

Action Programme on tackling transnational drug trafficking and cross-border crime

Adopted in Luxembourg on June 16th, 2015 by

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Introduction

France, Belgium, Luxembourg and the Netherlands will strengthen joint efforts to tackle transnational drug trafficking, mobile criminal groups and other forms of cross border crime. The primary focus will lie on dismantling criminal organisations and confiscating the proceeds of crime, following an integrated approach by undertaking joint and coordinated investigations and involving the prosecution authorities, police services and other relevant authorities (e.g. customs and tax authorities) at the national level as well as the local level. The foundations for this cooperation will be mutual trust, knowledge, reciprocal efforts and a shared desire to make society safer and more resilient. The countries agree to undertake additional efforts to ensure effective exchange of information and advanced operational analyses, thereby guaranteeing access to the best possible intelligence for joint actions.

The existing Hazeldonk cooperation was initially dedicated to combat drug tourism. This cooperation will be substantially upgraded in order to tackle drug trafficking criminal organisations. Beside the Hazeldonk tools, the partners agree to implement other tools to fight against drug trafficking and mobile criminal groups. The evolution of this cooperation will be in line with the conclusions of the Hazeldonk evaluation 2014.

As part of this cooperation France, Belgium and the Netherlands will build upon the EMPACT project on organised property crime committed by mobile criminal groups (OPC) to intensify actions against this criminal phenomenon.

This action programme follows the agreement to intensify cross border cooperation reached by the Ministers of the Interior of France and Belgium, Manuel Valls and Joëlle Milquet, and the Minister of Security and Justice of the Netherlands, Ivo Opstelten on 27 February 2014 in Rotterdam. In light of the wide ranging scope of envisaged actions, the Ministries of Justice of France and Belgium and the Ministry of Internal security of Luxembourg have been closely involved in establishing the present programme.

The programme outlines the steps that will be taken in the period ahead to achieve these ambitions. The first section describes how information sharing will be strengthened, and the second section describes how cross-border investigation activities will be stepped up. Where possible, the knowledge, expertise and infrastructure available at Europol and Eurojust will be drawn upon.

An evaluation report will be presented to the competent ministers one year after starting the operational implementation of this action programme.



1 - Information

The availability of reliable information is essential to a successful investigation. This requires an effective exchange of relevant information between the agencies involved, the enrichment of tactical analysis or data, and cooperation with EU agencies such as Europol and Eurojust.

A variety of information channels and tools may support these joint efforts. This action plan therefore sets out the following objectives in relation to improving information-gathering and -sharing practices.

ANPR

The use of cameras (Automatic Number Plate Recognition, ANPR), for instance above motorways, is an effective instrument to help tackle cross-border crime. Making the best possible use of this instrument, within the bounds of the law, will require greater efforts to exchange information on objects of interest (possibly in the form of so-called 'black lists'). At present, Belgium and the Netherlands systematically exchange their national black lists of registration numbers of stolen vehicles on the basis of a bilateral exchange protocol. Cross border cooperation with France is limited to those cases where registration numbers have been included in the Schengen Information System (SIS). The use of ANPR should be expanded to identify other objects and pursue additional aims (e.g. investigating mobile criminal groups). Luxembourg is, at this stage, unable to participate in ANPR as there is no legal basis to do so.

- The countries involved will make arrangements for exchanging ANPR data in a structured way, in accordance with national law.
- For that purpose, the countries involved will establish an expert working group to identify the scope for exchanging ANPR data and agree on how ANPR hits will be followed up.
- New protocols will be drawn up by the countries involved if necessary.

Involvement of Europol

Europol has the knowledge, expertise and infrastructure to process information and criminal intelligence on drug trafficking and mobile organised crime groups, and to provide several analytical products which will support the countries involved when deciding on joint actions. Better use should be made of these facilities. Sharing information arising from this action programme between France, Belgium, Luxembourg and the Netherlands with Europol on a structural basis will enable the use of that organisation's databases.

- Information arising from this cooperative venture that falls within Europol's mandate will be shared with Europol. France, Belgium, Luxembourg and the Netherlands will therefore further enhance the practical use of the SIENA mailing system to exchange information through the national desks of Europol. For mobile organised criminal groups this will be the prime channel of information exchange

- The four countries will explore how Europol's analytical capacity can better exploit the information available in the various focal points related to drugs and develop customised analytical products.
- The Focal Point on Mobile Organised Criminal Groups actions will be used in line with annual EMPACT OPC action plans.

Analytical capacity

The enhanced cooperation proposed in this action plan may generate a great deal of information about the cross-border drug trafficking, mobile organised crime and other phenomena. This information, in addition to the information already available at the national level, needs to be used efficiently for investigative purposes. Investigations in this area can be optimised through good operational (case level) and tactical (general modi operandi of target groups) analyses drawn up in conjunction with the countries involved.

- France, Belgium, Luxembourg and the Netherlands will provide for sufficient criminal analysis capacity for the purpose of stepping up cross-border cooperation which should lead to more parallel or joint investigations.
- For cross border drug trafficking, each country will assign a contact person for analysis matters within the framework of the Hazeldonk cooperation. These contact persons will organise and monitor efficient cooperation between national crime analysis units.
- For mobile organised crime the primary analytical unit is the Focal Point Furtum or EEOC within the Europol analytical work file, in line with the EMPACT OPC action plan.
- The operational and tactical analyses will be discussed during the Hazeldonk operational magistrates meetings for cross border drug trafficking, operational magistrates meetings for other forms of cross border criminality for which the Hazeldonk framework is used and during Eurojust coordination meetings for mobile organised crime. The analyses may form the basis for actions of existing Joint Investigation Teams (JITs) or Joint Hit Teams (JHTs), or lead to the creation of new JITs.

Intelligence

Gathering, sharing and refining information as a basis for thorough investigations.

Exchanging information or intelligence amongst the services of the participating countries and Europol is a key activity to enforce the joint approach to fight cross-border drug related crime. The shared information/intelligence will help to build up a more complete intelligence picture of criminals or criminal organisations active in drug

related crime. Moreover, it enables targeting on specific criminals or criminal groups who could become subject for (further) investigations. In view of investigations participating and within existing legal frameworks, countries may apply to be assisted in gathering and sharing information or intelligence.

Therefore, dedicated meetings with relevant services will be organised on a regular basis to share and discuss intelligence. The outcome of these meetings will be made available to an operational magistrates meeting.

- For a better gathering and sharing of intelligence, the services that have overview on drug related crime will meet on a regular basis to exchange operational intelligence and to develop the possibilities of fighting together against transnational drug related crime. These meetings could feed the magistrates operational meetings in a view of creating a Joint Investigation Team.
- To improve the information capacity in view of investigation, one country (the home state) can ask one or more partners to be assisted on its territory.

2 - Investigation

Investigation plays a key role in combating the cross-border drug trafficking and mobile criminal groups, and is essential for the dismantling of criminal organisations and the confiscation of the proceeds of crime. Given the cross-border nature of these phenomena, joint investigations (including JITs) between the countries involved, or parallel investigations, would seem the most appropriate way to proceed. This action plan sets out the following objectives in relation to enhancing investigative practices.

A. Common Actions

Investigative capacity

Conducting the criminal investigations will require a certain degree of investigative capacity. These investigations may take place in the territory of one or more countries at the same time. It is therefore necessary to strive to achieve a balanced deployment of investigative capacity by the countries involved.

- The countries involved will deploy investigative capacity in a balanced way to tackle the cross-border drug trafficking and mobile criminal groups.

Joint Investigation Teams

The complexity and cross-border nature of some criminal investigations requires joint, coordinated action between several countries. These are difficult and demanding cases which, if prosecuted successfully, can make a fundamental contribution to combating transnational organised crime. They go further than tackling minor criminals in their everyday activities; instead they have a direct impact on the underlying criminal organisations. The teams will work with Eurojust to the maximum possible extent.

- France, Belgium, Luxembourg and the Netherlands agree that Joint Investigation Teams (JITs) are an effective instrument for undertaking major cross-border investigations. They will therefore endeavour to deploy this instrument more often in the years ahead and to actively present cases that could lead to the establishment of a JIT.

Confiscating the proceeds of crime

Confiscating the proceeds of crime requires an integrated approach. This entails the involvement of not only the criminal justice authorities, but also other disciplines, including the tax authorities, asset recovery offices (ARO) and financial intelligence units (FIU) of the countries involved. Differences in national legislation and procedures must first be identified, before a common procedure may be agreed upon to ensure that confiscation can take place effectively. It is a precondition that the countries involved are willing and able to share relevant information, for example tax-related data.

- Existing options for confiscating the proceeds of crime in the countries involved will be used to the maximum extent possible.

- Investigations (JITs) instigated by the operational magistrates' meeting will include a confiscation investigation as a matter of course, with a view to confiscating the proceeds of crime.
- Taking into consideration the existing cooperation tools such as the ARO and the FIU of the countries involved as well as the CARIN network, an overview of the agencies involved in confiscation and the relevant procedures in each country will be established. This includes the identification of any obstacles to the exchange of information required for effective cooperation. On the basis of this overview, the countries involved will agree on a way to facilitate a common procedure to be followed when confiscating the proceeds of crime in a cross border context.

B. Actions against cross border drug trafficking

Operational magistrates' meetings

Under the Hazeldonk cooperation arrangements, a strategic magistrates' committee meets each year, composed of the prosecuting authorities of France, Belgium, Luxembourg and the Netherlands. The committee discusses ongoing cross-border investigations and evaluates cooperation efforts. This annual meeting will continue to exist for the purpose of discussing horizontal and strategic issues as well as evaluating efforts aimed at closer cooperation. The system of cooperation resulting from this action programme, in which information is better shared and analysed, could lead to more potential investigations. For this reason operational magistrates' meetings will be organised at least twice a year to liaise on instigating investigations (JITs), discuss the progress made in ongoing investigations, share information and resolve any persistent problems in the countries' cooperation at operational level. The composition of the operational magistrates meetings will be defined on a case by case basis. The operational magistrates' meetings will be the linchpin of the system established by this action programme to step up cooperation efforts, including the possibility of more frequent ad hoc cooperation between prosecuting authorities to ensure a rapid operational response when needed.

- Operational magistrates' meetings will be organised at least twice a year and decide on instigating joint investigations (and setting up JITs) in specific cases.
- The operational magistrates' meetings will be composed of representatives of the prosecuting authorities authorised to speak on behalf of the country concerned and joined by representatives of the police services empowered to decide on allocating capacity for investigations.

JHT activities

The current two Joint Hit Teams (JHTs), operating under the Hazeldonk cooperation and located in the Netherlands, have proven to be an effective instrument in tackling cross-border drug related crime.

JHT's are the "eyes and ears in the field" gathering criminal information and executing small scale hit and run operations. Moreover they can act based on intelligence or analysis provided by one or more participating countries. More and better use should be made of JHT capacity.

In order to ensure efficient cross-border cooperation, the JHTs should remain being composed of officials from participating countries. However, the main capacity should always be provided by the country where the operation takes place.

Due to the reorganization of the Dutch police organization, the organizational form of the JHTs will change, at the latest by January 2016. However the JHT functionalities will be continued with an additional increased focus on detecting and combating organized crime based on intelligence led policing.

- The police services involved will jointly develop the future cooperation.
- The JHT activities will be widened geographically by extending their action radius of the JHT's to the territories of other countries and regions involved.
- The future cooperation should be flexible which enables efficient response to modus operandi and territories of criminals and criminal organizations.
- Luxemburg will cooperate on an ad hoc basis.
- In 2015 the Netherlands will organize and prepare thorough discussions with the countries involved with regard to the development and embedding of JHT activities. In this context the Netherlands will offer the possibility to the liaison officers of the countries involved to explore the best form of cooperation (experiments) within the JHT activities.

C. Actions against mobile organised crime

Eurojust coordination meetings

France, Belgium and the Netherlands are actively involved in the Europol EMPACT project on organised property crime committed by mobile criminal groups (OPC). Without excluding bilateral contacts, especially since Luxembourg does not participate in this

particular EMPACT project, the main forum to discuss judicial cooperation in complex cases that involve at least two of our countries will be Eurojust. This ensures that the information chain, as foreseen in the EMPACT OPC action plan, starting from collection, analyses and detection by Europol towards making agreements on a common judicial response at Eurojust is upheld. This does not necessarily mean that the meetings have to be held at the Eurojust HQ in the Hague.

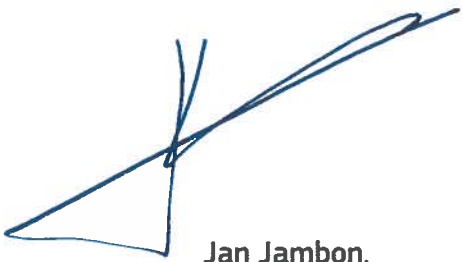
- All countries involved will use Eurojust, when opportune, as the main forum to set up a common judicial approach on a mobile organised crime group.

Fine-tuning the cooperation between France, Belgium, Luxembourg and the Netherlands

Mobile organised crime generally involves perpetrators coming from Eastern and Central Europe, the Balkan or the Eurasian region. There are some groups that have installed a more stable base of operations in one of our countries, or that fence the stolen goods quickly across the border to one of our countries (stolen metals, jewellery, cosmetics).

Also, in the field of administrative policing the emphasis will be placed on actions with mutual benefit in line with what is already foreseen in the EMPACT OPC action plan.

- The national portfolio holders of France, Belgium and the Netherlands for the EMPACT OPC project will meet periodically to bring forth additional proposals in the framework of this trilateral cooperation for investigations or intelligence-led control actions along the border (transport routes, cash watch, etc.)
- France, Belgium and the Netherlands will maximize their efforts to coordinate mutual actions during EMPACT actions days.
- Tackling cross border fencing requires specific attention. In addition to criminal investigations, whether joint or parallel, our countries therefore agree to perform administrative checks of fencing shops. France will also join the Benelux working group on metal thefts.
- Building on the Schengen Agreement, our countries will issue Schengen Information System (SIS) alerts in order to perform discrete checks (article 36) to inform each other of the criminal background of persons or vehicles. Our countries will also work closely with immigration services to provide the necessary information for imposing an entry ban for non-EU citizens (article 24) and will continue to thoroughly check the validity of vehicles' registration and insurance in order to seize transportation when non-conform.



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