

# Contents

<b>Summary</b> .....	<b>3</b>
----------------------	----------

<b>Preface</b> .....	<b>6</b>
----------------------	----------

## **Chapter 1**

<b>Introduction into the Research of Eurojust</b> .....	<b>7</b>
---	----------

1.1 Europe's internal security policy: coordination of the fight against cross-border crime; an introduction .....	7
1.2 Research question.....	9
1.3 Rationale of the research .....	10
1.4 Limits of the research.....	11
1.5 How to read this paper .....	11

## **Chapter 2**

<b>Internal security policy and cross border drugs trafficking in Europe</b> .....	<b>13</b>
--	-----------

2.1 The development of the institutional framework of the European Union. ....	13
2.2 Drugs policy and the three pillars. ....	18
2.3 Agenda setting of Drugs related problems .....	19
2.4 The reality of drugs related crime in EU.....	19
2.5 The response of Europe: no war, no fight against, but strategic coordination .....	22
2.6 The European actors in the fight against drugs trafficking. ....	26
2.7 Joint Investigations Teams (JIT). ....	28
2.8 The Dutch response: drugs policy and actors involved in prosecution and law enforcement. ....	28
2.8.1 The Dutch drug policy.....	29
2.8.2 Actors in the Netherlands.....	30
2.9 Comparison between the drugs policy of the European Union and the Netherlands.. ....	32

## **Chapter 3**

<b>Theoretical framework</b> .....	<b>33</b>
------------------------------------	-----------

3.1 Contingency Theory. ....	33
3.2 Coordination in the EU: different levels of coordination capacity.....	34
3.3 How organisations act together: Inter-Organizational Coordination, the theory of Alexander.....	37
3.3.1 Effective coordination: IOC structures and their fit.....	37
3.4 Conclusion .....	39

<b>Chapter 4</b>	
<b>Design, operationalisation and data collection .....</b>	<b>40</b>
4.1	Operationalisation of theoretical perspectives..... 40
4.2	Data collection .....
	43
<b>Chapter 5</b>	
<b>Results: coordination for fighting drugs trafficking in Europe .....</b>	<b>44</b>
5.1	Eurojust .....
	44
5.2	Coordination by Eurojust.....
	49
5.2.1	Eleven drugs trafficking cases.....
	50
5.2.2	How effective is the JIT as coordination vehicle for Eurojust?.....
	54
5.2.3	Organisational problems of Eurojust .....
	54
5.3	How effective is the JIT as coordination vehicle for the Netherlands? .....
	57
5.3.1	The Dutch experience with cross border coordination for drugs trafficking: two cases .....
	57
5.3.2	Comparison of the two approaches.....
	58
5.4	Analysis of cases within three theoretical frameworks. ....
	60
5.4.1	Describing the environment of Eurojust using the Contingency theory .....
	60
5.4.2	Analysing of the coordination capacity of the cases by using Metcalfe's scale. .....
	62
5.4.3	Analysis of the cases with Alexander's theoretical framework for Inter Organisational Coordination.....
	64
<b>Chapter 6</b>	
<b>Conclusions, recommendations and reflections .....</b>	<b>66</b>
6.1	Conclusions: answering of the four sub questions. ....
	68
6.2	Overall conclusion and recommendations .....
	71
6.3	Reflections .....
	72
<b>References .....</b>	<b>73</b>
Books .....	73
Reports .....	73
Articles & Publications .....	74
Websites .....	75
Reader .....	75
<b>Annex I.....</b>	<b>76</b>

## Summary

According to the European Commission, European Union citizens easily take for granted that they can travel, work and live anywhere in the EU. Until the 11th of September 2001 they didn't think about their safety. And the truth is that European citizens can only fully benefit the right of open borders if they can lead their lives and go about their business in security and safety. Therefore European citizens must be protected against international crime and be availed to enjoy equal access to justice (Website EU freedom security and justice, 5-7-2006).

However, the question is: Is it possible for the EU to unify forces for combating international crime? And if so, which decision processes are involved to shape such a unified body?

the European commission see a priority in allowing Member States to improve their cooperation in dealing with organized crime, taking into account the policies already implemented by the member states.

The aim of the European Commission is to close loopholes rather than duplicate international instruments and as such contribute to general worldwide policies and approaches rather than build a comprehensive system of its own (Website EU freedom security and justice, 5-7-2006).

In order to improve the coordination between Member States the EU established a new agency: **Eurojust**.

Eurojust is a new European Union body founded in 2002 to enhance the effectiveness of the competent authorities within Member States in dealing with investigation and prosecution of serious cross-border and organized crime. Eurojust was founded as a EU body to coordinate the battle against drugs trafficking in spite of the diverging views of Member States, in particular of The Netherlands. The policy of the European Union focuses on establishing a better coordination between the law enforcement and prosecuting agencies of the member States. Coordination is a way to 'solve' this European drugs problem (see section 2.2) and in line with this statement a 4-year action plan (2005 – 2008) was proposed for achieving strategic coordination (European Commission, 14-2-2005). This plan bolsters the role of Eurojust as the most important coordination agency for the fight against cross border drugs trafficking.

Eurojust stimulates and improves the co-ordination of investigations and prosecutions between competent authorities in the member states rendering support to deal more effectively with cross border crime. In particular Eurojust wants to be facilitating the execution of international mutual legal assistance, and of the implementation of extradition requests (Website EU freedom security and justice, 5-7-2006).

Because of the "hot" position of the drugs problem on the EU agenda and the highly diverse moral views on the topic, the drugs problem functions as a (sometimes welcomed) distracter for other EU problems (Boekhout van Solinge, p. 139, 2000). Many different departments and agencies in the EU are involved in the illegal drugs related policy development and administration. This would not be a problem if the coordination between all these EU actors was well established. But this is what seems to lack.

This research investigates why it is so difficult in the European Union to coordinate the activities of law enforcement and prosecution of agencies of the Member States and what can be done to be more effective in combating serious cross border drugs trafficking

In this master project I investigate:

## **How is the organisation of Eurojust functioning in the European arena; what are the tasks and barriers and what needs still to be done?**

### **-an analysis of practices of Eurojust -**

The sub questions to explore this question in more detail are:

- 1 In what way can the theoretical perspectives properly describe the dynamics of coordination in the European Union?
- 2 What are the tasks and functions of Eurojust?
- 3 What are the barriers of Eurojust; what are the problems Eurojust faces in daily practice?
- 4 Is Eurojust doing a good job, what is going well, what must change and how can Eurojust function better?

This study is a case study about Eurojust. I describe in this research:

- The political historical environment of the European Union (the treaties) which laid the legal foundation for Eurojust.
- Current EU drugs policy (2005 – 2008 action plan) which directs the current actions of Eurojust.
- Coordination for cross border drugs trafficking on the level of the Netherlands. I will look at coordination in the EU from different perspectives: from the perspective of Member States as opposed to the Supranational perspective of Eurojust.
- In some detail specific coordination projects done by Eurojust and the Netherlands (the cases).
- The cases through the lens of three theoretical perspectives: the contingency theory (Rosenthal, Ringeling, Bovens, 't Hart & Van Twist, 1996), the coordination capacity scale (Metcalf, 1997) and Alexander's theoretical framework of Inter Organizational Coordination (Alexander, 1995).

This study tries to get a rich picture of what coordination of Eurojust in the EU actually means.

## **Results**

Our results show that coordination in the European Union is not an easy thing to do.

**This project shows that Eurojust is capable to coordinate the prosecuting and law enforcement activities of Member States against cross border drugs trafficking in a successful manner.**

However our data also suggests that the next (policy) decisions need to be taken in order to improve the European coordination.

### **1. Bolster the arbitration and mediation function of Eurojust.**

Our analysis clearly showed that mediation and arbitration are important coordination activities performed by Eurojust. To my knowledge, Member States until now always follow the advice of Eurojust. It is desirable to regulate the binding character of the advice of Eurojust in the deeds of the organisation.

**2. Remove the legal obstructions for a closer cooperation between Europol and Eurojust.**

European regulations prevent Europol and Eurojust to fully work together as virtually one organisation. From a prosecuting and law enforcement perspective, it is incomprehensible that there are restrictions for Eurojust and to fully exchange all information available.

**3. Give Eurojust the prerogative to start own investigations.**

Eurojust only acts upon requests for help from Member States. This is not enough if Europe wants to become successful in their fight against cross border drugs trafficking. Eurojust sometimes is better informed than a certain Member State about the activities of a specific criminal organisation. Waiting for a request is a waste of time and energy. It is best to lay down this right to investigate for Eurojust in a new European convention.

**4. Member States can do more together.**

Metcalfe warned for the danger of duplications and overlap in the EU, causing a lot of frustration and unproductive conflict. The Dutch JIT models show that with the right preparations, two Member States can cooperate successfully. Not every coordination problem needs to be "solved" through involvement of Eurojust.

Our data suggest that complicated cases or cases where three or more Member States are involved need Eurojust as coordinating agency. Member States can do more to cooperate together in the fight against cross border drugs trafficking.

**5. Invest in (JIT) team members.**

The Dutch cases showed that it is worthwhile to invest in programs for reducing differences in culture between team members of an international coordination endeavour. Strengthening the cultural and professional links seems a "conditio sine qua non" for starting a successful international coordination activity for reducing cross border crime in Europe.

**6. Harmonize the drugs policy of the Member States and the EU.**

The coordination of the fight against cross border drugs crimes is a task for the EU. It is clear that the Member States can not solve the drugs problem on their own, keeping in mind the warnings of Europol about the professionalism of the international crime groups that target the EU. The drugs policy of the Netherlands which is so far away from that of the EU functions as a tough threshold for further coordination between law enforcement and prosecuting departments in Europe.

As said, the changes in Europe not only urge new and fast changes in security policies, the rise of cross border and global crimes like terrorism fosters clear decision making instruments. This research shreds some light on the different powers at play in the policy making process and offers tangible advises to enhance the law enforcement and prosecuting agencies for coordination at the European level.

# Preface

The European Union is an arena which is constantly changing and growing in different directions and at a fast pace. This international surrounding in movement fascinates me and the diverse arenas of different powers involved trigger my interests strongly. International security has become a big issue at this moment in time; boundaries dissolved and a new framework for protection and safety has not been evolved yet. The changes in Europe not only urge new and fast changes in security policies, the rise of cross border and global crimes like terrorism fosters clear decision making instruments. The decision making process at the EU level is not transparent. As said the changes are fast and there are so many powers at play that policy reform at least for now, needs to be a constant subject of research. It is important to analyse the policy decision making process if the EU wants to develop an effective body for international security. Policy reform for me is a relevant concept because it gives the opportunity to point out the constant change in this field.

In this research project, I want to investigate how the law enforcement and prosecution of criminal cross border drugs trafficking in the EU is organised and how it can be improved.

I will focus on the coordination at the European level, on Eurojust, and at the level of one Member State: the Netherlands. Eurojust is an European institution for internal security policy which evolved from the need to coordinate cross border crime. It is the European agency to enhance the battle against drugs trafficking by establishing a better coordination between the law enforcement and prosecuting agencies of the Member States.

In the first chapter I introduce my project and the questions which will be answered in this research. For the convenience of the reader, a book-marker is offered as well.

Then, I present the field of inquiry in chapter 2: development of EU, Eurojust, drugs trafficking and drugs policy in Europe and the Netherlands.

Three theoretical perspectives on coordination are discussed in chapter 3, followed by the operationalization of the theoretical concepts (chapter 4).

The data about coordination of Eurojust for a better prosecuting and law enforcement in EU, gathered from multiple sources, are reported in chapter 5.

My conclusions about the coordination of Eurojust for a better fight against illegal drugs trafficking in Europe and a few personal reflections about this topic are offered in the last chapter.

I want to thank my supervisor dr. A. Van Sluis, who gave me the right support, information and freedom in doing my final research.

# Chapter 1

## Introduction into the Research of Eurojust

According to the European Commission, European Union citizens easily take for granted that they can travel, work and live anywhere in the EU. Until the 11th of September 2001 they didn't think about their safety. And the truth is that European citizens can only fully benefit the right of open borders if they can lead their lives and go about their business in security and safety. Therefore European citizens must be protected against international crime and be availed to enjoy equal access to justice (Website EU freedom security and justice, 5-7-2006).

However, the question is: Is it possible for the EU to unify forces for combating international crime? And if so, which decision processes are involved to shape such a unified body? Which powers are involved in realizing such a full functioning international agency? More specific: which decisions need to be taken to facilitate the prosecution of criminal acts?

Which policy implementations dealing with crime are already realised? How, when and why did they emerge?

### 1.1 Europe's internal security policy: coordination of the fight against cross-border crime; an introduction

Drugs' trafficking is big business; organised crime groups, responsible for the drugs trafficking in Europe, act as well organised international (illegal) companies (INCB, 1997; Boekhout van Solingen, 1998). The use of drugs in Europe is still lower than in the USA however prevalence estimates for the use of cannabis, ecstasy and cocaine are now, in certain European countries, similar to the USA (EMCDDA, 2006).

So the issue of how to tackle the drugs trafficking problem stands high on the political agenda of the European Union. But there are many actors at play and the wide range of views within the EU on drugs makes it difficult to come to a coherent policy. However, as safety of European citizens and security has become a really big issue, Europe struggles to find a way to 'solve' this drugs crime problem.

As to fulfil the objective of creating a European area of justice, the Council of the EU and the European commission see a priority in allowing Member States to improve their cooperation in dealing with organized crime, taking into account the policies already implemented by the member states.

The aim of the European Commission is to close loopholes rather than duplicate international instruments and as such contribute to general worldwide policies and approaches rather than build a comprehensive system of its own (Website EU freedom security and justice, 5-7-2006).

In order to improve the coordination between Member States the EU established a new agency: **Eurojust**.

Eurojust is a new European Union body founded in 2002 to enhance the effectiveness of the competent authorities within Member States in dealing with investigation and

prosecution of serious cross-border and organized crime. Eurojust was founded as a EU body to coordinate the battle against drugs trafficking in spite of the diverging views of Member States, in particular of The Netherlands. The policy of the European Union focuses on establishing a better coordination between the law enforcement and prosecuting agencies of the member States. Coordination is a way to 'solve' this European drugs problem (see section 2.2) and in line with this statement a 4-year action plan (2005 – 2008) was proposed for achieving strategic coordination (European Commission, 14-2-2005). This plan bolsters the role of Eurojust as the most important coordination agency for the fight against cross border drugs trafficking. Eurojust stimulates and improves the co-ordination of investigations and prosecutions between competent authorities in the member states rendering support to deal more effectively with cross border crime. In particular Eurojust wants to be facilitating the execution of international mutual legal assistance, and of the implementation of extradition requests (Website EU freedom security and justice, 5-7-2006). Eurojust's jurisdiction corresponds to that of Europol. Nevertheless, the Council of European Union extended its field of action to other forms of crime like computer crime, and fraud against the financial interests of the Community. The decision of the Council of European Union established that Eurojust has a broader scope of action than Europol (competence for combating certain types of crime related to organised crime) but narrower than the European Judicial Network (competence for combating all types of crime).

Because of the "hot" position of the drugs problem on the EU agenda and the highly diverse moral views on the topic, the drugs problem functions as a (sometimes welcomed) distracter for other EU problems (Boekhout van Solinge, p. 139, 2000). Many different departments and agencies in the EU are involved in the illegal drugs related policy development and administration. This would not be a problem if the coordination between all these EU actors was well established. But this is what seems to lack.

This research investigates why it is so difficult in the European Union to coordinate the activities of law enforcement and prosecution of agencies of the Member States and what can be done to be more effective in combating serious cross border drugs trafficking

In this master project I want to investigate:

**How is the organisation of Eurojust functioning in the European arena; what are the tasks and barriers and what needs still to be done.**

To be able to answer the question whether it is possible to unify forces for combating international crime, it is useful to measure the success of Eurojust and the Netherlands by their taken action.

However if we want to explore whether Eurojust is doing a good job (what is going well at Eurojust and what must change?), we need to take into account the fact that this agency only recently has been established.

The Commission of the EU focuses on enhancing the coordination between member States in the common fight against cross border drugs trafficking. But how is a better coordination between different organisations to be achieved?

To explore this last question three theoretical notions about coordination between organisations are described and used in this research.



## 1.2 Research question

To investigate how coordination in Europe of cross border crime takes place and whether it is effective I will analyse **the coordination practices of Eurojust. I will also analyse some cases on daily practices of the Netherlands** as a Member State which almost has the opposite attitude from Eurojust towards solving the drugs problem.

The central research question then is:

**How is the organisation of Eurojust functioning in the European arena; what are the tasks and barriers and what needs still to be done?**

**-an analysis of practices of Eurojust -**

The sub questions to explore this question in more detail are:

- 5 In what way can the theoretical perspectives properly describe the dynamics of coordination in the European Union?**
- 6 What are the tasks and functions of Eurojust?**
- 7 What are the barriers of Eurojust; what are the problems Eurojust faces in daily practice?**
- 8 Is Eurojust doing a good job, what is going well, what must change and how can Eurojust function better?**

### 1.3 Rationale of the research

The European Union on itself is only just developing as an institute from an historical perspective; everything is moving, boundaries are lost and new frame work is far from being set. Therefore in this explorative study about coordination in the EU and in particular Eurojust I used a flexible design as it best suits my purpose of describing how Eurojust functions in the European arena. Hardly any research has been done in the field of coordination and policy development in the EU, so in exploring whether Eurojust is doing a good job and defining what is going well and what needs to change I am confronted with poorly defined territory.

In order to acquire a good base for my research I made a profound study of the relevant literature. To find out what is already present and what is lacking, as Eurojust has been only recently established, I made use of available documents: specific documents describing the coordination problems in the fight against cross border drugs trafficking in the EU coming from the main actors in this arena: European Union, Eurojust, Europol, Dutch Police department etc.

And to be able to describe what works and what doesn't function well, I used the existing cases relevant for cross border crime coordination: descriptions of specific coordination cases published in annual reports (Eurojust, 2004, 2005) and a study of the Dutch police for the Dutch cases (Corten - van der Sande & Martens, 2006).

In analysing the empirical data, focussed on coordination it has become a typical case study.

#### Case study

A case study is a particular method of qualitative research. Rather than using a large sample and following a rigid protocol to examine a limited numbers of variables, a case study involves an in-depth examination of a single phenomenon.

This study of the coordination by Eurojust is an instrumental case study. I want to make the unfamiliar familiar and try to understand why and in what way coordination takes place in the network of Eurojust.

The case study offers a method of learning about Eurojust (a complex phenomenon) through extensive description and contextual analysis.

This case study of Eurojust is a multi perspective analysis, because I will describe:

1. The political historical environment of the European Union (the treaties) which laid the legal foundation for Eurojust.
2. Current EU drugs policy (2005 – 2008 action plan) which directs the current actions of Eurojust.
3. Coordination for cross border drugs trafficking on the level of the Netherlands. I will look at coordination in the EU from different perspectives: from the perspective of Member States as opposed to the Supranational perspective of Eurojust.
4. In some detail specific coordination projects done by Eurojust and the Netherlands (the cases).
5. The cases through the lens of three theoretical perspectives.

This study tries to get a rich picture of what coordination of Eurojust in the EU actually means. The above mentioned perspectives can be seen as a way of data source triangulation and theory triangulation.

I also planned to use a form of methodological triangulation. I wanted to hold my facts against the knowledge of experts by interviewing the specialists in the relevant

organisations. However, this idea was not welcomed and as such I was not successful in getting interviews with experts from Eurojust, KLPD (international branch of the Dutch police) and Landelijk Parket (International branch of Dutch prosecuting department). Unfortunately I had to drop this whole approach of checking my results with experts from the field under investigation.

**The results presented in this study are an attempt to produce an enriched description of coordination by Eurojust for a better prosecuting of drugs trafficking in the EU.**

## 1.4 Limits of the research

Using a case study brings with it certain specific limitations. The results will enrich our knowledge of the phenomenon: “coordination by Eurojust”, but does not avail to explain why certain coordination activities took place.

I will use the three theoretical perspectives not to test or falsify hypothesis but solely to get a better description of what actually takes place and to derive from there perhaps some expectations.

Crucial for generalization of case studies is the way selection of cases takes place.

This case study has a limited generalization because I will only analyse published cases of Eurojust and the Netherlands. These cases were successful in the eyes of the “case – owner”. Coordination disasters on the EU level are usually not published or made available for the general public. This however is not a real disadvantage because the aim of this study is to get a richer description and a better understanding about why coordination takes place in the EU as it did.

It is a pity that I was not given access to experts of Eurojust and the Dutch prosecuting and law enforcement departments because they probably would have been able to give me information about “unsuccessful cases”. Their information undoubtedly would have enhanced the quality of the results of this study.

## 1.5 How to read this paper

In this chapter I introduced the problem under study and set out the frame work for my problem analyse which lead me to my research question and sub questions. Chapter 2 discusses the development of the EU, the reality of the drugs problem in the EU and the policy responses of Europe and the Netherlands for dealing with this problem. The actors involved in prosecuting and law enforcement of drugs trafficking on European and Dutch level are specified as well.

To get a good picture of the European and Dutch policy about drugs, I advise the reader to study sections 2.5, 2.8.1 and 2.9.

The theoretical frame work for my research is presented in chapter three. I utilize three ‘levels’ to explain the coordination between European law enforcement and prosecuting organisations in combating cross-border drugs trafficking: (1) The Contingency theory on the most concrete level, then, (2) Metcalfe’s coordination capacity scale, and on the most abstract level (3) the Inter Organizational Coordination theory of Alexander (1995).

Readers without any theoretical public policy knowledge are advised to study table 3 (p. 29), table 5 (p. 30) and section 3.3.1.

In chapter four the operationalizations of these theoretical perspectives are defined. The results of the research on coordination of Eurojust are presented in chapter five. In the first two sections of this chapter eleven cases on drugs trafficking of Eurojust are

presented, the functioning of Eurojust is described as well and which organisational problems they encounter. The next section (5.3) reports about the coordination activities in the Netherlands; two models of international coordination are compared. To get a richer description of what coordination by Eurojust means, the cases in section 5.4 are analysed through the lens of the three theoretical perspectives.

In chapter six conclusions and reflexions are given on the four sub questions of this project: 'description of dynamics of coordination by theoretical perspectives', 'tasks and functions of Eurojust', 'barriers for Eurojust', and 'is Eurojust doing a good job'.

## Chapter 2

# Internal security policy and cross border drugs trafficking in Europe

This chapter discusses the impact of illegal drugs trafficking on the internal security of the European Union. In sections 2.1, 2.2 and 2.3 I focus on the history of the EU in relation to more coordination and cooperation between the Member States to make the EU a safe area for their citizens.

Section 2.4 describes the reality of illegal drugs production, consumption and trafficking in the EU. From 2000 onwards, the drugs problem became an official EU issue. This EU policy is set out in section 2.5 and the EU actors in this fight against drugs trafficking are specified in section 2.6. One of the new EU policy instruments for the fight against drugs trafficking is the establishment of Joint Investigation Teams. The nature of this instrument is specified in section 2.7.

In the last part of this chapter (section 2.8 and 2.9) the focus shifts to the level of the Member State, the Netherlands; the drugs policy and actors involved in the fight against drugs consumption, production and trafficking are highlighted.

### 2.1 The development of the institutional framework of the European Union

The establishment of the agency Eurojust and to a lesser extent Europol are a rather "late" development in the European struggle to find an answer for illegal cross border trafficking. Over time the European Union has developed as a result of different policy methods and a wide range of views in different committees. All these different influences have laid the foundation for the way we now look at cross border crime of drugs trafficking in the European Union.

To get an understanding of the policy of the European Union of 2006, the development of the institutional framework is specified in section 2.1. In this chronological overview, special attention is given to the treaties of Maastricht and of Amsterdam and to the assembly of Tampere, because these treaties not only have had major influence in the modern structuring of the organisation of the EU. These treaties are in particular important when it comes to cross border crime and drugs trafficking.

After this chronological overview, the relationship of the EU drugs policy with the three pillar structure will be discussed in section 2.2 and in section 2.3 the EU agenda setting about drugs is described.

The Dutch scholar T. Boekhout van Solinge studied for more than a decade the Drugs problem in the EU. His book "De besluitvorming rondom drugs in de Europese Unie" (Boekhout van Solinge, 2000) greatly influenced this chapter.

At the first agreements in the European Union cross border crime like drugs trafficking was not a point of discussion. In the period from the treaty of Rome until the European Act in 1987 drugs trafficking was a problem that was supposed be solved by the member states themselves. This period of denial of cross border crime needed more attention on the intergovernmental level. Over time it did get more attention but still not good enough to avail exchange of ideas on how to handle the problem at European level.

The first important initiative came from the commission-Stewart-Clark. This commission was founded by the European parliament for an investigation in drugs problems in Member States in the European Union (Boekhout van Solinge, 2000, p. 24).

But the Stewart-Clark didn't share a political unity. The right oriented political view defined drugs problems as an illegal activity and as such the drugs should be banned. The left corner stressed that drugs policy should be focused on damage limitation (Boekhout van Solinge, 2000, p.24).

In 1988 the United Nation came to an agreement on drugs policy and the EU (EEG at that time) signed this for its member states.

The first important political committee in the European Union was the European Comity for drugs control (CELAD) founded in 1989. Its goal was to coordinate the drugs related activities (Boekhout van Solinge, 2000, p.27). This was the first time the European union showed how she was looking at the problem. Through coordination, cross border drugs problems should be diminished and made controllable. So through better cooperation between Member States the reduction of drugs problems should be reached.

In 1991 the European parliament did research on the growth of organized crime in relation to drugs trade (Boekhout van Solinge, 2000, p. 28). This led to the Cooney Report wherein was stated implicitly that the EU policy did not match the drugs problems and that the present policy did not have any effect (Boekhout van Solinge, 2000, p. 28/29).

One might say that the focus on the policy of drugs trafficking of the European Union is on reduction of **the demand** of the drugs. This in contrast with the United States of America where there are mainly repressive measures for **the supply** of drugs (Boekhout van Solinge, 2000, p. 16).

Apart from that it is important to realize that although the European Union is evolving into an important player in the field of drugs trafficking, the European Union still doesn't have mandate in drugs policy in the different Member States (Boekhout van Solinge, 2000, p. 10) and different committees and organisations in the EU are far from organized into a coordinated unit.

Below I give a chronological account on how the European Union developed into the position of "important player" in the policy field for combating cross border crime and drugs trafficking.

### **The treaty of the Benelux, 1962**

This treaty is important for the development of the Netherlands and its neighbour's countries Belgium and Luxembourg in cross border cooperation. In 1962 these countries closed a pact on mutual capitulation and assistance of suspects (Corten-van der Sande & Martens, 2006, p.5). This meant that these countries could arrest and pick up suspects in each other country. In this way suspects would have less space and opportunities to flee, due to regulations on cross border arrest possibilities or capitulation of suspects between countries. In this way the three countries were ahead in time compared to other European Union countries.

### **The TREVI talks, 1975**

In 1975 there was, on initiative of the British government (Joustra, 1997, p.173.), a gathering of the ministries of justice and internal affairs of the Member States countries of that time. The council was named after the Trevi-fountain of Rome and the aim of the meeting was to create more cooperation in the 'arena' of safety. In this period several countries faced a lot of terrorist based crime, so the emphasis of the outcome of the meeting was focussed on reducing terrorism (Corten-van der Sande & Martens, 2006, p.5) and not so much on other forms of cross border crimes.

## **The Schengen treaty, 1985**

In 1985 the treaty of Schengen was signed in Luxembourg. The implication of this treaty involved free transport of persons, goods and services within the participating countries. It also meant the closing off country borders for non-members (Boekhout van Solinge, 2000, p. 40).

On first glance this treaty seemed to have only benefits, however in the case of cross border drugs trafficking the growth of area of distribution became enormous and the physical control almost impossible (no border controls posts within the Schengen area).

## **The Maastricht treaty, 1992**

The Maastricht treaty, officially known as "the Treaty on European Union", is the most relevant as it deals with the modern day-to-day responsibility of the coordination of cross border crime. Therefore I will shortly summarize the most substantial changes as formulated by McCormick (McCormick, 2002, p.78).

The first important feature is that a timetable was created for the creation of one single European currency by 1999.

Then, new policy area's were defined; public health policy (important facet for developing a view on drugs), transport, education, and social policy.

Intergovernmental cooperation became intensified, specifically concerning immigration and asylum. European police intelligence agency (Europol) was founded to fight organized crime and drugs trafficking. A new Committee of Regions was set up and regional funds for poorer EU states were increased.

EU citizens acquired new rights and duties -like the right to live wherever they would like- in the EU. And so 'European citizenship' was created or extended.

The influence of the European Parliament expanded; co-decision procedure was to be implemented, meaning that the EP had to be the third reader before any legislation could be adopted.

Finally three pillars were created to form the new structure of the 'European Union'. The first pillar contains the economic, coal, steel and atomic energy, the second foreign and security policies and the third pillar contains justice and home affairs policies (see table 1).

**Table 1: Three pillars of the European Union with their Policy focus & Decision-making regime (Erasmus University Rotterdam, 2006, p.24).**

<b>Pillar</b>	<b>Policy focus</b>	<b>Decision-making regime</b>
I European Community (EC)	Market policies	Supranational Strong powers of EC, EP & Court of Justice QMV in Council of ministers
II Common Foreign and Security Policy (CFSP)	Foreign and security policies	Intergovernmental marginal power to EC & EP unanimity in Council of ministers no Court of Justice
III; Justice & Home Affairs (PJCC)	Justice and home affairs policies	Intergovernmental Marginal power to EC, EP & Court Unanimity in Council of ministers

## **The Europol agreement, 1995**

On the 26th of July in 1995 the police service Europol was founded. Its foundation was the result of other more treaties (Corten-van der Sande & Martens, 2006, p.6). The Member States needed an organisation which would structure and organize cross border cooperation of police forces. This led to the main goal of Europol in the European Union: assisting with simplifying the information to be shared among Member States. Europol needs to gather and analyze information and intelligence on crime in the European arena. Unfortunately Europol has no investigation power if there is no direct evidence of crime. Direct evidence is just not always present in crime fighting which in the past sometimes meant that Europol had to let go cases, which actually needed attention. From the perspective of effective law enforcement action against cross border crime, it probably would be better that Europol would be endowed with more supranational power to investigate and solve international crime in the E.U. (Website of Prof. Dr. W. Bruggeman, 8-5-2006). However this perspective on Europol is not the official E.U. policy. The 1995 EU agreement on Europol stresses that Europol needs to supply information to Member States which can help a particular country to reduce the national crime level.

## **The treaty of Amsterdam, 1999**

The treaty of Amsterdam has been influential in a way that it proceeded from the developments of the Maastricht treaty but did it not result in global shifts in the structure of the EU like with the treaty of Maastricht.

However the changes due to the treaty of Amsterdam are important because they deal with the development or strengthening of the policies fields asylum, external border controls, immigration, employment, social policy, health protection, consumer control, and environment (McCormick, 2002, p.80); all important factors in relation to cross border drugs trafficking.

Another important addition was adopted as well: a single commissioner was appointed as a representative for the EU foreign policy. And, the cooperation between national police forces and the work of Europol was strengthened.

The institutional changes for the enlargement with new EU countries were not as far reaching as many hoped for. However the enlargement issue of the EU strengthened the necessity for a better and extended cooperation between old and new Member States in the fight against cross border crime.

## **The assembly of Tampere, 1999**

In 1999 the European Council had a special meeting concerning the freedom, safety and justice of the citizens of the European Union. The freedom for citizens of Europe to move wherever they wish in the European Union created a big problem in how to deal with safety issues for all citizens on a policy level. In other words, the clearance of boundaries in the European Union provoked a policy paradox; how can safety be obtained where boundaries are lost and no general policy has developed. One of the main negative side effects concerns how to deal with cross border crime.

At this assembly the awareness occurred in this form:

*"The European Council is determined to develop the Union as an area of freedom, security and justice by making full use of the possibilities offered by the Treaty of Amsterdam. The European Council sends a strong political message to reaffirm the importance of this objective and has agreed on a number of policy orientations and priorities which will speedily make this area a reality"* (Website of the European Council: Official Documents, 17-6-2006).



As we can see this quote defines the importance of areas of freedom and justice and acknowledges the difficulty in the policy field connected to it. The quote not only is a political statement, it also ushers the EU to make a more realistic policy.

Let us take a closer look at the three dimensions described by the assembly of Tampere: the area of freedom, of safety and of justice (Corten-van der Sande & Martens, 2006, p.6).

#### Area of freedom

This dimension is mainly concerned with the right of every EU citizen to move and work wherever wished in the Union. This statement however is not clearly defined due to the fact that it is often not really wanted by each Member State. It is this conservative attitude which create problems.

Shortly stated, an area of freedom cannot occur if there are lots of side conditions. For example; the Netherlands still have problems with the free movement of labour in the Union. They think their market will collapse if they are open to for example the Polish people who come here to work. So, the Dutch are (very) resistant to open their labour market and it is exactly this attitude which is restrictive for the development and growth of a free area.

#### Area of safety

Free exchange of people and goods also creates lots of opportunities for people to cross boundaries and break rules. This is the other side of the coin; a disadvantage of a basically good rule. Freedom offers lots of space for unwanted acts. Cross border crime groups use the open space as quick as possible; in a short period they broadened their area.

#### Area of justice

The area of justice is focused to create a just and even access for citizens to live and work in the European Union. This mainly juridical cooperation between states needs to evolve more than it has done till now. More jurisprudence needs to arise and become available to avail law enforcement

It appears that in the EU there exists a tension between the policies for the area of freedom and for the area of safety. Safety, freedom and justice can only occur if all the Member States are willing to participate fully in cooperating together on these issues. And even then there will be obstacles enough since cultural and practical differences not even have been taken into consideration yet. There is a lot of work to do for Europol, Eurojust, and other institutions in order to stimulate and create more cooperation. However, the Tampere agreements laid the foundations for an important coordination tool for fighting cross border crime: the Joint Investigation Teams (JIT).

### **EU pact on mutual legal assistance in criminal cases (2000)**

In May 2000 a pact was closed for better international juridical assistance in criminal cases. The pact involved additions and new features to the juridical cooperation in the EU. The main addition is that assistance between members will be modernized; this in such a way that requests of countries and given assistance would avail to work effectively. This implies that more transparency of the different legal systems is needed to get to know where obstacles can arise. And knowing the 'obvious' obstacles can make the different legal systems more compatible. If procedures remain different in each country then coordination becomes a never to accomplish aim.

Acknowledging that there are legal differences between Member States is important on itself. Before this date, the state who gave assistance did not take into account the juridical culture of the requesting countries.

This pact is an important step forwards in the EU coordination for the fight against cross border crime (Corten-van der Sande & Martens, 2006, p.7). In article 13 of this treaty the responsibilities and procedures of a Joint Investigation Team (JIT) are defined. A JIT consists of public prosecutors, investigators, police officers, civil servants etc. from different Member States. A JIT has a temporary character and is installed on request from one of the Member States for legal assistance in combating serious cross border crime. Because every request is unique, a JIT will always have different team members focussing on different topics (the request). JIT's are constantly changing in size and in topics.

### **Treaty of Prum (2005)**

The most recent relevant treaty considering cross border crime is the treaty of Prum. It is a successor of the Schengen treaty and offers a new dimension on terrorism- and cross border crime control: "The treaty gives mainly opportunities for an intensified approach of cross border crime" (Website of the Dutch Ministry of Justice, 27-5-2005).

On the 27th of May 2005 the Netherlands, Belgium, Germany, France and Luxembourg, Austria and Spain signed this treaty and other EU countries were and still are invited to join. This treaty contains three additional points considering the other relevant treaties (Website of the Dutch government, 17-6-2006)

First, DNA profile, fingerprints and vehicle registers can be used as identification in the investigation of crimes. And, databases in each Member State are to be available to be used in investigations. So, for example, a Dutch police officer can make use of the French databases to investigate a cross border crime in the Netherlands.

Second, information sharing is put onto a new level. The treaty of Prum gives the participating countries the opportunity to exchange non personal information. This can be done with the aim to reduce the occurrence of crime in their home country, but it is also possible to do so in the neighbouring states.

A final addition is the joint police performance of the JIT's. The Prum treaty gives foreign police officers the right to work in other Member States in line with the legal system of that state. So, if French police officers join a JIT in the Netherlands, they will do their job (as part of the team) in line with the Dutch legal system. In emergency situations, police officers are entitled to cross borders between Member States to fulfil their duty. To give an example: a German police officer, chasing a drug criminal, can cross the Dutch border to arrest the criminal on Dutch territory.

## **2.2 Drugs policy and the three pillars**

The different influences on drugs related policy forced the whole institution of the EU into change. In 1992 the treaty of Maastricht and seven years later, in 1999 the treaty of Amsterdam, changed the institution of the European Union into the three pillars as we know it now. All the policy fields are now divided into the three pillars. As seen in table 1 the three pillars differ not only in their main policy field but also in their decision-making regime and in the division of power. This creates a difficult and unclear view on where to put the different aspects of cross border crime such as drug trafficking. The second and third pillar are intergovernmental of character, only pillar one has a supranational character.

However, even if we set aside the different ways of decision making in the three pillars, there is still the problem of where to classify the problems, policies, and so on in the pillars. If we closely look at our cross border crime of drugs trafficking in the European union, the problem can be divided into different policy fields which then can also be put in different pillars in relation to the differences in the decision making process. For example; public health policy is the responsibility of the first pillar. "The community

supports the protection of public health between Member States and their activities. This includes prevention of diseases and endangering of health, including drugs addiction, as far as research on causes and transfer, health informing and education (article 129 of the treaty of Maastricht)".

The second pillar considering drugs trafficking is mainly focused on how to keep the problems and drugs outside the border of the Union (Boekhout van Solinge, p.39, 2000). The third pillar has not a lot of effect in the field of drugs trafficking. The coordination of policy making is mainly done on a cooperative basis. The power deficit is gradually changing. But the third pillar is strongly limited as a result of lack of cooperation by police and justice in criminal cases (Boekhout van Solinge p. 40, 2000).

## **2.3 Agenda setting of Drugs related problems.**

Drugs problems are a hot topic on the agenda of the European Union and there is more than one reason for this prominent place. First there is the relationship with organized crime. Organized crime has its main income from its distribution and sell of drugs (Boekhout van Solinge, p. 138, 2000). The EU has development actions to not only cut back the use of drugs but also of its distribution.

The second reason is based on the fear of the secondary effects of drugs. To put it more clearly: "in what way do drugs stimulate or cause other unwanted crimes and disturbances?"

The EU states that their civilians find the secondary crimes an important aspect (Boekhout van Solinge, p. 138, 2000,). So obviously the most important reason why drugs are dominant on the policy setting agenda is that the drugs-issue is "easy to sell" to voters (Boekhout van Solinge, p. 138, 2000,). And as a consequence the drugs problem is a policy field where easily vote can be won and a statement can be made.

Because of the "hot" position of the drugs problem on the EU agenda and the highly diverse moral views on the topic, the drugs problem functions as a (sometimes welcomed) distracter for other EU problems (Boekhout van Solinge, p. 139, 2000). Many different departments and agencies in the EU are involved in the illegal drugs related policy development and administration. This would not be a problem if the coordination between all these EU actors was well established. But this is what seems to lack.

This research investigates why it is so difficult in the European Union to coordinate the activities of law enforcement and prosecution of agencies of the Member States to be more effective in combating serious cross border drugs trafficking.

## **2.4 The reality of drugs related crime in EU.**

In the second part of the chapter is will set out which decision processes were involved in shaping a unified body for combating international crime. It became clear which powers are involved in realizing such a full functioning international agency. Here I first will describe the day to day reality of drugs related crime in the EU. Then I offer an overview of the development of the EU policy for the reduction of drugs-related problems (2.6) and I describe which actors in the political administrative area of the EU are involved in the coordination of the fight against cross border drugs trafficking (2.7). The agency Eurojust was established in 2002 to enhance the coordination capacity of the EU in the fight against cross border crime. The Joint Investigation Team (JIT) was created as a way of dealing with cross border crime (2.8). In section 2.9, the focus changes to the level of the Member State, the Netherlands. The drugs policy in the Netherlands is presented,

and an explanation is given of the actors which are involved in the fight against cross border crime. In the last section (2.10) the premises of the drugs policy of the Netherlands is compared with the premises of the European Union drug policy.

### **Production and trafficking of drugs in EU**

Production and trafficking of drugs remain the prime activities of criminal groups in the European Union. No other field of organized crime delivers such an enormous profit. In maximising those profits, most organized crime groups no longer limit their activities to one type of drug. This is reflected in the increasing number of 'poly-drug' seizures and the alarming rise in 'poly-drug' consumption (Europol 2004).

With a variety of European Union drugs production and entry points, there is a large-scale intra-European Union trafficking of all types of drugs. Cannabis from Morocco, for instance, is transported along the South-North axis, from Spain all the way up to Denmark and Sweden. Synthetic drugs produced in the Netherlands and Belgium are finding their way to markets in all the Member States, as is the case for cocaine that mainly enters the territory of the European Union via Spain, the Netherlands or Belgium (Europol 2004).

### **Demand for drugs in EU**

According to the European Monitoring Centre for Drugs and Drug addiction (EMCDDA), drugs use in Europe is still lower than in the USA, but prevalence estimates are now similar in some areas (EMCDDA, 2006). Levels of drug use in the USA have historically been considerably higher than those in European countries. To a large extent, this remains true today, but comparison of data on recent use (last year prevalence) suggests that in a few European countries levels of cannabis, ecstasy and cocaine use among young adults are now similar to those in the USA. And in the case of the recent use of ecstasy by young adults, US estimates are below those in several European countries, possibly reflecting the strong European link in the historical development of the use of this drug. However, overall, the European population average remains lower than the US average on all measures. In many European countries, widespread drug use occurred later than in the USA, and this may be reflected in the higher US lifetime prevalence estimates which to some extent can be thought of as cumulative indicators of use levels over time. (EMCDDA, 2006)

### **Who and what is involved in EU drugs trafficking?**

The scope of organized crime (OC) ranges from traditional pyramid or hierarchical structures with permanent members having well-defined tasks, to family clans and loosely knit groups which co-operate on a temporary basis in a network whenever there is a need or an opportunity. In the latter instance, criminals may be involved with a number of sub-groups within a network and therefore be involved in a number of separate criminal ventures any time. (Europol, 2004, p. 7)

Well established OC groups in Member States guarantee, according to Europol, the wholesale distribution across the EU. The trend of poly-drug trafficking continues. The summary below is based on the 2004 European organized crime report of Europol (Europol, 2004, p.7)

The **cocaine** supply is still dominated by Colombian OC groups who have their networks established in Europe, but within the EU they are also in direct contact with suppliers in South America and the Caribbean. It is estimated that each year approximately 250

tonnes of cocaine are transported to the EU by sea. EU law enforcement agencies seized almost 90 tonnes of cocaine in 2003 (Europol, 2004, p.12).

On a global level, illicit poppy cultivation declined by 6 per cent in 2003 to 169,000 ha, equivalent to a potential **heroin** production of 480 tonnes of which between 60 and 100 tonnes are thought to be destined for the EU. In 2003, only 14 tonnes of heroin were seized by law enforcement in the EU but this is the highest quantity ever taken in. Some 90 per cent of heroin on the market originates from South West Asia. Extensive commercial trade between Asia and Europe and a good infrastructure of land, sea and air connections provide ample opportunity for the trafficking of heroin to Europe. Turkish OC groups still dominating the heroin market are involved in all aspects of the criminal business from the poppy fields in South West Asia to the markets in Europe, although the involvement of Albanian OC groups is increasing. A close co-operation between these two groups is developing (Europol, 2004, p.12).

Most of the 50 to 70 **synthetic drugs** production sites that were dismantled in the EU during 2003 were located in The Netherlands and Belgium. It appears that couriers are now aware that flights arriving directly from The Netherlands and Belgium will be subject to closer scrutiny and therefore choose to travel by an indirect route. In apparent confirmation of this, Germany reports increased trafficking of Dutch ecstasy destined for the US and Australia. Investigations in Member States revealed a growing number of synthetic drug production sites in Estonia (especially for the Finnish market), Serbia, Poland and Germany. There is also an increasing involvement in synthetic drug production of Turkish, Moroccan and Chinese OC groups. Chinese OC groups are of particular interest as, in the past, they have been mainly responsible for the smuggling and distribution of precursor chemicals. Advanced production methodology, the use of sophisticated equipment and the involvement of skilled specialists have resulted in an ever increasing production efficiency and capacity. The production process, from chemical synthesis to the end product of packaging, now invariably takes place in separate locations, occasionally even in different countries. This division of tasks reduces the risks for OC groups for an inclusive production network being dismantled if one site is being discovered by law enforcement (Europol, 2004, p.13).

Morocco remains the principle source for **cannabis resin** (hashish) for the EU. Albania, Pakistan and Afghanistan are also important source countries of cannabis resin. This type of drug remains the most commonly used drug in the EU.

**Herbal cannabis** (marihuana) is supplied to the Member States from Colombia, Jamaica, South Africa and Nigeria. Albania developed into an important source country for this type of drug, specifically for the Greek and Italian market.

In 2003, approximately 900 tonnes of cannabis resin and 52 tonnes of herbal cannabis were seized by law enforcement in the EU (Europol, 2004, p.13).

In France, the number of incidents involving the illegal trafficking of **anabolic and doping substances** more than doubled from 65 in 2002 to 136 in 2003. A large part of these substances are discovered in mail and express freight. **Ephedrine**, especially imported from Pakistan, is often being ordered through the Internet. Other substances required by users are **stanozolol**, **clenbuterol** and **testosterone**. Sweden also experienced an increase in the seizure of doping preparations with the Baltic States, Thailand, Greece and Spain being the main suppliers (Europol, 2004, p.13).

### **Drugs trafficking is big business**

It is clear that drugs production and drugs trafficking is an important economic enterprise. According to the International Narcotics Control Board (INCB 1997) the total revenues of this industry lies around \$ 400 billion. This turnover is equivalent to approximate 8% of the total international trade! In 1994 this figure would have been

larger than the total international trade in iron, steel and motor vehicles, and about the same size as the total international trade in textiles (Boekhout van Solingen, 1998).

## **Conclusion**

Large-scale production and trafficking of drugs remain the most common forms of crime among criminal networks that target the European Union. Given the extent and the impact of organized drugs trafficking, Member States dedicate considerable law enforcement resources to combating this phenomenon. Clearly they cannot address this type of international crime, if not global nature in isolation (Europol, 2005).

It is understandable that the combating of cross border drugs trafficking is high on the priority list of law enforcement agencies in Europe. However, the international organisation of this type of crime asks for coordination on a European level. The next paragraph describes the policy for the European Union for a better coordination against drugs related crime.

## **2.5 The response of Europe: no war, no fight against, but strategic coordination.**

The European policy on drugs differs from the USA. Since mid 1980 the Drugs Enforcement Agency (DEA) is the principal governmental body to fight the war on drugs. The DEA is confident that in the long run they will win this war. Their success stories in this struggle fill their website (Website of the U.S. Drug Enforcement Administration, 3-4-2006).

The European policy until the year 2004 can be described as "fight against". Explaining all the differences between the two policies is beyond the scope of this research paper, but Europe and USA differ in the mechanism they accept in their war or fight against illegal drugs production, trafficking and consumption.

## **Evaluation of 2000 – 2004 EU drugs program**

In December 2004 the EU Parliament discussed the 2000 – 2004 drugs policy and accepted the evaluation of their EU Parliament Member Catania. He concluded that the Commission had not succeeded in reaching their aims: the assessments made by the European Parliament showed that none of the six main objectives set by the EU Anti-Drugs Strategy (2000-2004) achieved favourable results. The European parliament advised the commission: "set clear, precise, quantifiable goals and priorities which can be translated into operational indicators and measures in future Action Plans, very clearly establishing responsibilities and deadlines for implementation, and taking account of the subsidiary principle" (Catania 2004).

The EU drugs strategy 2005–12, adopted by the European Council in December 2004, takes into account the results of the final evaluation of progress made during the previous period (2000–04). The new EU drugs strategy aims to add value to the national strategies while respecting the principles of subsidiary and proportionality set out in the treaties. It sets out two general goals for the EU with regard to drugs:

- achieve a high level of health protection, well-being and social cohesion by complementing the Member States' action in preventing and reducing drugs use and Dependency, and drugs-related harm to health and fabric of society;

- ensure a high level of security for the general public by taking action against drugs production, supply and cross-border trafficking, and intensifying preventive action against drugs-related crime through effective cooperation between Member States (COUNCIL OF THE EUROPEAN UNION, 22 November 2004).

These two goals cover the six priorities identified in the 2000–04 EU strategy on drugs. The new strategy reiterates the integrated, multidisciplinary and balanced approach of combining measures to reduce both demand and supply. It concentrates on these two policy areas and on two cross-cutting themes — ‘international cooperation’, ‘information, research and evaluation’ — and on ‘coordination’ (EMCDDA, 2005).

### **EU 2005 – 2008 drugs program: strategic coordination**

The Commission evaluates the drugs phenomenon as one of the major concerns of the citizens of Europe and a major threat to the security and health of European society. The EU has up to 2 million problem drug users. Finding a realistic and effective response to this problem therefore is a political priority for the European Union. In this paragraph I will give a resume of the **new 2005 - 2008 drugs action plan** (EU Commission, 14-2-2005)

In December 2004, the European Council endorsed the **EU Drugs Strategy (2005-2012)** which sets the framework, objectives and priorities for two consecutive four-year Action Plans to be brought forward by the Commission (Council of the European Union, 22-11-2004). This Strategy is an integral part of the multi annual programme “The Hague Programme” for strengthening freedom, security and justice in the EU which states that “an optimal level of protection of the area of freedom, security and justice requires multi-disciplinary and concerted action both at EU level and national level” (Council of European Union, 22-11-2004).

The Strategy concentrates on the two major dimensions of drugs policy, demand reduction and supply reduction. It also covers a number of cross-cutting themes: international cooperation, research, information and evaluation.

The ultimate aim of the Action Plan is to significantly reduce the prevalence of drug use among the population and to reduce the social harm and health damage caused by the use of and trade in illicit drugs. It aims to provide a framework for a balanced approach for reducing both supply and demand through a number of specific actions.

These should meet the following criteria (Council of the European Union, 22-11-2004):

- Actions at EU level must offer clear added value, and results must be realistic and measurable.
- Actions must be cost-effective and contribute directly to the achievement of at least one of the goals or priorities set out in the Strategy.
- The number of actions in each field should be realistic.

In terms of methodology, the Commission has designed this Action Plan not as a static list of political objectives, but as a dynamic policy instrument. Responsibility for implementation of actions and deadlines are clearly indicated in the Plan. To keep implementation on track, targets whose deadlines have passed or are

unlikely to be met will be subject to recommendations for their implementation or identification of failure to implement (Council of the European Union, 22-11-2004).

The 2005 – 2008 action plan aims at (European Commission, 14-2-2005):

- More coordination: *"Coordination is a key to the establishment and conduct of a successful strategy against drugs"*.
- Demand reduction: *"Measurable reduction of the use of drugs, of dependency and of drugs related health and social risks"*.
- Supply reduction: *"Strengthening EU law enforcement co-operation on both strategic- and crime prevention levels, in order to enhance operational activities in the field of drugs and the diversion of precursors"*.
- More international cooperation: *"Coordinated, effective and more visible action by the Union in international organisations and forums"*.
- Information, research and evaluation: *"A better understanding of the drugs problem and the development of an optimum response to it"*.

In this research I will focus on aim 25 and aim 26; a description can be found in table 2 (European Commission, 14-2-2005).

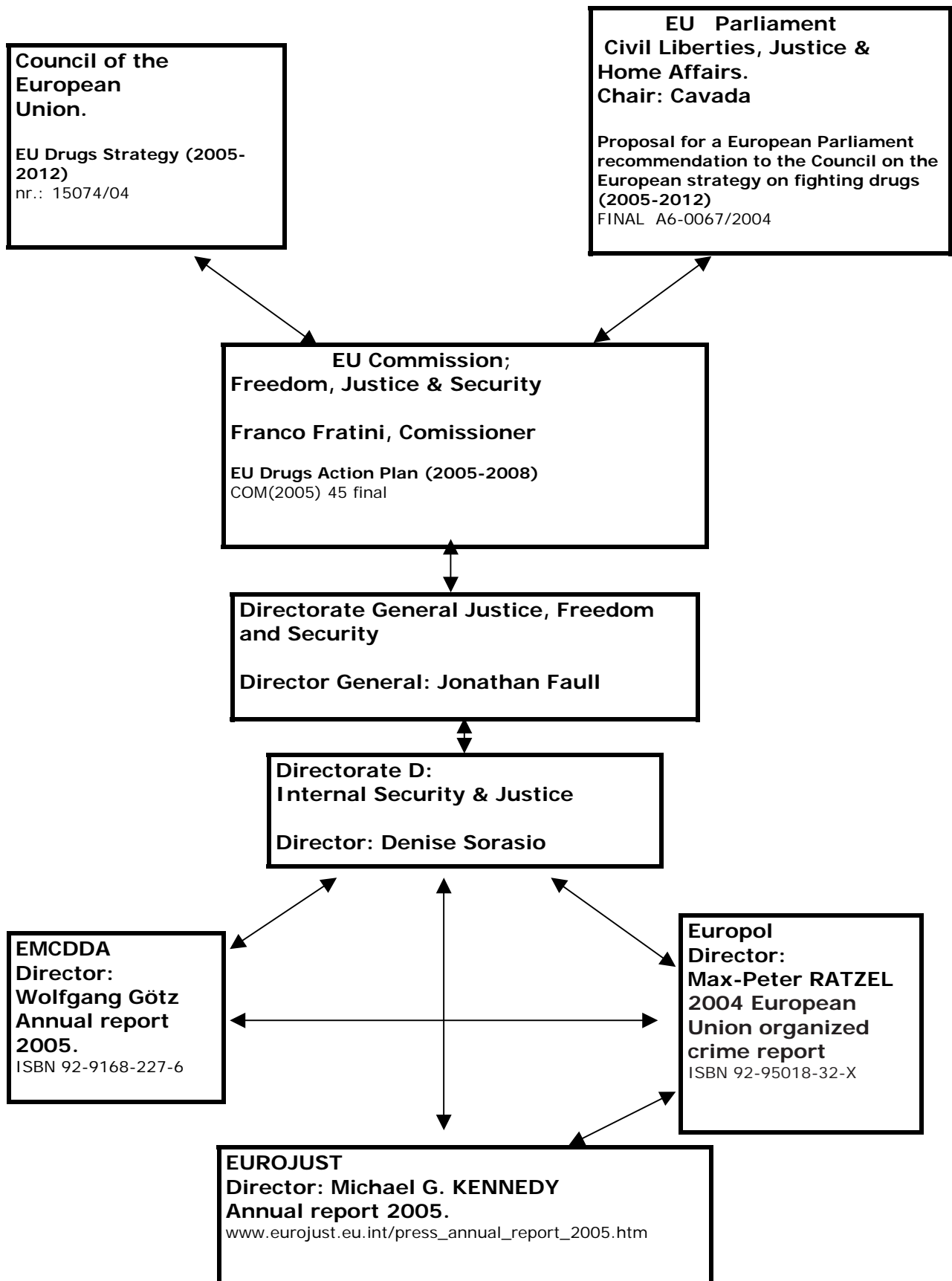




## **2.6 The European actors in the fight against drugs trafficking**

Figure 1 summarizes the principle actors in the European Union which are involved in the fight against cross border drugs trafficking. As far as available, I refer in figure 1 also to their most recent policy statement on drugs trafficking in the European Union.

Figure 1: EU actors for the coordination of diminishing Drugs Trafficking.



## 2.7 Joint Investigations Teams (JIT)

In evaluating the drugs policy 2000- 2004 of the EU, the Commissions and the EU Parliament came to the conclusion that the new EU drugs policy 2005- 2008 needed to have explicit assessment tools for measuring if the proposed aims are attained. A proposed action to step up the coordination in the EU for a better law enforcement against cross border drugs trafficking is to implement Joint Operation Teams (JIT). The legal basis of the JIT was created in the assembly of Tampere and extended in the agreement of 2000 (Corten-van der Sande & Martens, 2006, p.11). In June 2002 there was a new addition created by Belgium, France and Spain and Great Britain, which enhanced the pace of the use of the JIT's in the member states and the judicial range of the teams.

A Joint Investigation Team can basically be created when a member state wants to do a research or investigations on possible illegal affairs which is cross border oriented (Council framework decision, 2002)<sup>1</sup>.

There are some major rules to follow when using the framework of the Joint Investigations Teams (Corten-van der Sande & Martens, 2006, p.11-13):

- Two or more member states should be involved in the investigation.
- The investigations should focus on complex law enforcement project in the EU and the joint project should reduce this complexity in between Member States cooperation.
- The team operates under the judicial laws of the Member State where it is active. Most of the time this means that a JIT must operate under two or more EU law systems.
- The Member State which took the initiative to start a JIT, should take the responsibility for all organisational issues involved.
- The JIT officers (JIT team members) have to follow the orders of all involved Member State representatives.
- But the Information gathering and the use of information for prosecution is only allowed with the approval of the Member States which work together in the JIT.
- The teams can also be 'cross- organisational'. This means the teams can not only have different national member's representatives, but also representatives of organisations like Europol.

A JIT is an instrument for investigating serious cross border offences, mostly for prosecuting and law enforcement of terrorism, drugs trafficking and human trafficking in the EU. The Council framework decision on joint investigation teams of June 2002 asks from the Member States to implement the necessary measures in their own legislation. With the signing and ratification of the treaty of Prüm (May 2005), all Member States have readjust their legal framework for utilization of the JIT instrument.

## 2.8 The Dutch response: drugs policy and actors involved in prosecution and law enforcement

In this paragraph the focus will be changed from the European Union to the perspective of a Member State: the Netherlands. In order to understand the (lack of) coordination between the Netherlands and other European Union countries, we need to comprehend the Dutch drugs policy (section 2.8.1) and get an idea of the complex interplay between

---

<sup>1</sup> Council framework decision on joint investigation teams. Official journal of the European Communities, L162/1 – L162/3, 20.6.2002

the Dutch prosecuting and law enforcement actors in the field of illegal drugs trafficking (section 2.8.2).

### 2.8.1 The Dutch drug policy

The main rationale and basic assumptions of the Dutch drugs policy is formulated in 1995 and is still effective until today (Tweede Kamer, 1995-2005, nr. 1-173). The Netherlands ratified the international treaties about drugs. The most important treaties are the UN Single Convention on Narcotic Drugs in 1961, the UN convention against psychotropic substances in 1971 and the UN convention against illegal trafficking in drugs and psychotropic substances in 1988.

Within this international context the Dutch government utilizes their own premises for the development of a Dutch drugs policy.

The premises are:

- Interventions of the government can have only minor impact upon the 'drugs problem'.
- Drugs consumption can't be eradicated, but it can be controlled.
- National health must be the primal focus of a national drugs policy.
- Criminalization of drug users will deteriorate the drugs problems
- Consumption of drugs is not a criminal fact, but the production and trade of drugs are offences.
- Hard drugs are an unacceptable risk for the national health but soft drugs are evaluated as a minor risk for the national health.

So, the focus of the Dutch drugs policy is directed onto the national health. And secondary the Dutch government wants to curtail the negative consequences of the consumption of drugs for (the Dutch) society (Van Ooyen-Houben, 2006).

Boekhout van Solingen (Boekhout van Solinge, 2000) characterizes this policy of the Dutch government as pragmatic and focused on control. It is a combination of prevention, care, reduction of annoyance, tracing and enforcement with respect to 'demand reduction', 'harm reduction' and 'supply reduction'.

Prevention and differentiated (health) care will lead to demand reduction. Harm reduction can be realized in different ways: providing methadone, providing heroine (in a controlled setting), and prevention and/or combating of drugs related annoyance. Supply reduction will be reached by combating production and trades of hard drugs and to a much lesser extend of soft drugs.

Recently, van Ooyen-Houben (Van Ooyen-Houben 2006, p. 41) did an extensive evaluation of the Dutch drugs policy. She concluded that the main objective of the Dutch drug policy – prevention and reduction of health risk of drugs consumption – has been attained. The National health part of the Dutch drugs policy is on track:

- Level of hard drugs consumption (especially under pupils) is low.
- Level of mortality and drugs related diseases are permanently low.
- No unacceptable increase of consumption of soft drugs; most soft drug users are well integrated in society.
- Recently an increase of cocaine and cannabis addiction is registered (the last one due to the stronger quality of "Nederwiet" (home grown cannabis)).

From the perspective of the Department of Justice and the Department of Interior (Police), the Dutch drugs policy is not so successful (van Ooyen-Houben, p. 42, 2006). The local production and trade of XTC is a big problem; (Holland is the main supplier of XTC for Europe (see also page 18 of this study). The local production of cannabis has been developed into a mature industry (financed and managed by criminal international consortia). The Dutch juridical system is congested with drugs related offences (mostly through cocaine trafficking through Amsterdam International Airport). The "coffee shops" in the border regions with Belgium and Germany cause loads of problems for the local authorities the level of drugs related annoyance is out of control.

These complications –strong international criminal involvement of consortia in the persistent hard drugs scene for the production and trafficking of hard and soft drugs, and the public image of the Dutch drugs policy- present the Kingdom of the Netherlands big problems and lead van Ooyen-Houben to the conclusion that the juridical and enforcement (police) aspects of the Dutch drugs policy are not achieved (Van Ooyen-Houben, 2006).

## **2.8.2 Actors in the Netherlands**

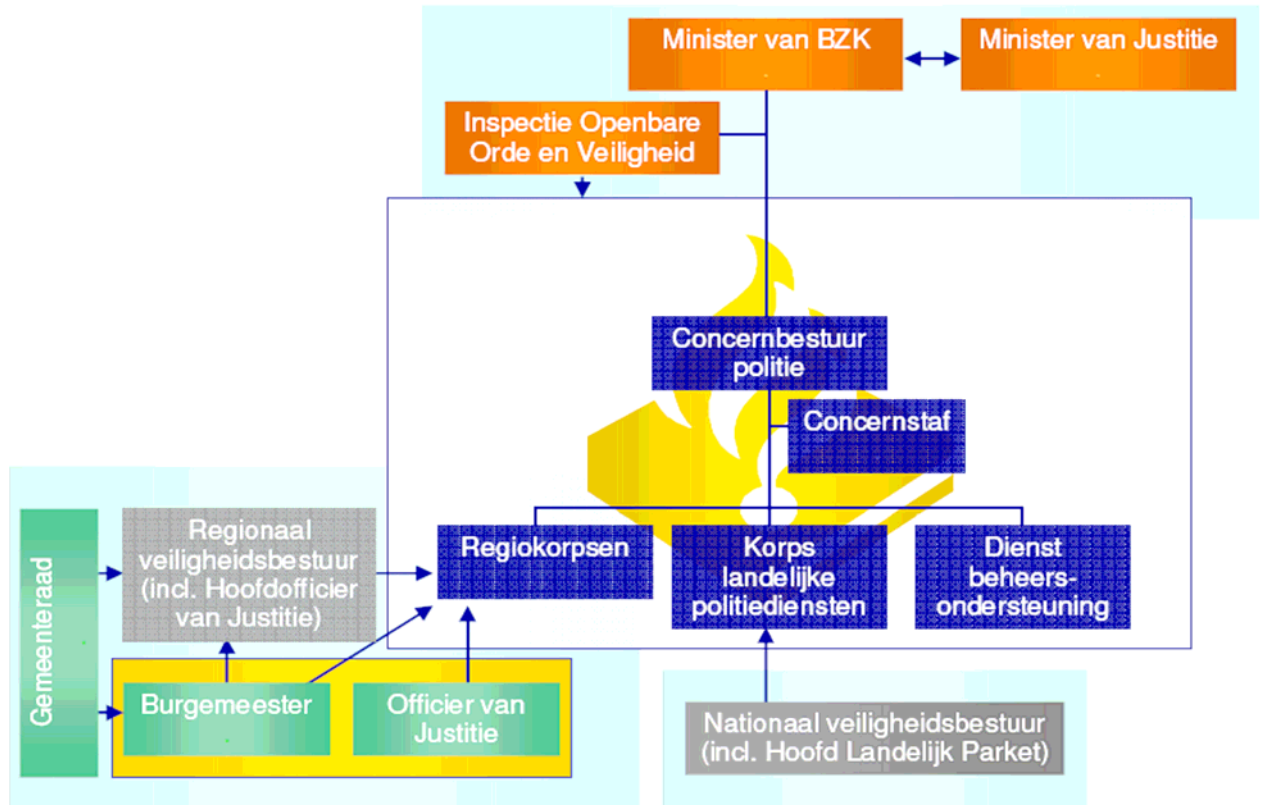
Van Ooyen-Houben (Van Ooyen-Houben, 2006) concluded in her in depth evaluation of the Dutch drugs policy that the legal and law enforcement aspects were not achieved. From this conclusion one cannot infer that the legal organisation in the Netherlands failed with respect to prosecuting drugs offenders or that the police did not have success in enforcing Dutch (drugs) laws. From the European perspective, the Dutch drugs policy is not in line with mainstream drugs policy in other countries. The Netherlands for example, still tolerate the consumption, production (home grown) and trade of soft drugs in their country. This policy is not acceptable for the rest of the European Union. This special position of the Netherlands creates problems for the Dutch prosecuting and law enforcement organisation in the cooperation with their European counter parts in their common fight against illegal drugs trafficking.

In the last decade the Dutch police organisation went through a couple of radical organisational restructurings. One recurring theme of the restructuring debates was the position and tasks of a national investigation and enforcement unit. The history and the current debate about the organisation of the Dutch police is beyond the scope of this paper; this section describes how the Dutch police and legal departments work together. Figure 2 specifies the relationships between the different actors in the Netherlands.

The coordination and cooperation between police and the department of justice in the Netherlands take place in four arenas. The first arena or level contains the Department of internal affairs which constantly communicates with the Department of justice. The arena is controlled or supplemented by a national inspection of public order and safety (Inspection Openbare Orde en Veiligheid). The second arena is mainly police dominated or orientated. This level exists of a central board of Police (Concernbestuur politie), and is assisted by a central staffing (Concernstaf). Under these two there are three organisations; regional police corps, national police services corps and an institution for control assistance. These three communicate with the staff and central police board. The third arena consists of a Public prosecutor and mayor, city councils, and a regional security board with a head of public prosecutor. The mayor and public prosecutor, and regional security board report/communicate directly with the regional corps. The community councils only work with the regional security board and the mayor. Finally there is the national security board. They communicate with the national police service corps.

The development and formulation of the Dutch policy concerning cross border crime drugs trafficking primary starts on the local level. Lots of cases show that the problems of cross border drugs trafficking come to the surface here. For example, in the case of drugs trafficking and unwanted side effects in Maastricht. Maastricht is a community which lies closely to the border of Belgium and Germany. It is widely known that in these countries soft drugs in a form of cannabis can be bought in 'coffee shops'. The unwanted effects of the tolerant Dutch policy on soft drugs is not restricted to the region of Maastricht but can be found in almost every community bordering the Netherlands. So the Dutch policy on cannabis affects indirectly the neighbouring country's policies: the Dutch cannabis market attracts citizens from Belgium, France, Germany. This unwanted side effect of the Dutch drugs policy creates friction with other EU countries.

**Figure 2 Which actors are involved in the coordination for Cross Border Drugs trafficking in the Netherlands? (Politie, 2005)**



**Figuur: Concernmodel Nederlandse politie: lokaal verankerd, nationaal versterkt**

The community of Maastricht feels that the German and Belgian citizens create unwanted disturbance and unsafety. Therefore the mayor of Maastricht proposed to establish some cannabis distribution points or stores far away from the city centre and close to the borders with Belgium and Germany. This obviously elicited strong negative reactions from Belgium (even a political statement of their Prime Minister) and Germany. The local "solution" for the illegal drugs trafficking problem is typical for the Netherlands: health issues and preventing annoyance come first and little attention is paid to the legal objections of the neighbouring countries Germany and Belgium. So, one can expect that successful international coordination for preventing illegal drugs trafficking becomes very difficult.

But also on a national level the Netherlands have a problem with their national drugs policy. The main problem is: how can there be a tolerance of buying, selling and consumption of soft drugs, and not a wanting to legalize the wholesale production and distribution of these drugs. This schizophrenic view on the soft drugs in the Netherlands creates a lot of distortion internally and external in and outside of the European Union. Not every Dutch political party supports this official Dutch soft drugs policy. The Netherlands get a lot of criticism from other Members States. They reject the Dutch soft drugs position as illegal and feel that it blocks further European integration.

From the European Union perspective there is a point here. How can we enhance the coordination of fight against illegal cross border drugs trafficking if the Netherlands is a 'free haven' for soft drugs?

If this discrepancy in drugs policy between the Netherlands and other EU countries and with European Union is not solved it will lead in time to a further devaluation of pillar III of the EU.

## **2.9 Comparison between the drugs policy of the European Union and the Netherlands.**

The policy of the European Union and the Netherlands on drugs differs on a great number of aspects. The Dutch drugs policy is already published in 1995 but up till now its premises have not really been challenged in the Dutch society. There even has not been a formal evaluation. The only discussion in the Netherlands deals with the so called side effects of drugs consumption.

The European Union on the other hand developed a drugs policy in a format of specific goals to be attained. An action plan has been formulated from the wide range of views within the European Parliament and this drugs policy is supposed to be revised every four years (2005 – 2008).

The ultimate aim of the EU drugs policy (action plan 05 – 08) is, to significantly reduce the prevalence of drug use among the population and to reduce the social harm and health damage caused by the use and trade in illicit drugs. The European Commission believes that the EU can have an impact on the reduction of supply and demand. The list of actions presented in annex 1 endorses this view. The Commission defines the drugs problems as a real European issue; a problem however which can be dealt with by way of a better coordination between Member States. To step up the fight against the suppliers of drugs in Europe, the coordination between the initiatives of Member States must be enhanced leading to a measurable reduction in the use of drugs and to a better law enforcement co-operation (European Commission, 14-2-2005).

The premises of the Dutch government however are totally different. They only want to curtail the negative consequences of the consumption of drugs for (the Dutch) society (Van Ooyen-Houben, 2006). The focus of the Dutch drugs policy is directed onto the national health.

The Dutch government presupposes that the government can have only a minor impact upon the drugs problem; drugs consumption can't be eradicated but can be controlled. Therefore the attention is focused on health issues and not criminalizing the users of drugs. Given this focus, it is understandable that the Dutch do not believe in a long lasting success of law enforcement action to reduce the supply of drugs.

The consumption of drugs in the Netherlands is accepted as a "normal" fact of modern life. Production and trade of drugs are offences but there are no policy aims to tackle this problem.

The Netherlands is well aware of the global world we live in, but when it comes to drugs policy the government seems to forget that production, trade and consumption is a massive global business. In strong contrast to the European Union policy on drugs, the Dutch government hardly pays any attention at all to this supra national dimension of the drugs problem.

### **Summarized:**

The European Union firmly thinks that the drugs problem can be solved through a better coordination of actions of the Member States. Europe can make a difference especially for combating this cross border crime of illegal drugs production, trade and consumption. The Dutch government denies the international characteristic of the drugs problems and thinks that the governmental actions to reduce the production and consumption of drugs will have no lasting influence.



# Chapter 3

## Theoretical framework

### Introduction

In this section I want to present my framework for the theory section of my paper. I will utilize three 'levels' of theoretical frameworks to explain the coordination between European law enforcement and prosecuting organisations in combating cross border drugs trafficking.

First I will, on the most abstract level, describe how the contingency theory explains the interdependency between a (public) organisation and its environment (3.1). Then, on a more operational level I introduce the coordination capacity scale adapted from Metcalfe as a tool to analyse coordination problems in a European context. And last, I explore how different organisations can act together through the mere conceptual framework of Inter Organisational Coordination (IOC) described by Alexander (1995). The relevance of the three theoretical frameworks for analysing coordination between prosecuting and law enforcement agencies in the EU, will be discussed in the conclusion (3.4)

### 3.1 Contingency Theory

The contingency theory originated from the dissatisfaction the public policy studies generated about the describing power of existing theories. The main assumption of the contingency theory is that there is not one best way to structure an organisation. A specific structure or leadership style which is effective in certain situations may not be successful in others. The optimal organisational structure is contingent upon various external (and internal) constraints. So the design of the organisation must fit with the environment.

The contingency theory utilizes four dimensions to describe the environment of the organisation (Rosenthal, Ringeling, Bovens, 't Hart & Van Twist, 1996, p.190). The first dimension describes the degree of the predictability of the surrounding. With this dimension one can see to what degree the environment is turbulent, stable or balanced. The second dimension describes the complexity (or simplicity) of the surrounding. The third dimension defines the measure of heterogeneity. It describes the environment as either homogenous or heterogeneous.

The last dimension is hostility. This concept tries to describe the attitude of the surrounding. The four dimensions and their effect upon the organisation are summarized in table 3.

**Table 3: The four dimensions of the contingency theory (Rosenthal, Ringeling, Bovens, 't Hart & Van Twist, 1996, p.190)**

Dimension	Characteristic	Effect
Intensity	The degree of predictability	Turbulent versus Stable
Complexity	The degree of comprehensibility	Simple versus Complex
Heterogeneous	Degree of uniformity	Heterogeneous versus Homogeneity
Hostility	Attitude in regard to the surrounding	Well-meaning versus Hostile

What are the consequences of the environment for the 'fit'?

The contingency theory specifies that the more stable the environment is, the better the interaction with the environment can be formalised. Organisations with a turbulent environment should react in a more ad-hoc way to their environment.

A complex environment asks for a decentralized organisational structure.

If the environment of the organisation is heterogeneous, it is more effective if the organisation is split up in specific sub units, which can focus totally on a specific part of the environment. Strong diversification of the organisation is not necessary if the environment is homogeneous.

An organisation can only cooperate with other network organisations if these organisations have a positive attitude towards cooperation. If hostility is prevalent in the environment, the organisation needs to have a strongly centralized structure

Important to understand is that the different dimensions influence each other and should not be seen as separate from each other. As such, the effectivity of an organisation is related to the way how the organisation functions in its surrounding.

In chapter 5 the environment of Eurojust is characterized in terms of the dimensions of the contingency theory.

### **3.2 Coordination in the EU: different levels of coordination capacity.**

Cross-border drugs trafficking can be characterised as a turbulent organisational environment. In organisational theory, the concept of turbulence is used to characterise difficult organisational environments. According to Metcalfe (1997) turbulence is correlated with the complexity of the environment and with the amount of dependency between the organisations in a network. The higher the interdependency between the organisations, the more turbulence the environment exhibits. Metcalfe underlines that a specific environment of an organisation asks for a specific management capacity (Metcalfe, 1997, p.9). The relationship between interdependency, environment and management capacity is summarised in Table 4.

**Table 4: Interdependency, environment and management capacities<sup>2</sup>**

**Organizational Environments and Management Capacities**

<b>Interdependence</b>	<b>TYPE OF ENVIRONMENT</b>	<b>M A N A G E M E N T CAPACITIES</b>
<b>HIGH</b>	Turbulent Disturbed Reactive	Macro-management Strategic management
	Stable Differentiated	Tactical Management
<b>LOW</b>	Stable Homogeneous	Operational Management

Metcalfe concludes that organisations confronted with turbulent environments; need to invest a lot in inter-organisational cooperation (Metcalfe, 1997, p. 10). For the further development of the EU, this does not mean 'centralisation or taking over functions' of the national administrations, but to develop a flexible development plan which stresses coordination and cooperation (Metcalfe, 1997, p. 10).

Chapter 2 showed that the fight against cross border drugs trafficking in Europe is organized as a loosely coupled network organisation. The effectiveness of network organisations is dependent upon the working relationships between the members. Metcalfe concludes that: *"The integrity and effectiveness of network organisations depends on good working relationships among their constituent organisations. In the absence of a unified hierarchy, the organisations participating in a regime have to shoulder responsibility for managing their relationships with each other. This is even more difficult in the EU than it usually is in a national context. There are serious barriers to overcome. Horizontal working relationships do not develop spontaneously among organisations which are embedded in culturally and institutionally diverse national administrative environments. Typically, too little effort has gone into strengthening these links. Gaps and weaknesses have been overlooked; duplication and overlap cause frustration and unproductive conflict"* (Metcalfe, 1997, p. 12).

The question then is: how do we overcome these problems in an inter-organisational network? The answer according to Metcalfe for this problem is: "Building new partnerships"; see the network organisations as partners of each other and then coordination will keep the network together (Metcalfe, 1997, p.12). But this is more easily said than done in the pluralistic context of the EU. Metcalfe describes this problem as: *The traditional hierarchical approach to coordination, which relies on superimposing some form of central control in order to achieve unity and cohesion, is not merely too cumbersome and slow, it is out of keeping with the pluralistic assumptions of subsidiary and mutual recognition"* (Metcalfe, 1997, p. 13).

The solution Metcalfe proposes for this problem is based on his comparative study of European policy coordination in national administrations (Metcalfe, 1994). The central idea is not to define coordination as a top-down process but understand coordination as a string of capacities that are also needed for teamwork. Table 5 shows the nine coordination capacities Metcalfe proposes for a network organisation.

---

<sup>2</sup> From: Metcalfe, 1997, p 9.

**Table 5: the coordination capacity scale (Metcalf, 1994)**

<b>9 Setting shared priorities</b>
<b>8 Establishing common limits</b>
<b>7 Arbitration of conflicts</b>
<b>6 Conciliation (Mediation)</b>
<b>5 Search for policy consensus (conflict management)</b>
<b>4 Avoiding policy divergences (speaking with one voice)</b>
<b>3 Consultation among organisations (feedback)</b>
<b>2 Exchange of information among organisations (communication)</b>
<b>1 Organisations manage independently within their jurisdiction</b>

Every step along this coordination scale asks for a bigger commitment of the network organisations. For example (formal) consultation between organisations in a network (step 3) asks for a much bigger investment (time resources, employees) from the network organisations than just exchanging information (step 2).

The assumption of this coordination capacity scale is that it is a Guttman scale. Metcalfe tries to make this assumption plausible with the following reasoning: *"The logic is that capacities for managing coordination must be built into organisational networks, not superimposed upon them. Each organisation must take on a share of the responsibility for managing coordination with its partners. Much coordination takes place without a "coordinator". The effectiveness of higher levels of coordination is contingent with the reliability of those below it. A stable and reliable system of coordination depends on building capacities in the sequence described"* (Metcalf, 1997, p.14).

This argumentation of Metcalfe is opposite to what is general accepted in management literature: first start with the mission statement and overall strategies (level 9) and from there go down to the activity levels to build a stable organisation. Metcalfe rightly observes that: *"Mission statements, political programmes and other expressions of broad priorities are liable to be empty rhetoric without the infrastructure of coordination"* (Metcalf, 197, p.14).

So Metcalfe strongly advises to design coordination networks from bottom up: start at level 1 and end at level 9.

The benefit of this approach is that it will diminish the coordination costs because all network organisations will participate equally. Metcalfe also claims that many coordination problems can be solved effectively by using lower level capacities and not so much by using higher level coordination capacities. Metcalfe explains this assertion with the following example: *"misunderstandings and conflicts are frequently thought to require outside intervention in the form of arbitration (level7). Rather than resolving problems this may lead to adversarial relationships and protracted inter-organisational conflicts. But in analysis the issues frequently turn out to be symptomatic of problems which can be resolved more simply without activating arbitration processes and without creating a litigious climate. For example, some failures of coordination are due to ambiguity or disagreement about organisational jurisdictions (level 1). Others are due to inadequacy in communication or lack of consultation among them (levels 2-3). Failure to deal with communication and consultation problems per se, not only escalates conflicts but also impedes the operation of higher level coordination processes"* (Metcalf, 1997, pp. 14 – 15).

### **3.3 How organisations act together: Inter-Organizational Coordination, the theory of Alexander.**

In many parts of the world today, getting things done is a matter of coordinating organisations. From the point of view of the average public or private sector manager, or, more importantly, the persons responsible for public policy, the success of their tasks often depends on others, over whom there is no possibility of direct control. The successful realization of projects is not simply a matter of managing the resources and personnel under an individual's own command. It also depends in a crucial way on how organisations and their managers choose to act (Ackroyd, 1998). Alexander published an influential book about inter-organizational coordination (IOC) (Alexander, 1995). His views can offer us a theoretical framework for analysing the coordination problem in the EU. This section discusses his views about the mechanism of coordination in IOC structures.

According to Alexander (Alexander, 1995, p. 269) there is no "true" definition of inter-organizational coordination (IOC). There is a wide range of views of IOC and they depend on the theoretical framework being used.

Coordination is one of the 'key words' of our time and especially in the field of (international) public policy. It is seen as a form of desired behaviour that would ensure successful action. This conviction suggests that all coordination is good and that more coordination is better than less. Alexander (Alexander, 1995) doubts whether this belief is true and wants to distinguish between different forms of coordination; he wants to investigate which kind of coordination is effective and why (Alexander, 1995, p. 270). In his encyclopaedic book Alexander (Alexander, 1995) summarises the bewildering variety of concepts, models and theories of IOC of the last three decades. In this section I do not want to present an overview of these models and definitions of IOC. For this I refer to Alexander (Alexander, 1995) chapter 1 – 3. Here I want to focus on the problem of IOC structures and their fit.

#### **3.3.1 Effective coordination: IOC structures and their fit**

According to Alexander (Alexander, 1995) there exists no one "best" IOC structure. Each of the IOC structures has been more effective in some situations, and less effective in others. So effectiveness of IOC structures is related to their fit and implies that the results of IOC efforts depend on the IOC structure's appropriateness to its task and context.

Two groups of factors (Alexander, 1995, p.309) mediate the effectiveness of IOC structures: network factors and task aspects.

Alexander discusses the influence of the network factors interdependency, structure, autonomy and mission on the IOC effectiveness (Alexander, 1995, p. 309 – 317). The task aspects that impact IOC effectiveness are information exchange, operational coordination, managerial/administrative coordination and anticipatory coordination (Alexander, 1995, p. 318 – 324).

The message of Alexander is: there is no straight forward fit between network factors and effectiveness, not between task aspects and effectiveness. Effectiveness of IOC structures is a multi-dimensional problem.

I will narrow down Alexander's encyclopaedic discussion of the effectiveness of IOC structures to two mediating factors: A. the effect of the interdependency between the organisations in a network and B. the level of complexity of the network.

Both factors are highly important for describing and analysing the level of success of different coordination efforts of law enforcement and prosecuting agencies in the EU.

**A. Interdependence.** Interdependence is a crucial term in inter organisational coordination. Alexander discusses the effect of three types of interdependence on effectiveness: sequential, reciprocal and pooled interdependence (Alexander, 1995, pp. 309 - 310).

Sequential interdependence is defined as a unidirectional link between two organisations: the product or output of one organisation is the input for the other. Sequential interdependence triggers most of the time less institutionalised networks, pooled or combined interdependencies usually demand higher levels of structuring. Based on empirical evidence, Alexander concludes that the least institutionalised IOC structures will be most appropriate in interorganizational networks with sequential interdependency: informal liaisons or boundary-spanners, or designated liaisons or coordinators if necessary. At task or operational level, sequential interdependence can even be managed without direct interorganizational interaction at all if the appropriate IOC structure has previously set up standard operating, monitoring and feedback, and adaptive response procedures which the participating organisations simply follow.

Reciprocal interdependence is defined as a two-way link between organisations. Reciprocal interdependence can involve one pair of units too, at the smallest scale, but it usually does involve more extended networks. In simple dyadic networks, reciprocal interdependence can be managed by informal IOC structures, but as the number of member organisations rises, and the complexity of their interactions grow, more institutionalised IOC structures will be needed. When the interorganizational set is still small, if relations are relative simple, and tasks are limited and well defined, interorganizational groups can handle reciprocal interdependency quite well. Task-level teams are often an effective way of coordinating operations involving reciprocal interdependency. For administrative management and policy-level coordination involving reciprocal interdependence, interorganizational groups can be effective too. Complex reciprocal interdependence (f. e. in some technologies and research enterprises) will demand more institutionalised IOC structures. Successful coordination of reciprocally interdependent organisations in larger, more complex networks and in more turbulent environments may call for a coordinating unit, or require formalisation in an IOC system under an organisation set up for that purpose.

Pooled interdependence, or a combination of interdependencies, implies more complex relationships between members of the interorganizational set. These will require more institutionalised IOC structures: at the very least, an interorganizational group to plan or manage the organisations' interactions. Often, pooled interdependence, as in common resource pool networks, involve allocation or rationing of common resources among participating organisations. Another type of pooled interdependence involves allocation of costs among organisations involved in common undertaking. In both these situations (allocation costs and/or allocating resources) a less institutionalised IOC structure such as a interorganizational group may be enough to negotiate and adjudicate potential conflicts among members, if the network is small and has solidarity or mutual trust and respect among members. If that is not the case, pooled interdependence will require more institutionalised IOC structures: coordinating units or organisations incorporating IOC systems, equipped with the authority to make and implement binding decisions.

**B. Complexity.** Alexander (Alexander, 1995, p. 313) stresses that complexity is an important variable affecting the fit of IOC structures, but it is also associated with other characteristics of interorganizational networks in complex ways. Complexity is associated with some kinds of interdependence: pooled interdependence is likely to imply relatively low complexity, because their common interests (f. e. agencies with a common funding source) make it likely that all the member organisations will have the same purpose and will vary little in their relative specialization. Symbiotic interdependence, however, whether expressed in sequential or reciprocal links, implies higher complexity, in the form of either more heterogeneity among member organisations or more differentiation between them or both. Both dimension of complexity, heterogeneity and differentiation, mitigate against informal coordination. The more homogenous the organisations in a network are, the more likely it is that they have the kinds of associative bonds (common functional focus, professional background, organisational culture and values) that make informal links work.

The more differentiated member organisations are, the less likely that they can be coordinated through informal channels alone, and the more institutionalized the network's IOC structures will have to be. This is because differentiation enhances the differences between the organisations which inhibit mutual communication, respect and trust. To the extent that an organisation's functions span a wide array of services, sectors or task, it is more likely that one or several of these will be the same as those of other organisations in the network, opening the possibility of effective informal links. But as member organisations are more narrowly focused, this potential for informal coordination fades. Similarly, when organisations are more specialized in a particular function, discipline or technologies, the likelihood that their domain coincides with other organisations will diminish and informal coordination becomes less feasible. Based on empirical evidence, Alexander states with some confidence that at the extremes of the range, complexity must be matched by the degree of institutionalization of IOC structures. (Alexander, 1995, p. 314) The simplest interorganizational sets, in which both heterogeneity and differentiation are low, will be manageable by quite un-institutionalized IOC structures. At the most complex networks, made up of widely differing organisations that are highly focused and specialized, will need highly institutionalized IOC systems. However between these extremes, the components of complexity do not correlate in any simple way with IOC structures' fit.

### 3.4 Conclusion

The three theoretical notions discussed in this chapter have different levels of abstraction. The contingency theory and the IOC framework of Alexander focus on the fit between organisation and environment. However, the framework of Alexander (in fact a set of related hypothesis about the fit between IOC structure and environment) is much more specific and elaborate than the rather general contingency theory.

The theoretical concept of coordination capacity of Metcalfe is not so much focussed on a fit between organisation and environment, but deals more with the dependencies between types of coordination activity in the context of the EU.

All three 'theories' are relevant to 'explain' why certain coordination efforts to stop cross border drugs trafficking in Europe fail and other efforts are successful.

# Chapter 4

## Design, operationalisation and data collection

This study explores the specific coordination problems of Eurojust and the Netherlands in fighting cross border crime. The focus of this study is on describing what is actually happening in Europe and not so much on testing policy theories.

This research project is a typical case study (Robson, 2003, p. 178) because:

A: it is **empirical**: I analyse specific cases of Eurojust and the Netherlands

B: it is **focussed** on a phenomenon in a context: I explore and analyse the coordination activities of Eurojust and the Dutch prosecuting and law enforcement departments for cross border drugs trafficking in the EU.

C: **different data collection methods** are used to get a better view of the whole field under study: cases, documents and experts interviews.

To get a better understanding of why and how coordination activities take place, I will utilize the contingency theory, the coordination capacity scale and the IOC framework. The next section describes how these theoretical perspectives have been used.

### 4.1 Operationalisation of theoretical perspectives

To get a better understanding of the nature of coordination in the Eurojust network, I will: first describe the environment of Eurojust in terms of the dimensions of the contingency theory (A). Subsequently, the coordination capacity of the Eurojust network will be assessed (B) and finally the Eurojust network will be described in terms of the IOC framework (C).

#### A. The contingency theory

The contingency theory (Rosenthal, Ringeling, Bovens, 't Hart & Van Twist, 1996, p.190) utilizes 4 dimensions to describe the environment of an organisation: predictability, complexity, heterogeneity and hostility. The environment of Eurojust, as described in the cases, will be assessed on these four dimensions as follows<sup>3</sup>:

**Scoring on the dimension of Intensity, level of predictability;** three categories:

Low predictability or turbulent environment: the information about the criminal organisation is not complete; action is necessary in several Member States; the result can not be influenced by Eurojust. Result can be influenced by actions of local prosecuting of law enforcement unit.

Medium predictability balanced environment: a lot of information is available. All policy stakeholders are involved. The result can only partially influenced by the coordination organisation (Eurojust).

High predictability, stable environment: Business as usual, complete information is available. It is important to fully exchange this information. The result is dependent on the quality of this process of information exchange.

---

<sup>3</sup> The environment of the coordination agencies of the Netherlands can not reliably be assessed with the contingency theory because only two cases are studied in this research project.



The scoring of the cases on this will be recorded on a fact sheet (see chapter 5, section 5.4.1).

**Scoring on the dimension of Complexity;** three categories:

Low complexity: Only two Member States are involved in the coordination effort. Only exchange or sharing of information. Country A hands over information for a legal process to Country B.

Medium complexity: Two countries are working together in a complex joint action: controlled deliveries, taking into custody and extradition. Three or more Member States cooperate in a joint project to exchange information.

High complexity: Three or more Member States cooperate in a difficult project: controlled delivery, criminal investigation, taking into custody and extradition.

The scoring of the cases on this will also be recorded on a fact sheet (see chapter 5, section 5.4.1).

#### **Dimension of Heterogeneity - Homogeneity.**

The environment of cross border coordination between prosecuting and law enforcement agencies in the European Union can not be described as Homogeneity. All Eurojust cases are unique: different sets of Member States are involved, different actions are needed and with different time scales. So per definition the environment of the European Coordination agency Eurojust is Heterogeneous.

#### **Dimension of Hostility.**

The environment of the coordination agency Eurojust does not show any variation on this dimension. The prosecution and law enforcement agencies of the Member States have a positive attitude towards this European coordinating organisation.

## **B. Operationalisation of the Coordination Capacity Scale of Metcalfe**

Metcalfe (1997) stressed that it is very difficult in the European Union to establish an effective network organisation because a unifying hierarchy is missing. The organisations in the EU involved in fighting cross border crime, need to strengthen their interorganizational ties. Effective coordination for fighting cross border drugs trafficking need to be done according to a specific model: the coordination capacity scale ranging from 1 (organisations manage independently within their jurisdiction) to 9 (setting shared priorities), see table 6.

The assumption is that coordination capacities need to be built upon one other: for example, the network of organisations needs first to master level 1 and 2 before it can embrace level 3. In short Metcalfe claims that this coordination capacity scale has the characteristics of a Guttman scale.

**Table 6: the coordination capacity scale<sup>4</sup>**

<p><b>9 Setting shared priorities</b></p> <p><b>8 Establishing common limits</b></p> <p><b>7 Arbitration of conflicts</b></p> <p><b>6 Conciliation (Mediation)</b></p> <p><b>5 Search for policy consensus (conflict management)</b></p> <p><b>4 Avoiding policy divergences (speaking with one voice)</b></p> <p><b>3 Consultation among organisations (feedback)</b></p> <p><b>2 Exchange of information among organisations (communication)</b></p> <p><b>1 Organisations manage independently within their jurisdiction</b></p>
---

The eleven Eurojust cases and the two Dutch cases will be assessed independently on all the categories of the coordination capacity scale. Each case description will be analysed to establish whether a particular coordination activity is used by Eurojust or by the Dutch coordination unit or not.

The first level of the coordination scale (organisation manage independently within their jurisdiction) is not useful for analysing the coordination activity of Eurojust (and of the Dutch coordination unit). Per definition Member States manage the prosecution and law enforcement activities in their jurisdiction independently.

### **C. Operationalisation of the theoretical IOC framework of Alexander**

Alexander's (1995) theoretical framework about Inter Organizational Coordination aims to explain which kind of coordination between organisations in a network is effective, and why it is effective.

To analyse our data about coordination done by Eurojust and the Netherlands, I will utilize Alexander's findings about IOC structures and their fit (with the environment). More specific, I will focus on his findings about the influence of sequential, reciprocal and pooled interdependency and complexity of the interorganizational network on the effectiveness of the IOC structures.

What can be expected based on the empirical data Alexander's presents about the fit of IOC structures and the interdependence and complexity of the network?

#### **1. Sequential Interdependence and fit of IOC:**

The least institutionalized IOC structures will be most appropriate in inter-organisational networks with sequential interdependency (Alexander, 1995, p.309).

#### **2. Reciprocal Interdependence:**

When the interorganizational set is still small, if relations are relative simple, and tasks are limited and well defined, interorganizational groups can handle reciprocal interdependency quite well. Complex reciprocal interdependence (f. e. in some technologies and research enterprises) will demand more institutionalized IOC structures. Successful coordination of reciprocal interdependent organisations in larger, more complex networks and in more turbulent environments may call for a

---

<sup>4</sup> Adapted from Metcalfe, 1994.

coordinating unit, or require formalization in an IOC system under an organisation set up for that purpose (Alexander, 1995, p 310).

### 3. **Pooled Interdependence:**

A less institutionalized IOC structure such as a interorganizational group may be enough to negotiate potential conflicts among members, if the network is small and has solidarity or mutual trust and respect among members. If that is not the case, pooled interdependence will require more institutionalized IOC structures: coordinating units or organisations incorporating IOC systems, equipped with the authority to make and implement binding decisions (Alexander, 1995, p 310).

### 4. **Complexity:**

The more homogenous the organisations in a network are, the more likely it is that they have the kinds of associative bonds (common functional focus, professional background, organisational culture and values) that make informal links work. The more differentiated member organisations are, the less likely that they can be coordinated through informal channels alone, and the more institutionalized the network's IOC structures will have to be.

To the extent that an organisation's functions span a wide array of services, sectors or tasks, it is more likely that one or several of these will be the same as those of other organisations in the network, opening the possibility of effective informal links. But as member organisations are more narrowly focused, this potential for informal coordination fades.

The simplest interorganizational sets, in which both heterogeneity and differentiation are low, will be manageable by quite un-institutionalised IOC structures. At the most complex networks, made up of widely different organisations that are highly focused and specialized, will need highly institutionalized IOC systems. However between these extremes, the components of complexity do not correlate in any simple way with IOC structures' fit ~ (Alexander, 1995, pp 314 -315).

The level of complexity and interdependency of the interorganizational network will be assessed for every case individually.

## 4.2 **Data collection**

I planned to collect the data in two phases: first through analysis of documents and from there, interviews with experts in the field. This last part however never happened; I was not able to execute phase 2; the reasons for non cooperation are described earlier on.

Two classes of data were collected:

- A. Descriptions of specific coordination cases of Eurojust and the Dutch coordination units. The Eurojust cases were published in the annual reports of Eurojust of 2004 and 2005 (Eurojust, 2004, 2005) and the Dutch cases in a study of the Dutch police (Corten - van der Sande & Martens, 2006).
- B. Specific documents describing the coordination problems in the fight against cross border drugs trafficking in the EU. The documents are mainly from the main actors in this arena: European Union, Eurojust, Europol, Dutch Police department etc.

As said before, I never got into the position of getting interviews with experts from Eurojust, KLPD (international branch of the Dutch police) and Landelijk Parket (International branch of Dutch prosecuting department) as I had planned.

## Chapter 5

# Results: coordination for fighting drugs trafficking in Europe

This chapter presents data on how coordination for fighting cross border drugs trafficking actually takes place in Europe. The organisation and goals of Eurojust are presented in section 5.1. The next section (5.2) specifies how Eurojust actually achieves coordination in Europe. Eleven cases are presented and I assess how effective JIT's are as a coordination tool for Eurojust. The organisational problems Eurojust faces in their European coordination role are investigated as well.

In section 5.3 the focus shifts to the Netherlands; two specific Dutch cases are presented utilising the JIT model for cross border coordination.

Subsequently in section 5.4 the eleven Eurojust cases and the two Dutch cases are analysed through the lens of three theoretical perspectives on coordination: Contingency theory, Metcalfe's Coordination capacity scale and Alexander's framework of IOC.

The data presented in this chapter are the foundation for answering the four sub questions of this project: "tasks and functions of Eurojust", "barriers for Eurojust", "description of dynamics of coordination by theoretical perspectives" and "is Eurojust doing a good job". The answers will be formulated in chapter 6.

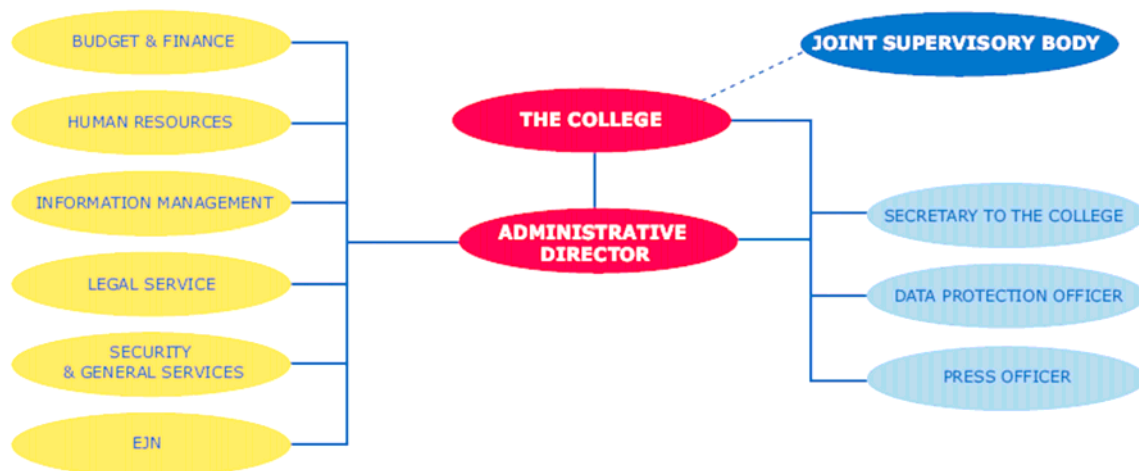
### 5.1 Eurojust

This paragraph sets out the organisation and goals of Eurojust. After describing the complex roles Eurojust has to fulfil in coordinating the fight against cross border crime, the strengths and weaknesses of the present day organisation of Eurojust are discussed.

#### Organisation of Eurojust

Eurojust has two 'branches': the college and the administration. The college of Eurojust is composed of 25 National Members, one seconded in accordance with its legal system being a prosecutor, judge or police officer with equivalent competence. Several Member States have appointed Deputies and Assistants to help their National Member; some are based in The Hague whilst other Member States have appointed Deputies who are based in their home country. They visit The Hague to substitute their National Member or when required to do so. On 7 June 2005 the National Members re-elected Michael Kennedy from the United Kingdom as its President of the College and Ulrike Haberl-Schwarz (Austria) and Roelof Jan Manschot (The Netherlands) as Vice-Presidents.

There is also one administrative director, Mr. Ernst Merz. He controls 6 units: Budget & Finance, EJM Secretariat, Human Resources, Information Management, Legal Service and Security and General Services (Eurojust, 2004, p.55). Each of these units has a head which communicates with the administrative director. There are also three specialized units: Press & PR Service, Data Protection Office and the Secretariat to the College (Eurojust, 2004, p.56). Each of these units communicates with the administrative director and with the college. To control the college there also has been founded a joint supervisory body. Eurojust states that these units and their staff can be reorganized, dissolved and recreated if necessary; this keeps the organisation flexible towards demands of the surrounding (Eurojust, 2004, p.55). The structure of the organisation is clarified in figure 3 below.



**Figure 3: Staffing and Organisational Structure**

### Goal & foundation of Eurojust

Eurojust was founded on the 28<sup>th</sup> of February in 2002 in order to reduce the serious forms of criminality in the European Union (Besluit van het gemeenschappelijk controleorgaan van Eurojust; houdende vaststelling van zijn reglement van orde, 2-03-2004). In other words the main goal of Eurojust is to coordinate and improve investigation and prosecution of authorities between the EU Member States. So Eurojust is the most important juridical coordinating organisation in the European Union. But Eurojust also facilitates the execution of international mutual legal assistance and the implementation of extradition requests, supporting authorities to render problems which cross border crime provokes (Website of the organisation Eurojust, 2-5-2006). Eurojust wants to help Member States to overcome problems with different cultures, legal systems and languages – to name just a few- that hinder good communication and cooperation between Member States in their battle against international crime.

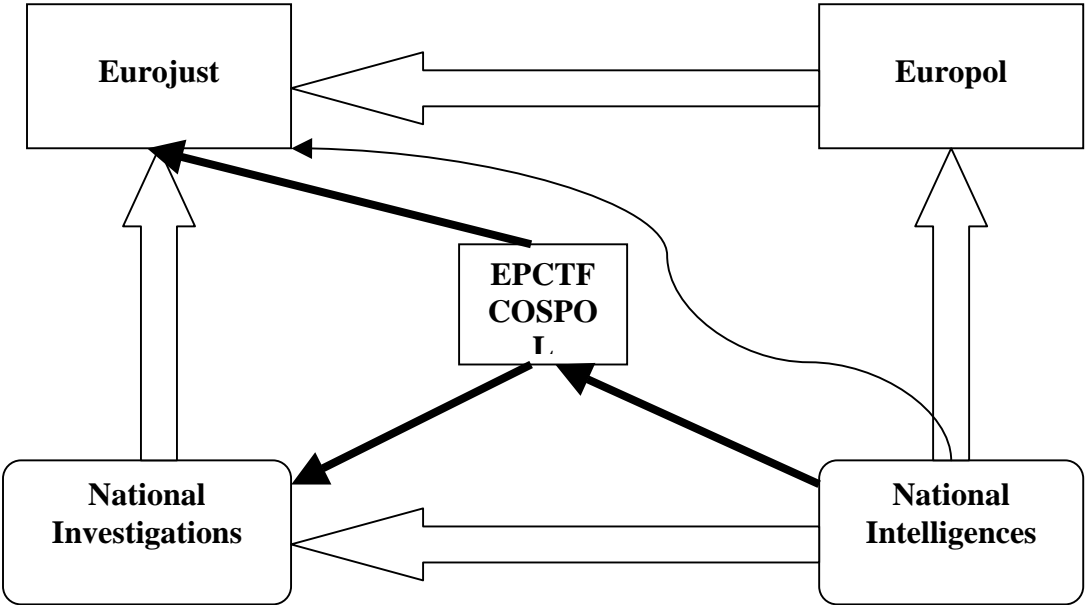
### Eurojust's complex role / Operational procedure

Within the European Union Eurojust plays an important juridical role. The goals of Eurojust, as mentioned before, are of great ambition. The problem is that these goals seem simple: coordination and assistance of the juridical procedures in the EU. But if we look at the implementation of the tasks of Eurojust, we see a different picture. For example if we look at the pillar structure of the EU, one wonders how Eurojust functions in this complex environment. Its broad goal can be conflicting with for example Europol. The way Eurojust works is, as explained earlier on, in cases.

The Member States 'create' cases for Eurojust in different ways. There are two cases which are claimed to be created on a supranational level (De Jonge, 2005). Eurojust comes into action when one Member State asks for help and 'presents' a case. In theory, other supranational organisations, such as Europol, other EU departments or Interpol, can "feed" Eurojust with cases as well. But the practice is that other supranational organisations hardly ever ask for the coordination services of Eurojust (De Jonge, 2005).

Eurojust receives requests for coordination from different national entities. The case referral process of Eurojust is described in figure 4.

Most of the requests for help from Eurojust come from the National Investigation departments of the Member States. The National Intelligences departments mostly solicit for the services of Eurojust through Europol. Only in a few instances these National Intelligence departments address their requests for help directly to Eurojust. More often the departments for National Intelligences of the Member States inform the European Police Chiefs Task Force (EPCTF). They then request the National Investigation department to ask for the services of Eurojust. In 2004 EPCTF directly informed Eurojust in only one case. So, Eurojust receives their requests for help (the case) through different channels. This seriously enhances the complexity of the coordination task in Europe for Eurojust.



**Figure 4: Lines and actors in assistance Eurojust (De Jonge, 2005, p.52)**  
 EPCTF European Police Chiefs Task Force  
 COSPOL Comprehensive Operational Strategic Plan for Police

**Strengths and weaknesses of Eurojust**

Eurojust started only recently (2002) and therefore still needs to market her services to the national and international ‘clients’. Some of the strengths and weaknesses that are discussed in this section, are also mentioned in an in-depth study about Human Trafficking in Europe and Eurojust, done by De Jonge (De Jonge, 2005, p.64-69).

*Strengths*

The first strength of Eurojust is that the organisation has a really broad scope: the juridical coordination for cross border crime in the European Union. Eurojust is focussed totally on its core business.

Another strength of Eurojust is, that it has a very flexible organisational structure. This is important for survival in the fast changing landscape of the European Union. The changes in the landscape of cross border crime in Europe are fast and the organisation of Eurojust

is able to adapt quite easily to this. The recent implementation of the new working arrangements of the College underlines this.

### *Weaknesses*

Eurojust is a case driven organisation with no legal powers whatsoever (coordination!) and it is still a young organisation which as said needs to market her services to their clients. Members States are not obliged to inform or consult Eurojust about their problems with cross-border law enforcement or prosecuting. If Eurojust wants to be the authority of the European Union for legal issues around cross border crime, their authority, based on a legal status or expert status, needs to grow.

Second the database of Eurojust needs to expand. In the ideal situation, Eurojust's database contains every relevant case in the EU. This means that the national databases need to be connected to the Eurojust database. In this way Eurojust would be able to coordinate and assist in a better way; all relevant information should be available for all European actors which are combating cross border crime. But the interconnectedness of databases is not yet there and the availability of data from all the cases in the EU therefore is not accessible. So, good coordination is just not possible up so far.

The third weakness has to do with the first one. The influence and authority of Eurojust not only needs to grow internally, but also outside the EU. A better communication with similar organisations around the world is necessary for the future of Eurojust. Connecting with the law enforcement organisations outside the EU will have a positive effect on the growth of the Eurojust database as well. Cross border drugs trafficking is a global phenomena and connecting with the world players can foster the multi-learning process that is necessary for all law enforcement and prosecuting actors.

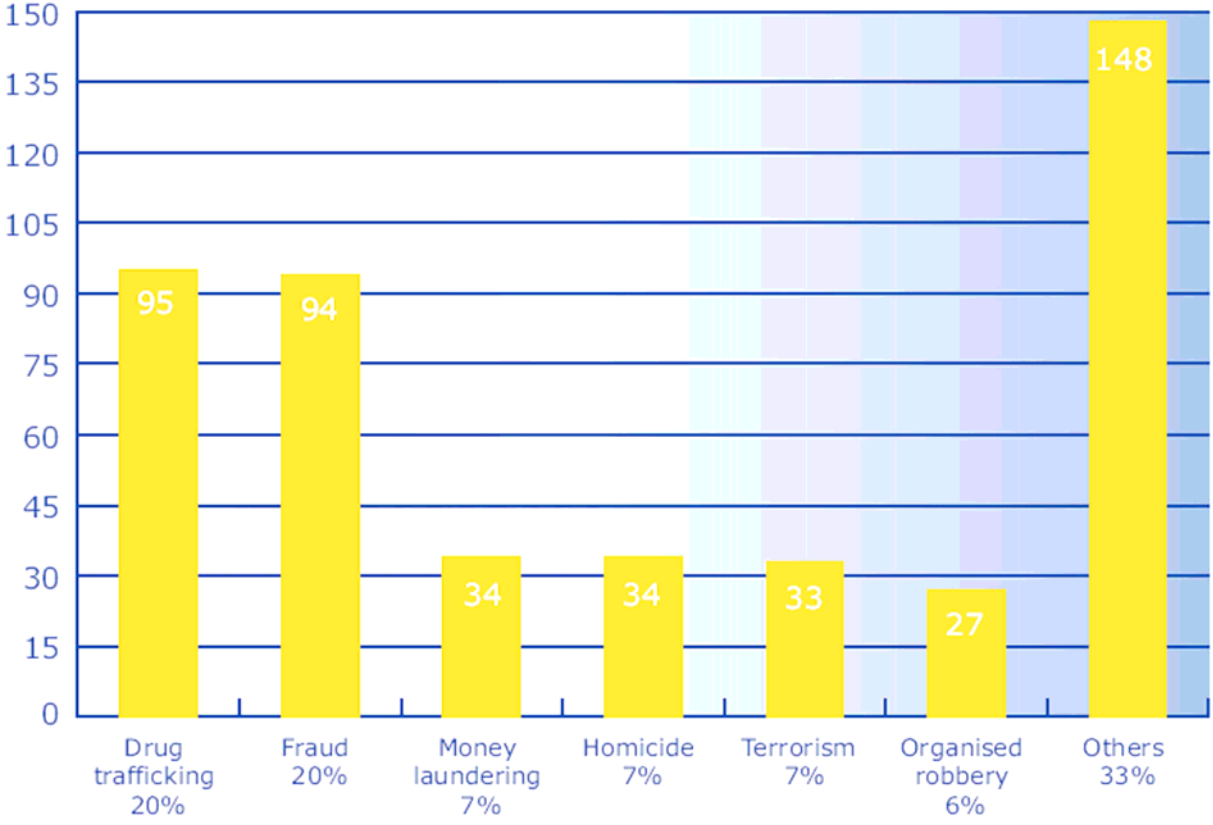
Eurojust has until now not established much contact with the universities and special research institutes in Europe. This contact is of pivotal importance for the core business of Eurojust: coordination in prosecution and law enforcement for serious cross border crime in the EU. The legal systems of the Members States are changing fast, also due to the impact of the European treaties and pacts. Help from the European academic world is necessary if Eurojust wants to fulfil their ambition.

Eurojust should also gain more access to the policy making procedure. Active or passive involvement with the policy making of the European Union would be an enormous improvement for the organisation of Eurojust. The lessons learned (through faults made) could be implemented in new EU legislation. It is highly remarkable that the knowledge (and data) Eurojust has, hardly is used by other EU organisations. The faults and successes of Eurojust are not implemented in this moment of time in new policies or plans in the juridical arena of the European Union. This waste of knowledge should be dealt with more carefully.

### **Case load of Eurojust**

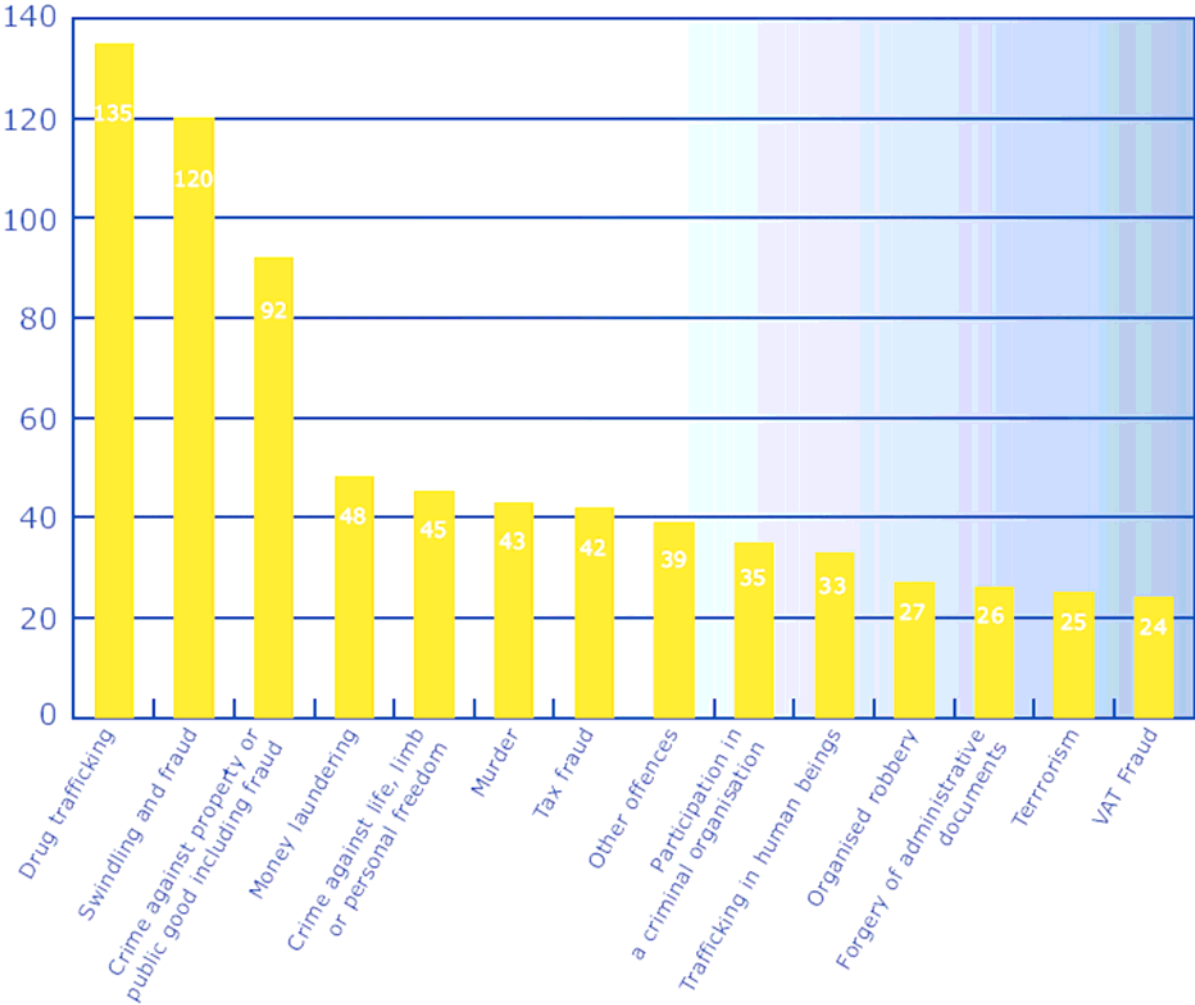
Eurojust wants to be the most important player in Europe in the fight against serious criminal cross border offences. Figures 5 and 6 summarize the offences that Eurojust has dealt with in 2004 and 2005. The number of cases in 2005 (n = 734) was considerably higher than in 2004 (n = 465). Both figures show that "drugs trafficking" is the most frequent occurring offence in Europe.

Figure 5: Offences dealt with by Eurojust in 2004





**Figure 6: Offences dealt with by Eurojust in 2005**



We know that each drugs trafficking case is unique. To get an understanding on the question how Eurojust achieves coordination with respect to drugs trafficking, eleven cases are presented in the next section (5.2).

**5.2 Coordination by Eurojust**

This section focuses on how coordination of Eurojust actually takes place. First eleven cases will be presented (5.2.1) and in paragraph 5.2.2 some data are presented about the effectivity of JIT as a coordination vehicle for Eurojust. The last paragraph (5.2.3) describes some organisational problem of Eurojust.

## **5.2.1 Eleven drugs trafficking cases**

### **Drugs Trafficking – Urgent Search [case 1]**

For about six months, the Danish police investigated a major case of the drugs trafficking of 13 tons of hashish and a large shipment of cocaine. The suspected leader was a Danish citizen residing in South America connected to a number of accomplices in Luxembourg and Denmark.

For operational reasons there was an urgent need to arrest the main suspect and his accomplices. During his detention, the main suspect made a telephone call wherein he referred to a person the police was able to detect and identify as a Danish citizen residing in Spain with three known addresses. A search in Spain was urgently needed, as it was believed that this person would be informed and might destroy evidence on these three premises.

The Danish prosecution service referred the case to Eurojust on a Friday afternoon. The Danish and Spanish National Members assisted in formulating the MLA request, identifying the competent Spanish courts, contacting the relevant judges, solving a problem regarding the reasons to have to do the search on a weekend, and ensuring a court hearing on the next day, Saturday. The search was permitted and carried out on Saturday at midday and valuable evidence was obtained.

To have a search arranged within 24 hours on three different premises in two different court districts in another country would have been impossible under the old MLA regime – it was only achieved due to the involvement of Eurojust.

### **Drugs Trafficking [case 2]**

Investigations in Italy in 2003 shed light on an Albanian criminal organisation involved in a cocaine transport from Belgium and The Netherlands into Italy. In the light of the investigative links with Brussels and Rotterdam in January 2004, the Italian prosecutor in Brescia issued a Letter of Request seeking help for telephone interceptions and with other further verifications including the suspects' complete identification.

In order to prevent this Albanian web of drug dealers from operating throughout Albania, Belgium, Italy and The Netherlands, in May 2005 the Italian prosecutor issued 42 precautionary arrest measures, including fourteen European Arrest Warrants, to be executed in Belgium and The Netherlands.

On a multilateral co-ordination meeting with Belgium and The Netherlands held at Eurojust, the Italian prosecutor sought to secure juridical co-operation and exchange of information in order to locate the suspects and co-ordinate a simultaneous execution of the European Arrest Warrants.

Prior to this meeting, request were sent from Italy to Belgium and The Netherlands via Eurojust so as to obtain the necessary information to locate the suspects and plan a co-ordinated arrest operation.

At this meeting, the Italian prosecutor stressed the need to execute these precautionary measures simultaneously in order to prevent the suspects from avoiding arrest.

A co-ordination meeting was also held at Europol in The Hague to facilitate the efficient exchange of information between all juridical and law enforcement authorities involved.

During the month of October 2005 a co-ordinated arrest operation was carried out, which signalled Eurojust's success in ensuring effective juridical co-ordination.

### **Drugs Trafficking [case 3]**

In August 2004 a Slovenian citizen was arrested and later on convicted in Italy for drugs trafficking. In April 2005 an accomplice in this case was arrested and remanded in custody in Slovenia. The Slovenian investigation judge needed to interview the defendant who was in custody in Italy and he also required the corresponding documentation concerning the defendant's arrest.

In May 2005 the judge sent a letter of request to the Italian authorities. The execution of the letter of request was urgent because of the limited time allowed for the detention of the suspect in this investigative stage. The Italian evidence was crucial for the

indictment. The Slovenian investigation judge was waiting for this execution for a month and then asked the Slovenian National Member for assistance.

The Italian and Slovenian National Members worked closely to persuade the Italian authorities to complete the execution quickly. With the Italian assistance the Slovenian investigation judge was able to interview the defendant in an Italian prison on 14 July 2005 and at the same time he obtained the requested documentation. The investigation was completed before the expiration of the detention period and the Slovenian prosecutor was able to bring the indictment into the competent court.

#### **Drugs Trafficking [case 4]**

Nine persons related to a drugs trafficking organisation based in Madrid introducing drugs into Europe were in pre-trial detention and under investigation in Spain. All suspects were identified and the police was waiting to seize the last cargo being allocated on the Atlantic Ocean.

The boat carrying drugs was found near the Portuguese coast while boarding; two of the suspects were looking for a safe place to unload the cargo. The Portuguese police arrested them and seized the boat, thus starting a new judicial investigation in Lisboa. A European Arrest Warrant was issued by Spain against the two suspects arrested in Portugal, but it was refused by the Portuguese authorities, who argued for Portuguese jurisdiction in order to continue the investigation and prosecution.

The case was referred to Eurojust and was dealt with by the Eurojust National Members of Spain and Portugal, who organized a co-ordination meeting between the respective national authorities.

Juridical authorities from different countries were carrying out investigations based on the same evidence and against the same persons. It was necessary to co-ordinate, to analyse the possibility to concentrate the investigations in Spain and to ensure the surrendering of the suspects to Spain.

The required co-ordination was set up through Eurojust. It was considered, on one hand, that the Spanish investigation had begun first, the relevant evidence concerning the criminal organisation was in Spain, the organisation was based there, most of the members of the organisation had been arrested in Spain, and other linked activities were being investigated there; on the other hand, it was decided that the Portuguese investigation began as a consequence of the arrest of two suspects for specific acts, but the relevant evidence related to criminal organisation should be requested from Spain through requests already issued.

Taking these circumstances into account, even though there was a juridical decision refusing the surrender of the suspects to Spain, the Portuguese National Member asked his national authority to consider that Spanish authorities were in a better position to continue the investigation and prosecution.

The advice of Eurojust was accepted by the Portuguese prosecutor, who asked the judge to transfer the proceedings to Spain. The proposal was accepted and confirmed by the Court of Appeal.

Once the ground for optional non-execution of the European Arrest Warrant was removed, a new European Arrest Warrant was issued by the Spanish judge in co-ordination with the Portuguese authorities.

As a final result, the criminal proceedings were transferred and the defendants were surrendered to Spain.

A good co-ordination of the cases was achieved between the two national authorities, with the support of Eurojust, with the prosecution in one Member State and the issuing of a European Arrest Warrant, successfully solving a conflict of jurisdiction.

#### **Drugs Trafficking [case 5]**

In this case Austrian police was observing a criminal organisation involved in drugs trafficking in Vienna. One courier was known already and there were indications that a German citizen was the organizer with Dutch and Austrian distributors. The Austrian police planned a controlled delivery to identify the other persons involved. The case was

referred to Eurojust via the Austrian desk at Europol to clarify the legal requirements for a controlled delivery from Amsterdam to Vienna through Germany.

At Eurojust, Austrian, German and Dutch colleagues discussed the issues and arranged to ensure that requirements were met, so the controlled delivery could take place. Eurojust transferred this information to the authorities in Austria and the court issued requests for mutual legal assistance. The controlled delivery took place and several people were arrested, members of the criminal groups were identified and large amounts of cannabis and cocaine were seized.

This case demonstrates the benefit of early referral to Eurojust for assistance to resolve juridical problems and to develop a successful co-operative joint approach by police and juridical law enforcement authorities.

#### **Drugs Trafficking [case 6]**

At the end of August a Czech prosecutor asked the Czech National Member for help in a case of trafficking of about 60 kilos of heroin from the Czech Republic to Italy. The trafficking occurred over a period of several years and a number of people were in custody in the Czech Republic, the duration of which was due to expire in mid- November 2004. The prosecutor had a limited time to prepare and transfer the case to court; otherwise, the detained persons would be released and some were foreigners who were very likely to disappear from Czech jurisdiction.

The time for execution of letters of request was limited and the case was referred to Eurojust for assistance. After a meeting at Eurojust the National Members were able to facilitate a series of complex executions in three different jurisdictions within the custody time deadline. Czech investigators were also able to make only one, instead of several, visits to Italy, which saved their limited resources.

#### **Drugs Trafficking [case 7]**

German prosecutors were investigating a case of drugs trafficking in which a woman was a suspect of acting as a courier, transporting heroin from Rotterdam and delivering it to an organisation of dealers in Italy. The Germans planned to arrest the woman while at the same time Italian prosecutors were investigating the same group of drugs dealers. They heard about the German prosecutors' plan to arrest the courier, an action which would have destroyed all their efforts. The Italian prosecutors sent an urgent request to Eurojust to ask the German authorities to postpone the arrest. The German prosecutor said that, under German law, it was impossible to postpone the arrest unless The Netherlands, Germany and Italy could agree to arrange a controlled delivery. Eurojust organised a co-ordination meeting only 24 hours after its assistance had been requested. The competent authorities from the three countries attended.

During the meeting, it was agreed that a controlled delivery would take place. It was arranged and occurred three days later. As a result twelve suspected Italian drug dealers and the German courier were arrested in Italy and brought to court.

#### **Drug Trafficking [case 8]**

At the end of November 2004 a Polish prosecutor asked the Polish National Member for assistance in a drugs trafficking case. Elements of the case had some connection to Germany, where a number of people were in custody. The Polish prosecutor was waiting for the execution of a letter of request by the German authorities for several months. The need for execution of this letter of request became very urgent as the limited period allowed for detention of suspects at the investigative stage was about to expire and there was pressure to prepare evidence to use in court. The German evidence was crucial to start the prosecution's case. The German and Polish National Members worked closely to persuade the authorities to complete the execution quickly, the case was registered at Eurojust and, within three days, the request was executed and the evidence obtained. The case was able to proceed before the expiration of the detention period.

### **Drugs Trafficking – Undercover Operation [case 9]**

Eurojust was able to assist German and Polish prosecutors in finding and providing a legal framework for German undercover agents to operate on Polish territory. We believe this is the first time that this has happened. The German and Polish police had worked together closely and set up a number of sophisticated technical measures. The juridical and prosecutorial aspects had to be refined and defined in some detail. There was a strong feeling that this investigative technique would be required and repeated in the future, not only for Germany and Poland but between other Member States. After detailed negotiations and discussions and consultation with Eurojust, a memorandum was signed by the prosecution offices of both countries at a meeting held in a town on the German - Polish border.

### **Drugs Trafficking and Money Laundering [case 10]**

A major drugs trafficking and money laundering case which involved Greece, Spain, Germany and Belgium was referred to Eurojust in the second half of 2004. After more than two years of successful police co-operation, primarily involving officers from Greece, Spain, the UK and the United States of America, a shipment of 5.4 tons of cocaine was seized in Spanish waters. The members of the crew were arrested and detained in Spain while the main suspect for this and similar illegal operations was arrested in Germany, to be surrendered to Greece on the basis of an EAW.

It was the first EAW issued by Greece as their national legislation on the EAW had only come into force a few days earlier. The Greek juridical authorities had to address requests for mutual legal assistance to Germany and Belgium for illegal activities of members of the criminal organisation in these two countries. Eurojust organised a co-ordination meeting at our premises in The Hague, bringing together the prosecutors from all the countries involved. Simultaneous interpretation in four languages was provided to facilitate the exchange of legal and practical information and to ensure that all the competent authorities who became partners in this case could work together closely and help bring to justice a criminal organisation with a long record of involvement in major criminal activities.

### **Smuggling of Illegal Immigrants and Drugs Trafficking [case 11]**

A significant number of case referrals from the UK during the past year concerned illegal immigrant smuggling. One case concerning an investigation into an organised crime group engaged in illegal immigrant smuggling and drug trafficking was referred to Eurojust jointly by the Crown Prosecution Service (CPS) and the National Crime Squad (NCS). In March 2004 a meeting was held on a request of the UK authorities. The participating countries were Germany, Belgium, France, Austria and The Netherlands. Representatives from Europol also attended. The meeting dealt with the management of parallel investigations in the UK and Germany and the exchange of evidence between the national authorities in both countries. It also dealt with the links between investigations in the UK and Belgium. Further information was provided to the Belgian authorities to enable them to proceed their investigations. The meeting also ensured the facilitation of mutual legal assistance requests in France and Austria and explored the possibility of starting investigations in The Netherlands. Following the meeting, arrests were made in Germany, and there was a successful seizure of 107 kilos of heroin. Arrests were also made in the UK for facilitation of illegal immigration. In The Netherlands, searches took place on various locations.

In May 2004 a follow-up meeting took place. Representatives from the UK and Germany gave presentations on the current state of their investigations and prosecutions. An update was also provided by representatives from The Netherlands and a time-frame was given for the execution of letters of requests from the UK. The German representatives were also able to hand over new letters of requests for execution to the Dutch authorities. Informed discussion in relation to evidence and matters of jurisdiction also took place. There is no doubt that this exchange proved to be very useful as the investigations continued.

These different cases show the diversity of the arena where Eurojust needs to perform. The above mentioned eleven cases exhibit some of the problems and juridical solutions Eurojust comes up with every day and how Eurojust achieves coordination. The juridical international arena as we can see is very complex. The advisory and diplomacy functions Eurojust has, is strongly underestimated.

## 5.2.2 How effective is the JIT as coordination vehicle for Eurojust?

The EU drugs actions plan 2005 – 2008 stresses that more coordination between Member States (M.S.) and with MS and Europol // Eurojust is needed to accomplish a successful fight against cross border drugs trafficking. To assess whether Europe really has made any progress in this battle, the EU Commission and the EU Parliament proposed a number of assessment tools (see table 2, chap. 2, section 2.5). The most important assessment tool for improvement in European coordination is the number of JIT's initiated or completed. The EU pact on mutual assistance in criminal cases of 2000 specified the responsibilities and procedures of a JIT (see also chap. 2, section 2.1). JIT's create an opportunity for each involved Member State to deliver designated experts for a fitted professional team to solve a specific cross border drugs trafficking case. Despite the European procedures, it is not totally clear what coordination efforts can be labelled as a JIT. There are mixed experiences with the JIT in practice. Eurojust sees this coordination tool as an essential working platform for the growing complex crime problems in Europe. However, until now, Eurojust did not initiate or installed a JIT in any of her fields of attention. In Europe only two JIT's have been initiated to solve drugs trafficking cross border offences, but Eurojust was not actively involved in them. So, although the European Commission defined the JIT as an important yardstick to measure success in the fight against cross border drugs trafficking, up so far there is not enough material to measure how effective Eurojust is in utilizing this coordination vehicle.

## 5.2.3 Organisational problems of Eurojust

Due to their relative young age, Eurojust needs to develop its organisation. There is a need for a proper infrastructure, growth of professionalism, and a better branding. In the introduction of the annual report of 2005, the president of Eurojust Michael Kennedy stated that the infrastructure of Eurojust is still in its active developing phase (Eurojust, 2005, p. 7). He accepts that lots of work needs to be done, but that Eurojust is on its way.

The performance of Eurojust in recent years has been influenced by the following organisational problems:

### *Membership's Powers* (Eurojust, 2005, p. 25-26)

All members of the European Union have one representative in the College of Eurojust. Each member in the College has an equal vote. In December 2004 the representatives of the Member States asked Eurojust to assess the juridical power of the Member States and investigated what kind of improvements are to be made to enhance the juridical powers of the members. Eurojust needs the (juridical) influence of the Member States to do their job, but, contrary to its voting structure, this influence is unequally divided between its members. Germany, for instance, has a much bigger impact on the work of Eurojust than Malta, due to the sheer fact that the number of prosecutors, judges and juridical networks of Germany outnumbered those of Malta.

The council of the EU reacted with the statement that this view of Eurojust is subjective and unscientific.

Apart from this statement, Eurojust managed to realize some general rules and equal executive power wherein all the Member States could agree upon. First, every state should be able to make and execute requests for mutual legal assistance and be availed to act as a central authority to foreign juridical authorities. A country needs to have the power to decide (not only recommend) in mutual assistance, prosecution and investigation and have the possibility to decide to take other investigation steps in urgent cases, like undercover operations or the interception of telecommunication. For Eurojust these basic rules are merely logic and written down only as a result of the different juridical cultures. But the communication tools or use of each other facilities stagnate easily with so many players in the field.

*The new working structure* (Eurojust, 2005, p. 10-12)

The main objective of Eurojust for the year 2005 has been to implement a new working structure wherein the effectiveness of the organisation can grow and would avail to accommodate to the enlargement of the EU. Eurojust claims that this new developing structure work is working well.

The new structure asks for a flexible organisation of working groups around cases, problems or issues. It is set up as such to create shorter decision times, but it has an important negative side effect. There is less democratic control by the whole College. The danger with this new working structure is that it weakens the identity of Eurojust and due to the large amount of groups the members need to attend more meetings every week. Eurojust expects that the extensive personal experience and more commitment of Member States, and more continuity of membership will counter balance these negative side effects of the new working structure.

*Case Management System* (Eurojust, 2005, p. 11-12)

In February 2005 Eurojust adopted a new case management system for the protection of personal data especially developed for the National Members. This case management system has different capacities: data subject's rights management, support for investigation of terrorists, for drugs trafficking and for trafficking of human beings. Within this system there is the possibility for registration of sensitive data.

This case management system actively supports the new working structure of Eurojust: different actors can work more efficiently with all case related data. Eurojust sees this case management system as a win-win situation. Eurojust will supply data and services maintaining the system; the members (and Member States) can make use of the data at their best interest.

*National support for the members of the College*

The decisions made on a European level affect the legislations of the Member States. This seems obvious, but Eurojust, who sees itself as a key player in the European juridical field (Eurojust, 2005, p. 14), experiences the gap between theory and practice strongly. The practice in the European Union turns out to be that much of the European legislation cross border crime is not even implemented by the Member States or only at best several years after the signing of the treaty. It is obvious that due to this lack of proper registration good service and assistance by Eurojust becomes a very difficult task to perform.

Besides the difficulty of implementing the European legislation by Member States, the functioning of the members of the College of Eurojust is seriously hindered by lack of (often financial) support from their own country. Eurojust specifically states: "It is disappointing that some National Members are not given sufficient support by their home authorities to allow them to establish a permanent residence in the Hague (Eurojust, 2005, p. 15)". Eurojust is well aware that its success is very much dependent on the attitude and support of the Member States: "It is clear that the overall strength of Eurojust is closely linked to the

powers of the National Members granted by their home countries" (Eurojust, 2005, p. 15).

#### *European Juridical Network and Liaisons Magistrates*

The fact that Eurojust is totally dependent on the support of their Member States leads to the establishment of the European Juridical Network and Liaisons Magistrates. This team has the task to communicate with the college of Eurojust and Member States representatives, and to optimize the cooperation, as to avoid duplication (Eurojust, 2005, p. 17).

The annual report of 2005 summaries three major achievements (Eurojust, 2005, p. 17-18):

1. The improved relationships between the relevant actors.
2. The newly created and continue platform for exchange of information and experience by the EJM-LN team.
3. An information brochure which has been developed due to a meeting of Europol in May 2005 where actors from different levels of the juridical arena exchanged experiences. This exchange did lead to this hardcopy information brochure wherein basic information about tasks and competences of Eurojust and EJM-LN is offered.

#### *Eurojust and the European Constitution*

A new European constitution could help to improve the quality of services from Eurojust. It primarily would offer Eurojust the power to initiate investigations to fight cross border crime in stead of just waiting for a request from Member States. Another advantage would be that the procedures and structure of Eurojust would become clearer and as such more effective. This would mean more openness for all actors in the European Union concerning fighting and prosecution of crime.

#### *The Eurojust – Europol connection*

Europol is, as mentioned earlier on, an important actor for reducing cross border crime. The organisation of Europol aims to improve the effectiveness and co-operation of competent authorities among the Member States in preventing and combating terrorism, unlawful drugs trafficking and other forms of serious international crime (Website of the organisation Europol, 4-5-2006). So, both organisations overlap in their field of attention but the operational scope of Eurojust is larger than that of Europol. It is obvious that the European success in fighting cross border crime will benefit greatly from good cooperation between these two agencies.

The cooperation agreement between Europol and Eurojust was signed in 2004. In 2005 the Europol and Eurojust directors have had several meetings to exchange views and information and a special joint committee, the steering committee, was established and meets several times on general co-operation issues.

Also there has been some work on creating a secure information exchange channel. This IT connection should enable the organisations to work more efficiently.

If we look at the requests between the two organisations two things are to be observed; see table 7. Eurojust still is a young organisation and the implication at the moment is that the information exchange is mainly in one direction, namely outwards. And secondly, the requests for information exchange has been growing so fast that a two- or more ways of exchange of information is crucial if one wants to be able to act effectively in this field.

Europol and Eurojust are cooperating in many different fields; drugs trafficking, terrorism, trafficking in human beings, counterfeiting currency and fraud.



**Table 7: Information exchange with Eurojust, from Europol's point of view (Eurojust, 2005, p. 19).**

	2004	2005
Request sent by Europol to Eurojust:	0	1
Answers received by Europol from Eurojust:	0	1
Request received by Europol from Eurojust:	8	64
Answers by Europol to Eurojust:	4	52
Total:	12	118

In an evaluation report the two organisations concluded that Eurojust should encourage Member States to consider inviting Eurojust National Members to participate in Analytical Work Files (Eurojust, 2005). The report also recommends exploring how both organisations can be involved in each other's planning activities.

Eurojust and Europol researched how the cooperation method of joint investigation teams can be used more by the competent authorities of the Member States. They created a guide summarizing the legislation on JIT's of Member States (Eurojust, 2005, p. 19-20).

Besides exchanging information Europol also invited Eurojust to co-ordinate cases connected to 8 of the 17 Analytical Work Files in Europol (Eurojust, 2005, p. 20). However, at this moment Europol and Eurojust can not cooperate as one organisation in the fight against cross border drugs trafficking, because the legal framework of Europol does not allow Eurojust to cooperate so closely.

### **5.3 How effective is the JIT as coordination vehicle for the Netherlands?**

This paragraph presents two cases of cross border cooperation for drugs trafficking in the Netherlands (section 5.3.1) and a comparison between these two models for cross border coordination (section 5.3.2). The information for this section comes from the in-depth study of Corten–Van der Sande & Martens (Corten–Van der Sande & Martens, 2006) about the usefulness of JIT as a vehicle for international law enforcement cooperation.

#### **5.3.1 The Dutch experience with cross border coordination for drugs trafficking: two cases**

##### **Case NL 1: Drugs Joint Investigations Team.**

In 2004, the Dutch government initiated the start of Joint Investigations Team on Human Trafficking; the members were Belgium, Bulgaria, Germany, the Netherlands and the United Kingdom. This project never grew out of the start-up phase due to legal problems (the JIT legislation was not implemented in time in

Belgium, Bulgaria and Germany) and organisational problems: selected team members came from a too high rank (too little operational experience) and no specific case was available. The considerable cultural differences between the members seemed unbridgeable at that time. SO, this effort to set up a Human Trafficking JIT failed.

The Dutch and British officers, who did join the Human Trafficking JIT, concluded that both countries should start together in a JIT on drugs trafficking (a shared problem); the Dutch – British drugs JIT was born. Both police organisations in an early phase decided that their prosecuting department should be involved as well. Although there was some reluctance from British police members to let “prosecution” join the drugs JIT; they considered prosecution as a “risk”(!) for the investigations of the team (Corten – Van de Sande & Martens, 2006). From the start onwards, Europol actively supported this drugs JIT.

This drugs JIT became an absolute success due to the thorough preparation of the project. The Dutch team members received courses in the English language and were introduced in the British legal system. The British members were taught Dutch and received information about the Dutch legal system. The whole team was extensively trained in international police practice and in cultural awareness and received specific information about how to cooperate together with Europol.

#### **Case NL 2: Hazeldonk; bottom up coordination for joint action.**

The Hazeldonk project already started in the beginning of the nineties. At that time the Netherlands experienced a lot of annoyance and criminality from French and Belgian drugs traffickers who bought the free available soft drugs in the Netherlands (unintended consequences of the Dutch drugs policy; a free heaven for soft drugs).

In 1997 the Dutch, Belgian and French police decided to form a common team of police officers that could work in the Netherlands, to stop and arrest Belgian and French drugs traffickers. A few raids were held in 1997 and 1998.

Due to the success of these raids, the ministry of justice of France and the Dutch police and justice ministers signed an agreement to give a more official base for this cooperation. As a result, the Dutch national investigation department has been extended in 2003 with four French investigation officers, and several French police officers were added to the Dutch arrest teams.

Such a Joint Hit Team can be characterized as a bottom up coordination between the Dutch, French and to a lesser extend the Belgian law enforcement and prosecution departments. This project was supported by the intelligence of Europol and Eurojust was not involved at all.

Due to the success of this project, a second cross border cooperation team was established in 2006 between the police and the prosecution departments of the Netherlands and Germany for drugs trafficking in the area of Maastricht, Venlo, Dusseldorf and Aachen.

### **5.3.2. Comparison of the two approaches**

The Dutch police department (Corten – Van de Sande & Martens, p.22, 2006) analyzed the two approaches for international coordination. The models were compared on legislation, organisation and culture; the results are summarized in table 8.

**Table 8: Comparing two model for cross border coordination**

	<b>Bottom up practice</b>	<b>TOP - Down JIT</b>
<b>legislation</b>		
Quantity	Diversity of laws And treaties	One JIT arrangement
Quality	Unambiguous	Differences in interpretation
General picture	Patchwork of regulations and opportunities	Just one legal arrangement.
<b>Organisation</b>		
Working method	Search for (im)possibilities	Following formal rules. Difficult and time consuming regulations
Scale	Small research Regional level	Complex research International level
Design	Customised	Standard
Character	Pragmatic	Long term view
Rationality	Special competency	A means for cooperation
<b>Culture</b>		
Politics	Joint prioritizing	Sensitive search for Political support
Hierarchy	No hierarchy	Vertical, top - down
Process	Focused on substance	Focused on Internal process
Communication	Essential condition	Just a means

The Bottom - Up model for international coordination can be characterized as entrepreneurial and innovative. There exists no well defined legal base for coordination; there is no well defined organisation and there are no rules for 'how to cooperate together'. The members of the bottom up teams are focussed on operations and "find their way through": what works for both parties is adopted as common practice. And most important, the aim is: to have success together. The culture is one of 'getting things done together as soon as possible'.

The (Top – Down) JIT model can be characterized as professional and is very effective as coordination vehicle for the Netherlands as a Member State. The JIT team operates in a well defined set of legal rules and regulations and uses elaborate consultation and decision procedures. This model is appropriate for complex cases where more than two Member States are involved and connected with a lot of political interest is connected with the case. The (Top - Down) JIT model for international coordination can be described as a multi-national which carefully listens to the political market.

## 5.4 Analysis of cases within three theoretical frameworks.

In this section the eleven cases of Eurojust and the two Dutch examples of cross border cooperation are analyzed through the lens of three theoretical frameworks: the contingency theory (section 5.4.1), Metcalfe's coordination capacity scale (section 5.4.2) and Alexander's framework for Inter Organizational Coordination (section 5.4.3).

### 5.4.1 Describing the environment of Eurojust using the Contingency theory

As discussed earlier on (see chapter 4), the dimensions of Hostility and Homogeneity of the Contingency theory are not very useful for describing and analyzing the environment of Eurojust or the Dutch international coordination unit.

The eleven drugs trafficking cases of Eurojust and the two Dutch cases are therefore only scored on the level of predictability (high, medium, low) and on the level of complexity (high, medium, low) of the environment (for the operationalisation of these dimensions, see chapter 4).

Table 9 presents the scoring of the thirteen cases on the dimension of predictability of the environment and table 10 gives the scoring on the level of complexity of the environment.

**Table 9: Assessment on predictability of environment of cases**

Case no	Scoring Predictability	Relevant data
No 1	Medium	Complete information in Den mark; splendid cooperation with National members Den & Spain; new info in Spain, cooperation of local courts.
No 2	Low	Incomplete info in Italy, New info needed from B. & NL; cooperation with Europol and National Members. Arrests needed in specific time schedules, can not be influenced by Eurojust
No 3	High	Complete information in Slovenia, goed cooperation National Members and prosecutors, info exchange. Business as usual.
No 4	Low	Information Spain and Portugal incomplete and not shared conflict. Difficult actions needed in strict time frame, decision court Portugal, no influence of Eurojust
No 5	Medium	Complete information, good cooperation National members, difficult action needed: controlled deliverance
No 6	High	Business as usual, all suspect in custody in Czech. Complete information, just additional information exchange from Italy.
No 7	Medium	Almost complete information, difficult actions needed: controlled delivery, good cooperation National Members
No 8	High	Business as usual, complete information, additional information exchange Germany, speeding up of exchange
No 9	High	Information exchange for joint future operation between Germany and Poland
No 10	High	Information exchange; suspect already in custody; exchange for synchronizing legal operations

<b>No 11</b>	<b>Low</b>	Difficult project: dugs trafficking and human trafficking; 6 Member States involved, different time frames for actions, incomplete information.
<b>NL 01</b>	<b>Medium</b>	Phase and planned cooperation between two Member States: NL & UK; difficult actions: incomplete information investigations law enforcement and prosecuting.
<b>NL 02</b>	<b>High</b>	Business as usual: law enforcement action in NL; incorporation of FR team members in law enforcement unit.

**Table 10: Assessment of complexity of environment of cases.**

Case	Scoring Complexity	Relevant Data
<b>No 1</b>	<b>Low</b>	2 Member states, simple actions needed
<b>No 2</b>	<b>High</b>	3 Member Sates; 42 arrests, 14 EAW, location of suspects unknown( difficult actions)
<b>No 3</b>	<b>Low</b>	2 Member States, simple actions: information exchange
<b>No 4</b>	<b>High</b>	2 Member States but very complicated actions, extradition and arrests, legal obstructions
<b>No 5</b>	<b>High</b>	3 Member states; difficult action: controlled delivery
<b>No 6</b>	<b>Low</b>	2 Member States, information exchange; simple actions
<b>No 7</b>	<b>High</b>	3 Member States, difficult actions: controlled delivery
<b>No 8</b>	<b>Low</b>	2 Member States, information exchange, simple action
<b>No 9</b>	<b>Medium</b>	2 Member States, difficult action
<b>No 10</b>	<b>High</b>	4 Member States involved, difficult action
<b>No 11</b>	<b>High</b>	7 member States with difficult actions needed
<b>NL 01</b>	<b>Medium</b>	2 Member Sates with difficult actions
<b>NL 02</b>	<b>Low</b>	2 Member States simple actions : simple law enforcement

The results of the fact sheets of predictability and complexity are summarised in table 11 below which presents the scoring of the cases on both dimensions. This section focuses on a description of the environment of Eurojust, because only two Dutch cases are incorporated in this study, nothing reliable can be said about the environment of the Dutch coordination unit. The numbers in table 11 refer to the cases described in section 5.2.1.

**Table 11: The level of predictability and complexity of Eurojust cases**

Complexity	Predictability		
	Low	Medium	High
High	no 2; no 11	no 5; no 7	no 10
Medium		no 4; nl1	no 9
low		no 1	no 3; no 6; no 8; nl2

Table 11 shows that the environment of Eurojust encompasses all levels of complexity and predictability.

To take some examples: Case no. 11 exhibits a low predictability and high complexity; the environment of Eurojust is highly turbulent (low predictable) here because in this case six Member States needed to work together on two nested problems (drugs trafficking and human trafficking). The information was highly dispersed over those Member States and incomplete, plus the coordination activity for Eurojust was complicated: criminal investigations in several countries, putting into custody, extradition, overlapping and competing timetables.

Case no. 8 is an example of high predictability and low complexity. The environment here is highly predictable for Eurojust because all information is already available working with the prosecuting department in Poland. This case is Business as usual for Eurojust.

Eurojust only needed to facilitate exchange of simple information from Germany to Poland to speed up the legal process.

This case is diagnosed as low in complexity because there are only two Member States involved and the coordination activity is merely the exchange of well defined legal information between two Member States.

It is also evident that in this data set the two dimensions of predictability and complexity are not independent of each other. In the published drugs trafficking cases of Eurojust, low predictability does not go together with medium and low complexity. This result is obvious: it is hard to imagine a drugs trafficking case which can be categorized as being a highly turbulent environment with a low or medium level of complexity.

#### **5.4.2 Analysing of the coordination capacity of the cases by using Metcalfe's scale.**

Metcalfe proposes nine different capacities to describe the type of coordination that takes place between organisations in a network (see chapter 3). The first level of the coordination scale 'Organisations manage independently within their jurisdictions' (see section 4.1, table 6), is not useful for analysing the coordination activity of Eurojust, or for the Dutch coordination unit. Per definition Member States manage the prosecution and law enforcement activities in their jurisdictions independently.

The eleven Eurojust cases and the two Dutch cases are assessed independently on all the categories of the coordination capacity scale. References in the case descriptions to one of the coordination capacities are highlighted in bold. The results of this assessment are presented in Annex 1.

A summary of the scoring of the cases on coordination capacity is presented in table 12. If a particular coordination activity (a level) is used by Eurojust or by a Dutch coordination team in a specific case, it is registered in table 10 with a mark '+'. The absence of a coordination capacity is marked with a '-'.

**Table 12: Type of coordination capacity used**

Case	Type of coordination capacity							
	2	3	4	5	6	7	8	9
No. 1	+	+	-	-	+	-	-	-
No. 2	+	+	-	-	+	-	-	-
No. 3	+	+	-	-	+	-	-	-
No. 4	+	+	-	-	+	+	-	-
No. 5	+	+	-	-	-	-	-	-
No. 6	+	+	-	-	+	-	-	-
No. 7	+	+	-	-	+	-	-	-
No. 8	+	+	-	-	+	-	-	-
No. 9	+	+	-	-	+	-	+	-
No. 10	+	+	-	-	+	-	-	-
No. 11	+	+	-	-	+	-	-	-
Nl. 1	+	+	-	-	-	-	-	-
Nl. 2	+	+	-	-	-	-	+	-

Table 12 shows that the most important coordination activities Eurojust uses are:

- A. **Exchange of information** among organisations (communication); level 2
- B. **Consultation** among organisations (feedback); level 3
- C. **Conciliation** (mediation); level 6

Besides Exchange of information and Consultation between organisations, Eurojust also needs to **mediate (level 6)** in almost every case between the prosecuting departments of Member States which are involved in the same drugs trafficking case. Case no. 5 is an exception; Eurojust states that mediation was not necessary here because this case was handed over in a very early phase of investigation.

In this sample of cases, Eurojust needed to **arbitrate** (level 7) only in one case (no. 4) between two Member States. In this one particular case two countries (Spain and Portugal) had started investigations into the same criminal organisation not knowing from each other investigations. Both Member States claimed to be the “leading prosecution party” and they did not want to hand over their information to the other State. Eurojust needed to arbitrate to solve this conflict.

Case no. 9 also stands out from the general pattern. Besides exchange of information, consultation and mediation, Eurojust was successful in getting a memorandum (**establishing common limits**) signed by Poland and Germany. This memorandum provided the legal framework for German undercover police officers to work in Polish territory.

The two Dutch coordination cases differ in their scoring pattern from the eleven Eurojust cases: **exchange of information** (level 2), **consultation** (level 3) were found, but mediation, which was found in almost all Eurojust cases, was lacking here. From the case description it is evident that mediation and conflict arbitration did not occur in the two Dutch cases because the involved prosecution and law enforcement departments did a lot of “ground work” preparation upfront. In both cases, the Dutch invested a lot in language courses, professional education and in information about the legal systems of the other Member States which were involved in the common project.

### **5.4.3 Analysis of the cases with Alexander's theoretical framework for Inter Organisational Coordination.**

From the elaborate framework of Alexander, four expectations were derived, which will help to get a better understanding of specific coordination problems between organisations in a network. The coordination solutions described in our eleven Eurojust and two Dutch cases are in this section confronted with Alexander's expectations.

#### **Expectation 1: Sequential interdependency and fit of IOC**

The eleven Eurojust cases and the two Dutch cases do not exhibit sequential interdependency. However simple sequential interdependency between the law enforcements and prosecuting departments in the EU does exist. For example Member State A requests for a certain law enforcement activity in Member State B.

#### **Expectation 2: Reciprocal interdependency and fit of IOC**

Reciprocal interdependency is at the heart of all Eurojust cases (the two Dutch cases are examples of pooled interdependency, see expectation 3). In its most simple form, it can be described as: Member State A asks for law enforcement//prosecuting activity of Member State B. This activity must be executed in a certain time frame and the outcome does influence the prosecuting case of Member State A.

Alexander expects, based on his research, that in case of reciprocal interdependency, it is best to design a rather un-institutionalised IOC structure if the environment is highly predictable (low turbulence) and can be described as low complex. Using the assessments of predictability and complexity of the contingency theory (see Table 11, p. 58), it is clear that that only three out of the eleven cases fall in this category of low complexity – high predictability. Alexander would expect that for this type of environment, an un-institutionalised IOC structure would be the best fit.

However Eurojust is certainly a highly institutionalised IOC structure. This kind of IOC structure is the best fit when the environment is complex (medium – high) and/or has a low or medium predictability. Eight out of the eleven Eurojust cases fall in this category.

#### **Expectation 3: Pooled interdependency and fit of IOC**

The two Dutch cases are examples of pooled interdependency; the Member States involved on both cases contributed to the costs, and allocated police and/or prosecuting officers to the JIT's. Alexander expects that IOC structures which have to deal with pooled interdependency require an institutionalised structure. The Dutch case n11 has a much institutionalised structure (top – down JIT), in accordance with the expectation of Alexander.

However, Dutch case NI2 has definitely a less institutionalised IOC structure. Alexander expects that this structure can give a good fit for pooled interdependency if the network is small and has solidarity and mutual trust and respect among the members.

The team members of case NI2 received special training to work successfully together (language and professional courses and specific information about the legal system of the participating Member State). This certainly will have boosted the mutual respect and trust among the JIT- members.



**Expectation 4: Complexity and fit of IOC**

In Alexander’s framework, complexity of the IOC structure is determined by the level of homogeneity - heterogeneity and by the level of differentiation of the network organisations. In our cases, all network organisations are focused on law enforcement and prosecuting activities and can be characterised as low differentiated organisations. Low differentiation of network organisations asks for an informal IOC structure (see table 13). However only the two Dutch cases have this structure; the Eurojust cases have a rather institutionalized IOC structure.

Assessment of the level of homogeneity – heterogeneity of our cases is not so easy. Alexander mentions three operationalisations for this dimension: do the network organisations share the same functional focus, professional background and organisational culture or do they not?

All the network organisations involved in the Eurojust and Dutch cases rate very high on the first two criteria, functional focus and professional background, giving them a high score on homogeneity. Taking into account the fact that cultural differences have a great impact upon cooperation and coordination endeavours in Europe, the assessment on the third criterion (different organisational cultures and values) therefore leads to a high heterogeneity score for the Eurojust cases but to a more homogeneity score for the Dutch JIT organisations. As we know, the teams members involved in the two Dutch cases received an extensive preparation to diminish the organisational and cultural differences between the network organisations.

The expectations of Alexander are presented in table 13 (highlighted with bleu colour). The Eurojust cases and the Dutch cases are plotted in table 13 as well (and highlighted in bold).

**Table 13: Assessment of the Eurojust and Dutch IOC structure on Homogeneity and Differentiation**

Differentiation of network	Homogeneity	Heterogeneity
<b>High</b>	Mildly Institutionalized	Highly Institutionalized
<b>Low</b>	Informal	Rather Institutionalised
	<b>Dutch cases</b>	<b>Eurojust cases</b>

The more heterogeneous and the more differentiated the network organisations are, the more institutionalized the IOC structure needs to be. So the IOC structures of the Eurojust cases have the right fit: low differentiation and mildly heterogeneity favours rather institutionalized IOC structure. The two Dutch cases also support Alexander’s expectation: homogeneity and low differentiation ask for an informal IOC structure.

In the next and last chapter I will formulate answers on the questions of this research.

## Chapter 6

# Conclusions, recommendations and reflections

### Introduction

The European Commission realizes that European citizens can only fully benefit the right of open borders if they can lead their lives and go about their business in security and safety. Citizens must be protected against international crime and be availed to enjoy equal access to justice<sup>5</sup>. However, to attain such a state of safety a lot needs to be done against cross border trafficking since Europol (2005) concluded that large-scale production and trafficking of drugs is the most common form of crime among criminal networks that target the European Union. Therefore combating cross border drugs trafficking is high on the priority list of law enforcement agencies in Europe, and Member States dedicate considerable law enforcement resources to tackle this phenomenon. It is very clear that the Member States cannot address this international (if not global) crime in isolation (Europol, 2005). The EU cannot impose their drugs policy upon the Member States, or prescribe how to prosecute this cross border drugs trafficking crime. I started this study because I wondered whether it is possible for the EU to unify forces for combating international crime? And if so, which decision processes are involved to shape such a unified body? What are the powers which need to be involved in realizing such a full functioning international agency? More specific: which decisions need to be taken to facilitate the prosecution of criminal acts?

In chapter 2, I described in some detail the present day EU drugs policy as to assess which policy implementations dealing with crime are already realized, and how, when and why did they emerge?

The new EU drugs strategy aims to add value to national strategies while respecting the principles of subsidiary and proportionality set out in the treaties (described in chapter 2).

This new EU drugs strategy has two goals:

- to achieve a high level of health protection, well-being and social cohesion by complementing the Member States' action in preventing and reducing drug use and dependence and drugs-related harm to health and fabric of society;
- to ensure a high level of security for the general public by taking action against drugs production, supply and cross-border trafficking, and intensifying preventive action against drugs-related crime through effective cooperation between Member States.

The Commission of the EU proposed a 2005 – 2008 EU drugs action plan aiming at more international coordination between Member States, further demand and supply reduction and at more information, research and evaluation. The Commission thinks that the EU can solve this drugs problem and the related international drugs trafficking crime by more specific coordination between Member States.

I also described the drugs policy of the Netherlands as well. The Dutch scholar Van Ooyen-Houben (2006) recently sketched a rather gloomy picture of the effects of the Dutch drugs policy. She concluded that the main objective of the Dutch drug policy – prevention and reduction of health risk of drugs consumption – has been attained. From the perspective of the Department of Justice and the Department of Interior (police), the Dutch drugs policy is not so successful (van Ooyen-Houben, p. 42, 2006). The local production and trade of XTC is a big problem. The local production of cannabis has even

---

<sup>5</sup> Website EU freedom security and justice; [http://europa.eu.int/comm/dgs/justice\\_home/index\\_en.htm](http://europa.eu.int/comm/dgs/justice_home/index_en.htm)

been developed into a mature industry (financed and managed by criminal international consortia). The Dutch juridical system is congested with drugs related offences (mostly through cocaine trafficking via Amsterdam International Airport). The "coffee shops" in the border regions with Belgium and Germany cause loads of problems for local authorities (level of drugs related annoyance is out of control).

Comparing the two policy positions about the drugs problem, one can conclude that: the European Union firmly thinks that the drugs problem can be solved through a better coordination of actions of the Member States and that Europe can make a difference especially for combating this cross border crime of illegal drugs production, trade and consumption. The Dutch government though denies the international characteristic of the drugs problems and thinks that governmental actions to reduce the production and consumption of drugs will have no lasting influence.

But how does one implement the EU policy to have the Member States working more closely together to diminish cross border drugs trafficking? As we saw, the establishment of Eurojust in 2002 as the European agency to coordinate and improve investigation and prosecution of authorities between the EU member states was an important step forward; Eurojust has become the most important juridical coordinating organisation in the European Union.

So, the policy of the European Union focuses on establishing a better coordination between the law enforcement and prosecuting agencies of the Member States; strategic coordination is a way to 'solve' this European drugs problem. To be able to answer my starting question whether it is possible to unify forces for combating international crime, I measured the success of Eurojust and the Netherlands by their taken action. In this master project I studied how:

**How is the organisation of Eurojust functioning in the European arena, what are the tasks and barriers and what needs still to be done?**

I investigated this question by analyzing **the coordination of practices of Eurojust**. To tackle this problem I formulated four sub questions (chap. 1). And to get a better understanding of coordination between different organisations operating in an international environment, I analyzed, and discussed the relevance of three different theoretical perspectives on interorganizational coordination: the Contingency theory (Rosenthal, Ringeling, Bovens, 't Hart & Van Twist, 1996), Metcalfe's coordination capacity scale (Metcalfe, 1997) and Alexander's theoretical framework of Inter Organizational Coordination (Alexander, 1995) (chap.3)

The data for answering my research questions were presented in chapter 5.

In the next section (6.1), I will first give an answer on the formulated four sub questions and then I formulate my overall conclusion and give some recommendations in section 6.2. In the concluding section (6.3) I present some reflections about my research topic, the theoretical framework and about the process of producing this master thesis.

## 6.1 Conclusions: answering of the four sub questions.

### In what way can the theoretical perspectives properly describe the dynamics of coordination in the European Union? (Sub question 1)

**Contingency theory.** To get a better understanding about whether certain coordination activities of Eurojust are successful, I assessed the environment of the cases on the dimensions of the contingency theory. The environment of Eurojust as expressed in the case descriptions can be described as homogeneous and not hostile.

However the assessment of the cases on the dimensions predictability and complexity showed that the environment of Eurojust exhibits all levels of predictability and of complexity.

Based on these findings, it is difficult to infer a best organisational structure – environment fit for Eurojust.

In our data set we did not find cases with a combination of low/ medium complexity and low predictability. This result is obvious: it is hard to imagine a drugs trafficking case which can be categorized as being a highly turbulent environment with a low or medium level of complexity.

**Metcalfe's coordination capacity scale.** Our data showed that it useful to describe the coordination activities of Eurojust by utilizing the coordination capacity scale of Metcalfe. The first level of the coordination scale 'Organisations manage independently within their jurisdictions' however is not useful for analysing the coordination activity of Eurojust, or for the Dutch coordination unit. Per definition Member States manage the prosecution and law enforcement activities in their jurisdictions independently.

The most important coordination activities Eurojust uses are: **Exchange of information** (level 2), **Consultation** (level 3) and **Mediation** (level 6).

In specific cases Eurojust needs also to **arbitrate** (level 7) between the network organisations or to **establish common limit** (level 8).

In contrast, the two Dutch cases which also showed the coordination activities of exchange of information and consultation did not show mediation activities.

Coordination by Eurojust in Metcalfe framework means: exchange of information, consultation and mediation between the network organisations. Eurojust sometimes needs to arbitrate or set common limits between the network organisations.

Using Metcalfe coordination capacity scale leads to an enriched description of the coordination activities in Europe.

**Alexander's IOC framework.** From Alexander's extensive framework for analyzing Inter Organizational Coordination, four expectations were derived about the fit of type of interdependency and complexity of the network and IOC structure.

Our data showed that **reciprocal interdependency is at the heart of all Eurojust cases**. The fit between reciprocal interdependency of the network and IOC structure is mediated by the level of predictability and complexity of the network. Eurojust has a highly institutionalised IOC structure; this kind of IOC structure is the best fit when the environment is complex (medium – high) and/or has a low or medium predictability. Eight out of the eleven Eurojust cases fall in this category. Opposite to the expectations of Alexander, Eurojust was successful as well in three cases (low complexity and low turbulence) which supposed to need an uninstitutionalized structure.

Alexander expects that IOC structures which have to deal with **pooled interdependency** require an institutionalised structure. One Dutch case fitted with this

expectation, but the other Dutch case did not so (pooled interdependency and uninstitutionalized structure).

The **complexity** of the IOC structure is determined by the level of homogeneity - heterogeneity and by the level of differentiation of the network organisations. The more homogeneous the network, the more informal the IOC structure needs to be. The Dutch cases were classified as more homogeneous than the Eurojust cases (more heterogeneous). This is in line with Alexander's expectations that the Dutch IOC structures are more informal than the Eurojust cases (rather institutionalized).

None of our cases exhibited sequential interdependency. However this type of interdependency will certainly exist in the field of international coordination. This qualification will be elaborated in the last section.

Alexander's IOC framework describes the Eurojust network as having reciprocal interdependency whereas the network of the Dutch cases can best be described as exhibiting pooled interdependency. The relationship between the structural characteristics of the network (type of interdependency and complexity) and fit of IOC structure was not always supported by our cases.

### **What are the tasks and functions of Eurojust? (Sub question 2)**

Eurojust was established in 2002 in order to reduce the serious forms of criminality in the European Union. In other words the main goal of Eurojust is to coordinate and improve investigation and prosecution of authorities between the EU Member States. So Eurojust is the most important juridical coordinating organisation in the European Union.

But Eurojust also facilitates the execution of international mutual legal assistance and the implementation of extradition requests, supporting authorities to render problems which cross border crime provokes. Eurojust wants to help Member States to overcome problems with different cultures, legal systems and languages – to name just a few- that hinder good communication and cooperation between Member States in their battle against international crime

Eurojust is a case-driven organisation. Eurojust comes into action when one Member State asks for help and 'presents' a case. In theory, other supranational organisations, such as Europol, other EU departments or Interpol, can "feed" Eurojust with cases as well. But the practice is that other supranational organisations hardly ever ask for the coordination services of Eurojust.

Eurojust receives requests for coordination from different national entities. Most of the requests for help from Eurojust come from the National Investigation departments of the Member States. The National Intelligences departments mostly solicit for the services of Eurojust through Europol. Only in a few instances these National Intelligence departments address their requests for help directly to Eurojust. More often the departments for National Intelligences of the Member States inform EPCTF. They then request the National Investigation department to ask for the services of Eurojust. In 2004 EPCTF directly informed Eurojust in only one case.

Eurojust wants to be the most important player in Europe in the fight against serious criminal cross border offences. In 2004 Eurojust received 465 requests for help; this figure was raised to 734 in 2005. Eurojust addresses a wide range of cases: drugs trafficking (20%), fraud (20%), money laundering, homicide and terrorism (7% each), organised robbery (6%) and a great number of other cross border offences (33%).

### **What are the barriers of Eurojust? (Sub question 3)**

Eurojust faces mayor internal and external barriers for successfully fulfilling its functions. The mayor internal barriers are:

1. Eurojust is a case driven organisation with no legal powers whatsoever (just coordination!) and it is still a young organisation which needs to market her services to their clients.
2. The database of Eurojust needs to expand.
3. The influence and authority of Eurojust not only needs to grow internally, but also outside the EU.
4. Eurojust should also gain more access to the policy making procedure. The faults and successes of Eurojust are not implemented in this moment of time in new policies or plans in the juridical arena of the European Union.
5. It is highly remarkable that the knowledge (and data) Eurojust has, hardly is used by other EU organisations. This waste of knowledge should be dealt with more carefully.

It is clear that in becoming an effective agency Eurojust needs to acquire a **more profound legal base** and receive more support from National Members and Member States. Member States are very slow in implementation of legislation for cross border crime.

Our analysis clearly showed that mediation and arbitration are important coordination activities performed by Eurojust. To my knowledge, Member States until now not always follow the advice of Eurojust. It is desirable to regulate the binding character of the advice of Eurojust in the deeds of the organisation.

Eurojust only acts upon requests for help from Member States. This is not enough if Europe wants to become successful in their fight against cross border drugs trafficking. Eurojust sometimes is better informed than a certain Member State about the activities of a specific criminal organisation. Waiting for a request is a waste of time and energy, Eurojust needs the right to investigate serious cross border offences in the EU. It is best to lay down this right to investigate for Eurojust in a new European convention.

European regulations prevent Europol and Eurojust to fully work together as virtually one organisation. From a prosecuting and law enforcement perspective, it is incomprehensible that there are restrictions for Eurojust and to fully exchange all information available. So removal of the legal obstruction will lead to a closer cooperation between Europol and Eurojust.

### **Is Eurojust doing a good job, what is going well and what must change? (Sub question 4)**

Although Eurojust has only recently been established (2002), it has become the mayor coordination agency in the EU for the fight against cross border offences. Drugs trafficking is the mayor cross border offence in the EU.

Eurojust has to perform and achieve coordination through a wide range of different activities in a complex international juridical arena. The cases exhibit how Eurojust comes up with (juridical) solutions in different situations. These data strongly support Eurojust's premises that each case is unique and asks for a case specific coordination. Analysis of the case descriptions with Metcalfe's coordination capacity scale highlighted the advisory and diplomacy functions of Eurojust. The mediation and arbitration functions of Eurojust are strongly underestimated.

So, Eurojust is on its way to become an **effective** European coordination agency for combating cross border crime. The data presented in chapter 5 show that many organisational factors prevent good performance not in the least due to the fact that the agency is so young. It absolutely needs to grow in infrastructure, professionalism and branding. Much has been attained from an organisational perspective, but more changes

are required in *Membership's Powers, in a new working structure, the Case Management System, National support for the members of the College, the relationships with European Juridical Network and Liaisons Magistrates, the right to initiate investigations to fight cross border crime (laid down in a new European convention), better legal frameworks for close cooperation and more coordination with Europol.*

So, still a lot needs to be done on the legal and organisational level before Eurojust is able to do a real good job as a European agency.

## 6.2 Overall conclusion and recommendations

Our results show that coordination in the European Union is not an easy thing to do. Metcalfe concluded that coordination in the absence of a unified hierarchy *is even more difficult in the EU than it usually is in a national context. There are serious barriers to overcome. Horizontal working relationships do not develop spontaneously among organisations which are embedded in culturally and institutionally diverse national administrative environments. Typically, too little effort has gone into strengthening these links. Gaps and weaknesses have been overlooked; duplication and overlap cause frustration and unproductive conflict*" (Metcalfe, 1997, p. 12).

**This project showed that Europe is capable to coordinate the prosecuting and law enforcement activities of Member States against cross border drugs trafficking in a successful manner.**

However our data also suggests that the next (policy) decisions need to be taken in order to improve the European coordination.

### 1. Bolster the arbitration and mediation function of Eurojust.

Our analysis clearly showed that mediation and arbitration are important coordination activities performed by Eurojust. To my knowledge, Member States until now always follow the advice of Eurojust. It is desirable to regulate the binding character of the advice of Eurojust in the deeds of the organisation.

### 2. Remove the legal obstruction for a closer cooperation between Europol and Eurojust.

European regulations prevent Europol and Eurojust to fully work together as virtually one organisation. From a prosecuting and law enforcement perspective, it is incomprehensible that there are restrictions for Eurojust and to fully exchange all information available.

### 3. Give Eurojust the prerogative to start own investigations.

Eurojust only acts upon requests for help from Member States. This is not enough if Europe wants to become successful in their fight against cross border drugs trafficking. Eurojust sometimes is better informed than a certain Member State about the activities of a specific criminal organisation. Waiting for a request is a waste of time and energy. It is best to lay down this right to investigate for Eurojust in a new European convention.

### 4. Member States can do more together.

Metcalfe warned for the danger of duplications and overlap in the EU, causing a lot of frustration and unproductive conflict. The Dutch JIT models show that with the right preparations, two Member States can cooperate successfully. Not every coordination problem needs to be "solved" through involvement of Eurojust.

Our data suggest that complicated cases or cases where three or more Member States are involved need Eurojust as coordinating agency. Member States can do more to cooperate together in the fight against cross border drugs trafficking.

#### **5. Invest in (JIT) team members.**

The Dutch cases showed that it is worthwhile to invest in programs for reducing differences in culture between team members of an international coordination endeavour. Strengthening the cultural and professional links seems a “conditio sine qua non” for starting a successful international coordination activity for reducing cross border crime in Europe.

#### **6. Harmonize the drugs policy of the Member States and the EU.**

The coordination of the fight against cross border drugs crimes is a task for the EU. It is clear that the Member States can not solve the drugs problem on their own, keeping in mind the warnings of Europol about the professionalism of the international crime groups that target the EU. The drugs policy of the Netherlands which is so far away from that of the EU functions as a tough threshold for further coordination between law enforcement and prosecuting departments in Europe.

### **6.3 Reflections**

My conclusions and recommendations definitely need some qualifications:

1. As said before a lot of coordinating activities between law enforcement and prosecuting departments in the EU remained outside the scope of this research project. These coordination activities can be described in Alexander’s terminology as sequential dependency: a simple exchange of information mostly through common information systems of Europol and Interpol. My conclusions and recommendations can not be generalized for this type of coordination activity.
2. I did not get the opportunity to present my findings to the experts of Eurojust and the Dutch prosecuting and law enforcement departments. So, I definitely miss an important validation check for my conclusions and recommendations. Unfortunately, my (repeated) requests for cooperation were turned down or remained unanswered. This was a very frustrating and disappointing experience.
3. My research underlines, that building successful IOC structures in Europe for fighting cross border drugs trafficking is not an easy task. Although the theoretical perspectives of Alexander and Metcalfe on international coordination proved to be very useful, I agree with the expectation of Alexander that an universal algorithm for IOC structures will never be found.

I have learned from this research that Europe is a fascinating but complex environment. It seems that building successful networks of organisations to fight drugs trafficking is a very challenging job. It is consoling that Alexander stresses that, in the end designing interorganizational coordination structures is more an art than a science!

For me, it is now time to dive into the daily reality of building coordination structures.



# References

## Books

- Alexander, E. (1995). *How Organizations Act Together: Interorganizational Coordination in Theory and Practice*. New York, Routledge.
- Boekhout van Solinge, T. (2000). *De besluitvorming rond drugs in de Europese Unie*. Amsterdam, Cedro.
- Joustra, A. (1997) *Het hof van Brussels*. Amsterdam: Prometheus.
- McCormick, J. (2002). *Understanding the European Union*. Palgrave, New York.
- Hein van Duivenboden, Twist, M.J.W., Veldhuizen, M., (red), M., in 't Veld, R., e.a. (2000). *Ketenmanagement in de publieke sector*. Den Haag, Lemma.
- Rosenthal, U., Ringeling, A.B., Bovens, M.A.P., 't Hart, P., Van Twist, M.J.W. (1996). *Openbaar Bestuur: Beleid Organisatie en Politiek*. Alphen aan den Rijn: Tjeenk Willink.

## Reports

- Eurojust (2004). *Eurojust annual report 2004*, The Hague: Eurojust.
- Eurojust (2005). *Eurojust annual report 2005*, The Hague: Eurojust.
- European Monitoring Center for Drugs and Drug addiction (2006). *Jaarverslag 2005: Stand van de drugsproblematiek in Europa*. Lissabon, EMCDDA.
- Europol (2004). *Annual Report 2004*, The Hague, Europol.
- INCB (1997) *Report of the International Narcotics Control Board for 1997*. New York, United Nations Publication, 1997
- Politie (2005). *Lokaal verankerd, nationaal versterkt*: Utrecht: Stuurgroep Evaluatie Politieorganisatie.
- De Jonge, B. *Eurojust & Human Trafficking: The State of Affairs*. The Hague, Dutch Desk at Eurojust, October 2005.
- Tweede Kamer, *Drugsbeleid, vergaderjaren 1995–2005*, nr. 1-173, Den Haag.
- Europol (2005). *2005 EU Organised Crime Report: Public version*. The Hague, Europol.
- Catania, G. (2004), *Proposal for a European Parliament recommendation to the Council on the European strategy on fighting drugs (2005-2012): Committee on Civil Liberties, Justice and Home Affairs*. European Parliament, Brussels (FINAL A6-0067/2004).

## Articles & Publications

- Ackroyd, S. How Organizations Act Together: Interorganizational Coordination Theory and Practice. - book reviews. *Administrative Science Quarterly*, March, 1998.
- Council of the European Union. *EU Drugs Strategy (2005-2012)*, Brussels, 22-11-2004.
- European Commission. *Communication from the commission to the European Parliament and the Council on a EU drugs Action Plan (2005-2008)*, 14-2-2005.
- Metcalfe, Les. Flexible Federalism. *Paper presented at the conference on Civil Service Systems in Comparative Perspective Indiana University*, Bloomington, Indiana 47405 April, 1997, 5-8 (CSSCP, conference #403-97).
- Metcalfe, Les, International Policy Co-ordination and Public Management Reform, *International Review of Administrative Sciences*, London, Thousand Oaks and New Delhi: Sage, vol. 60, 1994: 271-290.
- Corten-van der Sande, Mr. M. J.A.M., Martens, P.P.J.M. (2006). *Leergang Internationale Politie Orientatie: Succesvolle Samenwerking in Internationaal Samengestelde (Politie) Teams*, Breda, Politie.
- Redactie (03-2004). Besluit van het gemeenschappelijk controleorgaan van Eurojust; houdende vaststelling van zijn reglement van orde, *Publicatieblad van de Europese Unie*.
- Van Ooijen-Houben, M.M.J. Hoe werkt het Nederlandse drugsbeleid? Een evaluatieve verkenning van een decennium drugsbeleid. *Justitiële verkenningen*. vol 32, no. 1, 2006: 24 – 45.

## Websites

- Website European Union freedom security and justice; *Justice, Freedom and Security from a European Commission perspective*, [http://europa.eu.int/comm/dgs/justice\\_home/index\\_en.htm](http://europa.eu.int/comm/dgs/justice_home/index_en.htm) (5-7-2006).
- Website European Union freedom security and justice; *Europol, Eurojust, forum on organised crime prevention - the EU is getting organised against organised crime*, [http://www.europa.eu.int/comm/justice\\_home/fsj/crime/structures/fsj\\_crime\\_structures\\_en.htm](http://www.europa.eu.int/comm/justice_home/fsj/crime/structures/fsj_crime_structures_en.htm) (5-7-2006).
- Website European Parliament; *Eurojust*, [http://www.europarl.eu.int/comparl/libe/elsj/zoom\\_in/14\\_en.htm](http://www.europarl.eu.int/comparl/libe/elsj/zoom_in/14_en.htm) (5-7-2006).
- Website of the Dutch Ministry of Justice, *27 mei 2005: Ondertekening verdrag van Prum door minister Donner*, [http://www.justitie.nl/pers/persberichten/archief/Archief\\_2005/50527Ondertekening\\_verdrag\\_van\\_Prum\\_door\\_minister\\_Donner.asp](http://www.justitie.nl/pers/persberichten/archief/Archief_2005/50527Ondertekening_verdrag_van_Prum_door_minister_Donner.asp) (17-6-2006)
- Website of the Dutch government, *27 mei 2005: NEDERLAND ONDERTEKENT VERDRAG SCHENGEN III*, <http://www.regering.nl/actueel/nieuwsarchief/2005/05May/27/schengen.jsp>, (17-6-2006).
- Website of the European Council: Official Documents, *Tampere European Council 16 and 16 October 1999 Presidency Conclusions*, [http://europa.eu.int/council/off/conclu/oct99/oct99\\_en.htm](http://europa.eu.int/council/off/conclu/oct99/oct99_en.htm), (17-6-2006).
- Website for the Dutch centre of international Police cooperation, *Het Nederlands Centrum voor Internationale Politiesamenwerking (NCIPS) stelt zich voor*, [www.ncips.nl](http://www.ncips.nl), (13-3-2006).
- Website of the organization Eurojust, *The European Union's Judicial Cooperation Unit*, <http://www.eurojust.eu.int>, (2-5-2006).
- Website of Prof. Dr. W. Bruggeman, *Een visie op de te verwachten en de mogelijke toekomst van Europol*, <http://www.willybruggeman.be/page577.htm>, (8-5-2006).
- Website of Europol, *Drugs January- 2004*, <http://www.europol.eu.int/publications/SeriousCrimeOverviews/2004/OverviewDrugs2004.pdf> (4-5-2006).
- Website of Europol, *Drugs 2006*, <http://www.europol.eu.int/publications/SeriousCrimeOverviews/2005/drugs2005.pdf>, (4-5-2006).
- Website of Europol, Latest Press Release, <http://www.europol.eu.int/index.asp?page=home&language>, (5-10-2006)

## Reader

- Europeanization and Internationalization of policy (2006), *Erasmus University Rotterdam*, p.24.

## Annex I

### Scoring of the Eurojust and Dutch cases on Coordination capacity scale of Metcalfe

#### Drugs Trafficking – Urgent Search [case 1]<sup>6</sup>

For about six months, the Danish police investigated a major case of the drugs trafficking of 13 tons of hashish and a large shipment of cocaine. The suspected leader was a Danish citizen residing in South America connected to a number of accomplices in Luxembourg and Denmark.

For operational reasons there was an urgent need to arrest the main suspect and his accomplices. During his detention, the main suspect made a telephone call wherein he referred to a person the police was able to detect and identify as a Danish citizen residing in Spain with three known addresses. A search in Spain was urgently needed, as it was believed that this person would be informed and might destroy evidence on these three premises.

The Danish prosecution service **referred the case to Eurojust (= exchange of information/2)** on a Friday afternoon. The Danish and Spanish National Members **assisted in formulating the MLA request (= consultation/3)**, identifying the competent Spanish courts, contacting the relevant judges, **solving a problem regarding the reasons to have to do the search on a weekend, and ensuring a court hearing on the next day (=Mediation/6)**, Saturday. The search was permitted and carried out on Saturday at midday and valuable evidence was obtained.

To have a search arranged within 24 hours on three different premises in two different court districts in another country would have been impossible under the old MLA regime – it was only achieved due to the involvement of Eurojust.

#### Drugs Trafficking [case 2]<sup>7</sup>

Investigations in Italy in 2003 shed light on an Albanian criminal organization involved in a cocaine transport from Belgium and The Netherlands into Italy. In the light of the investigative links with Brussels and Rotterdam in January 2004, the Italian prosecutor in Brescia issued a Letter of Request seeking help for telephone interceptions and with other further verifications including the suspects' complete identification.

In order to prevent this Albanian web of drug dealers from operating throughout Albania, Belgium, Italy and The Netherlands, in May 2005 the Italian prosecutor issued 42 precautionary arrest measures, including fourteen European Arrest Warrants, to be executed in Belgium and The Netherlands.

On a multilateral co-ordination meeting with Belgium and The Netherlands held at Eurojust, the Italian prosecutor sought to secure juridical co-operation and exchange of information in order to **locate the suspects and co-ordinate a simultaneous execution of the European Arrest Warrants(= consultation/3)**.

---

<sup>6</sup> Verwijzing naar jaarverslag Eurojust.

<sup>7</sup> Verwijzing naar jaarverslag Eurojust

Prior to this meeting, **requests were sent from Italy (= exchange of information/2)** to Belgium and The Netherlands via Eurojust so as to obtain the necessary information to locate the suspects and plan a co-ordinated arrest operation. At this meeting, the Italian prosecutor **stressed the need to execute these precautionary measures simultaneously (=Mediation/6)**, in order to prevent the suspects from avoiding arrest.

A co-ordination meeting was also held at Europol in The Hague to facilitate the efficient exchange of information between all juridical and law enforcement authorities involved. During the month of October 2005 a co-ordinated arrest operation was carried out, which signalled Eurojusts' success in ensuring effective juridical co-ordination.

### **Drugs Trafficking [case 3]**

In August 2004 a Slovenian citizen was arrested and later on convicted in Italy for drugs trafficking. In April 2005 an accomplice in this case was arrested and remanded in custody in Slovenia. The Slovenian investigation judge needed to interview the defendant who was in custody in Italy and he also required the corresponding documentation concerning the defendant's arrest.

In May 2005 the judge **sent a letter of request to the Italian authorities (= exchange of information/2)**. The execution of the letter of request was urgent because of the limited time allowed for the detention of the suspect in this investigative stage. The Italian evidence was crucial for the indictment. The Slovenian investigation judge was waiting for this execution for a month and **then asked the Slovenian National Member for assistance (= consultation/3)**.

The Italian and Slovenian National Members worked closely **to persuade the Italian authorities to complete the execution quickly (=Mediation/6)**. With the Italian assistance the Slovenian investigation judge was able to interview the defendant in an Italian prison on 14 July 2005 and at the same time he obtained the requested documentation. The investigation was completed before the expiration of the detention period and the Slovenian prosecutor was able to bring the indictment into the competent court.

### **Drugs Trafficking [case 4]**

Nine persons related to a drugs trafficking organization based in Madrid introducing drugs into Europe were in pre-trial detention and under investigation in Spain. All suspects were identified and the police was waiting to seize the last cargo being allocated on the Atlantic Ocean.

The boat carrying drugs was found near the Portuguese coast while boarding; two of the suspects were looking for a safe place to unload the cargo. The Portuguese police arrested them and seized the boat, thus starting a new judicial investigation in Lisboa. A European Arrest Warrant was issued by Spain against the two suspects arrested in Portugal, but it was **refused (conflict !)** by the Portuguese authorities, who argued for Portuguese jurisdiction in order to continue the investigation and prosecution.

The case was **referred to Eurojust (= exchange of information/2)** and was dealt with by the Eurojust National Members of Spain and Portugal, who **organized a co-ordination meeting between the respective national authorities (= consultation/3)**.

Juridical authorities from different countries were carrying out investigations based on the same evidence and against the same persons. It was necessary to co-ordinate, to analyse the possibility to concentrate the investigations in Spain and to ensure the surrendering of the suspects to Spain.

**The required co-ordination was set up through Eurojust. It was considered, on one hand, that the Spanish investigation had begun first (=Mediation/6)**, the relevant evidence concerning the criminal organization was in Spain, the organization was based there, most of the members of the organization had been arrested in Spain, and other linked activities were being investigated there; on the other hand, it was

decided that the Portuguese investigation began as a consequence of the arrest of two suspects for specific acts, but the relevant evidence related to criminal organisation should be requested from Spain through requests already issued.

Taking these circumstances into account, even though there was a juridical decision refusing the surrender of the suspects to Spain, the Portuguese National Member asked his national authority to consider that Spanish authorities were in a better position to continue the investigation and prosecution.

The **advice of Eurojust was accepted (= arbitration/7)** by the Portuguese prosecutor, who asked the judge to transfer the proceedings to Spain. The proposal was accepted and confirmed by the Court of Appeal.

Once the ground for optional non-execution of the European Arrest Warrant was removed, a new European Arrest Warrant was issued by the Spanish judge in co-ordination with the Portuguese authorities.

As a final result, the criminal proceedings were transferred and the defendants were surrendered to Spain.

A good co-ordination of the cases was achieved between the two national authorities, with the support of Eurojust, with the prosecution in one Member State and the issuing of a European Arrest Warrant, **successfully solving a conflict of jurisdiction (= arbitration/7)**.

### **Drugs Trafficking [case 5]**

In this case Austrian police was observing a criminal organization involved in drugs trafficking in Vienna. One courier was known already and there were indications that a German citizen was the organizer with Dutch and Austrian distributors. The Austrian police planned a controlled delivery to identify the other persons involved. **The case was referred to Eurojust (= exchange info/2)** via the Austrian desk at Europol to clarify the legal requirements for a controlled delivery from Amsterdam to Vienna through Germany.

At Eurojust, **Austrian, German and Dutch colleagues discussed (=consultation/3)** the issues and arranged to ensure that requirements were met, so the controlled delivery could take place. Eurojust transferred this information to the authorities in Austria and the court issued requests for mutual legal assistance. The controlled delivery took place and several people were arrested, members of the criminal groups were identified and large amounts of cannabis and cocaine were seized.

This case demonstrates the benefit of early referral to Eurojust for assistance to resolve juridical problems and to develop a successful co-operative joint approach by police and juridical law enforcement authorities.

### **Drugs Trafficking [case 6]**

At the end of August a Czech prosecutor **asked the Czech National Member for help (exchange info/2)** in a case of trafficking of about 60 kilos of heroin from the Czech Republic to Italy. The trafficking occurred over a period of several years and a number of people were in custody in the Czech Republic, the duration of which was due to expire in mid- November 2004. The prosecutor had a limited time to prepare and transfer the case to court; otherwise, the detained persons would be released and some were foreigners who were very likely to disappear from Czech jurisdiction.

The time for execution of letters of request was limited and the case was referred to Eurojust for assistance. After a meeting at Eurojust the National Members **were able to facilitate (= consultation/3)** a series of complex executions in three different jurisdictions within the custody time deadline. Czech investigators were also able to make only one, instead of several, visits to Italy, which saved their limited resources.

### **Drugs Trafficking [case 7]**

German prosecutors were investigating a case of drugs trafficking in which a woman was a suspect of acting as a courier, transporting heroin from Rotterdam and delivering it to an organization of dealers in Italy. The Germans planned to arrest the woman while at the same time Italian prosecutors were investigating the same group of drugs dealers.

**They heard about the German prosecutors' plan to arrest ( exchange info/2)** the courier, an action which would have destroyed all their efforts (**potential conflict**). The Italian prosecutors sent an urgent **request to Eurojust to ask the German authorities to postpone the arrest (= mediation/6)**. The German prosecutor said that, under German law, it was impossible to postpone the arrest unless The Netherlands, Germany and Italy could agree to arrange a controlled delivery. **Eurojust organised a co-ordination meeting (= exchange info/2)** only 24 hours after its assistance had been requested. The competent authorities from the three countries attended.

**During the meeting, it was agreed (= consultation/3)** that a controlled delivery would take place. It was arranged and occurred three days later. As a result twelve suspected Italian drug dealers and the German courier were arrested in Italy and brought to court.

### **Drug Trafficking [case 8]**

At the end of November 2004 a Polish prosecutor **asked the Polish National Member for assistance (= exchange info/2)** in a drugs trafficking case. Elements of the case had some connection to Germany, where a number of people were in custody. The Polish prosecutor was waiting for the execution of a letter of request by the German authorities for several months. The need for execution of this letter of request became very urgent as the limited period allowed for detention of suspects at the investigative stage was about to expire and there was pressure to prepare evidence to use in court. The German evidence was crucial to start the prosecution's case. The German and Polish National Members worked closely **to persuade the authorities (mediation/6)** to complete the execution quickly, the **case was registered at Eurojust (consultaion/3)** and, within three days, the request was executed and the evidence obtained. The case was able to proceed before the expiration of the detention period.

### **Drugs Trafficking – Undercover Operation [case 9]**

Eurojust was able to assist German and Polish prosecutors in finding and providing a legal framework for German undercover agents to operate on Polish territory. We believe this is the first time that this has happened. The German and Polish police had worked together closely and set up a number of sophisticated technical measures. The juridical and prosecutorial aspects had to be refined and defined in some detail. There was a strong feeling that this investigative technique would be required and repeated in the future, not only for Germany and Poland but between other Member States. After detailed negotiations and discussions and consultation with Eurojust, a memorandum was signed by the prosecution offices of both countries at a meeting held in a town on the German - Polish border.

### **Drugs Trafficking and Money Laundering [case 10]**

A major drugs trafficking and money laundering case which involved Greece, Spain, Germany and Belgium **was referred to Eurojust (exchange info/2)** in the second half of 2004. After more than two years of successful police co-operation, primarily involving officers from Greece, Spain, the UK and the United States of America, a shipment of 5.4 tons of cocaine was seized in Spanish waters. The members of the crew were arrested and detained in Spain while the main suspect for this and similar illegal operations was arrested in Germany, to be surrendered to Greece on the basis of an EAW.

It was the first EAW issued by Greece as their national legislation on the EAW had only come into force a few days earlier. The Greek juridical authorities had to address requests for mutual legal assistance to Germany and Belgium for illegal activities of members of the criminal organization in these two countries. Eurojust **organised a co-ordination meeting (consultation/3)** at our premises in The Hague, bringing together the prosecutors from all the countries involved. Simultaneous interpretation in four languages was provided to facilitate the exchange of legal and practical information and **to ensure that all the competent authorities (mediation/6)** who became partners

in this case could work together closely and help bring to justice a criminal organization with a long record of involvement in major criminal activities.

### **Smuggling of Illegal Immigrants and Drugs Trafficking [case 11]**

A significant number of case referrals from the UK during the past year concerned illegal immigrant smuggling. One case concerning an investigation into an organised crime group engaged in illegal immigrant smuggling and drug trafficking was referred to Eurojust jointly by the Crown Prosecution Service (CPS) and the National Crime Squad (NCS). In March 2004 a meeting was held on **a request of the UK authorities (exchange info/2)**. The participating countries were Germany, Belgium, France, Austria and The Netherlands. Representatives from Europol also attended. **The meeting dealt with the management of parallel investigations in the UK and Germany and the exchange of evidence between the national authorities in both countries. It also dealt with the links between investigations in the UK and Belgium (consultation/3)**. Further information was provided to the Belgian authorities to enable them to proceed their investigations. **The meeting also ensured the facilitation (mediation/6)** of mutual legal assistance requests in France and Austria and explored the possibility of starting investigations in The Netherlands. Following the meeting, arrests were made in Germany, and there was a successful seizure of 107 kilos of heroin. Arrests were also made in the UK for facilitation of illegal immigration. In The Netherlands, searches took place on various locations. In May 2004 a follow-up meeting took place. Representatives from the UK and Germany gave presentations on the current state of their investigations and prosecutions. An update was also provided by representatives from The Netherlands and a time-frame was given for the execution of letters of requests from the UK. The German representatives were also able to hand over new letters of requests for execution to the Dutch authorities. Informed discussion in relation to evidence and matters of jurisdiction also took place. There is no doubt that this exchange proved to be very useful as the investigations continued.

### **Case NL 1: Drugs Joint Investigations Team.**

In 2004, the Dutch government initiated the start of Joint Investigations Team on Human Trafficking; the members were Belgium, Bulgaria, Germany, the Netherlands and the United Kingdom. This project never grew out of the start-up phase due to legal problems (the JIT legislation was not implemented in time in Belgium, Bulgaria and Germany) and organizational problems: selected team members came from a too high rank (too little operational experience) and no specific case was available. The considerable cultural differences between the members seemed unbridgeable at that time. SO, this effort to set up a Human Trafficking JIT failed.

The Dutch and British officers, who did join the Human Trafficking JIT, **concluded that both countries should start together in a JIT on drugs trafficking (a shared problem) (exchange info/2)**; the Dutch – British drugs JIT was born. Both police organizations in an early phase decided that their prosecuting department should be involved as well. Although there was some reluctance from British police members to let “prosecution” join the drugs JIT; they considered prosecution as a “risk”(!) for the investigations of the team (Corten – Van de Sande & Martens, 2006). From the start onwards, Europol actively supported this drugs JIT.

This drugs JIT became an absolute success due to the thorough preparation of the project. **The Dutch team members received courses in the English language and were introduced in the British legal system. The British members were taught Dutch and received information about the Dutch legal system. The whole team was extensively trained in international police practice and in cultural awareness and received specific**



**information about how to cooperate together with Europol (consultation/3).**

**Case NL 2: Hazeldonk; bottom up coordination for joint action.**

The Hazeldonk project already started in the beginning of the nineties. At that time the Netherlands experienced a lot of annoyance and criminality from French and Belgian drugs traffickers who bought the free available soft drugs in the Netherlands (unintended consequences of the Dutch drugs policy; a free heaven for soft drugs).

In 1997 **the Dutch, Belgian and French police decided to form a common team (exchange info/2)** of police officers that could work in the Netherlands, to stop and arrest **Belgian and French drugs traffickers. A few raids were held in 1997 and 1998 (consultation/3).**

Due to the success of these raids, the ministry of justice of France and the Dutch police and justice ministers **signed an agreement to give a more official base for this cooperation (establishing common limits/8).** As a result, the Dutch national investigation department has been extended in 2003 with four French investigation officers, and several French police officers were added to the Dutch arrest teams.

Such a Joint Hit Team can be characterized as a bottom up coordination between the Dutch, French and to a lesser extend the Belgian law enforcement and prosecution departments. This project was supported by the intelligence of Europol and Eurojust was not involved at all.

Due to the success of this project, a second cross border cooperation team was established in 2006 between the police and the prosecution departments of the Netherlands and Germany for drugs trafficking in the area of Maastricht, Venlo, Dusseldorf and Aachen