THE EXPERIENCE OF ROMANIA IN USING JOINT INVESTIGATION TEAMS (JITs)

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Tools for Collecting Evidence/Instruments of judicial cross-border cooperation

Cross border organised crime investigations require a close cooperation and coordination with all the jurisdictions involved in order to ensure a smooth gathering and exchange of evidence and information.

Instruments used:

- Mutual Legal Assistance processes
- European Investigation Orders
- Joint Investigation Team (JIT) - modern and valuable tool to speed up investigations and collect evidence/avoid slow and bureaucratic MLAs requests/better coordinate cross-border
Joint Investigations Teams and Romania

- Increasing and successful use of JITs by the Romanian authorities when investigating cross border organised crime cases
- Proactive approach (early setting up of JITs/requesting the opening of parallel investigations in the relevant countries, if not yet ongoing)
- Involvement of Eurojust (Romanian National Desk and JIT funding) in 99% of the JITs signed
- **Crucial tool** for improving the effectiveness of cross-border organised crimes cases, identifying and holding responsible all the perpetrators and ensuring the admissibility of evidence in courts
Joint Investigation Teams/Advantages as perceived by the RO authorities

- Simplifies communication, co-ordination and co-operation between JIT members and participants ensuring:
  - Real time exchange of intelligence and evidence without MLA requests.
- Facilitates the development of common strategy (clear objectives) avoiding duplication of efforts and waste of resources.
- Strengthens mutual trust and interaction between team members from different jurisdictions.
- Joint working – JIT members can be present in other jurisdictions during evidence collection or joint action days (examples: hearing of witnesses/victims/suspects, house searches etc).
- JIT funding via EUROJUST - travel and accommodation, interpretation and translation.
- Jurisdictional and evidential issues can be addressed.
JITs legal framework – Romanian provisions

- Romania is a party and ratified all the relevant legal frameworks which contain provisions on the setting up of JITs starting with the EU ones and continuing with the regional and universal ones.
- Art. 239 of the RO Law 302/2004 on judicial cooperation in criminal matter (domestic provision).
- The most used legal framework in JITs signed by Romania (Art. 13 of 2000 Convention, 2002 Framework Decision on JITs, Article 20 of the Second Additional Protocol to 1959 Convention).
JIT’s involving Romania 2013- May 2020

Total JITs: 104
JIT’s involving Romania 2013-2020

Crime Types

<table>
<thead>
<tr>
<th>Crime Type</th>
<th>Count</th>
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<tbody>
<tr>
<td>THB</td>
<td>62</td>
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<tr>
<td>Money-laundering</td>
<td>22</td>
</tr>
<tr>
<td>Swindling and fraud</td>
<td>16</td>
</tr>
<tr>
<td>Cybercrime</td>
<td>14</td>
</tr>
<tr>
<td>Migrant smuggling</td>
<td>4</td>
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<tr>
<td>Drug trafficking</td>
<td>3</td>
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<tr>
<td>Corruption</td>
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JIT’s involving Romania 2013-2020

Partners Countries

<table>
<thead>
<tr>
<th>Country</th>
<th>Partners</th>
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</thead>
<tbody>
<tr>
<td>France</td>
<td>13</td>
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<tr>
<td>Germany</td>
<td>10</td>
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<tr>
<td>Italy</td>
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</tr>
<tr>
<td>Spain</td>
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<td>Belgium</td>
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<tr>
<td>Netherlands</td>
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<td>Czech Rep.</td>
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<tr>
<td>Slovenia</td>
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<tr>
<td>Finland</td>
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<tr>
<td>Lithuania</td>
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<td>Hungary</td>
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<td>Sweden</td>
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<td>Bulgaria</td>
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<td>Denmark</td>
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<td>Austria</td>
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<td>Poland</td>
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</tr>
</tbody>
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JIT’s involving Romania 2013-2020

Third Countries

- United Kingdom: 46
- Moldova: 7
- Norway: 3
- Serbia: 1
- Switzerland: 1
- Ukraine: 1
Romania and the use of Eurojust in setting up and functioning of JITs

- Widely use of Eurojust (Romanian National Desk) in identifying suitable cases, setting up/drafting/negotiating and functioning of JITs
- Access to funds provided by Eurojust
- Additional tools offered by Eurojust: Coordination meetings (funded by Eurojust) and coordination centres during action days
- Legal and judicial advice in terms of admissibility of evidence, conflicts of jurisdictions (during the functioning of JITs)
Eurojust as a participant

EUROJUST SUPPORT TO JITs

FINANCIAL SUPPORT

OPERATIONAL SUPPORT

COLLECTION/SHARING EXPERIENCE
Support by the National Desks

Operational support to JITs

- Suitability of the case
- Initiation of parallel investigations
- Drafting of the agreement
- Practical and legal support throughout JIT lifetime
- Settlement of jurisdiction
- Support to joint operations (coordination centre)
Joint Investigation Team

**Travel & Accommodation**
- JIT members/non-members
- JITs & non-JIT States
- Operational meetings/support to operations
- Fixed rates

**Translation & interpretation**
- Carried out after JIT setting-up (even if evidence collected before)
- Target & sources languages not limited to languages of JIT States
- Actual costs

**Transport of seized items**
- Documents, evidence, assets
- Actual costs

€ 50,000 max per each 3 month period

To avoid overlapping of actions, a JIT cannot apply for funding in two consecutive calls for proposals

Maximum amount is € 200,000
Supporting tools accessible on Eurojust’s website

JITs Practical guide

Model agreement
JIT TRENDS

- From bilateral to multilateral
- From EU Member States to third States
- From THB or drug trafficking to VAT carousel fraud, cybercrime...and also a generalisation as JITs are more used for common offences
- Assets recovery as a cross-cutting approach
JITs CASE EXEMPLES

ROMANIA’S EXPERIENCE
JIT “Dark Room”/RO-NO cooperation

- 10 August 2017 (case opened at Eurojust) by the NO LP towards RO concerning investigations into online sexual abuse of children
- 1st of September 2017 – first CM at Eurojust
- Parallel investigation opened in Romania after the CM (NO - investigations into the buyer of services, RO - into the seller of the services)
- 14th of September 2017 - the JIT set up and signed between RO and NO
- 20th of September 2017 – second CM in Romania (simultaneously with the takedown)
JIT “Dark Room “

- **The urgency** - ongoing online sexual abuse of children
- **The main goals:**
  - assure the safety of the children
  - to secure/obtain admissible evidence in both countries
- The matters discussed and solved during the CMs:
  - prosecutorial strategy, ne bis in idem principle,
  - admissibility of evidence (securing witness statements from the child victims-specific interrogation techniques), setting up JITs
- Evidentiary obstacles (Skype used by the suspects which doesn’t allow a recording of the material exchanged)
JIT “Dark Room “

- Time is crucial in online sexual abuse of children investigations (rescue the victims and gather evidence)
- This case is emblematic for smooth and efficient cooperation and coordination between the RO and NO authorities
- The victims saved and protected (are still in rehabilitation/protection centre in RO)
- The suspects detained and prosecuted (in NO already convicted)
JIT BRUNO/ RO-IT cooperation

End of 2016 – The RO and IT authorities detected an OCG dealing with spear phishing e-mails impersonating tax authorities to harvest the online banking credentials of their victims defrauding bank customers across Italy and Romania out of EUR 1 million. The highly organized OCG pursued its criminal activity using encrypted chat applications.

2017 – A JIT was set up swiftly by RO and IT with support and funding from EUROJUST. Three (3) coordination meetings were organised during which Eurojust provided advice and assistance on how to prevent conflicts of jurisdictions, ensure the exchange of evidence and prepare judicial measures.

March 2018 – A joint action day conducted by the RO and IT authorities and monitored by Eurojust via a coordination centre set up in the Hague and mobile offices deployed by Europol resulted in 20 arrests and 24 house searches (docs, IT devices, drugs and other materials were seized).

April 2019 – The IT court delivered the sentences (prison between 2-5 years, fines and damages to be paid to the victims).
Challenges

- Different legal systems / different procedural legal provisions to collect evidence/disclosure obligations
- Different stages of the investigations (preferably to be at the same level when signing the JIT)
- Sometimes the signature process takes too long as different authorities within country should give permission or the decision belongs to the high level management (PG/MJ)
- Language issues
Best practices

- Very positive feedback from the parties/participants using JITs
- Continued cooperation/communication in a JIT to address practical/legal/operational issues during the prosecution phase
- Permanent communication to clarify the legal systems and requirement in different countries (address admissibility/disclosure requirements at the earliest stage possible)
- An effective platform to address jurisdiction issues (agree on the venue of the prosecution, transfer of proceedings etc.)
- Use of common/shared investigative methods and tools between the signatories countries
Conclusions/Recommendations

- Romania has extensive experience in using JITs
- JITs are highly recommended when investigating cross-border organised crime cases
- The use of this tool should be largely promoted at international level in order to increase the knowledge and appetite of practitioners and ensure the effectiveness of cross-border investigations
- The use of Eurojust is of added value and advisable when possible and suitable