



Ljubljana, 25 January 2012	
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From: Police Cooperation Convention for Southeast Europe Secretariat
To: Police Experts of the Contracting Parties
Subject: Police Cooperation Convention Manual

The delegations will find enclosed an updated version of the Police Cooperation Convention Manual including complementary forms.

This draft is a product of the Police Cooperation Convention for Southeast Europe Secretariat and should be considered as a non-exhaustive one. This version of the manual will be modified according to the ongoing activities of the implementation process of the Convention, namely in the creation of new chapters. Some of its content, in particular the national fact sheets and contact lists, is incomplete and/or incorrect. Certain contacts and national fact sheets shall be added by the respective Contracting Parties to the Convention, which shall set the protection level accordingly for their respective state.

The Ministers of the Contracting Parties to the Convention, being the Republic of Albania, Bosnia and Herzegovina, the Republic of Bulgaria, the Republic of Macedonia, the Republic of Moldova, Montenegro, Romania and the Republic of Serbia, have agreed that:

1. The PCC Manual shall not be restricted;
2. The Contracting Parties shall take the PCC Manual into account when drafting their national guidelines and regulations regarding specific articles of the Convention;
3. The PCC Manual shall be sent to the National Authorities of the Contracting Parties which should be instructed to use the PCC Manual as the main tool when performing duties covered by the Convention;
4. The PCC Manual shall be used for the purpose of training all personnel affected to duties regulated in the Convention in accordance with the key ministerial recommendations from 17 July 2008¹.

The delegations are invited to send any updates and/or corrections as soon as possible (Thomas.pepper@bmi.gv.at), so that a revised version can be issued at short notice. Comments and suggestions for improvement are also most welcome.

¹ Decision of the Committee of Ministers on the Classification Level of the Police Cooperation Convention Manual (CoM 02/11), Committee of Ministers, Slovenia, Ljubljana, 28 February 2011



**Police
Cooperation
Convention
Manual**

PCC SEE

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² With the support of the President of EUROJUST and the Director EUROPOL the new Eurojust/Europol document “Joint Investigation Teams Manual, published on 14 October 2011, The Hague, shall be used by the Contracting Parties.

0. INTRODUCTION

The seven founding countries Albania, Bosnia and Herzegovina, Macedonia, Moldova, Montenegro, Romania and Serbia signed the **Police Cooperation Convention for Southeast Europe** (hereinafter referred to as: “the Convention”) in Vienna on 5 May 2006 and were later joined by Bulgaria in 2008. The Convention lays down all of the legal rules that are binding on all of the Contracting Parties.

The main objectives of the Convention are “to cooperate in order to pursue common security interests” and “to effectively combat cross-border threats to public order and security, and international crime.” The Convention follows much of the language from the police cooperation provisions contained in the Schengen Agreement. The focus of the Convention is to enhance cooperation and information exchange. The modalities require ongoing exchanges of basic data on criminal activities, joint threat analyses and cooperation with partner law enforcement authorities.

Principles adopted by the Contracting Parties

The following principles should be adopted by the Contracting Parties:

- ⇒ A “central authority for mutual assistance” shall be set up by each of the Contracting Parties to serve as a single contact point for the other partners, available 24/7.
- ⇒ The legal foundations, the cases when action ought to be taken, the procedures to be followed and the general principles for organising the central authority are defined jointly by all Contracting Parties so as to have common rules.

These arrangements are recorded in the “PCC-manual”.

The Police Cooperation Convention for Southeast Europe Secretariat (Secretariat)

The Secretariat, set up pursuant to the Conclusion of the Committee of Ministers of the Contracting Parties of 17 July 2008, is located in Ljubljana, Slovenia. The Secretariat will become the focal point of all Convention related activities.

The Police Cooperation Convention Manual (PCC Manual)

The PCC Manual is a set of instructions for all Law Enforcement Officers of the authorities, which in accordance with the national law of the Contracting Parties have the necessary competence to apply the provisions of the Convention. These guidelines aim at providing guidance to Law Enforcement Authorities, Officials designated by the Law Enforcement Authorities when working under the Convention. In order to ensure an effective and harmonised implementation of the common rules as laid down in the Conclusion of the Committee of Ministers, the Contracting Parties should transmit the PCC Manual to their national authorities, instruct the above mentioned authorities to use the manual as the main tool when performing

duties covered by the Convention and use the manual for the purpose of training all personnel affected to duties regulated in the Convention.

Definitions

For the purpose of this Convention

- a) **Contracting Parties** are those States who acceded to the Police Cooperation Convention for Southeast Europe³;
- b) **“Law enforcement authorities”** shall mean the authorities which in accordance with the national law of the Contracting Parties have the necessary competence to apply the provisions of this Convention;
- c) **“Officials”** shall mean any individual designated by the law enforcement authorities;
- d) **“Borders”** shall mean the Contracting Parties' land borders, borders on water courses, maritime borders, their airports and sea ports, defined by national law, internationally recognised;
- e) **“Third State”** shall mean any State other than the Contracting Parties;
- f) **“Residence permit”** shall mean an authorisation of whatever type issued by a Contracting Party which grants right of residence within its territory. This definition shall not include temporary permission to reside in the territory of a Contracting Party for the purposes of processing an application for asylum or a residence permit;
- g) **“Personal data”** shall mean any data relating to an identified or identifiable natural person: an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity;
- h) **“Processing of personal data”** (hereafter referred to as “processing”) shall mean any operation or set of operations which is performed upon personal data, whether or not by automatic means, such as collection, recording, organisation, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction;
- i) **“Information”** shall mean personal and non-personal data;
- j) **“National Central Unit”** shall mean a central authority responsible for international police co-operation designated as the single point of contact for each Contracting Party and for all the activities concerning international police cooperation”.

³ To date the Contracting Parties to the Convention are Albania, Austria, Bosnia and Herzegovina, Bulgaria, Macedonia, Moldova, Montenegro, Romania, Serbia.

1. MUTUAL ASSISTANCE

1.1. General provisions

The procedures described below are applicable to Articles 3, 4, 5, 6, 7 and 8 of the Convention.

The National Central Units should be in a position to deal with requests directly, as far as possible, without transferring them to another agency for enquiry. The unit has the competence to direct any request that would be wrongly addressed to the appropriate requested authority, without returning the request to the requesting country.

Failing instructions to the contrary, the following “Central authorities for mutual assistance” listed in Annex II shall serve as a single contact point for other partners.

Availability

A National Central Unit shall be set up by each of the Contracting Parties to serve as a single point of contact for international police cooperation for the Contracting Parties applying the Convention. It shall be fully operational 24 hours a day.

If the requested authority is not competent to deal with the request, it shall forward this request on its own to the competent authority and inform the requesting authority accordingly.

Structure

All national agencies responsible for international police cooperation must be organised in structured fashion so as to prevent conflicts of powers with other national bodies carrying out similar functions and duplication of work.

The National Central Unit is set up through its own national legislative or regulation identity, to empower them to meet their large-scale responsibilities and duties. This is particularly useful in the light of the multi – agency composition of the unit (Police, Customs and/or Justice). The platform is placed under the responsibility of a leading Ministry (usually the Ministry of Interior) and a leading Department (usually the national crime department).

The relationship between the National Central Unit and all competent law enforcement and other concerned authorities is established through national law and regulated in written agreements.

As far as possible, all staff is trained, equipped and mandated to deal with all kinds of tasks within the unit. Where this is not possible, it is ensured that all tasks can be dealt with through on-call duty officers 24/7.

Security

The National Central Unit is set up in a secure working environment, including a high level of security and safety of the premises. The Contracting Parties shall make sure that only authorised personnel has access to the communication device used.

Communications

The specific channel used for the Information Exchange shall be decided by the law enforcement authorities. Only if this channel is not available, another, and given the circumstances, the most appropriate means of communication shall be determined on a case by case basis, according to technical possibilities and the security and quality requirements that the communication has to meet.

The National Central Unit shall have interpretation or translation capacities, to function on a 24/7 basis.

In order to achieve utmost efficiency in bilateral communication between officials in the central authorities, a language familiar to both parties shall be used.

Urgency

Priorities in daily work shall be based on the type of the information and the importance of the case.

When going via channel of the central authority would prolong the transmission of the request to the local authorities and jeopardise the success of the preventative or investigative action:

- Police units have access to a complete and up-to-date list of names and contact details of police units in other contracting parties they can directly contact in urgent cases;
- Police units will avail themselves of the minimum necessary equipment to exchange requests and replies in a rapid and secure manner;
- Central authorities are responsible for updating the contact list and informing the national police units.

In cases of urgency, they will immediately inform the central authority of the Police unit they have approached with direct request for assistance; with the same sense of urgency they will notify their own national central authority of the request they made and the reply they have received.

Resources

The National Central Unit is a multi-agency organisation, composed of staff coming from/belonging to different services and/or Ministries including Criminal Police, Public Order Police, Border guards, Customs and Judicial authorities.

In States (Contracting Parties) where judicial authorities supervise criminal investigations, the presence of these authorities in the unit is very useful for

- a quicker response to requests related to criminal investigations, especially where the transmission of information through police channels requires a clearance by the judicial authorities,
- the transmission of rogatory letters to the relevant investigating judge or prosecutor's office,
- legal advice to Police/Customs staff of the unit or help to solve possible conflict between the national law and the object of the request sent by another Contracting Party,
- the "on the spot" permission of urgent surveillances, or "hot pursuit" procedures within the national territory, as defined by the provisions of Articles 14 and 13 of the Convention.

Access to information

The National Central Unit has direct access to the broadest range of relevant national databases and in any case to all those databases available to the authorities represented in the unit. This covers in particular law enforcement databases, vehicle registration, national visa database, immigration office database, DNA databases, fingerprint databases, information exchange with the national liaison officers, etc.

- Ideally, all members of the National Central Unit have access to all of these databases, where necessary via on-call duty officers.
- The National Central Unit has arrangements for effective and efficient access to relevant databases of other authorities or bodies, where appropriate subject to judicial approval. This applies to records of companies providing telephone and other communication supplies.
- The National Central Unit uses standard forms for transmitting international requests to and receiving the corresponding replies from the national authorities, which are independent from the law enforcement authority involved.

Archiving

Each Contracting Party shall determine the provisions for storing information. The files and other messages sent by the other Contracting Party shall be stored according to the national legislation, applying also with the principles of Recommendation No R (87) 15 of 17 September 1987 of the Committee of Ministers of the Council of Europe and the Council of Europe Convention for the Protection of Individuals with regard to the Automatic Processing of Personal Data of 28 January 1981.

Data protection

The provisions of Article 31 of the Convention shall apply accordingly.

Confidentiality of information and classified information

The provisions of Article 32 of the Convention shall apply accordingly.

It will be pointed out that classification of law enforcement information should be the exception and that, if such information must be classified, the lowest possible level should be assigned (see the following list of equivalence of the classification levels of the Contracting Parties).

The transmitting authority is obliged to inform the recipient without delay, in writing, about a change of the classification level or withdrawal of the classification. The recipient shall undertake to adapt the classification level in compliance with this message, or to withdraw the classification.

The transmitted classified information shall be

- used solely for the purpose for which it was transmitted, and be
- disclosed only to those persons who require this information for their activity and who are authorised to have knowledge of such classified information.

The Contracting Parties are obliged to make known all violations of the legal provisions of the receiving Contracting Party concerning the protection of the transmitted classified information to the transmitting authority without delay. This communication shall contain also:

- the circumstances
- the consequences of such violation
- the measures taken to limit the consequences and to prevent future violations.

Classified information shall be transmitted by courier or in any other way agreed upon (see Annex I).

Publicity

The National Central Unit is adequately known by the national police officers and officers from other law enforcement agencies. Apart from its contact details (phone, fax numbers, e-mail addresses), every investigating police officer knows the basic services provided by the unit and the main channels to be used depending on the type of the request concerned.

For that purpose, in addition to the PCC Manual, a national "Quality Manual for International Police Cooperation" is drafted and published, both on Intranet and through booklets. It includes summary information on:

- legal framework and international instruments (under national law, EU, United Nations, bilateral agreements on crime prevention and legal assistance)
- standards of quality and required data for request for legal assistance
- various international channels
- necessity, appropriateness and proportionality of the request
- limits and restrictions to information exchange.

General rules for international communications

- A request is sent through one channel only.
- If a request is, in exceptional cases, sent through different channels at the same time, this is clearly indicated on the request.
- If the request is sent to parties for information only, this is clearly indicated.
- The channel is NOT being changed during an on-going operation or during any phase unless it is absolutely necessary.
- A change of channel is communicated to all parties, including the reason for the change.
- Whenever possible, the National Central Unit replies directly to the international request, where appropriate with copy to the concerned national authority.
- Where the National Central Unit cannot reply directly, because it is beyond its mandate and/or it cannot directly obtain the information, it forwards the request to the appropriate competent national authority, even if the original request was wrongly addressed to another authority.
- When a request is refused, the grounds for refusal have to be provided through the initial channel.
- When receiving a reply from the national authorities to an international request, the unit pro-actively verifies whether this information can be useful to another Contracting Party and if this is the case, requests and encourages the owner of the information to transmit the information further. Ideally, the unit has the legal authority to do this itself.
- The National Central Unit has the authority to actively check whether information received via its bilateral liaison officers can be of use to other authorities.

1.2. Procedure for information exchange

The following procedure how to exchange information and what information can be exchanged has been adopted:

1. As a rule, the law enforcement authorities and their officials shall make their requests and replies in writing (by fax or e-mail) to the central authorities of the Contracting Parties.
2. To achieve a standard procedure, the forms attached in Annex III and IV of this manual should be used for the information exchange.
3. If person-related data are transmitted, a secure transmission method must be chosen taking into account the sensitivity of the data.
4. On rare occasions in urgent cases the law enforcement authorities and their officials can make their requests orally, however must confirm them afterwards in writing. The written reply will be given only after receiving the written confirmation.

1.3. Types of information exchange

1.3.1. Information exchange without personal data

The following types of information, within the national jurisdiction of the law enforcement authorities, can be exchanged:

1. informing each other about facts of cases, links between suspects and typical suspect behaviour;
2. informing each other directly, as timely possible, about upcoming events and incidents of police relevance, to facilitate combating threats to public order and security so that the necessary measures can be taken in time;
3. sharing significant information to facilitate operational planning both for routine activities and for special operations, including as a precautionary measure intelligence about events and incidents that might have an impact on the territory of the respective other Contracting Party;
4. by preparing and regularly updating common directories containing data on jurisdictions and competences and contact data;
5. preparing joint proposals for low-cost improvement of telecommunication, especially radio communication along the borders.

1.3.2. Information exchange including personal data upon request

With regard to international cooperation between law enforcement authorities the officials of these authorities shall, within their national jurisdiction:

- render mutual assistance to take measures against threats to public order and/or security,

- prevent, detect and investigate criminal offences - except in cases of request or execution of the request, which can only be dealt with by the judicial authorities under the law of the respective Contracting Party.

1.3.3. Requests for identification and assistance

The following types of requests can concern:

1. Identification of owners and users of motor-vehicles, of all types of vessels and aircrafts,
2. Transmission of stored data
 - a. on motor-vehicles,
 - b. on all types of vessels
 - c. on all types of aircrafts
 - d. data of the owners and users,

under the condition if these data are needed

- ⇒ to identify a person in his/her capacity as an owner/user of or
- ⇒ to identify the vehicles used by a person, or
- ⇒ the vehicle data required for the prevention and combat against criminal offences and protection from threats to public order and/or security.

In these cases, the law enforcement authority may

- ⇒ forward the request to the authority(ies) which maintain(s) the vehicle registration database, or - in urgent cases and likewise
 - ⇒ to a law enforcement authority of the requested Contracting Party, if a registration number of all types of vessels is required by the respective authorities,
3. Information on driving-licences and vehicle documents as well as comparable driving permits and documents,
 4. Establishment of the place of abode, of the place of residence and residence permits,
 5. Identification of subscribers of telephones or other telecommunication equipment,
 6. Identification of individuals, dead bodies, or parts of dead bodies,
 7. Information on the origin of items, such as firearms, ammunition and explosives, explosive devices, motor-vehicles, all types of vessels and aircrafts and cultural property,
 8. Search for wanted persons and property,
 9. Initiation and coordination of search measures,
 10. Police interviews and interrogations, especially in order to determine the willingness of a person to give information,

11. Information on crime scene investigation, collection of evidence, evaluation and analysis of evidence,
12. Concrete measures to ensure witness protection,
13. Information exchange in cases of hot pursuit,
14. Cooperation and information exchange on crowd control at all public gatherings.

1.3.4. Request for assistance in combating criminal offences (organised crime)

The law enforcement authorities shall, in compliance with their national legislation, in the course of international cooperation aim at:

- ⇒ preventing, or
- ⇒ detecting, or
- ⇒ investigating criminal offences
- ⇒ particularly combating organised crime

upon request, exchange the following information on:

1. data of individuals involved in organised crime,
2. intelligence on links between the suspects and persons under suspicion in relation to commission of criminal offences,
3. their knowledge on the structure of criminal organisations and groups,
4. typical behaviour patterns of suspects and persons under suspicion or suspect groups and groups under suspicion,
5. information on prepared, attempted or accomplished criminal offences, especially time, scene and type of crime, details on victims or victimised property,
6. intelligence on the particular circumstances and the relevant legal provisions, if required to prevent, detect and investigate criminal offences,
7. methods and new forms of trans-border crime,
8. criminological and other crime-related research results, details on practice of conducting investigations, working means and methods aiming at their further development,
9. intelligence and/or samples of items or property that were damaged during the crime, or were used or intended to commit a crime or which were the result of a committed crime,
10. legislation in force relating to the crimes that are subject of this Convention,
11. criminal proceeds and assets acquired through commission of or involvement in crime.

1.3.5. Direct information exchange

As an exception, if direct cooperation appears appropriate, requests and replies to such requests can also be exchanged among the competent national authorities by informing the central authorities or existing structure of such a procedure,

- a) if official cross-border activities refer to criminal offences which will in all likelihood be investigated by the law enforcement authorities of the border region or
- b) if the request to assist in averting imminent threats to public order and/or security can not otherwise be transmitted in time through the usual channels between the central units.

1.3.6. Information exchange without request

Exceptionally if, based on proven facts and given there is reason to assume that such information is:

- a) needed to counter concrete threats to public order and/or security, or
- b) to prevent, detect and investigate criminal offences,

the law enforcement authorities shall in certain cases provide each other with information without being requested.

1.3.7. Information exchange for Joint Threat Analysis

Reliable and comparable statistics should be developed, in order to evaluate cross-border cooperation and compare the findings with those of other States. The compilation of statistics would, at a strategic level, help to determine the threat assessment and assist in the prioritisation of resources.

Therefore, the law enforcement authorities shall exchange, through standardised templates, status reports about the crime rate situation periodically or if a need arises make joint analyses at least once a year. The South-Eastern Europe Organised Crime Threat Analyses (SEE OCTA) should be used as an instrument for the making of joint analyses.

The central authorities can use standardised templates, which are available e.g. in the SEE OCTA via the SECI Center.

1.3.8. Information exchange to combat illegal migration

The following types of information and intelligence in order to combat illegal border crossing and smuggling of human beings shall be exchanged by the law enforcement authorities of the Contracting Parties:

1. migratory movements
2. extent and structure
3. possible destinations

4. migratory routes
5. means of transport used to illegally cross the border
6. forms of organisations of the smugglers
7. intelligence and analyses that refer to a current situation
8. any planned measures that might be of relevance for the other Contracting Party.

For the concrete methodology of the collection and dissemination of data and information on illegal migration reference is made to the rules, guidelines and form as laid down in the Memorandum of Understanding, signed by Albania, Bosnia and Herzegovina, Macedonia, Montenegro and Serbia on 20 November 2008 in Skopje, Macedonia (AENEAS Project).

1.4. Restriction of cooperation

If a requested Party considers that granting the execution of a request or any other form of cooperation might jeopardise its security or other important interests or the national legislation,

- ⇒ it shall inform the other Contracting Party that it refuses the cooperation in full or in part, or
- ⇒ that it agrees to cooperate under certain conditions.
- ⇒ The Contracting Parties shall inform each other, without delay, in writing, stating the ground for complete or partial refusal of cooperation.

1.5. Annex (8.3., 8.4., Draft form III and IV)

The Contracting Parties are invited, when necessary and appropriate, to use the draft form III and IV attached to this manual under Annex 8.3. and 8.4.

2. LIAISON OFFICERS

The procedures described below are applicable to Article 9 of the Convention.

2.1. Introduction

Based on a bilateral agreement liaison officers act as advisors and facilitators and they are not empowered to independently resort to any law enforcement measures in a host State for a specified or unspecified period of time. In principle, liaison officers are accredited to the sending diplomatic or consular bodies in the recipient State. Liaison officers should be posted to the central authority of the recipient State. The police authority of the host State is bound to provide for the protection of liaison officers. The police authority of the host State shall determine the activities of the liaison officers and the conditions in which these are carried out. The liaison officers are bound to follow instructions issued by the competent authorities.

2.2. Tasks of liaison officers

The main tasks of liaison officers are to intensify and enhance international cooperation, in particular with police authorities, particularly by providing assistance:

1. in the form of exchange of information for the purposes of the Convention;
2. in executing requests for mutual police assistance in criminal matters;
3. with the tasks carried out by the authorities responsible for border-surveillance.

Without this list being claimed to be exhaustive, tasks of liaison officers can include also i.e.:

- Monitoring the strategic and tactical crime situation, observing trends, including measures taken to combat crime
- Monitoring the political development in the host country
- Involvement in the drafting of bilateral agreements, arrangements and conventions
- Giving advice to the Ministry of Interior in all decision making
- Accompanying high-ranking delegations
- Giving lectures and providing training

2.3. Training

Due to the complex tasks, the selected liaison officers shall receive general training providing a survey of all administrative units of the sending ministry and its service authorities pertinent to the work of the liaison officers. Individual training modules shall be offered accordingly. These are organised by the service units to cooperate with the individual liaison officers and which are responsible for the contents of the training programme.

2.4. Cooperation between liaison officers in Third States

The Contracting Parties may take advantage of the possibility of common use of liaison officers who, based on a bilateral or multilateral agreement, shall also represent the interests of one or more Contracting Parties. Selection of destinations for the secondment of liaison officers should follow a thorough assessment and be based on a national strategy for posting all types of liaison officers (i.e. police, migration, attachés) abroad in order to avoid overlaps and to make the best possible use of complementary functional profiles which have very different legal foundations and duties.

The Contracting Parties should inform each other of their intention to second a liaison officer to a third State.

2.5. Annex 13 (8.13. Draft form XIII)

The Contracting Parties are invited, when necessary and appropriate, for the conclusion of bilateral agreements according to Article 9 of the Convention, to use the draft bilateral agreement "Liaison Officers", attached to this manual under Annex 8.13., draft form XIII.

3. HOT PURSUIT

The procedures described below are applicable to Article 13 of the Convention.

3.1. General provisions

Pursuant to Article 13 of the Convention and based on a bilateral agreement officers in pursuit of a person

- caught in the act of committing a criminal offence or
- participating in a criminal offence or
- who escaped from provisional custody or
- while serving a sentence involving deprivation of liberty,

may continue pursuit in the territory of another Contracting Party with which their State has a common border without the latter's prior authorisation, where given the particular urgency of the situation, if it is not possible to notify the law enforcement authorities of the other Contracting Party by one of the means provided for in Article 24 of the Convention prior to entry into that territory or where these authorities are unable to reach the scene in time to take over the pursuit.

The bilateral agreement can extend the possibility for pursuit beyond the above provisions and shall define the criminal offences for which the hot pursuit will be applicable (exhaustive list or extraditable criminal offences).

3.2. Conditions

- Hot pursuit requires that it has not been possible to advise the requested authorities in advance owing to particular urgency or the authorities have been informed but have not been able to take over the pursuit in time themselves.
- The pursuing officer consults the authorities of the requested State at latest upon crossing the border.
- The pursuit ceases at the first request of the requested State.
- Reference to a national fact sheet must be made to set out the different legal situations and restrictions set by each State.
- Hot pursuit shall be carried out in accordance with the bilateral agreement in an area....
- Hot pursuit shall be carried out without limit in space or time.
- Only officers from the designated authorities (see national fact sheet) may exercise the power of pursuit.

3.3. Operation

3.3.1. During pursuit

- The officers must act in compliance with the national law of the state in which they are operating and must follow the instructions of the local authorities.
- Pursuit may be performed over land and blue borders.
- Entry into private homes and places not accessible to the public is prohibited.
- The pursuing officers shall be easily recognisable, either by their uniform, by means of an armband or by accessories fitted to their vehicles; the use of civilian clothes combined with the use of unmarked vehicles without the aforementioned identification is prohibited; the pursuing officers must at all times be able to prove that they are acting in an official capacity.
- The pursuing officers may carry their service weapons; their use shall be prohibited except in cases of legitimate self-defence.
- Once the pursued person has been apprehended for the purpose of being brought before the competent local authorities, that person may only be subjected to a security search; handcuffs may be used during the transfer; objects carried by the pursued person may be seized.
- The power to exercise road traffic privileges during pursuit is granted to the pursuing officers in accordance with the national law of the State into whose territory pursuit is continued.

3.3.2. After pursuit

- The officers involved shall appear before the locally competent authorities to make a report after every pursuit, no matter what the outcome; at the request of those authorities, the officers shall remain at their disposal and provide assistance, until the circumstances surrounding their action have been sufficiently clarified.
- The authorities of the Contracting Party from which the pursuing officers have come shall, when requested by the authorities of the Contracting Party in whose territory the hot pursuit took place, shall assist the enquiry subsequent to the operation in which they took part, including judicial proceedings, providing that the identity of the involved pursuing officer is protected.
- A person who has been arrested by the competent local authorities may, whatever that person's citizenship, be held for questioning. The relevant rules of national law shall apply mutatis mutandis. If the person is not a national of the Contracting Party in whose territory the person was arrested, that person shall be released no later than six hours after the arrest was made, not including the hours between midnight and 9.00 a.m.,

unless the competent local authorities have previously received a request for that person's provisional arrest for the purposes of extradition in any form whatsoever.

3.4. Annex (Draft form X)

The Contracting Parties are invited, when necessary and appropriate, for the conclusion of bilateral agreements according to Article 13 of the Convention, to use the draft bilateral agreement "Hot Pursuit", attached to this manual under Annex 8.10., draft form X.

4. CROSS-BORDER SURVEILLANCE

The procedures described below are applicable to Articles 14 and 15 of the Convention.

4.1. General provisions

Principle

Cross-border surveillance is an operation whereby a surveillance operation in one State (“requesting State”) is continued in the territory of another State (“requested State”). This can be done either by the officers having started the surveillance or it can be a continuation by officers of the requested state. The surveillance can cross several States.

According to Article 14 of the Convention, when a crime has been committed and when it is within the framework of their competences, nationally authorised officers are allowed to continue the surveillance, which has started in their own country, across the border towards another Contracting Party under strictly defined conditions and with the approval of that State.

Cross-border surveillance is permitted to take place on all types of border crossings, on land, in the air and at sea.

According to the main rule an approval must be obtained in advance, i.e. before the border is crossed, to continue the surveillance in the territory of the requested State.

When there is a risk of delay the surveillance is allowed to continue across the border in the territory of the requested State without prior approval under certain conditions.

The legal basis for such cross-border surveillance is Article 14 of the Convention.

In Article 14 the two following cases are separated:

- ⇒ Normal or Ordinary surveillance (OS), which is carried out after obtaining authorisation pursuant to a request for assistance,
- ⇒ Urgent or Emergency surveillance (ES), which allows surveillance to be continued in the territory of another State without prior authorisation.

The form (Letter of Request for Performance of Cross-Border Surveillance) for cross-border surveillance should be filled in as accurately as possible, especially with information about police personnel, weapons, vehicles and technical equipment.

There is a need of harmonising in particular communications, technical equipment and procedures for police services which carry out cross-border operations.

The State that is planning the cross-border surveillance shall inform the requested State as soon as possible. The general rule is that all requests should be sent to the central national unit. Information about rules of the respective country for police officers executing cross-border operations in the territory should be easily available.

Knowledge of rules (including rules of the other countries) for cross border operations is regularly promoted via joint training of neighbouring countries.

4.2. Conditions for normal or ordinary surveillance (OS)

- A preliminary investigation has started.
- The individual who is going to be observed must be suspected for having committed a crime or of complicity in a crime that can be liable to extradition.
- Only nationally authorised officers are allowed to carry out cross-border surveillance.
- The state that received the request must give its approval of the surveillance (certain conditions can be included in the approval).
- The general rule is that all requests should be sent to the central national unit.
- The nationally authorised officers who carry out the surveillance are allowed to carry service weapons if the requested State has not forbidden this, however the weapons can only be used in legitimate self-defence.
- The central national unit must be able to forward the request within the state to the unit responsible for the operation on a 24/7 basis.

In addition to being authorised, officers conducting cross-border surveillance should be trained to an appropriate level, be equipped to a level of self sufficiency and be fully aware of their powers and responsibilities pursuant to Article 14.

4.3. Conditions for urgent or emergency surveillance (ES)

- Prior approval could not be obtained because the case was very urgent. This applies for example when the authorities learn of the offence for which the cross-border surveillance is required at such a late stage that the request for assistance could not be granted even if it was transmitted to the central national unit immediately.
- A criminal investigation must have started.
- It is suspected that the individual or other persons than the suspect – if required by the pending investigation and if there are reasonable grounds to assume that the surveillance will contribute to identify or track down the suspected perpetrator - and are subject to surveillance related to crimes presented in the attached list.
- Only nationally authorised officers are allowed to carry out surveillance.
- The border-crossing is immediately reported to the central national unit in the requested State.

- A request for legal assistance is submitted without any delay.
- An urgent reply is necessary from the requested State as to whether the request is approved or rejected.
- The requested State replies on the same form as the one which was sent to it.

4.4. The surveillance must be interrupted

- ⇒ At the request of the requested State.
- ⇒ If no approval has been obtained from the requested State within 5 hours after the border was crossed.

4.5. National Central Unit

The National Central Unit's main role is to make sure that all available information on the place where it is assumed that the surveillance will be conducted will be delivered to the requested State in a correct way and to facilitate contacts between the officers in charge of the surveillance and the law enforcement authorities.

In urgent cases a request can be received from the foreign authority via telephone, but in that case the information shall be confirmed in writing as soon as possible.

The Central Unit shall have updated telephone numbers of the law enforcement authorities, which are the closest to the border.

The Central Unit shall function on a 24/7 basis. Where this is not possible, it is ensured that all tasks can be dealt with through on-call duty officers 24/7.

A standard form for statistics has been developed to provide reliable, general information on how often and how efficiently a surveillance operation is carried out. This form must be filled in by the central authority of the requesting State as soon as a request for surveillance has been made, no matter the outcome, (even if the border is not crossed in the end). All units shall report systematically to the National Central Unit.

4.6. Practical regulations to carry out the surveillance

4.6.1. Before crossing the border

- Even in urgent cases, a request for assistance shall be sent through the National Central Unit in each State.
- In urgent cases a request shall be sent as soon as possible.
- The submission of a request to cross the border shall be handled by the competent authorities in the requested State as a request for assistance according to Article 14 of the Convention. This request for assistance shall contain all the information as required by the bilateral agreement and shall be available at the time of the request.

- An approval of the request must be given by the requested State. Certain conditions can be linked to the approval.

4.6.2. After crossing the border

The officer shall be subject to the laws and regulations in the State where he/she operates and follow the instructions from the competent authorities.

- The officers carrying out the surveillance must at all times be able to give proof of their acting in an official capacity by using the attached form.
- If the requested State does not oppose this explicitly, the officer is allowed to carry a service weapon, which can only be used in legitimate self-defence.
- It is forbidden to enter domestic homes and places which are not open to the public.
- The individual who is subject to surveillance should neither be arrested nor challenged by the foreign officers carrying out the surveillance.
- In the event of a controlled delivery and if the competent law enforcement authorities of the requested Contracting Party cannot intervene in due time, and if continuation of the controlled delivery would present a serious risk for life or health of persons, or cause serious damage to property, or if the delivery could no longer be kept under control, the officer of the requesting Contracting Party can seize the controlled delivery. If necessary, the officers of the requesting Contracting Party can stop and apprehend persons who escort the shipment until intervention by law enforcement authorities of the requested Contracting Party. In any case the requesting Contracting Party shall inform the law enforcement authorities of the requested Contracting Party without delay.
- The application shall be submitted to the National Central Unit before the surveillance starts. In urgent cases when the surveillance team crosses the border, the National Central Unit shall contact its counterpart.
- The subject can however be retained and be submitted to a security search - which is not equivalent to an arrest - on condition that the subject has committed or taken part in the commission of an extraditable offence.

4.6.3. When the surveillance is over

- When the operation is over, this shall be reported to the authority in the requested State; the supervising officers can be instructed to appear in person.
- The authorities of the Contracting Party from which the surveillance officers have come shall, when requested by the authorities of the Contracting Party in whose territory the surveillance took place, assist the enquiry subsequent to the operation

in which they took part, including judicial proceedings, provided that the identity of the involved officers is protected.

4.7. Annex (Draft form VI)

The Contracting Parties are invited, when necessary and appropriate, for the conclusion of bilateral agreements according to Article 14 of the Convention, to use the draft bilateral agreement “Cross-border Surveillance”, attached to this manual under Annex 8.6., draft form VI.

5. CONTROLLED DELIVERY

The procedures described below are applicable to Article 15 of the Convention.

5.1. General provisions

Principle

A controlled delivery is a technique of allowing especially transport of narcotic drugs, precursors, firearms, explosives, counterfeit currency, and items originating from a crime, or intended to be used to commit a crime, through or into the territory of one or more countries, with the knowledge and under the supervision of the competent authorities, with a view of establishing who is criminally involved. The controlled delivery must be a part of criminal investigations for extraditable offences.

There are different types of controlled deliveries, depending on national law:

- with undercover agents
- with physical control
- without physical control (monitored delivery)
- with informants
- using substitutions.

A request for assistance is first submitted via the National Central Unit, using the standard form (Annex VII), including an explanation, that without this measure, the identification of perpetrators or of distributing routes would be impossible or extremely hampered.

The requested State has the right to ask that certain conditions be met before granting the request or refuse the request altogether, if the content of a controlled delivery presents particular risk for persons involved or a danger to the public.

The main role of the National Central Unit is to make sure that all available information on the location where it is assumed that the controlled delivery will be conducted will be delivered to the competent authorities of the requested State in a correct way and to facilitate contacts between the officers in charge of the surveillance and the law enforcement authorities.

The National Central Unit must be able to receive and to forward the request on a 24/7 basis.

5.2. Conditions and procedures for controlled deliveries requiring surveillance

The provisions of Article 14 of the Convention and chapter 2 of the PCC Manual shall apply accordingly.

5.3. Operation

Special techniques may be used provided that the use of these techniques is legal in the requested State.

The requested State shall be responsible for leading and monitoring the operation in its territory and shall have the authorisation to intervene. Upon mutual agreement between the requesting and requested State, the officers of the requesting Contracting Party can continue the controlled delivery together with officers of the requested Contracting Party.

5.3.1. Emergency intervention

In the event of a controlled delivery and if the competent law enforcement authorities of the requested Contracting Party cannot intervene in due time, and if continuation of the controlled delivery would present a serious risk for life or health of persons, or cause serious damage to property, or if the delivery could no longer be kept under control, the officers of the requesting Contracting Party can seize the controlled delivery. If necessary, the officers of the requesting Contracting Party can stop and apprehend persons who escort the shipment until intervention by law enforcement authorities of the requested Contracting Party. In any case the requesting Contracting Party shall inform the law enforcement authorities of the requested Contracting Party without delay.

5.3.2. Seizure of a controlled delivery

If a controlled delivery has been seized, it may be handed over to the requesting Contracting Party on the basis of a letter of request.

5.3.3. Arresting of a suspect

If during the operation a person was arrested and if this person is not a national of the Contracting Party in whose territory he/she was arrested, that person shall be released no later than six hours after the arrest was made, not including the hours between midnight and 9.00 a.m., unless the competent local authorities have previously received a request for that person's provisional arrest for the purposes of extradition in any form whatsoever.

5.3.4. Controlled delivery into Third States

Where the controlled delivery involves more than two States, authorisation, upon a letter of request, must be obtained from the transit and destination State(s) and only if the

requested State(s) guarantee(s) permanent surveillance of the shipment in a manner that enables police intervention at any time.

5.4. Annex (Draft form VIII)

The Contracting Parties are invited, when necessary and appropriate, to use the draft letter of request “Cross-border Surveillance and Controlled Delivery”, attached to this manual under Annex 8.8., draft form VIII.

6. UNDERCOVER INVESTIGATIONS

The procedures described below are applicable to Articles 16 and 17 of the Convention.

6.1. General provisions

According to Article 16 of the Convention, in the course of investigations of criminal offences and if the investigation of the criminal offence would otherwise be impossible or extremely impeded, the Contracting Parties can on the basis of a request under the terms of its national legislation, deploy officers in the territory of another Contracting Party who can play the role of an agent or a person performing a controlled purchase (undercover investigator).

According to the main rule an approval must be obtained in advance, i.e. before the border is crossed, to continue the undercover investigation in the territory of the requested State.

Due to extreme urgency, in case in which there is a serious danger that the identity of the undercover investigator can be revealed, the deployment of an undercover investigator in the territory of the other Contracting Party shall be admissible without prior consent under certain conditions.

Undercover investigations in the territory of the requested Contracting Party shall be restricted to single and temporary operations.

As a general rule, the Contracting Parties shall take all necessary precautions to keep the undercover investigator's identity secret and to guarantee his/her security, also after his/her deployment is over.

The legal basis for such undercover investigations is Articles 16 and 17 of the Convention.

In Article 16 and 17 the following four cases are separated:

- ⇒ Normal or Ordinary undercover investigation, which is carried out after obtaining authorisation pursuant to a request for an undercover investigation in the territory of the requested Contracting Party
- ⇒ Normal or Ordinary undercover investigation, which is carried out after obtaining authorisation pursuant to a request for an undercover investigation in the territory of the requesting Contracting Party
- ⇒ Urgent or Emergency undercover operation, which allows undercover activities to be continued in the territory of another Contracting Party without prior authorisation
- ⇒ Undercover investigation to prevent extraditable crimes, which are carried out after obtaining authorisation pursuant to a request.

6.2. Letter of request for performance of undercover investigation

The form (Letter of request for performance of undercover investigation) for cross-border undercover operations should be prepared by way of coordination between the officers involved from the Contracting Parties. A request may be submitted informally. The National Central Unit must be able to receive and to forward the request on a 24/7 basis.

The State that is planning the undercover investigation shall inform the recipient State as soon as possible. The general rule is that all requests should be sent to the National Central Unit in charge for undercover investigations. The true identity of the officer (undercover investigator) need not be revealed in the request. Information about rules of the respective country for officers executing undercover investigations in the territory should be exchanged in face-to-face meetings between the officers involved from the Contracting Parties. Also the letter of request can be prepared in such face-to-face meetings in order to maintain a minimum level of confidentiality.

The purpose of the following non-exhaustive measures in practical terms is to clarify in order to provide an example as what is expected for an undercover investigation⁴:

- Approval
 - Which authority approved the planned deployment or activity?
 - Within the approval State, what is required, i.e. legend building, backstopping, training, operational deployment etc.?
 - Legal framework – Which is the lead agency? What is the range of permission?

- Objective
 - The objective/purpose of the deployment/activity, for example:
 - The arrest of NN and seizure of certain goods / controlled deliveries,
 - Information about NN.
 - Operating a storefront.
 - Facilitating on specified items i.e. training, legend building, backstopping, operation deployment etc.
 - Support by an undercover operative.

- Management of operation – Human resources
 - The names of the officers with operational control and their dedicated responsibilities (i.e. decision making / major discussions / disputes / costs / authority).

⁴ European Cooperation Group on UC activities, drafted by Belgium, Denmark, Finland, Germany, Great Britain, Romania.

- A good organised executive team can take away many questions so that the operatives deployed can focus fully on their operational task. Disputes can be put there.
- Consideration should be given to the provision of a cover person.
- Hard criteria
 - In respect of participation:
 - Is the operative a trained law enforcement officer, authorised specialist or participating informant etc.
 - The operatives must obey the law, regulations and policies of the host country as well as those of their own country.
- Communication
 - Stipulate how communication will be conducted during the deployment or activity i.e. in what language will communication take place, will it be verbal or written?
 - What will be the frequency of contact?
 - Who will be responsible for maintaining communication i.e. with the operative, with the investigative agency?
 - How will the activities be reported and / or documented?
- Timescales
 - Consideration needs to be given to financial aspects of the operation like at what frequency will the deployment be reviewed, determine criteria for reviewing the deployment to establish whether or not the objectives have been met.
- Costs and expenses
 - Consideration needs to be given i.e. expenses of the deployment, accommodation, rental costs, ordinary operating expenses, safe houses and storefronts (during and after the operation), cost allocation for the undercover officer and confidant (i.e. financial award for the confidant after a successful operation).
 - It may be advantageous to review the financial aspects of the deployment on a regular basis.

- Disclosure
 - Disclosure to third parties or any other law enforcement agency must be approved by all signatories to the agreement.

- Safety
 - Every party is obligated to conduct the risk assessment and protective measures for the undercover officer and confidant.

- Briefing and de-briefing
 - Who is responsible within the organisation for arranging briefings and de-briefings?
 - What are the parameters and the frequency of briefings and de-briefings?
 - Consideration should be given to briefing and de-briefing of non-operational deployments, i.e. legend building to be conducted with the host country for the benefit of all concerned.

- Other considerations
 - Details of the operation should be developed only in face-to-face meetings.
 - The content of the letter of request should also be drafted in the first face-to-face meeting.

6.3. Normal or ordinary undercover investigation in the territory of the requested Contracting Party

- A preliminary investigation has started.
- Only officers are allowed to carry out undercover investigations.
- Requests shall be made only if the investigation of the criminal offence would otherwise be impossible or extremely impeded.
- The Contracting Party that received the request must give its approval of the undercover investigation (certain conditions can be included in the approval).
- The general rule is that all requests should be sent to the National Central Unit in charge for undercover investigations.
- The National Central Unit must be able to forward the request within the State to the unit responsible for the operation on a 24/24hr basis.
- Undercover operations shall be prepared by the way of coordination among the officers involved from the Contracting Parties. Due to the sensitivity of these special criminal investigations, the preparation should be made in face-to-face meetings.

- The deployment of the undercover investigator and the execution of the actions taken by the undercover investigator shall be managed by the requested Contracting Party.
- The requested Contracting Party is responsible for the action taken by the undercover investigator of the requesting Contracting Party.
- The requested Contracting Party can, at any time, demand the termination of the undercover operation.
- The officer and the use of the investigation results shall be subject to the laws and regulations in the state where he/she operates and he/she shall follow the instructions from the competent authorities.
- The requested Contracting Party shall grant the undercover investigator all necessary support in form of personnel, including the presence of his/her handler in the territory of the requested Contracting Party, logistics and technical equipment and is also responsible for the protection of the undercover investigator during the operation in its territory.

In addition, officers conducting undercover investigations should be trained to an appropriate level, be equipped to a level of self sufficiency and be fully aware of their powers and responsibilities pursuant to Article 16 and 17 of the Convention.

6.4. Normal or ordinary undercover investigation in the territory of the requesting Contracting Party

- A Contracting Party can request the deployment of an undercover investigator of the other Contracting Party in its territory.
- The provisions of chapter 6.2. of the PCC Manual shall apply accordingly.
- Unless otherwise agreed, the costs of such an operation shall be covered by the requesting Contracting Party.

6.5. Urgent or emergency undercover operation

- Prior approval could not be obtained because the case was extremely urgent. This applies to the cases in which there is a serious danger that the identity of the undercover investigator can be revealed.
- A criminal investigation must have started.
- Only officers are allowed to carry out undercover investigations.
- The border-crossing is without delay reported to the central national unit in the requested State.
- The activities of the undercover investigator are restricted to the extent absolutely essential for maintaining his/her cover story or his/her security.
- A request is submitted without any delay.

- An urgent reply is necessary from the requested State as to whether the request is approved or rejected.
- The requested Contracting Party can, at any time, demand the termination of the operation.

6.6. Undercover investigations to prevent criminal offences

- Upon request of a Contracting Party and as far as permissible under the respective national legislation, undercover investigations to prevent extraditable crimes can be carried out in the territory of the other Contracting Party, if consent has been given to this cross-border undercover investigation.
- The provisions of chapter 6.1. – 6.5. of the PCC Manual shall apply accordingly.

7. JOINT INVESTIGATIONS TEAMS

With the support of the President of EUROJUST and the Director EUROPOL the new Eurojust/Europol document “Joint Investigation Teams Manual”, published on 14 October 2011, The Hague, shall be used by the Contracting Parties. The procedures described below are also applicable for the Contracting Parties to the Police Cooperation Convention for Southeast Europe, being non-EU Members States, and laid down in Article 27 of the said convention. In this regard the term “Member State” is interchangeable with the term “Contracting Party”.

7.1. Introduction

The main goal of this Joint Investigation Teams (JITs) Manual, which supplements the existing Eurojust/Europol document “Guide to EU Member States’ legislation on Joint Investigation Teams”, is to inform practitioners about the legal basis and requirements for setting up a JIT and to provide advice on when a JIT can be usefully employed.

Other goals are to clear up possible misunderstandings about JITs, to encourage practitioners to make use of this new tool which can add value to their investigations, and help develop international cooperation in criminal matters in general. This Manual seeks to draw upon shared practical experiences as well as material from seminars and meetings.

As a living document, the Manual will be updated regularly, particularly in response to practical casework experience.

What is a JIT?

A JIT is an investigation team set up on the basis of an agreement between two or more Member States and/or other parties, for a specific purpose and limited duration.

The general benefits of a JIT compared to traditional forms of international law enforcement and judicial co-operation, such as “mirror” or “parallel” investigations and letters of request, are briefly summarised in the box below. There will also be many specific advantages to working in a JIT depending on the particular circumstances of the individual case.

Advantages of using a JIT:

- Ability to share information directly between JIT members without the need for formal requests
- Ability to request investigative measures between team members directly, dispensing with the need for Letters Rogatory. This applies also to requests for coercive measures
- Ability for members to be present at house searches, interviews, etc. in all jurisdictions covered, helping to overcome language barriers in interviews, etc.
- Ability to co-ordinate efforts on the spot, and for informal exchange of specialised knowledge
- Ability to build and promote mutual trust between practitioners from different jurisdictions and work environments.
- A JIT provides the best platform to determine the optimal investigation and prosecution strategies
- Ability for Europol and Eurojust to be involved with direct support and assistance
- Ability to apply for available EU, Eurojust or Europol funding
- Participation in a JIT improve and raises awareness of the management and delivery of international investigations

7.2. The concept of JITs

On 29 May 2000, the EU Council of Ministers adopted the Convention on Mutual Assistance in Criminal Matters (“2000 MLA Convention”)⁵. The objective of this Convention is to encourage and modernise co-operation between judicial and law enforcement authorities within the European Union as well as in Norway and Iceland by supplementing provisions in existing legal instruments and facilitating their application.

In view of the slow progress towards the ratification of the 2000 MLA Convention, the Council adopted on 13 June 2002 a Framework Decision on Joint Investigation Teams which the Member States were to implement by 1 January 2003⁶. Member States were convinced that the JITs tool in particular would be an important benefit to the law enforcement agencies of the European Union.

The concept of JITs arose from the belief that existing methods of international Police and judicial co-operation were, by themselves, insufficient to deal with serious cross-border

⁵ Council Act of 29 May 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, 12.07.2000 p. 3.).

⁶ Framework Decision 2002/465/JHA on joint investigation teams (OJ L 162 20.06.2002).

organised crime. It was felt that a team of investigators and judicial authorities from two or more states, working together with clear legal authority and certainty about the rights, duties and obligations of the participants, would improve the fight against organised crime.

- JIT provisions in 2000 MLA Convention
- Because of slow ratification of the Convention, JIT provisions were agreed by Member States in Framework Decision of 2002 for quicker implementation
- Existing methods deemed insufficient to effectively combat serious cross-border crime in some cases

7.3. Legal Framework

JITs set up between Member States of the EU ("EU" JITs)

The legal framework for setting up JITs can be found in Article 13 of the 2000 MLA Convention as well as in the Framework Decision. The latter repeats in fact Articles 13, 15 and 16 of the 2000 MLA Convention in almost identical terms; the Framework Decision has been implemented in the Member States in different ways. While some countries have adopted specific laws on JITs or have inserted JIT provisions in their respective codes of criminal procedure, others have simply referred to the direct applicability of the 2000 MLA Convention in their legal order. The latter has entered into force in the majority of the Member States. The Framework Decision itself will cease to have effect once the 2000 MLA Convention has entered into force in all Member States.

To date only Italy has not yet implemented the Framework Decision or ratified the 2000 MLA Convention.

In *Annex XI* reference is made to the respective national legislations.

- Some Member States have given direct effect to the provisions
- Some have enacted specific legislation
- The position is set out in Annex 1
- Detailed analysis can be found in “Guide to EU Member States’ legislation on Joint Investigation Teams”

JITs set up between EU Member States and Third States

JITs can be set up with and in between countries outside of the European Union as well, provided that a legal basis for the creation of such a JIT exists. The legal basis can take the form of:

- An International legal instrument,
- A bilateral Agreement,
- Multilateral Agreement,
- National Legislation (e.g. Article(s) in the code of criminal procedure).

The following international legal instruments are already available and might provide a suitable legal basis for a JIT between an EU Member State and a third state:

- The second additional protocol to the Council of Europe Convention on Mutual Assistance in Criminal Matters of 20 April 1959 (Article 20)
- UN Convention against Transnational Organized Crime, 15 November 2000 (Article 19)
- The Convention on mutual assistance and cooperation between customs administrations (Naples II Convention), 18 December 1997 (Article 24)
- Police Cooperation Convention for South East Europe (PCC SEE), 5 May 2006 (Article 27)
- Agreement on Mutual Legal Assistance between the European Union and the United States of America; (Article 5 and national implementation thereof)

7.4. Requirements for a JIT

Article 13(1) of the 2000 MLA Convention and Article 1 of the Framework Decision of 13 June 2002 on Joint Investigation Teams approach the JIT concept not so much from the seriousness of a crime but rather from the crime’s international and cross-border dimension.

Article 13(1) of the 2000 MLA Convention⁷ states that JITs may, in particular, be set up where:

- A Member State's investigations into criminal offences require difficult and demanding investigations having links with other Member States.
- A number of Member States are conducting investigations into criminal offences in which the nature of the case necessitates co-ordinated and concerted action in the Member States involved.

JITs will usually be considered in relation to the investigation of more serious forms of criminality. However, when considering setting up a JIT, national legislation and operational guidelines should be checked in order to determine whether the creation of a JIT is subject to a seriousness threshold or any other qualifying criteria.

That said, JITs may prove useful in the investigation of smaller cross border cases. This is because a JIT can facilitate co-operation in the specific case and also prepare the groundwork for future JITs by building mutual trust and providing experience in cross-border co-operation.

Requests for setting up a JIT may often come from a Member State but could also often come from Europol and Eurojust. In some Member States this initial request must be in the form of a Rogatory Letter.

It is recommended that investigators, prosecutors, magistrates and/or judges from the Member States considering the creation of a JIT, together with delegates from Eurojust and Europol, meet to discuss the matter *at the earliest opportunity* before a formal proposal and agreement is made. As some countries have implemented domestic administrative rules which, for example, stipulate notification of the competent ministries in the preparatory stage, the early involvement of all competent persons is of the utmost importance so as not to jeopardise or delay the whole process.

⁷ Hereafter, the respective provisions of the Framework Decision on Joint Investigation Teams apply *mutatis mutandis*.

- Whether a JIT is suitable in a particular case depends on the individual circumstances, but JITs can be considered in smaller as well as bigger cases
- Involve Eurojust and Europol at earliest opportunity to discuss possible benefit of the creation of a JIT and concrete steps in formation
- JITs can serve as basis for future co-operation by facilitation of mutual trust and contacts
- Creation of a JIT can be suggested by a Member State, as well as Eurojust and Europol
- A JIT is a flexible investigative tool to be used for the benefit of the investigator

7.5. Structure and operation of a JIT

7.5.1. The team

The team is set up in the Member State in which investigations are expected to be predominantly carried out.

The wording of Article 13 of 2000 MLA Convention allows for a group of investigators and other personnel, from two or more Member States, to be assembled together in close proximity to investigate the case. This implies a number of people temporarily working outside of their own Member States as it might, in many cases, be an ideal arrangement. However, there is no requirement that a member of the JIT has to work outside of his home country, even if the JIT is permanently based in another country. Indeed, a JIT can quite properly be formed with members from two or more Member States when nobody works outside their own Member State.

For example, Sweden and Finland could agree to operate a JIT based in Helsinki, with a single Swedish member undertaking enquiries in Stockholm and never going to Finland. Similarly, a team in one “headquarter country” could include a member representing all participating countries, whilst the other team members act in their home countries. A number of scenarios are possible and organisational issues of the JIT have to be decided on a case by case basis taking into account factors such as costs, availability of personnel, length of enquiry, nature of the investigation, judicial authority etc.

- Need to consider geographic basis and to allow flexibility if the investigation reveals a different area of operation
- No "obligation" to second members abroad
- Consideration should be given to linguistic abilities of team members to encourage communication

7.5.2. The JIT Leader

Every JIT needs to have a team leader or leaders. Article 13 of the 2000 MLA Convention offers several possibilities and again leaves room for national interpretation. It is not specified whether the team leader should be a public prosecutor, a judge or a senior Police or customs officer. As this issue is very much dependent on national legislation, no suggestions will be given here. However, since the JIT is considered in some Member States as a "particular form of mutual legal assistance", it is recommended that a representative from the judiciary should be the leader in those cases where investigating magistrates or prosecutors direct operations. In other jurisdictions and dependant on the national framework, it may be appropriate that a law enforcement officer leads the JIT.

Article 13 of the 2000 MLA Convention provides 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..." One interpretation of this is that the JIT is under one permanent leadership, based on the JIT's main seat of operations. On another interpretation, the team leader should come from the Member State in which the team happens to be at any time when carrying out its operations. Some support for this interpretation can be obtained from the model agreement (see section 7 and *Annex 2*), which states that a leader "shall be a representative of the competent authorities in the Member State(s) where the team is operating (...) and under whose leadership the members of the JIT must carry out their tasks in the Member State to which he belongs". Experiences so far suggest that Member States prefer the option of having more than one team leader rather than opting for one team leader with overall responsibility.

- Clear leadership structure is essential for members of the JIT
- A "flowing" leadership structure, dependent on geographic sphere of operations, is allowed provided leadership structure remains clear
- Communication is crucial to successful management of a JIT

7.5.3. The activities

Team members carry out their tasks under the leadership of the JIT leader, taking into account the conditions set by their own authorities in the agreement on setting up the JIT. This is an issue that needs to be fully considered when drafting the JIT agreement, so that team members, particularly those seconded from another Member State, are aware what line-management structure or structures are in place.

Article 13, paragraph 4, distinguishes between “members” and “seconded members” acting in a JIT. Seconded members of the JIT are from Member States other than the Member State in which the team operates. They may, in accordance with the law of the Member State where the team operates, and the JIT Agreement, be allowed to be present when operational activities such as searches of premises are carried out. This support for operational activity can include certain investigative measures where this has been approved by the competent authorities of the Member State of operation and by the seconding Member State. The JIT leader has the right to make exceptions to that general rule. The approval to be present and/or to undertake investigative actions should also be considered in the formal agreement.

The most innovative and possibly most helpful elements of Article 13 of the 2000 MLA Convention are provided for in paragraphs 7 and 9. Where the JIT needs investigative measures to be taken in one of the Member States, members seconded to the team may request their own competent authorities to take those measures. The request should be considered under the conditions which would apply in a national investigation. The purpose of this provision is to avoid the need for Rogatory Letters, even when the investigative measure requires the exercise of a coercive power, such as the execution of a search warrant. This is one of the main benefits of a JIT. For example, a Dutch Police officer seconded to a JIT operating in Germany could ask his Police colleagues in the Netherlands to execute a search warrant, issued in accordance with Dutch law, in the Netherlands on behalf of the JIT. However, it must be remembered that Article 13 of the 2000 MLA Convention does not override national legislation. For example, a Dutch officer may ask his British counterpart to request phone intercepts in the UK. The subsequent possibility of using this information in court proceedings however will always depend on the two relevant domestic legislations, and as such this needs close examination.

This need to consider national legislation also applies to paragraphs 9 and 10, although these provisions give another valuable advantage to investigators: members of a JIT may, again in accordance with their national law, provide the team with information available in their country. For example, a team member may provide information concerning subscriber details, car registrations and criminal records from his home country directly to the JIT, without channelling

the information via the competent national central bodies. However, consideration should be given to admissibility requirements if the provided information is also be used as evidence in the criminal file.

Whilst only appropriate authorities from Member States of the European Union are permitted to be members of a JIT, third parties, whether or not from the EU, may *participate* in the operation of the JIT. For example, in a JIT between Belgium and the Netherlands, an FBI officer from the United States of America could be a participant but never a member or seconded member.

The rights conferred upon members of the team by virtue of Article 13 (for example, the right to be present when investigative measures are taken) do not apply to these persons unless the agreement expressly states otherwise.

- JITs in general and JIT agreements cannot and do not override domestic law and obligations
- Clear information and guidelines need to be provided to participants, specifically as to:
 - Differences in authorities required for certain coercive measures
 - Conditions for effective use as evidence in eventual court proceedings
 - What kind of evidence can be used in subsequent court hearings
 - Internal line-management structures
- Ability for third parties to be "participants" in "EU" JITs, but not "members":
 - Roles, purpose and duties of participants need to be clearly described in JIT Agreement, specifically liability provisions
 - Participants may come not only from EU bodies/agencies, e.g. Europol, Eurojust, OLAF, etc., but also from Third States and their agencies e.g. the FBI

7.6. Participation of Eurojust and Europol

As both institutions have been created to support Member States in their fight against organised serious cross-border crime, their respective competences and tasks imply that Eurojust and Europol play a central role in Joint Investigation Teams.

In accordance with Article 1 (12) of the Framework Decision, as well as provisions in the 2000 MLA Convention, Eurojust and Europol can participate in JITs, separately as well as jointly. Further, Article 6 of the Co-operation Agreement between Europol and Eurojust, enables both parties together, at the request of one or more Member States, to participate in the setting up of

JITs, and support national judicial and law enforcement authorities in the preliminary discussions concerning the setting up of JITs.

Thus, in close co-operation, both organisations will be at the disposal of requesting Member States when these are considering a JIT. Particularly in the preparatory assessment and negotiation phase both may support the Member States by providing legal advice as well as expertise from prior JIT participation. In addition, facilities for meetings and interpretation are available to Member States. Furthermore, from their role in exchanging information and co-ordinating mutual legal assistance, Europol and Eurojust may be in a position to identify suitable cases for a JIT and consequently request Member States to act upon such a request.

Whilst it is not mandatory to involve Eurojust and Europol when establishing and operating a JIT, both could play a crucial role in ensuring the efficiency and operational capacity of the JIT and the overall success of the investigation. Indeed, both organisations can assist in the administrative management of the JIT and also assist in and advise on the obtaining of funding. Under the Eurojust JIT Funding Project, financial assistance for travel/accommodation and interpretation/translation costs and logistical support (loan of equipment) is available (further details under http://www.eurojust.europa.eu/jit_funding.htm). Also, operational meetings can be funded via Europol as well as coordination meetings via Eurojust (see to this effect the website of Europol and Eurojust).

Eurojust National Members, their deputies and assistants can be members of a JIT when their Member State has defined, as required by Article 9f of the revised Eurojust Decision⁸ their participation in the joint investigation team “as national competent authority”. Officials from Europol, OLAF, and National Members of Eurojust, their deputies or assistants, not acting as national competent authority, may be participants in the operation of a JIT, but they cannot lead or be member of it.

In accordance with Article 6 of the Europol Council Decision⁹ Europol officials may participate in a JIT in a “support capacity” but are not permitted to take part in any coercive measures.

⁸ Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime as amended by Council Decision 2003/659/JHA and by Council Decision 2009/426/JHA of 16 December 2009 on the Strengthening of Eurojust.

⁹ Council Decision establishing the European Police Office (Europol) of 06 April 2009, (OJ L 121, 15.05.2009), see in particular Articles 5(1)(d) and 6.

- Early advice as to suitability of a case for a JIT vs. traditional means (coordination meetings, parallel investigations, etc.)
- Early practical and legal advice regarding the JIT agreement and provisions to be contained therein
- Provision of facilities for meetings, incl. translations and secure surroundings, for agreement negotiations as well as co-ordination meetings
- Provision of gained experience in JITs, as well as core tasks of co-ordination and support in cross-border investigations
- Provision of analytical support
- Facilitation of exchange of information as well as the execution of international mutual legal assistance with other non-participating countries
- Advice/support on current availability, conditions and procedures for funding and equipment loan

7.7. The JIT Agreement

The 2000 MLA Convention stipulates that JITs are established on the basis of a written agreement. As previously explained, the legal framework to set up and operate a JIT allows for a wide range of discretionary powers and therefore the agreement is of crucial importance to all parties.

On the one hand, experience so far suggests that it is preferable to agree from the outset on detailed arrangements in order to avoid the need for time-consuming discussions during the operation of the JIT. On the other hand, it should be remembered that investigative action and evidence gathering must often commence quickly so that lengthy discussions about the agreement can be avoided. As Article 13 of the 2000 MLA Convention allows the agreement to be amended at any time, a speedy processing of the agreement should be given preference rather than holding lengthy discussions about every detail. Against this background, one purpose of this Manual is to enable the competent authorities and practitioners to consider all elements of the legislation in the written agreement while at the same time enabling them to start the investigation in a short period of time.

The Council of the European Union adopted a first Recommendation on a Model Agreement¹⁰ for setting up a Joint Investigation Team on 8 May 2003 and a second one on 26 February 2010¹¹, which is now being used. The latter includes in Appendix 1 a new recommendation for the conditions of participants to JIT, and also contains specific provisions applicable to Europol's

¹⁰ Council Recommendation of 8 May 2003 on a model agreement for setting up a joint investigation team (OJ C 121 of 23.05.2003, p.1).

¹¹ Council Resolution of 26 February 2010 on a Model Agreement for setting up a Joint Investigation Team (JIT) (OJ C 70 of 19.03.2010)

participation. Additionally, some Member States have already agreed draft JIT templates between themselves to speed up the agreement process.

- The content of the JIT Agreement may be subject to disclosure proceedings in certain jurisdictions. Thus, consideration needs to be given to:
 - the definition of the purpose of the JIT, to avoid disclosing other possible suspects still subject to other investigations
 - the identity of the team members can be annexed or sent separately, possibly removing the need to disclose identities of, for example,, undercover officers, specialists, etc.
- Agreement should contain main provisions and clear definitions of roles of members and participants
- During negotiations of an agreement, the core objective of the JIT should be borne in mind, along with differences in legal procedure, rules of evidence and authority required for certain coercive measures
- As every JIT is individual, the JIT Model Agreement may not suit all circumstances; however, it provides a useful guide to issues which should be covered in any agreement

7.8. Conclusion

JITs are designed as a flexible tool for supporting investigations involving cross-border crime and building mutual trust. In addition to the main objective of improving the effectiveness of Member States in investigating international serious and organised crime, there are many other clear benefits for those who participate in a JIT. Countries that have participated in a JIT have frequently endorsed the concept and demonstrated a marked willingness to use JITs to investigate and prosecute cross-border crime.

JITs will not always be the most appropriate tool in every cross-border investigation but practitioners should be aware of their considerable benefits and be in a position to make informed decisions about their use.

For further information please contact your national Eurojust / Europol desk or see the JIT website via links from both the Europol (www.europol.europa.eu) and Eurojust (www.eurojust.europa.eu) websites.

7.9. Annex (Draft form XII)

The Contracting Parties are invited, when necessary and appropriate, for the conclusion of bilateral agreements according to Article 27 of the Convention, to use the draft agreement “Joint-

Investigation-Teams” and appendix 1 – 4, attached to this manual under annex 8.12., draft form XII.

Classification level for all Contracting Parties:*Albania:*

Restricted	-----
Confidential	Konfidencial
Secret	Sekret
Top Secret	Teper Secret

Bosnia and Herzegovina:

Restricted	Interno
Confidential	Povjerljivo
Secret	Tajno
Top Secret	Vrlo Tajno

Bulgaria:

Restricted	За служебно ползване / For official use only
Confidential	Поверително / Confidential
Secret	Секретно /Secret
Top Secret	Строго секретно / Top secret

Macedonia:

Restricted	ИНТЕРНО
Confidential	ДОВЕРЛИВО
Secret	СТРОГО ДОВЕРЛИВО
Top Secret	ДРЖАВНА ТАЈНА

Moldova:

Restricted	De Serviciu / Service
Confidential	Confidential / Confidential
Secret	Secret / Secret
Top Secret	Strict Secret / Top Secret

Montenegro:

Restricted	Restricted
Confidential	Confidential
Secret	Secret
Top Secret	Top Secret

Romania:

Restricted	Secret de Serviciu
Confidential	Secret
Secret	Strict Secret
Top Secret	Strict Secret de Importante Deosebita

Serbia:

Restricted	Internal
Confidential	Service Secret / Confidential
Secret	Service Secret / Top Secret
Top Secret	State Secret

Central authorities for mutual assistance:

MS	Service	Address	Telephone	Fax	Mail
AL					
BG	International Operational Cooperation Directorate, Ministry of Interior	114b, Maria-Luiza Blvd 1202 Sofia Bulgaria	+359 2 982 43 69, +359 2 982 43 68	+359 2 962 60 51	sirene.bg@mvr.bg
BA					
MK					
MD					
ME					
RO					
RS					

REQUEST FOR THE EXCHANGE OF INFORMATION

Under Framework Article 3 – 8 Police Cooperation Convention for Southeast Europe

Requesting / Informing Contracting Party	
Requesting / Informing authority (name, address, telephone, fax, email, Contracting Party)	
Details of the handling agent	
Date and time of this request / information	(DD MM YYYY) (HH MM)
Reference number of this request / information	

Requested / Informing Contracting Party	Channel
	Interpol
	Europol
	Liaison Officer
	(other)

Previous request / information
<input type="checkbox"/> This is the first request / information on this case
<input type="checkbox"/> This request / information follows previous requests / information in the same case

Classification level	<input type="checkbox"/> Restricted	<input type="checkbox"/> Confidential	<input type="checkbox"/> Secret	<input type="checkbox"/> Top secret
-----------------------------	-------------------------------------	---------------------------------------	---------------------------------	-------------------------------------

Urgency is requested	<input type="checkbox"/> YES	<input type="checkbox"/> NO
-----------------------------	------------------------------	-----------------------------

Information requested / given

TRANSMISSION OF INFORMATION

Under Framework Article 3 - 8 Police Cooperation Convention for Southeast Europe

Requested Contracting Party	
Requested authority (name, address, telephone, fax, email, Contracting Party)	
Details of the handling agent	
Date and time of this request / information	(DD MM YYYY) (HH MM)
Reference number of this answer	

Answering to the following Contracting Party(s)	Channel
	Interpol
	Europol
	Liaison Officer
	(other)

Answering to the following requesting authority	
Date and time of the request	(DD MM YYYY) (HH MM)
Reference number of the request	

Classification level Restricted Confidential Secret Top secret

Urgency is requested YES NO

Information / Intelligence provided

National fact sheets**Albania****1. List of nationally authorised officers**

Members of

2. Specific national measures

E.g. none or if police officers in Albania have e.g. the power to carry out controls on persons without concrete reason or suspicion etc.

3. National Central Unit to be contacted upon crossing the border

Name of the Unit, address, telephone- and fax numbers, email address

Bosnia and Herzegovina**1. List of nationally authorised officers****2. Specific national measures****3. National Central Unit to be contacted upon crossing the border****Bulgaria****1. List of nationally authorised officers****2. Specific national measures****3. National Central Unit to be contacted upon crossing the border****Macedonia****1. List of nationally authorised officers****2. Specific national measures****3. National Central Unit to be contacted upon crossing the border****Moldova****1. List of nationally authorised officers****2. Specific national measures****3. National Central Unit to be contacted upon crossing the border****Montenegro****1. List of nationally authorised officers****2. Specific national measures****3. National Central Unit to be contacted upon crossing the border****Romania****1. List of nationally authorised officers****2. Specific national measures****3. National Central Unit to be contacted upon crossing the border****Serbia****1. List of nationally authorised officers****2. Specific national measures****3. National Central Unit to be contacted upon crossing the border**

The Contracting Parties are invited, when necessary and appropriate, for the conclusion of bi-lateral agreements to use the draft agreement

State NN
and
State AA

Based on Article 34 of the Police Cooperation Convention for Southeast Europe, in relation with Article 14, concludes

endeavouring to more effectively combat international crime and cross-border threats by cooperation on a partnership basis and supplementary to

- the Police Cooperation Convention for Southeast Europe of 5 May 2006,
-

have agreed on the following:

Article 1
Scope of Agreement

The Contracting Parties shall strengthen their cooperation with respect to combating threats to public security and order, in particular in the prevention and combating of criminal offences, as well as in pursuing criminal offences.

Article 2
Relationship to other regulations

- (1) Unless otherwise stipulated expressly in this Agreement, cooperation shall be performed within the scope of the respective national law of the Contracting Parties as well as of the international obligations of the Contracting Parties.

- (2) The national notification obligation towards the respective National Central Unit as well as the procedure of international cooperation in the field of combating crime shall remain unaffected by this Agreement.

**Article 3
Authorities**

- (1) „Authorities“ for the purpose of this Agreement are:

On the part of state NN

-.....
-.....
-.....

On the part of state AA

-.....
-.....
-.....

**Article 4
Admissibility of cross-border surveillance**

- (1) Officers from a Contracting Party who are keeping under surveillance within the scope of investigations a person strongly suspected of participating in an extraditable criminal offence shall be authorised to continue their surveillance in the territory of the other Contracting Party provided the latter Contracting Party has given his authorisation on the basis of a previously submitted request. This shall also apply to the surveillance of a person strongly suspected of being able to lead to the identification or discovery of a person suspected of participating in an extraditable criminal offence.
- (2) The request according to paragraph 1 shall be addressed to
- in State NN
 -in State AA
- (3) Requests and replies to such requests shall be made in writing (by facsimile or email). In the case of exchanging person-related data, a safe method of transfer shall be chosen and the sensitivity of the data taken in consideration. In urgent cases, it shall also be possible to make the requests verbally. This must, however, be followed immediately by a written confirmation of the request.

- (4) The authorisation of the cross-border surveillance shall extend to the complete territory of the authorising state.
- (5) If, due to the extreme urgency of a case, the requesting party is unable to request prior authorisation, the officers performing the surveillance shall be entitled to continue the surveillance of a person as explained in Paragraph 1 also across the border. In such cases the authorities of the Contracting Party in whose territory the surveillance is to be continued shall be informed immediately that the border has been crossed and a Rogatory Letter containing the precise reasons why it had been necessary to cross the borders without having obtained prior authorisation must be submitted without delay.

Notification of border crossing shall be given to

-.....

on the side of State NN

-.....

on the side of State AA

Surveillance shall be ceased as soon as the Contracting Party in whose territory the surveillance is being made demands this on the basis of the notification or request, in accordance with the above paragraphs or if authorisation has not been granted (at least 5) hours after the border is crossed.

- (6) [List of extraditable criminal offences]
- (7) Changes in scope of responsibility for the purpose of Articles 3 and 4 shall be advised to the other Contracting Party.
- (8) Based on authorisation by the other Contracting Party, the officers shall be permitted to use also air and water craft for surveillance purposes.
- (9) Required technical means may be used by the officers of the one Contracting Party also in the territory of the other Contracting Party as far as this is permissible under the national law of the other Contracting Party and their use has been approved. The Contracting Parties shall inform each other on the technical means taken with them in a particular case.

Article 5
Performance of surveillance

Surveillance shall be performed on the following general conditions:

- a. The officers performing the surveillance shall act in compliance with the stipulations of this Article as well as with the laws of the Contracting Party, in whose territory the surveillance is performed; they must follow the instructions of the competent local authorities.
- b. On express demand, the surveillance shall be handed over to the officers of the Contracting Party in whose territory the surveillance is to be continued. Further presence of the surveillance officers shall, however, be permissible if agreed to by the Contracting Party in whose territory the surveillance is to be continued.
- c. Subject to the cases named in Article 4, the officers shall be obliged to carry a document with them during surveillance which proves that authorisation has been given.
- d. The officers performing the surveillance must be able to prove at any time that they are operating in their official capacity.
- e. The officers performing surveillance can carry service weapons during the surveillance, unless the Contracting Party requested has expressly given his objection; their use is not permitted except in cases of justified self-defence.
- f. Entry into private homes and land not accessible to the public shall not be permissible. Working, operating and business premises accessible to the public may be entered during working, operating and business hours.
The officers performing surveillance must neither challenge nor arrest the person under surveillance.
- g. In the event of a Controlled Delivery and If the competent law enforcement authorities of the requested Contracting Party cannot intervene in due time, and if continuation of the controlled delivery would present a serious risk for life or health of persons, or cause serious damage to property, or if the delivery could no longer be kept under control, the officer of the requesting Contracting Party can seize the controlled delivery. If necessary, the officers of the requesting Contracting Party can stop and apprehend persons who escort the shipment until intervention by law enforcement authorities of the requested Contracting Party. In any case the requesting Contracting Party shall inform the law enforcement authorities of the requested Contracting Party without delay.
- h. A written report of all operations shall be made to the authorities of the Contracting Party in whose territory the operations have taken place. If required, the officers who performed the surveillance must appear in person.

- i. The motor vehicles, air or water craft used by the officers of the one Contracting Party shall be subject to the same traffic regulations as are binding for the officers of the other Contracting Party. This shall also apply to the use of special rights and rights of way. The Contracting Parties shall keep each other informed about the respective legal position.
- j. The authorities of the Contracting Party from where the officers performing the surveillance originate shall, upon request, assist the authorities of the Contracting Party in whose territory the surveillance has been performed, in the investigations following the operation in which they participated including court procedure, provided that the identity of the officer concerned is protected.

Article 6

Technical cooperation

In order to maintain radio communication during surveillance, the officers of the Contracting Party may exchange radio equipment as well as agree on the exchange or the joint use of other types of technical equipment and means required for surveillance purposes.

Article 7

Legal status of officers in the field of criminal law

The officers who in accordance with this Agreement operate in the territory of the other Contracting Party shall, with regard to offences committed by them or committed on them, have the same legal status as the officers of the other Contracting Party.

Article 8

Assistance clause, Employment status

- (1) The Contracting Party shall be obliged to protect and assist the officers of the other Party in the performance of their activities in the same manner as their own officers
- (2) Regarding service regulations, in particular disciplinary regulations and liability legislation, the officers of the other Contracting Party shall remain subject to the law valid in their own country.

Article 9
Liability regulations

- (1) When officers of one Contracting Party operate for the purpose of this convention in the territory of the other Contracting Party, the former Contracting Party shall be liable on the basis of the law of the Contracting Party in whose territory they operate for all damage that these have caused during their operation.
- (2) The Contracting Party in whose territory the damage mentioned in paragraph 1 is caused shall provide compensation for the damage in the same way as it would provide compensation if their own officers had caused the damage.
- (3) The Contracting Party whose officers have caused damage to a person in the territory of the other Contracting Party shall provide compensation to the latter of the full compensation amount which the same has paid to the persons who have incurred damage or to their legal successors.

Article 10
Exception clause

In case one of the Contracting Parties is of the opinion that granting of the request or any other type of cooperation might endanger his safety, other important interests or national legislation, he shall advise the other Contracting Party that he will refuse cooperation partly or completely or will make it dependent on certain conditions. The Contracting Parties shall inform each other without delay in writing about the reason for the complete or partial denial of cooperation.

Article 11
Review of implementation and amendment of the Agreement

Upon the request of a Contracting Party, a joint working group comprising representatives of the Contracting Parties shall examine the implementation of this Agreement and shall determine whether supplementation or amendment is required.

Article 12
Costs

Each Contracting Party shall bear according to the respective national law the costs incurred by their respective authorities for the implementation of this Agreement

Article 13
Annexes

The annexes shall form part of this Agreement.

Article 14
Entering into force and termination

- (1) This Agreement requires ratification. The Agreement shall enter into force on
- (2) This Agreement is concluded for an indefinite period of time. It can be terminated by either Contracting Party through diplomatic channels at any time and shall end six months after receipt of notification of termination.
- (3) This Agreement shall be registered at the General Secretariat of the United Nations to Article 102 of the Constitution of the United Nations by

Made in two original copies in and language on

For State NN

For State AA

.....

.....

Bosnia and Herzegovina – Montenegro (e.g.)	In Bosnia and Herzegovina by Law Enforcement officials of Montenegro (e.g.)	In Montenegro by Law Enforcement officials of Bosnia and Herzegovina (e.g.)
Legal bases		
List of extraditable offences		
Cross-border delivered surveillance		
Cross-border surveillance		
Time limit		
Supporting surveillance		
GPS, localisation		
Audio, Video		
GSM-localisation		
Weapons		
Radio equipment		
Reconcilability of the LEA's		
Detention		
Right of entry		
Hot pursuit		
Special rights		

.....
(Office)

....., on (date)

Official in charge:
Phone:
Fax:
Cell phone:
E-Mail:

Subject:

File Reference No.:

Letter of Request for Performance of Cross-Border Surveillance
acc. to Article 14 Police Cooperation Convention for Southeast Europe and the Bilateral
Implementation Agreement

Letter of Request for Performance of a Controlled Delivery
acc. to Article 15 Police Cooperation Convention for Southeast Europe

To
.....(Authority/Office)
.....
.....

Circumstances of the case:

--

Aim of Surveillance:

--

Aim of the Controlled delivery, whereby, without such a measure, identification of perpetrators or of distributing routes would be impossible or extremely hampered.

--

Subject of Controlled Delivery (Quantity):

--

Estimated Time of the Surveillance (Start/ End):	
---	--

Estimated location of crossing the border:	
---	--

Suspect	
First name:	
Family Name:	
Date of birth:	
Occupation:	
Marital status:	
Citizenship:	
Registered address(es)	
Places of abode:	
Description of person including photos:	

Target Vehicle				
Registration no.:	Make:	Type:	Colour:	Year of Manufacture:

Target object:

Persons in contact with the suspect:

Address(es) to contact:

Has the target person already been under surveillance in the past? yes no not known

Ongoing phone surveillance: yes no

Ongoing technical surveillance: yes no

Officer in charge of the surveillance operation in the requesting state: First name, family name, ID No., office	
Contact data of officer in charge of operation:	
Phone number:	
Fax number:	
E-Mail:	

Contact person (official in charge, surveillance) of in controlled delivery involved states: First name, Family name, address, Phone and Fax number, E-Mail	
---	--

Judicial authority in charge: Address, phone no., fax no., E-Mail:	
--	--

Public prosecutor / Judge in charge: Name, address, phone no., fax no., E-Mail:	
File Reference Number:	

Surveillance Officers			
Name	Weapons	Vehicle	Technical equipment

Authorisation of cross-border surveillance / Controlled Delivery is	granted	
	denied	
	granted on the following conditions:	

.....

(Signature)

The Contracting Parties are invited, when necessary and appropriate, for the conclusion of bi-lateral agreements to use the draft agreement

IMPLEMENTATION AGREEMENT ON HOT PURSUIT

Preamble

State AA and State BB

hereinafter referred to as “Contracting Parties”,

- based on Article 34, paragraph 1 and Article 13 of the Police Cooperation Convention for Southeast Europe,
- with the common wish to effectively prevent cross-border threats to public safety and international organised crime with a security partnership,
- with the objective to effectively combat cross-border crime and illegal migrations with the help of coordinated activities and
- with the purpose to further develop a strong mutual police and border police cooperation,

have agreed on the following:

Article 1 Scope of the Agreement

The scope of this Agreement is to accurately define the conditions of cross-border hot pursuit implementation, to determine criminal offences for which cross-border hot pursuit is permissible, the procedure with an arrested person in hot pursuit, location and time limitations of cross-border hot pursuit, the carrying of service weapons and use of coercive means, the procedures following the completed hot pursuit, cross-border hot pursuit for other purposes and other conditions for the efficient and effective implementation of cross-border hot pursuit.

Article 2
Border areas

The border areas covered by this Agreement are:

- in the State AA areas of Police directorate
- in the State BB areas of Police directorate

Article 3
Authorities

Authorities under this contract are:

- in the State AA **FOR EXAMPLE** the Ministry of Interior with the General Police Directorate as a National Central Bureau with its own internal organisational units and regional organisational units of the Police (Police Headquarters, Police Stations...)
- in the State BB **FOR EXAMPLE** the Ministry of Interior as a National Central Bureau with its own organisational units and regional organisational units.

More detailed information on the bodies with contact numbers and addresses are enclosed to this Agreement.

Article 4
Admissibility of cross-border hot pursuit

(1) Authorities of one Contracting Party who are pursuing an individual, or numerous perpetrators, in their own state, which was caught in the act of committing (ALTERNATIVELY):

- **a criminal offence listed in the enclosed register of criminal offences,**
- **a criminal offence for which another Contracting Party may request extradition,**
- **a criminal offence for which a prison sentence for 1 year or more is prescribed,**

or in the act of participating in such a criminal offence (from here on the singular form shall be used) or is prosecuted because of the commitment of such a criminal offence, shall be authorised to continue pursuit in the territory of another Contracting Party without the latter's prior authorisation where, given the particular urgency of the situation, it is not possible to notify the competent authorities of the other Contracting Party or where these authorities are unable to reach the scene in time to take over the pursuit.

- (2) The same shall apply where the person being pursued has escaped from provisional custody or while serving a sentence involving deprivation of liberty for such a criminal offence stated in the previous paragraph.
- (3) The pursuing officers shall not later than when they cross the border, contact the competent authorities of the Contracting Party in whose territory the hot pursuit is to take place. The hot pursuit will cease as soon as the Contracting Party in whose territory the pursuit is taking place so requests. At the request of the pursuing officers, the competent local authorities shall challenge the pursued person in order to establish the person's identity or to make an arrest.

Article 5

Time and space limitations of hot pursuit

Hot pursuit shall be carried out (ALTERNATIVELY):

- from the crossing of the state border and 5 (10,20,30..) km into the interior of a Contracting Party
- from the crossing of the state border and 10 (20,30,40,50...) minutes into the interior of a Contracting Party OR
- no restriction on location and time.

In cases of direct hot pursuit, state borders (land-, blue- and air borders) may be crossed anywhere and anytime.

Article 6

Cross-border hot pursuit and arresting of pursued persons

Cross-border hot pursuit shall be carried out under the following conditions:

- (1) The pursuing officers must comply with the provisions of this agreement, with the Police;
- (2) Cooperation Convention for Southeast Europe, the national law of the Contracting Party in whose territory they are operating; they must obey the instructions issued by the competent local authorities;
- (3) Pursuit shall be over land and blue borders [advice: to add "and air borders"];
- (4) Pursuit over air borders shall be prohibited, unless previously agreed with contact points;

- (5) Entry into private homes and places not accessible to the public is prohibited;
- (6) Working, operating and business premises accessible to the public may be entered during working, operating and business hours;
- (7) The pursuing officers shall be easily recognisable, either by their uniform, by means of an armband or by accessories fitted to their vehicles (sleeveless pullover with the inscription POLICE, BORDER POLICE, GENDARMERIE, armbands with the same inscriptions, rotary blue light, siren, the words POLICE, BORDER POLICE, GENDARMERIE on the vehicles, licence plates of the Police, Border Police, Gendarmerie...);
- (8) The motor vehicles, air or water craft used by the officers of the Contracting Party shall be subject to the same traffic regulations as are binding for the officers of the other Contracting Party. This shall also apply to the use of special rights and rights of way. The Contracting Parties shall keep each other informed about the respective legal position;
- (9) The pursuing officers may carry their service weapons; their use is permissible solely in cases of justified self-defence and aid in an emergency;
- (10) If not requested to cease the hot pursuit and if not possible to include the local competent authorities in time, the pursuing officers shall apprehend the pursued person in accordance with the provisions of the other Contracting Party's national law until the officers of the other Contracting Party, who must be informed immediately, are able to establish the person's identity or make an arrest;
- (11) Once the pursued person has been apprehended, for the purpose of being brought before the competent local authorities she/he may only be searched for security purposes. During the transfer, handcuffs may be applied. The objects carried by the person may be temporarily secured until officers of the competent authorities of the Contracting Party requested arrive;
- (12) After each operation, the pursuing officers shall appear before the competent local authorities of the Contracting Party in whose territory they were operating and shall report on their mission; at the request of those authorities, they shall remain at their disposal until the circumstances surrounding their action have been sufficiently clarified;

this condition shall apply even where the hot pursuit has not resulted in the arrest of the person pursued;

- (13) The authorities of the Contracting Party from which the pursuing officers have come shall, when requested by the authorities of the Contracting Party in whose territory the hot pursuit took place, shall assist the enquiry subsequent to the operation in which they took part including judicial proceedings, providing that the identify of the pursuing officers is protected;
- (14) The technical resources needed for monitoring may be used to the extent necessary, if this is in accordance with the national law of the Contracting Party in whose territory the hot pursuit continues. The competent local authorities must be notified about the technical means used.

Article 7

The procedure with an arrested person

- (1) A person who has been arrested by the competent local authorities may, whatever that person's nationality, be held for questioning. The relevant rules of national law shall apply mutatis mutandis.
- (2) If the person does not have a national status of the Contracting Party in whose territory the person was arrested, that person shall be released no later than six hours after the arrest was made, not including the hours between midnight and 9.00 a.m., unless the competent local authorities have previously received a request for that person's provisional arrest for the purposes of extradition in any form whatsoever. The provisions of national law, which allows orders for detention or temporary detention on account of other reasons, remain unchanged.
- (3) The first request for extradition may be given in any form whatsoever.
- (4) If an extradition request is given in an oral form it must immediately, but no later than in six hours, be confirmed in a written form.
- (5) Objects carried by the person pursued and originate from a criminal offence shall be seized in accordance with the provisions of the country in whose territory the person was arrested. Processing procedures are executed by the competent authorities of the country in whose territory the person is located.

Article 8
Security search

Security search under this Agreement, unless otherwise specified by the national law, includes a security research of a person, his belongings and vehicle, with the intension of discovering if the person is armed or holds other dangerous objects. Security search is done directly, meaning that the surface of the person's clothing is examined with hands or by technical means.

Article 9
Notifying on cross-border hot pursuit

In the case of cross-border hot pursuit it is necessary to notify:

- in the State AA..... if it falls within their local jurisdiction;
- in the State BB.....if it falls within their local jurisdiction.

These authorities shall immediately inform the National Central Bureau.

Article 10
Cross-border hot pursuit for other purposes

- (1) The hot pursuit is permissible if the person avoided police or customs control at a distance of up to 30 km (alternatively more or less) from the state border and did not pay regard to the unambiguous signs of stopping and would consequently result in a threat to public safety.
- (2) The hot pursuit is terminated immediately if the competent authorities of the Contracting Party, in whose territory the hot pursuit is carried out, so request or if the continuation of the pursuit, which could lead to concrete threats to life or health of the person pursued or of third persons, is in an evidently disproportion with the threat that needs to be prevented.

Article 11
The rights and powers of official authorities of another Contracting Party

If the officers in the framework of cooperation under this Agreement shall carry out the functions in the territory of another Contracting Party, they have no official powers, unless this Agreement

provides otherwise. In the implementation of all provisions they shall be bound by the national law of the other Contracting Party. Officers are authorised to:

- a) wear a uniform, their service weapons and other coercive means, unless the other Contracting Party in certain cases notifies that this is not permitted or is permitted only under certain conditions
- b) use their weapons in justified self-defence and aid in an emergency;
- c) use the means for handcuffing in accordance with this Agreement;
- d) apprehend the person pursued for the time necessary in accordance with this Agreement;
- e) carry out a security search of the person, his means and vehicle in accordance with this Agreement;
- f) enter the territory of another Contracting Party with an official card equipped with a photograph and signature and may stay there as long as necessary to fulfil the tasks under this Agreement;
- g) use official vehicles for cross-border operations;
- h) use the technical means in the territory of the other Contracting Party necessary for the implementation of measures under this Agreement and which are admissible in accordance with the national law of that Contracting Party.

Article 12

Responsibility

If officers of a Contracting Party which, under this Agreement, operate in the territory of another Contracting Party cause damage, Article 23 of Police Cooperation Convention for Southeast Europe shall apply.

Article 13

The legal status of officers in the field of criminal law

The officers who in accordance with this Agreement operate in the territory of the other Contracting Party shall, with regard to offences committed by them or committed on them, have the same legal status as the officers of the other Contracting Party.

Article 14

Review of implementation and amendment of the Agreement

Contracting Parties shall monitor the implementation of this Agreement and in case of need shall draw up appropriate changes.

For the purpose of improving the implementation of this Agreement the Contracting Parties shall plan and conduct joint exercises of cross-border hot pursuit.

Article 15

Costs

Each Contracting Party shall bear according to the respective national law the costs incurred by their respective authorities for the implementation of this Agreement.

Article 16

Annex

The annexes shall form part of this Agreement, namely:

- The list of criminal offences for which cross-border hot pursuit is permissible
- (Alternatively, if so specified)
The form for informing on cross-border hot pursuit
The list of law enforcement authorities with the responsible units, addresses, phone numbers, e-mail address, fax numbers...

Article 17

Entry into force and termination

- (1) The Agreement is concluded for an indefinite period of time.
- (2) This Agreement shall enter into force on the first day of the month following the month in which the two Contracting Parties notify each other that the Agreement is legally valid in their country.
- (3) The Agreement may cease to be valid by either Contracting Party through diplomatic channels six months after receiving an official notice of termination.

Written in two original copies in and language ..on...

For the State AA:

For the State BB:

STATE AA
MINISTRY OF INTERIOR
POLICE DIRECTORATE XY

Address
 Phone: fax :
 E-mail:

Number:

Date:

ADDRESSEE

Police directorate XY informs police directorate BB:

<input type="checkbox"/>	<p><u>Cross-border hot pursuit</u> (Article 4, paragraph 1)</p> <p>A person who is caught in the act of committing</p> <ul style="list-style-type: none"> - a criminal offence listed in the enclosed register of criminal offences, - a criminal offence for which another Contracting Party may request extradition, - a criminal offence for which a prison sentence for 1 year or more is prescribed, <p>or caught in the act of participating in such a criminal offence or is prosecuted because of the commitment of such criminal offence.</p>
<input type="checkbox"/>	<p><u>Cross-border hot-pursuit</u> (Article 4, paragraph 2)</p> <p>A person being pursued has escaped from provisional custody or while serving a sentence involving deprivation of liberty for such a criminal offence stated in the paragraph 1.</p>
<input type="checkbox"/>	<p><u>Cross-border hot pursuit for other purposes</u> (Article 10)</p> <p>If the person avoided police or customs control at a distance of up to 30 km (alternatively more or less) from the state border and did not pay regard to the unambiguous signs of stopping, and would consequently result of in threat to public safety.</p>

Date: _____ Venue: _____

Movement/direction of escape:

Person:

Surname and first name: _____

Date of birth: _____

Address: _____

Risk in action:

Commonly known brute

Risk of self harm

Addict

Armament

More detailed description:

Armament can be excluded with certainty

Vehicle of the perpetrator:

Brand: _____

Type: _____

Registration number: _____

Passengers (number): _____

Observers/ pursuers:

Interlocutor: _____

Mobile phone number: _____

Call Sign: _____

Radio channel (UKV): _____

National Legislation on Joint Investigation Teams

Austria

Federal Law of Mutual Legal Assistance in Criminal Matters (Bundesgesetz über die justizielle Zusammenarbeit in Strafsachen mit den Mitgliedstaaten der Europäischen Union), Articles 60 - 62 and 76-77 EU-JZG.

Belgium

Art. 8 - 10 of Law of 9 December 2004 concerning mutual international legal assistance in criminal matters and modifying Article 90 of the Penal Procedure Code.

Bulgaria

Art. 476, paragraph 3 of the Criminal Procedure Code and Art. 13 of the 2000 MLA Convention.

Cyprus

Joint Investigation Act 2004, Law No. 244 (I)/2004.

Czech Republic

Code of Criminal Procedure, Sections 442 and 443 (Act. No. 141/1961 Coll. as amended by Act No. 539/2004 Coll.).

Denmark

Implementation through specific provisions was considered not necessary. This has been done within the Explanatory Memorandum to the draft implementing the Convention on Mutual Legal Assistance of 2000.

Estonia

Division 3 (Mutual Assistance in Criminal Matters) of the Code of Criminal Procedure, Section 471.

Finland

Finnish Act. No. 1313/2002, Section 8.

France

Article 17 of a law enacted on 9 March 2004, introducing two new Articles in the Code of Criminal Procedure, namely Articles 695 – 2 and 695 – 3 Art. D15-1-4.

Germany

Article 93 of the Mutual Legal Assistance in Criminal Matters (Gesetz über die internationale Rechtshilfe in Strafsachen; IRG) and Art 13 of 2000 MLA.

Greece

Greece has not yet ratified the 2000 MLA Convention. The implementation of the JIT Framework Decision however can be found in Law 3663/2008, Articles 13 to 24.

Hungary

Articles 55-59 and 36-49 of Act no. CXXX of 2003 on Cooperation in Criminal Matters with the Member States of the European Union.

Articles 20-24 of the Act no. LIV of 2002 on International Cooperation of the Law Enforcement Agencies.

Ireland

Criminal Justice Act 2004. The act amends Sections 3 and 4 of the Garda Síochána Act 1989. It repeals Section 5 of the Europol Act 1997.

Italy

Italy has not yet implemented Framework Decision no. 465/2002 on joint investigation teams or ratified the 2000 MLA Convention.

Latvia

Criminal Procedure Code of Latvia, Articles 830 – 838.

Lithuania

Code of Criminal Procedure, Article 171 (3) and “Recommendations on the establishment and operation of joint international investigation teams” approved by Prosecutor General of the Republic of Lithuania order of 21.12.2004 (published No.186 – 6963).

Luxembourg

Law of 21 March 2006 on joint investigation teams (Memorial A n O 57, 31/3/2006).

Malta

Article 435E (5) of the Criminal Code of Malta (added by IX.2003.128 and amended by III.2004.77); additionally, Sections 628A and 628B of the Criminal Code refer to mutual assistance in criminal matters (added by IX.2003.128).

The Netherlands

Code of Criminal Procedure, Articles 552qa – 552qe.

Norway

There is no specific law concerning the participation in JITs in Norway. Norway will implement MLA 2000 and therefore also Art. 13. The implementation/ratification will probably be in place during 2012 or 2013.

However, in principle there are no formal obstacles in the Norwegian legislation that will prevent Norway from participating in a JIT if invited to do so.

Poland

Articles 589b, 589c, 589d, 589e and 589f, Polish Code of Criminal Procedure.

Portugal

Law 48/2003 (mutual legal assistance in criminal matters). The chapter on mutual legal assistance in criminal matters (chapter I) is part of the law on “international judicial co-operation in criminal matters” (Law nr. 144/1999). Law nr. 48/2003 introduces new Articles (145 A & B) in this chapter. In addition, Article 145 of Law 148/2003 refers to JITs.

Romania

Law no. 302/2004 regarding international judicial cooperation in penal field modified by Law no. 224/2006 - article 169; Law no. 368/2004 that ratified the second Additional Protocol on European Convention for judicial assistance in penal field – annex – article 20.

Slovakia

Code of Criminal Procedure (Act No 301/2005), Paragraph 10 (9), Criminal Code (Act No 300/2005), Paragraph 128 (1).

Code of Criminal Procedure (Act No 301/2005), Paragraph 10 (9) - describes the rules related to a JIT (JIT members are considered as Policemen; who is the head of a JIT; the reason when it can be established, etc.).

Criminal Code (Act No 300/2005), Paragraph 128 (1) - defines who is a public body (among others also JIT members because they are considered as Policemen).

Slovenia

Article 160.b of the Criminal Procedure Act.

Spain

Law 11/2003 of May 21st on joint investigation teams in the framework of the European Union, and Organic Law 3/2003 of May 21st on the criminal responsibility regime of the members of joint investigation teams operating in Spain.

Sweden

“Act on Certain Forms of International Cooperation in Criminal Investigation”, Section 1, Section 2-9 and “Ordinance on Certain Forms of International Cooperation in Criminal Investigation”.

United Kingdom

Council Framework Decision and/or Art. 13 of the 2000 MLA Convention, also Police Reform Act 2002, sections 103 and 104 and Crime (International Cooperation) Act 2003, section 16.

The Contracting Parties are invited, when necessary and appropriate, for the conclusion of bi-lateral agreements to use the draft agreement

MODEL AGREEMENT ON THE ESTABLISHMENT OF A JOINT INVESTIGATION TEAM

In accordance with Article 13 of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union of 29 May 2000¹² (hereinafter referred to as the Convention) and the Council Framework Decision of 13 June 2002 on joint investigation teams¹³ (hereinafter referred to as the Framework Decision)

1. Parties to the Agreement

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

1. (Name of the first competent agency/administration of a Member State as a Party to the agreement)

and

2. (Name of the second competent agency/administration of a Member State as a party to the agreement)

3. (Name of the last competent agency/administration of a Member State party to the agreement)

The parties to the agreement may decide by common agreement to invite other Member States' agencies/administrations to become parties to this agreement. For possible arrangements with third countries, bodies competent by virtue of provisions adopted within the framework of the Treaties and international bodies involved in the activities of the JIT, see Appendix I.

¹² OJ C 197, 12.7.2000, p. 3.

¹³ OJ L 162, 20.6.2002, p. 1.

2. Purpose of the JIT

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

Description of the specific purpose of the JIT. This should include the circumstances of the crime(s) being investigated (date, place and nature).

The parties may redefine the specific purpose of the JIT by common agreement.

3. Approach

The parties to the agreement may agree on an operational action plan (OAP) setting out the orientations according to which the purpose of the JIT is to be achieved¹⁴.

4. Period covered by the agreement

In accordance with Article 13(1) of the Convention and Article 1(1) of the Framework Decision, JITs shall be set up for a limited period of time. With respect to this agreement, this JIT may operate during the following period:

from

[insert date]

to

[insert date]

The expiry date stated in this agreement may be extended by mutual consent of the parties in the form provided for in Appendix II to this model agreement.

5. Member State(s) in which the JIT will operate

The JIT will operate in the Member State(s) designated hereafter:

[Designate Member State or States in which the JIT is intended to operate]

¹⁴ In the light of the relevant national legislation and its disclosure requirements, the OAP could be included in the JIT agreement, or as an appendix to the agreement or treated as a separate confidential document. In all cases the competent authorities which sign the agreement shall be aware of the content of the OAP. The OAP must be a flexible document containing practical agreements on a common strategy and on how to achieve the purpose of the JIT set out in Article 2, including the practical arrangements not otherwise covered by this agreement. A check list regarding the points related to the possible content of the OAP is set out in Appendix IV to this model agreement.

In accordance with Article 13(3)(b) of the Convention and Article 1(3)(b) of the Framework Decision, the team shall carry out its operations in accordance with the law of the Member State in which it operates at any particular time. Should the JIT move its operational basis to another Member State, the law of this Member State shall then apply.

6. JIT Leader(s)¹⁵

The parties have designated the following person, who shall be a representative of the competent authorities in the Member State(s) where the team is operating, as the leader of the JIT and under whose leadership the members of the JIT must carry out their tasks in the Member State to which he belongs:

Member State	On secondment from (name of body)	Name	Rank and affiliation (judicial, Police or other competent authority)
-	-	-	-
-	-	-	-

Should any of the abovementioned persons be prevented from carrying out their duties, a replacement will be designated without delay by mutual consent of the parties in an appendix to the agreement. In urgent cases, it will be sufficient for the parties to the JIT to give notification of the replacement by letter. Such notification shall subsequently be confirmed in an appendix to the agreement.

7. Members of the JIT

In addition to the persons referred to in Article 6, the following persons¹⁶ shall be members of the JIT:

Member State	On secondment from (name of)	Name/identification number (1)	Rank and affiliation (judicial, Police)	Role

¹⁵ Article 1(3) (a) of the Framework Decision shall apply, i.e. 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.

¹⁶ The JIT may include representatives of judicial, police or other competent authorities with investigative functions. Under this heading, it may also include members of Eurojust when they operate as competent national authorities as referred to in Article 9f of the Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime. These are the national members of Eurojust, their deputies and assistants — as well as other persons who, in line with their national legislation, are also members of the national office, i.e. seconded national experts.

The police authorities may comprise members of the Europol national units of the Member States. These national units are based in the Member States and are national police authorities. Also the liaison officers of the Member States at Europol retain their capacity to act as national police authorities.

	body		or other competent authority)	
-	-	-	-	-
-	-	-	-	-

(1) If there are good grounds for protecting the identity of one or more members of the JIT, such as, in cases of covert investigations or in cases of terrorism that require maximum security, identification numbers must be assigned to those persons, as far as it is compatible with the national legislation of the Member State, party to the agreement. The numbers assigned must be included in a confidential document. Should it not be possible to assign an identification number, it may be agreed that the identity of the members is set out in a confidential document, which is attached to this agreement and which is made available to all parties thereto.

Should any of the above-mentioned persons be prevented from carrying out their duties, a replacement will be designated without delay in an appendix to this agreement or by a written notification sent by the competent leader of the JIT.

8. Participants in the JIT

The provisions on participants¹⁷ in the JIT are dealt with in the relevant appendix to this agreement.

9. Evidence

The parties entrust the leader or a member (s) of the JIT with the task of giving advice on the obtaining of evidence. His or her role includes providing guidance to members of the JIT on aspects and procedures to be taken into account in the taking of evidence. The person(s) who carry out this function should be indicated here.

In the OAP the parties may inform each other about giving testimony by members of the JIT.

10. General Conditions of the Agreement

In general, the conditions laid down in Article 13 of the Convention and the Framework Decision shall apply as implemented by each Member State in which the JIT operates.

11. Amendments to the agreement

Amendments to this agreement, including but not limited to the following:

¹⁷ Participants in the JIT are designated by third countries, Eurojust, Europol, the Commission (OLAF), bodies competent by virtue of provisions adopted within the framework of the Treaties and international organisations which participate in the activities of the JIT, as parties to the agreement provided for in Appendix I to this model Agreement.

- (a) the incorporation of new members of the JIT;
- (b) changes to the purpose provided for in Article 2 of this agreement;
- (c) additions or changes to the current articles.

shall take the form provided for in Appendix III to this model agreement, shall be signed by the parties and shall be attached to the original version.

12. Internal evaluation

Every six months at least, the JIT leaders shall evaluate the progress achieved as regards the general purpose of the JIT, while determining and addressing any problems thus identified.

After the operation of the JIT ends, the parties may, where appropriate, arrange a meeting to evaluate the performance of the JIT.

The JIT may draw up a report on the operation, which may show how the operational action plan was implemented and which results were achieved.

13. Specific arrangements of the agreement (in order to avoid making the agreement too cumbersome some or all points indicated under 13.1-13.11 may be located in OAP).

The following special arrangements may apply to this agreement (note that a number of these aspects are also regulated in the Convention and the Framework Decision):

(To be inserted, if applicable. The following sub-chapters are intended to highlight possible areas that need to be specifically described).

13.1. Terms under which seconded members of the JIT may be excluded when investigative measures are taken.

13.2. Specific conditions under which seconded members may carry out investigations within the MS of operation.

13.3. Specific conditions under which a seconded member of a JIT may request his/her own national authorities to take measures which are requested by the team without submitting a letter of request.

13.4. Conditions under which seconded members may share information derived from seconding authorities.

13.5. Provisions concerning the media, in particular the need for consultation prior to the presentation of press releases and official information briefings.

13.6. Provisions concerning the confidentiality of this agreement.

13.7. The language to be used for communication must be defined.

13.8. Specific provisions on expenditure:

13.8.1. Provisions on insurance for seconded members of the JIT;

13.8.2. Provisions concerning expenditure on translation/interpreting/telephone tapping, etc.

13.8.3. Provisions on the translation of, for example, the documents obtained into the language of other members of the JIT, as well as into the official language of communication (if different), since this can entail considerable (unnecessary) expenditure;

13.8.4. Provisions concerning expenses or income arising from seized assets.

13.9. Conditions under which assistance sought under the Convention and other arrangements may be given.

13.10. Specific data protection rules.

13.10.bis Confidentiality and use of information already existing and/or obtained during the operation of the JIT.

13.11. Conditions under which seconded members may carry/use weapons.

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

Arrangement with Europol-Eurojust the Commission (OLAF), bodies competent by virtue of provisions adopted within the framework of the Treaties, other international bodies or third countries.

1. Parties to the arrangement

Name of the first party to the agreement that is not a Member State

Name of the last party to the agreement that is not a Member State (if there is more than one)

and

Name of the first competent agency/administration of a Member State as a party to the agreement

and

Name of the second competent agency/administration of a Member State as a party to the agreement

(..... and)

have agreed that the following persons from *(names of the parties to the agreement that are not Member States)* will participate in the joint investigation team, established by agreement on *(date and place of the agreement to which this appendix is attached)*.

2. Participants in the JIT

The following persons will participate in the JIT:

State/Organisation	On secondment from (name of body)	Name	Rank and affiliation	Role
-	-	-	-	-

The Member State ... has decided that its national members of Eurojust will participate in the joint investigation team as a competent national authority.¹⁸

Should any of the above-mentioned persons be prevented from carrying out their duties, a replacement will be designated in an appendix to this agreement. In urgent cases, it will be sufficient for the party to give notification of the replacement by letter. Such notification shall subsequently be confirmed in an appendix to the agreement.

3. Specific arrangements

The participation of the above-mentioned persons will be subject to the following conditions and only for the following purposes:

3.1. First party to the agreement that is not a Member State

3.1.1. Purpose of participation

3.1.2. Rights conferred (if any)

3.1.3. Provisions concerning costs

3.1.4. Specific provisions concerning or enabling achievement of the purpose of participation

3.1.5. Other specific provisions or conditions¹⁹

3.1.6. Specific data protection rules

3.2. Second party to the agreement that is not a Member State (if applicable)

3.2.1. ...

¹⁸ Delete this paragraph if not applicable.

¹⁹ For example, references to basic or applicable legal frameworks, etc.

4. Specific arrangements related to the participation of Europol²⁰

4.1. Principles of participation

4.1.1. Europol staff participating in the JIT shall assist the members of the team in accordance with the Europol Decision and in accordance with the national law of the Member State where the team operates.

4.1.2. The Europol staff participating in the JIT shall work under the guidance of the leader(s) of the team as identified in point [...] of the Agreement and shall provide any assistance necessary to achieve the objectives and purpose of the JIT, as identified by the leader(s) of the team.

4.1.3. Europol staff has the right not to perform tasks which they consider to be in breach of their obligations under the Europol Decision. In that case, the Europol staff member shall inform the Director or his representative thereof. Europol shall consult with the leader(s) of the team with a view to finding a mutually satisfactory solution.

4.1.4. Europol staff participating in the JIT shall not be involved in the taking of any coercive measures. However, participating Europol staff can, 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.

4.1.5. Article 11(a) of the protocol on the Privileges and Immunities of the European Union shall not apply to Europol staff participating in the JIT²¹.

4.1.6. 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.

4.2. Type of assistance

4.2.1. Participating Europol staff will provide full range of Europol's support services, in accordance with the Europol Council Decision as far as required or requested. Those will

²⁰ To be included only where Europol is a participant to the JIT. These rules were adopted by the Europol Management Board on 9 July 2009 (file No 3710-426r6) and a model JIT arrangement was adopted by the Europol Management Board on 18 November 2009 (file No 2610-74r2), as required under Article 6(2) of the Europol Decision. For updated information please refer to the Europol's website: <http://www.europol.europa.eu>.

²¹ Protocol on the Privileges and Immunities of the European Union (consolidated version) (OJ C 115, 9.5.2008, p. 266).

include, inter alia, operational and strategic analytical support, in particular through the analysis work file(s) (AWF) (name(s) of the work file(s) and related projects). Where required and when requested by the leader(s) of the team, Europol may support the JIT by deployment of a Europol 'mobile office' or of other technical equipment, if available and in compliance with Europol's security standards.

4.2.2. Europol staff participating in the JIT may assist in all activities, in particular by providing a communication platform, 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.

4.2.3. Europol shall, within the boundaries of its legal framework facilitate the secure exchange of information between the parties of the JIT and non-participating States and/or EU bodies and international organisations, if requested by the leader(s) of the team.

4.3. Access to Europol information processing systems

4.3.1. Europol staff participating in the JIT shall have access to Europol's information processing systems, referred to in Article 10 of the Europol Decision. This access shall be in accordance with the provisions of the Europol Decision and in line with the applicable security and data protection standards for the duration of their membership of the JIT.

4.3.2. Europol staff may liaise directly with members of the JIT and provide members and seconded members of the JIT, in accordance with the Europol Decision, with information from any of the components of the information processing systems referred to in Article 10 of the Europol Decision. The conditions and restrictions on the use of this information must be respected.

4.3.3. Information obtained by a Europol staff member while part of the JIT may be, with the consent and under the responsibility of the Member State which provided the information, included in any of the components of the information processing systems referred to in Article 10 of the Europol Decision, under the conditions laid down therein.

4.4. Costs and equipment

4.4.1. The Member State in which investigative measures are taking place is responsible for providing the technical equipment (office accommodation, telecommunication etc.)

necessary for the accomplishment of the tasks and shall pay the costs incurred. The respective Member State shall also provide office communication and other technical equipment necessary for the (encrypted) exchange of data. The costs are to be paid by that Member State.

4.4.2. Europol shall cover the costs incurred as a result of the participation of Europol staff in the JIT, in particular concerning insurance and salaries for staff as well as accommodation and travel costs. Europol shall also bear the costs for the special equipment mentioned in points 4.1 and 4.2 above.

Date/signatures²²

²² Signatures of the parties to this arrangement.

Appendix II

TO THE MODEL AGREEMENT ON THE ESTABLISHMENT OF A JOINT INVESTIGATION TEAM

Agreement to extend a joint investigation team

In accordance with Article 13(1) of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union of 29 May 2000²³ and Article 1(1) of the Council Framework Decision of 13 June 2002 on joint investigation teams²⁴:

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 the 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 until *[insert date on which new period ends]*. The above period may be extended further by the parties by mutual agreement.

Date/Signature

²³ OJ C 197, 12.7.2000, p. 3.

²⁴ OJ L 162, 20.6.2002, p. 1.

Appendix III

TO THE MODEL AGREEMENT ON THE ESTABLISHMENT OF A JOINT INVESTIGATION TEAM

Suggested wording for changes other than the period for which a JIT is set up

In accordance with Article 13(1) of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union of 29 May 2000²⁵ and Article 1(1) of the Council Framework Decision of 13 June 2002 on joint investigation teams²⁶, under which the present joint investigation team was set up:

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 above agreement should be amended as follows:

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

The circumstances requiring the JIT agreement to be amended have been carefully examined by all the 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

²⁵ OJ C 197, 12.7.2000, p. 3.

²⁶ OJ L 162, 20.6.2002, p. 1.

Appendix IV

Proposal for a check list for the Operational Action Plan (OAP) ²⁷

The following points may be addressed by the parties:

Introduction — describe the purpose of the JIT. The text used under ‘purpose of the JIT’ in the JIT agreement would normally be sufficient

Operational procedure — identify the location(s) where the JIT is likely to operate, describe how the JIT will be managed and the investigation conducted, taking note of national legislation, guidelines and procedure

Role of members and/or participants of the JIT — identify and describe the different operational roles and tasks of each member and/or participant in the JIT (EU MS, Europol, Eurojust, OLAF) if not yet described in the JIT agreement

Special or specific measures to be implemented — identify and describe investigative activity that requires special measures or procedure e.g. child suspects, victims, dangerous/hostile working environment

Operations and investigative powers — identify and describe special operations/investigative techniques that will be employed during the investigation e.g. intrusive surveillance, informants, undercover officers, communication intercepts etc. and related legislation/procedure

Information exchange and communication — describe how information will be exchanged and the procedures for communication and identify competent partner or agency e.g. Europol, Eurojust, OLAF, SECI, Interpol; it may be necessary to agree upon a language of communication; consider the use of Europol’s secure means of communication (SIENA) and the Analytical Work Files (AWFs) as a means for a secure environment to store sensitive information

Intelligence assessment and tasking — describe the process of intelligence collection and development and any related guidelines

Financial investigations — consider the need for following the ‘money trail’

²⁷ The content of the OAP is a living document reflecting the practical issues of a JIT. The OAP should be coherent with section 13 ‘Specific arrangements’ of the JIT Agreement. Some elements of section 13 may be located in the OAP.

Evidence gathering — identify according to the jurisdiction(s) any legislation, guidelines, procedure etc. which must be taken into account including responsible agency/individual, requirement to translate evidence

Prosecution — identify the competent authority in each country/jurisdiction and any guidelines related to decisions to prosecute including the role of Eurojust in this respect

Testimony — identify the likelihood and procedures in place for each jurisdiction in respect of the requirement for JIT members to give evidence

Disclosure — describe the rules and procedures for all jurisdictions where the JIT is likely to operate

Operational and strategic meetings — identify and describe the meetings that will take place, their frequency and participants

Administration and logistics — any issues concerning administration, equipment (such as office accommodation, vehicles, IT equipment or any other technical equipment), resources, personnel, media, confidentiality issues, etc. should be dealt with here:

— Translation

— Office accommodation

— Vehicles

— Other technical equipment

ANNEX XIII

The Contracting Parties are invited, when necessary and appropriate, for the conclusion of bi-lateral agreements to use the draft agreement

The Government ____ and the Government of _____, on the basis of article 9 of the Convention on police cooperation of Southeast Europe countries (hereinafter referred to as the »Contracting parties«), do hereby conclude:

AGREEMENT

**BETWEEN THE GOVERNMENT ____ THE GOVERNMENT OF _____ ON
SENDING LIAISON OFFICERS**

Article 1

Subject matter

The Agreement regulates the manner of sending liaison officers from one Contracting party to another, their authority, activities and tasks.

Article 2

Definition

A Liaison officer is an authorised police officer sent to another Contracting party, appointed through the diplomatic-consular mission, entrusted with the task of cooperating with the police and other bodies of the country where he/she is accredited.

A Liaison officer enjoys the diplomatic status of a police attaché.

Article 3

Manner of sending a Liaison officer

The Contracting parties advise one another through diplomatic channels of their respective intention of sending Liaison officers and the host country shall do all that is necessary to secure accreditation for Liaison officers sent there.

Article 4

Representation

The Contracting parties hereby agree that Liaison officers from one Contracting party may be sent to a third country to represent the interests of another Contracting party pursuant to a Protocol.

The Protocol, for each third country individually, is concluded by line ministers.

Article 5

Accommodation and expenses

A Liaison officer shall stay and carry out his/her activities and tasks within the premises of his/her diplomatic-consular mission.

The expenses, during the stay and work of a Liaison officer, shall be borne by each respective country.

Article 6

Scope of activities

Liaison officers act in the following areas (i.e.):

- Fight against organised crime;
- Exchange of information in the field of police activities;
- Police cooperation;
- And in other fields within police competence.

Article 7

Liaison officer's tasks

A Liaison officer's tasks are the following (i.e.):

- Enables fast, efficient and high quality exchange of operative information indispensable for the successful fight against organised crime;

- Studies and monitors regulations, conditions, procedures of the country he/she is sent to, from within the area of his/her work;
- Monitors technical development of police bodies in the country he/she is sent to;
- Establishes close operational cooperation, in particular regarding activities related to the fight against organised crime;
- Monitors plans and programmes for police officer training in the country he/she is sent to;
- Cooperates with the police attachés of other countries ;
- May perform other activities outside the competence of the police.

During the execution of his/her tasks, a Liaison officer is obliged to act in compliance with the legislation of the country he/she is sent to.

Article 8

Final provisions

This Agreement comes into effect thirty days as of the day of the signing of the same.

This agreement is concluded for an indefinite period of time.

Each Contracting party may terminate the Agreement in writing and at any time, through diplomatic channels.

Termination of the Agreement will come into legal effect ninety days after notification of the termination.

This Agreement was compiled in the languages of both contracting parties, as well as in English.

In the event of misunderstanding of interpretation, the English-language version shall apply.

This agreement is compiled in two copies. Each Contracting party retains one copy.

Done at _____, on

For the Government of
.....

For the Government of the
.....

The Contracting Parties are invited, when necessary and appropriate, for the conclusion of bi-lateral agreements to use the draft agreement

AGREEMENT

BETWEEN

**THE GOVERNMENT OF _____, THE GOVERNMENT OF _____ AND THE
GOVERNMENT OF _____**

ON THE OPERATION OF THE CENTRE FOR LAW ENFORCEMENT COOPERATION IN

The Government of ____ (hereinafter referred to as the ____ Contracting Party), the Government of ____ (hereinafter referred to as the ____ Contracting Party) and the Government of ____ (hereinafter referred to as the Hungarian Contracting Party),

hereinafter referred to as the Contracting Parties,

aiming to promote and further develop police cooperation between the neighbouring countries;

having regard to bilateral police cooperation treaties and treaties on readmission of persons on the common state border in force between the Contracting Parties;

having regard to the principles of police cooperation applied by the European Union Member States;

based on Article 34, paragraph 1 and Article 29 of the Police Cooperation Convention for Southeast Europe;

having regard to the legislation of the Contracting Parties;

have agreed as follows:

Article 1

Establishment of the Centre

- (1) The _____ Contracting Party shall establish a Centre for Law Enforcement Cooperation (hereinafter referred to as the Centre), which shall be located in _____, in the area of the state border between the _____ and the _____. The Centre shall be located in the premises of _____.
- (2) Under this Agreement, the area of the Centre shall comprise:
 - road extending from the common state border to the _____, for the purpose of arrival at place of work;
 - specified work premises in the _____ and the appurtenant auxiliary premises;
 - specified official parking space.
- (3) Work at the Centre shall be performed by officers of the competent authorities of the _____, the _____ and the _____.
- (4) The Centre shall be indicated in the languages of the Contracting Parties and shall be marked with the flags and the national coat-of-arms of the Contracting Parties.
- (5) Service hours of the Centre shall be unanimously determined by the competent authorities referred to in Article 3.

Article 2

Tasks

The Centre's tasks shall be to promote and advance cooperation between the Contracting Parties, particularly through:

- a. promoting cross border police cooperation based on bilateral police cooperation treaties and bilateral treaties on readmission of persons on the common state border in force between the Contracting Parties;
- b. supporting the maintenance of public order and security and the prevention of cross border crime and illegal migration;
- c. cooperating with other centres for law enforcement cooperation established between the Contracting Parties.

Article 3
Competent Authorities

The competent authorities to implement this Agreement shall be:

- a. for _____: (i.e. Ministry of the Interior, the Police, Uniformed Police Directorate, Border Police Section)
- b. for _____: (i.e. Ministry of the Interior, General Directorate for Public Security)
- c. for _____: (i.e. the Police, the Border Guards, the Office of Immigration and Nationality)

Article 4
Scope of cooperation

- (1) The seconded officials of the _____ and _____ Contracting Parties shall not be competent to take independent police action, but shall merely supply information and perform their duties exclusively based on the instructions given to them by the seconding Contracting Party.
- (2) The officers of the Contracting Parties working at the Centre shall cooperate primarily by giving support and advice:
 - a) in promoting and strengthening cross border cooperation and information exchange in the field of cross border policing;
 - b) in joint action against illegal migration and accompanying crimes;
 - c) in coordinating joint tasks of border checks and control as well as other operations at the common state border or in individual border areas involving the cooperation of the Contracting Parties;
 - d) in exchanging information on the prevention and repression of cross border crime;
 - e) upon request, in assisting each other in solving issues arising from the implementation of readmission agreements;
 - f) in exchanging information in cooperating with other centres for law enforcement cooperation established between the Contracting Parties;
 - g) in exchanging other information and performing other tasks assigned by the seconding Contracting Party.

Article 5
Legal status

- (1) The officers working at the Centre shall cooperate in the performance of their activities within the scope of their competences.
- (2) They shall be authorised to directly respond, in compliance with their national regulations in force, to requests forwarded by the competent authorities of another Contracting Party notwithstanding the information exchange via the national central authorities.
- (3) They shall perform their work at common premises and respond to requests by officers of another Contracting Party as soon as possible.
- (4) The competent authorities referred to in Article 3 shall exchange lists of names of officers seconded to the Centre and keep each other informed of any changes.

Article 6
Working language

The officers shall mutually communicate in the _____, _____, _____ or (i.e. English) languages. They shall have the right to forward requests and responses in their own language.

Article 7
Costs

- (1) The _____ Contracting Party shall provide, free of charge, other Contracting Parties with the necessary premises to perform the work at the Centre, and cover the (i.e. operating costs, with the exception of costs of the use of telecommunications).
- (2) The premises intended solely for use by other Contracting Parties shall be assigned for use to those Contracting Parties with a special arrangement.
- (3) The _____ Contracting Party shall facilitate the installation and operation of telecommunication devices and data processing devices provided by other Contracting Parties as well as the establishment of the necessary connections, also with local networks.

- (4) For the purpose of performing the activities set forth in this Agreement, the _____ Contracting Party shall enable telecommunication and data processing experts of other Contracting parties to enter its state territory in order to install devices and establish and maintain network connections.
- (5) Devices and other movables brought to and installed at the Centre by other Contracting Parties shall remain their property. No customs duty or other charges shall be levied on the importation of equipment and devices necessary to perform the work.

Article 8

Operation of the Centre

- (1) Each of the authorities referred to in Article 3 shall designate an officer responsible for the organisation, activities and operation of the Centre. The officers shall meet on a monthly basis in order to analyse the work, eliminate problems, deficiencies or irregularities and agree on further work. Minutes shall be drawn up of each meeting.
- (2) Prior to the start of the Centre's operation, the authorities referred to in Article 3 shall adopt the rules of procedure and any other measures with a view to ensuring the Centre's operation.
- (3) After the rules of procedure have been confirmed, they shall become binding on all the Contracting Parties.
- (4) The representatives of the competent authorities referred to in Article 3 shall meet at least once annually in order to review the cooperation and evaluate the Centre's work.

Article 9

Relation to other treaties

The provisions of this Agreement shall not affect the obligations undertaken by the Contracting Parties based on other bilateral or multilateral treaties.

Article 10

Settlement of disputes

Any dispute related to the interpretation or application of this Agreement shall be settled through negotiations among the Ministries responsible for the implementation of this Agreement. If they

are unable to decide the disputed issue, the dispute shall be resolved through diplomatic channels.

Article 11
Depositary

The Government of _____ shall be the Depositary of this Agreement

Article 12
Accession

- (1) This Agreement shall be open for accession by neighbouring countries of _____. The decision on accession shall be taken unanimously by the Contracting Parties. With the accession, the rules of procedure adopted until that date based on Article 8 of this Agreement shall become binding on the acceding state.
- (2) The instrument of accession shall be deposited with the Depositary, which shall notify the other Contracting Parties of the deposit of the instrument of accession. For the Acceding State, this Agreement shall enter into force 90 days after the date of the deposit of its instrument of accession.

Article 13
Final provisions

- (1) This Agreement shall enter into force on the date of the deposit of the last formal notice on the fulfilment of all internal legal procedures or the last instrument of approval or ratification. Depositary shall notify all Contracting Parties of the date of its entry into force.
- (2) This Agreement shall be concluded for an indefinite period of time. Each Contracting Party may denounce this Agreement by written notification to the Depositary, which shall immediately notify other Contracting Parties. The denunciation shall take effect, in respect of the denouncing Contracting Party, 6 months after the date on which the Depositary has notified the other Contracting Parties of the denunciation.

Done at ____ on ____ in ____ original copies, each in the ____, ____, ____ and English languages, all texts being equally authentic.

Each Contracting Party shall receive one original copy. One original copy shall be deposited with the Depositary. In case of differences in the interpretation of the Agreement, the English version shall prevail.

For the Government of _____
.....

For the Government of _____
.....

For the Government of _____
.....