding up discussions on the content of the JIT agreement.

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13 See paragraph 2 of Article 13 of the 2000 EU MLA Convention. In practice, the submission of a formal letter of request is rarely required. Specific information on national implementing legislation – including on this issue – can be found in the JITs Restricted Area (see Chapter 7).

14 Council resolution on a model agreement for setting up a joint investigation team (JIT), OJ C 18, 19.1.2017, p. 1.

JIT National Experts or Eurojust can provide assistance in drafting a JIT agreement and in discussions – through the National Members of the Member States, the Eurojust Representative for Denmark, and the Liaison Prosecutors posted at Eurojust – on clauses required to supplement or that deviate from the model agreement. A best practice in this respect consists of completing the model agreement in a common working language and translating it into the official languages of the states involved only when the partners have agreed on the content of the document.

National legislation usually specifies which authority is competent to establish a JIT (where applicable, following an authorisation mechanism).

During the lifetime of a JIT, the initial agreement can be amended by mutual agreement between the parties in the event that a change in content is needed (e.g. because of changes in the crimes investigated or the involvement of a new party, or to extend the duration).

### 1.2.3. Structure of the team

#### >>> JITs parties

##### *Composition of the team*

Each party to the JIT agreement appoints the following people.

- **The JIT leader(s)** is in charge, in particular, of supervising JIT activities when the team operates on the territory of the state concerned. National legislation usually specifies which authority is competent to act as a JIT leader <sup>(15)</sup>.
- **The JIT members** – in most cases law enforcement authorities – carry out the investigative measures / operational activities. When present and taking part in an investigation outside their state of origin, appointed members operate with the status of seconded JIT members.

##### *Possible involvement of the European Public Prosecutor's Office in JITs*

In October 2017, the Council adopted the regulation on implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office (EPPO) <sup>(16)</sup>.

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15 Specific information on national legislation on this point can be found in the JITs Restricted Area.

16 Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the EPPO, OJ L 283, 31.10.2017, p. 1.

The EPPO started operations on 1 June 2021, after the European Commission officially confirmed the starting date on 26 May 2021.

The EPPO is an independent public prosecution office of the EU, responsible for investigating, prosecuting and bringing to judgment crimes against the financial interests of the EU (so-called PIF crimes).

These include, among other things, several types of fraud, cross-border value added tax (VAT) fraud with damages above EUR 10 million, corruption and money laundering.

At the time of writing, there has not been any practical experience of JITs being set up in cooperation with the EPPO. Nevertheless, based on the current legal framework, the EPPO envisages that the following situations may arise.

- Cross-border investigations in Member States participating in the EPPO.
- In cross-border investigations between Member States participating in the EPPO, there is no need for JITs or judicial cooperation requests for gathering of evidence or freezing of assets <sup>(17)</sup>, as the EPPO will operate directly in the territory of those Member States on the basis of a *sui generis* regime that sets out an obligation for the assisting European delegated prosecutors to execute investigation measures assigned to them by the handling European delegated prosecutor in accordance with Articles 31 and 32 of the EPPO regulation.
- Cross-border investigations in EPPO cases involving non-participating Member States. The EPPO can set up JITs and be an active member of JITs in EPPO cases involving Member States that do not participate in the EPPO. In that respect, the 2002 FD on JITs should be considered a sufficient legal basis for the setting up of JITs.
- Cross-border investigations in EPPO cases involving non-EU countries. The EPPO can also set up JITs and be an active member in EPPO cases involving non-EU countries, provided that there is a legal basis in an international agreement applicable to cooperation in criminal matters between the EPPO and those non-EU countries.

For more information on the role and involvement of the EPPO in JITs, please see the **[Guidance document on EPPO involvement in JITs](#)**.

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17 Except for the situations referred to in Article 31(6) of the EPPO regulation.

## >>> Participants in the team

Besides the parties, the optional participation of ‘officials of (other) bodies’ is usually set out in the applicable instruments; these bodies include EU bodies, Eurojust National Members (in accordance with Article 8.1(d) of the Eurojust regulation <sup>(18)</sup>), Europol staff (in accordance with Article 5 of the Europol regulation <sup>(19)</sup>), and OLAF staff.

### Parties vs Participants



Details of Eurojust’s, Europol’s or OLAF’s participation are usually included in a dedicated appendix to the agreement, a model of which can be found in the JIT model agreement in Chapter 4.

#### 1.2.4. Informing Eurojust of the setting up of JITs

In accordance with Article 21(4) of the Eurojust regulation, even if not involved as participants, Eurojust’s National Member(s) of the Member State(s) involved should be informed by their competent national authorities of the setting up of a JIT.

18 Regulation (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation (Eurojust), and replacing and repealing Council Decision 2002/187/JHA.

19 Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA.

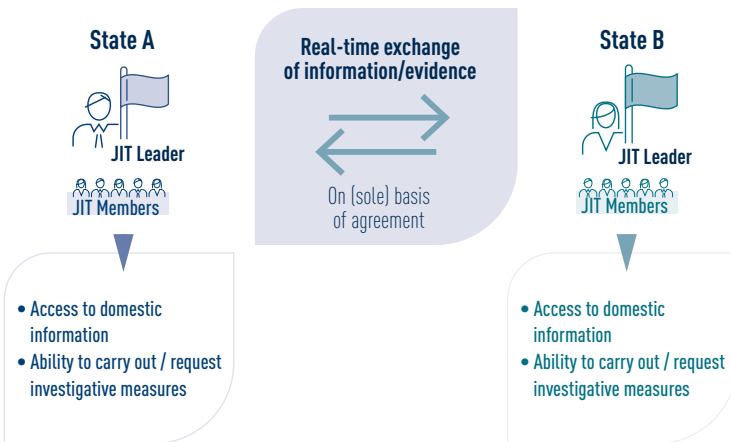
## 1.3. The operation of the JIT

### 1.3.1. Legal framework

Applicable instruments include the following principles concerning JIT operations.

- JIT activities are carried out in accordance with the legislation of the state in which the JIT operates and under the supervision of the JIT leader appointed by this state.
- Seconded members are entitled to be present during the investigation, unless the JIT leader of the state in which the JIT operates decides otherwise for specific reasons.
- Seconded members can be tasked by the JIT leader to carry out investigative measures, with the consent of the state in which the JIT operates and the state having seconded them.
- Seconded members are entitled to share with the team information available in the state having seconded them. Should the need arise, they can request that the competent authorities of this state carry out investigations according to the conditions set out in their national legislation for domestic cases.

### Exchange of information and evidence within a JIT



The use of information and evidence exchanged within a JIT (which could not be obtained otherwise) is limited by a ‘speciality rule’; such information may in principle be used (only) for the purposes for which the team was set up.

In the performance of their duties in the state in which the JIT operates, seconded members should be regarded as officials of this state with respect to offences committed against them or by them <sup>(20)</sup>.

Against this background, practice reveals considerable variety in the use of JITs, thus showing the flexibility of this tool and its capacity to adapt to the specific needs of a case. In a large number of cases, for instance, investigations are carried out first in parallel by the different states involved, and evidence collected is exchanged periodically between them. In a second stage, JIT members are seconded by each state to support a coordinated operational phase.

The support of seconded members has proved to be of high value, particularly during the operational phase (coordinated arrests and searches of premises). In addition, the presence of seconded members may prevent the unnecessary duplication of interviews (of children or vulnerable victims) or allow for additional support when investigating complex cross-border cases.

### **1.3.2. Planning and coordination of operational activities**

To achieve their purposes, JITs require the effective coordination of domestic proceedings and the planning of investigative/prosecutorial steps. Coordination and planning also facilitate requests for financial support, which are based on the estimated costs of planned operational activities.

For these reasons, practitioners have identified the need to address these practicalities within the team and to agree on specific arrangements. A checklist (see Chapter 5) has been developed to help practitioners set out in a dedicated document the arrangements agreed on, if deemed appropriate (an ‘operational action plan’).

However, in practice, a clear preference for more informal solutions has been reported by JIT practitioners. Periodic meetings – particularly those supported by Eurojust and Europol – are used as planning tools. Conclusions of the meetings reflect the arrangements made.

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<sup>20</sup> See Article 15 of EU the 2000 MLA Convention. Detailed rules concerning civil liability can be found in Article 16 of the same instrument.

Whatever format is considered preferable, it is recommended that practical arrangements concerning JIT operational activities that are not already set out in the JIT agreement are discussed and, if possible, recorded.

For more information concerning the support provided by Eurojust, Europol and OLAF during the operational phase, see also Chapter 3 of this Practical Guide.

## **1.4. The closure and evaluation of the JIT**

A JIT is always set up for a limited period. The duration of a JIT can be prolonged if needed, as agreed by the partners. It is recommended that partners consult and coordinate in due time on a possible extension to avoid discontinuity in the cooperation framework. Unilateral decisions to leave an ongoing JIT should be avoided if possible.

Special attention should be given to situations in which, due to different operational time frames, the competent authorities of one state need to conclude their investigation – and therefore put an end to their involvement in a JIT – while cooperation needs still exist from the other partners. According to the feedback received, this issue should be adequately anticipated and *ad hoc* solutions may need to be found.

At the latest, before the closure of the JIT <sup>(21)</sup>, the settlement of jurisdiction and practical steps related thereto (e.g. review of the scope of respective proceedings, sharing and/or possible transfer of jurisdiction) may need to be considered among JIT partners, although the arrangements taken can be implemented after the closure of the JIT.

When the JIT is due to expire, practitioners are encouraged to jointly perform an evaluation of the JIT, ideally during a dedicated meeting or by jointly filling in the JIT evaluation form.

Evaluation of the JIT by the actors involved is of crucial importance to enhance knowledge and to improve the functioning of the tool.

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21 The issue may need to be considered at an earlier stage, since it could impact the conduct of the investigation and the operational phase (e.g. execution of European Arrest Warrants).

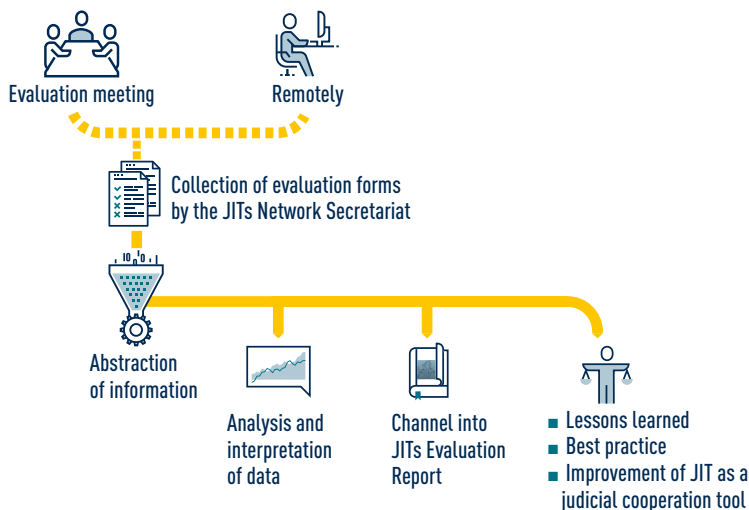
In 2014, the JITs Network Secretariat, with the support of the JITs Network and of Eurojust, initiated the JITs evaluation project, with the following purposes:

- to enhance and improve the use and functioning of JITs;
- to create a 'bank of knowledge' on JITs through the systematic and centralised collection of evaluation data; and
- to provide feedback on JITs to relevant actors and stakeholders.

A **JIT evaluation form** has been developed to assist practitioners in this process. While all JITs are encouraged to perform evaluations, the evaluation is required for JITs having received financial support from Eurojust. Detailed information and guidance on the evaluation of JITs and support that can be provided to practitioners can be found in the publication **Practical Steps for JIT Evaluation**.

Since the initiation of the project, three JIT evaluation reports have been published providing overviews of the main practical findings in terms of lessons learned and best practices identified in the setting up and operation of JITs. These reports are available on the Eurojust website. Since the publication of the second report in 2018, Eurojust has been actively involved in the drafting of JIT evaluation reports. Eurojust's contributions provide a complementary perspective to the evaluation of JITs by national authorities and contribute to enhancing knowledge of the practicalities of the tool.

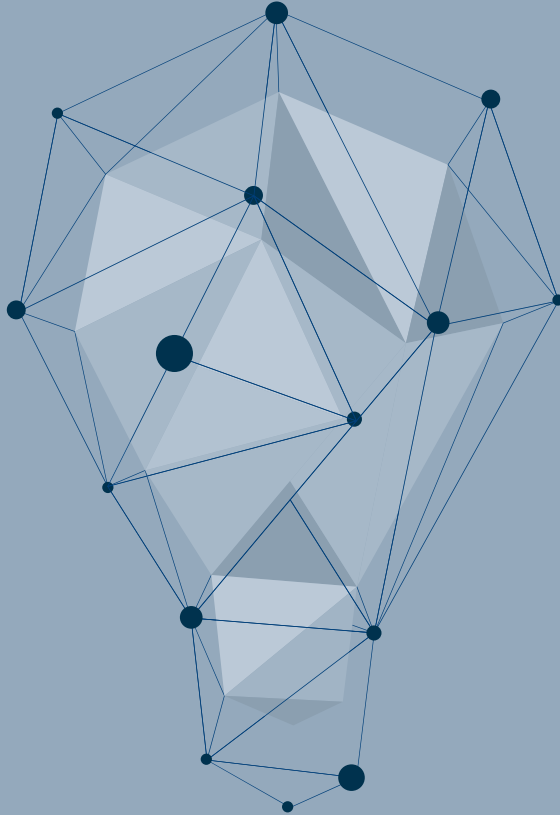
### JIT evaluation process





# Frequently Asked Questions

## 02





## CHAPTER 2

# FREQUENTLY ASKED QUESTIONS

### 2.1.

#### “What are the main practical steps in the establishment of a JIT?”

A JIT requires, primarily, that linked or parallel investigations and/or links to other countries, which might not yet have an open investigation, have been identified. Competent authorities of the states concerned identify a common purpose for and interest in establishing such a cooperation framework, which presupposes that the connections between the investigations in the different states are established and verified. In most cases, this process is achieved by way of the exchange of information between national law enforcement authorities, and analysis of this information, with the support of Europol and Eurojust, if applicable. If links are established in countries where no investigations are open yet, discussion on the possible initiation of proceedings can be facilitated by Eurojust.

As a second step, an agreement to establish the JIT should be reached between the authorities competent to make such a decision in the states concerned. Practitioners can find an overview of national rules in this respect (i.e. the Fiches Espagnoles) in the JITs Restricted Area. In the majority of Member States, the decision requires the involvement of a prosecutorial or judicial authority (sometimes with the prior authorisation of a central authority). The decision may need to be preceded by the transmission of an official request to set up a JIT, but in practice this applies only to some countries.

When a JIT is considered the adequate cooperation option, the drafting of the JIT agreement can be initiated (the JIT model agreement can be used for this purpose); this often occurs with the support of Eurojust. Special effort and attention should be given to completing this process swiftly to avoid delaying the investigation or losing momentum. In particular, to simplify discussions, the content of the agreement should be concise and, to the extent possible, all unnecessary details should be omitted (e.g. detailed case summaries in the ‘purposes’ section should be avoided).

↳ See also *Chapter 8* of this Practical Guide.

## 2.2.

### “Do JIT cases require more time and resources than other cross-border cases?”

JITs are used in complex cross-border investigations, which as such require the sufficient allocation of time and resources at national level. As already mentioned (see the previous section), the drafting of the JIT agreement should be completed as quickly as possible to avoid delaying operations.

No reports have been received of investigations supported by JITs having exceeded the time frame of other cross-border cases and, in this respect, the flexibility of JITs is usually considered to bring speed to investigations. In addition, no reports have been received that JITs require financial or human resources in excess of those required in other cross-border cases.

However, the need for operational meetings and the participation of JIT seconded members may generate additional costs (i.e. for travel and accommodation), for which the support of Eurojust and Europol may be sought.

↘ See also *Chapter 1* of this Practical Guide.

## 2.3.

### “Are JITs suitable for urgent cases?”

Once established, JITs provide a flexible framework, enabling real-time cooperation between competent authorities and facilitating the performance of urgent operations, such as controlled deliveries, simultaneous and coordinated operations, and investigations of major international incidents.

Within the scope of a signed JIT agreement, financial support for certain categories of costs relating to urgent operational activities may be sought through the Eurojust urgent funding scheme.

When urgent action is required before a JIT can be established (e.g. arrests or controlled deliveries that cannot be postponed), initiating cooperation through other channels (police exchange of information and/or MLA) and considering the setting up of a JIT at a later stage are possible options.

↘ See also *Chapters 1 and 6* of this Practical Guide.

2.4.

**“Does a JIT have a ‘leading country’?”**

The setting up and operation of a JIT derive from a mutual agreement between national authorities. Cooperation is based on an equal footing, meaning that JIT cooperation does not interfere with the exercise of the powers of law enforcement and judicial authorities under national legislation.

In practice, parties may agree that one of them, for example the state that is most significantly affected or that has the most complete view of the activities of the organised crime group, takes more of an initiative and/or *de facto* organises the cooperation between the national authorities. Such an arrangement may be useful for ensuring appropriate coordination within the JIT, in full compliance with national authorities’ prerogatives.

↘ See also *Chapter 1* of this Practical Guide.

2.5.

**“Is involvement of Eurojust or Europol in a JIT mandatory? Can other bodies participate?”**

Eurojust’s and/or Europol’s participation in a JIT is optional. National authorities decide whether they wish to benefit from the support that these bodies can offer.

However, financial assistance from Eurojust for a JIT can be provided only in cases supported by Eurojust (i.e. a Eurojust case identification number is required and is indicated in the JIT funding application).

The applicable EU and international instruments also generally refer to the participation of ‘other bodies’ in JITs. Apart from Eurojust and Europol, to date OLAF is the only other body that has been involved in a JIT.

↘ See also *Chapter 3* of this Practical Guide.

## 2.6.

### “Should domestic investigations be ongoing in all states concerned for the establishment of a JIT?”

EU instruments do not explicitly require that domestic investigations are ongoing in all the states involved when a JIT is established.

In the two situations referred to in section 1.2.1, only one (connected investigations requiring coordination) clearly refers to the existence of parallel proceedings, whereas in the other (demanding cross-border investigations) the existence of an investigation in one of the states involved seems sufficient. Furthermore, analysis of implementing legislation shows that, in some Member States, the initiation of a domestic investigation is not a prerequisite for the establishment of a JIT <sup>(22)</sup>.

However, in the vast majority of cases, parallel or linked proceedings are in place when a JIT is established.

↘ See also *Chapter 1* of this Practical Guide.

## 2.7.

### “Should each party to the agreement appoint a JIT leader?”

The existing instruments on JITs do not specify if each party to the agreement must appoint a leader. They mention, however, that ‘the leader of the team shall be a representative of the competent authority participating in criminal investigations from the Member State in which the team operates’ <sup>(23)</sup>, which may indicate that at least one JIT leader should be appointed for each of the states in which the team operates. This is indeed the practice in the vast majority of cases.

↘ See also *Chapters 1 and 4* of this Practical Guide.

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22 Specific information on national implementing legislation – including on this issue – can be found in the JITs Restricted Area.

23 See Article 3(8) of the 2002 Council framework decision on JITs and Article 13(3) (a) of the 2000 EU Convention on Mutual Assistance in Criminal Matters.

2.8.

**“Can several JIT leaders be appointed for the same state?”**

The existing instruments on JITs do not specify if each party must appoint one leader only.

In practice, in Member States in which both an investigative judge and a prosecutor are involved in the same case, appointing two JIT leaders is possible.

One difficulty may arise when the offences investigated by the JIT are the subject of several connected investigations carried out within the same state by different authorities. In this case, a decision needs to be taken on whether such investigations should be centralised at national level. If not, it is possible that more than one national authority may be involved in a JIT on behalf of the same participating state.

While from a practical point of view it is recommended in such situations that only one JIT leader is appointed on behalf of the participating state, in some cases several JIT leaders may be appointed for the same state.

↘ See also *Chapters 1 and 4 of this Practical Guide.*

2.9.

**“Can persons other than law enforcement or judicial authorities be involved in JIT operations?”**

As in other investigations, contributions from people who are not members of either law enforcement or judicial authorities may be beneficial to the outcome of a case (e.g. forensic experts or people working for non-governmental organisations, particularly in victim support); however, generally such people are not appointed as official members of a JIT.

On the other hand, seconded JIT members may be entrusted by the JIT leader of the state in which the team operates to carry out investigative measures. This explains why in practice JIT members are officials having the capacity to carry out such measures in the state that has seconded them.

↘ See also *Chapters 1 and 4 of this Practical Guide.*

## 2.10.

### “How are information and evidence exchanged within a JIT? How is this exchange reflected in national proceedings?”

EU and international instruments mainly regulate JIT members' **access** to and **use** of information and evidence collected by the team, not the conditions applying to the **exchange** of such information/evidence. Therefore, domestic legislation and usual practice with regard to the exchange of information and evidence must be followed by JIT leaders and members.

Experience shows a strong preference of practitioners for informal communication channels. In terms of data protection and security, the use of the Secure Information Exchange Network Application (SIENA) tool <sup>(24)</sup> may be advisable. Alternatively, Eurojust's dedicated equipment and secure email services available within the framework of the JIT funding programme may prove beneficial to both the needs and the technical capabilities of the JIT partners. Furthermore, protection of personal data should be addressed between JIT partners, taking into account the applicable EU framework <sup>(25)</sup>.

In July 2019, the European Commission, with the support of Eurojust and other stakeholders, initiated a study on cross-border digital criminal justice.

In line with the findings of this study, the need for an 'operational online collaborative environment', enabling JIT parties to securely 'post' information and evidence, under conditions facilitating the traceability (and, thus, further admissibility) of the evidence exchanged, was confirmed.

As part of the implementation of the digital criminal justice project, a JIT Collaboration Platform will be created to facilitate JIT operations and allow easy communication and the electronic sharing of large amounts of information and evidence between JIT partners. For more information, see the **final report of the Study on Cross-Border Digital Criminal Justice**.

↘ See also *Chapters 1 and 4* of this Practical Guide.

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24 SIENA is a tool designed by Europol to enable swift, secure and user-friendly communication and the exchange of operational and strategic crime-related information and intelligence.

25 See Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA, OJ L 119, 4.5.2016, p. 89.



### 2.11.

#### **“How can information and evidence collected prior to the setting up of the JIT be exchanged?”**

This issue has been addressed in various ways in practice, for example through the exchange of MLA requests and EIOs and the spontaneous exchange of existing evidence (Article 7 of the 2000 EU MLA Convention). However, in most cases, to be efficient, JIT partners specify initially in the JIT agreement that this evidence will be exchanged within the framework of the JIT agreement itself (a model provision can be found in Article 10 of the JIT model agreement).

↘ See also *Chapters 1 and 4 of this Practical Guide.*

### 2.12.

#### **“Under which conditions is the evidence collected by a JIT admissible before national courts?”**

Applicable instruments envisage that a JIT carries out its operations in accordance with the law of the state in which it operates at any particular time. Applicable instruments do not specify, however, that evidence collected by the team under these conditions is, as such, admissible before the national courts of the states involved.

This matter is regulated by national legislation, an overview of which can be found in the JITs Restricted Area. However, in practice, the admissibility of evidence collected within a JIT is rarely challenged: very often, the flexibility provided by the JIT enables possible admissibility issues to be anticipated and appropriate arrangements to be put in place. Giving a JIT leader or member responsibility for dealing with admissibility issues – as suggested in the model agreement – as well as having the support of JIT National Experts and/or Eurojust can be beneficial in this respect.

↘ See also *Chapters 1 and 4 of this Practical Guide.*

### 2.13.

#### “How should disclosure requirements stemming from national legislation of the JIT partners be clarified?”

One benefit of JITs in comparison to the exchange of MLA requests and EIOs is the ability to share information directly between JIT members. However, national legislation may vary regarding:

- the extent to which information received can (or has to) be included in the proceedings and serve as evidence in court; and
- the extent to which this information may (or has to) be disclosed to interested parties and the stage of the proceedings when such disclosure should take place.

A lack of full awareness by the JIT partners of the applicable legal regime in the other states involved may impact negatively on the effectiveness of the investigation and/or prosecution.

To facilitate the operation of the JIT, clarifying applicable domestic rules at the setting up stage may be advisable. Practitioners may also wish to consult the information on national legislation available in this field in the JITs Restricted Area. As is common practice, a copy or a summary of domestic legislation can also be annexed to the agreement.

↘ See also *Chapters 1 and 4 of this Practical Guide.*

### 2.14.

#### “How is evidence obtained through mutual legal assistance shared within a JIT?”

As a JIT can operate only on the territory of the states that are parties to the agreement, the cooperation of other states must be sought through MLA and/ or an EIO (or, alternatively, using an instrument giving effect to the principle of mutual recognition).

In practice, since evidence collected is often of interest to all parties, parties to the JIT usually coordinate with each other, although the MLA and/ or EIO request is formally submitted by one of them.

To ensure that evidence collected is made available within the JIT, an advisable approach may be the insertion of a clause in the agreement clarifying that, in the event of the need for an EIO and/or MLA request to be sent to a state that is not party to the JIT, the agreement of the requested state will be sought to share with the other JIT party(ies) the evidence obtained as a result of the execution of the request.

↘ See also *Chapters 1 and 4 of this Practical Guide.*

## 2.15.

### “Does the JIT exclude the use of other police and judicial cooperation instruments?”

JITs facilitate the gathering and exchange of information and evidence, which should in principle exclude the use between the parties of judicial cooperation instruments that have the same purpose and scope (particularly EIOs or MLA).

As already mentioned, cooperation within a JIT is often combined with the use of EIOs and/or MLA requests in states ‘outside’ the JIT. Furthermore, the setting up of a JIT does not prevent the use of instruments with a different purpose or scope (particularly the surrender of a person, as in the case of a European Arrest Warrant).

For other cooperation or mutual recognition instruments, the existence of parallel proceedings may *de facto* limit interest in using them, since most of the measures concerned can be carried out by each party in the framework of domestic proceedings (e.g. the execution of a freezing order). However, no unified practice is followed in this field, and in a given situation the use of other instruments – none of which explicitly excludes its application in the context of a JIT – may prove to be beneficial.

↘ See also *Chapter 1 of this Practical Guide*.

## 2.16.

### “Why should JITs be evaluated?”

A JIT evaluation should be the last step taken in the life cycle of a JIT. The evaluation of the JIT by the actors involved is of crucial importance to enhance knowledge and to improve the functioning of the tool.

When a JIT is due to expire, practitioners are encouraged to jointly perform the evaluation, ideally during a dedicated meeting organised at Eurojust or by jointly filling in the JIT evaluation form.

In principle, all JITs should be evaluated, regardless of how simple or complex they may be; there are always experiences that can be shared with others.

However, while all JITs are encouraged to perform evaluations, an evaluation is required for JITs that have received financial support from Eurojust. In line with the **Terms and Conditions applicable to Eurojust’s financial support for JIT activities**, applicants requesting funding agree to perform an evaluation of the JIT at the time of or following its closure and to submit a completed JIT evaluation form to Eurojust. Indeed, for JITs benefiting from Eurojust funding, the evaluation is crucial to ensure that the funding possibilities continuously meet the operational needs.

The appointment of one or more JIT members to be responsible for the evaluation may be considered to facilitate a joint evaluation. Eurojust can support the evaluation process by providing a venue for evaluation meetings, financially supporting travel and accommodation costs and providing simultaneous interpretation during meetings, as well as providing the expertise of the JITs Network Secretariat. Alternatively, Eurojust can facilitate the use of videoconference facilities for online evaluation meetings between JIT practitioners.

↳ See also *Chapter 1* of this Practical Guide.

2.17.

**“Who should be contacted when considering the setting up a JIT with the involvement of a non-EU country?”**

In practice, effective cooperation often relies not only on legal instruments (where there is a wish to cooperate, it is usually possible to find a legal basis) but also on networking and good relations. At the very beginning of an investigation with a cross-border dimension, it is important to identify key partners and linked investigations in other countries.

In relation to non-EU countries, Eurojust’s global network, consisting of Liaison Prosecutors posted at Eurojust and Eurojust Contact Points in non-EU countries, contributes significantly to establishing contacts at an early stage and ultimately to the successful setting up of JITs with non-EU countries.

The Liaison Prosecutors posted at Eurojust play a crucial role in the setting up of JITs, which is reflected in the number of JITs set up so far with non-EU countries. Indeed, they can help to establish contacts with the right counterparts in their respective countries, identify the legal basis for setting up a JIT, explain certain legal requirements and specifics to be taken into account and draft JIT agreements, and provide assistance during the operational phase of a JIT.

As of October 2021, Eurojust had a network of judicial Contact Points in more than 50 non-EU countries around the world. These connections enable prosecutors from Member States to establish quick contact and liaise with their counterparts in non-EU countries when a crime extends beyond the EU’s borders.

By the same date, Eurojust had concluded 13 cooperation agreements with the following non-EU countries: Albania, Georgia, Iceland, Liechtenstein, Moldova, Montenegro, Norway, North Macedonia, Serbia, Switzerland, Ukraine, the United Kingdom and the United States. Countries that have concluded a cooperation agreement with Eurojust may post a Liaison Prosecutor to Eurojust.

# Support from EU agencies

## 03





# CHAPTER 3

## SUPPORT FROM EU AGENCIES

Participation by EU agencies and bodies in JITs is specifically provided for by EU instruments on JITs and in practice is set out in an appendix to the JIT agreement.

In practice, the vast majority of JITs benefit from the support of the EU agencies. Furthermore, the various forms of support described below are not seen as exclusive but as complementary: feedback received from practitioners shows the added value for investigations of an ‘inter-agency’ approach, in which EU agencies/bodies contribute to JITs in a coordinated manner.

### 3.1. Eurojust



#### 3.1.1. Mission and mandate

To fulfil their objectives, JITs require the adequate coordination of investigations and prosecutions, the facilitation of which is Eurojust’s core mission.

In similar terms to Europol’s mandate, Eurojust’s competences cover the main forms of organised crime, serious crime and terrorism. In addition, for other types of offences, Eurojust may also assist in investigations and prosecutions at the request of a Member State.

Eurojust can provide support for proceedings carried out by the competent authorities of Member States. At the request of a Member State, it may also assist with investigations and prosecutions concerning that particular Member State and a non-EU country if a cooperation agreement has been concluded or if there is an essential interest in providing such assistance in a specific case.

Eurojust’s specific role in JITs is reflected in its legal framework.

- **Request to set up a JIT.** Eurojust may ask the competent authorities of the Member States to set up a JIT.
- **Entitlement to participate.** National Members have the power to participate in JITs, including in their setting up (see Article 8(1)(d) of the Eurojust regulation).

- **General support.** Eurojust can provide operational, legal, logistical and financial support to JITs.
- **Obligation to inform.** National authorities should inform their National Members about the setting up of JITs and about their results.

### 3.1.2. Participation of Eurojust's National Members in JITs

Eurojust can provide support to JITs on the basis of its general mission and objectives. However, in accordance with the relevant provisions of the Eurojust regulation, its participation is in most cases formalised to ensure clarity on the applicable framework.

Details of National Members' participation are in most cases included not in the JIT agreement itself but in a dedicated appendix.

### 3.1.3. Eurojust's support for JITs

#### >>> Setting up phase

Sometimes, practitioners turn to Eurojust themselves with a specific request to assist them with setting up a JIT when they consider it to be the best way forward in their case. However, often the decision to set up a JIT takes shape at Eurojust on the advice of the Eurojust National Desks.

Once parallel or linked investigations have been identified by the National Desks at Eurojust, and the case has been registered, Eurojust may organise a coordination meeting between the states involved. A coordination meeting is a meeting between relevant national authorities, organised and funded by Eurojust, to stimulate and reach agreement on mutual cooperation and/or coordination of investigations and prosecutions. Coordination meetings can take place face-to-face or by videoconference using a secure environment, with simultaneous interpretation if needed. During a coordination meeting, Eurojust helps authorities assess the suitability of their case for the purpose of establishing a JIT. The setting up of a JIT can also be agreed without, or prior to, a coordination meeting.

Next, Eurojust can support the national authorities in setting up the team, by assisting in the drafting of a JIT agreement and discussing its main clauses and by helping the partners navigate differences in procedural laws and reach agreement on key areas of cooperation and working methods.



Coordination meetings in the setting up phase also provide an opportunity to discuss the first concrete steps in JIT cooperation and the coordination of investigations (e.g. the investigative objectives and strategy, modalities of communication and the exchange of information).

Extensive supporting material for JITs is available on the Eurojust's website and in the JITs Restricted Area to help national authorities plan, set up and operate JITs (e.g. the [JIT model agreement or JITs factsheet](#)).

### **>>> Operational phase**

Throughout the operational phase of a JIT, Eurojust works with the JIT partners to ensure the smooth running of joint investigations, providing legal and practical support. In particular, Eurojust can provide support in the following areas.

- It can help to coordinate investigative and prosecutorial strategies between the partners.
- It can help to identify and resolve JIT-related issues, such as the amendments required to the JIT agreement (e.g. extensions to new parties or prolongations of the duration of the JIT), disclosure arrangements, anticipation of admissibility rules related to securing the gathering of evidence, and conditions of involvement of seconded members.
- It can provide advice on settlement of jurisdiction (priority to prosecute) and transfer of proceedings. To help national authorities resolve cross-border conflicts of jurisdiction, Eurojust has published [Guidelines for Deciding 'Which Jurisdiction Should Prosecute?'](#). The guidelines provide a checklist of the main factors to be considered when deciding on the best jurisdiction to prosecute, and act as a shared starting point to determine the basis on which a decision can be reached.
- It can provide advice regarding JIT funding, as specified below.

Furthermore, Eurojust can support joint operations by organising and hosting coordination meetings and setting up coordination centres.

A coordination centre in a particular case facilitates the coordinated and simultaneous execution of measures (such as arrests, hearings, searches and asset recovery measures) in multiple countries during joint action days. The coordination centre therefore acts as a central information hub in which joint operations are constantly monitored and coordinated by Eurojust, with all key stakeholders being in direct and immediate contact with each other. The participation of all key stakeholders allows

Eurojust to assist promptly with legal and practical advice and facilitates the issuing of critical judicial instruments, ensuring that the actions taken lead to successful prosecutions.

As part of its operational support, Eurojust provides financial and logistical support to cross-border activities of JITs.

The financial support given to JITs can help overcome financial constraints related to cross-border investigations. Eurojust does not finance individual JITs in their entirety, but assists by reimbursing costs related to several common areas of expenditure:

- travel and accommodation (e.g. for operational meetings and participation in investigative measures, and costs for victims and witnesses),
- interpretation and translation,
- transfer of items (e.g. cross-border transport of evidence and/or seized items),
- specialist expertise (e.g. in DNA, forensics, ballistics and fraud).

Eurojust also lends equipment to JITs, such as laptops with secure connections, secure mobile phones (communication costs are included), and mobile scanners and printers. In addition, Eurojust provides low-value financial grants to enable JITs to purchase their own items of equipment for use within the JIT operational activities.

In addition to the regular JIT funding scheme, which consists of eight calls for proposals, Eurojust also provides financial assistance to JITs for urgent and/or unforeseen actions falling outside the scope of the regular funding scheme with call for proposals. Applications for urgent funding may be submitted at any time of the year. More information on Eurojust's financial assistance for JITs can be found in Chapter 6 of this Practical Guide.

### **>>> Closure of the JIT and follow-up**

If not envisaged at an earlier stage, Eurojust can also provide assistance concerning the settlement of jurisdiction and related measures (such as the transfer of proceedings).

Following the closure/expiry of a JIT, those involved are encouraged to evaluate its performance. This is required for JITs that have received Eurojust funding (see the relevant section of the **Terms and Conditions** applicable to Eurojust's financial assistance for the activities of JITs).

The feedback provided is important in improving the use and functioning of JITs and for establishing best practice for future use of the tool. The JITs Network has developed a **JIT evaluation form** for this purpose.

Eurojust can organise JIT evaluation meetings or coordination meetings, which can be partly dedicated to the evaluation of the JIT. These meetings can be face-to-face or take place by videoconference. Eurojust JIT funding can be used to finance the participation at these meetings of additional participants from the countries involved. Furthermore, JIT funding may also be used to finance evaluation meetings in the countries involved.

Detailed information and guidance on the evaluation of JITs and the support available for practitioners can be found in the Practical Steps for JIT Evaluation.

## **3.2. Europol**



### **3.2.1. Mission and mandate**

Europol's mandate is to support and strengthen action by the competent authorities of the Member States and their mutual cooperation in preventing and combating serious crime affecting two or more Member States; terrorism; and forms of crime that affect a common interest covered by an EU policy.

Europol supports the law enforcement agencies of the Member States through its unique information-processing and analysis capabilities and by providing the expertise of more than 700 staff to identify and track the most dangerous criminal and terrorist networks in the EU.

The Member States and Europol's non-EU partners have seconded some 250 Liaison Officers to Europol headquarters. These Liaison Officers guarantee fast and effective cooperation based on personal contact and mutual trust. They actively cooperate with Europol staff, support the analytical work conducted by Europol staff and facilitate the exchange of strategic and operational information.

Liaison Officers participate in operational meetings and coordinate/organise controlled deliveries and cross-border surveillance through a 24/7 on-call system. The Europol Liaison Officers also have an advisory role and liaise with their National Experts to support the setting up and functioning of JITs.

To facilitate cooperation, since 2010, Europol has financed the mission costs for experts from competent authorities in the Member States and non-EU countries to attend its operational meetings, during which discussions may take place on, among other things, whether it is suitable to set up a JIT in an international criminal case.

### **3.2.2. Legal basis – Europol’s participation in JITs**

Europol staff may participate in JITs in a supporting capacity. Europol staff may, in accordance with the Europol regulation, the JIT agreement and other additional arrangements, as well as within the limits provided for by the law of the Member States in which a JIT operates, assist in all JIT activities and exchange information as necessary with all members of the JIT. Europol staff must not take part in any coercive measures.

### **3.2.3. Europol’s operational support for JITs**

Europol’s support of a JIT can add value not only in the preparatory stage but also throughout all phases of the JIT.

#### **>>> Setting up phase**

Europol’s capabilities are particularly suitable for the assessment of a potential JIT case, as intelligence and information available on the case can be checked against Europol’s databases, helping to identify further links and allowing Europol’s analysts to draw a comprehensive picture of the case, rather than assessing it solely from a national perspective(s).

Europol is therefore in an excellent position to:

- provide an international picture through information exchange and analysis;
- identify appropriate support (to enhance the intelligence picture further through expertise and knowledge); and
- contribute to the drafting of the JIT agreement and arrangements and the drafting of the operational action plan, and/or facilitate the discussion on the tactical and technical way forward in an investigation.

## **>>> Operational phase**

Through its different systems for data collection and data processing and by hosting the Liaison Officer network of the Member States and all non-EU countries and organisations with which it has signed a cooperation agreement or working arrangement, Europol has the means to:

- provide for quick access to relevant information available in states other than those in which the JIT operates;
- facilitate the exchange of information between relevant competent authorities or contact points of the involved parties / other participants through a dedicated secure network (SIENA); and
- provide logistic, analytical and forensic support.

At this stage, Europol frequently offers the use of its secure operational centre, located at its headquarters, allowing for rapid real-time coordination between all actors involved, as well as providing direct, on-the-spot support by offering a number of technical tools for the use of the JIT.

On request, Europol deploys analysts and specialists on the spot to support ongoing investigations and operations in Member States and non-EU countries, including providing remote access to Europol's secure network outside the organisation's premises (mobile office, forensic toolkit, etc.).

Europol may also provide its Virtual Command Post for managing and coordinating operations, allowing the exchange, management and processing of tactical information in near real time.

The most frequent analytical products delivered by Europol are cross-match reports, operational analysis reports and technical analysis reports.

## **>>> Closure of the JIT and follow-up**

Europol provides its facilities at the conclusion of an international investigation or a JIT, helping with the evaluation, sharing best practice and developing a lessons learned log for future cases.

Activities of the Member States involved can be funded in the course of operational meetings, particularly to support new investigations initiated as a result of a JIT.

#### 3.3.1. Mission and mandate

The mission of the European Anti-Fraud Office (OLAF) is threefold:

- it protects the financial interests of the EU by investigating fraud, corruption and any other illegal activities;
- it detects and investigates serious matters relating to the discharge of professional duties by members and staff of the EU institutions, bodies, offices or agencies that could result in disciplinary or criminal proceedings; and
- it supports the EU institutions, bodies, offices or agencies, particularly the European Commission, in the development and implementation of anti-fraud legislation and policies.

OLAF has budgetary and administrative autonomy, which is designed to make it operationally independent.

OLAF receives an increasing amount of information about possible fraud and irregularities from a wide range of sources. In most cases, this information results from controls by those responsible for managing EU funds within the EU institutions, bodies, offices or agencies or in the Member States.

An allegation received by OLAF undergoes an initial assessment to determine whether the allegation falls within its remit and meets the criteria for opening an investigation.

An OLAF fraud investigation case may be opened under one of the following three categories.

- **Internal investigations.** Internal investigations are administrative investigations within the EU institutions and bodies for the purpose of detecting fraud, corruption and any other illegal activity affecting the financial interests of the EU, including serious matters relating to the discharge of professional duties.
- **External investigations.** External investigations are administrative investigations outside the EU institutions and bodies for the purpose of detecting fraud or other irregular conduct by natural or legal persons.
- **Coordination cases.** OLAF contributes to investigations carried out by national authorities or other EU departments by facilitating the gathering and exchange of information and contacts.

### 3.3.2. Legal basis of OLAF participation in a JIT

In accordance with Article 12b(4) <sup>(26)</sup> of Regulation 883/2013 and Article 12b(4) <sup>(27)</sup> of Regulation (EU, Euratom) 2020/2223 OLAF ‘may participate in joint investigation teams established in accordance with applicable Union law and in that framework exchange operational information acquired pursuant this Regulation’.

OLAF staff may participate in a support capacity in JITs established in crime areas falling under its competence. OLAF staff may, within the limits provided for by OLAF legislation <sup>(28)</sup>, assist in all activities and exchange information with all members of a JIT.

OLAF’s participation in a JIT is laid down in an arrangement signed between the OLAF Director-General and the competent authorities of the Member States participating in the JIT. The arrangement is included as an appendix to the JIT agreement.

OLAF staff participating in the JIT can assist in the gathering of evidence and can provide expertise to the members of the team in accordance with OLAF legislation and taking into account the national laws of the Member States in which the team operates.

OLAF can provide any assistance and expertise necessary to achieve the objectives and purpose of the JIT, as identified by the leader(s) of the team. This can include, among other things, providing administrative, documentary and logistical support, strategic, technical and forensic support, and tactical and operational expertise and advice to the members of the JIT, as required by the leader(s) of the team.

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26 Article 12b(4) of Regulation 883/2013: The Office may participate in joint investigation teams established in accordance with applicable Union law and in that framework exchange operational information acquired pursuant to this Regulation.

27 Article 12b(4) of Regulation (EU, Euratom) 2020/2223: The Office may participate in joint investigation teams established in accordance with applicable Union law and in that framework exchange operational information acquired pursuant to this Regulation.

28 OLAF was set up by Commission Decision 1999/352/EC, ECSC, Euratom of 28 April 1999 establishing the European Anti-Fraud Office (OLAF), last amended by Commission Decision (EU) 2015/2418 of 18 December 2015 and as mandated by Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) following its revision by Regulation (EU, Euratom) 2016/2030, Regulation (EU, Euratom) 2020/2223 amending Regulation No 883/2013 as regards cooperation with the European Public Prosecutor’s Office and the effectiveness of the European Anti-Fraud Office investigations, Commission Decision (EC, ECSC, Euratom) No 396/1999 concerning the terms and conditions for internal OLAF investigations, and Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (hereinafter referred to as the ‘OLAF legislation’).

OLAF staff must not carry out any coercive measures. However, participating OLAF staff can, under the guidance of the leader(s) of the team, be present during operational activities of the JIT, to render on-the-spot advice and assistance to the members of the team executing coercive measures, provided that no legal constraints exist at national level in the Member States in which the team operates. The Member States in which investigative measures are taking place are responsible for providing the technical equipment (office and telecommunications equipment, etc.) necessary for the accomplishment of the tasks, and shall pay the costs incurred. The respective Member States shall also provide office, communication and other technical equipment necessary for the (encrypted) exchange of data. The costs of this equipment are to be paid by the Member States.

OLAF shall cover the costs incurred as a result of the participation of OLAF staff in the JIT.

### 3.3.3. OLAF support for JITs

#### >>> Operational phase

OLAF staff may participate in a support capacity in JITs in the framework of an OLAF administrative investigation, which may be an internal investigation or an external investigation.

With regard to internal investigations, OLAF may carry out administrative investigations within the institutions, bodies, offices and agencies, in accordance with the conditions set out in Regulation (EU, Euratom) No 883/2013 <sup>(29)</sup>, and in the decisions adopted by the respective EU institutions, bodies, offices or agencies. OLAF's staff have the right to carry out inspections of premises and have access to any relevant information, including information in databases held by the institutions, bodies, offices and agencies. In addition, it can take a copy of any relevant documentation and carry out digital forensic analysis.

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<sup>29</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999.



In terms of external investigations, to protect the financial interests of the EU, OLAF may exercise the powers conferred by Regulation (EU, Euratom) No 883/2013 and Regulation (Euratom, EC) No 2185/96<sup>(30)</sup> to carry out on-the-spot checks and inspections in the Member States and, in accordance with the cooperation and mutual assistance agreements and other legal instruments in force, in non-EU countries and on the premises of international organisations. During the on-the-spot checks, the economic operators must cooperate with OLAF and, in cases of resistance, OLAF may request that competent national authorities provide the necessary assistance in conformity with national law. When strictly necessary, OLAF may request from the national authorities information concerning bank accounts, including details of any natural or legal person holding or controlling payment accounts, bank accounts and safe-deposit boxes.

OLAF staff may conduct investigative missions in non-EU countries when the evidence necessary to establish the existence of fraud, corruption or other illegal activity is not available in the Member States. A mission in a non-EU country should be conducted with the agreement and cooperation of the competent authorities of the non-EU country concerned and may relate to fraud, corruption or other illegal activity in the following areas:

- customs,
- traditional own resources,
- expenditure of EU funds,
- expenditure of EU funds through international organisations or financial institutions, or funds managed by an EU institution, body, office or agency.

In its role in coordinating the fight against fraud at EU level, OLAF cooperates closely with its counterparts, including police, customs and judicial bodies, both within the EU and beyond its borders, to ensure the rapid exchange of information and swift follow-up actions, through a network of anti-fraud coordination services.

In addition, OLAF can provide expertise on the subject matter under investigation and on the laws and regulations applicable in the Member States.

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30 Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities.

## **>>> Closure of the JIT and follow-up**

When all investigative activities have been completed, a final report must be drawn up including all findings and conclusions established over the course of an investigation and coordination case. The final report must also set out the actions taken to ensure the respect of procedural guarantees (including data protection) and the rights of the people concerned, and must detail any comments made by the people concerned in relation to facts concerning them.

The report must be accompanied by recommendations from the Director-General of OLAF on whether or not action should be taken. These recommendations must, if appropriate, indicate any disciplinary, administrative, financial and/or judicial action to be taken by the relevant EU institution, body, office or agency and by the competent authorities of the concerned Member States, and must specify the estimated amounts to be recovered as well as the preliminary classification in law of the facts established.

In drawing up such reports and recommendations, OLAF investigators must take into account the national laws of the Member States concerned. Reports drawn up on that basis constitute admissible evidence in administrative or judicial proceedings of the Member States in which their use proves necessary, in the same way and under the same conditions as administrative reports drawn up by national administrative inspectors. They are subject to the same evaluation rules as those applicable to administrative reports drawn up by national administrative inspectors and have the same evidentiary value as such reports.

## 3.4. Other EU agencies

Other justice and home affairs agencies may also be in a position to provide support to JITs, if applicable and on agreement of the JIT parties.

### 3.4.1. Frontex



#### >> Mission and mandate

The mission of the European Border and Coast Guard Agency (Frontex) is to promote, coordinate and develop European border management at the external borders in line with the Charter of Fundamental Rights of the European Union <sup>(31)</sup>. Frontex, together with national authorities of the EU Member States <sup>(32)</sup> and in close cooperation with non-EU countries, ensures the implementation of European integrated border management with a view to managing those borders efficiently in full compliance with fundamental rights, and to increasing the efficiency of the EU return policy.

Frontex's mandate pertains to the performance of its tasks, as listed in the European Border and Coast Guard regulation <sup>(33)</sup> (hereinafter the 'EBCG regulation'). The EBCG regulation provides a wide portfolio of capabilities, which have reinforced the agency substantially. Among the key tasks is Frontex's crucial role in the protection of the EU's external borders, by contributing to the prevention, detection and combating of cross-border crime. Frontex is responsible for the deployment of the European Border and Coast Guard standing corps <sup>(34)</sup>, provides technical and operational assistance to Member States, monitors migratory flows and carries out risk analysis and vulnerability assessments.

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31 Charter of Fundamental Rights of the European Union (2012/C 326/02).

32 For the purpose of this chapter, 'Member States' also includes the states participating in the relevant development of the Schengen *acquis* in the meaning of the Treaty on the Functioning of the European Union and its Protocol (No 19) on the Schengen *acquis* integrated into the framework of the European Union.

33 Regulation (EU) 2019/1896 of 13 November 2019 on the European Border and Coast Guard, OJ L 295, 14.11.2019, p. 1.

34 Article 54(1) of the EBCG regulation states that a European Border and Coast Guard standing corps is to be part of Frontex. In accordance with Article 54(2), the agency deploys members of the standing corps as members of the border management teams, migration management support teams and return teams in joint operations, rapid border interventions, return interventions or any other relevant operational activities in the Member States or in third countries.

## »» Support for JITs

Frontex is a cornerstone when it comes to supporting Member States in ensuring the highest standards of external border control with human resources and technical equipment. <sup>(35)</sup> The agency can assist JITs with strategic and tactical products and services in a supporting capacity within the scope agreed on by the JIT members. These activities can contribute to the prevention, detection and combating of cross-border crimes falling under Frontex's mandate (such as migrant smuggling, trafficking in human beings and terrorism), provided that such assistance does not entail the processing of personal data <sup>(36)</sup>.

## »» Possible strategic and tactical support for JITs

Frontex tools, products and services that can be made available to JITs include <sup>(37)</sup>:

- analytical and situational awareness products and services;
- know-how related to border management, including on fighting cross-border crime;
- the organisation of dedicated meetings/workshops and *ad hoc* training relevant to JITs (e.g. on the practical use of technical equipment and on European border surveillance system (EUROSUR) capabilities);
- specific equipment that can provide technical and operational assistance in the framework of joint operations, pilot projects and rapid border interventions;
- EUROSUR fusion services, at the request of Member States, for example satellite imagery, vessel monitoring/ tracking and detection capabilities (the EUROSUR fusion services catalogue lists 17 available services);
- Centre of Excellence for Combating Document Fraud expertise in aspects related to document fraud encountered during the operation of a JIT.

For more information on Frontex's tools for supporting JITs, see the **Guidance document on Frontex' possible support to JITs**.

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35 Border control as defined in point 10 of Article 2 of Regulation (EU) 2016/399 (Schengen Borders Code).

36 Frontex is in the process of implementing new management board rules on processing of operational personal data and updating working arrangements with relevant external partners in this regard.

37 All available tools, services and products provided by Frontex can be limited only to the data previously anonymised, which does not concern processing of personal data.

# JIT model agreement

## 04





# CHAPTER 4 \_\_\_

## MODEL AGREEMENT ON THE ESTABLISHMENT OF A JOINT INVESTIGATION TEAM <sup>(38)</sup>

**In accordance with:**

**[Please indicate here the applicable legal bases, which may be taken from – but not limited to – the instruments listed below:**

- *Article 13 of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union of 29 May 2000* <sup>(39)</sup>;
- *Council Framework Decision of 13 June 2002 on joint investigation teams* <sup>(40)</sup>;
- *Article 1 of the Agreement between the European Union and the Republic of Iceland and the Kingdom of Norway on the application of certain provisions of the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between the Member States of the European Union and the 2001 Protocol thereto of 29 December 2003* <sup>(41)</sup>;
- *Article 5 of the Agreement on Mutual Legal Assistance between the European Union and the United States of America* <sup>(42)</sup>;
- *Article 20 of the second additional protocol to the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959* <sup>(43)</sup>;
- *Article 9(1)(c) of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988)* <sup>(44)</sup>;
- *Article 19 of the United Nations Convention against Transnational Organized Crime (2000)* <sup>(45)</sup>;
- *Article 49 of the United Nations Convention against Corruption (2003)* <sup>(46)</sup>;
- *Article 27 of the Police Cooperation Convention for South East Europe (2006)* <sup>(47)</sup>.]

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38 OJ C 18, 19.1.2017, p. 1.

39 OJ C 197, 12.7.2000, p. 3.

40 OJ L 162, 20.6.2002, p. 1.

41 OJ L 26, 29.1.2004, p. 3.

42 OJ L 181, 19.7.2003, p. 34.

43 CET No 182.

44 United Nations Treaty Series, Vol. 1582, p. 95.

45 United Nations Treaty Series, Vol. 2225, p. 209, Doc. A/RES/55/25.

46 United Nations Treaty Series, Vol. 2349, p. 41, Doc. A/58/422.

47 Registration with the Secretariat of the United Nations: Albania, 3 June 2009, No 46240.

## 1. Parties to the Agreement

The following parties have concluded an agreement on the setting up of a joint investigation team, hereafter referred to as 'JIT':

**1. [Insert name of the first competent agency/administration of a State as a Party to the agreement]**

And

**2. [Insert name of second competent agency/administration of a State as a party to the agreement]**

The parties to this agreement may decide, by common consent, to invite other States' agencies or administrations to become parties to this agreement.

## 2. Purpose of the JIT

This agreement shall cover the setting up of a JIT for the following purpose:

***[Please provide a description of the specific purpose of the JIT.***

*This description should include the circumstances of the crime(s) being investigated in the States involved (date, place and nature) and, if applicable, reference to the ongoing domestic procedures. References to case-related personal data are to be kept to a minimum.*

*This section should also briefly describe the objectives of the JIT (including e.g. collection of evidence, coordinated arrest of suspects, asset freezing ...). In this context, Parties should consider including the initiation and completion of a financial investigation as one of the JIT objectives <sup>(48)</sup>).*

## 3. Period covered by this agreement

The parties agree that the JIT will operate for **[please indicate specific duration]**, starting from the entry into force of this agreement.

This agreement shall enter into force when the last party to the JIT has signed it. This period may be extended by mutual consent.

## 4. States in which the JIT will operate

The JIT will operate in the States of the parties to this agreement.

The team shall carry out its operations in accordance with the law of the States in which it operates at any particular time.

## 5. JIT Leader(s)

The leaders of the team shall be representatives of the competent authorities participating in criminal investigations from the States in which the team

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<sup>48</sup> Parties should refer in this context to the Council Conclusions and Action Plan on the way forward with regard to financial investigation (Council document 10125/16 + COR1).



operates at any particular time, under whose leadership the members of the JIT shall carry out their tasks.

The parties have designated the following persons to act as leaders of the JIT:

Name	Position/Rank	Authority/Agency	State

Should any of the abovementioned persons be unable to carry out their duties, a replacement will be designated without delay. Written notification of such replacement shall be provided to all concerned parties and annexed to this agreement.

## 6. Members of the JIT

In addition to the persons referred to in point 5, a list of JIT members shall be provided by the parties in a dedicated annex to this agreement <sup>(49)</sup>.

Should any of the JIT members be unable to carry out their duties, a replacement will be designated without delay by written notification sent by the competent leader of the JIT.

## 7. Participants in the JIT

Parties to the JIT agree to involve **[Insert here e.g., Eurojust, Europol, OLAF...]** as participants in the JIT. Specific arrangements related to the participation of **[Insert name]** are to be dealt with in the relevant appendix to this agreement.

## 8. Gathering of information and evidence

The JIT leaders may agree on specific procedures to be followed regarding the gathering of information and evidence by the JIT in the States in which it operates.

The parties entrust the JIT leaders with the task of giving advice on the obtaining of evidence.

## 9. Access to information and evidence

The JIT leaders shall specify the processes and procedures to be followed regarding the sharing between them of information and evidence obtained pursuant to the JIT in each Member State.

*[In addition, parties may agree on a clause containing more specific rules on access, handling and use of information and evidence. Such clause may in particular be deemed appropriate when the JIT is based neither on the EU Convention nor on the Framework Decision (which already include specific provisions in this respect – see Article 13(10) of the Convention).]*

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49 When needed, the JIT may include national asset recovery experts.

## **10. Exchange of information and evidence obtained prior to the JIT**

Information or evidence already available at the time of the entry into force of this agreement, and which pertains to the investigation described in this agreement, may be shared between the parties in the framework of this agreement.

## **11. Information and evidence obtained from States not participating in the JIT**

Should a need arise for a mutual legal assistance request to be sent to a State that does not participate in the JIT, the requesting State shall consider seeking the agreement of the requested State to share with the other JIT party/parties the information or evidence obtained as a result of the execution of the request.

## **12. Specific arrangements related to seconded members**

*[When deemed appropriate, parties may, under this clause, agree on the specific conditions under which seconded members may:*

- carry out investigations – including in particular coercive measures – in the State of operation (if deemed appropriate, domestic legislations may be quoted here or, alternatively, annexed to this agreement)
- request measures to be carried out in the State of secondment
- share information collected by the team
- carry/use weapons]

## **13. Amendments to the agreement**

This agreement may be amended by mutual consent of the parties. Unless otherwise stated in this agreement, amendments can be made in any written form agreed upon by the parties <sup>(50)</sup>.

## **14. Consultation and coordination**

The parties will ensure they consult with each other whenever needed for the coordination of the activities of the team, including, but not limited to:

- the review of the progress achieved and the performance of the team
- the timing and method of intervention by the investigators
- the best manner in which to undertake eventual legal proceedings, consideration of appropriate trial venue, and confiscation.

## **15. Communication with the media**

If envisaged, timing and content of communication with the media shall be agreed upon by the parties and followed by the participants.

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<sup>50</sup> Examples of wordings can be found in Appendices 2 and 3.

## **16. Evaluation**

The parties may consider evaluating the performance of the JIT, the best practice used and lessons learned. A dedicated meeting may be arranged to carry out the evaluation.

*[In this context, parties may refer to the specific **JITs evaluation form** developed by the EU Network of JITs experts. EU funding may be sought to support the evaluation meeting.]*

## **17. Specific arrangements**

*[Please insert, if applicable. The following sub-chapters are intended to highlight possible areas that may be specifically described.]*

### **17.1. Rules of disclosure**

*[Parties may wish to clarify here applicable national rules on communication to the defence and/or annex a copy or a summary of them.]*

### **17.2. Management of assets / asset recovery arrangements**

### **17.3. Liability**

*[Parties may wish to regulate this aspect, particularly when the JIT is based neither on the EU Convention nor on the Framework Decision (which already include specific provisions in this respect – see Articles 15 and 16 of the Convention).]*

## **18. Organisational arrangements**

*[Please insert, if applicable. The following sub-chapters are intended to highlight possible areas that may be specifically described.]*

### **18.1. Facilities (office accommodation, vehicles, other technical equipment)**

### **18.2. Costs / expenditures / insurance**

### **18.3. Financial support to JITs**

*[Under this clause, Parties may agree on specific arrangements concerning roles and responsibilities within the team concerning the submission of applications for EU funding.]*

### **18.4. Language of communication**

Done at **[place of signature]**, **[date]**

**[Signatures of all parties]**

# APPENDIX I TO THE MODEL AGREEMENT ON THE ESTABLISHMENT OF A JOINT INVESTIGATION TEAM

## Participants in a JIT

### 1. Arrangement with Eurojust/Europol/the Commission (OLAF):

#### Eurojust's participation in the JIT

The following persons shall participate in the JIT:

Name	Position

The following persons shall participate in the JIT:

According to point **[insert relevant point]** of the JIT Agreement, **[insert name of Member State]** has decided that its National Member of Eurojust (Deputy/Assistant to the National Member of Eurojust\*) shall participate in the joint investigation team.

Eurojust shall support the JIT's activities by providing its expertise and facilities for the coordination of the investigations and prosecutions in line with the applicable legal framework.

**[Insert name of third country]** has decided that its Liaison Prosecutor posted at Eurojust shall participate in the joint investigation team as a formal representative of **[insert name of third country]** in accordance with a cooperation agreement signed between Eurojust and **[insert name of third country]**.

Should any of the abovementioned persons be unable to carry out their duties, a replacement shall be designated. Written notification of the replacement shall be provided to all parties concerned, and annexed to this agreement.

Date/signature\* (\*if applicable)

## Europol's participation in the JIT

**Parties to the JIT (ISO codes preferred):** .....

**Date JIT signed by parties:** .....

**References (optional):** .....

### **1. Europol participants in the JIT**

The following persons (identified by staff number) shall participate in the JIT:

Europol Staff number	Position	Team/ Unit

Should any of the abovementioned persons be unable to carry out their duties, a replacement shall be designated. Written notification of the replacement shall be provided to all parties concerned, and annexed to this agreement.

### **2. Conditions of participation for Europol staff**

2.1. Europol staff participating in the joint investigation team shall assist all the members of the team and provide the full range of Europol's support services to the joint investigation as provided for and in accordance with the Europol Regulation. They shall not apply any coercive measures. However, participating Europol staff may, if instructed and under the guidance of the leader(s) of the team, be present during operational activities of the joint investigation team, in order to render on-the-spot advice and assistance to the members of the team who execute coercive measures, provided that no legal constraints exist at national level where the team operates.

2.2. Article 11(a) of the Protocol on the Privileges and Immunities of the European Union shall not apply to Europol staff during their participation in the JIT. During the operations of the JIT, Europol staff shall, with respect to offences committed against or by them, be subject to the national law of the Member State of operation applicable to persons with comparable functions.

2.3. Europol staff may liaise directly with members of the JIT and provide all members of the JIT with all necessary information in accordance with the Europol Regulation

Date/signature

(<sup>1</sup>) Protocol on the Privileges and Immunities of the European Union (consolidated version) (OJ C 326, 26.10.2012, pg. 266).

**OLAF's participation in the JIT**  
**agreed between the competent judicial authorities**  
**of [Member States] on [date]**

OLAF <sup>(1)</sup> shall participate in an assistance, expertise and coordination capacity (if agreed) in the JIT. This participation shall take place under the conditions laid down in this arrangement and as provided for in the applicable EU instruments.

## Participants

The following persons from OLAF shall participate in the JIT:

Name	Function

OLAF shall notify the other parties of the JIT in writing of any addition to or removal from the above list of persons.

## Specific arrangements related to the participation of OLAF

### *1. Principles of participation*

- 1.1. OLAF staff participating in the JIT shall assist with gathering evidence and provide expertise to the members of the team in accordance with the OLAF legislation and in accordance with the national law of the Member State where the team operates.
- 1.2. The OLAF staff participating in the JIT shall work under the guidance of the leader(s) of the team as identified in point **[insert relevant point]** of the agreement, 'JIT leaders', and shall provide any assistance and expertise necessary to achieve the objectives and purpose of the JIT, as identified by the leader(s) of the team.
- 1.3. OLAF staff have the right not to perform tasks which they consider to be in breach of their obligations under the OLAF legislation. In such cases, the OLAF staff member shall inform the Director-General of OLAF or a representative thereof. OLAF shall consult with the leader(s) of the team with a view to finding a mutually satisfactory solution.
- 1.4. OLAF staff participating in the JIT shall not take any coercive measures. However, participating OLAF staff may, under the guidance of the leader(s) of the team, be present during operational activities of the JIT, in order to render on-the-spot advice and assistance to the members of the team who execute coercive measures, provided that no legal constraints exist at national level where the team operates.

## ***2. Type of assistance***

- 2.1. Participating OLAF staff shall provide the full range of OLAF's assistance services, in accordance with the OLAF legislation, as far as required or requested. This includes providing operational and technical assistance and expertise to the criminal investigations, and providing and verifying information, including forensic data and analytical reports.
- 2.2. OLAF staff participating in the JIT may assist in all activities, in particular by providing administrative, documentary and logistical support, strategic, technical and forensic support, and tactical and operational expertise and advice to the members of the JIT, as required by the leader(s) of the team.

## ***3. Access to OLAF's information processing systems***

- 3.1. OLAF staff may liaise directly with members of the JIT and provide members and seconded members of the JIT, in accordance with the OLAF legislation, with information from relevant files in the OLAF Case Management System. The conditions and restrictions on the use of this information must be respected.
- 3.2. Information obtained by OLAF staff members while part of the JIT may, with the consent and under the responsibility of the Member State which provided the information, be included in the relevant files of the OLAF Case Management System.

## ***4. Costs and equipment***

- 4.1. The Member State in which investigative measures are being undertaken shall be responsible for providing the technical equipment (office equipment, accommodation, telecommunications, etc.) necessary for the accomplishment of the tasks and shall pay the costs incurred. That Member State shall also provide office communication equipment and other technical equipment necessary for the (encrypted) exchange of data. The costs shall be paid by that Member State.
- 4.2. OLAF shall cover the costs incurred as a result of the participation of OLAF staff in the JIT.

Date/signature

(<sup>1</sup>) As set up by Commission Decision 1999/352/EC, ECSC, Euratom of 28 April 1999 establishing the European Anti-Fraud Office (OLAF), last amended by Commission Decision (EU) 2015/512 of 25 March 2015, and as mandated by Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (referred to herein as 'the OLAF legislation').

**Arrangement with bodies competent by virtue of  
provisions adopted within the framework of  
the Treaties, and other international bodies:**

**1. The following persons shall participate in the JIT:**

Name	Position/Rank	Organisation

Should any of the abovementioned persons be unable to carry out their duties, a replacement shall be designated. Written notification of such replacement shall be provided to all parties concerned, and annexed to this agreement.

**2. Specific arrangements:**

**2.1. First participant in the agreement**

2.1.1. Purpose of participation

2.1.2. Rights conferred (if any)

2.1.3. Provisions concerning costs

2.1.4. Purpose and scope of participation



# APPENDIX II TO THE MODEL AGREEMENT ON THE ESTABLISHMENT OF A JOINT INVESTIGATION TEAM

## Agreement to extend a joint investigation team

The parties have agreed to extend the joint investigation team (hereinafter 'JIT') set up by agreement of **[insert date]**, done at **[insert place of signature]**, a copy of which is attached hereto.

The parties consider that the JIT should be extended beyond the period for which it was set up **[insert date on which period ends]**, since its purpose as established in **Article [insert article on purpose of JIT here]** has not yet been achieved.

The circumstances requiring the JIT to be extended have been carefully examined by all parties. The extension of the JIT is considered essential to the achievement of the purpose for which the JIT was set up.

The JIT will therefore remain in operation for an additional period of **[please indicate specific duration]** from the entry into force of this agreement. The above period may be extended further by the parties by mutual consent.

Date/signature

## APPENDIX III TO THE MODEL AGREEMENT ON THE ESTABLISHMENT OF A JOINT INVESTIGATION TEAM

The parties have agreed to amend the written agreement setting up a joint investigation team (hereinafter 'JIT') of **[insert date]**, done at **[insert place]**, a copy of which is attached hereto.

The signatories have agreed that the following articles shall be amended as follows:

1. (Amendment ...)
2. (Amendment ...)

The circumstances requiring the JIT agreement to be amended have been carefully examined by all parties. The amendment(s) to the JIT agreement is/are deemed essential to achieve the purpose for which the JIT was set up.

Date/signature

# Operational checklist

# 05





# CHAPTER 5 \_\_\_

## CHECKLIST FOR THE PLANNING AND COORDINATION OF OPERATIONAL ACTIVITIES

### 5.1. General issues

To enable a JIT to operate efficiently, JIT partners may wish to agree – if not already included in the JIT agreement itself – on practical arrangements concerning, *inter alia*, the following issues:

- investigative objectives (both short and medium term);
- the exchange of information and evidence – channels of communication and frequency, use of secure communication tools such as SIENA, which is available through Europol for the communication of personal or sensitive information (the setting up of custom handling codes is advisable), and use of secure email, available using Eurojust’s equipment; and the Europol Large File Exchange System (LFE) can facilitate the dissemination of large quantities of electronic data;
- the coordination of investigative measures – frequency and modalities (face-to-face or by video link) of operational briefings;
- the designation of contact points for communication within the JIT to ensure direct and proactive communication between the JIT members from the beginning;
- clarification of the circumstances under which the JIT will cease operating, in accordance with the national legal provisions (for instance, JITs may continue to work in some countries, but not in others, up to the trial phase of a case);
- the role of seconded members – timing and duration of secondment and possible assignments in the states in which the JIT operates;
- administration and logistics – working language, equipment (office accommodation, vehicles, information technology equipment, other), resources and personnel;
- disclosure and admissibility requirements – clarification of respective domestic rules and identification of specific requirements that may be relevant in view of JIT operations;

- financial support – designation of a contact point, including specifying roles and responsibilities for the submission of funding applications and reimbursement requests;
- prosecution strategies – arrangements on jurisdiction, including the possible transfer of proceedings;
- protection of victims – clarification of special investigative measures or prosecution strategies that would need to be put in place to protect the victims of crime (e.g. measures to avoid secondary victimisation, physical protection measures, support services and compensation measures), with special emphasis on the most vulnerable victims;
- evaluation – designation of a contact point to ensure that an evaluation of the expired JIT takes place.

## **5.2. Crime-specific issues**

JIT partners may also wish to consider additional arrangements for the following offences.

### **Trafficking in human beings**

Additional arrangements could include special arrangements for the support and protection of victims, including safeguarding or other actions to protect victims, in particular during and after action days; and clarification of domestic rules regarding the interviewing of victims, including whether there will be a need for proper hearings and written statements, as well as for the presence of seconded members during victims' hearings.

### **Illegal migrant smuggling**

Additional arrangements could involve the coordination of cooperation with non-EU countries; clarification of domestic rules related to obtaining statements from migrants; and special arrangements for the support and protection of witnesses.

### **Drug trafficking**

Additional arrangements could relate to the handling of samples and their further forensic examination, including coverage of expenses; the controlled delivery, seizure and subsequent transport of narcotics and, in the case of synthetic drugs, the legal basis for prosecutions involving (pre-)precursors in participating states; integrated financial investigations and strategies on the freezing of assets; and the need for special information technology expertise on online activities (e.g. sales on the darknet, sales via marketplaces and the use of cryptocurrency).

### **Euro counterfeiting**

Additional arrangements could include cooperation with the European Central Bank and/or national banks and with Europol's Forgery of Money Group.

### **Money laundering and asset recovery**

Additional arrangements could involve coordination of cooperation with non-EU countries; specific arrangements to tackle the financial dimension of investigations; arrangements concerning the tracing, freezing, confiscation and management of assets and sharing of these assets among JIT partners (and, if applicable, with states not involved in the JIT), including urgent measures to prevent the dissipation of assets; and use of existing networks (such as the Camden Asset Recovery Inter-agency Network (CARIN) and other regional asset recovery networks).

### **Counterfeiting**

Additional arrangements could include setting the terms of involvement of private parties; the initiation and coordination of financial investigations; the coordination of cooperation with non-EU countries; and the storage of seized items, the handling of samples and further forensic examination, including the sharing of storage expenses.

### **Online piracy**

Additional arrangements could include setting the terms of involvement of private parties; the initiation and coordination of financial investigations; and the involvement of non-EU countries.

### **Property crime**

Additional arrangements could relate to the storage of seized items, including the sharing of storage expenses.

### **Cybercrime**

Additional arrangements could include setting the terms of involvement of private parties; the involvement of non-EU countries in the transfer of large quantities of electronic data; and requests to the SIRIUS project to provide the necessary templates and contact details of the online service providers that are in charge of the data needed for the domestic investigations.

### **Core international crimes**

Additional arrangements could include setting the terms of involvement of UN bodies and other international organisations.

### **Environmental crimes**

Additional arrangements could include following an effective multidisciplinary approach to maximise the use of the available expertise in asset tracing, seizure and confiscation. These could be included in the JIT agreement as objectives of the JIT.

If clarification of specific aspects of different types of offences is required, Europol experts and analysts and Eurojust National Desks can be contacted and solutions found during operational/coordination meetings. See *Chapter 3* of this Practical Guide.



# Financial support to JITs

## 06





## CHAPTER 6 \_\_\_

# FINANCIAL SUPPORT TO JITS

Eurojust provides financial support to the cross-border activities of JITs under the Eurojust JIT Funding Programme, managed by the JITs Network Secretariat. This programme aims to facilitate investigative measures while reducing the impact on national budgets of costs incurred due to the transnational dimensions of JIT investigations. Eurojust does not finance JITs in their entirety, but rather provides targeted reimbursement of costs related to several common areas of expenditure.

Furthermore, to address the increased need for secure methods of communication between JIT members, Eurojust loans equipment, and provides low-value financial grants to enable JITs to purchase their own items of equipment, for use in JIT operational activities.

Financial grants to help support the above-mentioned activities within the scope of a JIT can be of great benefit to all parties involved; therefore, JIT members may wish to seriously consider making use of the funding mechanisms. The financial needs of a JIT should be discussed from the moment of signing the JIT agreement, and it is recommended that JITs appoint one JIT member as a contact point for funding matters.

### Who can apply?

Only an existing JIT can make requests for funding under the Eurojust JIT Funding Programme. The JIT must include at least one EU Member State to be considered eligible. In addition, financial assistance is provided only for cases supported at Eurojust.

An application for JIT funding must be submitted by a designated JIT leader(s) or JIT member(s) of an EU Member State. A JIT leader may also delegate submission of an application to another person with relevant professional competence.

Although non-EU countries that are party to a JIT cannot submit funding applications, they can benefit from JIT funding. Therefore, costs anticipated by non-EU countries should be included in a funding application submitted by an EU Member State party to the JIT.

## Eligible costs

Costs related to the cross-border operational activities of a JIT are eligible for funding. Costs for which reimbursement is sought must generally be incurred during the lifetime of the JIT; however, exceptionally, reimbursement can be sought for costs incurred after the closure of the JIT (i.e. for evaluation meetings or translation of evidence gathered during the lifetime of the JIT). The costs that can be financially supported by Eurojust through its JIT funding programme can be summarised as follows.

### Travel and accommodation

- For JIT members, temporarily assigned officers such as interpreters or experts, and also for witnesses and victims;
- To any destination relevant for the JIT;
- For operational meetings, Joint Action Days, participation in JIT operational measures;
- Reimbursement of costs according to fixed rates.

### Translation and interpretation

- Translation of case-related documents such as evidence, reports;
- Translation of wiretapping, telephone conversations;
- Interpretation at operational meetings and during Joint Action Days;
- Reimbursement of actual costs excluding VAT based on an invoice.

### Transportation costs

- Cross-border transportation costs of seized items, evidence, assets, procedural documents;
- Reimbursement of actual costs excluding VAT based on an invoice.

### Specialist expertise

- Such as expertise in DNA, forensics, ballistics, economics/ fraud, psychology;
- Provided by an external contractor;
- Reimbursement of actual costs excluding VAT based on an invoice.

In addition, Eurojust provides equipment loans and grants.

### Equipment loan

- Available equipment includes mobile phones, laptops, mobile printers and scanners;
- Provided for the duration of the JIT including possible extensions;
- Shipping- and communication costs are paid for by Eurojust.

## Equipment grant

- For the purchase of low-value equipment;
- Reimbursement of actual costs excluding VAT and within the applicable minimum and maximum threshold per unit based on an invoice.

## Funding cycle

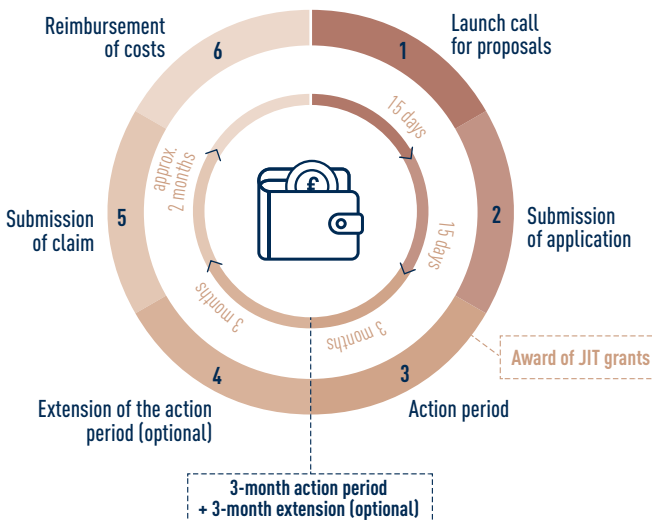
The regular JIT funding scheme cycle comprises six steps, starting with the call for proposals and ending with the reimbursement of costs. This cycle is displayed below and explained further in the following sections.

## Call for proposals

The call for proposals describes the aim of financial support for JITs over a certain period and the associated conditions. Applicants may submit a funding application during an open call. Eurojust publishes eight calls per year. Each call has a corresponding 3-month action period during which the actions for which funding is sought and granted need to take place.

JIT leaders or members submitting a funding application should take into account the planning of the calls and their corresponding action periods. This is to ensure that the timing of JIT activities for which funding is sought corresponds to the particular action period.

The planning of the calls for proposals and related deadlines is published at the beginning of the year on the [Eurojust website](#).



## Submission of applications

A JIT can submit one funding application per call. A funding application is submitted on behalf of the entire JIT; therefore, it should include the anticipated costs for all JIT parties. The application must reach Eurojust by the deadline provided for submission. A maximum of EUR 50,000 can be requested per application.

When submitting a funding application, it is important to:

- provide a valid JIT agreement including possible extensions
- provide a completed Financial Identification Form (if the international bank account number (IBAN) mentioned in the application is not registered in the Eurojust financial system)
- outline the complexity of the case and the operational needs of the JIT
- ensure no operational, personal or sensitive data are included

Applications for JIT funding should be submitted during an open call, via the **JITs Portal**. The JITs Portal is accessible only to JIT practitioners from EU Member States.

For more detailed information on the application process, see the **[funding section of the Eurojust website](#)**.

## Evaluation and award

Once the deadline for the submission of funding applications has expired, the JITs Network Secretariat and an Evaluation Committee assess all applications received against the relevant criteria. Funding applications are awarded, not awarded (not qualifying) or rejected (not eligible), and decisions are communicated to the applicants.

If the loan of equipment is granted, the requested items will be supplied to the indicated user(s) on completion and return of an equipment request form to the JITs Network Secretariat.

## Action period and extensions

Once funding has been awarded, the action period begins as indicated in the Award Decision. In principle, an action period lasts for 3 months (unless an extension to the action period is requested and granted) and all actions for which funding was awarded need to take place within that 3-month action period.

JITs may request an extension to the action period. This can be useful in situations where, for unexpected operational reasons, the actions for which funding was awarded are delayed or prolonged. An extension to the action period can be requested only for the same activities mentioned

in the original successful funding application and only within the limits of the amount already granted.

Extensions to funding awards are granted only once and for an additional period of 3 months. An extension should be sought by way of a written request to the JITs Network Secretariat.

### Reimbursement

Beneficiaries of JIT funding should submit a claim for reimbursement within 1 month of the end of the designated action period. Each state or national authority can submit a separate claim; no payments will be released until all claims from all claiming authorities have been received. There can be no reimbursement of private individuals. Claims should be submitted using a **Reimbursement Claim Form**.

When completing a Reimbursement Claim Form, it is important to:

- complete all the relevant parts (annexes) of the form;
- provide a Report on Funded Actions (part of the form);
- attach supporting documents confirming the costs claimed.

The completed Reimbursement Claim Form and supporting documents should be submitted to the JITs Network Secretariat.

### Funding without a call for proposals (urgent funding)

In addition to the regular JIT funding scheme comprised of eight calls for proposals as described above, Eurojust also provides targeted financial assistance to JITs for urgent and/or unforeseen actions of an operational nature that fall outside the scope of the regular scheme.

Urgent funding can be requested at any time during the year, for an action period of 14 calendar days and for up to a maximum amount of EUR 8 000 per funding application. Such applications should be submitted at least 5 working days before the actions for which funding is requested are planned to take place.

Urgent funding applications should be submitted to the JITs Network Secretariat using the relevant **application form**.

For the most up-to-date information on financial support for JITs, see the JIT funding section on the Eurojust website and current documentation (such as the **Terms and Conditions of financial support to JITs** and **Invitation for funding without a call for proposals**).

↳ For any questions related to financial support for JITs, please email the JITs Network Secretariat at **JITs@eurojust.europa.eu**

# Funding Joint Investigation Teams



## Who can apply

- JIT leader(s)/ JIT member(s) or delegated person with relevant professional competency from EU Member State
- On behalf of the JIT
- Providing a signed JIT Agreement

# THE JIT FUNDING PROCESS



## Complete the application

- Standard funding: complete and submit via JIAs Portal
- Urgent funding: submit Application Form and Budget Estimate via email



## When to submit

- Standard funding: within one of the eight Calls for proposals published approximately every 45 days
- Urgent funding: a request can be submitted when the operational need arises

## Evaluation and Award

- Evaluated by Evaluation Committee
- Standard funding: decision within 15 days
- Urgent funding: decision within 5 days



## Action

Standard funding: planned actions to be performed in three-month period

Possibility to request an extension of the action period

Urgent funding: planned actions to be performed within 14 calendar days

No possibility for extension

## Claim

- Send form and supporting documents to [jits@eurojust.europa.eu](mailto:jits@eurojust.europa.eu)
- Within one month after end of action period
- Individual claims by each institution/agency (no natural persons)





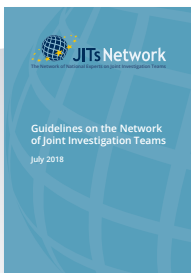
# Essential tools

# 07









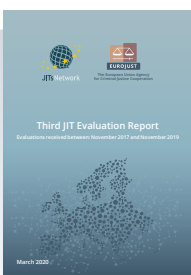
The **Guidelines on the Network of National Experts on JITs** contain non-guiding principles to facilitate the functioning of the JITs Network, in particular guidance on the composition of the network, its activities and cooperation with partners and non-EU countries. Furthermore, the Guidelines elaborate on the main role and tasks of the JIT National Experts, including their involvement in JITs Network projects.



The **JIT Evaluation Form** facilitates the gathering and sharing of information on JITs. When a JIT is due to expire, practitioners are encouraged to perform an evaluation, ideally during a dedicated meeting or by jointly filling in the JIT Evaluation Form.

While all JITs are encouraged to perform an evaluation, the evaluation is required for JITs having received financial support from Eurojust.

Detailed information and guidance on the evaluation of JITs can be found in the **Practical steps for JIT Evaluation**.



Based on the findings from the JIT evaluations performed to date, the JITs Network Secretariat has published several **JIT Evaluation Reports**, which are available on the Eurojust website.

↘ For more information on JIT evaluations, see **Chapter 1** of this Practical Guide.



The JITs Restricted Area contains a range of JIT-related resources and tools. It is accessible only on request by emailing the JITs Network Secretariat ([jitsnetworksecretariat@eurojust.europa.eu](mailto:jitsnetworksecretariat@eurojust.europa.eu)). Access can be granted only to appointed National Experts on JITs, institutional contact points, contact points appointed by Observer states, Eurojust National Desks, Europol Liaison Bureaux of Member States, Eurojust and Europol staff, EJN contact points, and judicial and law enforcement practitioners in the EU Member States. The Restricted Area provides access to all the tools developed by the JITs Network, as well as additional information, such as:

- a list of **JIT Contact Points** from EU Member States, Observer states, EU organisations and associate partners,
- summaries of national legislation on JITs for each Member State, or the *Fiches Espagnoles*,
- **Guidelines on JITs with third countries.**



A comprehensive overview of JITs as a key instrument of judicial cooperation, including information on the ways in which Eurojust supports JITs, can be found in the [\*JITs factsheet\*](#).



The official [\*Eurojust website\*](#) provides further information on JITs, the JITs Network, and JIT Funding.



As part of its efforts to facilitate the use of JITs, Eurojust provides financial support for the cross-border activities of JITs.

**The JITs Funding section** of the Eurojust website provides direct access to the open calls for proposals and to all funding-related information and the most up-to-date terms and conditions applicable to Eurojust's JIT funding programme.

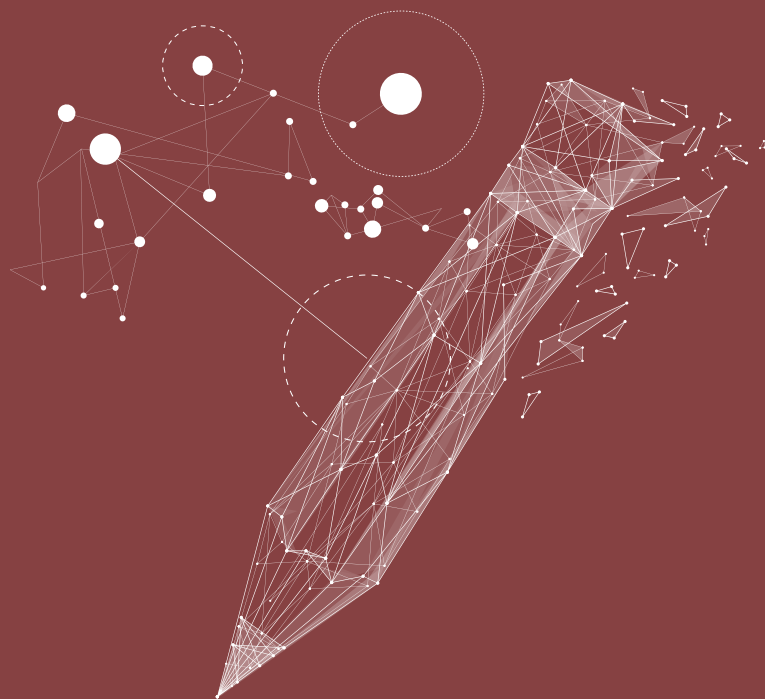
↘ For more information on JIT funding, see **Chapter 6** of this Practical Guide.



The official **Eurojust YouTube channel** provides a range of interesting videos on JITs and the JITs Network, as well as useful video tutorials on JIT funding.

# Practical steps

## 08







# CHAPTER 8

## RECOMMENDED PRACTICAL STEPS FOR SETTING UP A JIT AND CASE STUDIES

### 8.1. Checklist: recommended practical steps for setting up a JIT

<i>Is my case suitable for a JIT?</i>	
<b>Step 1: Contact the JIT National Expert</b>	
<b>Contact the JIT National Expert</b>	<ul style="list-style-type: none"> <li>■ Find your JIT National Expert (representing judiciary, law enforcement or customs authorities) via the available domestic channels or by emailing the JITs Network Secretariat (<a href="mailto:jitsnetworksecretariat@eurojust.europa.eu">jitsnetworksecretariat@eurojust.europa.eu</a>).</li> <li>■ Call or email the JIT National Expert to present the case, discuss the options (i.e. the legal basis, involvement of non-EU countries, suitability of the case) and ask for advice on how to move forward.</li> <li>■ On receiving advice from the JIT National Expert, consider contacting (directly or through the JIT National Expert) the Eurojust National Desk.</li> <li>■ On receiving advice from the JIT National Expert, consider contacting the Europol Liaison Bureau, if not already done so, to identify further links and to determine the international dimension of the case.</li> </ul>
<b>Step 2: Contact the Eurojust National Desk</b>	
<b>Contact your Eurojust National Desk</b>	<ul style="list-style-type: none"> <li>■ If applicable, skip step 1 and contact the Eurojust National Desk directly, by calling them or sending an e-mail.</li> <li>■ Eurojust's and Europol's participation in a JIT is always optional. National authorities decide whether they wish to benefit from the support they can offer. If a decision is made not to involve Eurojust/Europol, please disregard the following steps when they refer to Eurojust/Europol support.</li> </ul>
<b>Present your case to the Eurojust National Desk</b>	<ul style="list-style-type: none"> <li>■ Present a summary of the case orally or submit a short report or a relevant EIO/MLA agreement, if already issued.</li> <li>■ The summary should include:               <ul style="list-style-type: none"> <li>— facts of the case, including links to the other country(ies);</li> <li>— the judicial activities that it is envisaged will be performed in the other country(ies);</li> <li>— case-specific data (file number, name of contact person, etc.) if contacts have been established at law enforcement and/or judicial level.</li> </ul> </li> <li>■ Based on the information provided, your National Desk will assess your case, liaise with the National Desk/Liaison Prosecutor of the country(ies) involved, and provide advice on how to proceed.</li> </ul>

### Step 3: Contacts between the relevant Eurojust National Desks

<b>Opening Eurojust's case</b>	<ul style="list-style-type: none"><li>■ A Eurojust case will be opened and the relevant National Desk(s)/Liaison Prosecutor(s) will be contacted and presented with the summary of the case and the request for assistance.</li><li>■ Competent national authorities in the country(ies) involved will be identified and consulted about ongoing investigation(s), an established interest in the case or how they can support in the best way.</li><li>■ Based on the established need for cooperation and coordination, a coordination meeting will be arranged.</li></ul>
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### *What will happen during the Eurojust coordination meeting?*

### Step 4: Coordination meeting

<b>Aim</b>	<ul style="list-style-type: none"><li>■ To bring prosecutors, investigative judges and investigators together to present the case(s) and discuss cooperation needs and explore cooperation opportunities.</li></ul>
<b>Time frame</b>	<ul style="list-style-type: none"><li>■ Coordination meetings can be organised within a time frame of a couple of days to a month, depending on the urgency of the case and whether meetings will take face-to-face or by videoconference, etc.</li></ul>
<b>Logistics and costs</b>	<ul style="list-style-type: none"><li>■ Coordination meetings can be organised at Eurojust in The Hague, in one of the countries involved or by videoconference.</li><li>■ For meetings organised in The Hague, Eurojust reimburses travel costs for up to two participants per country and for one night of accommodation.</li><li>■ If requested, Eurojust can provide simultaneous interpretation during meetings.</li></ul>
<b>Participants</b>	<ul style="list-style-type: none"><li>■ National authorities of the countries involved.</li><li>■ The representative of the Eurojust National Desk, who chairs the meeting and provides advice.</li><li>■ (On invitation) Europol Liaison Bureau representatives, Eurojust representatives from the Operations Department and Europol's Analysts from the Analysis Projects.</li></ul>
<b>Agenda</b>	<ul style="list-style-type: none"><li>■ Presentation of the case by the national authorities, including clear information on the modus operandi, suspects involved, investigative plans anticipated, need for cooperation, etc.<ul style="list-style-type: none"><li>— Suggest a JIT as the preferred method for future cooperation, if applicable.</li><li>— (On request) presentation by the JITs Network Secretariat / Eurojust representatives from the Operations Department on the benefits of a JIT and on JIT funding;</li></ul></li><li>■ Discussion.</li><li>■ Conclusions on future cooperation, including the opening of a domestic investigation in one or more of the countries involved.</li></ul>

	<i>One (or more) further meetings may be needed to agree on the setting up of a JIT.</i>
<b>Conclusions on future cooperation</b>	<ul style="list-style-type: none"> <li>■ Agreement to set up a JIT.</li> <li>■ Agreement on future cooperation with the countries involved that will not become parties to a JIT (EIOs, MLA). Practice shows that it is effective to start JIT cooperation at an early stage and limit it to the most relevant cooperation partners, at least at the beginning.</li> <li>■ Designation of the contact person responsible for JIT funding.</li> </ul>

### *What are the next steps?*

<b>Step 5: The JIT agreement</b>	
<b>Drafting of the JIT agreement</b>	<ul style="list-style-type: none"> <li>■ A model agreement has been developed to facilitate the setting up of a JIT. The National Desks or the JIT National Experts can assist in drafting a JIT agreement and coordinate discussions between the national authorities involved.</li> </ul>
<b>Obtaining signatures</b>	<ul style="list-style-type: none"> <li>■ The JIT agreement will become valid once signed by all the parties. National legislation determines the competent authorities and the procedure for signing a JIT.</li> <li>■ The National Desks involved assist in the process of obtaining signatures.</li> </ul>
<b>Formalising cooperation with participants (signing the appendix)</b>	<ul style="list-style-type: none"> <li>■ The National Desks will coordinate with participants to finalise the signing of appendixes on participation in the JIT by Eurojust, Europol, OLAF and others.</li> </ul>
<b>Step 6: Amending the JIT agreement</b>	
<b>Amending the JIT agreement</b>	<ul style="list-style-type: none"> <li>■ Extension: the JIT can be prolonged beyond its initial duration if necessary by mutual consent of the parties.</li> <li>■ Other amendments: the initial agreement can be amended by mutual consent of the parties in the event that a change in content is needed (e.g. changes in the crimes investigated or the involvement of a new party).</li> </ul>

# CHECKLIST

## Recommended practical steps to set up a JIT



### STEP 1 – Contact the JITs National Expert (optional)

- ✓ Find the JITs National expert via domestic channels or by emailing the JITs Network Secretariat: [jitsnetworksecretariat@eurojust.europa.eu](mailto:jitsnetworksecretariat@eurojust.europa.eu)
- ✓ Present the case, discuss options and ask for advice



More efficient, affordable and speedy justice

### STEP 2 – Contact the Eurojust National Desk (optional)



- ✓ Present your case
- ✓ The National Desk will assess your case, liaise with the Desk(s) of any other country(ies) involved and advise on how to proceed



### STEP 3 – Opening of a Eurojust case

- ✓ Relevant National Desk(s)/Liaison Prosecutor(s) will be contacted and asked for assistance
- ✓ Competent national authorities in the requested country(ies) will be identified and consulted

### STEP 4 – Arrange a coordination meeting



- ✓ Based on the established need for cooperation and coordination
- ✓ *Purpose:* to bring prosecutors, investigative judges and investigators together to explore possibilities for collaboration
- ✓ *Conclusions:*
  - Agreement on setting up a JIT
  - Agreement on future cooperation with countries not party to the JIT (*European Investigation Orders, Mutual Legal Assistance requests*)
  - Designation of a contact person for JIT funding



### STEP 5 – Finalise the JIT agreement

- ✓ Draft the JIT agreement – Eurojust National Desks and JITs National Experts can assist
- ✓ Obtain signatures – The JIT agreement is valid once signed by all parties
- ✓ Finalise the appendices on participation of Eurojust/ Europol/OLAF or others in the JIT

### STEP 6 – Amending the JIT agreement



- ✓ If needed, amend the agreement by mutual consent, e.g. to extend the JIT beyond the initial duration agreed, or if a change in content is required

## 8.2. JITs in action

The following case studies were drafted by two JITs National Experts and are based on their personal operational experiences of working with JITs. The aim of these case studies is to give an insight into what real JIT cases may look like. Even though they are largely based on 'real JIT stories', these examples are fictitious.

Case study 1 is an example of a simple bilateral JIT. This case study closely follows the recommended practical steps for setting up a JIT, as detailed in the checklist (see Section 8.1).

Case study 2 is an example of a complex multilateral JIT. This case study aims to illustrate the entire life cycle of a complex JIT case.

### 8.2.1. Case study 1: a simple bilateral JIT

*Prosecutor Patrick from Romania was leading an investigation into a trafficking in human beings (THB) case, following a complaint received from a relative of one of the victims. The information gathered showed that the victims and perpetrators were citizens of Romania, while most of the criminal activity, involving human exploitation for labour purposes, was being carried out in Sweden. The proceeds of crime were returned to Romania to some of the perpetrators with the main purpose of converting them into cryptocurrency.*

*Patrick noted that, in order for his investigation to progress, there was a need to carry out significant judicial activities in Sweden: locate documents related to the forced labour being carried out and the victims and perform interviews, house searches and arrests. Patrick wanted to explore the possibility of setting up a JIT, and this is the story of how he did it.*

In April, Patrick contacted his JIT National Expert Ms. Raluca Balan (**step 1**) and, following her advice, he also contacted the Romanian National Desk at Eurojust (**step 2**).

In early May, Patrick submitted all the relevant information to Eurojust and requested support in organising a coordination meeting with the competent authorities from Sweden. The Romanian National Desk opened a case with the Swedish National Desk and provided them with the case-related material. The Swedish National Desk then informed the competent judicial authorities in Sweden about the request received (**step 3**).

After positive feedback from Sweden, it was agreed that a coordination meeting would be arranged in The Hague and, subsequently, Patrick received an invitation to attend the meeting. Patrick was informed that the meeting was going to be held in English but that he could ask for the proceedings to be interpreted and could speak in his own language.

In June, Patrick travelled to The Hague together with Bojan, one of the police officers working on the case. They both participated in the coordination meeting organised at Eurojust, presenting an outline of the scope of the investigation, and their needs in the area of judicial cooperation (i.e. intercepts, surveillance). Bojan also presented the *modus operandi* of the criminal group, demonstrating how the criminals travel to Sweden and the activities they carry out there. Swedish investigators provided an update on the initial results of checks performed in relation to the persons of interest.

Patrick and Bojan were glad they had asked for the proceedings to be interpreted. They found it quite easy to follow the presentations provided in English but felt that it would have been impossible for them to provide their own presentations and participate in the discussions without simultaneous interpretation. Benefiting from the active support of the Eurojust National Members involved, the delegations reached an agreement on the future steps to be taken, including that Sweden would open its own criminal investigation (**step 4**).

At the beginning of July, during a second coordination meeting, this time organised by Eurojust by videoconference, the participants agreed to sign a JIT agreement for a duration of 1 year. The drafting of the agreement was carried out with the support and expertise of Eurojust. Two weeks later, the JIT agreement was signed (**step 5**).

During the lifetime of the JIT, financial support from Eurojust was obtained for travel, accommodation, interpretation and translation of documents. The judicial and investigative bodies of the countries involved met, worked side by side, gathered the necessary evidentiary material, and organised a joint action day consisting of house searches, hearings and arrests of suspects. During this joint action day, Bojan and one of his police colleagues went to Sweden as seconded JIT members to support their Swedish police colleagues in their work conducting the first interviews of victims.

At a JIT meeting arranged in Romania some time after the joint action day, the prosecutors agreed that Romania was in the best position to prosecute the entire criminal activity. To enable this, the two suspects who had been arrested in Sweden were surrendered to Romania, based on European Arrest Warrants (EAWs). All the relevant evidence and information from the Swedish national case file was provided and attached to the Romanian national case file, based on the JIT agreement.

Finally, Patrick drafted the indictment and, at the trial, the defendants were convicted and the proceeds of crime were confiscated, thus putting an end to the criminal activity. The Swedish JIT members provided support to the trial by engaging in dialogue with both the witnesses and the Swedish courts, to ensure that the process of interviewing witnesses in Sweden by video link went smoothly.

After a year, when the JIT agreement was due to expire, it was clear that there was no need to extend it. The investigations were finished, as were the judicial proceedings at the district court. Following the advice of Ms Balan, with whom Patrick stayed in touch for regular advice, Patrick proposed a dedicated meeting to evaluate the JIT.

With the support of the Romanian National Desk at Eurojust, an evaluation meeting was organised in The Hague. This was a great opportunity to look back at the best practices and lessons learned during the lifetime of the JIT, as well as to consolidate the professional ties between the members of the JIT, who agreed that they would be happy to work together on future cases.

Based on the successful cooperation in this case, Patrick and Bojan are now determined to further promote the use of JITs among their colleagues.

## **8.2.2. Case study 2: a complex multilateral JIT**

### **>>> Massive fraud in Finland**

During early February (year 1), Police Inspector Mattis of the Finnish national police contacted Prosecutor Salla to inform her that, over recent months, a huge wave of fraud crimes had been detected throughout the country. Around 100 police reports had been received, all providing similar details and reporting losses totaling around EUR 3 million.

On its website, Super Scam Ltd promoted investment opportunities for companies all over the world. Unsuspecting individuals were asked to purchase shares by depositing money in dedicated accounts, whereupon they received nothing in return, and their payments were transferred to accounts in Finland, Sweden, France and the United Kingdom. Mattis established that the money was rapidly transferred from the Finnish accounts to offshore accounts in Hong Kong, Taiwan and Ukraine. Super Scam Ltd was registered in Florida in the United States, but the website used was hosted in the Netherlands.

To establish whether similar criminal activities were taking place in other countries, Mattis contacted the Finnish Europol Liaison Bureau and provided information about the company and the bank accounts used. Europol (within the relevant Analysis Project) cross-checked the data provided against information in its databases and received a hit on a bank account in Ukraine that matched a bank account undergoing investigation in France.

Mattis then made contact with the relevant French police force, which informed him that they were investigating a huge investment fraud related to the website Secure Investments, which primarily offered investments in cryptocurrencies. French victims had deposited approximately EUR 5 million in this same Finnish bank account. French police also informed him that several pieces of information had been discovered that all indicated that the website was probably located in Ukraine. However, the French investigation had not yet uncovered the criminals involved, even though several factors indicated that the scam was being run from Ukraine.

The websites of both Secure Investments and Super Scam Ltd used similar advertising messages and marketing tactics, such as photos of well-known Finns recommending these investments as 'trustworthy'. The Finnish investigation widened the search to police reports related to Secure Investments, and found that 15 statements of criminality had been taken. The victims in these cases reported that, after their initial investment, money was subsequently transferred from their accounts without their prior knowledge or permission. These losses totalled some EUR 1 million.

Mattis concluded that, as the two websites were still operational, criminal activity was probably still ongoing, and this amounted to a multinational case of fraud of extreme complexity. These findings were communicated to his superiors within the Finnish national police, to ensure that they also had an understanding of the need for more extensive international cooperation in this case and his idea to establish a JIT.



Salla, an experienced prosecutor, was appointed to the case and, after being briefed by Mattis, the overwhelming extent and complexity of the criminal activities became apparent. Neither the trail of the proceeds of crime nor the locality of the organised criminal group could be identified. How could the criminal activities be stopped without destroying the evidence and the possibility of arrests? How could international cooperation be initiated swiftly? Where should they even begin?

### **>> Building up international cooperation**

Salla highlighted the complexity of the case in the Prosecutor's Office and, to support her in dealing with the investigation, two additional prosecutors were assigned to the case. Based on data provided by Mattis, Salla drafted and transmitted European Investigation Orders (EIOs) to France, the Netherlands and Sweden, alongside Requests for Mutual Legal Assistance (MLAs) to the United Kingdom, Ukraine, the United States, Hong Kong and Taiwan.

Prior to this, Salla consulted with the Finnish JIT National Expert (**step 1**), who advised that, in the first instance, the Finnish National Desk at Eurojust should be approached with a request to begin contact with French and Ukrainian colleagues about the possibility of organising a coordination meeting to discuss the possibility of setting up a JIT. The JIT National Expert also advised Mattis to continue working with the Finnish Europol Liaison Bureau and to provide them with as much information as possible to enable them to conduct analyses using their databases. Communications had already begun via SIENA, and in addition to this Mattis requested an operational meeting at Europol, to take place during April.

At the meeting, police officers from Finland, France, Sweden, Ukraine, the United Kingdom and the Netherlands were invited, alongside representatives of the Federal Bureau of Investigation of the United States. The aim of the meeting was to identify the modus operandi of the organised crime group, identify the individuals involved and locate the proceeds of the crimes.

In parallel, Salla approached the Finnish national desk at Eurojust about a coordination meeting with France, to explore the links identified between her investigation and the French investigation (**step 2**). Salla was informed that non-EU Member states may also be members of a JIT, and furthermore that Ukraine had a liaison prosecutor posted at Eurojust. Ukraine was therefore also invited to the coordination meeting. Salla was also advised to send her EIOs and MLA requests

via Eurojust to ensure coordination and swift execution. Finally, Salla was also provided with a copy of the *Eurojust Guidelines on How to Prosecute Investment Fraud*, which expanded her knowledge further.

When representatives from the Finnish and French national desks and the Ukrainian liaison prosecutor posted at Eurojust met, they agreed to organise a coordination meeting at Eurojust (**step 3**). The French prosecutor also suggested inviting representatives not only from Ukraine but also from the United Kingdom and Germany. The aim was to see if they could find or trigger investigations in these countries too, as a lot of money had been sent there and they could see that money laundering would be better investigated nationally. Salla also suggested inviting representatives from Sweden, as in Finland they had found that quite a lot of money had been paid directly into Swedish bank accounts by the victims. Furthermore, it was agreed that the national liaison officers at Europol from the countries involved and representatives from the Europol Analysis Project Sustrans and Apate and from the European Cybercrime Centre should also be invited.

### **>>> The JIT is started**

Three weeks later, in mid May, the coordination meeting at Eurojust took place (**step 4**). During the meeting the need for close cooperation between Finland and France was identified and it was agreed to set up a JIT for a duration of 1 year. At the same time, based on the information received, representatives from Sweden agreed to swiftly start an investigation into the money laundering activities. Representatives from the United Kingdom, Germany and Ukraine decided not to open an investigation at this stage. However, all agreed to support the matter by taking the information received to their respective colleagues for further assessment. All parties agreed to swiftly execute EIOs and MLA requests and voluntarily share as much information as possible based on Article 7 of the 2000 EU MLA Convention. The Finnish police volunteered to take responsibility for applying for JIT funding from Eurojust, and the JIT leaders collaborated on a joint plan detailing the JIT's initial financial requirements.

The JIT agreement was rapidly drafted by Eurojust representatives and the terms therein swiftly negotiated with the support of the National Desks involved. The JIT agreement was signed by all relevant JIT leaders and came into force before the end of May. Eurojust and Europol subsequently also signed the appendix to the JIT agreement and became participants in the JIT.

Shortly after, a Finnish delegation led by Mattis and Salla travelled to France for an in-depth work meeting with their French JIT counterparts. The meeting forged a working relationship between the JIT partners and provided more in-depth information on and understanding of the crimes committed. The ice was broken and Finnish–French bilateral cooperation went very smoothly.

### **>>> The JIT expands**

A second coordination meeting was organised at Eurojust in mid July, where Finland and France presented their updates on the state of play of their investigations. At this meeting Sweden, Germany and Ukraine reported that they had also opened their own investigations and presented their first findings. Europol participated in the coordination meeting and presented the results of its analyses.

Both the Swedish and German investigations focused on money laundering: a number of suspects residing in both Member States had been receiving and forwarding large amounts of money to Ukraine, Turkey and Hong Kong. It was agreed to extend the JIT to include Germany and Sweden.

In Ukraine, the crimes investigated were gross fraud, and a call centre using young employees to sell valueless shares had been identified in Kiev. Ukraine would also have liked to join the JIT, but as the investigation was at a very early stage this was not yet possible.

The Eurojust National Desks once again provided their support by way of drafting an amendment to the JIT agreement and taking this through the negotiation and signing processes (**step 5**).

During the autumn, police and prosecutors met several times, either physically in their respective countries or by videoconference, to swiftly exchange information. Some of these meetings were attended only by the police, whereas others involved all the JIT members. As not all participants were able to speak a common language, Eurojust was asked to organise coordination meetings with simultaneous interpretation. Evidence was securely shared mainly during these meetings. However, occasionally Europol's SIENA tool was used to transfer the evidence.

With the support of the Ukrainian Liaison Prosecutor posted at Eurojust, joint cooperation efforts also took place in Ukraine on a couple of occasions, and in September Ukraine also formally joined the JIT.

As before, Eurojust supported this extension to the JIT by drafting, negotiating and signing a second amendment to the JIT agreement. This greatly facilitated the exchange of evidence with Ukraine.

As time went on, Salla and Mattis felt that cross-border cooperation with most countries became easier. Several meetings were organised at which plans for where and how the various suspects should be investigated and prosecuted were discussed and agreed on. However, some issues related to the peculiarities of the national legal systems still needed to be further clarified.

### **>>> Time for actions**

In December, another coordination meeting at Eurojust was arranged, to plan for a joint action day. It was agreed that the joint action day should take place the following February (year 2) in all the states parties to the JIT, alongside coordinated activities in Hong Kong and the United Kingdom, which were not participating in the JIT. France reported that two of its suspects were now residing in Belgium and that European Arrest Warrants should be issued for them and executed during the joint action day. Eurojust proposed using a coordination centre to support the joint action day, and the JIT partners happily agreed to receive this assistance.

As planned, the joint action day was carried out in late February. On the action day itself, a large number of house searches, arrests and seizures were carried out within Finland, France, Germany, Sweden and Ukraine. In addition, freezing orders and MLA requests for interviews were executed in the United Kingdom, Taiwan and Hong Kong. Belgium executed two European Arrest Warrants from France. The Eurojust coordination centre facilitated the planning of the operational activities and the real-time exchange of information. Europol also provided operational support. By the close of the action day the preliminary results were already available thanks to data from the coordination centre, and in a joint press release 2 days later the overall results were made public, outlining that a total of 41 people had been arrested, 65 house searches had been performed and EUR 5 million had been frozen.

In May it was agreed that the JIT should be prolonged for another year, and the National Desks of Eurojust ensured the swift extension of the JIT agreement (**step 6**).

## **>>> Analyses and final agreements**

Furthermore, a fourth coordination meeting was also held in May, where the detailed results of the joint action day were presented. Discussions were held on how to carry out joint analyses of the material collected. A decision on where to prosecute also needed to be taken; it was concluded that each country should prosecute and investigate the arrests carried out on its own territory, unless it was agreed that another country was better placed to do so.

Three months later, an additional coordination meeting was organised to present and discuss the results of the joint analyses and come to a final agreement on where it would be best to prosecute each of the suspects, including to avoid *ne bis in idem* issues. During the meeting, timing issues were discussed by the parties, including disclosure rules. Furthermore, an agreement was also reached on how to proceed with the confiscation of the seized proceeds of crime. As a final point, participants also discussed how international cooperation should continue in the future.

JIT work meetings continued, both physically and digitally. Because of the vast amount of information and evidence for analysis, the JIT was extended for another year (**step 7**).

## **>>> The trial phase and the end of the JIT**

The investigation period varied a lot between the countries involved for a number of reasons. Issues such as the number of accused persons, complexity of the case, investigative resources available and differing legislative systems were all key factors. The JIT was active for a total of 3 years. By this time, most of the investigations had been finalised, and trials in Sweden and Germany, where the smaller money laundering cases were investigated, had already been completed. The JIT partners felt that, despite the JIT agreement expiring, they would continue to cooperate closely until the successful conclusion of all the cases.

## >> JIT evaluation

Soon after the JIT expired, another coordination meeting was arranged, this time to hold an evaluation of the JIT.

Throughout its lifetime, the JIT applied for Eurojust financial support on 10 occasions. The grants awarded to the JIT were used to assist with travel and accommodation for JIT members, pay for interpretation costs during meetings, and translate the evidence exchanged.

During the evaluation meeting, each delegation gave a short presentation outlining the results of its cases and sharing the lessons learned. Salla and Mattis both attended and proudly presented the results from the trial at the Court of First Instance. They underlined the excellent cooperation with France and Ukraine, without which they would not have been able to identify and obtain evidence against the key suspect in Finland, nor retrieve the victims' money. Without the JIT, their Finnish case would never have succeeded.

The cooperation with Germany and Sweden was also pivotal in determining how the money was transferred before being deposited in Ukraine.

During the meeting, participants also discussed some lessons learned and exchanged views on what did not work well.

Overall, the JIT was considered a success: the criminal activity had been interrupted and a large number of suspects had been convicted or would shortly be going to trial. In addition, a considerable amount of money (more than expected) had been seized and forfeited or returned to the victims. Everyone expressed their appreciation for the mutual support provided and for the support provided by both Eurojust and Europol.




Unfortunately, as is often the case, a lot of questions remained unanswered, and some key criminals had still not been identified. However, overall, Mattis and Salla were very happy to meet their colleagues once again and, after this last meeting, return home to start the Court of Appeal procedures.



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