

*European Police Co-operation in the Union's mutual fight  
against  
the illegal trafficking of drugs*



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Student:

Dorine Vreugdenhil

288469

Supervisor:

Dr. A. van Sluis

Second reader:

Dr. A. Cachet



## Summary

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The Single European Act (SEA) and the abolition of the internal borders within the European Community led to an increase in cross-border crime. Consequently the necessity for a closer co-operation between the European member states in the field of judicial matters and policing increased. Yet this paradox of the necessity to Europeanise on the one hand, and the hallmarks of the policy field that make this Europeanization so difficult on the other hand, prove to cause serious problems for solid European police co-operation.

Up until now the police co-operation between the European member states in the fight against organised crime is still far from perfect. Especially in the field of drugs problems do not seem to decrease.

Resulting from this pronouncement this research report will primarily focus on the drug-related side of European police co-operation in the fight against organised crime. The goal of this report can therefore be defined as analysing European police co-operation in the field of illegal drug trafficking, as well as mapping the reasons for the hampering of the co-operation.

This analysis will be made on the basis of the insights generated by the theoretical exploration of the network approach. In view of the fact that European police co-operation is believed to take place in a network-like context, the literature on the network approach is seen as extremely relevant for, and well-applicable to the concept of European police co-operation in the Union's fight against illegal drug trafficking.

Research proved that European co-operation can manifest itself on various levels. When one takes a look at the literature on European policing, a whole range of possible forms of police co-operation catch the eye. International police co-operation is going way back (Peek, 1994), however relatively solid forms of police co-operation on the European level started to develop in the late 1950's.

Apart from the small ad-hoc advisory committees and working groups, the following entities can be labelled as crucial in European policing in the fight against illegal drug trafficking;

- Europol
- JHA Council
- Horizontal Drugs Group (HDG)
- The European Police Chiefs Task Force (EPCTF)

In order to fight crime and terrorism and to create an area of freedom, justice and security, the EU believed it to be necessary to develop the concept of Intelligence Led Policing (ILP) on an European level. By means of the OCTA report, drawn up by Europol, the Council, after being advised by its working groups and the EPCTF, decides which threats will be labelled as the Union's priorities for the coming year. After this prioritisation by Council, the EPCTF is commissioned to elaborate the broadly formulated political priorities into operational actions. By means of the so-called COSPOL process, actions are designed and the member states interested can sign themselves up for co-operation on a specific criminal issue or phenomenon.

A case study, describing European police co-operation from a Dutch perspective, will gain insight on the reality of European police co-operation and collaborations between the twenty-five member states involved in the Union's fight against illegal drug trafficking.

Looking back at the research it can be concluded that, based on the lessons drawn from the literature, European police co-operation can be said to take place in a network-like context. Based on the observations and conclusions made it can be stated that the fundamental principles for a structure in which European police co-operation can take place, have been made. However, all actors interviewed shared the opinion that European police co-operation is a process at it's infancy, which should receive sufficient time and space to develop. All initiatives aiming at improving the co-operation between the member states are welcomed. Yet, most initiatives up until now focused on the strategic level, while, according to the actors interviewed, most bottlenecks manifest themselves on the operational level. Primary attention should therefore also be given to the development of this level.



## Preface

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In completion of the Master's programme International Public Management and Public Policy (IMP) at the Erasmus University in Rotterdam, this research report has been drafted.

This report will present the results of the scientific research concerning the European police co-operation in the field of illegal drug trafficking. After analysing the European police co-operation in the Union's mutual fight against illegal drug trafficking, as presented on paper, this research attempts to map the extent in which this co-operation is taking place in practice.

Besides the possibility to complete my studies, this research also enabled me to realise a number of personal learning goals.

Thanks to this project I have been able to test and apply the knowledge acquired during my studies, in practice. Moreover this 'graduation process' has been an extremely valuable experience during which I gained a lot of new knowledge and practical experience.

However I would not have been able to generate this report without the help and input a number of people. Through this way I would like to thank them.

First of all I would like to thank my supervisor at DINPOL (Dienst Internationale Politie Samenwerking), mister Timo Kansil, for his willingness to guide and supervise me during my whole research. Thanks for providing me with (insight) information, useful comments, and off-course for putting me in touch with the various policing institutions.

Furthermore I would like to thank my supervisor at the Erasmus University, mister Arie van Sluis. His input and comments during the process of writing helped me a lot. At the same time I owe my thanks to my second reader, mister Lex Cachet.

Moreover I would like to thank all the contacts at the organisations and institutions represented in this report for their willingness to co-operate in my research. Without their co-operation I would not have been able to deliver this research report.

- |                                |                   |
|--------------------------------|-------------------|
| ▪ EPCTF Support Unit           | Mr. J. Hyysalo    |
| ▪ KLPD                         | Mr. B. Barendregt |
|                                | Mr. B. Theeuwes   |
| ▪ DNRI                         | Mr. R. Landman    |
| ▪ Ministry of Justice          | Mr. J.L. Luijs    |
| ▪ Ministry of Internal Affairs | Mr. K. Schuurman  |
| ▪ DNR                          | Mrs. H. Kusters   |

I certainly should not forget Hildegard Buitink at the NPI (Nederlands Politie Instituut) for her enthusiastic and useable comments on my research proposal, and off-course for putting me into contact with Timo Kansil. Thank you.

To conclude I would like to thank my family and friends for willingly listening to all my thesis problems and supporting me during the whole process.

Dorine Vreugdenhil

Hoek van Holland, February 2007.

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*Part I*  
*Introduction to the Research*

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## 1. Introduction and Problem Definition

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### 1.1. Introduction

Many authors claim that the creation of the Single European Act (SEA) and the abolition of the internal borders within the European Community led to an increase in cross-border crime (Den Boer, Anderson, a.o.). As a result of the so-called spill-over effects of this trend, the field of justice and home affairs in general and that of policing in particular, is believed to have been gradually affected by European integration. As a consequence the necessity for a closer co-operation between the European member states in the field of judicial matters and policing increased.

Reality seems to subscribe to this claim. "Organised Crime (OC) groups are expanding their fields of activity across crime types and international borders, and continue to grow and adapt to their environment. They make use of expertise in specialised fields, exploit commercial structures to operate in the legitimate business world and employ the latest communication technologies to maintain and expand their national and international links" (European Union Organized Crime Situation Report, 2005, P5).

Moreover according to many, international co-operation is believed to be the most effective approach in the fight against globally organised crime. As Mr. David Blunkett, UK Home Secretary, stated, "international co-operation in policing is the key to combating cross-border crime in our increasingly mobile world" ([www.tribuneindia.com](http://www.tribuneindia.com)).

The European Union also recognises the fact that the fight against crime is a common responsibility which presupposes an integrated approach of the problem and an intensive co-operation on all levels. The European member states agree over the fact that the international dimension of the fight against crime requires a large degree of co-operation. "Common problems require common solutions", as stated in the "Mededeling van de Commissie aan de Raad en het Europees Parlement betreffende een actieplan van de Europese Unie inzake drugsbestrijding (2000 – 2004)".

Yet are these pretty words really being transposed into deeds? Can one really speak of solid European co-operation in the field of justice and home affairs in general and in the field of policing in particular, or is it just a cover-up for the temporary ad-hoc forms of information exchange between two member states? And if so, how is this co-operation formed?

First of all it should be noted that European police co-operation is a rather paradoxical issue. On the one hand there is unity over the fact that international co-operation in policing is the best instrument to fight organised crime. Yet, on the other hand internal security remains a policy field that lies at the heart of the nation state and differs reasonably from member state to member state. Although organised crime can rightfully be labelled as a problem with an international dimension, a problem that deserves an international approach in order to be solved effectively, each member state has got its own perception of *the problem*. These different conceptions of *the problem* result in different action plans. However, these different action plans hamper the effectiveness of a collective approach of the problem. As a result it will be no surprise that co-operation in the internal security field does not always proceed smoothly. Moreover, when making a quick-scan of the field, European police co-operation can be said to take place in a network-like context.

There is no speak of a hierarchy, instead there are numerous collaborations, or so to speak actors, on a national, European and international level, with both public and semi-public characters, horizontal as well as vertical governance structures, and obligatory or non-obligatory rules for membership, all striving for different, sometimes even conflicting interests and goals. Does European (police) co-operation, in such a context, have a change of success at all? Doesn't it turn into a never-ending story that gets bogged down because of tug-of-war and conflicting interests?

The paradox of the necessity to Europeanise on the one hand, and the hallmarks of the policy field that make this Europeanization so difficult on the other hand, prove to cause serious problems for solid European police co-operation. The network-like context brings in another dimension, that does not make it easier to come to solid, effective forms of European police co-operation. Yet, how is co-operation currently taking place in this context, what are the main bottlenecks and more importantly, how can these be levelled?

The two observations presented above, aroused my interest and form the occasion for this research report. The report will take a close look on the process of European police co-operation in the fight against organised crime, seen from a Dutch perspective. A case study will analyse the co-operation between the actors in the network, the steering possibilities and capabilities within the network in order to map how European police co-operation is taking place in practice, where the main bottlenecks lie, and how these may be levelled.

## **1.2. Problem definition**

The former paragraph showed that interest is generated for the paradoxical context underlying the hampering of European police co-operation.

As stated before, unfortunately, up until today the co-operation within the third pillar is not proceeding as smoothly as desired. Many imperfections in the pillar's ability to address problems effectively and to arrive at a common position remain.

At first sight these imperfections seem to be a consequence of the pillar's institutional structure. Interestingly enough the two Treaties, Maastricht and Amsterdam, did not seem to be completely capable of addressing the imperfections within the third pillar. Thirteen years after the ratification of the TEU, which ushered a new era in European co-operation in the field of justice and home affairs in general and in the field of policing in particular, co-operation within these fields is still far removed from where it is supposed to be. The police co-operation between the European member states in the fight against organised crime is still far from perfect. Although the inception of the third pillar, generated by the TEU, forced the member states to strengthen the co-operation in the field of criminal offences, the sensitivity of this policy field, and the hallmarks that hamper Europeanization of this policy field so badly, still make it a problematic issue for co-operation. Especially in the field of drugs problems do not seem to decrease. "The production and trafficking of drugs remain the prime activities of criminal groups in the European Union" (Europol Serious Crime Overview "Drugs", 2006, P1) and generates serious problems in the field of security and public order.

The Council conclusions of the 2<sup>nd</sup> of June 2006 on the Europol Organised Crime Threat Assessment (OCTA) report, highlighting the EU priorities in the fight against crime, subscribe to this trend.

On the basis of the OCTA report the Council labelled the fight against illegal drug trafficking as one of the Union's main priorities in her fight against organised crime.

Especially the South-western and South-eastern regions of Europe are assigned to focus their actions on the illegal trafficking of drugs.

As a result of this pronouncement the primary focus of this research report will be on the drug-related side of European police co-operation in the fight against organised crime.

However to what extent European police co-operation is taking place at present, is so far unknown to me. The same goes for the exact reason for the obvious hampering of European police co-operation. The goal of this report can therefore be defined as analysing European police co-operation in the field of illegal drug trafficking, as well as mapping the reasons for the hampering of the co-operation.

When this focus is translated into an actual research question, the following question arises;

***"What is the reality of European police co-operation in the Union's mutual fight against illegal drug trafficking as presented on paper? And to what extent is this co-operation taking place in practice?"***

In order to arrive at an answer to this question the field of European policing will need to be explored in detail. In the public administration literature various forms for characterising co-operation between international organisations or institutions are mentioned. Neelen, Rutgers and Tuurenhout present the following characterisation (Neelen, Rutgers en Tuurenhout, 2003, P194/195);

- the level of co-operation, ranging from co-operation between local governments in so-called "twin-towns" to interstate or world-wide co-operation,
- the nature of the players, governmental or non-governmental,
- the nature of co-operation, intergovernmental or supranational,
- the goal of co-operation.

On the basis of a quick-scan of the information on European policing, it can be stated that the European police co-operation, for as far as it is happening, in the fight against organised crime on first sight can be labelled as an interstate, intergovernmental co-operation aiming at ensuring a high level of security for the general (European) public. The quick-scan also showed that European (police) co-operation can be said to be taking place in a network-like context. In order to be capable of arriving at an answer to the question, clarity needs to be created about this network-like context. What is exactly meant by a co-operation? How can you co-operate in a network? How is management taking place? Which lessons can be drawn from the existing network theories? The theoretical framework, presented in chapter two, will raise these matters in detail. This will end in an analytical framework by which the case study can be described and analysed.

Prior to answering the research question one also needs to obtain insight in matters concerning the actors involved in the fight against organised crime, the political context that led to the first steps towards European police co-operation, and the building blocks underlying the European policy in the fight against illegal drug trafficking. This way one can create a clear view of the content and background of European police co-operation in the fight against illegal drug trafficking.

By means of the following sub questions an answer to the matters described above will be formulated;

- Which starting-points underlie the policy of the European fight against illegal drug trafficking?
- Who are the main actors involved in European police co-operation and what are their goals?
- What are the most important instruments?
- What are the most important policy papers?

Then the empirical part will analyse how European police co-operation is taking place in the eyes of the Dutch. It will be tested whether the factors presented in the analytical framework are perceptible in reality. This insight will be generated by means of the following sub questions;

- What forms of co-operation do exist?
- How is decision-making within these co-operations taking place?
- What is the division of roles?
- What are the main conceptions of the co-operation?

### **1.3. Methodology**

This paragraph will present the methodological framework on the basis of which the research will be conducted. It successively describes the type of research that will be conducted and the type of research instrument used.

#### **1.3.1 Methodological characterisation of the research**

This research report is situated around the question how the European member states co-operate in the Union's fight against illegal drug trafficking. And to what extent this perceived co-operation is taking place in practice.

The type of research in this report can be described as partly descriptive and partly explorative. Descriptive research is concerned with an accurate description of hallmarks of research units on the basis of a taxonomy given beforehand without a closer indication of relations or explanations. This type of research is concerned with the registration and the systematic arrangement of what is happening in a specific area, according to a taxonomy which is given beforehand. Descriptive research is not striving for the development of a theory or the formulation of a hypothesis. (Baarda en de Goede, 2001, P92/93).

Explorative research, on the other hand, can be characterised as an intermediate form between descriptive and testing research types. It is concerned with developing and formulating a hypothesis or expectation. (Baarda en de Goede, 2001, P95).

By means of explorative research the researcher wants to formulate an answer to (open) 'why' or 'how is it possible that' questions (Baarda en de Goede, 1990, P66).

As already stated, this report will give a systematic description of the co-operation between the European member states in the Union's fight against illegal drug trafficking. To be precise, how this co-operation is taking place and to what extent. These questions will primarily be answered by means of descriptive research.

The report will give a concise and systematic description of the European policing situation. This description will then be placed against the theoretical framework, describing the network approach, so that insight can be gained in the reasons for the hampering of European policing. In this way the explorative character of the research is brought to the surface.

Given the research question and the partly descriptive, partly explorative character of this research report, it is obvious that the research is of qualitative nature. Consequently the case study is chosen as the most important method of research.

"The case study method focuses on one or several 'cases' without a theory presented beforehand and without statistically generalisable pretensions" (Hakvoort, 1996, P95). "This method is directed at a description of a well-organised (social) system or (social) process. The social interactions between participants of the process, their 'frame of reference' and the interplay between these are at the centre of this method" (Baarda en de Goede, 1990, P97). The case study method also offers the possibility to study complex processes, and in doing so, considering the multitude of relevant and interacting factors in their connection.

Contrary to survey research, which is focused on only one or just a few factors or variables and a large number of cases, the case study focuses on a large number of factors or variables in just one or a few cases. As a result "the richness of the situation is being preserved". (Koffijberg, 2005, P12/P13)

To me this 'richness' is one of the most important assets of the case study method, and also strongly influenced my choice for this method.

For this research one case study in the field of European police co-operation has been conducted. The case study describes European police co-operation from a Dutch perspective. The co-operation, the interactions between actors, the conceptions and perceived results are examined in further detail. As familiar for a case study; a large number of factors in just one case, the Dutch case.

### ***1.3.2. Description of the research instrument***

In this research after European police co-operation various techniques in order to collect data have been deployed. Before these techniques can be described it should be mentioned that this research can be split up into two parts.

The first part contains a theoretical research, in which the basis for the empirical research is laid. This theoretical exploration is primarily based on the literature on the network approach. In view of the fact that European police co-operation is believed to take place in a network-like context, the literature on the network approach is seen as extremely relevant for, and well-applicable to the concept of European police co-operation in the Union's fight against illegal drug trafficking. The theoretical research is chiefly made up out of a literature study and the analysis of official policy documents.

The second, empirical part of the research contains an analysis of the situation in practice. First of all I performed a document-analysis, in order to gain some more detailed insight in the issue on European police co-operation. The Union's fight against organised crime in general, and illegal drug trafficking in particular, has produced a multitude of written material. I analysed various policy documents, action plans, situation reports and summary texts of EU legislation. Alongside this academic literature, internet sites, specialist literature and newspapers have been consulted.

Moreover I had the privilege to be assisted by a supervisor from the field. Mr. Timo Kansil, deputy officer of the former NCIPS (Nederlands Centrum voor Internationale Politie Samenwerking), now merged with the 'Dienst Internationale Netwerken'(DIN) into 'Dienst Internationale Politie Samenwerking (DINPOL), has provided me, by means a number of fruitful key-conversations, with a clear view of the situation on international and European policing. Moreover he acted as an intermediary in making contacts with various policing institutions, on a national as well as on an European scale.

The empirical information about the situation in practice was gathered by means of the method of qualitative, semi-structured, personal interviewing.

This method was chosen, since the interview is presented as the obvious method to gather information about attitudes, opinions, feelings, thoughts and knowledge (Baarda en de Goede, 2001, P225).

#### **1.4. Overview**

The report below will present the results of the whole research. Prior to this presentation you will find a theoretical chapter presenting an introduction to the literature on the network approach. This will end in an analytical framework by means of which the case study can be described.

The third chapter contains a description of the European policing network. Insight will be generated in matters concerning the building blocks underlying the European policy in the fight against illegal drug trafficking, the actors involved in the fight against organised crime, the most important instruments, and the most important policy papers.

This enables one to create a clear view of the content and background of European police co-operation in the fight against illegal drug trafficking.

Chapter three and five form the empirical core of this research report. By means of a case study it will be analysed how European police co-operation is taking place in practice. European police co-operation will be described and analysed from a Dutch perspective. It will be tested whether the factors presented in the analytical framework are perceptible in reality.

A brief description of the case study, presented in chapter four, will be followed by the final presentation of the results. On the basis of the presentation of the results and analysis in chapter five, it will turn out whether one can speak of a clear correspondence between theory and practice. In order to be capable of arriving at an answer to the central research question, an attempt will be made to formulate an answer to the sub questions. This analysis will again form the foundation for the conclusions presented in chapter six. The whole report will be completed with a concise reflection of the completed process and the insights obtained during this process. This reflection will also show where bottlenecks, encountered during the research, appeared.

Roughly speaking this research report can be divided in three parts; an introductory part, an empirical part, and an analytical, deepening part. Represented in diagram form, the following image arises;

**Part I**  
Introduction to the research

**Chapter 1**  
Introduction

**Chapter 2**  
Theoretical Framework

**Part II**  
Empirical Part;  
Practical findings

**Chapter 3**  
The European Policing Network

**Chapter 4**  
Case study

**Chapter 5**  
European Police Co-operation through the eyes of the Dutch

**Part III**  
Deepening and Conclusions

**Chapter 6**  
Conclusions and Discussion

## 2. Theoretical Framework

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### 2.1. Introduction

How are European police agencies co-operating in the Union's fight against illegal drug trafficking? And to what extent is this co-operation taking place in practice? These questions form the questions around which this research is centred. Yet in order to formulate a consistent answer to these questions, more insight has to be gained into some concepts presented in these questions. First of all it has to be made clear what is exactly meant by European co-operation.

Broadly speaking, "co-operation refers to the practice of people or greater entities working in common with commonly agreed-upon goals and possibly methods, instead of working separately in competition" ([www.wikipedia.org](http://www.wikipedia.org)). Co-operation is also described as delivering a contribution to a mutual result on the level of a team, entity or organisation, also in cases where personal interest is not directly at stake ([www.vlaanderen.be](http://www.vlaanderen.be)).

European co-operation, which is the subject of this report, only indicates the level on which the co-operation takes place. In this case the European level, thus the level of the twenty-five European member states. They are "working in common with commonly agreed-upon goals and methods, delivering a contribution to a mutual European result, also in cases where personal interest is not directly at stake".

Research proved that European co-operation can manifest itself on various levels.

When one takes a look at the literature on European policing, a whole range of possible forms of police co-operation catch the eye. Ranging from relatively formal structures like conventions and treaties to bi- or multilateral networks to informal networks and even secret agreements. During the years a patchwork of international forms of police co-operation emerged, which, unfortunately are not all performing as desired.

Monica den Boer created a cluster in which she placed the existing forms of European co-operation in the internal security area (see figure 2.1.).

Besides showing a colourful merger of various institutions, the cluster states that there are two levels on which co-operation in this field can take place, a vertical level and a horizontal level. This report will principally focus on the vertical level.

On the basis of the cluster Den Boer herself stated that "when all these factors are pulled together, an image arises that is full of actors who are involved in serious competition to acquire influence in the European security domain". "For those who desire clear leadership and comprehensible co-ordination by a central agent, this is bad news".

"The security domain shows a multi-layered model of law enforcement co-operation with and within Europe, each of them with its own focus, legal arrangements and formal integration" (Den Boer, 2004, P3).

	<b>Vertical governance of internal security</b>	<b>Horizontal governance of internal security</b>
<b>Institutional appearance</b>	Europol OLAF Eurojust EPCTF	Schengen Bilateral and multilateral agreements Memorandums of understanding (MoU's)
<b>Level of co-operation</b>	Formal, Policy making, Strategic, Semi-operational	Predominantly informal, Policy making, Information exchange, Operational co-operation across borders
<b>Actors</b>	National Politicians Senior Executives (Directors General, Secretaries General, COREPER diplomats)	National, regional and local politicians Executive practitioners (Police, judiciary, immigration and customs at regional and local level)
<b>Objective</b>	Centralised intelligence gathering, high profile targets (organised crime, terrorism), principle of subsidiarity	Decentralised approach to internal security, flexibility, focus on (Eu-) regional security co-operation

Fig. 2.1.

Source; Den Boer, 2004, P4

## 2.2. The institutional context, the policy process

One actively agreed upon the fact that policy comes into being by discussion and co-operation, but also by competition and conflict between a large number of groups and organisations in and around governmental spheres (Bovens, 't Hart, van Twist, Rosenthal, 2001, P131). The model of policy phases is still one of the most commonly used models to explain the process of policy-making (see Appendix I). Although the phases of agenda setting, formulation, decision, implementation, evaluation and reconnecting and reconsideration practically never follow each other directly, the model remains a good framework from which one can study policy processes.

Of old, the literature provided us with two approaches of studying policy processes. First of all there is the 'top-down' perspective on policy. "Proponents of this perspective claim that one can understand policy implementation by looking at the goals and strategies adopted in the statute or other policy, as structured by the implementers of policy". "These studies focus on the gaps between the goals set by the drafters of a policy and the actual implementation and outcomes of that policy" (Birkland, 2001, P178).

This assumption right away highlights a number of substantial weaknesses of the "top-down" approach. First of all it does not take into account that goals simply are not always formulated clearly. Another problem with the 'top-down' approach is "it's assumption that there is a single national government that structures policy implementation and provides for direct delivery of services" (Birkland, 2001, P180). In practice this is not the case, especially not in Europe. As stated earlier European policing is not taking place in a hierarchy context, but rather in a complex network, composed of various actors, with different backgrounds, beliefs and aims. Moreover the 'top-down' method does not take into account "the ability of local actors to ignore messages from the top that policies need to be implemented in a particular way" (Birkland, 2001, P181), the so-called discretionary (policy) freedom.

A second approach emphasising the 'bottom-up' perspective, "is suggesting that implementation is best studied by starting at the lowest level of the implementation system or "chain" and moving upward to see where implementation is more successful or less so" (Birkland, 2001, P178). This perspective makes short work of the critiques of the 'top-down' approach.

Although this perspective is not free of any critique either, it is already believed to be a more appropriate perspective for analysing the policy process in the field of European police co-operation. "It recognises that goals are ambiguous rather than explicit and may conflict not only with other goals in the same policy area, but also with the norms and motivations of the street level bureaucrats" (Birkland, 2001, P182). Moreover "the bottom-up approach's lack of focus on a particular program and on a fixed top-to-bottom implementation chain means that this approach can view implementation as working through a network of actors, rather than through some rigidly specified process that fails to account for the richness of the policy making environment" (Birkland, 2001, P183).

However during the last decade or so, the idea that policy processes are for the most part primarily a negotiating game between a broad range of public, private and semi-public actors, has become widely accepted. This corresponds with an important development that occurred in practically every society, the trend of strongly augmenting mutual interdependencies. Reasons for this trend are brought back to (De Bruijn, Ten Heuvelhof, 1999, P18-22);

- An increasing professionalisation of modern society
- Globalisation
- The braiding of the public and private sector
- Information technology, through which 'unusual' interdependencies arise.

Yet the insight generated by this trend nevertheless raises the question how steering can take place in such multi-actor settings. Besides the attempt to translate business-like ideas to the public sector under the denominator of 'new public management', ideas about other ways of steering, under the denominator of 'governance' and 'network management' have received a lot of attention (and critique) as well. The theoretical basis for these ideas can be expressed in the so-called 'policy network approach'. An approach that has obtained a prominent spot in the policy sciences and public administration. (Klijn and Koppenjan, 2001, P179)

This research report will therefore also take this policy network approach as point of departure for drawing up a theoretical framework.

### 2.3. The theoretical foundation of the network approach

What is the theoretical foundation of the policy network approach, or shortly the network approach?

Both in the literature of the implementation studies, primarily in what came to be known as the above mentioned 'bottom-up approach', as in the literature on intergovernmental relations, the concept of policy networks has been used to map the relational patterns between organisations and to retrieve the influence of these relational patterns on policy processes (Klijn and Koppenjan, 2001, P180).

This bipartition came to be characteristic of the network approach. On the one hand the perspective elaborates on the interactive policy approach in policy sciences. On the other hand the perspective incorporates insights and concepts of inter-organisational theory.

Up until the seventies policy science was strongly dominated by the rational approach of policy, emphasising that policy and policy formulation were to be seen as rational processes, in the course of which goals, formulated in advance, were being implemented in order to solve problems. Despite the extensive critics on this model by authors like Lindblom and Simon, very little changes.

According to Klijn, the theoretical model that results from these critics on the rational approach, often indicated as the 'strategic-actor approach', stresses that the decision-maker is trapped in an environment that is characterised by uncertainty, incomplete information and conflicting values. So the critics on the rational approach did generate some amendments to this model, yet the starting points of the model remained unchanged. The strategic-actor approaches also assume that policy processes can be steered or at least can be analysed from the perspective of one central actor. (Klijn and Koppenjan, 2001, P180)

At the start of the seventies, a new approach set in. The so-called 'process approach' gained attention and broke with the traditional (rational) multi-actor approach in policy science.

The process approach primarily focused on the policy processes and emphasised that these processes are characterised by conflicting values and problem definitions, are dynamic and unpredictable. (Klijn and Koppenjan, 2001, P181)

The policy network approach strongly elaborates on this process model. The policy network approach also focuses on the interaction processes between dependent actors and the complexity of the goals and strategies that result from this (Klijn and Koppenjan, 2001, P181). An interesting difference however, between the process model approach and the policy network approach is the attention for the institutional context in which the complex interactions about policy take place. Theorists adhering to the policy network approach inspire themselves by concepts from the inter-organisational theory, in an attempt to elaborate the institutional context of interaction processes around policy and policy formulation.

The central point of departure of this inter-organisational approach is that the environment of organisations is build up out of other organisations. In order to survive, an organisation will need the resources of the other organisations in its environment. This constitutes the need for 'barter', which again generates networks of mutual dependent actors. (Klijn and Koppenjan, 2001, P181)

## 2.4. The theoretical points of departure of the network approach

Before one can crystallise the theoretical points of departure of the network approach, it is useful to start with a brief discussion of network models and their hallmarks.

### 2.4.1. Network models and their hallmarks

Network models can be well described by portraying them against 'hierarchies'. Within a hierarchy there is speak of one actor, who is placed on top of the hierarchy and steering the subordinates (De Bruijn, Ten Heuvelhof, 1999, P25). However in modern society such pure forms of hierarchical structures do not exist. Albeit their attractiveness for reducing the enormous complexity of organisational problems into a well-organised and controllable whole, hierarchy models have got a limited explanatory power. This limited applicability can be expressed by means of figure 2.2. The four basic starting-points of hierarchies do not correspond with reality, which proofs to be far more complex. Network models have absorbed the complex social reality within their structure.

Hierarchies	Networks
Uniformity	Multiformity
Unilateral dependencies	Mutual dependencies
Openness	Reticence
Dominance of stability within the structure	Dominance of vitality within the structure

Figure 2.2.

Source; De Bruijn, Ten Heuvelhof, 1999, P30.

The information above leads to the following definition of a network:

*"A dynamic whole of actors, which are mutually dependent, characterised by mutual variety and the possibility of taking up a position relatively closed in relation to each other"*

(De Bruijn, Ten Heuvelhof, 1999, P32).

This definition underlines the hallmarks of a complex network, which are multiformity, reticence and interdependency and will be described successively (De Bruijn, Ten Heuvelhof, 1995, P18).

#### **Multiformity**

Within a network actors are often multiform. They are composed of various parts, which are not always connected to each other in a harmonious way.

Multiformity can manifest itself on two different levels. First of all the sole actor that needs to be steered can be multiform, this happens for example within an organisation which is built up out different divisions. In the second place a population as a whole can be multiform. When multiformity sets the tone in a network, this network will be made up out of numerous unequal actors, which above all can be more or less multiform internally. The multiform character of a network can strongly hamper the steering process. Steering elements can influence just one certain module of the actor(s) that are to be steered. (De Bruijn, Ten Heuvelhof, 1999)

Broadly speaking, "the steering function of instruments can get bogged down in just one of the parts of the multiform actor" (De Bruijn, Ten Heuvelhof, 1991, P30).

Yet multiformity can also offer chances for steering attempts. Multiformity means that the actors that need to be steered can vary strongly, on an organisational level as well as on a policy level.

In general this variety tends to increase the chance that a part of the actors that are to be steered will be extra sensitive to the steering signals. This implies that, as a result of the existing multiformity the effort of the steering actor will touch the spot of the actor that needs to be steered. When the actor that needs to be steered possesses a reasonable position of power within the network, chances are strong that this specific part of the actor that is to be steered can influence the whole population that needs to be steered. This is advantageous for the steering actor, since it can concentrate its efforts on a number of specific parts of the population. (De Bruijn, Ten Heuvelhof, 1999)

Moreover "despite the fact that multiformity makes a network complex, variety and multiformity offer the actors that need to be steered more stability and bigger chances of survival in a turbulent and complex environment" (De Bruijn, Ten Heuvelhof, 1991, P32).

### **Reticence**

In the field of organisational sciences broad attention has been given to the borders of organisations and institutions. These borders determine the openness or reticence of an organisation. As the crossing of a border gets harder, one can speak of a closed organisation. The organisational reticence can relate to the possibilities of entry and withdrawal of persons, as well as to the signals the organisation observes from the outside. It can be stated that the actors that need to be steered within a complex network possess two important hallmarks that can strongly influence the process of steering. First of all the actors that need to be steered can be relatively closed (De Bruijn, Ten Heuvelhof, 1999). These actors are especially focussed on themselves, instead of on their environment. In the literature one also speaks of "caricatures of themselves" (Katz and Kahn) or "autopoietic systems" (Snellen).

Secondly the actors that need to be steered can have disposal over a frame of reference or management filter (De Bruijn, Ten Heuvelhof, 1999). This frame of reference colours the view of the organisation upon its environment and generates an interest that is primarily focussed on signals and developments that fit within the organisation's frame of reference.

One of the major disadvantages of reticence of the actors that need to be steered is the fact that this can be a factor of failure for the use of steering instruments. In order for these steering instruments to be effective, they will have to fit in with the frame of reference of the actors that will be steered.

Yet, reticence does not always have to be seen as a barrier, it also creates possibilities for steering. This relationship between the possibilities for steering on the one hand and the reticence of the actors to be steered on the other hand, passes through the extent of autonomy of the actors that need to be steered. The concepts autonomy and reticence strengthen one and other. Actors can only be closed when they are capable of setting their own rules, something which again requires a certain extent of autonomy. A certain extent of autonomy then is a prerequisite to come to some form of steering. (De Bruijn, Ten Heuvelhof, 1999)

"Autonomy provides the actors that need to be steered a certain ability that can be used in a direction meeting the desires of the steering actor" (De Bruijn, Ten Heuvelhof, 1991, P36).

Secondly a certain degree of reticence can offer possibilities for steering, since complete openness makes actors extremely vulnerable for various steering signals from the outside. Without any form of partition actors will respond to each signal, which can result in a drifting and disintegrated actor, which makes steering extremely difficult. (De Bruijn, Ten Heuvelhof, 1999)

It follows that "a certain extent of reticence of the actors that need to be steered prevents disintegration and offers more possibilities for steering than complete openness does" (De Bruijn, Ten Heuvelhof, 1991, P36).

### **Interdependency**

In network models governments and the actors that need to be steered are mutually dependent upon each other, which implies that e.g. government, when realising its goals, is dependent upon the co-operation of the actors that need to be steered.

Some barriers resulting from this mutual dependency are first of all the fact that the steering actor, which in most cases is government, is to a certain extent dependent upon the actors that need to be steered. This means that government, under the influence of the desires of the actors that need to be steered, often has to adjust her behaviour. This mutual dependency thus translates itself in mutual steering and as a result of that in a dynamic of positions and ambitions.

Secondly there can be a situation with different mutual complex interdependencies. Since different forms of interdependencies can occur at the same time, the total view of interdependencies can be very complex. Such a view can result in certain steering interventions which generate numerous unintentional additional effects, that again influence the behaviour of other actors than the actors to whom the primary steering instruments were addressed. This blurs the total view of the network and results in government interventions that are difficult to predict.

Besides these barriers, interdependencies within a network can also offer possibilities for steering. First of all interdependencies can break existing reticences within a network, since interdependencies require an openness in relation to the one upon whom the actor is dependent. In the second place the steering actor can make use or even exploit the fact that an actor that needs to be steered is dependent upon him or her. The steering actor in question needs to set up a detailed pattern of the existing interdependencies within a network. Yet the steering actor should also be careful that he or she will not be exploited by the actors that need to be steered.

(De Bruijn, Ten Heuvelhof, 1999)

From the information presented above, the conclusion can be drawn that networks are always in constant motion. The multiformity of a network, the frame of reference of the actors concerned and the mutual interdependencies between actors can change. Changes that again can influence each other. In other words, networks and their environment are practically always characterised by a strong dynamic, which again can be considered as a fourth hallmark of networks. (De Bruijn, Ten Heuvelhof, 1999, P43)

#### **2.4.2. Decision-making within networks**

If decision-making has to take place within networks, all different actors will have to be involved in this decision-making process, actors with sometimes strongly diverging interests. Actors which are dependent upon each other, who cannot attain their goals without the means that are in possession of other actors. As a result of the limited substitutability of certain means, these interaction patterns receive a certain degree of durability. Gradually there are developing some rules that will regulate the behaviour of the actors and the division of the means that influence these interactions within the networks. (Klijn and Koppenjan, 2001, P181)

In other words, policy can only be realised by means of co-operation between the actors in question.

This co-operation however, is anything but simple and is usually not created spontaneously. Forms of game-management and network-continuation are often needed in these situations. As a result decision-making processes are often capricious and unstructured.

Figure 2.3. shows the most important differences between decision-making in networks and hierarchies.

<b>Hierarchies</b>	<b>Networks</b>
Regularity and a clear follow-up of activities	Irregularity and no clear follow-up of activities
Phases	Rounds
Stable actors, which are loyal and involved from the moment of problem formulation until the final decision	Actors enter and resign as they like, they act strategically and during the problem formulation there are winners and losers
A clear begin and end	No isolated beginning or end
The content of the problem is stable	The content of the problem shifts through time
Problem → solution	Solution ↔ Problem

Figure 2.3.

Source; De Bruijn, Ten Heuvelhof, 1999, P45.

Within networks various series of interactions around specific policy issues take place. Some authors, like Rhodes, Klijn and Scharpf, indicate these interactions as 'games'. Games in which not all actors of a network are involved, just the ones whose interests in 'the game' are being targeted, will activate themselves in the game. The positions of the 'gamers' are determined by their place within the network and their strategic acts within the game. During the game actors act within the given division of means and rules within the network. In doing so they have to operate strategically in order to manage the given interdependencies within the game, so that the goals of their interest can be reached.

So in short, policy processes can be interpreted as complex games between various actors. The outcomes of the game can be seen as a result of the interactions of the strategies from the various actors participating in the game. (Klijn and Koppenjan, 2001, P182)

From the information above one can conclude that decision-making within a network proceeds much more capricious than within a hierarchical structure. According to de Bruijn en ten Heuvelhof this capriciousness is the only regularity within these processes of decision-making and can be reduced to two components (De Bruijn, Ten Heuvelhof, 1999, P48);

- Capriciousness concerning the content.  
The content of a problem and its solution constantly shifts. Moreover solutions can determine the problem definitions instead of vice versa.
- Temporary capriciousness.  
Decision-making has no clear begin or end and proceeds in rounds, which follow each other irregularly.

This capriciousness presents the steering actors within networks with barriers and chances, which are summarised in figure 2.4.

	<b>Barriers</b>	<b>Chances</b>
<b>Capriciousness of decision-making</b>	Consolidation, difficult decision-making	Serendipity can suddenly have changes for the realisation of goals
	Decision-making difficult to access	'Losers' always get new changes
	Results are in-executable compromises	

Figure 2.4.

Source; De Bruijn, Ten Heuvelhof, 1999, P48.

### **2.4.3. Network management techniques**

Yet one of the central questions within the network approach remains, how common action around specific issues evolves. Policy and policy processes are said to be taking place in the 'field of tension' between (durable) dependencies and diverging goals and interests (Klijn and Koppenjan, 2001, P182).

Although this tension is partly levelled by the rules, resulting from the division of means, it remains existent and needs to be solved in every policy game. In order to facilitate co-operation and the tuning of goals and interests, it is necessary to steer, or so to speak 'manage', the complex games taking place within the networks. These techniques for managing networks are initially geared at promoting co-operation between the actors involved. (Klijn and Koppenjan, 2001, P182)

However if an actor wants to be successful in its steering capacity, he will need to take account of two steering notions, process-contingence and contingence related to the structure. In the case of process-contingence one needs to take account of the actual course of the decision-making processes, their temporality and capriciousness, when designing the intervention. Besides, one needs to take account of the existing multiformity, reticence and interdependencies within networks when designing the intervention, the so-called contingence related to the structure. (De Bruijn, Ten Heuvelhof, 1999, P50)

In his book Teisman labels network management as a means of improving the complex processes in a policy process in order to come to a satisfying policy. According to him network management can be distinguished in three different sorts of improvement strategies (Klijn and Teisman, 1992, P12);

- Policy management

Policy management is described as the influencing of one game or a limited series of games within a network. It is aimed at paying attention to the possibilities of goal braiding and the framing or reframing of perceptions.

This strategy claims that an important manner of improving policy processes can be found in the active mapping of the different perceptions of the actors and the confrontation of these actors with this reconstruction of their perceptions. (Klijn and Teisman, 1992, P12)

All efforts are directed at forcing the actors to redefine the definition of their situation in such a way that it can be reconciled with that of the other actors without leaving the actor concerned with empty hands. (Klijin and Teisman, 1992, P13)

- Process management

This strategy is focused on influencing the composition of the players in a policy game. Process management is directed at the selective activation of parties or actors and the arrangement of their interactions. (Klijin and Teisman, 1992, P12)

Some important strategies that are mentioned in this context are;

- The promotion of a common vision with regard to a problem or solution.
- The creation of temporary organisational arrangements between organisations.
- The promotion and supervision of interactions by various forms of process and conflict management.

(Klijin and Koppenjan, 2001, P183)

- Network continuation

This last strategy is focused on influencing interdependencies and relations of the network as a whole. It aims at generating possibilities that can legally create such role-plays that enable adequate policy processes. (Klijin and Teisman, 1992, P12)

From the perspective that institutional hallmarks of networks may influence possibilities for co-operation, attempts to change one or several of these hallmarks can be undertaken. Most 'network continuation' strategies are focused on;

- Changing the position of actors or introducing new actors to the game.
- Altering the rules of the game.
- Reframing, which comes down to fundamentally altering the ideas and beliefs about the functioning and problems concerning the content of the network.

(Klijin and Koppenjan, 2001, P183)

This strategy, when applied well, can influence the role-play within a network in such a way that the position as well as the strategic capabilities of an actor can change. It must be noted that network continuation is a strategy for the long term and therefore will not be suited when one aims at quick changes. (Klijin and Teisman, 1992, P14/P15)

## **2.5. Analysing decision-making in a network society**

Society has changed and is still changing at unprecedented speed, so does decision-making. Western society is more and more growing towards a network society. The increasingly capriciousness and exclusiveness of decision-making can be explained from the content and the form of the process itself, but also from the changing circumstances. In the last case, one assumes that not the decision-making has changed, but the society in which decision-making is taking place has changed. The aspects of the so-called network society can be considered as the changing background against which decision-making is taking place. (Teisman, 2001)

Yet decision-making in such a context is, as one could expect, rather difficult and time-consuming. Teisman describes three models for analysing decision-making in such complex network societies; the 'rational', the 'role' and the 'expedition' approach.

In the rational approach decision-making is aimed at solving problems. Decision-making is composed out of a problem, a set of alternative solutions, a determination of the effects of each solution and finally the decision. In fact this approach follows the model of policy phases.

The role approach is aimed at building an identity by means of decision-making. In order to understand how decisions are made, knowledge about the context in which the decision is taken and in which decision-making is embedded, is needed. This approach believes decision-making is helping the individuals, institutions and organisations concerned to develop and consolidate an own identity by means of choosing a course of action that tributes most to an amplification of the desired identity. The approach is aimed at building up and sustaining an identity and to link rules to situations.

The third approach, the 'expedition' approach, does suppose that ratio and identity do play a part in decision-making, but that they cross-cut each other in a complicated manner that is susceptible for multiple explanations. (Teisman, 2001)

This approach fits best with my own perception of decision-making in an European context and will therefore function as the analysing model in this report. The approach will be further elaborated below.

The approach envisions decision-making as an expedition. It comprises the organisation of one or more expeditions, set up by one or more actors striving for challenges. During the 'quest' novices join the expedition, some groups split off, some others resign and new competing groups throw themselves up. Sometimes they jump the queue and destroy the resources on their way in order to augment their lead. However in other instances actors also contract alliances in order to commonly make headway. These quests do not replace the existing structures in decision-making, but make use of these structures.

This approach places primary attention on the way in which expeditions are organised and managed and on the question how the actors involved learn to cope with multiple diverging interests. It tries to teach the actors to combine, instead of teaching them to choose, something the rational approach is striving for. The quests serve to increase the participation and with that the fetching in of the outside world, in order to share knowledge so that the unprecedentedness of time and place are diminished, to receive insight on the demands placed and to explore the possible combinations of solutions that are feasible within a network (Teisman, 2001, P26).

A second variable in the expedition approach is the importance that besides the events, the question arises what the coherence between these events is.

A third variable has got to do with the embeddedness of the quests into the bigger whole of quests, but also into the existing settlements in which inhabitants do not envy quests at all, let alone be that others are starting them. (Teisman, 2001)

The course of decision-making in this perspective can be analysed in the light of the logic of 'co-opetitive' behaviour. The term 'co-opetition' typifies an interesting phenomena common in public administration, that is, the phenomena that organisations realise that co-operation is necessary, but that this co-operation needs to be contracted with organisations with which one competes.

The term, a contraction of competition and co-operation, was introduced by Nalebuff and Brandenburger and characterises the relations within networks and chains. (Teisman, 2001, P18)

In these settings actors estimate which expeditions can be labelled as promising in the light of rationality, identity and in the light of new chances and threats. The actors in the game do not know whether competition or co-operation will be more rewarding, so they calibrate their own position regularly.

Nobody can oversee the whole process, everyone is occupied with the issues of others and is distracted regularly. There is no unequivocal stable definition of the problem and consensus building over the effects of all alternatives proves to be difficult, if not impossible.

The same elusiveness goes for identity. In the expedition approach each actor plays multiple roles and only few know exactly what behaviour is suited in a specific situation. This approach is centred around the question whether within these preconditions progress and development are possible. Following the logic of co-opetition the role-play is multiple and ambiguous, all actors perform multiple roles simultaneously and others have to keep a close eye on the role interpretation at stake. (Teisman, 2001)

One question that arises instantly is how can one manage this process and come to decisions?

## **2.6. Manage decision-making in a network society**

In the management literature one can roughly distinguish three types of management methods (Teisman, 2001, P28);

- Line management, directed at improving the functioning of organisations. Particularly by deriving an adequate demarcation of duties from the organisational goals and to adequately divide these diverse separate tasks.
- Project management, directed at realising organisational-exceeding projects. Especially by project leadership, the introduction of team-building and a proper planning.
- Process management, directed at organising co-opetitive processes better.

On the basis of the information described above, it can be concluded that the method of process management is most suited in network societies. The starting-point of process management is that something needs to be accomplished in an unstructured environment, with a multiple defined content, marked by entanglement over the ratio to be handled, the identities that are aimed for and the judgement criteria that make some actors to succeed. Where the line manager is focused on the functioning of an organisation, the project manager on the successful completion of a project, the process manager is aimed at making processes function. These processes are characterised by various actors participating, the possible introduction of different projects and the relative few anchor points. Process management is primarily applicable in situations characterised by unstructured problems that demand the effort of various parties in where problems and solutions develop at the same time.

The core theme of process management is creating interaction. And in doing so the process manager needs to organise events, promote the coherence between these events and embedding the process in the right context. (Teisman, 2001)

## 2.7. Conclusion

### 2.7.1. Lessons drawn from the literature

This chapter explored the literature on network models and the network approach. This was done with a view to the question how decision-making and co-operation are taking place in network-like environments and which factors might influence decision-making within these network-like contexts. The exploration led to the following conclusions.

The literature on European policing provides us with a whole range of possible forms of police co-operation. Ranging from relatively formal structures like conventions and treaties to bi- or multilateral networks to informal networks and even secret agreements. During the years a patchwork of international forms of police co-operation emerged, which, unfortunately are not all performing as desired.

During the last decade mentality changed and the idea that policy processes are for the most part a negotiating game between a broad range of public, private and semi-public actors, has become widely accepted. This corresponds with an important development that occurred in practically every society, the trend of strongly augmenting mutual interdependencies.

The insight generated by this trend nevertheless raises the question how steering can take place in such multi-actor settings. Besides the attempt to translate business-like ideas to the public sector under the denominator of 'new public management', ideas about other ways of steering, under the denominator of 'governance' and 'network management' have received a lot of attention (and critique) as well. The theoretical basis for these ideas can be expressed in the so-called 'policy network approach'. An approach that has obtained a prominent spot in the policy sciences and public administration, and is taken as point of departure for drawing up a theoretical framework. (Klijin and Koppenjan, 2001, P179)

Up until the seventies policy science was strongly dominated by the rational approach of policy, emphasising that policy and policy formulation were to be seen as rational processes.

At the start of the seventies the tides changed and the so-called 'process approach' gained attention, breaking with the traditional (rational) multi-actor approach in policy science. The process approach primarily focused on the policy processes and emphasised that these processes are characterised by conflicting values and problem definitions, are dynamic and unpredictable. (Klijin and Koppenjan, 2001, P181)

This development run alongside the emerging idea that policy processes are for the most part a negotiating game between a broad range of public, private and semi-public actors. Policy-making was believed to take place in 'networks'; "dynamic gatherings of mutually dependent actors, characterised by their mutual variety and possibility of taking up relatively closed positions in relation to each other" (De Bruijn, Ten Heuvelhof, 1999, P32).

This resulted into the so-called policy network approach, an approach that strongly elaborates on the process model, focusing on the interaction processes between dependent actors and the complexity of the goals and strategies that result from this (Klijin and Koppenjan, P181).

When policy-making takes place in networks, decision-making will also have to take place in a network-like context. In order for that to happen all different actors will have to be involved in the decision-making process; actors with sometimes strongly diverging interests.

In other words, policy can only be realised by means of co-operation between the actors in question. This co-operation however, is anything but simple and is usually not created spontaneously. In order to facilitate co-operation and the tuning of goals and interests, it is necessary to steer, or so to speak 'manage', the complex games taking place within the networks.

Teisman describes 'network management' as a means of improving the complex processes in a policy process in order to come to a satisfying policy. However society has changed and is still changing at unprecedented speed, so does decision-making.

As described above the new network society is a complex setting. Decision-making in such a context is, as one could expect, rather difficult and time-consuming. Teisman uses three models for analysing decision-making in such complex network societies; the 'rational', the 'role' and the 'expedition' approach.

The third approach, the 'expedition' approach, does suppose that ratio and identity do play a part in decision-making, but that they cross-cut each other in a complicated manner that is susceptible for multiple explanations. (Teisman, 2001)

An approach that proved to fit best with my own perception of decision-making in an European context. The management technique of process management proves to be the most suited with this approach and tends to function best in network societies. The starting-point of process management is that something needs to be accomplished in an unstructured environment, with a multiple defined content, marked by entanglement over the ratio to be handled, the identities that are aimed for and the judgement criteria that make some actors to succeed.

### ***2.7.2. Analytical framework for the Case study***

On the basis of the theoretical exploration, the analytical framework for the empirical part can be indicated. By means of the case study insight on the reality of police co-operation and collaborations between the public and semi-public entities of the twenty-five member states involved in the Union's fight against illegal drug trafficking will be gained. The case study will describe European police co-operation from a Dutch perspective.

However prior to conducting the case study, the network in which European police co-operation takes place will need to be analysed.

A network has been defined as, "a dynamic whole of (diverging) actors, which are mutually dependent, characterised by mutual variety and the possibility of taking up a position relatively close in relation to each other" (De Bruijn, Ten Heuvelhof, 1999, P32). Vitality, diversity, multiformity, and mutual dependencies can be labelled as hallmarks of network models and will form the starting-points for the exploration of the European policing network. In order to visualise the network properly, insight will need to be gained in the origin of the network, the actors that are participating in the network, the instruments the actors have at their immediate disposal, and the existent connections between the actors.

The analysis of the network will therefore be made by means of the following questions;

- How has the network developed itself?
- Who are the main actors involved in European policing?
- What are the dependencies between the actors?
- Which important instruments do they possess?

The question central in the case study is how European police co-operation is taking place in practice. Whereby primary attention will be given to opinions and perceptions of Dutch policing organisations participating in the European network. It is attempted to analyse how the European entities are co-operating in practice; can one really speak of a network-like context, how is the co-operation being perceived, and what are the main bottlenecks in this co-operation?

Sub questions for the analysis of the case study are;

- What are the main forms of co-operation?
- How is decision-making taking place within these forms of co-operation?
- What is the division of roles within these forms of co-operation?
- What are the main perceptions of the network partners on the co-operation?

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*Part II*  
*Empirical part ; Practical findings*

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### **3. The European Policing Network**

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#### **3.1. Introduction**

This chapter will present an analysis of the network in which European police co-operation takes place. As stated in paragraph 2.7.2. this analysis will be conducted by means of the following questions;

- How has the network developed itself?
- Who are the main actors involved in European policing?
- What are the dependencies between the actors?
- Which important instruments do they possess?

Yet, prior to answering these questions a brief overview of the building blocks underlying the European policy in the fight against illegal drug trafficking, will be given. Then the development of the network will be described by means of presenting an overview of the initiatives taken in the field of justice and home affairs. Finally the last part of the analysis will be presented, an exploration of the network.

#### **3.2. The starting-points underlying the policy of the European fight against illegal drug trafficking**

The annual reports of the European Centre for Drugs and Drug Addiction (EMCDDA) describe the current drug situation within the European Union. On the basis of this information strategies to combat the use and supply of drugs have been drafted. In December 2004 the European Council approved the 'European Drugs Strategy' for the period 2005-2012. The overall aim of this strategy is "to attain a high level of health protection, well-being and social cohesion by complementing the member states' actions in preventing and reducing drug use, dependence and drug-related harms to health and society". Moreover it is "intended to ensure a high level of security for the general public by taking action against drugs production and cross-border trafficking in drugs and the diversion of precursors used in drug production, and intensifying preventive action against drug-related crime, through effective co-operation embedded in a joint approach" ([www.europa.eu](http://www.europa.eu)). "This strategy is reflected in the European policy against drugs, which again is inspired by the five principles of international drug policy adopted at the United Nations General Assembly Special Session on Drugs of June 1998. These five principles are; a shared responsibility, an emphasis on multilateralism, a focus on a balanced approach, the development of mainstreaming and a respect for human rights" ([ec.europa.eu](http://ec.europa.eu)). It can be stated that the overall strategy is focused on two policy fields, drug demand reduction on the one hand, and drug supply reduction on the other hand. Besides that the strategy characterised by two themes that are cross-cutting these policy fields, namely, international co-operation and information, research and evaluation. In order to facilitate the implementation of the proposed strategy, two consecutive 'Drug Action Plans' have been made up, which describe the specific actions and interventions in this field. Since this research report is addressing the concept of European police co-operation, primary attention will be given to the policy field of supply reduction and the cross-cutting theme of international co-operation.

In order to reduce the supply of drugs into the Union the following priorities have been identified;

- “Strengthening EU law enforcement co-operation at both strategic and crime prevention levels”<sup>1</sup>.
- “Intensifying effective law enforcement co-operation between member states using existing instruments and frameworks”<sup>2</sup>.
- “Preventing the illicit import and export of narcotic drugs and psychotropic substances, including the routes towards the territories of other member states”.
- “Enhancing law enforcement, criminal investigation and forensic science co-operation between EU member states facing the same drug-related problems and/or having common interests”
- “Intensifying law enforcement efforts directed at non-EU countries, especially producer countries and regions along the main trafficking routes”.

(EU Drugs Strategy, 2005-2012, P12-P16)

With regard to the cross-cutting theme on international co-operation, the following priorities have been identified;

- “Enhancing and promoting a balanced approach to the drugs problem, by co-ordinated, effective and more visible action by the EU in international organisations and other fora”.
- “Putting special efforts in the relation to the candidate and potential candidate countries”.
- “Assisting third countries, including European Neighbourhood Countries and key drug producing and transit countries, to be more effective in both drugs demand and drugs supply reduction, both through closer co-operation among EU-member states, and by mainstreaming drugs issues into the general common foreign and security policy dialogue and development co-operation.

### **3.3. European Police Co-operation through the years**

Although international police co-operation, as Peek (1994) mentioned, is going way back in time, relatively solid forms of police co-operation on the European level started to develop in the late 1950’s. The very first steps on the European level were made with the ratification of the Treaty of Rome on the European Community (EC), emphasising the free-movement of persons on the territory of the Community. Yet the Treaty did not mention any measures in the relating fields of border-crossing, immigration or visa policies. However, as a result of exogenous factors such as the increasing amount of organised cross-border crime, illegal drug-trafficking, immigration problems and terrorism, the solely economic perspective could not be continued. This, together with the desire of some member states to broaden the right to free-movement within the Community to all citizens, urged the member states of the EC to further develop and intensify their co-operation in the field of justice and home affairs.

(“Het Schengen-acquis en de integratie ervan in de Unie”, 2005)

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<sup>1</sup> Which includes; production, illicit (intra-EU) cross-border drug-trafficking, criminal networks engaged in these activities, all related serious crime, and the drug-flow from the EU to third countries. (EU Drugs Strategy, 2005-2012, P12)

<sup>2</sup> Although, in recent years many instruments and frameworks have been established to intensify the law enforcement co-operation between the EU member states, “including the Framework Decision laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of drug trafficking, Joint Investigation Teams, the European Arrest Warrant, Europol, Eurojust, the Financial Intelligence Unit, the confiscation of assets measures, and the United Nations Convention against Trans-national Organised Crime and its Protocols”, many bridges need to be build. (EU Drugs Strategy, 2005-2012, P13)

This paragraph gives a brief overview of the development of European co-operation in the field of justice and home affairs in general and policing in particular. A subdivision between European Union initiatives and other non-EU European forms of co-operation, has been made.

### **3.3.1. European Union initiatives**

#### **TREVI**

The Treaty of Rome was followed by the Dutch initiative to form the TREVI (Terrorisme, Radicalisme, Extrémisme et Violence Internationale) group in 1975, nearby the Trevi fountain in Rome. The TREVI group functioned as an informal, intergovernmental, non-communitarian European platform for the exchange of experiences, information, and expertise and provided the possibility to set up networks to intensify and simplify this exchange between member states. At the time of conception the group did not have any formal links to the EC nor to the EPC. Yet in 1984 a new layer was added to the structure of TREVI; from that period on national ministers of immigration, justice and home affairs of the member states started to meet once every six months to discuss specific issues as customs and police co-operation, and the free movement of persons. Originally the TREVI group was made responsible to deal with issues in the field of terrorism and internal security.

In 1985 the group undergoes another transformation; its activities are being expanded to illegal immigration and organised crime. This expansion of activities resulted in the establishment of a third working group, TREVI III, concerned with "co-operation in the field of combating 'organised' crime, aiming at the exchange of information and expertise and the joint development of research methods and techniques in matters concerning organised and drug-related crime" (Monar and Morgan, 1994, P207).

#### **Single European Act**

Up until the late 1980's the TREVI platform functioned relatively well. However the ratification of the Single European Act (SEA), providing for the accomplishment of an internal European market on the territory of the EC, diminished the suitability of TREVI to address issues in the field of terrorism, internal security, illegal immigration and organised crime.

The creation of the internal market, which was based on four fundamental freedoms; the free-movement of goods, persons, services and capital, posed a new challenge to the to member states and the TREVI structure.

A single European market meant that internal border controls needed to be abolished, not only for EC inhabitants, but for all persons travelling through the Community. Yet, what would the fading away of the internal borders mean for the public order and security in the individual member states?

As a result of this uncertainty particular member states were reluctant to open up their borders instantly. A reaction to this hesitation of some member states was the idea to accompany the free-movement of persons with so-called compensatory measures, such as the reinforcement of external border controls and an European asylum and immigration policy. ("Het Schengen-acquis en de integratie ervan in de Unie", 2005)

Moreover a number of new intergovernmental working groups, like the ad-hoc Group on immigration in 1986 and the European Committee to Combat Drugs (ECCD) in 1989 were set up. More interesting however was the creation of another TREVI working group, TREVI 92, which was set up in 1988.

This working group was made responsible for the examination and inventarisation of the consequences of the creation of the free market and the accompanied abolition of the internal borders on national security and policing in the EC. Moreover the group was formed to grant "the establishment of structural police co-operation between the EC states" (Peek, 1994, P207).

### **The Maastricht Treaty**

With a view to a more efficient co-operation in the field of justice and home affairs and a better and more profound democratic control, the ideas to absorb the patchwork of working groups in an umbrella structure within the judicial framework of the European Community arose ('Het Schengen-acquis en de integratie ervan in de Unie', 2005).

In 1992 the Maastricht Treaty provided the basis for such an umbrella structure. As a result of this Treaty, co-operation in the field of justice and home affairs received an official spot in the 'house of Europe'. Co-operation in this field shifted from an intergovernmental approach towards a more communitarian approach.

A new structure, the so-called pillar-structure was introduced, and separated the European Union e.g. Single market, the Common Foreign and Security Policy and Justice and Home Affairs. ('Het Schengen-acquis en de integratie ervan in de Unie', 2005).

Combating criminality and the enforcement of the public order were no longer the monopoly of nation states, it asked for a common European approach within the third pillar.

### **The Europol Convention**

In order to facilitate the co-operation in the field of justice and home affairs the TEU provided for the establishment of an European Law Enforcement Organisation, Europol.

*"In January 1994 the organisation started its first limited operations in the form of the Europol Drugs Unit (EDU) combating against drugs. Progressively the set of responsibilities of the organisation was extended to other important areas of criminality. In October 1998 the Europol Convention was finally ratified by all member states and came into force. The organisation commenced its full activities on 1 July 1999" ([www.europol.eu.int](http://www.europol.eu.int)).*

### **The Amsterdam Treaty**

Yet, despite the TEU and the inception of Europol, the co-operation between member states in the field of justice and home affairs remained far from perfect. The main comments were made on the limited role of the Community's institutions ('Het Schengen-acquis en de integratie ervan in de Unie', 2005). The Treaty of Amsterdam was drafted as an answer to these imperfections. "One of the main objectives of the Treaty was to maintain and develop the Union as an area of freedom, security and justice, in which there would be free movement for persons combined with suitable measures pertaining to the control of external borders, asylum, immigration, as well as the prevention and combating of crime" ([www.ue.eu.int](http://www.ue.eu.int)).

Moreover, with the entry in to force of this Treaty, the Schengen co-operation was officially incorporated in EU law.

### **The European Council of Tampere**

The European Council of 1999 held in Tampere, Finland confirmed the conclusions of the Amsterdam treaty.

The Council was dedicated to the further development of an area of freedom, security and justice on the territory of the European Union, by means of a full use of the possibilities the Amsterdam treaty is offering.

The aim was to create an area on the territory of the European Union in which inhabitants of the Union as well as subjects of third countries can move freely. An area where at the same time the safety of all is guaranteed by the control and combat of any form of organised crime or terrorism. The Tampere Council also generated some reasonable steps forward in the execution of international police co-operation.

This Council decided on the establishment of a so-called Taskforce of European Chiefs of Police (EOCTF), a forum which enables the chiefs of the European police agencies to consult each other on a regular basis.

The presidency of the Tampere Council also expressed the desirability of a new organisational form of international police co-operation, that is, in the form of international Joint Investigation Teams (JIT's).

(Corten-van der Sande, Martens, 2006, P8)

### **The Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union**

Since the legal systems and the judicial devices of the member states differ considerably from each other, it proved to be necessary to introduce a more firm co-operation in this field. As a result, on the 29<sup>th</sup> of May 2000, the Council adopted an agreement which aims at facilitating the mutual assistance between the competent authorities of the member states (police, customs and the judiciary) in order to generate a more effective and faster co-operation in the field of criminal matters. ([www.europa.eu](http://www.europa.eu))

This agreement promotes and modernises the international legal aid in criminal matters and the mutual assistance between judicial, police and customs authorities of the member states. The agreement lists the circumstances in which mutual legal assistance is granted. The requested member state must respect the formalities and procedures of the demanding member state. Up until this agreement the execution of the requests for mutual assistance in criminal matters occurred on the basis of the legal system of the requesting state.

The treaty also introduced new forms of co-operation, like the interrogation of witnesses and experts by videoconference and the possibility to work in JIT's. JIT's are set up by means of a request for legal mutual assistance for a specific purpose and a limited duration.

(Corten-van der Sande, Martens, 2006, P8/P9)

### **Eurojust**

During the European Council in Tampere the decision was made to set up an agency responsible for the promotion of the effectiveness of the combat of serious organised crime. As a result of this decision 'Pro-Eurojust' was established on the 14<sup>th</sup> of December 2000, an agency provided with the task of testing various concepts of co-operation.

Eurojust itself was established by Council decision on the 28<sup>th</sup> of February 2002 and represents the European organ that will intensify the European judicial co-operation and co-ordination between the member states.

The agency is made responsible for taking structural measures on the European level for the facilitation of an optimal co-ordination of actions regarding investigation and prosecution of criminal offences that cover various member states, this in complete compliance with the basic laws and fundamental freedoms. On the 29<sup>th</sup> of April 2003 the Eurojust office was officially opened in the Hague. The agency only acts on the request of a member state.

(Corten-van der Sande, Martens, 2006, P9)

### **The Hague Programme**

In November 2004, five years after the Tampere Council, the European Council adopted 'the Hague Programme', a long-range programme aiming at reinforcing the European area of freedom, justice and security.

The Hague Programme can be seen as the successor to the decisions made at Tampere, which in fact was the first long-range programme prioritising an area of freedom, justice and security.

Following a Commission evaluation of the first five years after Tampere in 2004, the Hague Programme ends the first cycle and enters the next one.

The Programme elaborates on the positive experiences of Tampere and illuminates the new agenda of the Union. (Mededeling van de Commissie aan de Raad en het Europees Parlement – Het Haags Programma: tien prioriteiten voor de komende vijf jaar het partnerschap voor Europese vernieuwing op het gebied van vrijheid, veiligheid en recht)

The Programme gives direction to policies in the field of justice and home affairs for the coming five years and aims among others at an improvement of the practical co-operation in the field of policing and justice, mutual adjustment of legislation and the development of a common policy (Corten-van der Sande, Martens, 2006, P9/P10).

The European Council invited the Commission to draft an action plan for the coming five years, taking the overall priorities for freedom, justice and security set out in the Hague Programme and translate these goals and priorities into concrete measures, provided with a schedule for the approval and execution of the measures. This action plan identifies ten key areas for priority action and contains a number of points that are of importance for the international co-operation in the field of policing and justice.

These key areas are;

1. Fundamental rights and citizenship
2. The fight against terrorism
3. Migration Management
4. Internal borders, external borders and visas
5. A common asylum area
6. Integration: the positive impact of migration on our society and economy
7. Privacy and security in sharing information
8. The fight against organised crime  
(See annex II for more detailed information)
9. Civil and criminal justice: an effective European area of justice for all  
(See annex II for more detailed information)
10. Freedom, Security and Justice: sharing responsibility and justice  
(<http://ec.europa.eu>)

### **3.3.2. Non-EU European initiatives**

#### **The Benelux Treaty**

The Benelux Treaty concerning mutual extradition and assistance, signed in 1962, is regarded as one of the first arrangements for border-crossing activities in the field of policing. This treaty contains operational agreements which offer the police agencies in the border regions of Belgium, Luxembourg and the Netherlands the possibility to pursue and stop suspects on each other's territory. Moreover the treaty contains a protocol for the abolition of border controls in the Benelux area.

(Corten-van der Sande, Martens, 2006, P5)

#### **The Schengen Convention**

Despite all these efforts, the free-movement of persons and the co-operation in the field of justice and home affairs remained difficult to accomplish.

As a result, in June 1990, a group of five member states, Belgium, France, Germany, Luxembourg and the Netherlands, decided to sign the Schengen Implementing Convention which included measures on a harmonisation of the visa regime, the pursuit of criminals and the establishment of a computerised data exchange system which came to be known as the Schengen Information System (SIS).

The Schengen Implementing Convention was an elaboration on the Schengen Agreement, which was already signed by the five member states in 1985. This agreement contained a number of articles all relating to methods of the gradual abolishment of internal border controls and speeding up frontier crossing. (Benyon, 1994, P57)

As a result of the signing of the Implementing Convention, which officially entered into force in 1995, the internal borders between the signatory states could be abolished and one single external border, where controls for the entry into the Schengen area could be carried out according to one identical procedure, was created. Common prescriptions with regard to visa policy, asylum rights and controls at the external borders were determined, so that the free movement of persons within the Schengen area would not be at the expense of the public order.

During the years this intergovernmental co-operation extended and currently comprises thirteen EU member states, two EEA member states and the ten new member states, yet these last ten are subjected to certain conditions. ("Het Schengen-acquis en de integratie ervan in de Unie", 2005) Although the Schengen Agreement was one of the most ambitious attempts in the field of formalising European police co-operation at that time, this intergovernmental method did not prove to work as smoothly as desired.

The main shortcoming of this method turned out to be the difficulty of co-ordinating the patchwork of working groups that developed during the years. Moreover the unconditional membership and the lack of democratic accountability were considered as serious deceptions of the method (Benyon, 1994, P59).

#### **The Senningen Treaty (Benelux II)**

This treaty between Belgium, Luxembourg and the Netherlands came into being in June 2004 after a stocktaking of the main bottlenecks in the field of police co-operation between the three countries. The treaty, which in fact is renewal of the Benelux treaty of 1962, is concerned with border crossing policial and judicial action.

It creates formal possibilities for closer co-operation between the three countries, especially in the field of preservation of the public order, yet article 2 of the treaty also mentions the prevention and location of offences.

(Corten-van der Sande, Martens, 2006, P9)

### **The Prüm Treaty**

The Prüm treaty, by some referred to as Schengen III, signed in May 2005, adds a new dimension to the European co-operation in the field of terrorism, public order and domestic security. Prüm creates new possibilities to intensify the approach of border crossing crime. Especially in the field of the availability and exchange of information headway has been made, but also in the field of joint actions of police officers preventing criminal offences or safeguarding public order, considerable progress has been made.

The Prüm treaty makes it possible to directly compare an individual DNA profile with DNA profiles from databases of affiliated member states. The same possibilities will be applied for fingerprints and vehicle registers.

Furthermore the affiliated countries will exchange non-personal information and personal data in order to prevent criminal offences and to enforce public order. In the event of great, border-crossing events, this information can be provided spontaneously as well as on request. In each case the focus is on the exchange of information and the sharing of authority in order to prevent criminal offences, enforce public order and guarantee domestic security.

(Corten-van der Sande, Martens, 2006, P10)

All information presented above is summarised in a schematic overview (see Annex III), representing the legal foundations of European police co-operation in the Union's fight against drug trafficking. Moreover it will give an overview of the most important dates and agreements and/or 'policy papers' adopted.

### 3.4. The main actors involved in European policing

As already stated in the former paragraph the TEU, enriched the process of European unification with a new dimension, that is; co-operation in the field of justice and home affairs (JHA).

Co-operation in this field brings together the national ministers and ministries of Justice and Home Affairs of all member states and their services. Police, Customs, Immigration agencies, and the Judiciary of all the twenty-five member states will come into a dialogue, mutual assistance, common action and co-operation.

The co-operation between the judicial services of the member states concerns two areas; co-operation in the field of civil law on the one hand, and co-operation in the field of criminal law on the other hand. This report will primarily focus on the co-operation in the field of criminal law. Co-operation in this field is mainly related to matters like extradition, joint investigations and mutual legal aid. ([www.consilium.europa.eu](http://www.consilium.europa.eu))

The co-operation in the field of JHA is slightly different from the communautarian policy forms within the first pillar. Since the matters of JHA, which are influencing public order, are rather touchy, the TEU attached reasonable importance to the member states and the Union's institutions with which the member states are directly involved. As a result the competencies of the European Commission, the European Parliament and the European Court of Justice are limited. Under the TEU co-operation in the field of JHA did not know legal instruments, like directives or regulations, common to the policy formulation in the first pillar. One exclusively used instruments specific to the third pillar.

Yet with the entry into force of the Amsterdam Treaty, matters in the field of civil law, asylum and immigration have been healed over to the first pillar, or so to say communautised, while police and judicial co-operation in the field of criminal matters remained within the third pillar.

As stated in title VI of the Treaty concerning the European Union, the Treaty proscribes that;

*"the goal of the European Union is to create an area of freedom, safety and justice which provides citizens with a high level of security by means of the development of collective action of the member states in the field of police and judicial co-operation in criminal cases and by preventing and combating xenophobia"* ([www.consilium.europa.eu](http://www.consilium.europa.eu)).

The remainder of this paragraph will describe the main institutions involved in the field of European police co-operation. It should be mentioned that primary focus will be given to the meso level of European police co-operation. A level concerned with the operational structures of the different European police organisations and law enforcement organisations. It is considered to be the level on which day to day (operational) policing takes place. (Benyon et al., 1994, P49)

In practice this level is composed of numerous, diverging actors. There is no speak of a hierarchy, instead there are numerous collaborations, or so to speak actors, on a national, European and international level, with both public and semi-public characters, horizontal as well as vertical governance structures and obligatory or non-obligatory rules for membership.

### **3.4.1. Description different entities**

Apart from the small ad-hoc advisory committees and working groups, the following entities can be labelled as crucial in European policing in the fight against illegal drug trafficking;

- Europol
- JHA Council
- Horizontal Drugs Group (HDG)
- The European Police Chiefs Task Force (EPCTF)

#### **Europol**

Europol can be described as the Law Enforcement Organisation that handles criminal intelligence within the European Union. The organisation formulates its mission as follows, "assisting the law enforcement authorities of the European member states in their fight against serious forms of organised crime". ([www.europol.eu.int](http://www.europol.eu.int))

As already stated in the Union's 'Organised Crime Situation Report' of 2005, organised criminal groups have expanded their fields of activity across the borders, increasing cross-border crime. Many authors claim that this is one of the consequences of the creation of the SEA and the abolition of the internal borders within the European Community (Den Boer, Anderson, a.o.). This trend can also be labelled as providing Europol's right to exist. The European member states realised that the fight against crime required an European approach, guided by a Pan European law enforcement organisation ([www.bbc.co.uk](http://www.bbc.co.uk)). Gradually the organisation started to evolve into its contemporary form.

Nowadays Europol "functions as a support for the law enforcement agencies of all countries in the European Union by gathering and analysing information and intelligence, specifically about people who are members or possible members of criminal organisations that operate internationally. This information is received from a variety of sources including the numerous police forces working within the Union and other international crime fighting organisations like Interpol. Moreover Europol is charged with the task of developing expertise in certain fields of crime, in order to make this expertise available to the member states when needed". ([www.bbc.co.uk](http://www.bbc.co.uk))

#### **JHA Council**

The JHA Council is formed by the ministerial representatives of each member state, in general this are the ministers of Justice and Home Affairs. It is the Council's duty to adopt common positions, decisions and framework decisions and to lay down agreements. In doing so she needs to follow the broad outlines worked out by the European Council.

The JHA Council meets once every two months to discuss the development and execution of the co-operation in this field and the common policy at stake. The main goal of the Council, as stated in the Treaty concerning the European Union, is to bring about an area of freedom, security, and justice. ([www.consilium.europa.eu](http://www.consilium.europa.eu))

All Council deliberations are being prepared by the Committee of permanent representatives (COREPER). This committee of permanent representatives is composed of the ambassadors of the Union's member states and acts as an important filter before a document is handed over to the Council. However before a document will be discussed in COREPER, it is prepared in one of the numerous Council working groups, which are composed of civil servants of the ministries of the twenty-five member states.

Since neither the Council, nor COREPER is able and willing to discuss each theme in detail, it is aimed to generate as much agreement as possible during these official 'pre-consultations'. Most part of decision-making is thus taking place in the consultation rounds of Council working groups. This is not surprisingly since the members of these working groups usually do possess more specialist knowledge than the ambassadors and ministers. There are various Council working groups responsible for the Union's drug dossier.

Most important is the 'Horizontal Drugs Group' that was set up by COREPER in 1997, as a result of the, at that time, newly generated insight that the subject matter of drugs has a horizontal or 'pillar exceeding' character.

Each document concerning drugs needs to pass this group, before entering COREPER. Directly under COREPER one finds the 'Comité Article 36' (CATS) (named after the 36th article of the Treaty, which installed this committee), a committee which is composed out of highly placed public servants of the member states and responsible for matters concerning the third pillar.

(Boekhout van Solinge, 2000, P57)

CATS co-ordinates the activities in the field of policing and judicial co-operation in criminal cases. Moreover CATS can offer the Council advise, either on request as on own initiative.

([www.consilium.europa.eu](http://www.consilium.europa.eu))

In essence CATS reports directly to COREPER, except in matters solely concerning drugs. In all three pillars one finds Council working groups that are, one way or another, concerned with the problem of drugs. One can think of the 'Customs Group', the 'Group Police Co-operation', the 'Group Mutual Assistance in Criminal Matters', the 'Health Group', the 'Group Economical matters' or the 'Group Finances' with regard to money laundering. (Boekhout van Solinge, 2000, P58) HDG can use the experience of these specialist Council working groups that are concerned with certain, rather specific aspects of the drug problem. In this research report the Group Police Co-operation and the Group Mutual Assistance in Criminal Matters are of reasonable importance, however the HDG remains the most important Council working group involved in the Union's matters concerning drugs. This working group will therefore be described in more detail below.

### **Horizontal Drugs Group**

The Horizontal Drugs Group (HDG) can be described as "the European Council's main technical, policy and co-ordination forum to facilitate the joint efforts of the member states and the European Commission in the joint fight against drugs. The group is labelled as 'cross-pillar' since it brings together experts on Criminal Justice issues, External Relations, and Health issues in relation to drugs" ([www.ue2004.ie](http://www.ue2004.ie)).

"The HDG meets once a month and brings together representatives from the member states and the Commission, with a view to analyse, take measures on and seek to co-ordinate all drug-fighting activities of the European Union" ([ec.europa.eu](http://ec.europa.eu)).

Although the HDG is a working group, it also possesses co-ordinating functions for all matters concerning drugs. Its function and status can therefore be compared to those of 'the' co-ordinating body of the third pillar, CATS.

Decision-making within the HDG takes place by unanimity of votes, the decision-making procedure common to third pillar matters. The HDG's tasks are comprehensive, all (European) matters concerning drugs will have to pass the group. During the years the group's role moved somewhat from co-ordinating towards a focus on the content of policy.

One of the group's most important tasks was making the preparations for the Drugs strategy plan, started under the British chairmanship. The group also was responsible for the stipulation of the most important pillars of this strategy. (Boekhout van Solinge, 2000, P58)

"Nowadays the Group is responsible for the initiation, implementation and monitoring of all action contained in the various EU Drugs Action Plans" (EU Situation Report on Drug Production and Drug Trafficking, 2003-2004, P6).

### **EPCTF**

The European Police Chiefs Task Force (EPCTF), established at the Tampere European Council of 1999, can be described as a "top-level forum for interpersonal communication among the police forces of the Union's member states" ([ec.europa.eu](http://ec.europa.eu)). The Task Force meets twice every year and was set up to "exchange experience, best practices and information on current trends in cross-border crime", all doing this in close co-operation with Europol ([www.europa.eu](http://www.europa.eu)).

The European Union created the EPCTF in order to "develop and intensify the personal and informal links between the heads of the various law-enforcement agencies across the Union, so that the exchange of information and the assistance with the development of more spontaneous interaction and closer co-operation between the various national and local police forces and other agencies belonging to the chain of European law-enforcement" ([ec.europa.eu](http://ec.europa.eu)). It is believed that the development of top-level informal links between EU law-enforcement agencies can help creating closer co-operation and more spontaneous interaction between national and local police forces in the Union's member states in their continuing mutual fight against crime ([ec.europa.eu](http://ec.europa.eu)).

However it should be mentioned that despite its growing influence, principally with respect to the operational aspects of policing, the EPCTF has no constitutional or legal basis. Although it can influence both strategy and operations, it is a wholly unaccountable arrangement which actually should have no place in a democratic Europe (Statewatch Analysis, 2006, P1).

When all the stages at these institutions are completed, it is the move of the individual member states. They are entitled to implement the decisions made at European level and absorb these into the national legislation. Most often this happens through the national judiciary, the national police agencies and the ministries of internal affairs.

Now the exact roles of the entities, involved in European policing are described, a proper explanation of the European policing mentality is at place.

#### **3.4.2. The new police mentality**

The Hague Programme, launched in 2004, introduced a (new) thread in the practice of European policing. The focus of the European information exchange culture changed from a "need to know" to a "need to share" mentality. Moreover the concept of Intelligence Led Policing (ILP) was officially introduced in an European context. ILP can be classified as the system-focused successor of the former crime analysis, which was primarily directed at offences, and introduces the transition from an information-based to an information-steered police policy. Crime analysis is no longer used to support police policy, but received a leading position on strategic as well as tactic and operational level.

ILP was already being adopted for several years in various police organisations in Australia, Canada, the UK and the US, but originates from a model first applied by the Kent police organisation in 1994.

This organisation changed course dramatically by arranging their fight against crime according to an intelligence model. Information was placed at the centre of the decision-making process in the organisation. The structural use of crime analysis led to permanent informed decisions. As a result of the successes of the Kent model, the UK developed the so-called National Intelligence Model (NIM) that was being rolled out over the whole country as standard policing model. According to David Phillips, chief constable of Kent, "the model allows law enforcement to act in a pre-emptive fashion – stopping crime before it happens or disrupting the activity of criminals. This is a proactive rather than reactive approach." ([www.rcm-advies.nl](http://www.rcm-advies.nl))

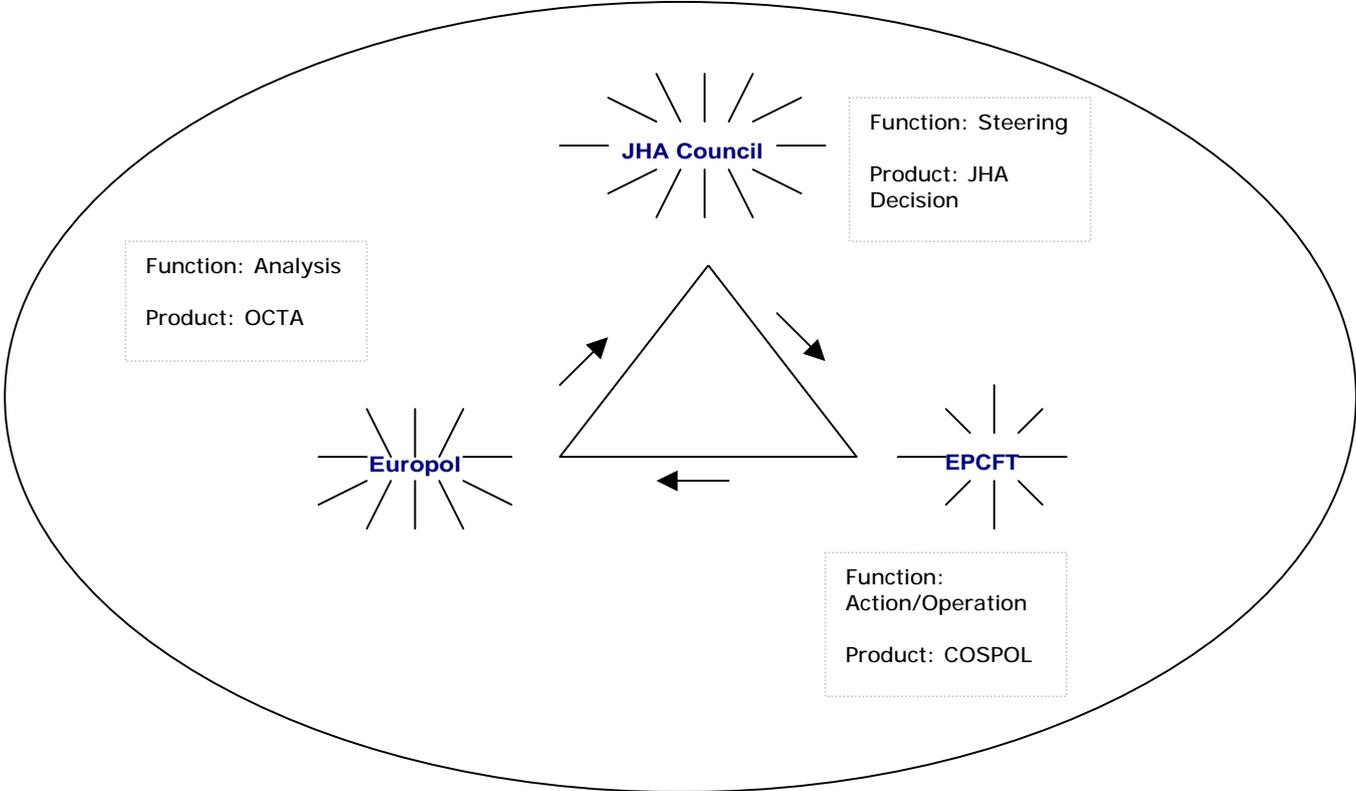
This intelligence model also caught the attention of the Dutch, who started experimenting with it in 2001 (Stuurgroep IGO (Informatie Gestuurde Opsporing) 2001). In order to fight crime and terrorism and to create an area of freedom, justice and security, it was believed to be essential to develop the concept of ILP on an European level.

In 2004, during the Dutch presidency, they presented the concept of ILP in the Hague Programme. Ever since this is the concept around which (formal) European police co-operation is centred. Yet, how is ILP working in Europe?

**ILP in Europe**

Just as in the national models, the process can be envisioned in triangle form, each angle representing a different European entity. These three entities are;

- Europol
- The JHA Council
- EPCTF



The process starts at the angle of Europol. In 2006 Europol developed and publicised the first Organised Crime Threat Assessment (OCTA) report. This OCTA report describes the future development of the various organised crime groups in Europe and their activities and markets. It concerns strategic information obtained from various internal and external resources, like the member state's police agencies, science, the private sector and different EU institutions. The information broadly indicates where potential target groups operate, where certain phenomena's take place most often, and consequently where action is needed most. The OCTA is intended to be developed on a yearly basis and forms the basis for the formulation of the political priorities which again are supposed to lay the foundation for the operational priorities and the accompanying actions. This translation of OCTA into the political priorities will take place in the various EU working groups (HDG, CATS, COREPER) and by means of the advise of the European Police Chief's Task Force (EPCTF).

The Council, after being advised by its working groups and the EPCTF, then decides which threats will be labelled as the Union's priorities for the coming year. As already stated before, on the basis of the last OCTA report, the Council labelled the fight against illegal drug trafficking as one of the Union's main priorities in her fight against organised crime.

According to the model, after this prioritisation the Council commissions the EPCTF to elaborate the broadly formulated political priorities into operational actions.

The EPCTF will examine how the political priorities can be translated into actual operational investigations by means of the Comprehensive Strategic Planning for the Police (COSPOL) process model. This process model was introduced by the Dutch presidency in 2004 and can be described as the process that translates information into action. It is a form of an actual co-operation between Europol and a number of European police agencies. Moreover the model, by means of the actions it generated, makes the information for the development of the next OCTA available. On paper the process can thus be seen as working in a continuous circle. Yet, reality still has to proof this.

However it should be mentioned that, in practice, there are various COSPOL projects running at the same time. Each COSPOL project consists of a group of member states that collectively face a problem of a criminal organisation or phenomena. Member states can sign themselves up on various domains of crime and consequently combinations of countries that struggle with the same sort of problems arise. These groups of countries are being supported by analysts and experts of Europol ([spl.politieacademie.nl](http://spl.politieacademie.nl)).

"Then through the EPCTF the 'action' is left to the law enforcement agencies of the Member States with the assistance of Europol". "The 'assessment' belongs to the policy-making level". ([www.statewatch.org](http://www.statewatch.org))

### 3.5. The most important instruments

In order to realise and generate outcomes the TEU provided the third pillar with the following instruments;

- **Common positions**  
The Council can, by means of unanimity voting, adopt common positions in which the Union's approach with regard to a certain issue is articulated.
- **Framework decisions and Decisions**  
The Council can adopt framework decisions for the mutual adjustment of the legal and administrative regulations of the member states. Framework decisions are binding for the member states with regard to the result that needs to be generated, but they do leave the member states free in the choice of means to accomplish this.  
The Council can also adopt decisions in the field of JHA. These decisions do not have a direct effect and are supplemented later by measures for execution and implementation. Both framework decisions and decisions are adopted by means of unanimity. However, if necessary measures for execution and implementation can be adopted by means of qualified majority.
- **Agreements**  
An agreement can be labelled as a classical instrument of international law. The Council can draw up an agreement and recommend the member states to adopt this agreement. Contrary to the common positions and other decisions, agreements need to be ratified by the national parliaments of the twenty-five member states. Unfortunately this means that a laborious and slow procedure precedes the execution of Council agreements. However since the Amsterdam Treaty, agreements enter into force when at least half of the member states adopted the agreement, unless decided differently.
- **Resolutions, Recommendations, Statements and Conclusions**  
The Council has got disposal over a large string of instruments with which it can articulate her political will. These instruments are used extremely often because of their 'flexibility'. Contrary to the instruments mentioned above, resolutions, recommendations, statements and conclusions do not bind the Council, nor do they bind the member states.  
([www.consilium.europa.eu](http://www.consilium.europa.eu))

## 4. Case Study

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### 4.1. Introduction

As already stated above, the insight on the reality of police co-operation and collaborations between the twenty-five member states involved in the Union's fight against illegal drug trafficking will be gained by means of a case study. This case study will describe European police co-operation from a Dutch perspective. Prior to a presentation of the results of this research, a short description of the case study and the research population deduced from that, is at place.

### 4.2. Empirical demarcation

This research report is confined to describing European police co-operation from the Dutch perspective. Despite the fact that European police co-operation is a concept in which all member states are involved, this report will only examine how European police co-operation is working and being perceived in the Netherlands. The reason for this choice is bipartite.

First of all as native 'Dutchwoman' it is easier to start the research from your own 'backyard'. The Dutch policing field is relative familiar ground. It is easier to make contacts with important players in the policing network when one starts on familiar ground. From here the contacts with the higher (European) policing organs can be made.

Secondly, the European Union is seen a major consumer market for illicit drugs. "The continuous demand for drugs has created a need for large-scale production and trafficking in these substances, thus remaining the most common type of crime among Organised Crime (OC) groups that target the EU". "Europol investigation showed that whilst amphetamine and heroin use may have stabilised or even declined in some member states, the abuse of cannabis, cocaine and ecstasy is rising in others" (European Union Organized Crime Situation Report, 2005, P9).

The fact that the Netherlands, in conjunction with Belgium, is labelled as the prime producer of synthetic drugs, which, after cannabis, is the most commonly used drug in the European Union (European Union Organized Crime Situation Report, 2005, P1), does do justice to the choice of the case study. Linking this information to the well-known fact that Rotterdam is Europe's largest harbour and the gate-way to Europe, make the Netherlands a suitable choice for a case study.

The emphasis of this research report thus lies primarily on the coming into being and maintenance of co-operation and collaborations between the public and semi-public entities of the twenty-five member states involved in the Union's fight against illegal drug trafficking. As stated above, this insight will be gained by means of a case study that describes European police co-operation from a Dutch perspective. In order to gain insight in this situation, staff members from the Dutch entities in policing have been interviewed. Thanks to these interviews a better and more complete view of the situation can be formed. Figure 4.2.1. gives a schematic reproduction of the network of European police co-operation, with an aggravation on the Dutch case.

### 4.3. The research population

The Dutch police organisation is composed out of twenty-five regional services and the Agency National Police Services (KLPD). The twenty-five services deliver a contribution to the safety, the quality of life and the fight against criminality in their own territory.

The KLPD, on the other hand organises the national police duties. Both services come under the directorship 'Safety' of the ministry of Internal Affairs and Kingdom relations (BZK).

([www.politie.nl](http://www.politie.nl))

Since both services are deposited with different responsibilities, they resort under different departments. The twenty-five regional corpses are accommodated at the managementship 'Police' and the KLPD are accommodated at the agency 'KLPD'.

As already stated the Dutch started experimenting with the concept of ILP in 2001. Ever since, Dutch policing is organised according to this concept. Again the process can be envisioned in triangle form (see the figure 4.3.1.). With on top BZK and the Ministry of Justice performing the steering function, based on the analysis made by the DNRI. Finally the DNR will fulfil the operational duties in the form of tailor-made actions. All three institutions will be shortly described beneath.

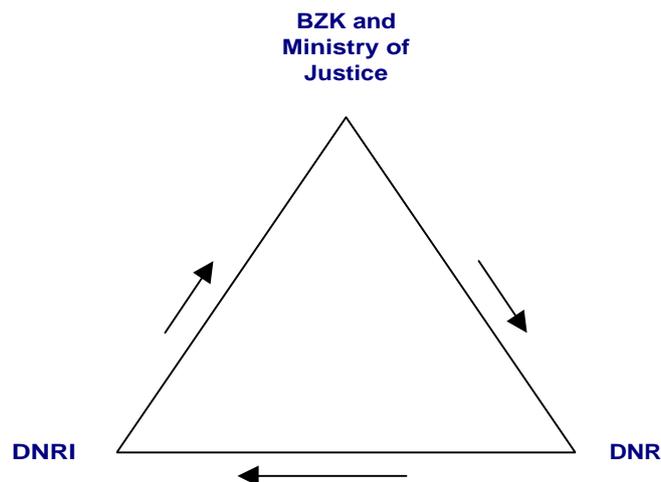


Fig. 4.3.1.

#### DNRI

The national information service of the Dutch criminal investigations department (DNRI) is occupied with delivering information and expertise, concerning a large number of diverging matters, to the Dutch police services and other partners in the security chain. By its control over indexes of reference, police registers and knowledge systems, DNRI contributes to national insight in heavy, organised crime and upper-regional middleclass crime in the Netherlands. To sum up, it may be said that the service delivers co-ordination products and knowledge products. Within the framework of the new system of securing and monitoring, DNRI delivers threat analysis's and situation reports. But above all DNRI collects national and international police information in order to search for diagonal linkages, in order to tackle upper-regional crime. ([www.politie.nl](http://www.politie.nl))

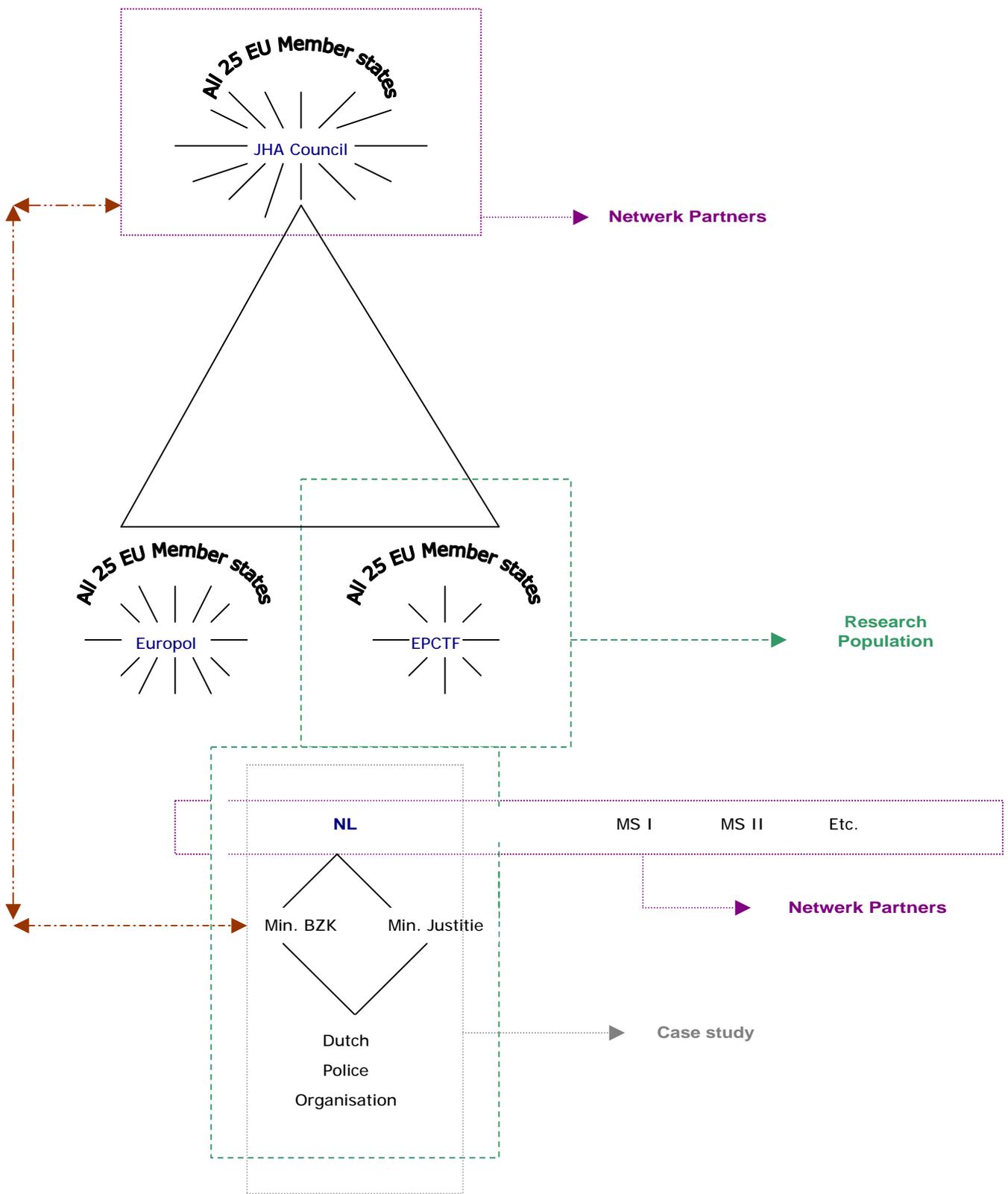


Figure 4.2.1.

## **BZK and Ministry of Justice**

In the Netherlands policing falls completely under the authority of the Ministry of Internal Affairs and Kingdom Relations (BZK). The Ministry of Justice is occupied with the prevention of crime and law enforcement. Basically the Ministry of Justice can be seen as the main formulator and guardian of the laws in the field of public order and security. The police, resorting under BZK, makes sure these laws and regulations are complied with. As a result of this 'connection', both ministries make joint decisions on the prime fields of attention for the police. The police activities in favour of the enforcement of public order and assistance, are being conducted under the authority of the mayor. In the case of the tracing of penal offences, the police is operating under the authority of the district attorney. ([www.justitie.nl](http://www.justitie.nl))

## **DNR**

In its fight against (inter)national, heavy, organised crime, the Dutch criminal investigations department (DNR) is occupied with the tracing, the development of expertise and the (inter)national exchange of information. All investigations of the DNR take place under the authority of the office of the public prosecutor. ([www.politie.nl](http://www.politie.nl))

Besides combating the heavy and organised crime, nationally as well as internationally, the DNR also fulfils an expertise function on a number of fields of attention.

Within these fields of attention the service is focused on the gathering of information, the tracing, and the recommendation of preventive measures.

The fields of attention concerned are;

- The smuggling of, and border-crossing trade in cocaine, heroin, human beings, fire arms, and explosives
- The production of, and trade in synthetic drugs
- Money laundering
- Ideological crime

Moreover the DNR is internationally orientated and an important partner in settling international requests for legal aid. ([www.politie.nl](http://www.politie.nl))

Besides at both ministries and the Dutch policing organisation, comprising the DNR and DNR, additional interviews have been held with staff members of the EPCTF support unit, DINPOL and KLPD. Reason for this choice was, first of all, the special position of the EPCTF within the context of European police co-operation. This support unit advises both Council as Europol on practical policing issues and supports all operational tasks of the nine COSPOL projects currently running. Because of its special position, outside the framework of European Union institutions, the EPCTF support unit can give a clear and unbiased overview of co-operation between Europol, Council and the European police organisations. This enables the unit to examine European police co-operation from a distance. Officially they are not admitted into the EU framework; the EPCTF represents a forum where European chiefs of police can exchange knowledge and information. Although the EPCTF is growing in importance, it still remains a rather informal gathering, free of any obligations. The police chiefs can give orders without having to wait for Council decisions. They are not accountable to anyone, each police chief only remains accountable to its national government. Thanks to their lack of an official position within the EU framework, and their work for both Council and Europol, the EPCTF can draw a better picture of the complete process of co-operation between Europol, Council and the member states through the EPCTF.

The interviews with DINPOL and KLPD have been held in order to gain some more inside information about the general practice of policing in the Netherlands as well as in Europe.

#### **4.4. Description research instrument**

As stated earlier the empirical data for this research report were collected by means of qualitative, semi-structured, personal interviewing.

This report follows the assumption that European (police) co-operation is taking place in a network-like context. The theoretical framework explored the literature on network-management and presented a number of handles for developing and managing co-operation in such contexts. It is expected that these handles detected in the theoretical framework, will play a role and influence co-operation between the European policing partners.

By means of a checklist, presenting the main points of attention, which again are based on the theoretical insights gathered in the first part of the research, an attempt was made to generate an answer to the question whether these factors in practice actively carry much weight with a solid co-operation between the European member states in their mutual fight against the illegal trafficking of drugs, as is presented in the literature. On the basis of these answers, it can be analysed whether the theory corresponds with the practice.

The checklist functioned as the guideline during the interviews. This checklist, together with its foundation can be found in annex IV. The list of the persons interviewed can be found in annex V.

#### **4.5. The collection of data**

During the interviews no considerable experiences have been encountered. All persons interviewed speak on behalf of their organisation and principally reflect the co-operations in which they take part themselves. They were all interviewed in person in their own personal working environment. Besides the personal 'touch', generating a more solid basis for a conversation, this method strongly reduces the possibility of solely socially desired answers.

All answers and information generated from the interviews were processed and will be presented and analysed in chapter five. The analysis will take place on the basis of the points highlighted in the checklist.

## 5. European Police Co-operation through the eyes of the Dutch

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### 5.1. Introduction

The case study was conducted in order to explore the reality of police co-operation and collaborations between the public and semi-public entities of the twenty-five member states involved in the Union's fight against illegal drug trafficking.

The question central in the case study is how European police co-operation is taking place in practice. Hereby primary attention was given to opinions and perceptions of the Dutch policing organisations participating in the European network.

Sub questions formulated for the analysis of the case study were;

- What are the main forms of co-operation?
- How is decision-making taking place within these forms of co-operation?
- What is the division of roles within these forms of co-operation?
- What are the main perceptions of the network partners on the co-operation?

In order to generate a proper view of the connections and relations within the network, the respondents were asked to sum up and describe all forms of co-operation in the field of policial action concerning the fight against the illegal trafficking of drugs, in which they are involved. This way it will become clear whether all action takes place within the European network or if action is also initiated outside this framework.

The theory describes that decision-making within networks will have to involve all actors, multiple actors with often strongly diverging interests. The actors are all dependent upon each other and cannot attain their goals without the means that are in possession of other actors. Yet, does this happen in practice, are all actors involved in decision-making? If so, does this cause frictions and wheels to turn slow? Which techniques might improve the process? Do these correspond with network management techniques mentioned in the literature?

Then focus is shifted towards the environment in which decision-making is taking place. Policy processes are interpreted as complex games between the various actors. Outcomes of the game are seen as the result of the interactions of the strategies from the various actors participating in the game. What is the position of the actors within the network? Is there speak of a certain division of roles? Is this division permanent or does it change per subject?

On the basis of the information generated by these points of analysis, the network partners were finally asked to ventilate their perceptions about the co-operation. How do they perceive the co-operation? What do they believe are the most prominent bottlenecks, and how could these possibly be levelled? On the basis of the insights generated by these questions, it can be analysed whether this corresponds with the handles presented in the literature on networking.

The following paragraphs will present the results of the case study generated by the interviews.

## **5.2. Forms of co-operation**

When one takes a look in the literature on European policing, a whole range of possible forms of police co-operation catch the eye. Ranging from relatively formal structures like conventions and treaties to bi- or multilateral networks to informal networks and even secret agreements. There are multiple forms of co-operation in the field of drugs in which the Netherlands are involved. Forms of co-operation that take place on an European level as well as on a national, and international level.

Literature showed that (European) police co-operation can take place on two levels, a vertical level and a horizontal level (Den Boer, 2004). The results will therefore also be presented and analysed by means on this bi-partition.

### **5.2.1. Vertical (governance) structures**

Vertical (governance) structures represent the formal, policy-making level on which co-operation can take place and primarily contains European Union initiatives.

The whole EU third pillar structure can thus be regarded as a vertical governance structure. Once one decided to become member of the European Union, one is strongly requested to participate in all initiatives regarding justice and home affairs. The Netherlands can be labelled as a rather active participant in these initiatives.

The Dutch ministers of Justice, Internal Affairs and occasionally the ministers of Integration and Health meet once every two months in the European Council of Ministers.

Besides, the Netherlands are well-presented in all Council related initiatives; COREPER, CATS and working groups like HDG, WGPC and MDG.

Furthermore the Netherlands are represented in the Europol Management Board, "which meets at least twice a year to discuss a wide range of Europol issues relating to its current activities and its future development" ([www.europol.europa.eu](http://www.europol.europa.eu)).

Next to this, the Netherlands are in close co-operation with Europol by means of the delivery of input-information for the OCTA. This information is gathered and passed on by the DNRI. Besides this function, DNRI also takes place in the Contact and Support Network (CSN), guided by the Presidency of the EU. This network advises Europol as well as the Council advisory and working groups on crime developments and the like.

In this field the Dutch Criminal Investigations Department (DNR) is co-operating with its 'counterparts' in a number of so-called COSPOL actions. These co-operations are always set up in close co-operation with DINPOL. Currently the Netherlands are actively involved in the COSPOL group on the trafficking of human beings and the COSPOL group on Synthetic drugs, from which they also are the 'driver country'.

Finally the Dutch chief of police is representing the Netherlands in the EPCTF.

In fact the whole triangle presented in chapter three can be labelled as a vertical governance structure, in which the Netherlands is participating actively.

### **5.2.2 Horizontal (governance) structures**

Horizontal governance structures predominantly represent the informal, policy-making level; focussing on the exchange of information and operational co-operation initiatives across borders. On an European level, the Netherlands are represented in numerous of these kinds of co-operations.

Ranging from consultations between directorships of the ministries from the various member states, to MoU's (e.g. Hazeldonk) or bi- or multilateral initiatives (e.g. co-operation between Benelux countries).

These co-operations usually are characterised by a more decentralised approach, are more flexible than EU initiatives and tend to focus on (EU) regional co-operation (Den Boer, 2004, P4).

The Netherlands, especially the Dutch Ministry of Internal Affairs (BZK), is rather positive towards these initiatives for co-operation. In some cases BZK even has a prime focus on bilateral co-operation. "As a result of the difficult, lengthy decision-making within the third pillar and due to the fact that some subjects only concern a small number of countries, it often is more practical and pragmatic to arrange these subjects on a smaller, bilateral scale". Arranging issues on a bilateral scale is often less difficult, since less interests are involved and there usually is more unanimity. Moreover EU-regulations in the field of Justice and Home Affairs tend to have a focus on heavy (organised) crime. In practice, however, the main focus is not and will not be in this field. Europe attempts to fight heavy (organised) crime by means of focusing on the tactical level. Actions will therefore also principally be of operational nature.

The DNR also highlights that one should not desire to solely co-operate through formal vertical governance structures like COSPOL. Certain issues are indeed best tackled by smaller, bilateral co-operation (e.g. legal aid requests etc.).

According to the Ministry of Justice co-operation on an European level, in third pillar context, up until now, has primarily been of practical sort. Because of this practical attitude, much of the co-operation remains rather free of obligations.

The Dutch Ministry of Justice, for example, is a member of the Horizontal Drugs Group (HDG) and the Working Group on Police Co-operation (WGPC). However these panels are rather focussed on policy formulation, and as a result do hardly produce any instruments.

The forms of co-operation that do stem from this are mainly bilateral with the intention to eventually involve as much member states as possible and to eventually take up under the wing of the Union's third pillar framework (e.g. the Prüm treaty).

It is interesting to find out that much EU instruments and actions thus stem from a bi- or multilateral initiative. They originate outside the formal EU structure, however with the intention to eventually admitting them into the EU framework. So the network in which policy formulation and consequently decision-making is taking place, is not 'European' by definition. It can start small and grow bigger in time, when more and more actors desire to get involved in the 'game'.

This corresponds with one of the hallmarks of decision-making in networks; the fact that actors can enter and resign as they like. Acting strategically, actors can enter a 'game' at the moment their interests are targeted. There is only one difference, in practice, once one enters the 'game' and it is taken up into the EU structure, it is more difficult to resign from the 'game'.

However, as already stated by the Ministry of Justice, much third pillar co-operation still remains rather free of obligations. So although it is difficult to completely resign from a 'game' which has been placed on an European level, one can endow oneself with a background position.

Although these horizontal initiatives are often welcomed by the Dutch ministries as well as the Dutch police organisation, BZK warns that a thorough supervision of these co-operations is necessary in order to be able to guarantee the effectiveness and efficiency of international co-operation in general.

### **5.3. Decision-making within these co-operations**

On paper decision-making in relation to third pillar subjects happens by means of unanimity, based on an initiative of the Commission or one of the member states, which both share the right of initiative. Third pillar affairs remain precarious, since they concern the monopoly of force of the member states. The principle of unanimity has therefore been build in to respect and secure this 'monopoly' and to enable national ministers to justify the Council decisions at home.

Yet because of the principle of unanimity, decision-making can become a lengthy and ineffective process. This fact was also picked up by the Commission, which presented some points for considerable improvement in the decision-making procedure in the Constitutional Treaty. The Treaty "provided that decisions relating to the framework and mechanisms for co-operation (e.g. Europol) are to be taken by qualified majority and co-decision. Decisions on operational co-operation (e.g. an operation by one Member State in the territory of another) remain subject to unanimity" ([www.europa.eu](http://www.europa.eu)). However the Treaty has not been ratified (yet), so the principle of unanimity, with all its inconveniences, remains the leading method for decision-making in third pillar subjects.

In practice however, decision-making in the field of European police co-operation does not take place by complete unanimity. All actors interviewed agreed upon the fact that decision-making is not always taking place by complete unanimity; certain member states have stronger positions and certain veto's can be ignored.

Moreover, especially within the Council and EPCTF power and politics play an important role. So even if one could formally block a proposal, this would not always be very sensible. Besides, as stated by the DNR, if one really likes to produce results it is often more sensible to direct towards consensus, so that all important players will be taken on board and real action can be taken.

As is characteristic for decision-making within networks, rules regulating the behaviour of the actors and the division of the means that influence these interactions within the network, have developed during the years.

Like this, it turned out that big Western member states tend to have a stronger position in the decision-making processes; for example a German veto holds much longer than a Dutch veto. Besides size, interests and financial contributions also tend to influence a member state's power within discussions. Moreover it is interesting to find out that discussions are often dominated by member states which have their own affairs perfectly in order.

According to the literature, if an actor wants to be successful in its steering capacity, he will need to take account of the actual course of decision-making and the existing multiformity, reticence and interdependencies within the network, when designing an intervention (De Bruijn, Ten Heuvelhof, 1999). So, if one desires to be successful in steering certain discussions a thorough exploration and analysis of the network is at place.

The older Western member states have had much more time to analyse and map the network structure, giving them headway on the new entrants. However according to Teisman network management techniques can improve the existent complex processes in a policy process, so that one can come to a satisfying policy. In the long run network continuation turns out to be an efficient method for influencing the role-play within a network in such a way that the position as well as the strategic capabilities of an actor can change (Klijn and Teisman, 1992, P14/P15). This trend is also visible in practice. The introduction of new member states gradually changed the composition of the network and the positions of all actors. Very slowly the new members try to alter the rules of the game and are gaining more influence. According to the EPCTF Poland is one of the most obvious examples. By means of making use of its strengths like size, this country is positioning itself very strongly and its influences are growing considerably.

As described in Teisman's 'expedition approach' on analysing decision-making in complex network societies, decision-making processes can be envisioned as expeditions. It envisions the process as a 'quest' during which actors learn to cope with the diverging interests and make use of the existing structures within the network.

During the years the big Western member states got familiar with the existing structures and diverging interests. They learned how to participate in the network and how to combine solutions in order to come to a decision. As stated in the theoretical framework, the course of decision-making in this perspective can be analysed in the light of the logic of 'co-opetitive' behaviour, in short 'co-opetition'.

All actors interviewed, agreed that decision-making takes place in an environment composed of multiple actors with diverging, often competing interests. Yet, due to the principle of unanimity they need to co-operate in order to arrive at a decision. However the actors do not know whether competition or co-operation will be more rewarding to their interests. Since nobody can oversee the whole process, the actors subconsciously assess the situation. If an expedition is labelled as promising, possibilities for alliances will be explored and positions are taken.

When an actor believes competition will be more promising in the light of his interests, his main focus will usually be on blocking a proposal. Although, on paper, in view of the principle of unanimity, one sole actor is capable of blocking a proposal, it is often more sensible to look for alliances as well, so one can form a strong lobby against a certain proposal. Pending on the subject, this unfortunately is not always possible. The Netherlands were rather alone in defending their coffee-shop policy. However, up until now, they have been able to block all proposals which infringe their interests in this field.

Despite these options it remains difficult to analyse the positions and possible strategies within the network, since the actors regularly change positions according to the subject at stake. As a result the role-play is multiple and ambiguous.

During the interviews it was articulated that the new member states still need to develop the 'skills' mentioned above and therefore are often endowed with a background position.

However, it should be mentioned that since the entry of the new member states, decision-making is getting more and more difficult. Managing and overseeing such a big, diverging group turns out to be rather difficult. Even the informal (co-operation) strategies prove to be difficult to be deployed in this context, as endorsed by all persons interviewed.

As an answer to this difficult, lengthy decision-making and due to the fact that some subjects only concern a limited number of member states, it is often more practical and pragmatic to arrange these issues on a smaller, bilateral scale. This approach is especially welcomed by the Dutch ministries. Co-operations on the basis of geographical position are also set up more and more often. The DNR as driver of the COSPOL group on Synthetic drugs, for example, rather only takes member states on board that are really confronted with a certain problem. However since COSPOL actions are part of the European framework, volunteers, whether confronted with the problem or not, cannot be ignored.

#### **5.4. The division of roles**

As stated above, the position of the actors in the European policing network can vary per subject. According to Klijn and Koppenjan, in order to facilitate co-operation and the tuning of goals and interests between the actors, one needs to manage the complex games taking place within network. These so-called network management techniques are geared at promoting co-operation between the actors involved in the game. It is therefore interesting to analyse the division of roles within the network, so that it can become clear how this co-operation can be promoted the best way possible.

All actors interviewed agreed that the division of roles in all co-operations in the field of European policing, whether this concerns decision-making within the European Council, consultations in one of the working groups or evaluations within the EPCTF, is strongly dependent upon the subject and the interest of one or more member states in a specific subject. This is, their own interest in a certain subject or their interest in relation to other striking subjects.

Besides this, financial contributions and the size of certain member states can be of importance for a leading role with regard to certain subjects.

To illustrate this, directly after entering, the new member states were endowed with a background role, it were the big six that led the discussions. They were familiar with the EU working methods and more importantly, "the rich West" experiences more inconvenience from third pillar matters and can also permit itself to worry about these inconveniences. New member states first tend to worry about primary issues, mostly relating to first pillar affairs, before they will bother to comply with third pillar matters. However, it is expected that, in time, their priorities and interests will gradually move towards third pillar matters. (Ministry of Justice)

In the field of issues regarding drugs, the Netherlands have always taken up a rather active position. Together with Belgium, Germany, and Sweden, the Netherlands often dominate the discussions (DNRI/DNR). Besides these countries, France has also positioned itself rather active in issues regarding drugs. However they are more 'conservative' and usually try to amend or block efforts in this field. Moreover it becomes visible that the bigger first new member states like Poland are strengthening their position and are becoming more and more active.

The active and important role of the Dutch in third pillar policing matters regarding drugs is partly the result of their 'personal' interest in matters concerning drugs. Due to the liberal Dutch drug policy (e.g. the Dutch coffee-shop policy) they have always offered strong resistance to negatively influencing measures.

Moreover it can be stated that the 'old Western' members are more susceptible to problems related to drug trafficking (Ministry of Justice).

Western Europe still remains the second largest consumer market for illicit drugs. As a result trafficking and sale are primarily focused on this region, generating the accompanying problems.

A consequence of all this is the emergence of so-called 'leader groups'. Although this often is a practical and pragmatic development, one can cast doubt on the democratic calibre of this phenomena. Can the network really be labelled as European?

In general, the game is solely played by the interested parties. Something that raises the question whether issues can and should be handled on an European level?

At present the Dutch have got a rather solid, well-functioning international network. However, it is becoming more and more noticeable that, as a result of the entry of the new member states, the Dutch influence in the field of matters concerning drugs is gradually declining. Despite this decline, the Netherlands's position of 'leader' will probably last for a number of years. (BZK)

On the operational level the division of roles is organised slightly different. COSPOL groups and actions, which originate from the OCTA report, are now set up by and managed by the countries that experience the problems and inconvenience from a certain phenomena.

Formerly groups and actions were set up by decisions made during the EPCTF meetings, which were primarily guided by the leading Western members. (EPCFT)

This alteration is an improvement, welcomed by all actors. Currently the action is taken and managed by the ones experiencing the problem, instead of by the loud-mouthed. A development that can also improve the quality and effectiveness of the actions taken.

However, as stated before, countries not intensively experiencing a certain problem cannot be ignored. As a result (COSPOL) groups can become too big, without having to improve the co-operation. Moreover this runs past the intention of COSPOL groups; structured and centred action by members experiencing a common problem.

However member states still tend to sign themselves up for COSPOL actions for politically inspired reasons.

## 5.5. The main perceptions of the co-operation

After exploring and visualising the network in which European police co-operation is taking place, the network partners were asked to ventilate their own opinions and perceptions about the co-operation. How do they perceive the functioning of the network and the co-operation within the network? What do they believe are the most prominent bottlenecks? Can these be solved, and if so how? Does all this correspond with the literature on networking?

The results generated during the interviews are presented below. Since each actor has its own personal perceptions, the results are classified per actor.

### ***The Ministry of Internal Affairs***

In general the Dutch Ministry of Internal Affairs (BZK) is rather positive about European police co-operation. European police co-operation is a welcomed initiative, however it is still in its infancy. The initiative will need to receive enough time and space to develop completely. Currently there are still some bottlenecks that interfere the co-operation initiatives. Bottlenecks that gradually will need to be tackled and levelled.

BZK believes that most trouble within the co-operations is the combined result of insufficient confidence in each other, poor functioning techniques and deviating legal systems.

European police co-operation is a process at the beginning of its development. New initiatives which attempt to improve this process, must be welcomed. However, it remains a question whether more meetings will bear fruits.

According to BZK, in order to improve the process, there needs to be a possibility to co-operate on an operational level and one needs to have disposal over the proper instruments.

Up until now BZK questions whether the previous two treaties (Maastricht and Amsterdam) created much more possibilities than already existed. Although they facilitated and increased European co-operation through legal aid, they did not increase the possibilities on the operational level.

This also remains the level on which most bottlenecks manifest themselves.

Therefore BZK believes that one should not desire to organise everything in an EU context.

Especially not when other forms of co-operation often prove to be more efficient and effective.

The Netherlands have also been rather critical on the first OCTA. The information in this report is far from complete and not every member state supplies solid and equal information.

Moreover, BZK believes that Europol is currently still (too) far removed from the police officer. In its current form Europol cannot mean much to the national police officer. When Europol will start to function on a more operational level, a good development will be set in motion. However, most member states are still very hesitant about this. BZK hopes time can dispel this shudder.

### ***The Ministry Justice***

The Ministry of Justice welcomes the initiatives in the field of European police co-operation. Co-operation in this field is still far from perfect, but it is a developing process.

In general the Ministry of Justice envisions European police co-operation as a process of harmonisation, which actually just started and has still got a long way to go. Yet on a legal much has already changed since 1992 and in a sense improved. Of course much more will need to change, but the foundations are laid.

The Ministry of Justice believes that one of the most prominent bottlenecks remains the principle of unanimity. According to the Ministry the principle of unanimity impedes with the decisiveness of decision-making and maybe even with the quality of the decisions, since these are always the result of compromises in order to guarantee national support for the decisions.

Third pillar affairs remain precarious, since they concern the monopoly of the member states. The principle of unanimity has been build in to respect and secure this 'monopoly' and to enable national ministers to justify the Council decisions at home.

However the Ministry of Justice also take the view that in practice much is already possible. Currently border-crossing co-operation is possible. Although, maybe seen from a legal point of view, possibilities are lagging a bit behind. Yet, the legal basis cannot be labelled as the biggest bottleneck.

Matters like, language, culture and knowledge of the legal systems of other member states can cause frictions. Nevertheless this are matters that can be solved by intensifying the relations and meeting one and another more often.

Other bottlenecks are principally prominent on the operational level and are of far more practical nature. For example 'simple' actions like cross-border pursuits which, before the treaty of Prüm, were not even possible.

### ***DNRI***

In general DNRI is rather positive about the development of European police co-operation. Despite the trickiness of the process, it is a good start that will need to develop over time.

"Since crime is crossing borders and many affairs for European co-operation are signalled on the level of crime, European police co-operation is certainly necessary".

The National Criminal Investigations Department (DNR) will especially need to co-operate with Europol and the other member states. However on the level of the regions European co-operation remains a distant concept. The border-crossing co-operation that takes place on this level is primarily of bilateral nature. Nevertheless this will gradually need to change.

Still, DNRI takes the opinion that complete European co-operation might remain an utopia. Just like regional police organisations, member states will never share all information they possess as a result of their fear for damage danger.

According to DNRI the basis on which action is taken, the OCTA report, remains an important bottleneck. DNRI has therefore also been very critical about the first OCTA report. The first OCTA contained incomplete and very diverse input information, which jeopardised the validity of the report. DNRI believes Europol is simply far too dependent upon the member states for its information, information that might not even be complete when it is supplied to DNRI and similar organisations.

Another problem with OCTA is Europol's desire to cover all areas and aspects of crime. Strategic and tactic goals and information are tangled, which again jeopardises the quality of the report.

Moreover the whole process of co-operation remains free of obligations for all twenty-five members. Europol cannot operate politically and needs to remain 'friends' with all twenty-five members. As a consequence some striking issues remain undiscussed. Because of this other countries sometimes try to arrange these issues on a bilateral level.

Differences in legislation, steering, tracing, political sensitivity and the political relations between the member states themselves, were also mentioned as prominent bottlenecks for the course of the co-operation. Therefore DNRI believes it is necessary to keep the discussions simple and manageable. According to DNRI one should not attempt to organise abstract matters on an European level.

### ***DNR***

The DNR is rather positive about the developments in the field of European police co-operation. Developments that are strongly needed, since organised crime must receive mutual (European) action. However they agree that it is a developing process, which will need to start making real progress anytime soon.

When European action is taken, in the form of COSPOL teams, the DNR is the organisation through which these actions are translated to the Dutch national police agencies. Together with DINPOL, the DNR is involved in all COSPOL actions, in which the Netherlands is enrolled.

In general the DNR decides whether the Netherlands signs up for a certain COSPOL action or not. However due to the 'political' base, present in the EPCTF, it can happen that, as a result of pressure from the other member chiefs, the police chief is forced to take up a decision that will not be welcomed by its support, the DNR. This can sometimes cause the DNR or other criminal investigations departments to get burdened with issues they rather do not tackle (yet).

Moreover the DNR claims that it remains quite difficult to function in such a big, diverging group. Especially in groups that also represent new member states, co-operation is not proceeding as smoothly as desired. Especially in the field of communication, problems tend to arise. Time will have to prove whether this is the result of cultural differences, language or novelty.

As a result the DNR is rather pragmatic, supporting the idea to organise action on a small scale, only involving countries that experience a certain problem. However this conflicts with the political base of the EPCTF, aiming at political alliances.

Yet the most prominent bottleneck, mentioned by the DNR are the completely different legal systems which hamper the possibilities for co-operation. This is a bottleneck especially present in the Netherlands, since their legal system does not even slightly resemble that of another country (e.g. the prominent role of the Public Prosecutor in Dutch tracing matters).

Moreover the DNR subscribes to the idea that most problems still manifest themselves on the operational level. With respect to certain countries the DNR also doubts whether the representatives of these countries taking place in European police co-operation do possess sufficient mandate.

### ***EPCTF***

The EPCTF takes the opinion that the process of European police co-operation has got some promising elements. There is a good possibility that it will work in the future. One should be patient, give the process room to develop and not change too much on the moment.

"The arrival of the EPCTF can be seen as a great renewal and ever since the process is making real progress". The EPCTF is mainly working with Council priorities based on the OCTA report. These priorities are then translated into COSPOL actions.

However the EPCTF is not solely bound to these priorities. Many things are circulated and discussed without having to receive an European status. The chiefs can take everything on board they believe is important, since there are no specific rules when to tackle an issue.

"The introduction of the support and evaluating units, one and a half years ago, boosted the process". These units evaluate the COSPOL teams twice a year and support all operational tasks of the teams. Moreover, once per Presidency the teams are submitted to thorough evaluation.

Nevertheless the EPCTF agrees that it remains difficult to function in a group of twenty-five, a group that is still growing. Differences in legal systems, culture, human resources, ideas and opinions were mentioned as the important bottlenecks and causes wheels to turn slow. However according to the EPCTF this is no reason to be pessimistic since the process is still proceeding and does produce results.

A bottleneck that is rather prominent remains 'commitment'. The police chiefs are usually committed, but the working levels, on which the real action has to take place, will need to become committed as well. The mentality on these levels will need to change and become more European. However, since one and a half year the operational side is slowly developing. Currently there are nine COSPOL groups active.

Another comment that was given here, is the quality of the OCTA report. The EPCTF believes it is a good basis for the COSPOL actions, but the methodology will need to develop, since much information in OCTA is already history.

### **General perception**

In general one can state that all actors agree that European police co-operation is a developing process. Since we are just at the start of it, it is not functioning completely perfect. Yet according to the actors it is better than nothing; European police co-operation is nowadays in many cases simply necessary.

In view of the different positions and functions, all actors have their own personal opinions and viewpoints on European police co-operation. Yet it was interesting that despite these different positions and functions, the general perception on the co-operation did not differ much.

All actors turned out to be rather critical about the content and quality of the OCTA report. Most information used in the report is often long out of date, which strongly jeopardises the validity. Moreover it can be concluded that all actors agree that the most prominent bottlenecks manifest themselves on an operational level. All actors also share the opinion that primary attention needs to be given to the development of this level.

However some actors, like BZK, DNR and DNRI, also do ask themselves whether one should really desire and attempt to arrange everything on an European level. In some cases other forms of co-operation prove to be more efficient and effective.

Despite the 'fear' of many to Europeanise the touchy policy field of JHA, the Netherlands is rather open to slowly set this step in motion. Yet, they do articulate to only desire complete Europeanization in the necessary fields. One should drop the idea to arrange everything on an European level, especially in situations where other forms of co-operation prove to be more effective.

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*Part III*  
*Deepening and Conclusions*

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## **6. Conclusions and Discussion**

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### **6.1. Introduction**

This final chapter will examine the research on European police co-operation and the accompanying process. First of all the contribution of this research to the field of European police co-operation will be discussed. Then a brief overview of the research process, and the personal insights generated during this process, will be given. After a short recapitulation of the problem definition, which laid at the bottom of this research report, this chapter will illustrate the most important observations and conclusions generated during the research. On the basis of the insights on networking and the network approach, generated in the theoretical framework, these observations and conclusions will then be discussed.

### **6.2. Evaluation**

This research report generated a clear overview of the field of European police co-operation and its main players. It became clear which starting-points underlie the EU drug policy and how European police co-operation in this field is structured. The report does not only create clarity about the process as presented on paper and the actors involved in it, it also describes the reality of European police co-operation, as perceived by the Dutch actors. The conclusions drawn from this information can contribute to the development of the process of European police co-operation in general.

Since the practice of European police co-operation and the main bottlenecks are brought to the surface, future management can take these into account. Moreover it might become visible where improvement is most necessary and which fields deserve less attention.

At the start of this research my knowledge concerning setting up an academic thesis was limited. The process can therefore also be seen as a valuable experience.

In retrospect, it can be stated that the draft of the theoretical framework posed most problems. The choice and description of a valuable theory, applicable to European police co-operation, was not made instantly. So every now and then there also were some problems with the demarcation of the research object. My broad interest in this policy field was the principal reason for the problems concerning the demarcation. It eventually became clear to me that I should not tackle too many subjects, but make clear choices.

### **6.3. Recapitulation of the problem definition**

According to authors like Den Boer and Anderson, the creation of the Single European Act and the abolition of the internal borders within the European Community led to an increase in cross-border crime. The so-called spill-over effects of this trend, are believed to have gradually affected the field of JHA in general and of policing in particular. As a consequence the necessity for closer co-operation between the European member states in these fields increased enormously.

The European Union is well aware of the fact that the fight against organised crime is a common responsibility and presupposes an integrated approach of the problem and intensive co-operation on all levels.

However the co-operation currently taking place between the European member states in the field of policing is still far from perfect. The TEU, with the inception of the third pillar, forced the member states to strengthen the co-operation in the field of criminal offences.

However, the sensitivity of this policy field and the hallmarks that hamper Europeanization of this policy field so badly, still make it a problematic issue for co-operation. Especially in the field of drugs, problems do not seem to decrease and a mutual approach to fight the problem is needed. This trend is subscribed to by the European Council; on the basis of the OCTA report the Council labelled the fight against illegal drug trafficking as one of the Union's main priorities in her fight against organised crime.

This pronouncement made me decide to primarily focus this research report on the drug-related side of European police co-operation in the fight against organised crime. This focus was translated into following research question;

***"What is the reality of European police co-operation in the Union's mutual fight against illegal drug trafficking as presented on paper? And to what extent is this co-operation taking place in practice?"***

The aim of the report was to give a systematic overview of the co-operation between the European member states in the Union's mutual fight against the illegal trafficking in drugs. To be precise, how this co-operation is taking place and to what extent. Questions which primarily were answered by means of descriptive research.

The report gave a concise and systematic description of the European policing situation and its main players. It was followed by a presentation of the results generated by the case study, attempting to explore the reality of European police co-operation and collaborations between the public and semi-public entities of the twenty-five member states involved in the Union's fight against illegal drug trafficking, seen from a Dutch perspective. The information generated by these analysis's was placed against the theoretical framework, describing the network approach, so that insight in the exact functioning and possible reasons for the hampering of European police co-operation could be gained.

#### **6.4. Observations and Conclusions**

On the basis of the results generated by the research, the following conclusions can be made;

First of all society has changed and is still changing at unprecedented speed, so does decision-making. Western society is more and more growing towards a so-called network society. In his oration Teisman claims that a network society is characterised by four hallmarks, which he present in the form of four theses;

- Infiniteness of the networks of activities from citizens, enterprises and governments.
- The unprecedented network society, as a result of the dynamics en multiformity of network societies, knowledge about these societies decreases.
- Abundance in an unprecedently rich society, where demanding citizens and enterprises desire everything to be possible.
- In- and over- structuring as combined characteristic of networks, by which new structures neglect to create order in decision-making.

The increasingly capriciousness and exclusiveness of decision-making can be explained from the content and the form of the process itself, but also from the changing circumstances.

(Teisman, 2001) This network society is said to be a rather complex setting in which decision-making is difficult and time consuming.

The point of departure in this report was that European police co-operation is believed to be taking place in such a network-like context. After exploring and analysing the field in which European police co-operation takes place, it can be concluded that this field is eligible to be rightfully labelled as a network environment.

Secondly international police co-operation is not a new phenomenon. "In 1898, already, during the anti-anarchistic Conference in Rome, a co-operation between police services, at an European level, was being organised for the first time" (Peek, 1994, P201). Ever since ad-hoc forms of international police co-operation evolved. However, relatively solid forms of police co-operation on the European level started to develop in the late 1950's with the creation of the Single European Market.

During the years co-operation in the field of European policing only developed scantily. Real improvement was not made until the ratification of the TEU in 1992, which officially incorporated European police co-operation in the EU structure.

Yet, co-operation in the field of policing remains slightly different from the communitarian policy forms within the first pillar. Since the matters of JHA, which are influencing public order, are rather touchy, the TEU attached reasonable importance to the member states and the Union's institutions with which the member states are directly involved. As a result the competencies of the European Commission, the European Parliament and the European Court of Justice are limited.

However, in practice the level on which European police co-operation is taking place turned out to be composed of numerous, diverging actors. There is no speak of a hierarchy, instead there are numerous collaborations, or so to speak actors, on a national, European and international level, with both public and semi-public characters, horizontal as well as vertical governance structures and obligatory or non-obligatory rules for membership.

Moreover, since 2004 (formal) European police co-operation is based on the concept of Intelligence Led Policing (ILP). ILP can be classified as the system-focused successor of the former crime analysis, which was primarily directed at offences, and introduces the transition from an information-based to an information-steered police policy. The introduction of ILP considerably changed, and in a sense structured the process of European police co-operation.

By means of the OCTA report, drawn up by Europol, the Council, after being advised by its working groups and the EPCTF, decides which threats will be labelled as the Union's priorities for the coming year. After this prioritisation by Council, the EPCTF is commissioned to elaborate the broadly formulated political priorities into operational actions. By means of the so-called COSPOL process, actions are designed and the member states interested can sign themselves up for co-operation on a specific criminal issue or phenomenon.

The research, however proved that, besides these COSPOL actions, there are multiple forms of co-operation in the field of drugs in which the Netherlands are involved, ranging from relatively formal structures like conventions and treaties to bi- or multilateral networks to informal networks and even secret agreements. Forms of co-operation taking place on an European level as well as on a national, and international level.

The Netherlands turned out to be rather positive towards these initiatives for co-operation, since this is often less difficult and lengthy to arrange.

Moreover the research proved that the Netherlands take up a rather active position in the field of issues regarding drugs. A position that stems from their 'personal' interest in matters concerning drugs.

Finally it can be observed that the practice of European police co-operation sometimes slightly deviates from what is written on paper. Like this it turned out that, in practice, decision-making in the field of European police co-operation does not take place by complete unanimity, as is dictated in the Treaties. It also turned out that the roles and positions within the co-operations are not always divided equally. As a result of size, interest or financial contributions certain actors tend to take up a more prominent spot and generate a stronger voice in decision-making.

Yet, despite these deviations, in general all actors interviewed shared the opinion that European police co-operation is a developing process. Since it is a process that is still in its infancy, it is not functioning completely perfect. Yet according to the actors interviewed, it is too early to draw any solid conclusions. The process just started to make real progress and should receive sufficient time and space to develop.

The actors did mention the most prominent bottlenecks and a number of points they believe should be improved for the better of the process. All actors are still rather critical about the content and quality of the OCTA report. Besides they believe most bottlenecks manifest themselves on an operational level. Since this is the level where the real action has to take place, primary attention must be given to levelling these bottlenecks. In the end the Dutch remain rather pragmatic in their perception of European police co-operation; action in the field of the illegal trafficking of drugs is needed and must therefore be taken. However this should happen in the most effective way possible.

## **6.5. Answer to the research question**

The results presented in the previous two chapters, form the foundation for formulating an answer to the central research question. By means of the results generated on these sub-questions, insight was gained in the formal, paper-bound as well as practical side of European police co-operation in the Union's mutual fight against the illegal trafficking in drugs. At the same time the theoretical exploration created a clear view on the concept of network co-operation.

Looking back at the research it can be concluded that, based on the lessons drawn from the literature, European police co-operation can be said to take place in a network-like context. The context in which European police co-operation takes place meets the hallmarks characteristic of networks. The actors participating in European police co-operation represent a colourful merger of numerous diverging, unequal member states. Only member states of the European Union can participate in the process of co-operation, which highlights the point of reticence, a point typical for networks. Finally, in order to accomplish their goals, the actors are dependent upon each other. Policy formulation can therefore only be realised by means of co-operation.

With regard to this co-operation it can be stated that, in the light of the problem definition, on paper, one can speak of a model for European police co-operation that is functioning reasonably well, the ILP triangle. On a strategic level possibilities for co-operation are structured and more and more is becoming possible.

Based on these observations and conclusions it can be stated that the fundamental principles for a structure in which European police co-operation can take place, have been made.

The understanding that European police co-operation in the field of illegal drug trafficking is necessary, also turned out to be present among all actors involved in this process.

It certainly cannot be denied that the foundations for a structure in which European police co-operation can take place, are made. However, all actors interviewed shared the opinion that European police co-operation is a process at its infancy, which should receive sufficient time and space to develop. All initiatives aiming at improving the co-operation between the member states are welcomed. Yet, most initiatives up until now focused on the strategic level, while, according to the actors interviewed, most bottlenecks manifest themselves on the operational level. Primary attention should therefore also be given to the development of this level.

In conclusion it can be stated that there still exists a discrepancy between what is written on paper and the actual situation. However this discrepancy can be explained from the fact that European police co-operation is a developing process. The structural foundations are made, but the actors participating in the game need to make themselves familiar with this new structure and rules of the game. In some cases this might take some time, especially in an expanding network. The more actors are in, the harder it is to quickly get familiar with the structure, (competing) actors and the existing rules. This can be an explanation for the arrears of 'newer' member states and their efforts to get familiar with the network. Yet, it must be mentioned that the results generated by this research do not rule out any other reasons for this backlog position of certain member states. Varying interests in certain issues were also brought up as reasons for the differences in participation in the process by the various actors. A reason that explains the Dutch emphasis on pragmatic co-operation.

In the light of effectiveness and efficiency, in some cases it is better to set up an action, solely representing actors experiencing inconvenience from a certain phenomenon. If the non-participating actors might become interested in the action, they can always join the group. An emphasis that corresponds with Teisman's expedition approach; a process comprising the organisation of one or more 'expeditions', set up by one or more actors striving for challenges. Actors can estimate which expeditions can be labelled as promising in the light of rationality, identity and in the light of new chances and threats. During these so-called 'quests' novices can join the expedition, some split off, some others resign and new competing actors may throw themselves up. In Teisman's approach the quests do not replace existing structures in decision-making, but try to make use of these structures and serve to increase the participation of actors in order to share knowledge, receive insights on the demands placed and to explore the possible combinations of solutions feasible in the network (Teisman, 2001, P26).

The general perceptions of the actors interviewed, correspond with this approach. Organised crime is a phenomenon that deserves a mutual European approach in order to be combated effectively. In order to come to this mutual European approach one needs to co-operate. Teisman's expedition approach can streamline the analysis of this co-operation. The aim of the Dutch is to increase the participation of all actors, so that information and knowledge can be shared in order to fight organised crime the best way possible.

However, although regretted by the Dutch, not all member view network co-operation by means of the expedition approach. In view of the approach its emphasis on pragmatic participation and the exchange of knowledge, I believe emphasising this approach could be for the better of the co-operation and the mutual European fight against organised crime.

### ***To conclude***

This research report made it clear that, in order to be combated effectively, organised crime deserves an European approach. However, European co-operation should not become a goal on its own. Each situation must be analysed thoroughly and European co-operation should be initiated while taking account of the following two observations concerning European police co-operation;

- It turned out that structured forms of European police co-operation principally take place on a strategic level. Most bottlenecks still manifest themselves on an operational level. Many national police officers still believe European policing as an issue that does not concern them. Yet they are the ones that will need to execute the policies made at the strategic level. Inevitably they will need to approve these policies in order to implement them effectively.

Primary attention should therefore be given to this level. The operational level is still too far removed from the strategic level. One should try to better promote the concept of European policing on the operational level. The institutions and actors executing the policy should become more involved in the process. The European idea should be better communicated to the national level. However, without being too dictating.

- The empirical part of the research showed that the idea of European police co-operation is initially geared at co-operation between all twenty-five member states by means of unanimity. However, the actors interviewed claimed that, in some cases, this mentality interferes with the effectiveness and efficiency of the co-operation.

When one desires to act decisive, a more pragmatic mentality is at place. In the light of the co-operation, it might be better to abdicate the idea to arrange each matter on a complete European level. One should assess each matter thoroughly and decide whether an European approach or a more pragmatic approach is most suitable. Some criminal trends require immediate action. The lengthy discussions to come to an unanimous decision, might disturb the possibility to tackle some trends effectively. In the light of effectiveness and efficiency it might therefore be better to drop these discussions and start an action with those interested and affected by the problem. In time the co-operation can always gradually be extended.

## 7. Epilogue

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Despite the ups and downs, I can look back on an interesting and extremely valuable 'thesis period'. This project enabled me to adopt and complete my knowledge in the field of academic research. Moreover it has given me the opportunity to have a look at the practice of policing in general and European policing in particular.

In view of the efforts it took me to set up this research report, writing the epilogue to this final report is rather satisfying. I believe I can proudly state to have grown in writing an academic report.

The subject of the research strongly contributed to this enthusiasm and satisfaction. I noticed that European police co-operation is a very interesting and topical subject, which concerns numerous elements related to public administration. This again motivated me to deepen myself into the theory and concept of European police co-operation.

It became clear that police co-operation between the European member states is of primary necessity in order to effectively combat organised crime. I therefore hope that the process of European police co-operation will be continued successfully and that the bottlenecks, currently existing, will be levelled in time.

## 8. Abbreviations

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BZK	Ministerie van Binnenlandse Zaken en Koninkrijk Relaties
CATS	Comité Article Trente-six
COREPER	Comité des Représentants Permanents
COSPOL	Comprehensive Strategic Planning for the Police
DIN	Dienst Internationale Netwerken
DINPOL	Dienst International Politie Samenwerking
DNR	Dienst Nationale Recherche
DNRI	Dienst Nationale Recherche Informatie
EC	European Community
ECCD	European Committee to Combat Drugs
EPC	European Political Community
EPCTF	European Police Chiefs Task Force
EU	European Union
HDG	Horizontal Drugs Group
ILP	Intelligence Led Policing
JHA	Justice and Home Affairs
JIT	Joint Investigation Team
KLPD	Koninklijke Landelijke Politie Dienst
MoU	Memorandum of Understanding
NCIPS	Nederlands Centrum Internationale Politie Samenwerking
NIM	National Intelligence Model
NPI	Nederlands Politie Instituut
OCTA	Organised Crime Threat Assessment
OC	Organised Crime
SEA	Single European Act
TEU	Treaty on the European Union
TREVI	Terrorisme, Radicalisme, Extrémisme et Violence Internationale
WGPC	Working Group on Police Co-operation

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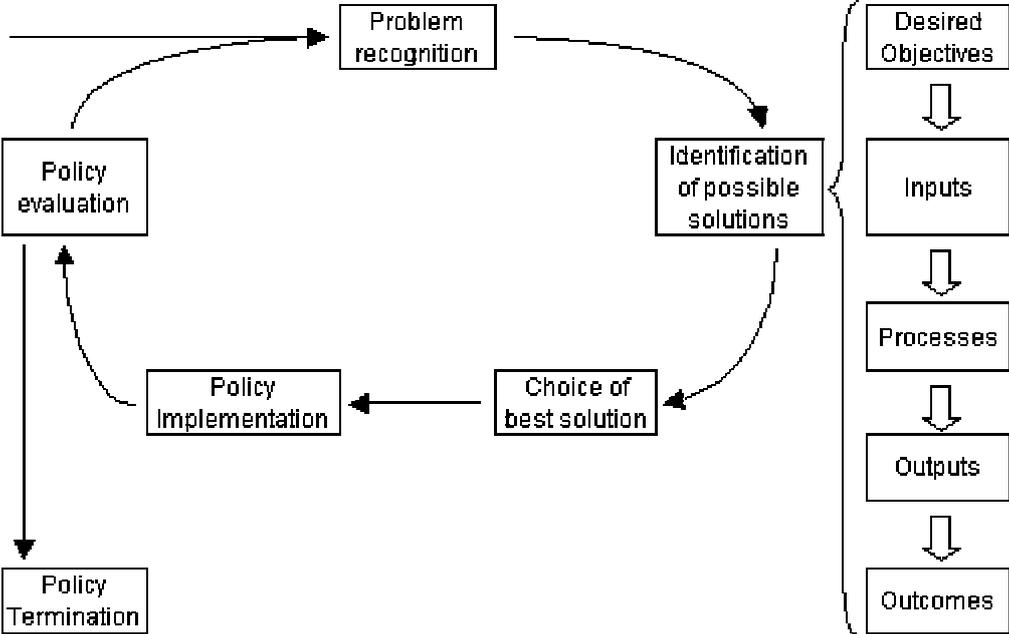
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## **Appendices**

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- I        The Policy Cycle**
- II        Elaboration Points 8 and 9 The Hague Programme**
- III       Schematic Overview European Police Co-operation and its Legal Foundations**
- IV       Checklist Interviews**
- V        List of persons Interviewed**



Source: [www.ozpolitics.info](http://www.ozpolitics.info)

**“The Hague Programme: Ten priorities for the next five years  
A partnership for European renewal”**

**8. Fighting organised crime: prevention, investigation and co-operation**

**Organised crime**

*Developing a strategic concept*

“Fighting against organised crime is a priority of the Commission’s action. A Communication on **“Developing a strategic concept on tackling organised crime”**, will be shortly presented which will outline an overall European strategy for the coming years.

The Commission recommends developing **common methodologies** among national and EU bodies contributing to the fight against organised crime, as well as an **EU crime statistics system** (that will be created in **2005**), collecting information and measuring crime and victimisation in specific groups. Constituting the core of a **European Criminal Intelligence Model**, this will improve knowledge of the phenomenon and enable decision-makers to define European strategies based on thorough assessments.

The strategic concept on tackling organised crime includes measures designed for strengthening **prevention**, namely developing a model for **crime proofing legislation** and **new products and services**; this should avoid creating new opportunities for organised crime. Further development and implementation of a comprehensive **EU anti-corruption policy**, together with actions aiming at fostering public sector transparency, should prevent organised crime from infiltrating licit markets. Moreover, **Partnerships between the public sector and enterprises** are an effective tool for preventing crime in general, and organised crime in particular. The preparation and implementation of an EU Action Plan on Public Private Partnerships is a priority for the Commission in **2006**. **Co-operation among national law enforcement services** (police, justice, customs) needs to be improved in order to combat organised crime in a more effective way and the potential of **Europol** and **Eurojust** has to be fully exploited, for example involving these bodies more closely in the investigation phase of cross-border organised crime cases. Concurrently, **investigation** and **tools to address financial aspects of organised crime** will be strengthened. In particular, the Commission will promote stronger investigation skills (**2005**) and the establishment of criminal asset intelligence units in EU Member State. The strategy must also contemplate intensifying co-operation on this issue with third countries and international organisations as one of its priorities. The prevention of human trafficking, a particularly serious crime involving severe human rights violations, is a primary aim. The Commission will submit a Communication dedicated to combating **trafficking in human beings** in **2005** which will take an integrated, human rights oriented and victim centred approach.”

Source: [ec.europa.eu](http://ec.europa.eu)

## **9. Guaranteeing an effective European area of justice for all Civil and criminal justice**

"Aiming at creating an area where effective access to justice is guaranteed, in order to obtain and enforce judicial decisions, the Union must envisage rules on jurisdiction, recognition and conflict of laws, but also measures which build confidence and mutual trust among Member States, creating minimum procedural standards and ensuring high standards of quality of justice systems, in particular as regards fairness and respect for the rights of defence. Civil and commercial judicial co-operation is a policy area which has a direct impact on the citizens' daily life. It can ease the recovery of debts across Europe, simplify the procedures or the access to justice by determining clear rules on the law applicable in cases which have cross-border implications. The Commission has already presented a number of legislative proposals to this aim and new legislation is under preparation. This will involve preliminary consultations, on the model of the one launched based on the **Green Paper on applicable law and jurisdiction in divorce matters**, which aims at gathering opinions and suggestions in view of regulating this specific matter. The increasing mobility of citizens within the European Union has resulted in an increasing number of "international" marriages where the spouses are of different nationalities, or live in different Member States or live in a Member State of which they are not nationals. In the event that an "international" couple decide to divorce, several laws may be invoked. The Green Paper provides examples of situations that could find a suitable solution thanks to a European regulation. For instance, under current legislation, a Finnish-Swedish couple may find out that the conditions for divorce change dramatically in the case they decide to move to Ireland: irrespective of the nationality of the spouses, Irish courts apply Irish law to divorce proceedings, which requires a four years separation period to establish that the marriage has broken down (compared to a six months period under Swedish and Finnish law!). An EU regulation would thus ease and clarify conditions for divorce for a wide number of people (approximately 15 per cent of the divorces pronounced in Germany each year concern couples of different nationalities).

Regarding criminal justice, harmonisation and the establishment of minimum standards of several aspects of procedural law (such as *ne bis in idem*, handling evidence or judgements *in absentia*) are instrumental in building mutual confidence and pursuing mutual recognition. **Eurojust** is a key actor for developing European judicial co-operation in criminal matters: established in 2002, it works with the authorities of the Member States to improve the co-operation and co-ordination of investigations and prosecutions in a wide range of cases, including terrorism, fraud, trafficking in human beings and drugs. Eurojust members – a high-level team of senior prosecutors and judges seconded from each EU country – provide expert knowledge and rapid access to the legal systems of their own country. Eurojust can pinpoint patterns in European crime more easily than single national authorities. It can recommend that national law-enforcers take specific action and initiate investigations and prosecutions. Eurojust's role should be supported and its potentialities fully exploited in the light of the experience acquired and in view of future developments."

Source: [ec.europa.eu](http://ec.europa.eu)

### Annex III Schematic Overview European Police Co-operation and its Legal Foundations

	Legal foundations	Key Dates
<b>European Police Co-operation</b>	<p>The Amsterdam Treaty of the European Union</p> <p>The Tampere European Council Conclusions</p> <p>The Scoreboard adopted at Tampere</p>	<p>1975: Inception of TREVI</p> <p>1985: Schengen Agreement signed at first by France, Germany, Belgium, the Netherlands and Luxembourg to promote free circulation of people and police co-operation.</p> <p>1990: Schengen Convention abolishes internal borders and sets up police co-operation measures at internal borders.</p> <p>1992: Entry into force of Maastricht Treaty creating the inception of the JHA pillar, including European police co-operation into the inter-governmental part of the Treaty.</p> <p>1999: Entry into force of the Amsterdam Treaty which states that it is necessary to achieve the wider objective of providing EU citizens and others with a high level of safety and security. It also integrated the Schengen Convention on free circulation into the EU Treaties.</p> <p>1999: The Tampere European Council calls for an increase in all forms of co-operation between Member States' law-enforcement agencies.</p> <p>2000: EPCTF meets for the first time.</p> <p>2001: Creation of a network of national police training institutes in view of setting up the European Police College.</p> <p>2004: Target date for developing the European Union into an area of freedom, security and justice.</p>
<b>Drugs Co-operation</b>	<p>The Maastricht Treaty on the European Union</p> <p>The Amsterdam Treaty of the European Union</p>	<p>1985: Inception of TREVI</p> <p>1985: Schengen Agreement on free circulation between some EU Member States, with specific provisions on drugs trafficking.</p> <p>1986: Commission becomes involved in the Council of Europe's Pomicidou Group, tackling the drug issue in a multidisciplinary way.</p> <p>1988: EEC signs the UN Convention against the Illicit Trade in Narcotic Drugs and Psychotropic Substances. The EC creates a specific budget line for drugs.</p> <p>1989: European Committee to Combat Drugs (CELAD) established bringing together national co-ordinators.</p> <p>1990: First European action plan to combat drugs.</p> <p>1992: Europol Drugs Unit project team set up in The Hague.</p> <p>1993: EMCDDA set up in Lisbon.</p> <p>1993: Entry into force Maastricht Treaty, identifying drug addiction as a priority in the field of public health, and the fight against drug trafficking as an area of 'common interest' for the EU.</p> <p>1994: Global action plan to combat drugs (1994-99).</p> <p>1994: Europol Drugs Unit officially created as a non-operational unit — first element of Europol to begin work.</p> <p>1996: First programme of Community action on the prevention of drug dependence adopted (1996-2000) with public health at its core.</p> <p>1996: Europol Convention ratified.</p> <p>1999: Creation of Europol, of which the Drugs Unit is a part.</p> <p>1999: Entry into force of Amsterdam Treaty, introducing the concept of an area of freedom, security and justice, linking up crime prevention with the fight against drug trafficking and integrating the Schengen Agreement</p> <p>2000-04: EU implements a global, multidisciplinary and integrated drugs action plan.</p>

Source: [www.ec.europa.eu](http://www.ec.europa.eu)

**Introductory questions**

- Could you explain what the function your department is performing and how she got involved in the European police co-operation in the fight against the illegal trafficking of drugs?
- What exact function is your organisation fulfilling in this mutual European approach? 'Action'
- To what extent is the policy of your organisation based on JHA policy?

**What forms of co-operation do exist?**

- In which European co-operations in the field of policial action concerning the fight against the illegal trafficking of drugs, is your organisation involved?
- Since when are these co-operations active?
- What are the reasons for the foundation of these co-operations?
- Which of these co-operations would you typify as most essential in the mutual European fight against the illegal trafficking of drugs?
- How would you describe these co-operations? (bilateral/multilateral, free of obligations, temporary/long term)

**How is decision-making taking place in these forms of co-operation?**

- How is co-operation taking place in the context of European police co-operation?
- How can one, despite the various, sometimes contradictory goals and ideas, come to an agreement?
- Are certain 'strategies' being used in case of a 'dead-lock'?

**What sort of strategies are being deployed in order to manage or steer these (complex) interactions?**

- Do actors formulate their own strategies in order to influence the decision-making in their own advantage? If so, what kind of strategies are being formulated and implemented?
- Do these strategies affect decision-making in this context in a positive or negative way?

**What is the division of roles within these forms of co-operation?**

- Could you describe the environment in which decision-making is taking place? Is there speak of co-operation or competition?
- Is there speak of a certain division of roles between the actors participating in these co-operations? If so, what kind of division, and does this division change per subject?

**What are the main conceptions of the co-operation?**

- What are, according to you, the most essential conditions for a proper European police co-operation in the mutual fight against illegal drug trafficking?
- With which partners does your organisation co-operate most intense?
- How would you describe the European police co-operation in general?
- How do you perceive this co-operation?
- What are, according to you, the most prominent bottlenecks? How could these be levelled?
- What are the results attained up until now?

**Mr. T. Kansil**

Deputy Secretary

DINPOL (Dienst Internationale Politie Samenwerking)

**Mr. B. Barendregt**

Head Co-ordination Criminal Intelligence

KLPD (Korps Landelijke Politie Diensten)

**Mr. B. Theeuwes**

Deputy head Co-ordination Criminal Intelligence

KLPD (Korps Landelijke Politie Diensten)

**Mr. J.L. Luijs**

Dutch representative in Horizontal Drugs Group (HDG)

Ministry of Justice, Law enforcement Department, Unit organised crime.

**Mr. K. Schuurman**

Cluster co-ordinator bilateral co-operation

Ministry of Internal Affairs, Department of Safety, Unit international co-operation.

**Mr. J. Hyysalo**

Europol Liaison officer Finland

EPCTF Support Unit

**Mr. R. Landman**

Researcher

DNRI (Dienst Nationale Recherche Informatie)

**Mrs. H. Kusters**

Head COSPOL Driver Group on Synthetic Drugs

DNR (Dienst Nationale Recherche)

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