1. Introduction

Joint Investigation Teams (JITs) can represent an important benefit in cross-border criminal investigations. Police officers working in border regions recognised this as early as the 1960s. In 1976, for example, during a meeting of the Cross Channel Intelligence Conference – one of the longest standing forums for police cooperation in European border regions – Commissioner Jan Blaauw said:

We have to find ways of allowing operational police officers to get together and exchange intelligence, as recent experience in several murder cases has proved again and again … Letters rogatory aren’t helpful to anyone who wants to get an overall picture of the crime committed.¹

Although it had not been completely impossible to mount joint teams before, it was not until 2000 that the European Union created an explicit legal basis for JITs in Article 13 of the European Union (EU) Convention on Mutual Legal Assistance (MLA). As the Member States were slow to ratify the new Convention, the Council adopted a specific Framework Decision on JITs in 2001, to speed up the use of the JIT-instrument.² It will be effective until all Member States have implemented the Convention in national legislation.

Despite these efforts and the presumed practical advantages of JITs, investigative authorities still only use them occasionally. Between 2004 and June 2009, JITs were formed in only about 40 cross-border criminal investigations throughout the EU.

the Union. Yet, the Council of the EU remains to be a staunch advocate of the
instrument as such. In December 2009, it stated in its 2010–2014 programme
for Justice and Home Affairs (the Stockholm programme) that the Council
‘encourages Member States’ competent authorities to use the investigative tool of
Joint Investigative Teams as much as possible in appropriate cases’. The Council,
however, did not elaborate on what it considered ‘appropriate cases’. In a report
issued in 2008 in preparation for the Stockholm programme, the High Level
Advisory Group (HLAG) on the future of European home affairs policy appeared
to think that setting up a JIT would probably not be necessary in straightforward
cases. ‘For certain aspects of criminal investigation, it will probably be necessary
to work towards a simplification of the regulations applied when an investigation
needs to be carried out on the territory of another Member State,’ according to
the HLAG. For those cases, the Group recommended allowing police officers
to perform non-coercive acts on the territory of another Member State, such
as taking witness testimony on a voluntary basis.

Experiences in the Netherlands, however, show that even in complex inves-
tigations of organised crime, a JIT does not always offer particular advantages
over other forms of coordinated cooperation practically developed by the police
before a legal basis for a JIT existed. These alternative forms break down into
two categories: ‘parallel’ (or mirror) investigations, and joint teams based on
framework agreements. These types of cooperation remain current, because
they may be as effective as a ‘genuine’ Article 13 JIT.

This paper addresses the different types of coordinated and joint investigation,
and considers the circumstances under which each of these is a particularly
useful instrument. The practical examples discussed here are taken from a
number of empirical studies of police and judicial cooperation carried out in
the Netherlands.

Section 2 begins by outlining two main types of serious and organized cross-
border crime, and discusses relevant developments of the past two decades.

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