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FUTURE GROUP POLICE COOPERATION French Contribution

In October 1999, the European Council decided to create a European area of freedom, security and justice, making full use the possibilities offered by the Treaty of Amsterdam. The Tampere programme, established in the period 1999-2004, drew together for the first time the political objectives of Member States of the European Union in this domain. The purpose of the Hague Programme (2005-2009) is to pursue this course by reinforcing operational cooperation and by providing a new dimension for information sharing among the Member States.

The idea of police cooperation covers a broad range of common policies, aligned along three major axes:

- making police officers more aware of European themes and of the legal systems of other Member States;
- cooperating with other Member States' police forces in the field, particularly in border zones;
- sharing information with other Member States' police forces, making use of Europol.

Strengthening these axes of cooperation over the coming years is an essential question for the EU Member States, which confront security risks that often go beyond the limits of their territory.

In each of these orientations, it is particularly important to take into account technological development in the area of security, in order to provide Member States' police forces with effective tools that respond to current transformations. Video surveillance, whose importance was highlighted at the time of attacks perpetrated in London in July 2005, is one essential feature.

The development of police cooperation should also be viewed in reference to the renewed legal framework provided for by the Treaty of Lisbon; it should be compatible with the new institutional architecture of the Union and the establishment of the COSI. The implementation of the provisions of this treaty should, in addition, provide the opportunity to evaluate existing tools, such as the European Police Chiefs Task Force.

The role of the Future Group is to formulate concrete work projects in the domain of police cooperation that are likely to provide the bases for future action programmes for the period 2010-2014.

1 Current situation

1.1 European training of police officers

The establishment of the European Police College (CEPOL) in 2001 marked a commitment to providing European training for police officers. This institution, set up as a network of national training institutes for senior law enforcement officers, was transformed in 2006 into an agency of the European Union.

CEPOL undertook to develop common courses for European police officers in different areas (common curricula). These courses are designed to be used in the training courses delivered by CEPOL (70 to 80 per year on average) or in national police training centres. They involve a wide variety of areas of police activity. In addition to these courses, CEPOL has posted an Internet portal and developed an electronic network for distance learning and for sharing information.

Since 2007, CEPOL has organised an exchange program between States for senior police officers and police trainers. During the first period, April to June 2007, 51 exchanges took place – two periods of approximately two weeks for the officers and two one-month exchanges for the training staff. The second period of exchanges is programmed.

A large part of the work accomplished by CEPOL concerns questions of organised crime and corruption, in line with the orientations of the Hague Programme.

1.2 Cooperation in the field

1.2.1 Cooperation in cross-border zones

Instituted by bilateral or multilateral agreements between the States concerned, Police and Customs Cooperation Centres (PCCC) are support tools for direct cross-border cooperation that bring together in the same place officers of two, three or even four concerned countries. They represent an innovative approach to cross-border information exchange in crime fighting.

In connection with PCCCs, joint cross-border patrols on motorways and railways were established (also by means of ad hoc bilateral or multilateral agreements). These patrols, whose role includes maintaining public order, fighting illegal immigration and preventing customs offences, enable police forces to develop knowledge of their counterparts in other countries and to create common practices.

1.2.2 The Schengen Convention and its extensions (Treaty of Prüm)

Only partially integrated into the Union acquis, the Treaty of Prüm offers broader possibilities for cooperation in the field. It makes it possible to form joint patrols or other forms of joint intervention, allowing police and customs officers to take part in interventions on the territory of another State that is party to the treaty, as well as authorising them to cross a border in cases of imminent danger (Article 25). Cooperation between States in case of major events, disasters and serious accidents is also organised by the treaty (Article 26). In addition, the Treaty of Prüm (Article 27)

stipulates the types of information that States are authorised to exchange in mutual assistance, according to Article 39 of the convention of application of the Schengen agreement. Of these three articles, at present only Article 26 has been partially integrated into the EU acquis.

1.2.3 Joint Investigation Teams

Member States have had, since 2002, the power to create Joint Investigation Teams (JIT), allowing agents of two or several Member States to work together on a criminal investigation, each State allowing agents of the other State to perform certain investigation acts on its territory. The involvement of Europol agents in JITs is also possible. JITs appear to be an efficient tool in large-scale, complex investigations requiring concerted, coordinated action on the part of the Member States concerned. However, they do not seem to be suitable for all types of criminal investigations with an international aspect.

1.3 **Pooling police information and security technologies**

1.3.1 Europol

The objective of Europol, created in 1995 by a convention concluded by Member States of the European Union, is to improve the fight against organised crime and terrorism whenever two or more Member States are affected. Europol facilitates the exchange of information, establishes strategic reports, provides operational analyses and provides its expertise and its technical support for investigations conducted by Member States. This technical expertise is an important resource for JITs.

The next decision of the Council should make it possible to enlarge the Europol mandate to encompass all forms of serious crime and also to improve its functioning, by transposing its legal basis into the Union and transforming it into a European agency. This would mean that funding for the agency would come from the general budget of the Union.

To conduct crime investigation, Europol works with analysis work files (AWF) and with the European Information System (EIS). The creation of this complex-functioning system was somewhat delayed, which explains in part the insufficient amount of information that Member States have transmitted so far to Europol. The system of work files in the area of organised crime is, in any case, generally deemed to be functioning satisfactorily.

1.3.2 The field of information systems and security technologies

Beyond police cooperation in the strictest sense, the Hague Programme also recommended upgrading information exchanges in order to improve the functioning of crime prevention services in the Member States. This enhancement is made possible by broadening the range of information that is pooled: the extension of SIS to the new Member States, thanks to SIS *one for all*; the implementation of SIS II, which will be able to integrate biometric data, and that of VIS all marked the increasing role of information systems in police cooperation.

Actually, the entire area of security technology has undergone major development in the past years. The Hague Programme did not specifically address this subject. It nevertheless appears that this sector cannot be managed politically by individual Member States nor industrially only by the companies working in this field. The

necessity to orient research and development at the European level led the Commission, in 2006, to develop a European Security Research Programme (ESRP) within the 7th Framework Program for Research and Development. This programme will cover the period 2007-2013.

2 Future prospects

2.1 Reinforcing the European training of policemen

Two closely bound objectives can be identified: facilitating collaborative work by acquiring knowledge of other States' systems and raising the level of professionalism of European police agents through exchange of experience.

These dimensions of training policies could be enhanced by systematising training initiatives in Member States and expanding them to include all levels of the police hierarchy, in particular middle-range officers. Indeed, it is indispensable to introduce the European dimension to police personnel in Member States. It would thus be advantageous to reinforce the strategy implemented by CEPOL, that of widely diffusing this knowledge within the Union.

Teaching methods could be diversified, with an emphasis on computer-assisted instruction. A programme of research on computer-based training was launched at the outset of CEPOL. This type of teaching presents many advantages for a better diffusion of knowledge. The work so far should be evaluated in order to select the subjects that are best taught with this methodology and to raise the quality and quantity of training programmes offered to Member States' police forces.

Officer exchange programmes could also be developed further. "Police Erasmus programmes" could be integrated into initial training curricula and into continuing education for police officers. Language training should also be improved so as to attain satisfactory levels of foreign language competency among police personnel.

Finally, there is the question of the choice of a working model of CEPOL. The States seem to prefer the idea of a network-based agency. In this case, the standard is that of CEPOL would continue organising training curricula designed for delivery by Member State training programmes. This principle has ensured thus far a certain uniformity, standardising training policies in Member States and CEPOL activities; it would make sense for CEPOL to do even more to coordinate all of the European training offered to police officers throughout the EU. Its mandate should progress in this direction, as should its funding and its organisation.

2.2 Developing and diversifying tools for cooperation in the field

2.2.1 Improving cooperation in cross-border zones

PCCCs can become an essential tool for police cooperation in border zones. This model should be integrated into the acquis of the Union and used extensively, particularly near the new internal borders resulting from the recent enlargement of the Schengen area. The structure and missions of PCCCs could also be reevaluated, in order to make them real police-customs centres of crisis management capable of handling events on an international scale. They could prefigure a "European" police of the future in which, in certain border zones, police agents of different nationalities would work side by side to perform routine police tasks, such as those involving receiving the public.

2.2.2 Making full use of the Schengen convention and its extensions

Incorporating certain provisions of the Treaty of Prüm (Articles 25 and 27) into the acquis of the Union would offer new possibilities for cross-border cooperation between EU Member States. Efficient cross-border cooperation requires that police officers, under certain conditions, be empowered within the territory of another Member State to perform actions, in the framework of the relevant national legislation. In fact, as police cooperation is reinforced, police officers will more frequently find themselves in situations in which they are called on to intervene on the territory of a neighbouring State without the presence of a local agent. National legislatures will need to deal with this inevitability.

2.2.3 Reinforcing JITs and broadening cooperation in crime investigation

The valuable tool that JITs offer must be able to be used more efficiently in major criminal investigations. In the existing legal context, it is crucial to take better advantage of Europol's availability, in order to benefit from its analytical strengths. This imperative, the need to better integrate Europol in investigation teams, must enter into future deliberations on changes in the status of Europol and its personnel.

Moreover, for all aspects of criminal investigation, it will be probably necessary to work towards a simplification of the regulations applied when an investigator needs to intervene on the territory of another Member State. There are many ways in which police and legal cooperation – which are closely related – could be improved. One would be to allow police agents, after the simplified formalities, to perform non-coercive acts on the territory of another Member State, such as taking witness testimony. Another simplification would be a system of written requests for information (a "European requisition") by public entities or individuals from one country to another. Such a system would make today's extremely constraining procedural practices more flexible, without affecting the general principles of legal cooperation in criminal matters.

2.3 Creating an environment favourable to the development of the police cooperation

2.3.1 Making Europol into a real platform of information transmittal to serve the Member States

In order to make Europol a useful platform for diffusing intelligence to Member States' police forces, it is necessary to improve how information is transmitted to Europol by Member States. The requirement of the so-called "Swedish" framework decision of 18 December 2006, that information be better shared, could be fulfilled by means of creating automatic data transfer instruments. At the same time, Europol National Unit (ENU) structures could be transformed, without eliminating them, to make smoother links between operational services and Europol.

2.3.2 Networking in police cooperation

Police activities gather various fields of action particularly in the fight against organised crime. The specialists in these different questions regarding crime activity should share their professional skills and knowledge on a larger level. These specialists along with Europol could work together through a network which would help collect specific information that would give Committee of Internal Security food for thought on internal security strategy.

2.3.3 Integrated managing of police files and security technologies

The technical management of SIS-, VIS- and Eurodac-type European files could be grouped within a single specific structure for greater efficiency, on the basis of a preliminary evaluation. This agency for security technology could also be given the broader role of guaranteeing that all police files and other technological materials are interoperable.

Indeed, beyond the technical aspects of pooling files, security technologies can afford significant possibilities in the area of police cooperation: an effort must be made to standardise new materials in order to obtain better interoperability, especially in the areas of video surveillance, Internet telephony, and police use of unpiloted aircraft. Sharing certain state-of-the-art materials requiring large investments should be considered when they do not need to be in continuous use.

2.3.4 Making use of the Council Working Group on information exchange

Some of the propositions mentioned in the last two paragraphs could be dealt with within the Council Working Group on information exchange.

3 **Questions for discussion**

- 1 Should the range of European police cooperation be broadened beyond the definitions of the Hague Programme?
- 2 Would it be useful to share the acquisition and deployment of new technology, such as video surveillance and information and communication technologies, among EU members?
- 3 Should CEPOL broaden its training offer to include a greater variety of police personnel? How should this training be organised?
- 4 Should PCCCs become the operational centres for managing situations involving cross-border threats? Should PCCCs become more closely incorporated into the legal framework of the Union?
- 5 Should the provisions of the Treaty of Prüm that are specifically concerned with cross-border cooperation be integrated into the acquis of the Union?
- 6 Should there be new forms of cooperation in crime investigations, allowing for simplification of certain procedures, such as allowing the police conducting an investigation to take witnesses' testimony outside their own country?
- 7 Should Europol further develop its role as a platform for information gathering and transmission among Member States?
- 8 Should it be necessary, in particular within the Europol framework, to promote exchanges between police specialists in the various fields of their activity ?
- 9 Should a European institution in charge of managing European police files (in particular those including biometric data) be created?

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Police cooperation regains the various domains whose evolution was during the last years very variable. Some knew the advanced considerable and arranged today of very effective tools. Others evolved on the contrary little or even remained unaltered. The important shifts in the improvement of the police cooperation are audible and put difficulties of understanding to practitioners of the security as to citizens of the union themselves. How to explain for example that JITs, when they apply, do represent a very built-in shape of police investigating, whereas for the more banal business shapes of cooperation are stayed very coercive and adapted little to the internationalisation of investigations? It is necessary to look after what the different sectors of the police cooperation progress of harmonized manner, so that some domains, sometimes very important, don't take a delay in relation to the other.

This principle of improvement harmonized could be a major axis to guide the work of States and the European institutions in the future. After the in force entry of the Treaty of Lisbon he/it will come back to the Committee of internal security to become attached to its implementation like essential piece of the new internal security architecture.



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APPENDIX 1

EUROPEAN POLICE TRAINING

The Hague Programme responds to the question of police training by assigning the European Police College the mission of helping national police forces to "understand the workings of systems and the legal processes of Member States."

1 Current situation

1.1 The Genesis of CEPOL

A decision of the Council of the European Union established the European Police College (CEPOL) as of 1 January 2001 (2000/820/JHA). This decision outlined the composition, workings, objectives and missions of CEPOL. CEPOL thus became a European institution, constituting a network of national institutes for training senior law enforcement officials, run by a governing board that is helped in its task by a permanent secretariat.

The 13 December 2003 JHA Council established CEPOL headquarters in Bramshill (United Kingdom), and it was assigned legal personality. In 2006, CEPOL was transformed into an agency of the European Union with a budget apportioned by the European Commission and approved by the Parliament.

1.2 CEPOL's Organisation

The Governing Board, chaired by the State holding the presidency of the European Union, is composed of directors of national training institutes for senior police officers. In charge of CEPOL activities, it is responsible for the yearly programme, the annual budget, the evaluation and the yearly report, the coherence of training programmes, and the creation of committees and relations with the Council and other EU bodies and institutions. It names the administrative director.

The administrative director is the legal representative of CEPOL and director of its permanent secretariat. Currently, this position is occupied by Ulf Görransson of Sweden. The permanent secretariat assists the Governing Board in its administrative tasks and in implementing the yearly program. It has a staff of 22, and 80% of the positions created have been filled.

To deal with the most important areas addressed by CEPOL, four committees have been formed: strategy; administration and budget; yearly programme; and teaching and research.

Acting on a Commission proposal on 13 July 2005, the Council decided to make substantial changes in CEPOL's status (project 10040/05 ENFOPOLS 73 OCS 448). This decision provides for the following changes:

- CEPOL was declared a European agency, its employees becoming EU civil servants;
- CEPOL's budget became subsidised by the Commission. CEPOL's 2007 budget package is 7,400,000 €

This new status gives the Commission a meaningful role in CEPOL activities. These activities, determined by the Council, are designed to provide training sessions for senior police officers, to develop well-coordinated training programs and to improve the linguistic knowledge of high-level police officers. CEPOL can also act on recommendations by EUROPOL and the European Police Chiefs Task Force.

1.3 CEPOL's Missions

- Concerning standards and training modules, the Hague Programme indicated in section 2.3 on police cooperation:

"The Council and the Member States should develop by the end of 2005 in cooperation with CEPOL standards and modules for training courses for national police officers with regard to practical aspects of EU law enforcement cooperation."

Since 2005, CEPOL has undertaken to develop common courses, in programmes of study called *common curricula* (CC). Each year, courses with a European dimension are developed for several themes. They concern a variety of topics, from terrorism to conjugal violence.

These CC are designed to be used in training sessions delivered by CEPOL; 70 to 80 seminars are offered per year on average, for 25 senior police officers in the European Union. In addition, these curricula may be used internally by police training providers in Member States or partners. They are currently being translated in the Luxemburg language centre.

- Concerning systematic exchange programmes, section 2.3 of the Hague Programme continued:

"The Commission is invited to develop, in close cooperation with CEPOL by the end of 2005, a systematic exchange programme for police authorities, aimed at achieving better understanding of the working Member States' legal systems and organisations."

With AGIS financing from the European Commission (1,600,000 € for 2007-2008), CEPOL has operated, since 2007, an exchange programme between States for senior officers and police training staff. In the first period, April to June 2007, 51 exchanges took place (34 senior officers and 17 instructors). These exchanges involve two periods of approximately two weeks for the officers and two one-month exchanges for the training staff. The second period of exchanges will start in the beginning of winter 2007-2008.

- CEPOL was also mentioned in section 2.7 of the Hague Programme, Organised Crime and Corruption:

" The European Council welcomes the development of a strategic concept with regard to tackling cross-border organised crime at EU-level and asks the Council and the Commission to develop this concept further and make it operational, in conjunction with other partners such as Europol, Eurojust, the Police Chiefs Task Force, EUCPN and CEPOL. In this connection, issues relating to corruption and its links with organised crime should be examined."

CEPOL's programmes in 2007 and 2008 incorporated the orientations of the Hague Programme. Thus, in 2007, 23 one-week courses for 25 senior officers dealt with cross-border criminality and six are planned for 2008; 33 courses were delivered with the support of Europol and 17 more planned for 2008; 10 other COSPOL courses were developed on the basis of work by the Police Chiefs Task Force and seven are planned for 2008. The fight against corruption is part of the CC on deontology.

CEPOL has posted an Internet portal and is developing an e-learning network, EPLN, for distance learning and access to knowledge.

2 Current situation and future prospects

After six years of existence, the statistical balance can be summarised thus:

- more than 1200 police officers have been trained each year in 70 to 80 courses and seminars in a European environment;
- 10 European common courses have been written.

Beyond this, the future of CEPOL must be considered in view of the foreseeable needs in terms of European police training. The inclusion of new Member States and the acceleration of temporary and permanent population movement inside the European space all increase the need for mutual knowledge of legal and institutional systems, as well as of professional practices. CEPOL must endeavour to reach two closely related objectives: it should facilitate work-sharing by means of knowledge of other States' systems and also optimise the professionalism of all European police agents by means of an exchange of experience. These goals should be reflected in CEPOL's development.

2.1 Level of personnel receiving training

CEPOL has progressively broadened its activities to include police officers in general, due in part to the fact that some upper-level law enforcement officers do not have sufficient mastery of English. In addition, non-police personnel (customs officers, firemen, psychologists, physicians...) have also been allowed to take part in certain relevant activities. From the outset, CEPOL has delivered, through its network, instructor training in line with its own activities that also benefits national training programmes in Member States.

European knowledge must be exchanged not only among high-level police officers but also among middle-range personnel and even lower-level agents. It thus seems desirable to intensify CEPOL's current strategy and aim to deliver instruction to an even wider audience.

2.2 Modes of instruction

An e-learning research program was begun at CEPOL's inception. This teaching mode appears well adapted for delivering CEPOL's type of content knowledge. The next step is to evaluate this research and determine which subjects are best suited for this type of instruction.

Similarly, CEPOL's officer exchange programmes, currently managed in an AGIS programme, can be further developed. The integration of curricula addressing initial and continuing police training could also be beneficial. Moreover, professional language training must also be maintained at a satisfactory level.

2.3 Choice of the CEPOL working model

The States seem to prefer the idea of a network-based agency. This may be the model that is best suited to the mission of expanding the dissemination of professional police knowledge.



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APPENDIX 2

CROSS-BORDER COOPERATION

In this domain, the Hague Programme insists on the need to define common principles to form a basis for transnational police and customs cooperation and also calls on the Commission to present provisions designed to further develop on Schengen achievements. It states that "reinforced cooperation and better coordination" are necessary in certain border zones to fight crime and to deal with threats to public order and national security.

1 Current situation

In its report on the implementation of the Hague Programme in 2006 (point 73), the Commission judged "particularly slow" the implementation of measures "related to the improvement of law enforcement cooperation and development of the Schengen acquis in respect of cross-border operational law enforcement." It must indeed be noted that when new instruments of cooperation in this domain were developed, this took place in bilateral or ad hoc multilateral frameworks rather than at the European Union level.

1.1 Police and Customs Cooperation Centres

Established by bilateral agreements, Police and Customs Cooperation Centres (PCCC) are tools that support direct cross-border cooperation, bringing together in the same place police and customs agents of the two (or three) countries concerned. Judging from the experience of the States that have already implemented them, these centres provide an innovative approach for cross-border exchange of crime prevention information¹ that addresses one of the objectives of the Hague Programme. They also contribute to coordinating measures of assistance in crime prevention and investigation.

¹ This information essentially consists of: identification of vehicles, their owners, drivers, and passengers; information concerning drivers' licences; telephone and address verifications; verifications of the acceptability and authenticity of identity documents; police and customs information from computer files managed by services covered by the agreement.

A current inventory identifies eighteen structures of this type involving the following countries: Germany, Austria, Italy, Spain, Portugal, Belgium, France, Switzerland, Denmark, Slovenia, Poland, Czech Republic and Hungary.

1.2 Joint cross-border patrols

In connection with the PCCCs, mixed road and railway patrols were set up by bilateral agreements or on a multilateral basis. The mission of these patrols covers not only security and public order but also illegal immigration and customs offences. These patrols, which enable the police to combine their practices, prefigure a model for a European police force.

The most successful examples of cooperation involve joint operations on a European scale aboard international trains: Operation "Danube Alps Adriatic" conducted in June 2007²; "*high impact*" operations aboard trains; and two- or three-country patrols (France-Belgium, Germany-Switzerland-France).

1.3 The contribution of the Treaty of Prüm

The treaty signed in Prüm on 27 May 2005 on stepping up cross-border cooperation stipulates in Article 24 that contracting parties may "introduce joint patrols and other joint operations" that allow police or customs officers to participate in interventions on the territory of another country. If the two States agree, the Host State can officially empower officers from the other State.

Officers may also cross a border without authorisation in order to respond to an imminent danger, in compliance with the Host State's national law (Article 25). If the law does not grant a foreign agent the power to apprehend a criminal, it is difficult to apply these provisions. Moreover, in Article 27, the Treaty of Prüm stipulates the types of information that States may exchange for mutual assistance, according to Article 39 of the Convention implementing the Schengen agreement. The list is very similar to the one provided in bilateral agreements on the PCCCs. Article 26 of the treaty organises cooperation in the event of major events, disasters and serious accidents.

The Treaty of Prüm thus greatly benefited from the experience acquired in the operations of PCCCs and joint patrols. It should be noted however that these cross-border aspects of cooperation in the Treaty of Prüm have not been integrated in the *acquis* of the EU, unlike the articles on exchange of information concerning genetic material and fingerprints or vehicle registration.

2 Future prospects

2.1 Standardising conditions of intervention on the territory of another State

The implementation of cross-border cooperation requires that, under certain conditions, agents of another State be empowered to perform certain actions. The modes of cross-border cooperation provided for by the Treaty of Prüm will make it possible more often for a policeman of one State to intervene lawfully on the territory of another State without the presence of a local officer. Increasing the ability of

² Involving services from several countries: Germany, Austria, France, Slovenia, Slovakia, the Czech Republic, Hungary, Italy, and Switzerland.

foreign police officers to act in cases of emergency would also make it possible to enhance cooperation concerning surveillance and pursuit (articles 40 and 41 of the Schengen Convention). The national legislations should all take account of this necessity.

2.2 Modernising intra-Schengen provisions

Initially, the founding States' territorial premises concerning the Schengen zone were above all land-based. The successive enlargements of the Schengen zone and recent technical progress raise the issue of extending compensatory measures to domains such as the sea, rivers, and the air. Thus, it is worth examining the cases in which one State's aircraft (or unmanned aerial vehicle) or its ship crosses an intra-Schengen border during an operation of surveillance or pursuit.

2.3 Building the European police station of the future

The cooperation provided for in Article 39 of the Schengen Convention and the contributions of the Treaty of Prüm require the EU to imagine new forms of police work. PCCCs certainly furnish satisfactory responses to some of the needs created by the application of Schengen agreements. They must be more fully integrated in the multilateral acquis of the Union. However, in order for the improvements of the Treaty of Prüm to be put into practice, it may be necessary to create a structure that allows for the police forces of two States to integrate their work and also to jointly receive the public, which the PCCCs do not allow.

This "European police station" could become permanently established in certain localities in border areas and set up temporarily anywhere else when a major event or catastrophe makes it necessary. This supposes that there would be clarifications of common doctrines concerning the deployment of staff and materials. For this to occur, a policy of cross-border police communications, for example, is indispensable, even before a European police station comes into existence.



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APPENDIX 3

POLICE COOPERATION IN CRIMINAL INVESTIGATIONS AND JOINT INVESTIGATION TEAMS

The domain of police cooperation in criminal investigations is essentially addressed in the Hague Programme by means of one particular instrument, the Joint Investigation Team (JIT). The development of this instrument and its present use are worth examining.

1 Assessment

The principle of the creation of JITs, set out by the European Council of Tampere, was implemented by means of Article 13 of the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters, as well as by the EU Framework Decision 2002/465/JIA of 13 June 2002, adopted because of difficulties in the ratification of the 2000 Convention. This framework decision is no longer valid, as the Convention went into effect on 23 August 2005.

JITs allow agents of two or several Member States to work together on a criminal investigation, each State authorising agents of the other State to perform certain acts of investigation on its territory. Acts performed in one of languages of the JIT are fully valid in legal proceedings in the other country. Eurojust can ask Member States to establish a JIT. Europol can participate in a JIT on request by authorities of a Member State.

The framework decision establishing JITs allows EU Member States to address the details of their creation, which has often been achieved through bilateral agreements. France, for example, has signed application agreements with Spain, Belgium and Germany. The French Ministry of Justice is currently working on signing agreement protocols with Slovenia, Romania, the United Kingdom and Portugal to set working rules prior to creating bilateral JITs.

Again taking the example of France, 13 JITs, finished or in progress, have been created since the Law of 9 March 2004 transposing the framework decision: 11 French-Spanish JITs (narcotics and terrorism), 1 French-Belgian JIT (terrorism) and 1 French-German JIT (terrorism).

2 The current situation

- Bilateral aspects

Beyond the institutional and legal conditions governing JITs, some difficulties remain, particularly in how Member States define and implement them. In order to effectively put JITs into practice, there should be a certain degree of compatibility between the two sets of national laws.

- The role of Europol in JITs

Europol's involvement in JITs naturally follows from the analytic support that the office offers in COSPOL projects. The analysis work files (AWF) open to Europol, which provide usable results on an operational level, should contribute to the formation of JITs. The involvement of Europol is particularly justified when the added value of its expertise is likely to enhance investigations.

- Overall situation

JITs – well-integrated investigation instruments that, however, are very formalised and long to set up – certainly offer an efficient solution for a complex investigation involving great means and requiring coordinated, concerted action on the part of the concerned Member States.

Whereas they are useful in this domain, JITs do not appear to be the best solution for a large majority of international investigations. Other types of operational instruments, which would combine legal cooperation and police cooperation, must be found in order to improve the working of these less complex investigations; their legal framework has so far remained largely unaltered, which sometimes limits their speed and efficiency.

3 Perspectives

Along with the JITs, it would be advisable to find ways to simplify investigation rules on the territory of another State that could apply to all the cases that do not warrant establishing a JIT. There are numerous possibilities for improving legal cooperation and police cooperation, which are two aspects in this domain that cannot be divided. Without undermining the principles of legal mutual assistance in criminal matters, in the following areas, solutions might be sought that could greatly improve investigation:

- A new system could apply to non-coercive acts of investigation, such as taking witnesses' testimony. It is possible to imagine in this example a simplified notice submitted to legal authorities of the requested country that would be automatically validated unless they challenged it. The act could be executed directly by the police officer of the requesting country, in the presence of an officer of the requested country.
- The police of the requesting country could intervene not only in written acts but also in actions, although accompanying measures of constraint (such as holding a person in custody) remain the responsibility of the police officer of the requested country.
- A system for requesting information in writing ("European requisition") from public entities or individuals situated abroad would make it possible to reduce

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JITs represented an important step forward in cooperating on particularly complex criminal investigations. It would be useful to create a European tool that could be used in more commonplace international investigations.



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APPENDIX 4

EUROPOL

The European Police Office was established on 26 July 1995 by an agreement concluded among members of the European Union; it went into effect on 1 October 1998 after ratification by the group of Member States.

1 Current situation

The objective of Europol is to improve the struggle against organised crime and terrorism whenever two or more Member States are affected.

Europol thus brings its support to Member States by:

- facilitating the exchange of information;
- providing operational analyses for investigations conducted by Member States;
- providing strategic reports (Organised Crime Threat Assessment – OCTA);
- providing its expertise and technical support to investigations and operations carried out in the EU, under the control and the legal responsibility of the Member States concerned.

1.1 Organisation

The broad orientations of Europol, its work programme, and its budget are determined by the Council of Justice and Home Affairs Ministers (JHA), which names the director of Europol subject to approval by the Management Board.

The Management Board, presided by the Member State currently holding the presidency of EU, helps determine priorities, in particular in making rules for work files.

The Director is responsible for accomplishing tasks assigned to Europol, preparing and administering the budget, and managing the staff. For this, the Director is assisted by three Deputy Directors, one of whom is in charge of operational activities, and each Deputy Directors is assisted by an Assistant Director.

Each State designates a single Europol correspondent, a Europol National Unit (ENU).

1.2 Means

The budget of Europol practically doubled in five years, rising from 35 M€ in 2001 to 67.9 M€ in 2007.

The largest budget item is personnel, which represents 61% of the total budget, followed by data processing (23%), and operating expenses (10%). In October 2007, 443 people worked directly for Europol, to which 138 national liaison officers and experts must be added, bringing the total to 581.

1.3 Functioning

The range of Europol expertise has progressively widened: originally conceived of as a "European drug unit", Europol was made responsible for the fight against organised crime and terrorism, and was later mandated, in the project to transform it into a European agency, to combat "serious international crime".

There are currently 16 work files (databases) available for analysis in Europol. They have been rated as working satisfactorily (see the final report of mutual evaluations, 15348/07 CRIMORGS 176 ENFOPOLS 192).

The European Information System (EIS), implemented in 2005 (much later than initially projected), is gaining capacity, but the volume and above all the quality of information collected by Europol remains insufficient – not generally because of deliberate slowness by the Member States but rather because of questions of internal organisation and the increased workload caused by this transfer.

In the domain of terrorism, the situation is somewhat different because of the highly important role of intelligence gathering and the specialised departments devoted to this research. The comparative ratios of information gathering and criminal investigation in the antiterrorist struggle vary from country to country, and this dichotomy is a factor that hinders Europol's role in this domain.

2 Future prospects

2.1 The near-term development of Europol

The draft Council decision currently being examined by Member States and the European institutions proposes to give Europol a more flexible legal foundation by changing its basis from convention to decision, and it would also enlarge the office's mandate from fighting organised crime to dealing with all forms of serious crime and transform the office into a European agency.

So far, the principles of changing the legal basis and extending the mandate have been ratified. However, the transformation of Europol into a European agency by 1 January 2010 is still being studied. Certain points have yet to be resolved satisfactorily:

- suspending the immunity of Europol agents who participate in operational activities, in particular in Joint Investigation Teams;
- maintaining of the principle of rotation of the Member State staff working at Europol;

- the possibility for Europol agents taking part in Joint Investigation Teams to receive instructions from the team leader;
- keeping members of departments of application of Member States laws in operational positions;
- clarifying the budgetary impact of changing to agency status, respecting budgetary neutrality.

If this reform goes into effect, Europol will be funded out of the general EU budget from 2010 on. The first evaluations conveyed by the Commission in January 2007 cited an overall budget of 344 M€ for 2010-2013, or an average annual budget of 83.5 M€ over this period. This corresponds to a 24.6% increase in Europol's annual budget over its 2008 budget of 67 M€.

2.2 Europol and information management

Several factors must improve concerning the volume and the quality of information treated by Europol in years to come. First of all, according to the so-called "Swedish" framework decision of 18 December 2006 on the simplification of information exchange, Europol is mandated to be, on the EU scale, the recipient of all the information and intelligence exchanged within its field of expertise. Its role will thus be reinforced; however, Europol must provide itself with the means to effectively use this information.

The States' supply of information to the EIS will undoubtedly improve if they establish automatic technical transfer tools (data loaders) and enhance their ENU structures, (mandatory channel for Europol-State relations), in order to make a smoother link between operational services and Europol. If this is done, Europol should be able to give this information added value for Member State services.



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APPENDIX 5

SECURITY TECHNOLOGIES

The Hague Programme does not specifically address the positive role of security technologies – many of which involve information and communication technology – or the way in which their use can be optimised on the European level. Nevertheless, these technologies are currently essential to the domain of internal security, and are an integral part of the European Programme of Security Research. No reflection on the future can ignore this question.

1 Current situation

Beginning in 2003, the European Commission (Directorate-General for Enterprise and Industry) implemented financial instruments designed to support research in the area of security technology: to prepare the phases of the 7th Framework Programme for Research and Development (FPRD), a preliminary action called PASR³ was launched in 2004 and continued until 2006. In three years, 60 million euros financed actions designed to prepare European industry for much broader action. At the same time, in order to think more profoundly about what content and management modes a future program should have, a European forum was established. The 7th FPRD, adopted in 2006, includes a European Security Research Programme (ESRP), with 1.4 billion € in funding for 2007-2013.

The current importance of new technology in the field of internal security means that that this question should not solely be framed in terms of industry, but rather it should be integrated into any reflection on the future of internal security in the EU.

2 Perspectives

2.1 The mutualisation of facilities

The shared use of advanced technology facilities and equipment, which are characterised by rapid obsolescence, is a necessity for the future. Because heavy financial investment cannot be amortised by single States, it would be beneficial for

³ *Preparatory action for security research*

them to pool certain materials, and at the same time bring their work methods more in line with each other's. If this principle is agreed on, the next step would be to address the questions of who is responsible for purchase decisions, who is in charge of maintaining these facilities, and who makes decisions about how to share these facilities. Should these questions be dealt with by an existing agency or is a new one needed?

2.2 A better use of communication technologies

A professional approach to police activities calls for a solid use of communication technologies. Like BorderTechNet, established by Frontex, different sites devoted to internationalising specific aspects of police activity could be created. Models, such as those of current projects concerning border activity, could be developed for use in various types of activity; they could be adapted for recruiting human resources to fight against smuggling and terrorism or to manage protest demonstrations, or they could be applied to managing first aid in cases of accidents or attacks, to mention just a few examples. CEPOL should be closely associated with such any such development.

2.3 Harmonising regulations and standardising materials

The harmonisation of the Member States' regulations governing the use of security technologies may be one answer to the needs of European law enforcement. The police in each Member State have adopted techniques originating in other domains, but this has resulted in differing regulations responding to specific national user needs rather than considering security in Europe as a whole.

This necessity for a strong, coordinated approach by European police forces is illustrated by three very diverse examples:

- Video surveillance

At the moment there is very little standardisation in video surveillance systems. This has resulted in a variety of technological responses, and thus in the adoption of a multiplicity of systems, which particularly complicates the police work of compiling and handling video images. It can only make sense to standardise or certify video systems on a European scale, since national markets taken individually are too small. It would thus be advantageous to benefit from a structure that can identify the common needs of European investigation services and incite European organisations to standardise systems in this area.

- Internet telephony

Internet telephony – Skype is one of the more publicised applications – has become widespread. The technical features of this application and the regulatory environment today make it very difficult for police to legally intercept criminal use of technologies of this type. Although the European framework is solid and solutions are progressively found to facilitate the work of investigators, police forces working together previously to standardise and to frame appropriate regulations would have facilitated a response to this important problem.

- Use of unpiloted flight systems and dirigibles

With rare exceptions, drones (unpiloted, low-flying light aircraft that remain in view of their operators), are forbidden today in the European sky. However, for economic

and operational reasons, these technologies are potentially very efficient for use in numerous security assignments. Today, European police forces are very rarely involved in discussions concerning the introduction of unpiloted aircraft in the air traffic system. Nor have they participated in discussions about using protected wavelengths to pilot these craft. An entity capable of entering discussions as a proactive advocate of European police would probably accelerate the implementation of these systems and would in any case guarantee that constraints concerning security activities would be taken into account. The use of dirigibles in police operations is another topic that should be discussed, as is the sharing of available new wavebands.