INTERNATIONAL LEGAL INSTRUMENTS:

1. UNITED NATIONS CONVENTION AGAINST ILLICIT TRAFFIC IN NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES, 1988

- Definition [art. 1 (g)]:
  - the technique of allowing
  - illicit or suspect consignments of,
  - narcotic drugs, psychotropic substances, ..., or substances substituted for them,
  - through or into the territory of,
  - one or more countries,
  - with the knowledge and under supervision of competent authorities,
  - with a view of identifying persons involved
2. UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME AND THE PROTOCOLS THERETO, 2000

- Definition [art. 2 (i)]:
  - the technique of allowing
  - illicit or suspect consignments of,
  - through or into the territory of,
  - one or more States,
  - with the knowledge and under supervision of competent authorities,
  - with a view to the investigation of an offence
  - the identification of persons involved
3. UNITED NATIONS CONVENTION AGAINST CORRUPTION, 2003

- Definition [art. 2 (i)]:
  - the technique of allowing
  - illicit or suspect consignments of,
  - through or into the territory of,
  - one or more States,
  - with the knowledge and under supervision of competent authorities,
  - with a view to the investigation of an offence
  - the identification of persons involved
4. POLICE COOPERATION CONVENTION FOR SOUTH EAST EUROPE (PCC-SEE), 2006

- Article 15: upon Letter of Rogatory, especially transport of narcotic drugs, precursors, firearms, explosives, counterfeit currency, items originating from a crime, intended to be used to commit a crime, identification of perpetrators, distributing routes not otherwise hampered
  - special conditions
  - possibility to seize
5. UNITED NATIONAS SINGLE CONVENTION TO NARCOTIC DRUGS, 1961
6. UNITED NATIONS CONVENTION ON PSYCHOTROPIC DRUGS, 1971
COUNCIL OF EUROPE LEGAL FRAMEWORK:

1. RECOMMENDATION REC 10 OF THE COMMITTEE OF MINISTRIES TO MEMBER STATES ON SPECIAL INVESTIGATION TECHNIQUES IN RELATION TO SERIOUS CRIMES INCLUDING ACTS OF TERRORISM

- Only to be used if sufficient reason to believe a serious crime has been committed or prepared or is being prepared by one or more persons or as-yet-unidentified individual or group on individuals
2. THE EUROPEAN CONVENTION ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS, 1959

3. SECOND ADDITIONAL PROTOCOL TO THE EUROPEAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS (ETS No. 182), 2001

- Article 18: to ensure, at the request of another Party, controlled deliveries may be permitted, in criminal investigations, into extraditable offences
  - decision in each individual case
4. CRIMINAL LAW CONVENTION ON CORRUPTION, 1999

5. CONVENTION ON LAUDERING, SEARCH, SEIZURE AND CONFISCATION OF THE PROCEEDS FROM CRIME, 1990

6. THE CONVENTION ON CYBER-CRIME, 2001
EU LEGAL FRAMEWORKS:

1. CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE MEMBER STATES OF THE EUROPEAN UNION (2000 MLA CONVENTION), 2000

- Article 12: ensure, at the request, of another Member State, controlled deliveries may be permitted, in the framework of criminal investigations, into extraditable offences
  - decision in each individual case

- Article 73: to adopt measures to allow controlled deliveries, illicit trafficking in narcotic drugs and psychotropic substances
  - decision in each individual case
3. CONVENTION DRAWN UP ON THE BASIS OF ARTICLE K.3 OF THE TREATY ON EUROPEAN UNION, ON MUTUAL ASSISTANCE AND COOPERATION BETWEEN CUSTOMS ADMINISTRATIONS (NAPLES II CONVENTION), 2009

- Article 22: ensure, at the request, of another Member State, controlled deliveries may be permitted, in framework of criminal investigations, into extraditable offences
  - decision in each individual case

- Exchange data (DNA, fingerprints and vehicle registration of concerned persons)
5. COOPERATION AGREEMENT BETWEEN THE EUROPEAN COMMUNITY AND ITS MEMBER STATES, OF THE ONE PART, AND THE SWISS CONFEDERATION, OF THE OTHER PART, TO COMBAT FRAUD AND ANY OTHER ILLEGAL ACTIVITY TO THE DETRIMENT OF THEIR FINANCIAL INTEREST, 2004

6. DIRECTIVE 2014/41/EU REGARDING THE EUROPEAN INVESTIGATION ORDER IN CRIMINAL MATTERS, 2014

- Cover investigative measures
  - exceptions related JITs
LEGAL OBSTACLES REGARDING CONTROLLED DELIVERIES

• Differences in legal frameworks
  – Requirements for implementing controlled deliveries (e.g. type of request and seizure)
    • Possible impact on the admissibility of evidence in another country
  – The possibility of replacing drugs in controlled deliveries (partial / complete – allowed, required or forbidden)
  – The implementation of other special investigation techniques
    • E.g. undercover agents (foreign / national), surveillance (physical / control by technical means only) or informants (foreign / national)
JOINT INVESTIGATION TEAMS (JITs)

• JIT is an international cooperation tool
• Based on agreement between competent authorities – both judicial and law enforcement
• Of two or more States
• Established for a limited duration and
• For a specific purpose,
• To carry out criminal investigations
• In one or more of the involved countries
INTERNATIONAL LEVEL:

1. UNITED NATIONS CONVENTION AGAINST ILLICIT TRAFFIC IN NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES, 1988

- Article 2(1): illicit traffic in narcotic drugs and psychotropic substances
- Article 9(1)(c): in appropriate cases ... establish joint teams
LEGAL FRAMEWORKS: JOINT INVESTIGATION TEAMS (JITs)

2. UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME, 2000

- Articles 2(b) & 3: serious crime (penalty at least 4 years or more), transnational and involves an organized criminal group

- Article 19: bilateral or multilateral agreements or arrangements, matters that are subject of investigations, prosecutions or judicial proceedings, in one or more States -> establish joint investigative bodies
3. UNITED NATIONS CONVENTION AGAINST CORRUPTION, 2003

- Article 3: corruption
- Article 49: bilateral or multilateral agreements or arrangements, matters that are subject of investigations, prosecutions or judicial proceedings, in one or more States -> establish joint investigative bodies
EUROPEAN LEVEL:

1. POLICE COOPERATION CONVENTION FOR SOUTH EAST EUROPE (PCC-SEE), 2006

- Article 27: by mutual agreement, law enforcement authorities, of two or more Parties, for a specific purpose, a limited period, carry out criminal investigations -> set up a joint investigation team

  - in particular: difficult and demanding investigations, necessity of coordination
EU LEVEL:

1. CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE MEMBER STATES OF THE EUROPEAN UNION (2000 MLA CONVENTION)

- Article 13: by mutual agreement, competent authorities, of two or more Member States, for a specific purpose, a limited period, carry out criminal investigations -> set up a joint investigation team
2. COUNCIL FRAMEWORK DECISION ON JOINT INVESTIGATION TEAMS, 2002

- Article 1(1): by mutual agreement, competent authorities, of two or more Member States, for a specific purpose, a limited period, carry out criminal investigations -> set up a joint investigation team

- Article 8: JIT needs assistance from MS (not member of JIT) or from a third State -> with relevant instruments or arrangements
LEGAL FRAMEWORKS: JOINT INVESTIGATION TEAMS (JITs)


- Article 1: 2000 MLA Convention & its article 13 applicable in relations between Iceland, Norway and Member States
4. THE SECOND ADDITIONAL PROTOCOL TO THE EUROPEAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS, 1959

- Article 20: by mutual agreement, competent authorities, of two or more Parties, for a specific purpose, a limited period, to carry out criminal investigations -> set up a joint investigation team

- in particular: difficult and demanding investigations, necessity of coordination
5. AGREEMENT ON MUTUAL LEGAL ASSISTANCE BETWEEN THE EUROPEAN UNION AND THE UNITED STATES OF AMERICA, 2003

- Article 5: to facilitate criminal investigations or prosecutions, involving one or more Member States and USA -> establish joint investigative teams
Thank you for your attention!

Any Questions?
Contact information

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