Joint Investigation Teams:
The Panacea for Fighting Organised Crime?
Introduction

The concept of ‘joint teams’ as a promising strategy for combating organised crime and terrorism by police of the European Union (EU) Member States was first introduced in the 1997 Amsterdam Treaty, and envisages officers from different jurisdictions and law enforcement organisations jointly investigating organised crime by working together in one team, efficiently sharing information and evidence alike. This idea has been reiterated in subsequent policy plans, including the Tampere Programme (European Council 1999) and the Hague Programme (Council of the EU 2004a) that show strong political ambition in relation to the concept of a Joint Investigation Team (JIT). The establishment of JITs was considered necessary because many investigations into organised crime span more than two countries, making traditional methods of bilateral legal assistance simply outdated (Commission 2001). Joint teams that could include police from more than two Member States were thus believed to be the panacea for the perceived inadequacy of existing police cooperation between the Member States (personal interview #1). However, over a decade later, the strategy still has not been received with great enthusiasm by police, and between all 27 Member States only about 60 to 70, mostly bilateral, JITs have been operational in the seven years since the establishment of JITs was enabled in 2004. This number represents an almost negligible percentage of all cross-border criminal investigations in the EU.1

The main question this paper aims to answer is what the possible causes for the apparent gap between the political ambition and police practices related to JITs are? More broadly, to which extent has this EU Council policy instrument aimed at enhancing police cooperation an effect on practices of police cooperation between the Member States? This paper investigates this question by examining EU Council policy-making on joint investigation teams from the idea’s first introduction until the present day and by exploring the concept in the more general

1 In contrast, the Europol liaison officers facilitated 10,487 cross-border operations in 2009 (Europol 2010) and over 13,000 in 2010 (House of Lords 2011: 26).
context of police cooperation in investigating organised crime between the EU Member States. Most particularly, the discussion attempts to answer the question of whether EU-level JITs carry the added value often claimed for them.²

These observations are framed by Snellen’s (1987, 2002) four rationalities model, which assumes that good public policy takes four rationalities into account: political, legal, economic and professional/scientific. When (a) public policy (instrument) does not stay within the boundaries of what is rational according to all four rationalities, the overall feasibility of that policy (instrument) becomes questionable (Snellen 2002: 330). Thus, according to Snellen’s model, police professionals are then unlikely to recognise EU Council instruments as practical and will not implement them. These notions could assumingly add to the explanations of the apparent gap between the political ambition and police practices related to JITs.

The paper is divided into four parts. Section I begins with a general introduction to the concept of joint investigation teams in the EU and in particular, their innovative aspects. It then outlines the emergence of the concept in EU policy-making, beginning with the first reference to joint teams in 1994. It also examines the political ambitions that can be seen, for example, in the strategic policy plans such as the Tampere European Council Conclusions. Finally it shows that the origin of JITs can be found in domestic law enforcement practices in Germany and that the concept was introduced on an EU level without a (thorough) discussion of its particulars and feasibility in the complexity of EU police cooperation.

Next, section II presents a brief introduction to the so-called traditional method of cross-border police cooperation in investigating organised crime, including the use of parallel investigations. It then summarises the obstacles to cross-border police cooperation as discussed in the relevant literature. Finally, to show the potential added value of JITs above

² The paper builds on data collected for the author’s PhD research on the rationality and effect of EU Council instruments on police cooperation practices in the EU Member States. The data were collected from EU policy documents, and other primary sources such as reports and interviews.
traditional methods of investigating organised crime, it concludes with an analysis of the potential benefits of JITs in addressing these obstacles in such investigations.

Section III then focuses on the practices related to JITs in EU Member States, presenting first a brief discussion of the provisions for JIT implementation in the Member States and then an overview of the JITs established between 2004 and early 2009. The section ends with a detailed examination of selected practical experiences with JITs to demonstrate that the strategy has encountered a number of unanticipated obstacles in the practice of cross-border police cooperation. Section IV summarises the findings and draws conclusions in relation to the central question of this paper.

Please contact the author for the full paper.
References


(2001b) Initiative of the Kingdom of Belgium, the French Republic, the Kingdom of Spain and the United Kingdom for the adoption by the Council of a draft Framework Decision on joint investigation teams. Council document 11990/01. Brussels: Council of the European Union.


El País (2007a) 200 agentes españoles en la guarida de ETA. 3 December.

—— (2007b) España y Francia crean un equipo permanente de lucha contra ETA. 10 December.


Personal interview #1 – Interview with a Senior civil servant in the Council Secretariat, Brussels.

Personal Interview #2 - Interview with a Senior policy official in a Finnish Ministry, Helsinki

Personal Interview #3 - Interview with a Senior policy official in a Finnish Ministry, Helsinki.

Personal Interview #4 - Interview with a Team leader at a Unit of the Dutch National Crime Squad, Amsterdam.

Personal Interview #5 - Interview with a Senior Finnish Police Officer, Brussels.

Personal Interview #6 - Interview with a Senior German police officer.

Personal Interview #7 - Interview with a JHA Counsellor at a Member State’s Embassy in Paris.

Personal Interview #8 - Interview with a Commander of a Unit of the Dutch National Crime Squad Driebergen.


