Interests and Actors in European Police and Criminal Justice Cooperation

Legal and Practical Challenges

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Abstract

The speeches included in this working paper were presented at the conference “Interests and Actors in European Police and Criminal Justice Cooperation: Legal and Practical Challenges” hosted by the Swedish Network for European Legal Studies in collaboration with the Faculty of Law at Uppsala University. The working paper includes the key speeches by some of the most prominent actors in Sweden in this field. After a brief introduction by the editors, the second section includes the speech by Ms Elenor Groth, Head of International Police Co-operation Division at the Swedish National Bureau of Investigation. The third section includes the speech by Mr Anders Perklev, Prosecutor General of Sweden. In the fourth section, Mr Percy Bratt, member of the Swedish Bar and chairperson of the Civil Rights Defenders and the Legal Rights Foundation, develops and reflects on the important issue of the level of protection of human rights in this context. These three complementary views provided by different actors in European police and criminal justice cooperation are finally rounded up by an academic reflection on horizontal agency cooperation in the field of crime and security. In this concluding fifth section, Professor Bo Wennström, Faculty of Law, Uppsala University, tells us why a theoretical perspective is important. In the two appendixes, the power point presentation by Ms Michèle Coninx, Vice-President of Eurojust, and the conference programme of April 18-19, 2011, can be found.
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1 Introduction

*by Associate Professor Maria Bergström and Associate Professor Anna Jonsson Cornell, Faculty of Law, Uppsala University*

The speeches included in this working paper were presented at the conference "Interests and Actors in European Police and Criminal Justice Cooperation: Legal and Practical Challenges" hosted by the Swedish Network for European Legal Studies in collaboration with the Faculty of Law at Uppsala University (the programme is available in Appendix 2).

The main purpose of the conference was to bring together practitioners and researchers to discuss recent developments concerning European Police and Criminal Justice Cooperation within the Area of Freedom, Security and Justice, and to identify some challenges and opportunities as a result of the Lisbon Treaty entering into force. After an opening statement by the Chairman of the Swedish Network for European Legal Studies, Professor Antonina Bakardjieva Engelbrekt, and the Vice-Dean of the Faculty of Law at Uppsala University, Professor Anna Singer, the first panel provided an overview of the new framework for European Criminal Justice Cooperation.

After the presentation of the new framework for European Criminal Justice Cooperation, the program was designed according to the chronology of a crime investigation starting with police cooperation, followed by interventions by both prosecutors and defence lawyers and finally concluded by a panel on judicial cooperation. Devoting a full panel to police cooperation turned out to be highly appreciated as our attention usually is fully devoted to judicial cooperation. As both the speakers and the audience pointed out, the importance of the full understanding of the modus operandi of police cooperation and the legal framework guiding it grows constantly. The panel on prosecutors and defence lawyers was also much appreciated where the different viewpoints of both national prosecutors and the Eurojust were complemented by the perspective presented by a human rights lawyer in relation to the national, EU and wider European perspective. Although focus was clearly set on reflections from a practical point of view, academic
commentators were included throughout the conference programme and some wider theoretical aspects have also been included in the working paper.

The working paper includes the key speeches by some of the most prominent actors in Sweden in this field. After this brief introduction, the second section includes the speech by Ms Elenor Groth, Head of International Police Co-operation Division at the Swedish National Bureau of Investigation. Groth introduces us to the model chosen by the Swedish Police to handle international police cooperation and information exchange. The Swedish police communicate with other police organizations around the globe via Interpol, Europol, the Schengen Information system and the Nordic Liaison Officers. According to Groth, there is a Swedish model for handling information in all international channels. This model is based on the idea that we must use what we have and not just wait for smarter information technology in a distant future.

The third section includes the speech by Mr Anders Perklev, Prosecutor General of Sweden. While emphasizing the importance of international and judicial cooperation and coordination, Perklev shares some reflections on this subject, from a national and practical point of view, thereby, touching upon a number of new possibilities but also shortcomings and challenges in this area. At the conference, Perklev's national viewpoint was complemented by the speech by Ms Michèle Coninsx, Vice-President of EUROJUST (Coninsx power point can be found in appendix 1).

Towards the end of his speech, Perklev underlined the challenge to see to that fundamental rights are respected in relation to the development of a closer judicial cooperation and coordination in Europe. In the fourth section, Mr Percy Bratt, Member of the Swedish Bar and Chairperson of the Civil Rights Defenders and the Legal Rights Foundation, further develops this argument. In doing so, Bratt takes the Swedish Act implementing the European Arrest Warrant, the EAW Framework Act, as a starting point. Arguing that the EAW is the most important expression of close cooperation in the field of criminal law within the EU, he reflects on the presumptions and values underpinning EAW and discusses their impact on the level of protection of human rights. Bratt thereby concludes by arguing that the individual must have an adequate human rights safeguard irrespective of whether you name it part of the criminal procedure or legal assistance between friendly
disposed states. Mutual recognition and trust must therefore be based on a realistic examination of the concrete circumstances thereby involving a wider scope for taking human rights considerations in the EAW procedure.

These three complementary views provided by different actors in European police and criminal justice cooperation are finally accompanied by an academic reflection on horizontal agency cooperation in the field of crime and security. In the concluding fifth section, Professor Bo Wennström, Faculty of Law, Uppsala University, provides his views on some of the theoretical problems and solutions thereby contributing with some theoretical perspectives of relevance in this context. Wennström thereby underlines the importance to search for a new lens through which to view and interpret the new configurations of the police, policing, crime fighting, etc. in today’s world, and thereby rightly address the problems discussed.
In my speech I will attempt to introduce you to the model chosen by the Swedish Police to handle international police cooperation and information exchange “the Swedish Model for Handling Information in all International Channels”.

To process more than 200 000 incoming queries each year – corresponding to 1 query per minute – coming through the international information channels truly is a challenge. A year and a half ago we literally tore down walls and built an open-plan office to accommodate for this inflow. We now call that integrated office our Front Office. Six months ago we introduced a new handling process, which we call the Single Point of Operational Contact.

To cooperate internationally with other police organisations around the globe we communicate via Interpol (88 Member States), Europol, the Schengen Information System and the Nordic Liaison Officers. The Swedish model is based on the idea that we must use what we have and operate in accordance with the management philosophy “Lean” – still abiding by the rule of law of course – and not just wait for smarter information technology solutions in a distant future.

Organisational structure

The Swedish Ministry of Justice is responsible for the Police, the Public Prosecution Authority, the Judiciary and the Prison Service. There are definite advantages to having all these public authorities under the same ministerial roof. It helps us coordinate law-enforcement operations. The Swedish Police is governed by the National Police Board. My division, the International Police Coop-

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1 The term Query is used in a broad sense in this presentation, covering everything from simple requests for information to more complex requests for assistance in ongoing investigations.
eration Division – IPO – is one of four divisions at the National Bureau of Investigation, which falls under the National Police Board. The International Police Cooperation Division is composed of two sections (the International Section and the Liaison Officers Section), our newly established unit for tracking and apprehending individuals for whom international warrants have been issued (FAST) and a secretariat. We have approximately 80 employees, police officers as well as civilians. IPO processes all information exchanges within the Interpol-, Europol-, Schengen- and Liaison Officers channels.

One of the cornerstones of EU legislation is the principle of free movement for persons. However, this grand principle has also led to negative consequences and here I am referring to the increased possibilities for criminals to engage in illegal transnational activities. To counteract this phenomenon and to provide the police with appropriate tools the Schengen Implementing Convention and Europol were established. I would therefore like to take the opportunity to present some illustrative examples of how we use these channels – or tools – to fight crime.

According to the Schengen Acquis, article 99, a Member State wishing to monitor the movements of a suspect or a vehicle can register the personal data of that person or the registration number of that vehicle in the Schengen Information System. When for example a suspect passes a border control at a ferry terminal or an airport and presents his passport the SIS will indicate a hit. The official receiving the hit then reports it to my division. It is obviously very important that the official in question act discretely so as not to reveal to the suspect or the driver of the vehicle that they are under surveillance.

According to the Europol legal framework, EU Member States are obliged to enter information and intelligence into the Europol Information System. This allows information from Sweden, concerning for instance a crime or a suspicion, to be cross-matched by Europol or other Member States via the Europol Information System.

If Swedish police only use the national information systems, they will only receive national information. Certainly useful information but why stick to second best? If they had contacted IPO we could have searched all the international systems as well.
Interpol, with its 188 Member States, has many useful databases for DNA, fingerprints, stolen vehicles and stolen and lost travelling documents just to mention some. If Sweden enters information regarding DNA from a murderer, secured at a murder scene in Sweden, into Interpol’s DNA reference database, this may result in a DNA-hit from a crime scene in another country, where the perpetrator is unknown. That country will then have the personal data of the perpetrator and additional information enabling them to resolve an unsolved case.

Just briefly, as a matter of curiosity, a few words about the origins of Interpol. Have you ever heard of Prince Albert of Monaco? Yes of course, but perhaps not the one I think of. Namely, Albert I, son of Prince Charles III – great-great-grandfather of the current Prince Albert. His marriage to an American society star ended in a divorce in 1914 and – according to my source – Albert was a lonely bitter 66-year-old man. At that time he got acquainted with a young and beautiful German girl, whom he had met at the Casino. One evening Albert was flirting with the German girl in the garden of his palace. At the same time the girl’s boyfriend sneaked into Albert’s private residence in the palace, using a secret tunnel under the garden, and plundered the residence. Subsequently the young couple fled Monaco for Italy with their loot. Because of unsatisfactory legal remedies there was nothing Monégasque police could do to retrieve Albert’s belongings. Albert therefore invited representatives from the Police, the Judiciary and influential lawyers from 24 countries in April 1914 to attend a conference. 188 persons attended that meeting, which is now known as the First International Criminal Police Congress. The Congress was very successful and many subjects were dealt with. It was for instance decided that French should be the common language until Esperanto, invented by a Polish linguist seven years earlier, would be commonly accepted. However, three months later a bullet shot in Sarajevo ended the International Police Cooperation Project and it was not until 1923, when Austria took the initiative, that the Second International Criminal Police Congress was held in Vienna. Hence, in 1923, the Interpol we know today was born.
The unique Nordic Liaison Officers cooperation

Before outlining the mission of IPO let me say a few words about the unique Nordic Liaison Officers cooperation. In the 1980’s the Nordic Countries began to cooperate by way of using each other’s Liaison Officers; both Police and Customs. We consider our Liaison Officers as Duty Officers posted abroad.

Today there are about 40 Nordic Liaison Officers placed strategically around the world. At present, there are 10 Swedish Liaisons Officers posted for instance in Bangkok, Warsaw, The Hague, Vilnius, Pristina and Belgrade. Another two new officers have recently been recruited and they are going to set up new offices in Istanbul and Bogota.

The mission of the International Police Cooperation Division

The Head of the National Bureau of Investigation has decreed that it is our mission to act as national point of contact in international operative queries.

24/7 – all round the clock – we will:

- Provide the Swedish Police with expertise and assist in coordinating criminal and intelligence-based investigations with international implications.
- Assist the Swedish Police in obtaining information contained in international registers.
- Provide foreign police agencies with information contained in Swedish registers.
- Track and apprehend individuals for whom international warrants have been issued.

We focus on lending support to the other Police units. Our division simultaneously acts as the Europol National Unit, the Interpol National Central Bureau, the SIRENE-office for Schengen alerts and as a national contact point for the Nordic Liaison Officers.

As of August 2011 IPO will also be the national contact point for Prüm-related information exchange. This means that EU Member States will be able to perform mutual direct searches in national reference databases for DNA, fingerprints and vehicles and that they will receive a “hit or no hit” message. If the search
results in a hit in the Swedish DNA database, the foreign police officer must contact IPO so that we may decide whether the underlying personal data can be transferred to the requesting country.

Here follows an example illustrating how the International Police Cooperation Division, IPO, operates:

1. The Police in the town of Luleå, in the northern part of Sweden arrested a person for possession of cannabis. The quantity was deemed to be too large to be intended for personal use. The police officers conducted a search of the person’s residence, resulting in the seizure of 3 kg of cannabis and 165 grams of heroin.

2. The local police entered the personal data of the arrested person into the Schengen Information System. The result of the search showed that the person was internationally wanted for extradition. The police in Luleå therefore placed a call to IPO.

3. Staff at IPO checked that the international search warrant was correct. It was based on a European Arrest Warrant issued by Spain and concerned a robbery in Spain. The Spanish police sent the fingerprints of the suspect to IPO.

4. Staff at IPO searched the Interpol and Europol databases for information about the arrested person. In the Interpol database, the suspect’s DNA profile was found. The data had been inserted previously by the Philippine police, in connection with several unsolved queries of drug crimes. Contained in the Europol database was information regarding the suspect’s implication in the Spanish robbery.

5. A joint investigation was initiated by the Swedish, Spanish and Philippine police. The Nordic Liaison Officers in Spain and Thailand – the latter covers the Philippines as well – assisted and cooperated with the local police. They soon disclosed a large criminal network. A previously unknown criminal organisation, involved in the smuggling of drugs and trafficking in human beings from Asia to Europe, was revealed and the police started mapping the network. Based on intelligence gathered during international investigations, several links to Sweden were found.

6. During the investigation, in total eleven persons were arrested by the police in Luleå, Stockholm and Helsingborg.
Legal proceedings against seven of the arrested persons were instituted in Sweden, while three of the arrested persons were extradited to the Philippines and one to Spain. If the police in Luleå had not contacted IPO, they would probably have confined themselves to handling only the national drug case.

A Single Point of Operational Contact within a One Stop Shop
IPO:s work is performed entirely within the concepts of a Single Point of Operational Contact and a One Stop Shop. This means that there is only one way in for information to Sweden and only one way out; one telephone number and one e-mail address for Swedish as well as foreign policemen to use when contacting us. On top of it all, we do it 24/7. To be able to do so we recently created a Front Office. All messages, questions, deeds etc pass through this Front Office. As mentioned earlier, we handled over 200 000 incoming queries in 2010. This amounts to 500 to 700 queries every twenty-four hours or approximately 1 query per minute. What a challenge to handle such a workload!

A new handling process
So how can we ensure that all these queries are handled in a legally correct manner and in a quality-conscious way? We have recently taken yet another step within the One Stop Shop-process by creating a Single Point of Contact and we find that there are many advantages to this working method. It creates new opportunities. In many European countries Interpol queries are handled by one office and Schengen queries by another. In some countries the offices are even located in different cities. It is evident that this is not the best way to create new opportunities.

All queries transmitted to Sweden digitally, by letter, by fax, from other Interpol MS via the Interpol data system; from other EU MS through Europol’s data systems or the Schengen Information System; and from our Liaison Officers are channelled to the same digital point of contact, namely IPO. The Single Point of Contact is a coordination function for all international information exchange. All incoming queries are examined within an hour, day and night; they are prioritized as needing either only a quick re-
sponse or further investigation. Cross-matching between the channels is possible.

**An innovative way to manage the case flow**

We have used the Lean philosophy to reconstruct our working processes. Matters which are not imperative and which are not directly addressed to Sweden are filed away. Should information later on indicate a link to Sweden, the original information will remain searchable. Matters which should be dealt with by other units within the Swedish National Police Board, for example applications for positions with Europol or Interpol, are forwarded to the proper addressee immediately. General queries for instance questions regarding the Swedish Police uniform – are also forwarded to relevant addressees. The remaining queries are classified and prioritized from 1 to 3 according to certain criteria. To be able to take appropriate action in the right time it is important that these criteria be used.

**PRIORITY 1**

Queries
- involving danger to the life and health of those afflicted
- involving detainees
- which are of an operative nature where time is a critical factor shall be handled immediately.

**PRIORITY 2**

Queries concerning information which must be processed the very same day.

**PRIORITY 3**

All other matters, deeds, documents or information received by the division are to be handled as further investigations. The handling of the European Arrest Warrant concerning Mr Julian Assange, the Wikileaks’ founder, is an example of such further investigation.

By handling all pieces of international information at the same division of the National Bureau of Investigation and by processing them in the manner described before, we have achieved better con-
trol of the total inflow of 500-700 hundred queries per day. Our
next challenge will be to raise awareness, regionally as well as lo-
cally of all the useful tools we have in our international toolbox.
Even the best of tools are not useful if they are not used.

Fugitive Active Search Team – FAST

As I mentioned earlier, one of IPO:s missions is to track and ap-
prehend individuals for whom international warrants have been
issued. On the 1 January this year we established a new unit, the
Fugitive Active Search Team. It is their task and challenge to lo-
cate, arrest and extradite these fugitives. This unit works full time
searching for these persons and carries out planned actions. Until
the beginning of January Sweden had issued 290 international war-
rants, at the beginning of April these had decreased to 258.

We have also introduced a list of the Most Wanted persons, all
of them suspected of having committed serious crimes or con-
victed for serious crimes. We call this list the Icarus-list. The list is
published in Swedish newspapers in order to attract public atten-
tion and this is a completely new and challenging way for us to
work.

Icarus, from Greek mythology, was imprisoned together with
his father on an island. To fly away, to flee, his father construed
wings, which were attached to their bodies with wax. But Icarus
was reckless and flew too near to the sun, the wax melted, his
feathers burned and he plunged into the sea – or rather he came
too close to the National Bureau of Investigation and was impris-
oned.

That was the end of Icarus and on that note I will also end my
presentation.
3 International Judicial Cooperation and Coordination from the National Point of View

by Mr Anders Perklev, Prosecutor-General of Sweden

Introduction
International judicial cooperation and coordination is indeed of great importance for prosecutors and other practitioners in Sweden. My intention is to share some reflections on this subject, from a national and practical point of view.

The movement across borders has increased dramatically both within Europe and globally during recent years. This means that also the fight against crime has to be more international. Within the Swedish prosecution authority there are three International Public Prosecution Offices which are specialized in serious crime and international cooperation. But also the other 36 Public Prosecution Offices are affected by international cases.

National crime investigations more often have links to other countries. An example could be when the proceeds of crime are transferred abroad. There has to be effective tools to handle such cases. To meet this need we have seen an extraordinary development of International Police and Criminal Justice cooperation over the past 10 years.

With the Lisbon treaty the legal basis has changed and offers new possibilities, and we can therefore foresee that the cooperation in this field will develop even faster in the future. The Stockholm program sets up the framework for the future and the areas to be explored, not the least in the area of serious and organized crime.

Involvement of the Prosecution Service in the process of creating new legal international instruments
The further work on developing new instruments should involve practitioners. Practitioners could give valuable contributions to the drafting of new instruments for judicial cooperation and should therefore be involved at an early stage in the process of negotiating
new international legal instruments. The input from prosecutors and others should be present already before initiatives are being discussed and negotiated. In this way we can ensure that what is created is actually needed, relevant and practicable.

Member States of the EU are represented in this process by their responsible ministers. There is therefore a need for coordination at the national level. This means that the Prosecution Service among others has to have an ongoing and well functioning communication with the responsible ministries.

In addition to the involvement at national level, it would be valuable if prosecutors from all Member States, speaking with one voice, could contribute with their view in the process of developing the judicial cooperation and coordination within the EU. Therefore I welcome the creation of the “Consultative Forum of Prosecutors General and Directors of Public Prosecutions of the EU Member States”. The Forum, which was created last year, gives an excellent possibility for prosecutors at the highest level to discuss common issues and to influence the process at EU level. The coming work of the Forum will be very interesting. One important question is how far the Forum will be able to reach. One has to bear in mind that the Forum is not a supra national body. It consists of members from national level. I am convinced though that the Forum will contribute to the quality of the process in Brussels. But creating new instruments will not solve all problems.

Eurojust

In the day to day work of combating crime in Member States, prosecutors often need help in their contacts with judicial authorities in other Member states, to obtain legal assistance. The answer to this need is Eurojust. Eurojust is in a phase where it is about to take important steps forward towards being an even more effective player in the fight against crime in Europe.

Sweden was one of the Member States proposing to set up Eurojust at the beginning of 2000. Sweden was also one of the Member States in 2008 proposing amendments to the Eurojust decision aiming at strengthening Eurojust. This resulted in the so called “new” Eurojust decision.
The support to Eurojust has always been a key issue for Sweden. We believe in Eurojust and we also have high expectations on the performances of Eurojust. Eurojust has not failed to live up to those expectations. The Swedish prosecutors have learned to appreciate or even become dependent on Eurojust for the successful outcome of more complicated international criminal cases. There are numerous examples where Swedish prosecutors - assisted by Eurojust - have been able to finalize the investigation, prosecute and at the end ensure convictions.

Still it needs to be mentioned that an organization is not stronger than its weakest link. The level of ambition varies in the Member States. The implementation of the new Eurojust decision demands concrete actions in the Member States for it to have the impact that was the vision and the wishes of the Ministers. The implementation cannot only look good on paper. The result must also work in practice. The new decision shall be fully implemented by the 4th of June this year. Sweden will comply with this deadline.

The implementation includes

- the setting up of a Eurojust National Coordination System
- the setting up of the Swedish part of the on-call coordination
- the appointment of an Assistant National Member to support the national Member and the Deputy
- the granting of “full” powers to the national Member (and the Deputy and Assistant)
- ensuring the exchange of relevant information on international cases from Swedish prosecutors to Eurojust

The setting up of the structures just mentioned is the formal part of the implementation of the “new” Eurojust decision. However, the formal implementation is not enough. In order for the new structures and rules to work in practice there is a need for concrete information and guidance to the prosecutors. This practical implementation will be ensured by the creation of a handbook on cooperation with Eurojust and the European Judicial Network (EJN). I would welcome if such a handbook could be part of the implementation also in the other Member States. The discussions on the de-
development of Eurojust will continue also after the implementation of the “new” Eurojust decision from 2008.

According to article 85 of the Treaty on the Functioning of the European Union (TFEU), Eurojust’s

- structure,
- operation,
- field of action and
- tasks

shall be determined by means of regulations. This may include the initiation of criminal investigations and proposals for prosecution.

It is of great importance and interest for me and the Prosecution service to take part in the process leading to a new legal basis for Eurojust, built upon the Lisbon Treaty.

The creation of an international culture at national level

Still we experience that mutual legal assistance takes too long time and takes too much of effort to conclude. Time is often crucial in criminal investigations. Our different legal traditions and differences in our structures and systems still form obstacles in the practical cooperation. There is no easy way to solve this. Mutual trust is one important part of a more well functioning judicial cooperation. Too many people in the Member States still believe that fundamental principles of law, such as the rule of law, only apply in their own country.

Training in order to foster a genuine European judicial and law enforcement culture could be one way forward. But there is also a need for a change in approach. National authorities (law enforcement as well as judicial authorities) need to move away from regarding serious international crimes solely as a national problem. Serious international crimes must to a larger extent be regarded as a problem shared together between the countries involved. Despite the ambitions on the political level to create an Area of Freedom Security and Justice, the approach of the national authorities is still very often to look only at the national aspect of a criminal investigation. In practice, national authorities contact authorities in another country only when they can foresee that there is direct use
for them in their own investigation. There is a risk that investigations stop at the border, and that links to other countries are not followed up.

One explanation for this could be how we measure our achievements. In Sweden, for example, the Prosecution service is expected to report to the government only indictments within Sweden, in describing results of the work. Judicial cooperation which has lead to indictments in other countries is therefore less visible. Instead of measuring the work and the efforts only in relation to what is achieved within one country, it would be much more interesting and fruitful to see how the performances in one country affect the efficiency in another country. We need to be better at evaluating what we are doing from an international point of view.

**European Public Prosecution Office (EPPO)**

Instead of strengthening our cooperation we could move towards a more supranational approach. The establishment of the European Public Prosecution Office (EPPO) is on the political agenda. Article 86 TFEU offers the legal possibility to set up the EPPO. However it does not oblige us to do so.

The implications of the establishment of the EPPO are numerous and varied. I am not sure that the EPPO would be the effective European body it is intended to be. Further analysis is needed before the EPPO can be a serious alternative to the existing regime. In any way, we can foresee that it would take long time, and that there would be a lot of practical issues to be solved before such a body could be operational.

I have already underlined that the fight against international criminality should be regarded as a common European problem. However, I am not convinced that a European prosecutor with supranational competence would be the best achievement in this respect. Instead national prosecution services in close co-operation would be a more effective way to go. In my view the strengthening of Eurojust is the way to go forward for the time being. Only when the option of further development of Eurojust has been evaluated, the issue of establishing the EPPO should be explored further.
Fundamental/Human rights perspective
There are challenges connected to the development of a closer judicial cooperation and coordination in Europe. One of them is to see to that fundamental rights are respected. The promotion of citizens’ rights is part of the Stockholm program, notably the strengthening of the procedural rights of suspected and accused persons in criminal proceedings. There is on the one hand a need and demand for the police and prosecution authorities to become more effective. But there is also an increasing awareness of the fundamental rights perspective. Prosecutors are becoming more and more familiar to work in an international environment. The knowledge of the rules governing international cooperation is high in general among prosecutors. Not least the inclusion of the European Convention on Human Rights into Swedish law has meant a lot for the awareness of the human rights aspects of the day to day work by prosecutors.

Conclusion
Being a prosecutor today is stimulating and exciting. The international approach of the daily work of the prosecutor is a reality in many cases. The possibilities to cooperate with colleagues in other countries are becoming better and better. The development within the European Union on international police and criminal justice cooperation is very promising. There is a high ambition and a strong will - both politically and among practitioners - to create a real Area of Freedom, Security and Justice. There are challenges that need to be taken into account. It is not an easy task to create this area of common understanding and trust. Different languages as well as legal basis and legal culture are factors that cannot be neglected. I am optimistic and confident about the future. The experience gained over the past 10 years is very positive. It is possible to make progress. But it is not only possible to make progress. It’s a necessity and an obligation.
4 European Criminal Co-operation
from a Human Rights Perspective

by Mr Percy Bratt, Member of the Swedish Bar and Chairperson of
the Civil Rights Defenders and the Legal Rights Foundation

I would first like to express my gratitude for being invited to this
colference that indeed has a very important topic. I will focus on
the European Arrest Warrant, which must be regarded as the most
important expression of close co-operation in the field of criminal
law in the EU. My starting point will be the Swedish Act imple-
menting the EAW Frame Work Decision here called the Arrest
Act. The essence of the member states’ implementation of the
Frame Work decision are – as far as I have seen - for obvious rea-
sions rather similar. The possible relevance of my viewpoints will
therefore not be limited to the Swedish situation.

The European Arrest Warrant

When I was asked to take part in this conference I welcomed this
as an opportunity to reflect on issues raised in my legal practice, on
a more general level. My purpose is not to analyse the case law and
the complex constitutional matters dealt with by different constitu-
tional courts in Europe. Rather I will reflect on the presumptions
and values underpinning EAW and discuss their impact on the
level of protection of human rights.

I will very briefly mention some main features of the Frame
Work Decision as a background to the discussion:

a. The double criminality requirement is abolished in respect
of a long list of abstractly described offences provided they
are punishable with at least three years imprisonment in the
requesting state.

b. The procedure is to be characterized as summary and it shall
be dealt with as a matter of urgency based on the requesting
state’s arrest warrant. A key concept is mutual recognition.
The Framework Decision is according to the preamble decla-
ration the first measure in the field of criminal law imple-
menting the principle of mutual recognition. This principle is said to be the cornerstone of judicial cooperation within the EU.

Furthermore it is declared that the mechanism of the European warrant order is based on a high level of confidence between member states. Its implementation – it is said - may be suspended only in the event of a serious and persistent breach of one of the member states of the principles set out in Article 6 (1) of the EU treaty, which refers to the EU Charter of Fundamental Rights. Also the Court of Justice has in its interpretation of the Frame Work decision strongly underlined the principle of mutual recognition and the high degree of trust and solidarity between the Member States. In clause 12 of the Preamble Declaration it is underlined that the Frame Work decision respects fundamental rights and observes the principles recognised by article 6 of the EU treaty and reflected in the EU Charter of Fundamental rights. And it is stated that nothing in the Framework Decision shall be interpreted as prohibiting refusal to surrender a person for whom a EAW has been issued when there are reasons to believe, based on objective elements, that the warrant has been issued for the purpose of prosecuting or punishing a person on the grounds of her sex, religion, ethnic origin, political opinion, sexual orientation etcetera. Furthermore it is declared that the Framework Decision does not prevent a Member state from applying its constitutional rules relating to due process, freedom of expression, freedom of association, freedom of the press and freedom of expression in other media.

There is a tension here, between the over grasping aim of the EAW to simplify and speed up the procedure to get a more effective fight against serious crimes, and the clearly proclaimed respect for fundamental rights. This balance of conflicting values in interpreting the Frame Work decision and the legislation implementing the decision, is a question of vital importance.

A significant circumstance in this context is the connection between EAW and the global reactions to the terror attacks of 9/11 and the general political climate at that time. Even though there had been work going on in this field for some time, it was 9/11 that was the breakthrough for EAW. I will later come back to this aspect.
The Swedish Act implementing the EAW

I will now turn over to the Swedish Act implementing the Framework Decision. There is a provision in this act with a bar to surrender a person, when it would be in conflict with the European Convention on human rights or its additional protocols - a provision grounded in the general references to fundamental rights in the Framework Decision.

Looking at the rather few decisions concerning EAW in the Supreme court, the general impression is that the scope for human rights considerations is accentuated limited in the light of the principle of mutual recognition. One significant example that I will briefly touch upon is a case from 2007 (NJA 2007 p 168) (The publication of the Swedish Supreme Court case law).

The case was about a request to surrender a person to Poland. The defence denied the surrender claiming that it would be in conflict with article 6 of European Convention. The ground for the objection was that the alleged crime should have been committed 15 years ago and he had been living in Sweden since then. The other persons involved in the business that led to the suspicion had according to the defence, all the time in the word to manipulate evidence and thus there was no preconditions for a fair trial. The defendant had been living quite openly in Sweden and also in Poland during almost one year in this 15 years so the Polish police had had good possibilities to investigate the matter earlier and contact him. Furthermore there was a very substantial risk the defence claimed, that he should be kept in pre-trial custody for several years before there was a trial, violating his right to get a trial within reasonable time. That this risk was real and substantial was well established in reports invoked by the defence. These reports, from the ministry of foreign affairs and from Freedom house, showed a general pattern of extreme time delay in the polish criminal procedure. The defence also referred to the defendant being married in Sweden and having two children – 13 and 15 years old. Thus with the extremely slow proceedings a surrender would split the family and his children would not see their father for a very long time. In this context a reference was made to the UN child convention.

Finally it was claimed that - as the crime would not have been possible to prosecute in Sweden due to time limitation - it had not been possible to extradite him before the Swedish law implement-
ing the EAW entered into force. Applying the Arrest Act implementing EAW would therefore be a form of retroactive legislation.

The first instance decided to surrender the defendant in accordance with the request. The court of appeal made an overall estimation of the circumstances and found that a surrender should be in conflict with the European Convention. The request was therefore refused. The Supreme Court found no ground to refuse the request and changed the decision. In its reasoning the Supreme Court strongly underlined the principle of mutual recognition and high degree of confidence between the member states. Furthermore the Supreme Court - quoting the Framework decision – emphasized that the only ground for refusing a surrender is if a serious and persistent violation of the principles concerning fundamental rights in the requesting state can be established. Against this background the Court concluded that there is a very limited space for refusing a surrender based on the fact that the requesting state has violated art 6 in the European Convention in certain other cases or that there is a certain unclear risk that there would be human rights violation in the actual case. Dealing with the objection based on the UN child convention the Supreme Court stated that there must be a legal base for refusing a EAW request. Considering that the UN convention was not incorporated into Swedish law there was no reason to investigate the surrender in relation to that convention.

Without arguing about if it was a correct decision it can be established that the general grounds supporting it indicates a very restrictive approach. The “serious and persistent violation of fundamental rights” criterion for refusing a EAW request is for obvious reasons hard to meet. The Supreme Court decision shall also be seen in the light of the fact that there where reliable reports establishing a widespread praxis in Poland of holding defendants in pre-trial custody for extremely long time periods, in clear conflict with the Convention. Furthermore to refuse a EU member State a request on the general ground that the human rights violations are serious and persistent in the requesting state is highly politically sensitive. Courts will be very unwilling to take such controversial positions. The general approach to the invoked UN convention is also an expression of a very restrictive attitude and a far reaching dualism.
This restrictive approach seems to be confirmed by the observation in a EU report from 2008 concerning the application of EAW in Sweden. An expert group met among others – members of the Swedish Bar. They described that the defence lawyers in general are critical to the EAW mainly on the ground that material objections to surrender are not taken into consideration in the procedure.

There is also a general debate on the European level about the purpose and use of EAW. The council for Europe’s Commissioner for Human Rights Tomas Hammarberg, recently claimed in media that the way EAW is used can be a threat to human rights. Mr Hammarberg is focusing on the strongly increasing use of EAW. With more than 1000 cases per month EAW – originally intended for very serious crimes – is used for a wider category of crimes. He means that this tool shall be concentrated on fighting against the really serious crimes. The European Commission in a report to the European Parliament of April 11 this year underlines that the systematic issuing of surrender also for rather minor offences undermines the confidence in EAW applications. The member states must therefore according to the Commission apply a proportionality test. A striking example of how this tool was used without a proportionality test was described in a legal journal recently; the alleged crime in a EAW case was the theft of a piglet. Initiatives to limit and concentrate the use of EAW are important but even more important is to analyse the overall aim of efficient cooperation in relation to the respect for human rights. The report is also dealing with this crucial question. It is described that the Commission has received representations from European and national parliamentarians, defence lawyers, citizens and civil society groups, highlighting a number of rule of law problems and human rights problems with the operation of EAW. Human rights problems in different member states dealt with where – among other things – grave detention conditions and extremely long pre-trial detention for surrendered persons.

The Commission, in the light of this critic viewpoints, expresses doubts about human rights standards being similar across the EU and establishes that the option to send an application to The European Court of human rights, is not proved to be an effective means of ensuring that the member states comply with the Convention standards. It is according to the Commission now time to improve the protection of the procedural rights of the individual in the
EAW procedure. The Commission also rightly underlines that the legally binding force of the Charter of fundamental rights has changed the context where the EAW operates.

To sum up: it is from my viewpoint high time to reconsider the balance between efficient cooperation in crime fighting and the respect for human rights. The Frame Work decision must be considered as a living document that must be interpreted in light of present day conditions. This legislation was forced through shortly after 9/11 as one of the measures influenced by the so called global war against global terrorism. It is generally observed and acknowledged that this offensive against terrorism led to alarming human rights violations. One can only mention concepts as terrorists lists, frozen assets and diplomatic assurances concerning the risk for torture, to make it clear what I mean. Thus it is time to reconsider the interpretations of the framework Decision in the light of these insights.

To surrender somebody in a EAW procedure is exercising public power over the individual. The individual must therefore have an adequate human rights safeguard irrespectively of if you name it part of the criminal procedure or legal assistance between friendly disposed states. Against this background the mutual recognition and trust is not to be regarded as an axiomatic precondition. It must be based on a realistic examination of the concrete circumstances. The result will necessary be a wider scope for taking human rights considerations in the EAW procedure.
5 In Search of a New Lens!

by Professor Bo Wennström, Faculty of Law, Uppsala University

I will speak about “theoretical perspectives”. But, why should this be interesting to you, a very qualified audience with deep knowledge in the area? Why bother with theory? There are two simple reasons. First, we should do it for our own sake as lawyers, legal scientists, practitioners, police men, civil servants, politicians etc. Second, we should do it for the public, citizens and society. I will come back to this later on.

By way of introduction, I would like to start with a quotation. We have today, Neil Walker says, a tendency to "view and interpret the new configurations … through an old lens". What Walker is referring to here in the quotation is global law. But the same can be said to apply to the police, policing, etc. in today’s world. This talk today is in search for this new “lens”.

Let’s start with some common sense statements and relate them to the mentioned “new configurations”:

I. “Nation states are modelled around vertical thinking”.

However, here there have been changes, “new configurations”

II. “For the states, internally this is reflected by a diffusion of power caused by phenomena such as privatization and deregulation; externally by phenomena such as globalization.”

III. “Crime fighting is because of this and many other reasons, a matter of concern for many actors today, from the local to the international level. Locally, we even incorporate private actors, such as private security firms, and sub-national actors, such as NGO’s.” “Fighting crime is something we do together today”, as Jenny Fleming and Jennifer Wood express it.

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Now I want to introduce a symbol for the old way of thinking, the “old configuration”. It is a simple one, which I will call Hobbes’ pyramid.\textsuperscript{4} Society was, in this idealization, a hierarchy with a sovereign at the top. The organization was, strictly speaking, “top down”. I would say that we still live with the image of Hobbes’ pyramid, deep down in our unconscious view of society. However, it is an image that does not at all fit contemporary “new configurations”. And that is a problem!

Crime fighting today, as said before, involves many actors. Because of this, “top down” is not the only direction within this organization. If we include the sub-national level in the fight against crime, and take that seriously, with “real” community policing, crime victim groups, volunteers, etc., then we have to add a “bottom up” direction to the “top down”. Internally, within nations, we also have much cooperation between agencies, so it is necessary to also add a “horizontal” axis. But the picture becomes even more complicated if we include regional and international cooperation. The horizontal axis then becomes tiered. States are embedded in, constrained by and participates in other activities than the only national, together with other actors on everything from regional to international level. States are members of international organizations and bound by treaties in many ways and directions.

Another problem with the old configuration is the shift in emphasis today from “who” to “what”. This shift can be seen in health care, care of the elderly, education, etc. “Who” does things is no longer as important as before, instead “what” is done is more important. Regarding security management we can see the same tendency. Take an airport, a residential area, or a commercial mall as an example, a variety of public and private bodies can be found collaborating with each other to manage “security”.

A way to grasp these new situations, which allows Hobbes’ pyramid to be replaced, so to speak, will be discussed later on. I will call this modularity.\textsuperscript{5} Just now, I want only to bring your attention to it. Later, I will come back to how we intellectually can deal with “top down”, “bottom up”, and “horizontal” in a tiered system, without losing control of our thoughts.

\footnotesize{\textsuperscript{4} Hobbes T. Leviathan www.forgottenbooks.org.}  
\footnotesize{\textsuperscript{5} Wennström B. När summan är mer än delarna, Iustus, Uppsala 2007.}
If we look at the new configurations then, we see that they create complex hierarchies. Not the simple Hobbes’ pyramid. Not the straightforward systems of checks and balances, chains of responsibility, matrix organizations, etc. The EU can be used to illustrate the situation. Here there has been an ongoing battle over how to describe the organization and how to set the agenda. At one extreme there is, for example, European statism, where the EU is viewed as a hierarchal system formed nearly as a Hobbesian pyramid, with the member states at the bottom and the EU at the top. At the opposite extreme, there is democratic statism, which can be illustrated by the German constitutional court. We don’t need to go further into this matter here, but only keep the illustration in the back of our minds.

Into this world of new configurations, have come the Treaty of Lisbon and the new Area of Freedom, Security and Justice. The latter has been accompanied by a quest not only for police cooperation, but also for coordination. We can say that partly through the Treaty, one side of the new institution is in place, the formal side. But all who are familiar with institutional theory are aware that also another side has to be in place in order for an institution to be formed. This is the informal side, that is, the way we do, act, and think. For example, in case of the Area of Freedom, Security and Justice, the Stockholm Programme can be seen as a beginning of an answer to that: a good starting point, but not a total answer.

I said that there were two simple reasons as to why we should bother with theoretical perspectives. The first was for the sake of ourselves. The other was for the sake of the public, the citizens, etc. Let us start with ourselves.

New configurations create, as was mentioned before, complex hierarchies. How complex hierarchies function is much discussed in nearly all parts of science: in physics, chemistry, medicine. The focus then, is on complex hierarchies in natural systems. I think that we can learn a lot from these discussions where the main question is: How can complex hierarchies function and perform, when you in these tiered systems at the same time have “top down”, “bottom up” and “horizontal” processes? The answer is modularity. Complex hierarchies are tiered and modular.

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A system may be complex in many different ways. What we usually think of is that it is complicated in one way or another. But the complexity may also lie in that layers of order are, so to speak, stacked upon each other. These layers may also be modular, i.e., with each layer having its own special structure, separate from other “layers” in the hierarchy.

That a hierarchy in a structure is modular means, therefore, that the parts in the system display a high degree of independence, but also that influence on one “module” in a hierarchy may occur in different ways, that is, not only in the form of “from the top to the bottom”. Independence in a modular system reveals itself in at least two directions, vertically and horizontally. So also does dependence. Modules in a complex hierarchy are semi-autonomous.

How can we apply this to, for example, law, governance, and the police? If we take the European Union and ask the same question as earlier about natural complex hierarchies, the answer will be similar. That is, how can a governance system such as that of the EU actually function and perform? It consists of a multi-leveled, complex hierarchy where each of the “modules”, so to speak, shows a high degree of independence. All three directions are there at the same time: “top down”, “bottom up” and “horizontal”. This bumblebee, the EU, should not actually be able to fly!

The reason is here the same as earlier: it is not despite, but because of, the independence of the “modules” in the system that the EU functions and performs well. I repeat that it is because of the independence of the “parts”, “the modules” that it functions. Neil MacCormick touched upon this in the beginning of the 1990’s, when he talked about “interlocking systems” which recognize each other, but have different grounds for recognition. His view was that this perspective mounted a profound challenge to our present understanding of how things function.

This is also very important when we discuss police assistance, cooperation and coordination, which involves coordination in modular systems. In relation to coordination, the view in the international debate expressed by, for example Brooks and Grint, places an emphasis on the importance of “shared vision based on shared aims and values” as opposed to old-fashioned command and con-

trol. Rhodes, who discusses the difference between the bureaucratic state, contract state and the network state, stresses the importance of diplomacy and mutual adjustment in the latter, instead of, for example, rules and commands.

But if we adopt such a new “modular” view of networking and apply it to police cooperation in the EU, many new problems will also be visible. I mean that the problems exist today, but will become even more visible. This will require that we rethink many things: responsibility, for example. Who is actually responsible and should be held accountable in a complex hierarchal system when things go wrong? And other questions, such as, are our legal systems capable of adequately handling the respect for privacy, or fundamental questions regarding rule of law in the new forms of network structure which a “modular” system creates?

The Treaty of Lisbon and the Stockholm Programme are, as was mentioned before, a good start for the EU, but much has yet to be done on the formal side of building a new institutional framework. And, on the more “informal side” of the institution building there is even more to do.

With this, we come to the second reason for why this theoretical discussion is important: that it is for the sake of the public, citizens, etc. Ian Loader is one, among others, who has discussed this. He takes up the symbolic role of police and policing, the police as representing public good, and the fragile relation between the police, state, and the nation, and how the police in many ways symbolize not only the state, with focus on repression, but also the nation. As mentioned earlier with regard to “new configurations”, to changes, it is possible to speak of a fragmentation and pluralization of policing. The police constitute, beside the repressive side, an institution deeply associated with feelings of protection and security. There are powerful symbols for this in Britain, for example, that of the “bobby on the beat”. In Sweden we love to joke about the old fashion “fjärdingsman” and in Italy you have the endless tales about the “carabinieri” and at the same time as we love to joke

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10 Loader I. Policing and the social: Questions of Symbolic Power British Journal of Sociology vol. 48 no. 1.
about them these “icons” are part of a cultural heritage, not only symbols of states repression, as strong symbols of security and safety in society.

However, many do not agree with Loader. Some say that we should not tone down the repressive side of the police. Others say we should not worry too much, that what we see today is the emergence on a broad front of multiple authorities in society, and that much good can come out of replacing rigid hierarchies with mobility and freedom. Yes that the whole EU stands for “mobility and freedom”. The big challenge, they say, is to communicate this in the right way within a broader sphere.

In spite of these arguments, I think that Loader is right in many ways, but that also communicating “the new configurations” within a broader sphere is crucial. Police and policing are not only instrumental entities; they have symbolic functions connected with the nation’s image and are associated with security. This is especially important given that today’s society is facing new threats originating from new criminal behaviors including riots in suburbs, new forms of threatening behaviors, cyber crimes, and the abuse of children in new, transnational ways for criminal purposes, etc. All of these can create a sense of increased public harm. One of the most important objectives for the European Union is to guarantee the security and safety of its citizens. If for example the new Area of Freedom, Security and Justice don’t live up to people’s expectations and instead give an impression of poor performance it will be a danger for the whole society.

To summarize: Why should we bother with theory? We should, I said before, do it for ourselves as lawyers, as legal scientist, as practitioners, as police men, as civil servants, as politicians etc. We need “the new lens” to see “the new configurations”, mentioned here, and rightly address the problems we discussed about police cooperation and coordination in the EU. We should also do it for the public, and not jeopardize a project as the new Area of Freedom, Security and Justice by ignoring, for example, the symbolic function of police and policing and only strictly stick to the instrumental ones.
Contributors

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**Percy Bratt**

Wrote and teaches in courses related to Human Rights, Constitutional Law and Media Law.

**Michèle Coninsx**
Deputy Prosecutor General, is Vice-President and Chair of the Counter Terrorism Team of EUROJUST.

Michèle Coninsx has a Master degree in Law, a Master degree in Criminology and a degree in teaching law. Furthermore she is specialised in Air law and Aviation security (UK – USA). She is the National Member for Belgium since March 2001. She has been Acting President of Eurojust from 18 December 2009 until 25 February 2010. She has more than 20 years experience in prosecuting. As Deputy Prosecutor in the Brussels Public Prosecutors Office (1990-1997) Michèle Coninsx gained extensive practical experience in the prosecution and trial of major criminal cases, including terrorism and organised crime. She acted as expert at the International Civil Aviation Organisation – ICAO, teaching aviation security and anti-terrorism relating to aircraft sabotage and hijacking (1987-1996). Prior to joining Eurojust, she was one of the three
National Prosecutors in charge of Counter-Terrorism on a countrywide level.

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Head of International Police Co-operation Division at the Swedish National Bureau of Investigation, 2005-
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Legal Adviser, National Police Board, 1994 – 1997
Prosecutor Pro tem, the same Prosecution office, 1991 – 1992
Associate Judge of Appeal, Svea Court of Appeal, 1991
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Assistant Lawyer, Fylgia Law Office, 1989-1990
Judge, Gotland District Court, 1985-1989

**Anders Perklev**
Swedish Prosecutor-General 2008-
Commissioner of the Commission on Levels of Punishment 2007-2008

**Bo Wennström**
Professor of legal science at the Faculty of Law Uppsala University.
Director of the Center for Police Research. Research and teaching
interests; Jurisprudence; philosophy, the history of legal ideas, transnational law; and horizontal agency cooperation. Coordinator of the consortium DEVPOL (Developing research based policy response to new criminal behaviour in the EU) consisting of nine partners from seven countries. Member of the steering committee of EPIC (European police research institutes in collaboration).
Appendix I

International Judicial Co-operation and Co-ordination: Interaction between Eurojust and the Competent National Authorities, power point presentation by Michèle Coninsx, Vice-President of EUROJUST

Appendix II

Conference Programme; “Interests and Actors in European Police and Criminal Justice Cooperation: Legal and Practical Challenges,” April 18-19 2011
International judicial co-operation and co-ordination: Interaction between Europol and the competent national authorities.

Interaction: Interaction between Europol and the

International Judicial Co-operation and co-operation.
EUROJUST?

27 EU Prosecutors / Judges

More Effective Co-
Operation & Co-
Operation
OBJECTIVES

1. To stimulate and improve **co-ordination** between competent authorities

2. To improve **co-operation** between competent authorities by facilitating the execution of international mutual legal assistance and the implementation of extradition requests (EAW)

3. To **support** competent authorities in order to render their investigations more effective
Overcoming obstacles:

- Slow execution of letters of request
- Ne bis in idem
- Conflicts of jurisdiction

Need to involve judicial authorities of the Member States especially in complex cases.

Eurojust plays a key role in the facilitation of judicial co-operation.
OPERATIONAL CO-ORDINATION MEETINGS

LEVEL I - meeting

LEVEL II - meeting

LEVEL III - meeting

Concerned NM's

Concerned NAT. MEMBERS + Judicial A/o Police Authorities of Concerned Countries

27 National Members

LEVEL I - meeting

LEVEL II - meeting

LEVEL III - meeting
ORIGINS OF THE CASE

• August 2006: The Federal Prosecutor’s Office requests the assistance of Eurojust for a case of pedophilia on the internet.

• Belgian father abused his two minor daughters.

• Investigation showed that Italian national was photographer & producer of photos and videos on child porn website. Investigation in Italy started.

• Many customers of child porn were discovered in other countries.

• Links with non-EU countries.

COORDINATION MEETINGS
AT EUROJUST IN CLOSE COLLABORATION WITH NATIONAL AUTHORITIES

- 4 Coordination Meetings at Eurojust in 2006-2007

Final Result: Worldwide child sex offender network (16 countries involved) dismantled in 2007

- More than 100 arrests were carried out
- Hundreds of computers seized
- Several suspects were convicted
- Information for prosecution
- Exchange of information: gathering of sufficient involved

Simultaneous, coordinated actions in all countries

Coordination of investigations

NATIONAL AUTHORITIES AT EUROJUST IN CLOSE COLLABORATION WITH COORDINATION MEETINGS
US - OPERATION HAMMER

• US investigations following leads from OPS KOALA
• FINDINGS & RESULTS (December 2008):
  - 7 online child pornography rings; some numbering in the hundreds
  - 2 Bulletin boards created and operated by US citizens
  - Several convictions: long term imprisonment
  - < 30 US members
  - > 300 US customers; 200 searches
  - Website database ↔ 800 US customers

US investigations following leads from OPS KOALA
CASE ILLUSTRATION

SIMULTANEOUS EXECUTION OF EAWS
SIMULTANEOUS EXECUTION OF EAWs RELATED TO TERRORISM

- Criminal organised group from Tunisia, Algeria, Morocco
- Headquarters in Milan (cells spread over Europe)
- Part of a well structured criminal organisation with links to Al-Qaeda
- GOAL: commit terrorist acts in Italy, Afghanistan, Iraq and other Arab countries
- Involved in THB and cigarette smuggling, forgery of residence permits, ID cards & passports
- Criminal organised group from Tunisia, Algeria, Morocco

RELATED TO TERRORISM
• **EUROPEAN ARREST WARRANTS:**
  - 30/10/2007
  - 02/11/2007
  - 05/11/2007

• **SYNCHRONISED EXECUTION (6/11/2007):**
  • EAW: IT, FR, PT, RO, UK
  • **Result:** 26 arrests in 5 countries
Synchronized execution with other countries

Already sentenced in Italy for a different crime: need for other EAW

Need for house search

Need for originals

EJ

FR
NEW EUROJUST DECISION:

FIVE MAIN AREAS OF IMPROVEMENT:

1. Enhancing the operational capabilities of EUROJUST
2. Strengthening the operational capabilities of EUROJUST
3. Improving the exchange of information
4. Reinforcing co-operation between EUROJUST – EJN contact points and national authorities
5. Enhancing relations with privileged partners & third States
**ARTICLE 13 & 13a EJ DECISION:**

**EXCHANGE OF INFORMATION BETWEEN MS & NM**

- Without prior authorization
- Any information necessary for the performance of EUs tasks
- Shall only be interpreted as a request for assistance if so specified by a competent authority

**Minimum Info:**

- Information on the setting up and the result of a JIT

**MS ➔ NM**

**Without prior authorization**

**NM ➔ MS**

**NM ↔ MS**
2. Any case in which 3 MS are directly involved and for which requests for or decisions on judicial co-operation have been transmitted to at least 2 MS when the offence is punishable with a custodial sentence of at least 5 years and included in the following list:

- THB
- Sexual exploitation of children and child pornography
- Money laundering
- Counterfeiting of the euro
- Corruption
- Trafficking in fire arms
- Drug trafficking
- Fraud affecting the financial interests of the EU
- Attacks against information systems

3. A criminal organisation is involved

4. A serious cross-border dimension or repercussions at EU-level
5. Conflicts of jurisdiction

6. Controlled deliveries affecting at least 3 States (2MS)

7. Repeated difficulties or refusals regarding the execution for requests for, and decisions on, judicial co-operation

No obligation to supply information if this would:

• Jeopardise the safety of individuals
• Harm essential national security interests
• Harm essential national interests

Repealed difficulties or refusals regarding the execution for controlled deliveries affecting at least 3 States (2MS)
EJ shall transmit the requested information in the timeframe requested by the MS. EJ shall transmit the requested information in the CMS already stored in the CMS.

Information and feedback on the results of the processing of information, including the existence of links with cases.
Treaty (Article 85 & 86 TFEU)
in light of the new provisions introduced by the Lisbon
Goal: Reflect on the future development of EUROJUST

Agencies and Academics
Participants of all Member States, EU Institutions, EU
Belgian Presidency of the Council of the EU
Organised by EUROJUST in co-operation with the
September 2010

Towards more effective action
EUROJUST and the Lisbon Treaty:
STRATEGIC SEMINAR:
The SWEDISH NETWORK FOR EUROPEAN LEGAL STUDIES in collaboration with the Faculty of Law at Uppsala University invite to a conference on

Interests and Actors in European Police and Criminal Justice Cooperation: Legal and Practical Challenges

Cooperation - An Overview

The New Framework for European Criminal Justice

Museum Gustavianum in Uppsala
18-19 April 2011

Conference Day 1 (18 April)

08:30 Arrival and Registration
09:00 Opening Statement

Prof Antonina Bakardjieva Engelbrekt, Chairman of SNELS and Associate Prof Anna Singer, Vice-Dean of Faculties of Law, University of Uppsala

THE NEW FRAMEWORK FOR EUROPEAN CRIMINAL JUSTICE – AN OVERVIEW

The New Framework of the European Union

Mr Michael C. Nielsen, Head of Division of Judicial Cooperation

Recent Institutional and Substantive Developments at the EU Level

Chair: Associate Prof Maria Bergström, Uppsala University

Panel Debate

09:10 Recent Institutional and Substantive Developments at the EU Level

Mr Hans G. Nilsson, Head of Division of Judicial Cooperation

09:30 A New Role for the Commission? Priorities and Challenges

Mr Michael C. Nielsen, Head of Division of Judicial Cooperation

09:50 Horizontal Agency Cooperation in the Field of Crime and Security – Theory, Problems and Solutions

Prof Bo Wenström, Director of Uppsala University Centre of Police Research

Coffee

Panel Debate

10:10
### CONFERENCE DAY 1 (18 APRIL)

#### Police Cooperation

**Chair:** Associate Prof Anna Jonsson, Uppsala University

- **11:10** What is New?  
  **Prof Frank Verbruggen, Institute for Criminal Law, Katholieke Universiteit Leuven**

- **11:30** Police Cooperation from the National Point of View – Challenges and Opportunities  
  **Ms Elenor Groth, Head of International Police Cooperation Division, Swedish National Bureau of Investigation**

- **11:50** European Police Cooperation – Problems and Potential  
  **Prof Iain Cameron, Uppsala University**

- **12:10** Panel Debate

#### Lunch

#### Panel Debate

- **14:00** International Judicial Cooperation and Coordination: Interaction between European and International Judicial Cooperation and Coordination  
  **Ms Michèle Coninsx, Vice-President of Eurojust, Chair**

- **14:20** International Judicial Cooperation and Coordination from the National Point of View  
  **Mr Anders Perel, Swedish Prosecutor-General**

- **14:40** European Criminal Justice Cooperation from a Human Rights Perspective  
  **Mr Peter Asplund, Lawyer and Chair of the Board of Centre for European Criminal Justice Cooperation**

- **14:40** Challenges for the National Courts  
  **Prof Per Ole Träskman, Lund University**

- **15:00** Challenges for the Court of Justice  
  **Prof Estella Baker, University of Sheffield**

- **15:20** The Limits of Mutual Trust: The Evolution of Mutual Recognition  
  **Prof Valsamis Mitsilegas, Queen Mary, University of London**

- **15:40** What is New?  
  **Prof Frank Verbruggen, Institute for Criminal Law, Katholieke Universiteit Leuven**

- **16:00** The Limits of Mutual Trust: The Evolution of Mutual Recognition  
  **Prof Valsamis Mitsilegas, Queen Mary, University of London**

- **16:20** Challenges for the Court of Justice  
  **Prof Per Ole Träskman, Lund University**

- **16:40** Challenges for the National Courts  
  **Prof Joachim Vogel, Director of the European Criminal Law Research Centre at University of Tübingen and Judge, Procurator General of the Regional Court of Tübingen**

- **17:00** Challenges for the Court of Justice  
  **Prof Estella Baker, University of Sheffield**

- **17:20** The Limits of Mutual Trust: The Evolution of Mutual Recognition  
  **Prof Valsamis Mitsilegas, Queen Mary, University of London**

- **17:40** Challenges for the National Courts  
  **Prof Joachim Vogel, Director of the European Criminal Law Research Centre at University of Tübingen and Judge, Procurator General of the Regional Court of Tübingen**

#### Coffee Break

#### Panel Debate

- **18:30** Police Cooperation from the National Point of View  
  **Mr Anders Perel, Swedish Prosecutor-General**

- **18:30** Challenges and Opportunities  
  **Prof Valsamis Mitsilegas, Queen Mary, University of London**

- **18:50** What is New?  
  **Prof Frank Verbruggen, Institute for Criminal Law, Katholieke Universiteit Leuven**

- **19:10** Police Cooperation from the National Point of View  
  **Mr Anders Perel, Swedish Prosecutor-General**

- **19:10** Challenges and Opportunities  
  **Prof Valsamis Mitsilegas, Queen Mary, University of London**

- **19:30** What is New?  
  **Prof Frank Verbruggen, Institute for Criminal Law, Katholieke Universiteit Leuven**

- **19:50** Police Cooperation from the National Point of View  
  **Mr Anders Perel, Swedish Prosecutor-General**

- **20:10** Challenges and Opportunities  
  **Prof Valsamis Mitsilegas, Queen Mary, University of London**

- **20:30** What is New?  
  **Prof Frank Verbruggen, Institute for Criminal Law, Katholieke Universiteit Leuven**

#### Conference Dinner
Joint Introduction to Workshops

10:00

KEEPING AN EYE ON THE EUROPEAN RHETORIC

Conference Day 2 (19 April)

Joint Conclusion to Workshops

15:30

End of Conference

16:00

Comparing Findings from the Parallel Sessions – Does EU Rhetoric Correspond with Applied Laws?

10:00

Joint Introduction to Workshops

10:00

Workshop 3 (Petter Asp)

The Lawmaking Process: Balancing the Interest of Giving the EU Space to Progress against the Interest of Ensuring that It Does No More than What It Is Constitutionally Competent To Do

Workshop 2 (Gregor Noll)

Human Rights vs. the Common Market: The Balancing Act of the EU Asylum and Immigration Acquis

Workshop 1 (Karin Åhman)

Balancing Ideas on Harmonization and Efficiency against the Protection of Human Rights – Is It Possible?

Parallel Sessions

13:30

Lunch

12:00

Valid registration form by 8 April. Please fill in and re-submit the attached.