



“20 years of Joint Investigations Teams (JITs) in the EU”: An overview of their development, actors and tools

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“By mutual agreement, the competent authorities of two or more Member States may set up a joint investigation team for a specific purpose and a limited period, which may be extended by mutual consent, to carry out criminal investigations in one or more of the Member States setting up the team.”¹

Since the establishment of Joint Investigation Teams (JITs) under Article 13 of the 2000 MLA Convention² and the 2002 Framework Decision on Joint Investigation Teams³ respectively, JITs have become widely used by law enforcement officials and public prosecutors in investigating serious crimes with a cross-border dimension throughout the EU. While traditional mutual legal assistance as well as the EU’s European Investigation Order⁴ (EIO) are limited to specific investigation measures that are requested, JITs grant the partners unlimited, real-time exchange of information. Through JITs, partners can directly exchange information and evidence, cooperate in real time and jointly carry out operations and allow for practitioners to be present during investigative measures on each other’s territories. Direct contacts and communication enable the JIT members to faster and more efficient cooperation.

¹ Article 13 (1) of the Convention established by the Council in accordance with Article 34 of the Treaty on European Union, on Mutual Assistance in Criminal Matters between the Member States of the European Union ((OJ C 197, 12.7.2000).

² Council Act of 29.5.2000 establishing in accordance with Article 34 of the Treaty on European Union the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union (OJ C 197, 12.7.2000).

³ Council Framework Decision of 13.6.2002 on joint investigation teams (OJ L 162, 20.6.2002).

⁴ Directive 2014/41/EU of the European Parliament and of the Council of 3.4.2014 regarding the European Investigation Order in criminal matters (OJ L 130, 1.5.2014).

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In order to support the use of JITs among law enforcement and judicial authorities of the EU Member States, a range of actors, support instruments and tools have been developed over the past 20 years.

In 2005, the Network of National Experts on Joint Investigation Teams (the JITs Network⁵) was established⁶ to facilitate the work of practitioners, encourage the use of JITs, and contribute to the sharing of experience and best practice. The JITs Network consists of one or more national experts per EU Member State representing the judicial (prosecutors, judges, Ministries of Justice) and law enforcement (police officers, Ministries of Interior) dimensions of a JIT. Institutional bodies such as Eurojust, Europol, OLAF, the European Commission and the Council of the EU have also appointed contact points to the JITs Network. The JITs Network Secretariat, that is hosted by Eurojust, is tasked to support, promote and facilitate the activities of the JITs Network. In the past years, the JITs Network and Secretariat have developed a number of tools to support practitioners with the use of JITs such as a JIT Model Agreement,⁷ a JITs Practical Guide⁸ as well as a restricted web platform that gives access to information on national legislation, drafting of JIT agreements and most frequent practical and legal questions. It also publishes JIT evaluation reports⁹ summarizing the practical findings, lessons learned, and best practices from the JIT Evaluation Project run by the JIT Network.

The JITs Network is closely linked to Eurojust¹⁰ - the European Union Agency for Criminal Justice Cooperation - and its support to JITs. Eurojust provides legal, operational and logistical support to the use of JITs during the entire life cycle of a cross-border investigation, i.e., from the planning of a JIT, its setting up and operational phase to its evaluation. Coordination meetings hosted by Eurojust to plan and set up a JIT as well as coordination centres for joint operations are part of Eurojust's offer. Another important tool offered by Eurojust and managed by the JITs Network Secretariat is the JITs Funding Portal¹¹ through which national authorities can submit funding applications for JITs. According to Eurojust's 2022 Annual Report,¹² the number of JITs with Eurojust's involvement was at 265 JITs in 2022.

Another important actor to support JITs is the European Union Agency for Law Enforcement Cooperation - Europol.¹³ Europol's support to JITs may include the identification of links between related cases and investigations, to liaise directly with JIT members, to provide members with information that Europol maintains, to offer

⁵<https://www.eurojust.europa.eu/judicial-cooperation/practitioner-networks/jits-network>.

⁶Council Document 11037/05 establishing the JITs Network of 8.7.2005.

⁷Consolidated text of the model agreement on the establishment of a Joint Investigation Team, following the approval of the Council Resolution of 22.12.2021 on a revised Appendix I (OJ C 44, 28.1.2022, p. 1.) 2022/C 44/02.

⁸Joint Investigation Teams: Practical Guide (16.12.2021).

⁹Third JIT Evaluation Report: Evaluations received between: November 2017 and November 2019 (March 2020).

¹⁰<https://www.eurojust.europa.eu/>.

¹¹<https://jit.eurojust.europa.eu/Pages/Home.aspx>.

¹²Eurojust – Annual Report 2022 (24.5.2023).

¹³<https://www.europol.europa.eu/>.

analytical and logistical support as well as technical and forensic expertise, and to support the secure exchange of information. In 2021,¹⁴ Europol signed 16 new JITs.

Along with the EU Agencies already mentioned, a new actor in the field is the European Public Prosecutor's Office (EPPO).¹⁵ The EPPO is the independent public prosecution office of the European Union, responsible for investigating, prosecuting and bringing to judgment crimes against the financial interests of the Union. Currently, 22 EU Member States participate in the enhanced cooperation. It is composed of two levels, i.e., the Central Office of the EPPO that is based in Luxembourg and consists of the European Chief Prosecutor as well as 22 European Prosecutors, one from each participating EU Member State. The decentralised level consists of at least two European Delegated Prosecutors (EDPs) per participating EU Member State, responsible for conducting the investigations in their home country. Due to its structure, EPPO's legal basis to participate in JITs varies depending on whether the JIT is formed with EU Member States participating in the EPPO or not. For cross-border investigations falling into the competence of the EPPO between EU Member States participating in the EPPO, the EPPO operates directly in the territory of the respective Member State through its EDPs. For non-participating EU Member States, the EPPO can become a party to the JIT based on the above-mentioned Council Framework Decision 2002/465/JHA.

In addition to the tools already mentioned, a new Regulation¹⁶ was just adopted on 10 May 2023. The Regulation establishes a so-called "collaboration platform" to support the functioning of JITs. This dedicated IT platform shall ensure the secure electronic exchange of information and evidence as well as secure electronic communication with other JIT members and JIT participants (such as Eurojust, Europol, and the European Anti-Fraud Office (OLAF)). The platform is currently developed by the EU Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA). It shall start operations no later than 7 December 2025.

While the overview given above mainly looks at JITs within the EU, it is of course worth mentioning that JITs can also be formed with third States and non-EU international bodies and organisations. The suitable legal basis for such JITs depends on the partner and may range from Article 20 of the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters¹⁷ and the Second Additional Protocol to the Cybercrime Convention on enhanced co-operation and disclosure of electronic evidence¹⁸ for Members of the Council of Europe to Article

¹⁴Europol in Brief - Annual Review (17.1.2023).

¹⁵<https://www.eppo.europa.eu/en>.

¹⁶Regulation (EU) 2023/969 of the European Parliament and of the Council of 10.5.2023 establishing a collaboration platform to support the functioning of joint investigation teams and amending Regulation (EU) 2018/1726 (OJ L 132, 17.5.2023, p. 1–20).

¹⁷Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (Strasbourg, 8.XI.2001).

¹⁸Second Additional Protocol to the Cybercrime Convention on enhanced co-operation and disclosure of electronic evidence (CETS No. 224/Strasbourg 12.5.2022 - Treaty open for signature by the States Parties to Treaty ETS 185.).

19 of the United Nations Convention against Transnational Organised Crime¹⁹ for parties of the UN Conventions to many other international Conventions and Protocols as well as International Agreements.

Eurojust offers a Network of Liaison Officers stationed at Eurojust as well as a Network of Judicial Contact Points comprising more than 60 third countries together with the same range of support tools as for inner-EU JITs outlined above, including JIT Funding, that is also available for non-EU States. Eurojust has also published Guidelines²⁰ on JITs involving Third States. Furthermore, Europol can help identify transnational links and draw a more comprehensive picture of the case.

International actors to support JITs include, for instance, the high-level Experts Group in Criminal Matters of the Southern Partner Countries (CrimEx),²¹ the South-east European Law Enforcement Center (SELEC)²² and Southeast European Prosecutors Advisory Group (SEEPAC),²³ the Ibero-American Network of International Legal Cooperation (IberRed)²⁴ and many more.

An example worth mentioning for an international JIT is the JIT established on 25 March 2022 between Lithuania, Poland, and Ukraine with Eurojust's support²⁵ in order to facilitate investigations and prosecutions on core international crimes committed in Ukraine. This JIT was not only joined by further judicial authorities of Estonia, Latvia, Slovakia and Romania but also, for the first time in history, by the Office of the Prosecutor of the International Criminal Court (ICC)²⁶ that signed an agreement to participate in the JIT on 25 April 2022. Furthermore, on 3 March 2023, the seven national authorities participating in the JIT also signed a Memorandum of Understanding (MoU) with the United States Department of Justice to enhance coordination between the partner countries and the US authorities regarding investigations in connection to the war in Ukraine.

In order for law enforcement officials and public prosecutors investigating serious crimes with a cross-border dimension to keep up to date with these latest developments regarding the JIT instrument and to effectively implement a JIT using all means of support, practical training is vital for their success. Hence, over the past decade, ERA has regularly offered training on JITs. As a framework partner of the EU Agency for law enforcement training - CEPOL,²⁷ ERA, in consortium with the French Ecole Nationale Supérieure de la Police (ENSP) and supported by the European Judicial Training Network (EJTN) as well as Eurojust and Europol, has offered several 5-day

¹⁹United Nations Convention against Transnational Organized Crime and the Protocols Thereto (5.11.2000, by resolution 55/25).

²⁰Guidelines on Joint Investigation Teams Involving Third Countries (June 2022).

²¹Press release EuroMedJustice "CrimEx begins development of new tools for cross-Mediterranean judicial cooperation" (26.2.2021).

²²<https://www.selec.org/>.

²³<https://www.selec.org/about-seepag/>.

²⁴<https://iberred.notariado.org/>.

²⁵Eurojust press release "The joint investigation team garners further support for the ICPC and agrees to investigate genocide crimes in Ukraine" (14.4.2023).

²⁶<https://www.icc-cpi.int/>.

²⁷<https://www.cepoleuropa.eu/>.

training courses simulating every stage in the life-cycle of a JIT. Law enforcement officials, judges, and prosecutors are trained together to deepen their understanding on the setup and functioning of JITs based on real JIT cases. Furthermore, ERA together with the EuroMed Justice (EMJ)²⁸ recently hosted a conference²⁹ on joint and parallel investigations and exchange of information on the bringing together South Partner Countries and EU Member States in JITs.

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²⁸<https://euomedjustice.eu/>.

²⁹<https://euomedjustice.eu/activities/conference-on-joint-investigations-trier/>.