

The Stockholm Programme: The Internal Security Strategy and Its Focus on Cross-border Crime

Academy of European Studies
The Hague University of Applied Sciences

Tom de Peuter

11016310

ES4-4E

M. van den Haspel

28-05-2015

Executive Summary

Cross-border crime is a phenomenon that goes hand-in-hand with the abolishment of border controls in the Schengen zone and requires an international action plan. Warmerdam states that organized crime groups operate in networks and maintain close relations with each other to distribute their goods worldwide (A closer look at Joint Investigation Teams: The Dutch-Bulgarian JIT, 2014).

As part of the Stockholm Programme, the Internal Security Strategy (ISS) has set out specific guidelines to tackle cross-border crime for the time period from 2010 to 2014. This Internal Security plan was heavily focused on the enhancement of EU institutions and information exchange systems in order to tackle cross-border crime

Nowadays, transportation hubs differ greatly in Europe in terms of security and structure. When it comes to trafficking illicit goods, organized crime groups select very carefully the air- or seaport of arrival. Private interests in these places make security unreliable, and the fear of long shipping times is one important reason why cargos are often poorly checked by customs. The Port of Antwerp, renowned for its weak security, is seen as an important entry point for drugs and firearms. In addition, the Internet has become an important source for these firearms.

When it comes to the implementation of the information systems, the EU member states encounter different problems. An important bottleneck is the national differences in the structure of law enforcements authorities in member states. Every national law enforcement structure differs among the member states, which results in some states only having access to the system at the higher police department level. Furthermore, systems such as Schengen and SIENA are not used very frequently. It is significant that The Netherlands is one of the major SIENA users and that even there the use of SIENA is rare. The same goes for the Schengen system, as police officers in the Netherlands only tend to use it to verify information.

The extra costs associated with these systems, and organizations such as Frontex make it clear that the ISS lacked a good financial plan from the start. Therefore, there is no need to create new tools and systems, as Den Boer concludes: “The tools and systems are already there, created by agreement with national law enforcement institutions, therefore the EU should expand these systems instead of developing new ones”. She further adds that the commitment and willingness to obtain benefits from these measures must come from the member states (M. den Boer, personal interview, May 9, 2015).

This report concludes that the organizations Europol, Frontex and Eurosur show signs of great potential. The Joint Investigation Team (JIT) is especially considered to be a sleeping giant to a great extent. However, for several reasons, the ISS measures still cannot be called effective, as these organizations lack executive power. It will most likely take more years until the organizations and the systems in the member states bear fruit. Meanwhile, the EU should make technical changes to the existing information systems and proceed to expand its power in the Area of Freedom Security and Justice (AFSJ) in order to achieve the desirable result.

List of Abbreviations

EFEG	European Firearm Expert Group
DCID	Dutch Criminal Investigation Department
JHA	Justice and Home Affairs
AFSJ	Area of Freedom Security and Justice
EC	European Commission
EU	European Union
EP	European Parliament
IBM	Integrated Border Management
COJ	Court of Justice
NSIS	National System of Schengen
CSIS	Central System of Schengen
NCC	National Coordination Centre
GMES	Global Monitoring for Environment and Security
ENU	Europol National Unit
EAW	European Arrest Warrant
EDPS	European Data Protection Supervisor
CISE	Common Sharing Intelligence System
IMP	Integrated Maritime Policy
FSC	Frontex Situation Centre
JIT	Joint Investigation Team
SIS	Schengen Information System

RABIT	Rapid Border Intervention Team
NCIS	National System of Schengen
CSIS	Central System of Schengen
ISS	Internal Security Strategy
TFEU	Treaty on the Functioning of the European Union
TEU	Treaty on European Union
LO	Liaison Officer

Table of Contents

Introduction.....	9
Methodology	10
1. Problem analysis	11
1.1 Cross border crime in Europe	11
1.1.1 Definition	11
1.1.2 The importance of export for the underworld.....	11
1.1.3 The internal and external dimension.....	12
1.2 Current smuggling threats for the EU	13
1.2.1 Firearm smuggling	13
1.2.2 Tropical animals, waste and illegal bird eggs	14
1.3 Smuggling at transportation hubs in the Netherlands	14
1.4 Conclusion.....	16
2. Introducing the Area of Freedom Security and Justice and the Internal Security	
Strategy	17
2.1 The evolvement of the AFSJ and the Stockholm Programme	17
2.1.1 History.....	17
2.1.2 Abolishment of the pillar structure	19
2.1.3 Mutual recognition as cornerstone.....	19
2.1.4 The Internal Security Strategy and the focus of this report	20
2.2 The Internal Security Strategy and proposed actions	20
2.2.1 Objective 1 and proposed actions	20
2.2.2 Objective 4 and proposed actions	21
2.3 The legal framework for international legislation on AFSJ	22
2.3.1 European Arrest Warrant (2002/584/JHA)	22
2.3.2 Evaluation	23
2.3.3 Directive on the freezing and confiscation of proceeds of crime (2014/42/EU)	24
2.3.4 Evaluation	24
2.4 Conclusion.....	24
3. Integrated Border Management and the information systems.....	26
3.1 Schengen	26
3.1.1 History.....	26
3.1.2 Member states & responsibilities.....	27
3.1.3 The Schengen information system (SIS)	27
3.1.4 Evaluation	28
3.2 Eurosur	29
3.2.1 External control.....	29
3.2.2 Evaluation	30
3.3 Common Information Sharing System (CISE)	32
3.3.1 Maritime objectives.....	32
3.3.2 Evaluation	32

3.4 Common Risk Management Framework	33
3.4.1 Framework for custom authorities	33
3.4.2 Evaluation	34
3.5 SIENA	35
3.5.1 Linking Europol with national police departments.....	35
3.5.2 Evaluation	35
3.6 Conclusion.....	36
4. The institutions responsible for police and judicial cooperation.....	38
4.1 Europol.....	38
4.1.1 Organization.....	38
4.1.2 Communication with member states.....	38
4.1.3 Joint Investigation teams.....	39
4.1.4 The execution of JITS and bilateral agreements.....	40
4.1.5 Evaluation	41
4.2 Eurojust.....	42
4.2.1 Organization.....	42
4.2.2 Evaluation	43
4.3 Frontex	43
4.3.1 Organization.....	43
4.3.2 Communication with member states.....	44
4.3.3 Evaluation	44
4.4 Conclusion.....	45
5. Conclusion and Recommendations	47
5.1 Conclusion.....	47
5.2 Recommendation.....	47
References.....	49
Appendices.....	57
Appendix 1: Transcript of interview with Monica den Boer.....	57
Appendix 2: Student Ethics Form	62
Appendix 3: Informed Consent Form.....	65

Preface

This dissertation was written as part of my studies at The Hague University of Applied Sciences. Between September 2014 and May 2015, great effort was made in order to give it a good result. However, it was not possible to achieve this result without the support of my supervisor Marjo van den Haspel, who guided me several times in the right direction and helped me out when I was at a standstill. Also, my sincere gratitude to Monica Den Boer – Former Dean of the Police Academy of the Netherlands and Academic at the University of Amsterdam for providing me with indispensable information on international police cooperation.

My motivation to prepare this dissertation is as a result of my growing interest in international crime and Europol. When travelling across Europe, I keep asking about the mechanisms Europe has put in place to ensure the security of its citizens, based on the fact that it has abolished border controls. All those times, I have never taken time to research on this specific topic, and once I was given this opportunity I did not hesitate to research the EU's security plan and answer the question that has been lingering in my mind for so long. Although I understand that crime-related topics are complex in terms of numbers and facts, since most sources are based on assumptions and estimates, I was determined to do it.

Introduction

In the 21st century, it is possible for Europeans to travel freely, pay with the same currency and reside in any EU country without problems. What many people do not know is that these advantages are based on the Schengen Convention. However, the enlargement of the Schengen area causes headaches for law enforcement institutions in Europe. This is due to underlying aspects such as the enlargement of the Schengen area with new countries, which makes it easier for criminals to carry out their activities across the borders. The underworld is globalizing and enjoys the various benefits enabled by the EU. The question is what the EU does to prevent this?

After the Lisbon treaty, the EU obtained more powers to provide legislation in the field of security and judicial cooperation. Under the Stockholm Programme, an action plan was carried out in the past 4 years with the aim of stimulating international police and judicial cooperation between member states: The Internal Security Strategy. In this action plan the EU wanted to stimulate the member states to make use of the several EU institutions in this field.

With the Stockholm Programme recently ended, this dissertation focuses on the measures that have been set out in the internal security strategy to tackle cross-border crime by focusing on police and judicial cooperation guidelines in the plan. These measures mostly reflect on the enhanced use of information systems and EU institutions in order to stimulate international cooperation. I conducted research on these measures in order to see what could be improved.

Chapter 1 gives an in-depth description of the problem by describing cross-border crime focusing on the smuggling of illegal goods in Europe. Chapter 2 introduces the Internal Security Strategy and analyses new and existing legislation. Subsequently, chapter 3 and 4 analyze the information systems and EU institutions as set out in the plan. Finally, a comprehensive conclusion is given to answer the main question: “How effective are the measures set out in the Internal Security Strategy to tackle cross-border crime?”, resulting in a recommendation for the next Internal Security Strategy.

Methodology

Most of the research in this report was conducted through desk-research that entailed many data sources. During the desk research, several qualitative resources were used in order to add value to the primary research sources such as books, academic papers, news articles and journals. One specific journal that I subscribed to is named “Strafblad”, and it provided me with crucial sources in the judicial area. I also used personal knowledge that I acquired during courses such as “the legal dimension of Europe” which provided me with the basic knowledge to start the research.

While it may appear to be basic research, the required information was quite simple to obtain but in-depth information was often difficult to obtain. For that reason, I used several major writers on the topic under study, including: Mr. O. Marenin, Professor of Criminology at Washington State University, for his knowledge about Frontex and Integrated Border Management in general; Mr. B. Hayes, researcher for several EU organizations, among them the European Parliament (EP) and the European Commission, for his knowledge pertaining to the functioning and results of the Eurosur system; Mr. J. Kapplinghaus, deputy national member for Germany for Eurojust, for his knowledge reflecting on Eurojust where resources were rare; and finally Mr. S. Karanja, from the University of Oslo, for his input on the functioning of the Schengen System.

Finally, qualitative information was added to this research in the form of an interview with former dean of the Dutch police academy, Monica Den Boer. She was involved in the internationalization of the police academy and has extensive knowledge about the current use of information systems at the EU.

1. Problem analysis

1.1 Cross border crime in Europe

This section will analyze the problem of cross-border crime in the EU and describe the need for the ISS.

1.1.1 Definition

Cross-border crime and organized crime are two concepts that are inextricably linked. However, there is no clear definition of cross-border since different authors describe the phenomenon differently and all of them with a very wide approach. For example, Ruggiero describes cross-border crime as “offences whose inceptions involve more than one country” (Cross-border Crime in a Changing Europe, 2001). This is one of the many broad definitions. To provide clarity, this report uses the following definition of cross-border crime as it is described in the book “Defining and Defying Organized Crime: Discourse, perceptions and reality” because it noticeably links police cooperation and cross-border activities.

Criminal activities transgressing several national laws and requiring an intensification of the cross-border operational police cooperation. (Felia Allum, 2010, p. 25)

It would be impossible to include every form of cross-border crime in this research. As a result, this report targets one type of cross-border crime in particular: trafficking illicit goods.

1.1.2 The importance of export for the underworld

Trafficking in illicit goods is one of the main activities of organized crime groups, and continues to be their main source of income and eventual financial security. Killings in this circuit have often a financial backdrop. The importance of exporting and smuggling is described in detail by Van Duyne. He has, over time, explored and described the rise of Chinese, Turkish, Moroccan, Japanese and Pakistan criminal groups in Europe since the treaty of Schengen of 1990 and the open borders of the internal market. He observes that the abolishment of the borders went hand-in-hand with the rise of these groups (Duyne, 2001). In other words, the disappearance of internal borders made it easier for these groups to move freely and export with less control inside the Schengen zone (Internationale smokkelroutes, n.d.). Warmerdam underlines that organized crime groups operate in networks and maintain close relations with each other to distribute their goods worldwide (Warmerdam, 2014). For example, a Colombian cartel maintains relations with the Dutch mafia in order to distribute cocaine on the Dutch market.

1.1.3 The internal and external dimension

The majorities of prohibited goods on the European market are sourced from non-EU countries such as China, Colombia, and Russia, and find entry into the EU through different smuggling routes.

European ports differ greatly in terms of security and structure. Clarkson (2014) describes the port of Galicia as one of the most important entry points for cocaine into Europe. However, Laumans (2014) argues that the port of Antwerp is one of the most poorly secured ports in Europe. He further adds that organized crime groups in the Netherlands encounter very few problems while importing their goods into the Schengen zone when using the port of Antwerp.

There is a great difference between organized crime groups exporting their goods into the Schengen zone, and organized crime groups acting and shipping inside Schengen zone. Organized crime groups from non-EU countries who want to export to the EU basically have two transport possibilities: air transport or maritime transport. The importance of maritime freight for these non-EU groups is described by Saviano in his book. He describes the bulk of counterfeit goods coming from China to Europe through the port of Naples daily. Among these goods is almost everything a person can imagine, from televisions to counterfeit designer clothes, to cigarettes and mobile phones. Saviano adds that from Naples, these goods are further distributed all over European countries by truck (Saviano, 2006).

Inside the Schengen zone, a notorious area exists for the production of prohibited goods in Eastern Europe and the former Soviet Union. Van Duyne (2001) describes the Perestroika, the reform policy of Gorbatsjov, as an important transformation in the traffic of goods between Eastern and Western Europe. Privatization and loosening of border controls enables organized crime groups to ship mobile phones and weapons to Western Europe (Duyne, 2001). It goes without saying that the accession of Poland and Slovakia to the EU causes even more concerns for law enforcement institutions. The French newspaper *Le Monde* underlines this by calling the border at Eastern Germany the most sensitive border of the Schengen area (Arnaud Lechevalier, 2014, p. 133). Van Duyne further describes the opposite smuggling flow of goods exported from West to East. He states that stolen cars are an attractive product for markets in Eastern Europe. This demand started in the 90s when rich ex-socialists demanded popular luxury car models such as Mercedes, BMW and Audi. He adds that illegal traffic between East and West is determined by demand and high margins.

According to him, the legal market is one of the prime outlets for illicit tobacco and alcohol. For retailers, hotels and the entire catering industry, it can be attractive to purchase tobacco from illegal sellers because of the lower prices. Finally, he states that the pricing policy of Scandinavian countries, where European consumers pay higher prices for luxury goods, increased the demand for tobacco and alcohol and automatically increased the smuggling activities to these countries, especially to illegal brothels, casinos and restaurants that are attractive outlets for these smugglers (Duyne, 2001).

1.2 Current smuggling threats for the EU

1.2.1 Firearm smuggling

After the terrorist attacks on Charlie Hebdo on the 7th of January 2015, the tensions in Europe have worsened. Internal security was threatened by two French individuals, but it was not clearly understood how these terrorists could get their hands on high-risk firearms (AK 47 Kalashnikov) that are even more sophisticated and powerful than those of the French police. After a couple of days, a suspect was arrested who was presumably involved in the firearms deal as a supplier.

According to a 2013 report from the EU, in the first decade of the 21st century, 10,000 murders have taken place caused by firearms. This number is relatively low, taking into account that the EU estimated that 80 million firearms were in circulation in 2013 (European Commission, 2013). As a result, research from the European Firearms Expert Group (EFEG) concluded several things. First, most of the firearms in circulation are imported from third-world countries and are often remainders from wars. Second, most of the firearms entered the EU through Western Balkan and former Soviet countries. The EFEG states that these most likely came into the EU smuggled in low quantity and hidden in vehicles (as cited in *Firearms and the Internal Security of the EU: Protecting Citizens and Disrupting Illegal*, 2013).

According to research from the Dutch Criminal Investigation team, criminal groups tend to ship heavier firearms by boat, whereas the lighter firearms are shipped hidden in airfreight or by truck/car (*Internationale smokkelroutes*, n.d.). Fijnaut describes the technical details of such shipments and she estimates that 9,000/18,000 firearms are shipped into the Netherlands, mostly in bulks of 5-30 weapons. She describes the importers as persons with contacts in the former Soviet Union and in the Dutch underworld (Fijnaut, 2004).

However, as with the abolishment of the internal borders, the Internet also contributed to the free movement of goods in a negative way. Fijnaut (2004) states that nowadays components of firearms are ordered online which are subsequently assembled into real firearms. What is more, recently Davidson (2015) revealed that it is possible to buy a Kalashnikov online for 2,000 euros, without leaving a trace. These shipments are untraceable because they tend to use a program called Bitcoin, which leaves no evidence behind at all.

1.2.2 Tropical animals, waste and illegal bird eggs

According to Eurojust (explained in 4.2), there are new forms of illegal export that deserve the attention of customs in airports, because of the fact that they tend to be smuggled only by airfreight. Currently the illegal export of waste, bird eggs and tropical animals are criminal activities that are large-scale problems for the EU (Eurojust, 2014). Research by the DCID mentions the fact that for some reason, tropical animals are always shipped by plane. These animals are imported from areas such as Japan and the Middle East (Internationale smokkelroutes, n.d.)

1.3 Smuggling at transportation hubs in the Netherlands

With Schiphol Airport and the Port of Rotterdam, the Netherlands possesses two large public transportation places. In terms of free movement of goods, persons and capital, these public transportation hubs belong to the most sensitive points in Europe. Therefore, it is no coincidence that Den Boer mentions Schiphol and the port of Rotterdam as essential hubs for criminal groups (Is de Nationale Politie klaar voor Europa? , 2011).

Schiphol is one of the world's largest air cargo airports with more than 61 million passengers moving in and out every year, making it a huge risk area for security. According to the last annual report published by Schiphol Group, the company ships around 1.6 million tons of cargo each year, directly to 319 different destinations (Schiphol Group, 2014). Speaking in terms of security, Houtzager underlines that the combination of public and private interests on Schiphol complicates the security process (The influence of border control and security on the transfer process at Schiphol, 2009).

First there is the Royal Marechaussee, which is responsible for safeguarding security regarding terrorism. The Royal Marechaussee is part of the Dutch defense industry and commits itself to serve public interests. The same applies to customs, which is responsible for the safety and control of cargo coming in and out of the airport and is part of the Ministry of Taxation. Private interests are a major concern for the airline company and the Schiphol group. Schiphol is currently remodeling the gates for arrivals and departures concerning non-Schengen countries, after the airline company KLM complained about the long waiting lines for security controls for people coming from non-Schengen countries. Another stakeholder with private interests is Schiphol Group. Schiphol Group is responsible for the security company it hires for safeguarding the overall security on the airport's infrastructure (Houtzager, 2009).

Fijnaut (2004) describes an important security bottleneck of Amsterdam Schiphol, namely: corruption. More specifically, she refers to the corruption among customs officers who deliberately turn a blind eye. While her research dates from 2004, Fijnaut states that corruption among customs officers is a frequent and realistic bottleneck. He concluded that there was no relationship between these corrupt officers and the Port of Rotterdam; instead, all cases were related to Schiphol.

In order to support Schiphol and prevent corruption, Frontex (explained in 4.3) organizes workshops and trainings for law enforcement authorities in the member states. Because of the import and export of goods and people, Schiphol can be considered an important partner for Frontex. These trainings are given to the Marechaussee and customs officials (Ministerie van Defensie, 2011). These Frontex partnership academies are part of the Frontex goal to align education for law enforcement officers in Europe.

Despite large scale drug smuggling, often a priority for every airport in Europe, Schiphol is also familiar with other types of illegal goods. As mentioned earlier, tropical animals tend to be shipped only by airfreight. Van Uhm states that Western Europe and the Netherlands are important markets for tropical animals. He highlights the role of the Internet and Dutch negotiating websites. Finally he adds that Schiphol, on average, intercepts a cargo of 200 tropical animals, at least 15 times a year (Uhm, 2009). It is unknown whether this number has increased in recent years.

In the port of Rotterdam, security interests are divided among customs, Coast Guards, Port Facility Security Officer (PFSO) and Port Security Officer (PSO). With the customs and Coast Guard serving public interests, the PSO and the PFSO have a major interest in the speed of transactions (The Port of Rotterdam, n.d.)

Whereas Schiphol is used for the trafficking of illegal animals and waste, the Port of Rotterdam is used for other types of smuggling. One of them is the export of stolen cars to non-EU countries. According to research from the Dutch Criminal Investigation Department (DCID) and a report from the car industry, some criminal groups use the Port of Rotterdam to ship stolen cars to Latvia, Lithuania, Africa, Russia and the Middle East. The way they do this is by transporting the cars along with legal cargo. (Internationale smokkelroutes, n.d.)

However, Laumans and Schrijver describe the solid security of the Port of Rotterdam. According to them, it is impossible to get close to the harbor territory since this is built as a funnel around the harbor. As a result, Dutch organized crime groups decided to import goods through other transportation points. Laumans and Schrijver state that most groups import illegal goods such as drugs and firearms through Antwerp where, according to them, only 0.75 percent of the goods are scanned (Wouter Laumans, 2014). However, an article recently published in the Dutch newspaper 'The Telegraaf' revealed the seizure of a 3.400 kg cocaine cargo involving a bribed customs official from the Port of Rotterdam (Wely, 2015) Research on the smuggling of illegal goods in the Port of Rotterdam shows Colombian cartels intend to bribe Dutch harbor workers. It concludes that the game of cat and mouse will always exist between criminals and law enforcement officers and that organized crime groups continue to invent new ways to smuggle (Enquêtecommissie opsporingsmethoden, n.d.).

The same research describes automation as one of the main reasons for the solid system of the Dutch harbor. Many manual labor jobs have been replaced by automated machines, which made it difficult for organized crime groups to truly gain a foothold. Another reason is the high social control among employees in the harbor. Harbor workers at the Port of Rotterdam indicated tend to know each other very well, which results in difficulty for criminal groups to blend in (Enquêtecommissie opsporingsmethoden, n.d.).

1.4 Conclusion

The difference in security and vulnerability of different EU seaports and airports is remarkable. While some ports are extremely vulnerable, others have developed a very solid structure. The results indicate that different parties with public and private interests are involved in safeguarding air- and seaports. Corruption makes this more complex. The EU deals with organized crime groups that maintain wide business networks with each other, which causes a complicated situation for the EU. For that reason alone, non-EU crime groups require the same attention from the EU as organized crime groups based in the EU. Besides these wide networks, organized crime groups are enjoying huge benefits through technological developments and the European integration with an important role for the Internet. The results show that cross-border crimes are carried out in a variety of ways, and illegal goods are shipped by road (truck), boat and airfreight, which requires coordination from all security parties involved. It is up to the EU and the member states to respond to the internalization of these crime groups if they want to tackle cross-border crime effectively. The question is how the ISS contributes to tackling this problem.

2. Introducing the Area of Freedom Security and Justice and the Internal Security Strategy

This section will give a short introduction on the ISS by explaining its history based on official European treaties.

2.1 The evolvement of the AFSJ and the Stockholm Programme

2.1.1 History

The foundation for a plan as the ISS with a common approach for safeguarding the internal security dates back to the Maastricht Treaty of 1993, when the first plans for a common Internal policy on security in the EU were discussed and implemented under the name: Justice and Home Affairs (JHA). The JHA consisted of different areas among them: immigration, asylum, border control and police and judicial co-operation (Area of Justice, Freedom and Security, 2011). The pillar structure was adopted after the Maastricht Treaty and divided the power of the EU and the decision-making procedure at that time. It consisted of three pillars: the first pillar for the community procedure and the intergovernmental procedure for the other two pillars (Pillars of the European Union, n.d.). Since JHA was established under the third pillar, it was strictly based on intergovernmental principles (Area of Justice, Freedom and Security, 2011). In other words, the EU member states would not lose any sovereignty and decision-making was strictly done by unanimity. At that time, the European parliament had only a consecutive role whereas member states committees possessed the right of initiative.

In 1999, with the Treaty of Amsterdam, the Area of Freedom Security and Justice was introduced as an area that would collect JHA policies to extend international cooperation in security. This was established under art.67 TFEU:

The Union shall endeavor to ensure a high level of security through measures to prevent and combat crime, racism and xenophobia, and through measures for coordination and cooperation between police and judicial authorities and other competent authorities, as well as through the mutual recognition of judgments in criminal matters and, if necessary, through the approximation of criminal laws (European Basic Treaties, 2013).

After the introduction of the AFSJ, most justice and home affairs powers such as immigration, visa, and asylum moved from the third to the first pillar. As a result, the justice and home affairs pillar became more supranational and EU institutions obtained more power in this area. However, police and judicial co-operation remained in the third pillar (Coutts, 2012).

Also in 1999, the first AFSJ plan was put into practice for the 1999-2004 period: the Tampere Programme. In Tampere, a town in Finland, EU representatives from every member state outlined the guidelines and priorities for the Programme. A few remarkable conclusions were outlined in this Programme. The EU concluded that stronger external action was required to tackle cross-border crime properly. Neighboring countries were considered just as important as EU countries. Another goal of the Programme was to shield it from criminals who could take advantage of the benefits from differences in the different national laws of member states and primarily, the lack of coordination and collaboration between member state customs and police authorities (Directorate-General Justice and home affairs, 2004). To prevent this, the Tampere Programme was built upon mutual recognition of judicial cooperation in criminal matters (Buono, 2009). In practice, this means tolerance and respect from the member state towards the judiciary of other member states in order to decrease problems when it comes to an international lawsuit. Since the Tampere Programme, mutual recognition is seen as one of the cornerstones established towards approaching every AFSJ programme (Area of Justice, Freedom and Security, 2011).

The 9/11 attacks on the World Trade Center in 2001 and the Madrid terrorist attacks of 2004 caused a constant tension in Europe, urging the EU for a new action plan adjusted and up-to-date with recent events. This resulted in a new multi-annual programme, namely: The Hague Programme, which was set out for the period 2004-2009 (Buono, 2009). According to Balzacq and Carrera, the new Programme addressed nearly the same topics, only that the council would prioritize security measures. In reviewing the previous Programme, the lack of implementation and meeting deadlines were recurring topics of criticism (Balzacq & Carrera, 2013). This is perhaps why the European commission was invited to set up an action plan, setting out concrete implementation measures together, with a timetable for adoption. This gave birth to 10 concentration points, which they believed required the most dedicated concentration. These included: terrorism, asylum, immigration, civil and criminal justice and combating organized crime through extended police cooperation in criminal matters (Buono, 2009, p. 334). Another important adjustment was made because now the commission was supposed to publish annual reports that would analyze progress made in these fields' so-called scoreboards. This was another remarkable change compared with the previous Programme. Now the commission started to evaluate the progress made in the AFSJ area. However, the reality is quite different, taking into account that the most recent scoreboard dates back to 2007. Buono (2009) describes that in that specific scoreboard, the EU showed that less progress was made in the police cooperation and criminal matters.

2.1.2 Abolishment of the pillar structure

It was not until 2009, with the treaty of Lisbon, that the AFSJ and its programmes started to become clearer for EU citizens and member states compared to the Treaty of Amsterdam. The most important difference was the abolishment of the earlier mentioned pillar structure, which resulted in more supranational powers for the EU institutions. From then on, the decision making process and the division of powers was divided by: exclusive, shared and supporting competence (Division of competences within the European Union, n.d.). Since then, the EU commission obtained the sole right of initiative in most areas as the majority was automatically passed to the EU's exclusive competence. Besides, this abolishment meant more power for the EU in the area of police and judicial-operation in criminal matters (PCJJ) and thus automatically in the AFSJ. Having said all that, PCJJ remained one of the few areas where member states kept shared competence. This requires another approach, especially in the areas where the EU had exclusive competences. According to article 76 from the TFEU, a quarter of the member states maintain the right to propose legislation (as cited in The EU area of freedom, security and justice, 2011). The other legislation procedure in this field is the so-called ordinary legislative procedure that goes by article 294 of the TFEU: The council gives advice about strategic guidelines, the commission creates the proposal and finally the council and the EP decide whether to implement the proposal or not (European Basic Treaties, 2013).

2.1.3 Mutual recognition as cornerstone

Besides the abolishment of the pillar structure, the Lisbon treaty also gave birth to a new AFSJ programme for the 2010-2014 period: the Stockholm Programme. This included some important changes in the field of AFSJ. More specifically, in the Stockholm Programme, a mutual framework for police and customs cooperation, rescue teams and visas policy was introduced (Area of Justice, Freedom and Security, 2011). With the constant enlargement of the EU and its eastern borders, each time more priority is given to the external dimension of the area of freedom. This underlines the importance of the external dimension for the internal security. And just as in previous AFSJ programmes, mutual recognition is seen as the cornerstone of the program (Recognition of decisions in criminal matters: strengthening mutual trust, 2005). After the Tampere and the Hague Programme, the European Commission concluded that member states are still reluctant in recognizing criminal decisions taken in another member state and therefore re-strengthening can be considered as crucial (Recognition of decisions in criminal matters: strengthening mutual trust, 2005). To accomplish this, the European court has given the following advice in the Stockholm Programme to member states:

“There is a necessary implication that the member states have mutual trust in their criminal justice systems and that each of them recognizes the criminal law in force in the other Member states even when the outcome would be different if its own law were applied” (as cited in From Tampere to The Hague and beyond: towards the Stockholm Programme in the area of freedom, security and justice, 2009).

2.1.4 The Internal Security Strategy and the focus of this report

This report is focused on probably the most important action plan of the Stockholm Programme: the internal security, which is largely based on information sharing management, visa policies and the enhanced use of various EU institutions. The plan was set out as a shared agenda for action and preventing serious security threats for member states. Under the ISS, special emphasis is given to judicial and police cooperation between the member states and European institutions. According to the European commission, the plan should be implemented without creating an unnecessary financial or administrative burden falling upon the union, national and regional authorities, economic operators and citizens. (Internal Security Strategy, 2013). Recently, the Stockholm Programme and the ISS has come to an end and now the time has come to analyze how certain guidelines have been put into practice. This paper is aimed at researching what measures have been set out in the ISS to tackle cross-border crime and smuggling of prohibited goods by focusing on police and judicial cooperation guidelines in the plan. The next part of this report will examine and highlight which proposed actions from the commission are related to that field.

2.2 The Internal Security Strategy and proposed actions

In 2010, the commission set out four objectives for the ISS, separated by proposed actions for each objective. The objectives that are mainly addressed to the EU’s area of police and judicial cooperation and therefore considered relevant for this research are: Objective 1, concerning the disruption of international criminal network and Objective 4, concerning strengthening security through border management (Internal Security Strategy, 2013).

2.2.1 Objective 1 and proposed actions

According to the EC, Objective 1 of the ISS was set out with the goal to disrupt criminal organizations. What is more, organized crime is considered by the EU as one of the most urgent challenges in the ISS. (Internal Security Strategy, 2013). In order to tackle these organized crime groups properly, the EC proposed action in different fields of law enforcement institutions. First, in 2011 the commission proposed legislation on passenger name records in which member state collects passenger data on all passengers entering and leaving the country. However, throughout this research this measure will not be analyzed, as it is not considered to be relevant for this research.

Another proposed action that is prescribed in the ISS, but is not considered to be relevant, focuses on anti- money laundering legislation, as money passes primarily through trusts and companies that are crucial actors in criminal activity (Internal Security Strategy, 2013). A proposed action that is considered to be important to research is optimization of joint operations, since these were placed highly on the EU agenda, and are therefore often pointed out throughout the ISS. The EU commission states that it needs law enforcement institutions such as the police, customs, and border guards and judicial to be working closely alongside EU institutions such as Eurojust, Europol (explained in 4.1) and Frontex to tackle organized crime (Internal Security Strategy, 2013).

2.2.2 Objective 4 and proposed actions

The next objective that is directly related to cross-border crime and police and judicial cooperation is objective 4 of the ISS. As mentioned earlier, after the Lisbon Treaty, the EU obtained more power to propose legislation in the area of border management. As a result, in the ISS, the EC describes the focus on Integrated Border Management (IBM) as one of the proposed actions in order to optimize border management to repulse cross-border crime (Internal Security Strategy, 2013). In the IBM, the EC underlines the importance of the internal security of the Schengen area (explained in sub-question 2) where many criminals can operate freely because of the open borders. IBM should cover coordination and cooperation between all relevant authorities (customs, police, Eurojust etc.) and agencies involved in security and trade facilitation with the aim of accomplishing secure borders in the EU (European commission, 2007).

According to the EC, IBM consists of the following strategies: the enhanced use of technology as Visa and the Schengen 2 system, the enhanced use of Eurosur with the support of GMES services, and the gradual creation of common sharing environments for the maritime area of the member state(European commission, 2007)

Furthermore, the commission describes the ISS that one of the proposed actions to improve border management is to exploit the full potential of Eurosur and establish a solid mechanism to share operation information for border surveillance and cooperation with Frontex at different levels, not only at strategic levels but also on operational levels. Besides, it wants to implement advanced technologies for institutions such as Frontex in Eurosur in hot pursuits. For example, to catch fast vessels transporting drugs into the EU it can make use of satellite imagery to track targets and other vessels (Internal Security Strategy, 2013). The commission described it as a way to enhance the contribution of Frontex through much more sophisticated and improved information management. The commission desires to make progress in this area without the duplication of tasks from Europol (explained 4.1) and Frontex. Finally, throughout the ISS the commission underlines the importance of a common risk framework, which was established to make the borders faster and safer (Internal Security Strategy, 2013).

2.3 The legal framework for international legislation on AFSJ

With the internal security setting guidelines for the AFSJ, existing legislation in this field needs to be examined, in order to understand the role of the EU and to evaluate the police and judicial cooperation between member states.

As pointed out earlier, the AFSJ field is one of those fields where the EU and the member states share competence. In other words, both maintain the right of initiative. For these reasons too, there is often confusion when it comes to the compulsory use of a legislative act and the national judicial systems. In general, the EU sets out the guidelines in the internal security field in accordance with article 68 of the TFEU: The European Council shall define the strategic guidelines for legislative and operational planning within the area of freedom, security and justice (European Basic Treaties, 2013). For example, the multi-annual Stockholm Programme is an example created based on article 68 of the TFEU.

Moreover, the AFSJ field contains various existing directives that are crucial in the fight against organized crime that are directed at the ISS. A directive is a legislative act that has a direct effect on member states. In other words, it requires the member state to achieve a particular result but leaves the member states space when it comes to transposing it in the national legal system. Before the Lisbon treaty, a very common legal act that was only used in the PCJJ field was the framework decision, which goes under article 34 of the TFEU. The most noteworthy difference is that a framework does not entail a direct effect (European Basic Treaties, 2013).

2.3.1 European Arrest Warrant (2002/584/JHA)

The European Arrest Warrant (EAW) is an existing framework decision of the EU, which can be considered important for the ISS because it facilitates international cooperation and promotes mutual recognition. After the 9/11 attacks on the World Trade Center, not only did the US decide, the EU also decided something needed to change in order to tackle terrorism and safeguard security. The EAW was adapted in 2002 as framework decision in the third pillar of the pillar structure (Wouters & Naert, 2004). The EAW allows member states, to ask another member state for an extradition, when it comes to catching someone who committed a crime on their territory. This extradition must simplify the sea of rules that are usually applicable in other different member state systems. An EAW functions in combination with the Schengen system (explained in 2.1), whereby every Schengen member state can request it. Subsequently, other member state will then know who is wanted.

2.3.2 Evaluation

Since it was a framework decision, it enabled member states to choose the methods and the form on how to implement it. Only a deadline was set by the EC, namely December 31, 2003. However, at the end of 2004, only 13 member states had been implemented. It was not until 2007 that the EAW was implemented in every member state (Arias, n.d). Since it is a framework decision, the EC does not possess the right to bring the member state to a Court of Justice ¹(COJ) (Klimek, 2014). According to the British House of Commons,² it is described next to the lack of meeting implementation deadlines the differential implementation of member states as a problem. (House of Commons, 2007).

Extradition is in place for minor offences as a consequence, according to art.2 of the framework decision.

A European arrest warrant may be issued for acts punishable by the law of the issuing Member State by a custodial sentence or a detention order for a maximum period of at least 12 months or, where a sentence has been passed or a detention order has been made, for sentences of at least four months (The European council, 2002).

Problems arise when something is accusable in the issuing in one member state while it's generally considered a minor offence. This happened with Poland, where extraditions were issued on relatively minor offences (Euromove, 2011). According to "Euroseptics", lots of money is wasted in extraditing someone who in fact committed a minor crime. They state that it is a waste of money to spend £30,000 sending a Pole back from London to Warsaw to face charges of 100 outstanding parking tickets.

However, there are exceptions that enable member states to refuse an extradition. Gomes states that the double criminality rule creates one of those exceptions for member states to refuse an EAW request if a criminal for the same crime would not be sentenced in the member state where he or she is residing at that moment. Nevertheless, he adds that a few forms of criminality are an exception among them: firearm possession, illegal trade in cultural goods, illegal trade in substances and hormones, illegal trade in nuclear and radioactive materials and illegal trade in human organs. In his research, Gomes shows that when it comes to smuggling, it is on top of the list of issued EAWs in the Netherlands, whereby drug trade takes place to an approximate 58%. The next form of smuggling that appears on that list is the trafficking of stolen vehicles with 2.3%. Only 1.1% of the EAWs were issued for people who were involved in firearm, munitions or explosives trade (Gomes and Santos, 2010). Other research adds that 85% of the EAWs are issued through the Schengen system (Euromove, 2011).

¹ A European court that deals with European law and the implementation across all member states.

² Lower house of the United Kingdom

Positive sounds come from the association of police officers. On the BBC, they stated that the EAW act played an important role in tackling cross-border crimes and setting up JITs. They underpin this by taking extradition as an example. Before that, the EAW put into practice that the maximum extradition time could reach was 90 days. Now the average extradition time is 48 days (Q&A: European Arrest Warrant, 2014). The same is underlined by Euromove, who state that EAW is a very effective system to tackle cross-border crime (Euromove, 2011).

2.3.3 Directive on the freezing and confiscation of proceeds of crime (2014/42/EU)

After the Tampere Programme, the EU estimated the total amount of income coming from criminal activities as being \$2.1 billion, of which only 1% was recovered (Arcifa, 2014). Subsequently, it decided to set up several frameworks with framework decision on crime related proceeds, and the framework decision on mutual recognition to confiscating orders, which would allow them to confiscate criminal earnings. However, these frameworks were poorly implemented in member states and some did not implement it at all. Therefore, the council and the EP decided to adopt a whole new directive on the freezing and confiscation of proceeds of crime (2014/42/EU) (Arcifa, 2014).

The directive on the freezing and confiscating of proceeds of crime is set up in accordance with article 82.2 and article 83 of the TFEU (European Basic Treaties, 2013). This directive allows member states to confiscate stolen goods or earnings coming out of criminal activities. While the commission knew that some member state already had legislation in this field similar to this directive, it proposed it in order to stimulate mutual recognition and facilitate different judicial system, such as the EAW. The European Commission wants the member states to use the confiscated earnings for public interest. It added to it that the member state should introduce a national centralized asset management office that should carry out this task (Council of the European Union, 2014).

2.3.4 Evaluation

Article 3 of the directive is heavily criticized as it allows national courts to confiscate criminal property based on the conviction of the court that the property was derived from criminal activities. The European criminal bar³ argues that this is in contrary with the flaunting presumption of innocence of the accused (European criminal bar association, 2012). However, since the 2014/42/EU directive is relatively young, it is too early to analyze its effects.

2.4 Conclusion

Looking at the ISS as described in the first part of this report, it can be concluded that the emphasized parts must be researched carefully in order to come up with a comprehensive conclusion in the field of cross-border crime. Regarding Objective 1 and its related proposed actions, it should be examined further, how far the co-operation between Eurojust, Europol, the police and customs is put into

³ Association of European defense lawyers

practice. The effectiveness of joint operations must be researched carefully, as these are recurring topics in the ISS. Regarding the proposed actions of Objective 4, which is almost totally based on information/knowledge management, it should be examined whether the member states and the downsides of the system use the Schengen system properly. Also, other IBM strategies such as the enhanced use of Eurosur and the maritime sharing system need to be put under a magnifying glass.

Finally, existing legislation in the AFSJ field such as the EAW and directive 2014/42/EU are potential tools for law enforcement authorities. Especially the EAW, despite the fact that it is barely issued when it reflects on drug matters. Still, there are exceptions to refuse an extradition, if it indeed deals with illegal smuggling matters. However, it appears to be very difficult to involve the mutual recognition principle of the AFSJ as differences in the national legal systems cause problems when it comes to the implementation of the EAW.

3. Integrated Border Management and the information systems

This chapter researches the effectiveness of the different information systems that the EU mentioned in the ISS set for enhancement during the Stockholm Programme. Before that, the Schengen zone must be researched explicitly.

3.1 Schengen

Chapter 1 mentioned open borders and the free movement of persons, capital and goods as one of those phenomena that is specific to the EU. This is also called the Schengen Zone. The Schengen Zone not only stimulates the mobility between member states, but also criminal opportunities. This is highlighted in the book, “An Economic History of Organized Crime” by McCarthy. According to McCarthy (2011), Schengen promotes the mobility of labor entrepreneurial ability that is both legal and illegal. In the Stockholm Programme, they refer to Schengen as an important part in the fight against international crime and European safety, and therefore the Schengen system is considered to be an important part of the ISS plan.

3.1.1 History

The convention of Schengen started as an agreement between European member states and was first signed by the Netherlands, Belgium, France, Germany and Luxembourg (apart from the EU). The name Schengen is derived from the town where it was signed. The idea of the agreement was to abolish internal borders and strengthen its external dimension. This came into practice in 1990 (The Schengen Area, 2008). Lately, immigration is seen as a problem for some countries. For example, the immigration flows currently coming out of Libya causes many problems for South Italy and the EU. However, there were times when immigration was seen as a crucial factor in filling certain jobs in Western Europe. By linking this theory to the Schengen area, one comprehends the importance of the Schengen countries to soften the internal policy regarding border controls.

More countries gradually started to sign the Schengen agreement in the 90s, which eventually resulted in absorption of the Schengen acquis into EU law in 1999. After the Treaty of Amsterdam, the Schengen Convention was applicable to all EU member states (The Schengen Area, 2008). The Schengen acquis contained some important changes which were binding for all member states. All of a sudden, all member states needed to abolish their border control and implement certain rules under the Schengen borders code. This included the Schengen and Visa system that were created for law enforcement agencies. Apart from the Schengen agreement, while it's not mentioned in the ISS another convention has a close relation with the internal market: The Prüm Convention signed by Spain, the Netherlands, Germany, France, Luxembourg, Austria and Belgium, which stands for a common approach to international crime and introduced the possibility to compare DNA, finger scans

and car registration, by introducing a search option in the system that works on a hit/no hit basis (European Commission, 2015). However, problems occurred with the system as only member states with an advanced information structure could implement this data exchange system. Some countries do not have this at their disposal as they lack sufficient ICT facilities. Initially this convention was an initiative from outside the EU but since 2008, the council adopted the Prüm directive (European Commission, n.d). This was a huge advantage for the executive power according to Strijards (2008), since it will be less confusing when acting internationally. Before, dealing with the Prüm and Schengen Convention often confused executive powers in the security field as some countries in the EU were involved and some were excluded.

3.1.2 Member states & responsibilities

Basically, all EU countries participate in the Schengen area except Bulgaria, Croatia, Cyprus, Ireland, Romania and the UK. The Schengen area entirely concerns an area around 42,673 km of water and 7,721 km of country borders (European Commission, 2015). Schengen legislation as set out in the Schengen acquis is directly applicable for every participating country. However, an exception is made for some countries, such as the UK and Ireland. For instance, they can request the opt-out option in every JHA area (Peers, 2009). This works as follows: According to protocol 19, article 4 of the TFEU, the UK should announce within 3 months after the announcement of a new initiative whether it would like to opt-in or opt-out (The JHA opt-in Protocol and Schengen opt-out Protocol, 2015). Lately, the UK decided to re-opt-in in several parts of police and judicial cooperation, while it remains outside the border control legislation as they are of the opinion that they have other interests in this field than other countries. Among the opt-ins are: Europol, Eurojust, EAW and the Schengen System (Council of the European Union, 2014).

3.1.3 The Schengen information system (SIS)

The Schengen information system (SIS) is implemented in order to compensate for the absence of the internal borders. The system was created in order to be used by political and judicial law enforcement institutions of MS, including European institutions such as Europol and Eurojust. The Schengen system helps the member states in tackling cross-border crime by providing a platform for the sharing of information varying from: missing minors, persons with an unclear residence, stolen vehicles, missing property (firearms included), but also persons who require compulsory aimed control (Schengen-informatiesysteem, 2014). The SIS has recently updated to the SIS II, which enables a much more sophisticated information exchange than the previous SIS, enabling the exchange of fingerprints, photographs and biometrical data (European Commission, 2013). The SIS II currently contains approximately 40,000 available data files (M. den Boer, personal interview, May 9, 2015).

The system works as follows: The Central System of Schengen (CSIS), is the forum of the Schengen system set up in Strasbourg, France. This system is connected with the National System of Schengen (NSIS), which is used by the MS. Every Schengen member state is assigned a SIRENE office that operates the NSIS. The SIRENE office is the central point for law enforcement institutions of member states (Ministry of interior of the Slovak Republic, n.d.). For example, if the Dutch National Police gathers important information regarding a couple stealing cars in Germany, it must transmit this information to the SIRENE officer who is then going to decide if the information is transposed to the CSIS where it can be accessed by other member state. If the decision is negative, then it will not be possible for other member states to search in that information, which may be of crucial importance in a later stage. However, when it is urgent, these so-called SIRENE offices may be left out of account by national police forces (Strijards, 2008). According to researcher Karanja (2008), every time that a member state changes data in the NSIS system, the system automatically synchronizes the adjustment to the CSIS. He also states that every member state is responsible for the information implemented in the NSIS and that it is not possible for other member states to overview the NSIS of another member state. As a result, member states cannot directly exchange information with other EU member states.

3.1.4 Evaluation

Arguments against the system state that the system duplicates other information systems such as Europol's information system (explained in 3.5). As systems get more users, with the acquisition of more countries to the Schengen zone, criminals may also access the information. On the other hand, according to Karanja (2008), member states must reveal to the council, which authorities are going to have access to the system. Another point of discussion are the financial figures revealed by the European Court of Auditors. The costs of the SIS II system, an update on SIS, exceeded the initial budget of 68 million euros. Eventually, many adjustments were needed in the CSIS and the NSIS, which caused a financial burden of 549 million euros on member states (Euractiv, 2014).

One legal act that is important in keeping the member states from abusing the system is article 103 of the Schengen Convention, which is concerned with the control of the SIS and to track unlawful access (Karanja, 2008). This prevents the information of the SIS from being abused. Karanja (2008) emphasizes this in a case where a Belgium institution found out about an illegal person who was living for years in Belgium when he wanted to change his home address. At that time, the COJ decided that institution was not allowed to search through the database based on a change in someone's postal address. Strijards (2008) states that this was in contrary to the principle of speciality. This means that an member state only may use the information for specific goals, mentioned in the treaty on which it is based. Regarding the use of the system among police officers, the following was added: "If you hear the police talking about the system, they often say they use the system for minor things like a verification with the hit/no hit system. However, if you really want to react fast to cross-

border crime, the system is not considered very strong because most member states react too slowly or put in incomplete information” (M. den Boer, personal interview, May 9, 2015).

3.2 Eurosur

Earlier in this report the importance of the external dimension for the internal security of the Schengen area was discussed. This section researches the effectiveness of Eurosur.

3.2.1 External control

In 2005, at the EU migration summit, various possibilities were discussed to solidify the external dimension of the European Union. This was dominated by the immigration problems of the South Mediterranean area where especially the Italian island Lampedusa was flooded by immigrants. During this meeting, Frontex was asked to conduct a feasibility study on a tailor-made surveillance system that would control the southern Mediterranean border of the Union. Based on the feasibility studies of MEDSEA and BORTEC, a new surveillance system was created under the name: Eurosur (Hayes, 2012). Eurosur is an information system that was created to be used by the Schengen MS, and focused primarily on the external security dimension of the EU. In the future, the system will be linked to the broader Common Sharing Intelligence System (CISE) (Jimenez, 2013). Born out of the ongoing immigrant pressure, the system was communicated by the commission as the programme to save immigrant lives at sea and fight cross-border crimes. According to research from Jimenez (2013), “Eurosur can be considered as the crowning programme of the IBM, and a specific programme through which the EU structures specific ways to solve or handle the problem of unauthorized cross-border movements” (Jimenez, 2013). In the initiating process in 2013, the first 19 member states that implemented the system were located in the “high risk zone”. In other words, the member states that border third-world countries are a priority for the Union. In December 2014, the other member states implemented the system. (European Commission, 2013). According to Den Boer, Eurosur is not currently being utilized by the Dutch police force (M. den Boer, personal interview, May 9, 2015).

The system itself functions through red dots that can indicate illegal immigrants or smugglers. The information about these red dots is mainly obtained from the following resources: biometrical data, satellites, drones, cameras and helicopters (Taube, 2013). Moreover, Eurosur has the ability to track vessels carrying illegal cargo through the Automatic Identification System (AIS). This system enables the exchange of information on vessels through satellites. AIS contains information regarding: speed, positions, route, cargo and general info about the vessel itself (Hayes, 2012). Another tool of Eurosur is the GMES. The European Commission acknowledges the Global Monitoring for Environment and Security (GMES) in combination with Eurosur in the ISS. Initially, in 2007, the GMES introduced an initiative for environmental control. However, recently the commission moved its aim to the security part of the initiative and surveillance of illegal preparations. Third country ports and coasts are observed by drones and satellites in order to get an eye on

suspicious actions. This is also called the common pre-frontier intelligence picture, which is a risk analysis (Hayes, 2012). In this way, Frontex obtains a clear picture on illegal cargo loaded, for example, in the port of Tanger and planning to enter the EU. These observations are not only made by drones, but also liaison officers and international organizations in third-world countries.

Hayes describes the functionality of the member states system in technical detail. Just like the Schengen system, the member state system has a central point of contact called the Frontex situation centre (FSC) and is located at the head office of Frontex in Warschau. From there, the system communicates with the National Coordination Centres (NCCs) These NCCs have contact with the FSC. The NCCs have contact with the different law enforcement agencies and are therefore fully responsible for the information that is put in the system and the operation that is followed up by that (Hayes, 2012). The information that is implemented by the NCC's in Eurosur is gathered and analyzed by FSC in a multi-layered European Situational Picture (similar to common pre-frontier intelligence picture). Just as with the SIS, the EC must prevent the abuse of the information. The EU argues that Eurosur will only process personal data on "an exceptional basis" (Hayes, 2012). This data is controlled by the European Data Protection Supervisor (EDPS). Hayes (2012) further states that the advantage of the system is real-time information sharing, which is crucial for coordinating action on illegal activities.

3.2.2 Evaluation

First, Hayes criticizes the use of drones because according to him, it is unclear how much information can be obtained from it in terms of personal information (Hayes, 2012). Raile (2014) points out the actual questions in the world on the legality of public and private drones and the regulation on a country-by-country basis, which makes this even more complicated. Therefore, it remains difficult to analyze this matter. Jimenez (2013) criticizes the system by pointing out the need for an adjustment in the system that deals with the humanitarian fundamental rights of immigrants. She states that the initiative lacks humanitarian principles in its legislation. Researcher of the European Policy Centre, Ben Hayes, also confirms that in the legal provision of the initiative, the surveillance supervisions are highlighted, whereas the fundamental rights, which should be included if the EU would rescue immigrants, are neglected (Hayes, 2013). Hayes also describes the power of some countries to obtain insight on personal information when, for example, a suspicious vessel is entering EU waters. The Frontex regulation states that this may only be done in urgent vital cases. However, in every case of risk analysis, information must be depersonalized. Nevertheless, it is still unclear how personal the information exchange of Eurosur is.

While critics such as Jimenez and Hayes criticize the system for lacking a policy in line with the humanitarian principles of the EU, the Council of Europe published a report on the death of 63 immigrants in the Mediterranean Sea caused by inadequate interventions by the Italian Coast Guard.

It stated that the problem in this case had nothing to do with detecting the vessel. The problem in this case was the unclear division of responsibility between Italy and NATO (Hayes, 2012). Jimenez shares the same view; she states that the criticism is not based on the detection problems of Frontex and Eurosur but rather lack of clarity in the field of responsibility (Jimenez, 2013). Since executive authorities must operate in territorial waters of other countries, they often do not know who is responsible to intervene in such cases.

Another voice of criticism comes from Taube (2013) who describes the possibility and freedom of member states to put in the information the member state wants as one of the biggest weaknesses of the system. As a result, member states can withhold crucial information. Technically, Levy (2013) describes Eurosur as a system that only enables technological risk analyses, analytical profile layers and geo-data and therefore contributes to a smaller extent to the police and judicial cooperation in MS.

The financial evaluation is described by Laan (2013) who, on his turn, points out the financial consequences for EU member states regarding the costs of Frontex and Eurosur. He states that Frontex only costs the member states around 86 million euros. Besides that, member states had invested in additional implementation measures for Eurosur such as NCCs (Laan, 2013). According to recent research, the estimated costs of setting up the NCC for the Netherlands will increase to 194 million euros by 2016. Hayes (2012) adds that, despite the difficulties encountered while attempting to control the actual costs due to the financial resources coming in different EU layers, the complexity of technical systems and the lack of technical assessment increases the possibility that the EU exceeds its budget from 338 million to 874 million euro for Eurosur only. He adds that the JHA council meeting of 2011 was all about the commitment to the current systems in the MS. Current systems must be developed further, instead of spending money on new systems. However, the costs of EUROSUR will increase pressure on the EU systems, since, after SIS II, this is the second system that will exceed its budget. This should be a warning for the accounting departments of the EP and the Council taking into account that they determine the budget for Frontex.

3.3 Common Information Sharing System (CISE)

3.3.1 Maritime objectives

In the ISS, the EU mentioned the gradual creation of the CISE in the field of Maritime Surveillance for the time period 2010-2014. This initiative was born out of a communication of the EC dating from 2007 in which the Integrated Maritime Policy (IMP) was introduced (Hayes, 2012).

The CISE is a voluntary exchange system developed for: customs, coast guards, police, tax authorities and defense. The objective of the CISE is to create a system that is both cross-sectoral and cost effective (European Commission, 2014). This system is strictly voluntary and member states may choose whether or not to participate. This emerged clearly from the evaluation communication from the EC in which it communicated the intergovernmental principles of the system. The EC emphasized clearly that existing legislation will not be amended (European Commission, 2014). The EC communicated in 2010 the following statement regarding the CISE:

“Existing and planned systems shall be duly taken into account while developing the CISE. This process shall also not hinder the development of existing and planned sectoral information systems, as long as the need for interoperability enabling information exchange with other systems is taken into account” (European Commission, 2010).

Where the majority of the other systems are strictly related to cross-border crime and the exchange of information of criminals, the CISE was created for a multifunctional objective. More specifically, the CISE also desires to tackle accidental marine pollution and other ecological disasters. The system will facilitate the exchange of the following information among MS: ship positions, cargo data, sensor data and meteo-oceanic data (European Commission, 2014).

3.3.2 Evaluation

It remains difficult to give a comprehensive evaluation based on the information that is currently available, since the system is still at a development stage and probably will be implemented at the end of 2020. However, Hayes points out an important difference between Eurosur and CISE. According to him, it is yet unclear what kind of information will be used at CISE. He states that CISE will most likely contain much more “depersonalized” information than Eurosur, whereby the use of personal information will be heavily criticized, thus he describes the need for the EU to give clarity in this field (Hayes, 2012). It remains to be seen how the EU is going to deal with this.

3.4 Common Risk Management Framework

3.4.1 Framework for custom authorities

Until now, this report limited its focus to police cooperation in the EU. However, the European citizens and the EU also expect customs to contribute towards enhancing the security of the global movements of goods. Under the Customs Risk Management Framework (CRMF), the EC addressed common risk assessments in order to identify common risks for member state customs and set out various guidelines. While the CRMF is not a system, it is considered to be important for this chapter as it was described in the ISS as an important part of IBM.

The main features of the CRMF came into force in 2007, under the legal framework of the community customs code by Regulation 648/2005. However, the lack of computerization in the member states delayed the implementation until the end of the 2010 (Court of Auditors, 2011). The CRMF contained different measures in the field of custom management. Measures such as: the AEO, the exchange of information on the Customs Risk Management System (CRMS) and an electronic risk analysis have been implemented since then (European Commission, 2011). The CRMF is based on activities such as: the gathering and analysis of data, assessing risk and regulatory monitoring of the outcomes, which are carried out by the customs. The CRMF requires the systematic exchange of risk information between customs, and underlines the need for a harmonized customs control by member states and an equivalent level of protection in customs control (European Commission, 2014).

The CRMF contains various criteria that are compulsory for every member state; The CRMF is applicable to every type of transport and must be registered in the national risk system of the member states. Besides, every quarter a report must be made up and shared with other competent national and international authorities (European Commission, 2014). Risk analyses are carried out manually and automatically. This means, for example, that next to the automatically carried out controls, a customs official may manually control passengers on his own initiative. Another important requirement is that the first place where cargo enters the Schengen area, no matter where it comes from, the cargo must be controlled and pre-screened at the port of departure (European Commission, 2014). More specifically, in 2002 the EU adopted the CSI initiative for bilateral custom cooperation as a measure to expand the existing custom relations between the EU and third-world countries. However, the aim was to protect container vessels from being exploited by international terrorists. The CSI called for pre-screenings which are also an important part of the CMRF (Carpenter, 2013).

AEO is one of those risk-prevention measures, among other measures of the CMRF of the EU. The AEO is a status that can be obtained by a European business to let their goods flow quicker and more easily along European borders. When a company obtains the AEO license their goods undergo

simplified custom procedures. The AEO license is a license granted to a "trusted trader". The court of auditors specifies that customs still checks the additional requirements but will not check again the criteria that has already been checked when AEO status was granted (Court of Auditors, 2011). The criteria entails a long list of requirements which need to be fulfilled by the company in order to obtain an AEO: the ability in place to identify and disclose any irregularities or threats, appropriate action when risks are identified and satisfactory procedures for handling controlled goods such as military goods or technology, dual-use of goods, excise or Common Agricultural Policy goods, dangerous goods or hazardous materials (HM Revenue & Customs, 2013).

3.4.2 Evaluation

Mikuriya describes the need for an integrated control supply chain based on consignment integrity in which the customs of member states receives the time goods are being prepared for export by the exporting member state or country. He adds that third-world countries and external relations are extremely important in the exchange of information and the implementation of risk management standard (Mikuriya, SUPPLY CHAIN SECURITY: The customs community's response, n.d). Carpenter confirms this by describing the importance of pre-screenings of vessels coming and leaving the Schengen area. Despite that, Carpenter emphasizes the fact that pre-screenings will lengthen shipping times (Carpenter, 2013). Therefore, a 100% scanning approach in the EU is not realistic since different stakeholders are working at European ports with all of them having distinct interests.

However, in the most recent communication submitted by the EC regarding the ongoing developments in CRMF, a PWC study shows the improvements to be made in CRMF. First, there is the problem of poor quality data of trade exchanged by customs officials. Second, the differences in the Member States' capacity to implement common standards for risk management. And third, the lack of coordination between border control agencies and intelligence agencies (European Commission, 2012). Under the CRMF framework, the main systems that are being used by customs is the Customs Risk Management System (CRMS) and the Customs Information System (CIS). The problem with these systems is that they are not interoperable with the Europol Information System (EIS). This definitely contributes to the lack of coordination between customs and EU institutions (European Commission, 2013).

Furthermore, the EC concludes in this report that there are many differences and a lack of treatment of the trade within EU perspective. More specifically, the risk information exchange between member states is insufficient and inadequate to establish valuable risk analysis. The Commission criticizes itself by stating that it did not take into account CRMF, as the EU does not take into account the capacity of the member states. As a result, it considers the variance in capacity as one of the main problems of the CRMF. This weakness also comes back in the implementation of the SIS, where MS does not possess enough IT capacity to implement the systems properly (European Commission,

2012). It concludes that these cannot be resolved by the member states only but definitely need the EU to reinforce the national efforts (European Commission, 2012).

Finally, the EU states that the CRMF can be improved in the field of information management. When it comes to the exchange of positive tested results on passengers or cargo, the quality of information that is exchanged must be exchanged properly and at the right time. Until now, this is one of the bottlenecks of the framework (Sandler, 2015). Recent evaluations from member state experts indicate that maritime authorities would be much more efficient when they get the information from each other at the right time. This would reduce maritime threats by 30% (European Commission, 2014).

3.5 SIENA

3.5.1 Linking Europol with national police departments

Secure Information Exchange Network Application (SIENA) is the information system of Europol which enables direct communication between Europol and the member state. Next to the national units of member states, SIENA is also used by Eurojust, Interpol⁴ and Eurojust (Europol, 2015). SIENA is a system that enables sensitive information sharing, especially among police departments and Europol. As the name already says, the system was mainly introduced to ensure safe information sharing, which is considered by the EU to be extremely important in tackling organized crime groups (Zarza, 2014).

The system functions directly with the General Europol Information system (EIS), in which Europol gathers and converts the information input from the Member states in Analytical Work Files (AWF). These analytical work files can be seen as important dossiers, gathered and constructed by Europol on organized crime cases. Subsequently, the EIS system recognizes and makes connections (Europol, 2011).

3.5.2 Evaluation

While Dutch police officers confirm that SIENA has a lot of potential (making standardization of data possible), in many cases they do not even use it. Despite that, research from den Boer shows that the Netherlands is one of the member states that makes most use of the system. She also adds the grounds for criticism among Dutch policemen about SIENA, such as the limitation that the system does not contain any languages other than English. Besides that, data cannot be copied from the system (Internationale politie informatie-uitwisseling, 2015).

The language limitation of the system also has consequences on the usage of the system among German police officers. Because of insufficient translation capacities there, the system cannot be used and therefore German police officials prefer to use the Interpol system (Sollie & Kop, 2011).

⁴ International criminal investigation organization that supports law enforcement authorities

However, den Boer states that ultimately, the caseload of Germany in SIENA increased evidently, in most cases this concerned drugs or human trafficking related matters (Boer, Internationale politiële informatie-uitwisseling, 2015).

In this system, the member states decided which law enforcement authorities are going to have access to the system (Boer, Internationale politiële informatie-uitwisseling, 2015). In a report from the Dutch police, the need for the decentralization of the system is set out as one of the key improvements that need to be made in order to make it efficient. Until now, the lines between the national authorities and the system have been too long, which results in less overview for Europol and less usage. For example, the SIENA system in the Netherlands is only implemented at the Dienst Internationale Politie Informatie (IPOL) while local police offices do not have access to the system (Sollie & Kop, 2011).

The question is how SIENA is used, in general, to tackle the smuggling of illegal goods. Recently, Europol revealed a report on their website in which they indicated the cases in which member states make the most use of the SIENA system. On top of the list are drugs with 18%, followed up by fraud at 14%, robbery at 9% and illegal migration at 6% (Europol, 2015). The conclusion is that SIENA is consulted very often to tackle forms of smuggling.

3.6 Conclusion

It is clear that there are many systems available for the member states to use, in order to tackle cross-border crime. The problem is that information must be exchanged with SIRENE officers or national coordination centers. The disadvantages are clear when we see that the lines are too long in the Netherlands and therefore police officers refuse to use the system. This is not a problem of the EU but rather of the member state who has the freedom to assign the offices that are going to have access to the system. The different law enforcement structures of member states make this a complicated matter.

Another problem comes up when it comes to the use of Eurosur. Different authors criticize the system because of the lack of humanitarian principles in its legislation, when it comes to responsibility and post-surveillance action. However, when it comes to the surveillance techniques of the system, it can be considered a solid system.

It is remarkable to note that at customs, required controls are often not carried out because it would lengthen shipping times and bring along extra costs. This makes it complicated for the EU. It can be considered a smart move of the EU to involve the private sector in the CRMF. As we already saw in Chapter 1, the private sector has many interests in public transportation hubs. This is measured as the

AEO enables exporters to obtain a license and undergo fewer controls, which enable custom officials to carry out more controls on suspicious cargo.

It is clear that the Netherlands is considered one of the major SIENA users and that even there the use of SIENA is rare. Here the EU has to change something, since the system is not even available in different languages. This is a must for any international information system.

Finally, it can be concluded that the different systems cost the European citizens a great deal of money. Only the extra costs made with systems as Eurosur and SIS II make it clear that the ISS lacks a good financial plan. As a result, the EU does not meet the arrangements, and as it stated here “would not create a financial burden upon member states”.

4. The institutions responsible for police and judicial cooperation

This chapter researches the coordination between member states and the EU institutions and the use of the systems discussed in the previous part.

4.1 Europol

4.1.1 Organization

The earlier frequently mentioned Europol is an international law enforcement institution with coordinating and supportive tasks and is founded by the EU with its main office located in The Hague. Europol is considered to be a very important part of this research, as it is at the heart of police and judicial cooperation in the EU. It is very important to note that Europol does not dispose the right of carrying out any arrests; instead it only possesses supportive tasks. More specifically, Europol gathers and analyses information in order to coordinate actions for law enforcement authorities throughout the EU. Europol coordinates certain actions but does absolutely set up independent researches (Rijksoverheid).

Europol was founded as a result of the Treaty of Maastricht in 1993 and gradually obtained more powers since the EU, after the treaty of Lisbon, obtained more powers in the field of AFSJ. However, according to second officer of Europol, Maria Carneiro, Europol remains an EU institution with inter-governmental characteristics (Carneiro, 2010). This perception is probably based on the fact that Europol does not have any operating powers. This is an important distinction that has to be made now that some experts consider “Europol as the European FBI” (Carneiro, 2010). The difference is that the FBI has the right to carry out specific operations.

4.1.2 Communication with member states

Communication with the member states is done by national units which function as links between the member states and Europol. Every member state sends one liaison officer (LO) to Europol in order to represent the member state at Europol’s National Units (ENU). An LO needs to be trained very specifically on international skills. These LOs do not have operational authorities; instead, they serve as mediation channels between Europol and the member states. Next to the LO working on a daily basis at Europol, regularly scheduled meetings are arranged between head officers of the police and Europol. Besides, member states need to assign a central point for the SIRENE and the ENU. Often they decide to set these up in the same office, which are often central police offices that house the international system (Boer, Internationale politieële informatie-uitwisseling, 2015).

Den Boer describes the importance of LOs in the information exchange between member states and Europol. LOs have the authority to exchange information between their member state, Europol and other countries. LOs are often the first point of cooperation between member states and Europol, LOs speak the language, know both cultures (Europol vs. member state) and are trained specifically. Moreover, LOs have access to every IT system of Europol and are entrusted with secret information that is prejudicial to state security. It goes without saying that the LOs play an important part in the internationalization of member states. As a result, they have diplomatic powers (Boer, *Internationale politieke informatie-uitwisseling*, 2015).

The relationships with the external dimensions of the EU are maintained through the communication with LOs and Europol-appointed liaison officers from non-EU countries. Currently Europol has LOs from: Albania, Colombia, Canada, Croatia, Iceland, Norway, Switzerland, but also Interpol and the FBI working at the organization (Europol, 2015). Altogether, Europol employs 867 people of which 185 are liaison officers (Europol, 2015). Equally, two LOs from Europol are working at Washington, D.C. and one at Interpol to strengthen relations between the EU and non-EU countries (Boer, *Internationale politieke informatie-uitwisseling*, 2015).

Analysis Work Files (AWF) are files that enable Europol analysts to remain in contact with organized crime specialists in member states. These files are a collection of data on a specific criminal activity. Eventually AWF are the intelligence dossiers that can be consulted by the law enforcement authorities of the member state, under supervision from Europol (Boer, 2010). The advantage of the AWF is that this information can be centrally accessed by member states, and an overview on actual threats and progress can be made in investigations. Another added value is the possibility to set up a Joint Investigation Team (JIT).

4.1.3 Joint Investigation teams

When it comes to cross-border crime, cooperation among member states can be seen as one of the main tools to tackle criminal groups. One of the tools, introduced by the EU, to effectuate this is the joint investigation team (JIT). In May 2000, the Mutual Legal Assistance was adopted based on article 34 of the TEU. Subsequently, only a few member states used the Joint Investigation Teams as concept in cross-border cases. Therefore, the MLA convention was included in the framework decision of 2002/465/JHA on Joint Investigations Teams⁵ (Europol, 2015). Definition of a JIT is given by Eurojust:

An investigation team consisting of judges, prosecutors and law enforcement authorities from different member states for a fixed period and a specific purpose by way of a written agreement between the states involved, to carry out criminal investigations in one or more of the involved states. (Eurojust, 2015)

In other words, JITs can be seen as common investigation teams. It is important to note that JITs can be carried out in cooperation with Non-EU countries provided that there is a legal base for it. Also, information that is obtained from a JIT can be served as evidence before the court of justice (Internationale politieële informatie-uitwisseling, 2015). Despite the fact that a JIT provides support to the member states and professional translators where needed, it still cannot be considered a popular method. When it comes to a JIT, Europol can reimburse the cost made by member states up to 50,000 euro (travel, accommodation and operational meetings at Europol apply to this) (M. den Boer, personal interview, May 9, 2015).

4.1.4 The execution of JITs and bilateral agreements

According to Warmerdam, it is possible under the jurisdiction of a JIT to gather evidence at a crime scene, take people into custody, confiscate illegal goods and the earlier mentioned usage of the EAW. Warmerdam concludes that when it comes to JITs, member states even have the authority to carry out arrests on the territorial ground of other member states (Warmerdam, 2014).

Besides the collaboration between member states and Europol, member states collaborate with other countries based on bilateral agreements, beyond EU involvement. An example is the cooperation on cross-border crime started in 2004, which is based on the bilateral agreement “*verdrag inzake grensoverschrijdend politieel optreden*” (Convention on cross-border police action). At any time during a JIT or any other police action outside national borders, police officers must respect the legislation of the member state where it carries out the action. This is also applicable to the measures and force these officials take (Rijksoverheid). In other words, when carrying out cross-border action, law enforcement officers have to respect territoriality principle. However, the Schengen acquis follows the same principle. It gives police officers the authority to carry out hot-pursuit on territorial ground of another member state under certain conditions. Article 40 of the Schengen agreement clarifies this:

Officers of one of the Member States who are keeping a person under surveillance in their country as part of a criminal investigation into an extraditable criminal offence because he is suspected of involvement in an extraditable criminal offence or, as a necessary part of a criminal investigation, because there is serious reason to believe that he can assist in identifying or tracing such a person, shall be authorized to continue their surveillance in the territory of another Member State where the

latter has authorized cross-border surveillance in response to a request for assistance made in advance with supporting reasons. Conditions may be attached to the authorization.

(Convention implementing the Schengen Agreement, 2014)

However, certain conditions need to be taken into account when it comes to the execution of cross-border action. According to the UK's Home Office, permission need to be inquired and the member state must come up with a legitimate reasoning (Home office, 2005). These requests are carried out by the Sirence offices - as explained earlier - where additional information can be requested and must be employed. In urgent cases, the guest officer has a maximum of 5 hours to proceed with the pursuit, provided that the local authorities are kept up to date. (Home office, 2005). Strijaards describes that a Dutch policeman when dealing with a cross-border case may not cross the law of another member state and must respect the principle of territoriality. The principle of legality requires officers to intervene respecting his own national law and therefore never exceed his own national provisions (Strijards, 2008).

4.1.5 Evaluation

In her report, den Boer describes the fact that police officers often move away from information exchange with Europol's systems for several reasons. One reason that police officers do not want to share valuable information is the fear of it being controlled by the public prosecution service (Boer, Interview Monica den Boer over de internationalisering van de politie en het gebruik van SIS, 2015). In general, police officers do not want to reveal their source of information. This is something that is very sensitive among police officers. Just like journalists they sometimes obtain important information through a shabby deal with someone from the underworld. Den Boer adds to this that the EU consists of many diverse cultures with all a different view on information sharing (Boer, Internationale politiële informatie-uitwisseling, 2015). Therefore, another reasoning to take into consideration is cultural differences in trust.

Den Boer also describes the evaluation of research conducted on LOs. In that research, it is concluded that LOs play a crucial role when prompt action needs to be taken. In general, the LO is the national point of contact at Europol for a member state, she states that member states prefer to exchange information with LOs instead of using SIENA because of the face-to face contact. The Dutch police emphasizes the importance of the LOs and considers this a successful initiative of the EU (Boer, Internationale politiële informatie-uitwisseling, 2015).

According to den Boer, if correctly used, a JIT must be considered one of the most powerful tools of the Stockholm Programme. She states that currently member states trust too much on “JITs” based on bilateral agreements. She mentions the Netherlands as an example where JITs are more frequently used in bilateral agreements than in cooperation with the EU:

“In the Netherlands, Dutch police officers often say they have a JIT, but what they actually mean is they have a VK (earlier mentioned convention on cross-border action), which is in fact, a bilateral JIT without EU involvement and thus not how it is supposed to be used by the member state as the JIT concept is an initiative of the EU” (M. den Boer, personal interview, May 9, 2015).

However, in her research she shows that once Dutch detective forces worked with Europol, this generally sets the basis for a long-term cooperation..

The results of a JIT were made clear in 2014, when Europol caught a consignment of 35 illegal weapons that were sent to the Netherlands by post. Europol estimated these kind of deliveries are done once twice per month (Kaathoven, 2015)

4.2 Eurojust

4.2.1 Organization

Streamlining the judicial systems is another action that is mentioned in the ISS by the EC. Therefore, it founded Eurojust. Eurojust stimulates the cooperation and coordination among member states in cross-border prosecutions. Eurojust is the result of the earlier mentioned Tampere Programme and was founded under decision 2002/187/JHA (Eurojust, 2015).

When it comes to prosecuting criminals that committed crimes in other member states than his own resident member state, a great variety of different national judicial systems hamper the process. Eurojust aims to harmonize these systems in order to facilitate the process. It has the authority to support in every criminal case described by article 2 of the Eurojust convention, and next to that it may participate in every type of crime where it is consulted by a member state authority (Kapplinghaus). Despite the fact that Eurojust does not have its own information exchange system such as Frontex and Europol, to exchange information with the member state, the organization has access to systems such as the earlier mentioned SIS and SIENA. Meetings do the rest of the communication with the member states.

Besides its aim to facilitate the different national law systems, Eurojust also supports and coordinates actions in the field of organized crime. The earlier mentioned EAW and the directive on the freezing and confiscation of proceeds of crime comes back as just a few examples where Eurojust supports member states in the implementation of these directives. More specifically, according to Gutiérrez (2014), suspects of organized crime groups need to be caught simultaneously, therefore the

coordination of actions carried out on organized crime groups that need to be caught at the same times are coordinated by Eurojust. The same applies to the confiscation of goods.

4.2.2 Evaluation

Deputy National member of Eurojust, Kapplinghaus, describes the process of including Eurojust in a prosecution. If a prosecutor or judge from an member state does not know how to interpret an EAW it can consult with Eurojust. The consulted Eurojust member contacts a colleague from the member state in question and subsequently the legislation of that member state will be put into perspective. In many cases if there is a problem with the legislation of a member state, the matter will be referred to EC. Kapplinghaus adds that it is important to note that a member state does not function as a European public prosecutor. However, in any case, it possesses the authority to request an member state to investigate a certain case. If a member state refuses this, it must come up with legitimate reasons. Most member state do not want this since it will be published in the annual reports of Eurojust (Kapplinghaus). Here the conclusion can be made that Eurojust may not be a European Public Prosecutor, it has significant powers in this area.

In 2014, the president of Eurojust revealed in its annual report that the usage of Eurojust by Member states increased by 2.8 % from 1,533 to 1,576 cases (Eurojust, 2014).

4.3 Frontex

4.3.1 Organization

The earlier mentioned organization Frontex is an organization that is directly integrated in the Schengen convention. It aims at safeguarding the external dimension of the EU by stimulating inter-agency cooperation among authorities related to sea, ground and air security. When it comes to operational tasks, Frontex is on the same level as Europol and Eurojust and thus only possesses supportive tasks. However, opinions are divided, since Frontex does have the authority to monitor the external borders. In general, Frontex sets up voluntary guidelines for member states to follow. Because of the voluntary dimension, often member states does not implement these guidelines into its system (Marenin, 2010). However, guidelines can be made more compulsive by integrating these in the Schengen Acquis.

Marinin states that Frontex does not have any operating powers, it focuses totally on risk analysis. It is unknown how well risk analyses are done by the organization. However, Marinin (2010) adds that in 2008, only 2% of the budget went to the Risk Analysis Unit (RAU). As one of the organization's most important departments for fighting crime, he confirms this is not much, as risk analysis is its most important task. Most of its budget is devoted to RABITS and joint operations. Joint operations are one of Frontex's few sources of information.

Recent research from the organization sets out its priorities by showing the distribution of its budget. As with Europol and Eurojust, guidelines and agenda setting are discussed in annual meetings with the EP. Eventually they make up the agenda and decide which direction to go for Frontex; 62% of the budget is spent on maritime actions, 15% on training and 4% on air borders (Marenin, 2010). Nobody knows what the remaining percentage is spent on. At first glance, 15% for training purposes seems like a bit much. However, Frontex director Latine stated that: in order to achieve smooth cooperation during joint operations, training for officers should be therefore the same. As a result, Frontex introduced the common core curriculum (CCC) for border guards. The weakness of this training tool lies in the fact that CCC is tailor-made and thus adjustments and requirements differ for every member state (Marenin, 2010). Another training that is provided by Frontex is aimed for border guard security officials in order to prevent illegal car smuggling. Frontex trains national experts in order to give workshops to large group of border guards. The main advantage is that this system is available in 21 languages (Frontex, 2015).

4.3.2 Communication with member states

Just as with Eurojust and Europol, Frontex possesses authority to coordinate joint operations at the external borders of the EU. Marenin describes language as a frequent problem when it comes to the coordination of joint operations from Frontex, since many southern countries have problems with the English language (Marenin, 2010). A tool that brought new possibilities to the organization in the operational field is the possibility to complement member states with rapid border intervention teams (RABITS). These RABITS consist of experts from different member states and can be called by Frontex in case of emergency when a member state coast guard has insufficient man-power to catch a vessel with illegal cargo in a hot pursuit, for example. However, the sovereignty when making use of a RABIT remains in the hands of the member state who can propose experts or refuse the request. Another Frontex tool is the risk analysis which functions as a common network for member states risk analysis and the exchange of information between customs. This information is exchanged through Eurosur.

4.3.3 Evaluation

Earlier in this report, Eurosur was heavily criticized by several authors. When it comes to evaluating the Frontex institution, Marenin starts off by saying that Frontex is a small organization in relation to other EU institutions. More specifically, in the field of joint operations and RABITS, member states take the end decision. Frontex only coordinates their resources, but member states can refuse to participate at any part of the process.

To add on, it is unlikely that Frontex's analysis reports will add anything new to the member state's crime detection. Risk analysis of IGOs and NGOs, which do research, in the field of criminal and illegal cross-border shifts can do the same work in his opinion (Marenin, 2010). In his work, he cites a

Frontex official by saying that risk analyses are purely focused on groups instead of individuals. These patterns of organized crime could also be studied by other research centres. He emphasizes that the risk analysis units of Europol cannot do much as it does not say much on how to handle criminal groups such as interrogation and border guard skills (Marenin, 2010).

Besides risk analyses, training European border guards is one of Frontex's main tasks. However, in his research, Marinin shows that CEPOL⁶ and Frontex overlap each other on certain points (Marenin, 2010). Both training courses have the same approach and offer workshops to European law enforcement authorities. Taking into account that 15 % (explained in 4.3) of its budget is devoted to training, it can be concluded that there is much money wasted.

Finally, Marenin states that Frontex is too busy with negotiating and making new working agreements with third-world countries. And if it keeps making agreements they should start by making a working agreement with customs, as this is left out the Frontex Mandate. According to Marenin, other EU institutions should take this work out of their hands and let Frontex do what it does best, which is namely coordinating (Marenin, 2010).

4.4 Conclusion

To conclude, the EU has some gaps in its legislation regarding its organizations. The problem with all three organizations is that they lack executive powers, which makes it difficult to be meaningful. As a result, JITs and RABITS cannot be carried out to their fullest potential.

Regarding Europol and its JITs, it can be concluded that the EU undertakes many actions to stimulate the concept of a JIT. Next to different manuals set up by Europol and Eurojust, national experts have annual meetings about JITs, in which even the costs are reimbursed. The evaluations are clear, and the JIT can be seen as a very powerful tool with a lot of potential. But just as with the systems, the main problem lies not in the hands of the EU, but in the hands of the member state. They are not using it, in spite of the facilities provided by the EU. A problem remains in the legislation from outside the EU and the bilateral agreements that are made, which provides member states with the possibility to carry out JITs without EU involvement.

Adjustments should be made at Europol. According to this report, Europol's weak point at this moment is the SIENA system. It is clear that the information system is not used much by EU Member States. Police officers here tend to have suspicious thoughts about the information exchange with EU institutions. According to den Boer, in some cultures there are more suspicious thoughts about the exchange of information than in others (M. den Boer, personal interview, May 9, 2015).

⁶ European police academy that trains high police officers of MS

Instead, the LOs are powerful tools of Europol in both providing information for the internal and external dimension for both Eurosur and Europol. While it has even more potential, this can already be seen as a very effective tool in international cooperation. Furthermore, it is also clear that Europol is probably the most visible organization when it comes to tackling cross-border crime, as results are already visible.

5. Conclusion and Recommendations

5.1 Conclusion

The purpose of this research was to examine whether the measures set out in the ISS are effective in its fight against cross border crime by researching the different EU information systems and organizations.

In general, one of the most remarkable differences with regard to the action described in the plan and the actual carrying out of the plan is the financial costs of the institutions and the systems. Next to the price the European Citizen pays for development of the system, it also bears the brunt for the accommodation of the National Coordination Centres. The EU should take this into account in the new ISS.

Regarding the different systems, it is difficult to indicate which system has been the most effective during the ISS, since different systems serve different purposes and are made for different law enforcement authorities. In general, systems like SIS, SIENA and Eurosur are not fully used by law enforcement authorities, for several reasons. Many times member states prefer to keep the information to themselves. It is clear that the member states still have too much power to arrange the legislation in the AFSJ field. This is because the directives and frameworks enable them to do whatever they want regarding deadlines, implementation and information exchange. The cultural and structural changes in the national law enforcement field in the EU member states holds back the exchange of information in general. The lack of executive powers from institutions such as Europol, Frontex and Eurojust makes this even more complicated. However, the fact remains that the results show that Europol and Eurojust are already showing results of effective organization, which should be used more.

To conclude, the Stockholm Programme and the ISS have set out guidelines that are to be reached within a period of 4 years. While the mentioned organizations show signs of potential growth, for several reasons, the ISS measures cannot be called effective. It probably will take more years to fully blend the guidelines and the systems in the member states.

5.2 Recommendation

In order to accomplish better results in internal security, more European Integration is required. The EU should take action in the financial sphere of the ISS since the financial arrangements have not been met. It cannot expect the member states to fully cooperate with other member states if they have problems to meet their own agreements.

However, what the EU should do is fill up the gaps in the legislative and technical fields of its systems. For example, Eurosur can be seen as an effective system in the field of surveillance but it is clear that it lacks sufficient legislation in the field of responsibility and execution. A technical

problem is seen at SIENA, and this system is seen as a system with a lot of potential to tackle cross-border crime but the lack of available languages renders the system unworkable for some countries. Therefore, the EU should focus on improving this system.

Finally, it should create more commitment to the current systems instead of just creating even more systems. Den Boer (2015) observes that:

“The tools and systems are already there, created by agreement with national law enforcement institutions, therefore the EU should expand these systems instead of developing new ones”.

The member states should do the rest to ensure that international cooperation in police and judicial fields is successful.

References

- Recognition of decisions in criminal matters: strengthening mutual trust.* (2005, October 23). Retrieved november 12, 2014, from Europa:
[http://europa.eu/legislation_summaries/human_rights/fundamental_rights_within_european_ union/116001_en.htm](http://europa.eu/legislation_summaries/human_rights/fundamental_rights_within_european_union/116001_en.htm)
- Area of Justice, Freedom and Security.* (2011, April 13). Retrieved march 13, 2015, from Ministry of Foreign Affairs: <http://www.mfa.gr/en/foreign-policy/greece-in-the-eu/area-of-justice-freedom-and-security.html?page=2>
- Internal Security Strategy.* (2013, 10 04). Retrieved from European Commission:
http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/internal-security/internal-security-strategy/index_en.htm
- Q&A: European Arrest Warrant.* (2014, december 5). Retrieved march 2, 2015, from BBC:
<http://www.bbc.com/news/world-europe-23239493>
- Schengen-informatiesysteem.* (2014, may 1). Retrieved march 3, 2015, from Wikipedia:
<http://nl.wikipedia.org/wiki/Schengen-informatiesysteem>
- Framework Decision.* (2015, march 8). Retrieved april 11, 2015, from Website:
http://en.wikipedia.org/wiki/Framework_decision
- Arcifa, G. (2014). *THE NEW EU DIRECTIVE ON CONFISCATION: A GOOD (EVEN IF STILL PRUDENT) STARTING POINT FOR THE POST-LISBON EU STRATEGY ON TRACKING AND CONFISCATING ILLICIT MONEY.* Catania: Università degli Studi di Catania.
- Arias, M. (n.d). *INTERNET LAW - The European Arrest Warrant.* Retrieved march 5, 2015, from International business law services:
https://www.ibls.com/internet_law_news_portal_view.aspx?s=latestnews&id=2358
- Arnaud Lechevalier, J. W. (2014). *Borders and Border Regions in Europe: Changes, Challenges and Chances.* Frankfurt: transcript.
- Balzacq, T., & Carrera, S. (2013). *Security Versus Freedom?: A Challenge for Europe's Future.* Ashgate publishing.
- Boer, M. d. (2010). Transcript of interview with Monica den Boer, Academic Dean of the Police Academy of the Netherlands . *Europol: the European FBI.* (M. Nicolaije, Interviewer)
- Boer, M. d. (2011). Is de Nationale Politie klaar voor Europa? . *Strafblad*, 43-53.
- Boer, M. d. (n.d.). *Internationale politieïele informatie-uitwisseling.* Rotterdam: SeQure R&C.
- Buono, L. (2009). *From Tampere to The Hague and beyond: towards the Stockholm Programme in the area of freedom, security and justice.* ERA.
- Carneiro, M. (2010, may 10). Transcript of interview with Maria Carneiro, Second Officer at Europol. *Europol: the European FBI?* (M. Nicolaije, Interviewer)

- Carpenter, A. (2013). *Security and Europe's Sea Ports: threats and issues facing maritime gateways to Europe*. Cambridge Scholars Publishing.
- Chantal Joubert, H. B. (1996). *Schengen Investigated: A Comparative Interpretation of the Schengen Provisions on International Police Cooperation in the Light of the European Convention on Human Rights*. Martinus Nijhoff Publishers.
- Clarkson, W. (2014). *Cocaine Confidential: True Stories Behind the World's Most Notorious Narcotic*. Quercus.
- Commission, E. (2008). *The Schengen Area*. Retrieved march 23, 2015, from European Commission: http://biblio.ucv.ro/bib_web/bib_pdf/EU_books/0056.pdf
- Commission, E. (2012, October). Commission Communication on EU Risk management and supply chain security. Brussels.
- Commission, E. (2013). *Firearms and the internal security of the EU: protecting citizens and disrupting illegal*. Brussels.
- Concecao Gomes, B. d. (2010). *THE EUROPEAN ARREST WARRANT IN LAW AND IN PRATICE: A COMPARATIVE STUDY FOR THE CONSOLIDATION OF THE EUROPEAN LAW-ENFORCEMENT AREA*.
- Council of the European Union. (2014, march 14). Council adopts directive on the freezing and confiscation of proceeds of crime. Brussels, Belgium.
- Council of the European Union. (2014, december 1). UK's block opt-out and partial re-opt-in to the ex-third pillar acquis.
- Court of Auditors. (2011). *Are simplified procedures for customs effectively controlled*. Luxembourg.
- Coutts, S. (2012). *THE LISBON TREATY AND THE AREA OF FREEDOM, SECURITY AND JUSTICE AS AN AREA OF LEGAL INTEGRATION* .
- Davidson, C. (2015, january 9). *Where are the guns in France coming from?* Retrieved april 03, 2015, from Al Jazeera America: <http://america.aljazeera.com/articles/2015/1/9/guns-france-armstraffickig.html>
- Directorate-General Justice and home affairs. (2004). Tampere Kick-start to the EU's policy for justice and home affairs. *Priorities and deadlines*. European Commission.
- Duyne, P. C. (2001). *Cross-border Crime in a Changing Europe*. Nova Publishers.
- Enquêtemissie opsporingsmethoden. (n.d.). *GEORGANISEERDE MISDAAD IN DE HAVENS* . Retrieved february 12, 2015, from Burojansen: http://www.burojansen.nl/traa/b9_2_13.htm
- Euractiv. (2014, may 21). *Auditors slam EU's Schengen info system*. Retrieved april 2, 2015, from Euractiv: <http://www.euractiv.com/sections/justice-home-affairs/auditors-slam-eus-schengen-info-system-302263>

- EUROJUST. (2014, april 1). *Eurojust's added value in fighting serious cross-border crime*. Retrieved march 10, 2015, from Eurojust:
<http://www.eurojust.europa.eu/press/PressReleases/Pages/2014/2014-04-02.aspx>
- Eurojust. (2014, november 21). *Mafia: New EU-Eurojust report reveals organised crime groups behind environmental crimes*. Retrieved march 10, 2015, from Eurojust:
<http://www.eurojust.europa.eu/press/pressreleases/pages/2014/2014-11-21.aspx>
- Eurojust. (2015). *Eurojust legal framework*. Retrieved march 5, 2015, from Eurojust Europa:
<http://www.eurojust.europa.eu/about/legal-framework/Pages/eurojust-legal-framework.aspx>
- Eurojust. (2015). *Historical background*. Retrieved april 3, 2015, from Eurojust:
<http://www.eurojust.europa.eu/Practitioners/JITs/Pages/historical-background.aspx>
- Euromove. (2011, July). *The European Arrest Warrant*. Retrieved march 15, 2015, from Euromove:
<http://www.euromove.org.uk/index.php?id=14973>
- European comission. (2007, january). *Guidelines for integrated border management in the Western Balkans*. Retrieved april 04, 2015, from European Comission:
http://ec.europa.eu/enlargement/pdf/financial_assistance/cards/publications/ibm_guidelines_en.pdf
- European Commission. (2010). *Integrating Maritime Surveillance*. Maritime Affairs and Fisheries. Luxembourg: Publication office of the European Union.
- European Commission. (2011). *First Annual Report on the implementation of the EU Internal Security Strategy*. Brussels.
- European Commission. (2012, October). Commission Communication on EU Risk management and supply chain security. Brussels.
- European Commission. (2013, november 29). *EUROSUR: Protecting the Schengen external borders - protecting migrants' lives*. Retrieved april 30, 2015, from European Comission:
http://europa.eu/rapid/press-release_MEMO-13-1070_en.htm
- European Commission. (2013, October 21). Firearms and the internal security of the EU: protecting citizens and disrupting illegal trafficking.
- European Commission. (2013, april 9). Questions and Answers: Schengen Information System (SIS II). Brussels, Belgium.
- European Commission. (2014, august 7). COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL. *COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL Better situational awareness by enhanced cooperation across maritime surveillance authorities: next steps within the Common Information Sharing Environment for the EU maritime domain* . Brussels.
- European Commission. (2014, march 27). EU Common Risk Managment Framework. Brussels: Taxation and Customs.

- European Commission. (2014). *EU Common Risk Management Framework(CRMF)*. brussels: Taxation and customs union.
- European Commission. (2014, november 20). *European Arrest Warrant*. Retrieved february 5, 2015, from European Commission: http://ec.europa.eu/justice/criminal/recognition-decision/european-arrest-warrant/index_en.htm
- European Commission. (2015, april 2). *Prüm Decision*. Retrieved april 10, 2015, from http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/police-cooperation/prum-decision/index_en.htm
- European Commission. (2015, april 14). *Schengen area*. Retrieved may 12, 2015, from European Commission: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/schengen/index_en.htm
- European Commission. (n.d). *Prüm Decision*. Retrieved may 05, 2015, from European Commission: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/police-cooperation/prum-decision/index_en.htm
- European criminal bar association. (2012). *STATEMENT ON THE PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE FREEZING AND CONFISCATION OF PROCEEDS OF CRIME IN THE EUROPEAN UNION*.
- Europol. (2011). *De Europese opsporingsambtenaar*.
- Europol. (2015). *Finance*. Retrieved april 08, 2015, from Europol: <https://www.europol.europa.eu/content/page/finance-819>
- Europol. (2015). *GENERAL LEGAL BASIS FOR JITS*. Retrieved april 11, 2015, from Europol: <https://www.europol.europa.eu/content/general-legal-basis-jits>
- Europol. (2015). *Management & Control*. Retrieved april 1, 2015, from Europol: <https://www.europol.europa.eu/content/page/management-147>
- Europol. (2015). *Our people*. Retrieved March 28, 2015, from Europol: <https://www.europol.europa.eu/content/page/our-people-19>
- Europol. (2015). *SIENA*. Retrieved march 2, 2015, from Europol: <https://www.europol.europa.eu/content/page/siena-1849>
- Felia Allum, F. L. (2010). *Defining and defying Organized Crime*. Routledge.
- Fijnaut, C. (2004). *Concepts, Patterns and Control Policies in the European Union and Beyond*. Springer.
- Frontex. (2015). *SPECIALISED TRAINING*. Retrieved march 1, 2015, from Frontex: <http://frontex.europa.eu/training/specialised-training/>
- Gutiérrez, Z. (2014). *Exchange of Information and Data Protection in Cross-border Criminal Proceedings in Europe*. Springer.

- Hayes, B. (2012). *Borderline The EU's New Border Surveillance Initiatives*. Heinrich Böll Foundation.
- Hayes, B. (n.d.). *Borderline The EU's New Border Surveillance Initiatives*. Heinrich Böll Foundation, 2012.
- Henk Sollie, N. K. (2011). *Grensoverschrijdende informatie-uitwisseling tussen Nederlandse en Duitse opsporingsinstanties*. Politieacademie.
- HM Revenue & Customs. (2013, June 13). *Authorised Economic Operator certification*. Retrieved may 6, 2015, from Gov.UK: <https://www.gov.uk/authorised-economic-operator-certification>
- Home office. (2005, january 12). *Provisions For Cross-Border Surveillance*. Retrieved april 1, 2015, from Uk.Gov: <https://www.gov.uk/government/publications/provisions-for-cross-border-surveillance>
- House of Commons. (2007). *Justice and Home Affairs Issues at European Union Level*. The Stationery Office.
- Houtzager, M. (2009). *The influence of border control and security on the transfer process at Schiphol*. Delft: Delft University of Technology.
- Jimenez, M. (2013). *European Border Surveillance System: Humanitarianism and (In)security for Sale?* Master thesis, De Universiteit van Amsterdam, Amsterdam.
- Kaathoven, R. v. (2015, maart 14). *35 machinegeweren kwamen via de post naar Brabant*. Retrieved april 12, 2015, from Omroep Brabant: <http://www.omroepbrabant.nl/?news/2261861043/35+machinegeweren+kwamen+via+de+post+naar+Brabant.aspx>
- Kapplinghaus, J. (n.d.). *EUROJUST: SIGNPOST ON THE ROAD TO SECURITY, FREEDOM AND JUSTICE IN EUROPE*. Germany: Eurojust.
- Karanja, S. (2008). *Transparency and Proportionality in the Schengen Information System and Border Control Co-operation*. Brill Nijhoff.
- Klimek, L. (2014). *European Arrest Warrant*. Springer.
- Laan, S. v. (2013, december 1). *Europees grensbewakingssysteem Eurosur van start*. Retrieved april 30, 2015, from Elsevier: <http://www.elsevier.nl/Europese-Unie/nieuws/2013/12/Europees-grensbewakingssysteem-Eurosur-van-start-1420313W/>
- Levy, A. (2013, january 29). *Intervention – Remote Sensing as Remote Control? A Political Geography of EU Border Surveillance*. (U. o. Colorado, Producer) Retrieved april 30, 2015, from antipodefoundation: <http://antipodefoundation.org/2013/01/29/intervention-remote-sensing-as-remote-control-a-political-geography-of-eu-border-surveillance/>
- Marenin, O. (2010). *Challenges for integrated border management in the European Union*. GENEVA CENTRE FOR THE DEMOCRATIC CONTROL OF ARMED FORCES (DCAF).

- McCarthy, D. M. (2011). *An Economic History of Organized Crime: A National and Transnational Approach*. New York: Routledge.
- Mikuriya, K. (n.d). SUPPLY CHAIN SECURITY:The customs community's response. *World Customs Journal*.
- Mikuriya, K. (n.d). SUPPLY CHAIN SECURITY:The customs community's response. *World Customs Journal*.
- Ministerie van Defensie. (2011, march 17). *Marechaussee opent opleidingsinstituut op Schiphol*. Retrieved march 10, 2015, from Defensie: <http://www.defensie.nl/actueel/nieuws/2011/03/17/marechaussee-opent-opleidingsinstituut-op-schiphol>
- Ministry of interior of the Slovak Republic. (n.d.). *National Bureau of SIRENE*. Retrieved may 10, 2015, from minv.sk: http://www.minv.sk/?National_Bureau_of_SIRENE
- Division of competences within the European Union*. (n.d.). Retrieved march 12, 2015, from Europa: http://europa.eu/legislation_summaries/institutional_affairs/treaties/lisbon_treaty/ai0020_en.htm
- Internationale smokkelroutes*. (n.d.). Retrieved march 12, 2015, from Burojansen: http://www.burojansen.nl/traa/b9_2_9.htm
- Pillars of the European Union*. (n.d.). Retrieved may 22, 2015, from Europa: http://europa.eu/legislation_summaries/glossary/eu_pillars_en.htm
- Peers, S. (2009). *UK and Irish opt-outs from EU Justice and Home Affairs (JHA) law*. University of Essex.
- Politie. (2014, September 24). *Grootste Europese actie ooit: duizend aanhoudingen*. Retrieved May 02, 2015, from Politie: <https://www.politie.nl/nieuws/2014/september/24/grootste-europese-actie-ooit-duizend-aanhoudingen.html>
- Raile, D. (2014, april 8). *As US wrestles with regulations, Europe provides friendly skies for commerical drones*. Retrieved december 9, 2014, from Pandodaily: As US wrestles with regulations, Europe provides friendly skies for commerical drones
- Rijksoverheid. (n.d.). *Wat zijn de taken van Europol?* Retrieved april 08, 2015, from Rijksoverheid: <http://www.rijksoverheid.nl/onderwerpen/politie/vraag-en-antwoord/wat-zijn-de-taken-van-europol.html>
- Ronald van Ooik, T. V. (2013). *European Basic Treaties*. Wolters Kluwer.
- Sandler, T. &. (2015). *EU Adopts Strategy and Action Plan to Improve Customs Risk Management*. Retrieved april 11, 2015, from STR Trade: <http://www.strtrade.com/news-publications-EU-customs-risk-management-strategy-action-plan-082214.html>
- Saviano, R. (2006). *Gomorra, Viaggio Nell'Impero Economico E Nel Sogno Di Dominio Della Camorra*. Italy: Mondadori.

Schiphol Group. (2014). *Feiten & Cijfers*. Amsterdam: Schiphol Group.

Schiphol Group. (2014, november). *Maandelijks Verkeer & Vervoer cijfer november 2014*. Retrieved february 10, 2015, from Schiphol:
<http://www.schiphol.nl/SchipholGroup1/Onderneming/Statistieken/VerkeerVervoerCijfers1.htm>

Sollie, H., & Kop, N. (2011). *Grensoverschrijdende informatie-uitwisseling tussen Nederlandse en Duitse opsporingsinstanties*. Politieacademie.

Strijards, G. (2008). Van Schengen over Senningen naar Enschedé en Prüm met Lissabon als eindstation: een ongedachte reisroute. *Het Tijdschrift voor de Politie*.

Taube, F. (2013, november 29). *Eurosur - surveillance or protection for refugees?* Retrieved april 20, 2015, from DW: <http://www.dw.de/eurosur-surveillance-or-protection-for-refugees/a-17262463>

The European council. (2002, june 13). *2002/584/JHA: Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States - Statements made by certain Member States on the adoption of the Framework Decision* . Retrieved january 29, 2015, from Europa: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002F0584:en:HTML>

The European council. (2007, december 13). *Combating cross-border vehicle crime*. Retrieved march 2, 2015, from Europa:
http://europa.eu/legislation_summaries/justice_freedom_security/fight_against_organised_crime/114155_en.htm

The Port of Rotterdam. (z.d.). *Port Security*. Retrieved may 10, 2015, from Port of Rotterdam:
<http://www.portofrotterdam.com/nl/Scheepvaart/wet-regelgeving/Pages/port-security.aspx>

The Stationery Office(Great Britain). (2011). *The EU Internal Security Strategy: 17th Report of Session 2010-12*.

Uhm, D. v. (2009). *Illegale Dierenhandel en de rol van Nederland*. Utrecht: Universiteit Utrecht.

UK government. (2015, february 20). *The JHA opt-in Protocol and Schengen opt-out Protocol*. Retrieved april 7, 2015, from Gov UK:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/206474/Final_opt-in_webpage_update.pdf

Union, E. (Ed.). (2014, november 26). *Convention implementing the Schengen Agreement*. Retrieved january 5, 2015, from wikisource:
http://en.wikisource.org/wiki/Convention_implementing_the_Schengen_Agreement

Warmerdam, J. (2014). *A closer look at Joint Investigation Teams: The Dutch-Bulgarian JIT*. European Studies. University of Twente.

Wely, M. v. (2015, april 19). *Corruptieschandaal bij douane*. Retrieved may 5, 2015, from De Telegraaf: http://www.telegraaf.nl/binnenland/23942872/___Corruptie-schandaal_douane__.html

Wouter Laumans, M. S. (2014). *Mocro Maffia*. Amsterdam: Lebowski publishers.

Wouters, J., & Naert, F. (2004). *Of Arrest Warrants, Terrorist Offences and Extradition Deals. An Appraisal of the EU's Main Criminal Law Measures against Terrorism after '11 September'*. Institute for International Law.

Zarza, Á. G. (2014). *Exchange of Information and Data Protection in Cross-border Criminal Proceedings in Europe*. Springer.

Appendices

Appendix 1: Transcript of interview with Monica den Boer

30-05-2015

Vraag: Kunt u in het kort uitleggen wie u bent en wat u doet?

Monica: Mijn naam is Monica den boer en ik heb gister toevallig afscheid genomen van de politieacademie, na 11,5 jaar daar gewerkt te hebben onder andere als directeur onderzoek kennisontwikkeling. In die functie ben ik mede verantwoordelijk geweest voor het opzetten van lectoraten om de kennis ten aanzien van de politie ter verwetenschappelijken en te verbeteren. In de laatste jaren ben ik vooral actief geweest als hoogleraar van de faculteit der sociale wetenschappen aan de Vrije Universiteit van Amsterdam, daar verzorg ik ook nog promotiemateriaal.. Verder heb ik Publiekelijk allerlei activiteiten gedaan rondom internationalisering van de politie en met name veel gepubliceerd op dit thema en dan op het gebied van georganiseerde misdaad, Interpol ,Europol en de governance daarvan. Daarnaast ben ik ook directeur van mijn eigen bedrijf maar dat is puur in het midden . Dat bedrijf heet Secure. Vandaaruit heb ik een aantal opdrachten intussen vervuld en hoop ik ook op meer opdrachten in de toekomst. Een opdracht die ik bijvoorbeeld heb gedaan is de politiehervorming in Myanmar.

Vraag: Zoals u aangeeft bent u ook bezig met de internationalisering van het politieonderwijs? Kunt u aangeven of hier iets in veranderd is na het verdrag van Lissabon en het Stockholm programma?

Monica: Nou ik kan niet echt zeggen dat het Stockholm programma invloed heeft gehad op de internationalisering van het politieonderwijs. Ik kan zelfs zeggen dat we bij de politie met andere dingen bezig zijn. Het meest concrete voorbeeld daarvan is dat ik ongeveer 1,5 jaar geleden een soort evaluatie heb gedaan naar de internationalisering in het politieonderwijs en daar kwamen een aantal punten uit. Een voorbeeld is dat kennis gefragmenteerd wordt aangeboden, dus politie mensen krijgen niet gestructureerd les en worden niet echt getoetst op internationalisering. De kennis wordt dan ook vooral juridisch aangeboden en omdat er zoveel informatie beschikbaar is kan dit ook op verschillende manieren benaderd worden. En een ander aspect is dat als er kennis is over het internationale karakter wordt het nog niet geoperationaliseerd in concrete situaties.. Laten we zeggen als geheel dat de prioriteit niet ligt bij de internationalisering van politie niet bij de academie en niet bij de politie zelf.

Vraag In het Stockholm programma worden de Joint-Investigation teams genoemd als een cruciaal punt in die internationale samenwerking. U gaf zojuist aan dat de politie nog niet echt met de internationalisering bezig is, hoe is een Nederlandse agent daar dan op voorbereid en welke problemen komen hier bij kijken?

Monica: Laten we allereerst even beginnen om te zeggen dat die samenwerking in Nederland niet noodzakelijk verplicht is. Internationale samenwerking kan je in heel veel elementen opknippen maar ik moet wel benadrukken dat het gros van die samenwerking niet is gebaseerd op operationele samenwerking maar meer op uitwisseling van Intelligence. Over het algemeen zet de Nederlandse regering zich goed om meer gebruik te maken van Europol. Dus eigenlijk wordt er van politiemensen geëist om er rationeler mee om te gaan dan het zo maar even langs je heen te laten gaan maar de bestaande kanalen ook te benutten. Verder zet de Nederlandse regering en de nationale politie in op een strategische samenwerking met een aantal landen. Dat zijn 16 landen die we hebben uitgekozen dat heet het SLP programma : Strategische landen programma. België bijvoorbeeld Duitsland of de UK daar hebben ze strategische landen programma's om dat ieder van die belangrijk zijn voor Nederland op het gebied van de Internationale samenwerking. Voor ieder van die landen worden prioriteiten vastgesteld over wat wij willen aanpakken ook inhoudelijk. Daarbovenop komt ook nog eens het hele verhaal van noemt het maar strategisch/beleidsmatige samenwerking die wij hebben met de Europese Unie. Ook daar wordt gezegd van we moeten meer operationeel gaan samenwerken met als voorbeeld Joint-Investigations team. Daar stuur de Europese Unie heel erg op aan. Het zou voorbeeld ook het voorbeeld van Hazeldonk dat is de grensoverschrijdende samenwerking tussen Nederland, België en Frankrijk een joint hit team kunnen inrichten. Dus dan ben je niet met investigation bezig maar puur met pakken bezig, met grenscontrole selectieve grenscontrole van vuurwapens bijvoorbeeld. Dat aspect die operationele samenwerking die is nog relatief klein ten opzichte van internationale samenwerking op het gebied van informatie. Dat gaat niet natuurlijk niet zomaar om dit te laten groeien, je kan natuurlijk niet gaan samenwerken als je daar niet de fondsen voor hebt. Of als je niet de culturele understanding op orde hebt. Dus eigenlijk is die operationele samenwerking nog niet erg gestructureerd.

Vraag: Doordat er zoveel verschillende systemen beschikbaar zijn zoals de SIENA, SIS en Eurosur, kunnen de autoriteiten hierdoor nog wel het overzicht behouden en dupliceren die systemen elkaar niet.

Monica: In de 1^e plaats maakt de politie gewoon van haar eigen nationale systemen en je ziet dan ook dat de politie nog niet heel erg aangehaakt is op die Internationale systemen. Wat de Nederlandse politie doet is daartoe is International rechtshulpcentrales op richten IRC, daar zijn er nu een stuk of

6 / 7 van en dat moeten er 10 gaan worden. Daarnaast komt er ook een landelijke IRC. Deze heeft ook een coördinerende functie. Die zijn ook verantwoordelijk voor het doorsluizen van de informatie op internationaal gebied. Eigenlijk zou je zo dat hun de sluis zijn naar die Internationale informatiesystemen. Voor die politie is Eurosur niet interessant, de politie zit daar niet in. Eurodac zit de politie ook nog niet in. We hebben het ook het Schengen informatie systeem wat in feite een historisch systeem. En het grootste deel van wat daar instaan aan data, het zijn over de 40 miljoen gegevens. Heeft betrekking op een wanted illions, vreemdelingen die niet gewenst zijn maar ook op goederen zoals wapens en voertuigen, passporten. Als je de politie erover hoor praten dan zeggen ze eigenlijk'' we hebben er wel wat aan maar gewoon om iets te verifiëren dus hit/ not hit systeem maar als je echt snel wilt handelen met organized crime dan heb je aan dat systeem niet heel erg veel, sterker nog het wordt vaak helemaal niet gebruikt'' en dat kun je allemaal lezen in mijn rapport wat ik heb geschreven voor het wetenschappelijk onderzoek en documentatie center(WORC) dat kan je downloaden van het internet en is in februari embargo eraf gehaald dus het is nu net 2 maanden in de lucht. Alles staat daarin verwoord. Daar wordt in geconcludeerd dat wij nog lang niet alle kansen benutten. Dat ligt aan verschillende redenen. We zijn bang dat het OM gaat klagen allemaal dat soort van bezwaren, en er is eigenlijk te weinig training en daarom maken we ook niet gebruik van die systemen. Maar goed je zal tegelijkertijd ook moet kijken naar technologische opmars, het feit dat mensen vanaf Iphone die toegang zullen krijgen als ze over de codes beschikken en dat is eigenlijk ook beetje de droom van Stockholm programma waar het magische woord interoperabiliteit wordt gebruikt. Het is een cruciale term om met name ten aanzien van die informatiesystemen om te zeggen dat die met elkaar verbonden moet worden. Je kan niet een grote doos maken en daar al die verbindingstukjes in gaan gooien. Je moet zorgen dat je die stukjes bij elkaar brengt. Europol is nu eigenlijk wel in staat om die systemen te bekijken maar dat heeft best lang geduurd voordat Europol zelf toegang kreeg tot SIS. Van Siena heeft het voordeel dat het ook decentraal kan worden uitgerold.

Vraag: Zoals u aangeeft wordt ook in Nederland bepaalde informatie vaak niet in die systemen gezet, gezien het feit dat u voor u werk ook veel in het buitenland komt, hoe zijn de verhoudingen daar en hoe wordt er daar met de verschillende systemen omgesprongen

Monica: Ik denk dat we veel meer actieve uiting gaan geven aan het Siena systeem van Europol. Dit wordt ook gestimuleerd door de nationale politie en de regering. Met Prüm hebben we wat meer problemen gehad, dat is dat verdrag wat na Schengen is gekomen om nog meer dingen samen te kunnen doen op het gebied van veiligheid. Dus onder het verdrag van Prüm kan je het SIS ook gebruiken voor doeleinden als de bestrijding van terrorisme en georganiseerde misdaad en ook voor public order. Daar zijn we een beetje traag op gang gekomen maar ik denk dat nu wel redelijk op orde is. Er zijn wel huiveringen als het gaat over uitwisseling van informatie met bepaalde landen met bepaalde regimes waarvan we niet helemaal zeker weten wat zij met die informatie gaan doen. Nou

denk bijvoorbeeld aan : Roemenië, Bulgarije dat zijn landen moeite heeft en extra stapje moet gaan nemen om daarmee te gaan samenwerken. Toch kan je in mijn rapport zien dat als er eenmaal een hele concrete vorm samenwerking is bijvoorbeeld op het gebied van vrouwenhandel, dat kan leiden tot een hele vruchtbare samenwerking. En een hele actieve asset of information. Wat uiteindelijk voorwaardelijk voor die samenwerking is het bouwen van vertrouwen. Je kunt als politie niet uitsluitend afhankelijk zijn van al die informatie die in die systemen zit je moet het ook man-to-man woman-to-woman doen met elkaar en je moet dat bijvoorbeeld ook doen via die liaison officers die we hebben. Je hebt natuurlijk vaak als er sprake is van echte georganiseerde misdaad dat teams uit Nederland een bezoek brengen aan het desbetreffende land om daar gewoon echt letterlijk met de mensen aan tafel te gaan zitten en te gaan van hoe kunnen wij nou een soort van gesloten box van informatie met elkaar waar alles in kan en waarmee we dus een dossier kunnen opbouwen tegen een club die aan mensenhandel of wapenhandel doet. Andere landen als ons, dat staat ook in mijn rapport. Elke lidstaat zit er anders in, ik heb er maar een aantal onderzocht. De UK is over het algemeen heel erg tevreden over de samenwerking met Nederland, Duitsland heeft af en toe zijn bedenkingen omdat ze vinden dat er in Nederland teveel keuzes worden gemaakt om bijvoorbeeld niet te vervolgen en wordt er bijvoorbeeld ook geen informatie gewonnen. Dat heeft te maken met het juridische principe dat we hier in Nederland het Principle of Opportunity, en Duitsland het legaliteitsprincipe dat betekent dat je alle zaken ook daadwerkelijk moet vervolgen. Dat leidt tot culturele en juridische meningsverschillen over hoe je om gaat met informatie. Belgen hebben een gemengd beeld daar heb ik onderzoek naar gedaan met Belgische liaison officers die aangaven dat de Nederlanders er veel te strak in zitten en te lang zitten te denken over welke kaarten ze neergooien en over welke kaarten. Daarnaast hebben we een beetje het systeem van sturen en wegen qua informatie en intelligence uitwisseling wat het hele systeem bureaucratiseert. En je weet zelf als je bureaucratiseert gaat daar heel veel tijd verloren.

Vraag: Volgens u, wat zou de EU kunnen verbeteren aan het nieuwe plan wat nu klaar ligt?

Monica: Ik heb daar nu inmiddels al een aantal lezingen over gegeven en vorig jaar werden wij als wetenschappers uitgenodigd in Brussel om daar over na te denken. Het belangrijkste nu is consolideren, dus niet nog meer regels erbij gaan verzinnen maar gewoon kijken naar de middelen die we nu hebben. Er is al een implementatietekort ten aanzien van Europese instrumenten, we hebben bij de politiediensten geïnformeerd in Nederland waar te maken hebben met reorganisaties o.a. . budgetbeperkingen waardoor we eigenlijk teveel op het binnenland gericht zijn en te weinig op het buitenland. Er is een capaciteitstekort, een kennistekort. En dat moet eerst worden verholpen voordat we weer verder gaan. Laten we eerst gaan kijken in deze fase naar soberheid en naar wat we in onze tool box hebben zitten. Waar we inmiddels al honderden instrumenten in hebben zitten ten aanzien van internationale politie instrumenten en laten we die nou eens zorgvuldig gaan wegen voordat we

verder, en kijken welke roestige tools eruit kunnen en welke tools nog liggen te glimmen in de gereedschapskist. Die pak je vervolgens op en die operationaliseer je. En met name de tool JIT moet worden uitgebouwd. Het enige probleem is dat de joint investigaton teams nu een soort van toverkauwgomballen zijn, ze kunnen heel klein zijn, maar ze kunnen ook heel groot zijn. Bijvoorbeeld vanuit Nederland wordt heel vaak heel trots gesproken ‘we hebben een JIT’ dan hebben ze dus een JIT met het VK dat is een bilateraal JIT maar dat is natuurlijk makkelijk want dit is niet een JIT zoals het ooit bedoeld was , dus met participatie van Europol. Die JIT’s zijn over het algemeen nog redelijk klein en niet proactief. Ik zou graag willen dat de Europese Unie daar werk van gaat maken en er meer kracht op gaat zetten en laat zien dat de Europese Unie menens is met de implementatie van deze tools. Het is een schande dat we steeds weer nieuwe dingen gaan verzinnen en dat er geen enkele synergie lijkt te zijn dus de bovenlaag, middenlaag en onderlaag. Waarbij de EU de bovenlaag is, waar we overigens zelf over mee praten, het is niet zo dat Brussels ons dicteert maar we praten er zelf over mee en zijn zelf verantwoordelijk voor de dingen die we verzinnen. Ik heb overigens vorige week een scriptie beoordeeld van iemand die heel specifiek onderzoek heeft gedaan naar de grens regionale samenwerking Nederland België vanuit Brabant-Noord. En die ziet dat daar dan weer allemaal andere dingen verzonnen worden. Dus dat zit totaal los van wat de EU nu totaal heeft neergelegd als een beleidsagenda met hele duidelijke prioriteiten. Daar gaan we op samenwerken cybercrime, mensenhandel, wapenhandel maar laten we daarmee eens 5 jaar onze pijlen op richten. Laten we daar lessen van leren , en daarna maar weer eens kijken hoe we daar mee verder gaan.. Je ziet vaak dat het in Brussel allemaal mooi voor elkaar is. Wat ik net al zeg we praten daar over mee, het kan dus niet als een verassing komen dat, dat een tool opeens wordt geïmplementeerd maar als het dan eenmaal op ons komt is het vaak , ‘ja geen tijd, ja lastig’. Het blijft daarom ook een beetje hangen in de top van de nationale politie terwijl het diep geankerd in heel de organisatie moet gaan komen. Dat kan je dus niet afdwingen, maar ik denk wel dat Stockholm of post-Stockholm meer moet gaan leven. De hele governance van de nationale politie is zo veranderd door alles in die top te laten halen dat het niet neerduwrelt naar in laten we zeggen het straatwerk van de politie. Als je ook om je heen kijkt naar Rotterdam , Den Haag , Amsterdam dan zie je bijvoorbeeld ook dat alles internationale lijntjes heeft.

Appendix 2: Student Ethics Form

European Studies

Student Ethics Form

Your name:

Supervisor:

Instructions/checklist

Before completing this form you should read the APA Ethics Code (<http://www.apa.org/ethics/code/index.aspx>). If you are planning research with human subjects you should also look at the sample consent form available in the Final Project and Dissertation Guide.

- a. [] Read section 3 that your supervisor will have to sign. Make sure that you cover all these issues in section 1.
- b. [] Complete sections 1 and, if you are using human subjects, section 2, of this form, and sign it.
- c. [] Ask your project supervisor to read these sections (and the draft consent form if you have one) and sign the form.
- d. [] Append this signed form as an appendix to your dissertation.

Section 1. Project Outline (to be completed by student)

(i) Title of Project:

(ii) Aims of project:

- (iii) Will you involve other people in your project – e.g. via formal or informal interviews, group discussions, questionnaires, internet surveys etc. (Note: if you are using data that has already been collected by another researcher – e.g. recordings or transcripts of conversations given to you by your supervisor, you should answer ‘NO’ to this question.)**

YES / NO

If no: you should now sign the statement below and return the form to your supervisor. You have completed this form.

This project is not designed to include research with human subjects . I understand that I do not have ethical clearance to interview people (formally or informally) about the topic of my research, to carry out internet research (e.g. on chat rooms or discussion boards) or in any other way to use people as subjects in my research.

Student's signature _____ - date _____

If yes: you should complete the rest of this form.

Section 2 Complete this section only if you answered YES to question (iii) above.

(i) What will the participants have to do? (v. brief outline of procedure):

(ii) What sort of people will the participants be and how will they be recruited?

(iii) What sort stimuli or materials will your participants be exposed to, tick the appropriate boxes and then state what they are in the space below?

Questionnaires[]; Pictures[]; Sounds []; Words[]; Other[].

(iv) Consent: Informed consent must be obtained for all participants before they take part in your project. Either verbally or by means of an informed consent form you should state what participants will be doing, drawing attention to anything they could conceivably object to subsequently. You should also state how they can withdraw from the study at any time and the measures you are taking to ensure the confidentiality of data. A standard informed consent form is available in the Dissertation Manual.

(vi) What procedures will you follow in order to guarantee the confidentiality of participants' data? Personal data (name, addresses etc.) should not be stored in such a way that they can be associated with the participant's data.

Student's signature: **date:**

Supervisor's signature (if satisfied with the proposed procedures): **date:**

Appendix 3: Informed Consent Form

Informed Consent Form

Informed Consent Form

- 1) Research Project Title
The Stockholm Programme: The Internal Security Strategy' and it's focus on cross-border crime.
- 2) Project Description (1 paragraph)
The paper is aimed to research what measures have been set out in the ISS to tackle cross-border crime and smuggling of prohibited goods by focusing on police and judicial cooperation guidelines in the plan.

If you agree to take part in this study please read the following statement and sign this form.

I am 16 years of age or older.

I can confirm that I have read and understood the description and aims of this research. The researcher has answered all the questions that I had to my satisfaction.

I agree to the audio recording of my interview with the researcher.

I understand that the researcher offers me the following guarantees:

All information will be treated in the strictest confidence. My name will not be used in the study unless I give permission for it.

Recordings will be accessible only by the researcher. Unless otherwise agreed, anonymity will be ensured at all times. Pseudonyms will be used in the transcriptions.

I can ask for the recording to be stopped at any time and anything to be deleted from it.

I consent to take part in the research on the basis of the guarantees outlined above.

Signed: _____ Date: 1/5/15

