



TACKLING CRIME TOGETHER

THE BENELUX AND NORTH RHINE-WESTPHALIA
INITIATIVE ON THE ADMINISTRATIVE
APPROACH TO CRIME RELATED TO
OUTLAW MOTORCYCLE GANGS IN THE
EUREGION MEUSE-RHINE

PROGRESS REPORT



SECRETARIAAT-GENERAAL
SECRÉTARIAT GÉNÉRAL

Publisher

J.P.R.M. van Laarhoven
General Secretariat of the Benelux Union
Regentschapsstraat 39 • BE-1000 Brussels • info@benelux.int

Editor

Benelux plus NRW Working Group on the administrative approach to organised crime

Coordination

Team Justice and Home Affairs of the General Secretariat of the Benelux Union

Layout

Fuel. - Brussels - www.fueldesign.be

Printer

Profeeling, Beringen

Date

March 2016

This report is available in the following languages; English, German, French and Dutch. The report can be downloaded from the homepage of the General Secretariat of the Benelux Union
www.benelux.int

All rights reserved.

CONTENT

ABBREVIATIONS	4
1. PREFACE	
THE NECESSITY OF A FULL-FLEDGED ADMINISTRATIVE APPROACH TO ORGANISED CRIME	5
2. ON THE BENELUX WORKING GROUP ON THE ADMINISTRATIVE APPROACH TO ORGANISED CRIME	7
3. STATE OF PLAY – THE ADMINISTRATIVE APPROACH TO CRIME RELATED TO OUTLAW MOTORCYCLE GANGS	9
3.1. Belgium	9
3.2. The Netherlands	11
3.3. Luxembourg	13
3.4. North Rhine-Westphalia – Germany	15
4. CROSS-BORDER COOPERATION	18
4.1. Legal framework for providing information in the Benelux Union	18
4.2. Cross-border cases in the Euregion Meuse-Rhine	19
4.3. Conclusion	21
5. CONCLUSIONS AND RECOMMENDATIONS	22
 ANNEXES	 25
Annex I	
Benelux declaration of intent on the administrative approach to organised crime	25
Annex II	
Stepping up regional cooperation between Germany, Belgium and the Netherlands against outlaw motorcycle gangs	26
Annex III	
Overview of organisations participating in the Benelux & North Rhine-Westphalia Working Group	27
Annex IV	
Map of the Benelux and North Rhine-Westphalia	30

ABBREVIATIONS

AWF	Analysis Work File (Europol)
BES	Bureau for Euregional Cooperation (EMR)
BIBOB	Dutch Public Administration (Probity Screening) Act
BKA	German Federal Crime Authority
CCPD	Police and Customs Cooperation Centre
COSI	Standing Committee on Operational Cooperation on Internal Security (EU)
CSA	Convention implementing the Schengen Agreement
EC	European Commission
EMR	Euregion Meuse-Rhine
EPICC	Euregional Police Information and Cooperation Centre (EMR)
EU	European Union
FIU	Financial Intelligence Unit
FP	Focal point (Europol)
HAMC	Hells Angels Motorcycle Club
IBZ	Belgian Federal Public Service Home Affairs
ISEC	Prevention of and Fight against Crime (EU)
JHA	Justice and Home Affairs (Council) (EU)
LBB	Dutch National Bureau BIBOB
LIEC	Dutch National Intelligence and Expertise Centre (on administrative approach)
LKA	State Crime Authority (NRW)
MC	Motorcycle club
MS	Member State
NEBEDEAGPOL	Dutch Belgian German Police Working Group (EMR)
NRW	North Rhine-Westphalia (Germany)
OMCG	Outlaw motorcycle gang(s)
PER	Working group of German and Dutch police authorities in the Euregion Rhine-Meuse-North
RIEC	Dutch Regional Intelligence and Expertise Centre (on administrative approach)
SOC	Serious and Organised Crime (Europol)
VenJ	Dutch Ministry of Security and Justice

1

PREFACE THE NECESSITY OF A FULL- FLEDGED ADMINISTRATIVE APPROACH TO ORGANISED CRIME

The general awareness of the necessity to establish an effective administrative approach to organised crime has already gained common ground within the European Union, in particular by adopting the renewed European Security Strategy (2015-2020); nevertheless, a lot of challenges remain on the European agenda, especially for those Member States which are not yet acquainted with the concept of the administrative approach.

In September 2015, Belgium presented a proposal¹ to the Standing Committee on Operational Cooperation on Internal Security (COSI) within the EU, in order to put the administrative approach, in particular with regard to the issue of outlaw motorcycle gangs (OMCG), on the agenda of the Network of Contact Points on the Administrative Approach to Prevent and Fight Organised Crime.

At present, the Dutch EU Council Presidency 2016 is working towards the further development of an integrated approach to organised crime, focusing on the introduction of administrative measures and information exchange between administrative authorities and law enforcement agencies both at Member States and EU level.

In the ISEC funded study (published in 2015) *'Administrative measures to prevent and tackle crime'*² the following definition of the administrative approach was used: *"an administrative approach to serious and organized crime involves preventing the facilitation of illegal activities by denying criminals the use of the legal administrative infrastructure as well as coordinated interventions 'working apart together' to disrupt and repress serious and organized crime and public order problems"*.

The fight against organised crime is not only a major concern for police forces and judicial authorities; local and supra-local administrations and tax and inspection agencies also have an important role to play in detecting, undermining and repressing a wide range of organised crime phenomena, like corruption, money laundering, fraud, human trafficking and forced labor.

¹ Council of the European Union, Doc. Ref. 12041/15.

² SPAPENS A.C.M., PETERS, M. & VAN DAELE, D., *"Administrative Measures to Prevent and Tackle Crime – Legal possibilities and practical applications in 10 EU Member States"*, Eleven International Publishing, 2015 (EAN: 9789462365797). Co-funded by the Prevention of and Fight against Crime Programme of the European Union.

Although classic methods used by investigation services within police services and judicial authorities remain essential, Member States in the European Union should introduce a more intensive monitoring and screening, a more restrictive permit policy and more repressive administrative operations, in order to maintain a fair financial, economic and social system in European cities and municipalities.

Administrative actions against organised crime do not replace police operations or criminal trials, but they act as complementary, and they strengthen the law enforcement system. We also want to underline that an administrative approach to organised crime unequivocally implies a repressive as well as a preventive component.

Pressure points to be considered for the expansion of an administrative approach to organised crime, in EU Member States as well as at the EU level, are for instance privacy intrusion concerns, professional confidentiality and competence restrictions.

For an elaborate scientific overview of the potential for information exchange between administrative bodies and traditional law enforcement organisations to support the use of administrative measures within EU Member States and on the EU level, we would like to refer to the aforementioned ISEC funded study *'Administrative measures to prevent and tackle crime'* conducted in 2013-2014 by the Tilburg University (the Netherlands) and the Catholic University of Leuven (Belgium), and coordinated by the Dutch Ministry of Security and Justice (VenJ).

2

ON THE BENELUX WORKING GROUP ON THE ADMINISTRATIVE APPROACH TO ORGANISED CRIME

The development of an administrative approach to organised crime is also high on the agenda of the Benelux Union; in the framework of the intergovernmental objectives within the Senningen Action Plan 2013-2016, a Benelux working group on the administrative approach to organised crime was set up on 28th of November 2014 in Brussels, formalised through a declaration of intent signed by Belgium, Luxembourg and the Netherlands (Annex I).

The present report aims to compile the experiences, findings and conclusions of this Benelux working group, which has focused in 2015 on the following objectives:

- Exchange of good practices on the administrative approach to organised crime;
- Organising meetings and consultations between local and supra-local stakeholders;
- Reflection, preparation and if possible developing common initiatives with regard to a selection of organised crime phenomena;
- Consultation within the Benelux on European studies in the field of the administrative approach to organised crime;
- Submission of a progress report to the Benelux Committee of Ministers by the end of 2015.

In 2015, several working meetings have been organised and hosted by the Team Justice and Home Affairs of the Benelux General Secretariat. Through these consultations, the working group reached agreement to focus on the administrative approach

to crime related to outlaw motorcycle gangs (OMCG) in the Euregion Meuse-Rhine (EMR). Police forces and judicial authorities in the Benelux report an increase of violence and use of firearms and even explosives by outlaw motorcycle gangs. All too often, members of OMCG are active in large scale soft and hard drug production and trafficking, illegal prostitution, blackmail operations and violent acts of retaliation. Outlaw motorcycle gangs have a strong disrupting impact on social and economic life in cities and municipalities in the European Union, as well as in the Benelux and the Euregion Meuse-Rhine.

Different partner organisations joined a project group which was given an assignment on 23rd of September 2015 to work on a state of play of the administrative approach to OMCG in the Euregion Meuse-Rhine:

- Bureau for Euregional Cooperation (BES);
- Institution of the Euregion Meuse-Rhine;
- Europol.

The Dutch delegation hosted a meeting in Maastricht on 30th of October 2015, where it called for a better exchange of information on organised crime in the Benelux Union, building further upon the Internal Security Strategy of the European Commission 2015-2020. Furthermore, it underlined the necessity for a clear overview of the competences of the mayors, local administrations and inspection services in the Benelux.

A delegation of the German State of North Rhine-Westphalia (NRW), which joined the project group on the 23rd of September, hosted a meeting in Düsseldorf on the 12th of November:

- The German authorities put high pressure on OMCG. A zero tolerance policy has been developed in order to control the phenomenon. Tackling OMCG is a strategic priority within the Ministry of Home Affairs;
- Germany has a whole range of laws and regulations which concern the administrative approach to motorcycle gangs, like banning club logos, risk assessments, security assignments, measures with regard to ride outs of OMCG and inspection of clubhouses.

On the 8th of October, Belgium, Germany and the Netherlands agreed to reinforce the cooperation with regard to the issue of OMCG. Furthermore the Benelux partners decided to seek to amend their existing police cooperation treaty in order to facilitate the exchange of administrative information between (local) authorities. The Concluding Parties agreed on elaborating concrete recommendations with regard to cross-border exchange of information on OMCG activities (Annex II).

On the 10th of December, the Belgian delegation within the Benelux working group hosted a seminar at the Egmont Palace in Brussels. Belgian good practices within law enforcement, the public prosecutor and provincial government were presented, as well as initiatives regarding the issue of OMCG in the Euregion Meuse-Rhine and an analysis of OMCG infiltration into the private security sector.

On the 26th of January 2016, the Benelux General Secretariat presented, on behalf of the Project Group, the Benelux and North Rhine-Westphalia initiative on the administrative approach to crime related to outlaw motorcycle gangs in the Euregion Meuse-Rhine and a draft version of the group's conclusions and recommendations to the informal EU Network of Contact Points on the Administrative Approach to Prevent and Fight Organised Crime in Brussels.

The Belgian Public Service Home Affairs (IBZ) and the General Secretariat of the Benelux have elaborated the present progress report in close consultation with the different delegations within the Benelux working group, the delegation of the German State of North Rhine-Westphalia, and different stakeholder organisations and public departments working on the issue of OMCG (Annex III).

3

STATE OF PLAY – THE ADMINISTRATIVE APPROACH TO CRIME RELATED TO OUTLAW MOTORCYCLE GANGS

In this section we give a concise overview of the different national policies with regard to the administrative approach to organised crime, existing screening instruments, enforcement actions on public order and the national and cross-border exchange of information within the Member States of the Benelux Union and the German state of North Rhine-Westphalia. Several focus points are further elaborated and discussed in chapter 5. *Conclusions and recommendations.*

3.1. BELGIUM

When looking at the state of affairs with regard to the implementation of an administrative approach to organised crime, Belgium can be considered as a middle group Member State within the European Union. Although different policy documents have enacted an integral approach to organised crime phenomena (like for example the Belgian Federal Framework Note on Integral Security of 2004 and the National Security Plan 2012-2015), Belgium hasn't yet implemented a fully-developed legal framework with regard to the administrative approach to organised crime.

However, different Belgian administrative authorities dispose of several distinct legal instruments to screen and monitor persons and legal entities or to refuse licenses. At local level, a wide range of measures can be taken if business owners don't comply with the operating regulations (when established in local laws),

and disturbance of the public order can result in the closing down of legal businesses (like bars, night shops, etc.). Although these mechanisms were not created to fight organised crime, they can be used in this context.

When looking at OMCG, the Belgian Federal Police (*Highsider* project) records an important expansion of the 7 big international criminal motorcycle gangs and their support clubs. In the year 2000, 19 chapters were known by the police; in 2014 this number sharply increased to 68 known chapters. Points of attention are the urge for expansion of their territory and the growing mutual tension and rivalry between OMCG, manifesting in several serious violent incidents. Due to augmented (repressive) actions toward OMCG in Germany and the Netherlands, the Belgian part of the Euregion Meuse-Rhine runs the risk to be confronted with an increase of OMCG activities (cf. the so-called waterbed effect).

In Belgian Limburg for example, clubhouses were increasingly installed, territory was claimed and marked, and mutual confrontations resulted in the murder of 3 Outlaw members by members of the Hells Angels.

KEY MEASURES IN BELGIUM

In the fight against OMCG, the Highsider project (Federal Police) has distributed a report with an overview of different administrative measures that can be taken against OMCG. As mentioned above, Belgium doesn't have an overall administrative approach to organised crime in general, or to OMCG in particular. Nevertheless, there already exist different possibilities to tackle OMCG, besides/in addition to the judicial approach. Local authorities, and mayors in particular, play a key role in this administrative approach. As the municipalities are responsible for maintaining the public order on their territory, they have the power to take all measures necessary to prevent all forms of public nuisance. Through the enacting of bylaws, the local council can take action before any disturbance of the public order has taken place (preventively). With regard to the existence and the functioning of an OMCG, the administrative authorities can supervise or intervene on various aspects:

Events

OMCG regularly organise or go to events, like club meetings, barbecues, international encounters, ride outs, etc. In general, such events involve different forms of nuisance and risk to end in provocation or confrontation between rival gangs. The local authority can prohibit events organised by OMCG or can attach certain conditions to this event when determined by local acts/municipal regulations. Bylaws can also impose a prior permission for open air meetings. Once the event takes place, different kind of (multidisciplinary) controls can be effectuated: check on the organisation of the security and verification of the security agents, multidisciplinary control of the exploitation of the stands (bars, tattoo shops, merchandising ...).

Clubhouses

Furthermore, local authorities have some possibilities to chase chapters off their territory. A municipality can take up a licensing requirement for a clubhouse in its municipal regulations (preventively) and impose certain conditions in this regard. In addition, clubhouses can be controlled (reactively) by a multidisciplinary team. In that case the clubhouse is subject to a profound screening to verify if the premises as well as the club (non-profit organisation) comply with all legal obligations. In addition, the mayor can prohibit assembly near the clubhouse (in consequence of nuisance).

Members

Joining an OMCG is only possible after being invited or recommended by a full member. The past shows that it is useful to verify if the members fulfill the legal conditions for weapon license, if they profit wrongfully from benefits/allowances or if they are in the possession (and fulfill the conditions) of an authorization when active in the private security sector. Sometimes members are recruited during events organised by neutral motor clubs. Therefore it is important to approach neutral motorcycle clubs in order to inform and warn them about the risks inherent to a possible alliance with an OMCG.

Legal business structures

Several members (and sympathizers) of an OMCG run or own a business. Often, these companies function as meeting places for the members of OMCG. They are also used to facilitate or conceal the criminal activities or to launder money. In order to counter these practices, municipalities can install a municipal license policy towards certain legal businesses and organise multidisciplinary control actions. Moreover, the mayor can decide to close down businesses when they cause public order problems, don't respect the conditions of exploitation or when there are serious indications that acts of human trafficking or drug dealing take place in the premises.

Motorbikes

It's also a possibility to take a close look at (the use of) the motorbikes: does the motorcyclist wear a helmet, is the motorbike insured, is the owner in possession of a certificate of registration and a driving licence, etc.

ENCOUNTERED PROBLEMS AND FUTURE CHALLENGES

In practice: Euregion Meuse-Rhine

When frustrated by certain local authorities or municipalities, criminal motorcycle clubs often turn to other cities or other parts of the Euregion Meuse-Rhine (Dutch Limburg, province of Liège, ...) with their activities or clubhouses.

It therefore seems desirable for an alignment to take place in the various administrative measures taken by the various municipalities in this regard, and that the administrative authorities would inform each other of the steps that are taken (e.g. ban of a ride out, ban of a party, refusal of a permit, ...).

Thus, there is a great and urgent need for a framework of conventions (covenant / treaty / agreement) within which the various partners across borders can share their administrative information or can share judicial and police information for administrative purposes.

These conventions would preferably also fine tune what information can be shared. As far as can actually be judged, the cross-border exchange of general information that is publicly available (open source: press releases, documents relating to the transparency of government) is legally not a problem. It becomes more difficult however when case-bound, non-public information (municipal semi-open sources) is exchanged.

For instance, to what extent can the information from an application for a municipal license be shared across borders, or the mere fact that a club has applied for a permit? And whether or not it was refused, and for what reason? And what about the police administrative information as collected by the Arrondissementale Information Centres?

While the cross-border exchange of judicial information is guaranteed by various treaties and platforms, there is no parallel framework for the administrative flux. And the use of the judicial channels to inform an administrative authority on the other side of the border, is to be regarded as a deviation from the intended purpose of the information, which is not permitted. A clearly defined framework should bring clarity and legal certainty for all parties.

In order to fulfill the above, in addition, a structure is required that can support this cross-border exchange. This structure should be formed at two parallelly developed levels.

First, Belgium should proceed to the establishment of an intelligence and expertise centre. The first steps to this end could be taken in the provinces of Limburg and Antwerp. These agencies should play a full and active coordinating role. There is thereby also a strong need for a central / federal support platform where all knowledge and best practices can be gathered.

In addition, in the border regions and specifically in the Euregion Meuse-Rhine, an organisational framework needs to be drawn up across the borders. A Euregional intelligence and expertise centre seems to be the logical outcome of this concept.

NATIONAL LEVEL

At present, Belgium is preparing a new Federal Framework Note on Integral Security. A chapter for the administrative approach to organised crime and the necessity of information exchange hereby is foreseen. The elaboration of a legislative framework that solves several of the above mentioned pressure points is a key action point in this note.

Furthermore, policy makers, academics and key stakeholders are elaborating an organisational model which assists municipalities on the implementation of an administrative approach to organised crime.



3.2. THE NETHERLANDS

THE ADMINISTRATIVE APPROACH AND MULTI AGENCY APPROACH

OMCG are closely linked to organised crime as well as disturbances of the public order. The Dutch multi agency approach to outlaw motorcycle gangs started in 2012. The approach was set up in response to growing tensions between different OMCG and disturbances of the public order through violence and intimidation by the OMCG.

The national approach to outlaw motorcycle gangs is an integral approach that involves all relevant parties such as the public prosecutions department, police, tax authorities, Fiscal Information and Investigation Service, Royal Netherlands Military Constabulary and the mayors and municipalities.

The approach focuses on investigations in the field of criminal, administrative and fiscal law. The administrative approach is a vital part of this multi agency approach and mayors play an important role therein.

The RIECs (Regional Intelligence and Expertise Centres) are at the centre of the multi agency approach. Ten RIECs and one National Intelligence and Expertise Centre (LIEC) are located in the Netherlands. A RIEC is a platform which facilitates the multi agency approach and supports the administrative approach. Within the legal framework of the RIEC agreement, the partner organisations can exchange and gather information and identify opportunities for interventions. In every individual case tabled they decide which approach is best (on the basis of information, capacity, time etc.): penal, fiscal or administrative or a combination.

KEY MEASURES IN THE NETHERLANDS

The multi agency approach consists of several spearheads. The most important measures in light of the administrative approach are listed below:

General administrative measures

Municipalities cooperate with partner organisations to investigate OMCG and OMCG members and intervene when possible. Together the partners decide which measures can be applied. Municipalities apply administrative measures such as the BIBOB procedure. The BIBOB procedure is based on the BIBOB Act (the Public Administration (Probity Screening) Act). The BIBOB Act furnishes municipalities with an additional basis for denying or withdrawing licenses, permits or subsidies.

Focus on the clubhouses

Mayors are responsible for the public order in their cities. They monitor the existing clubhouses to make sure they comply with regulations. Legal clubhouses that don't comply can be closed. When an OMCG considers founding a new clubhouse, municipalities will have so called "stop talks" in order to inform the OMCG that if it chooses to open a clubhouse in

the municipality it will be monitored closely and all applicable regulations will be enforced very strictly.

Non-facilitation of events of outlaw motorcycle gangs

The authorities do not facilitate events that clearly involve members of outlaw motorcycle gangs, e.g. ride outs and parties. All events must comply with the relevant legislation and municipalities do not make space available for events organised by outlaw motorcycle gangs.

Actions against the influence of outlaw motorcycle gangs in the catering industry and in security services

Outlaw motorcycle gangs try to take over pubs by means of intimidation or extortion. They also try to force bars to hire OMCG members as bouncers. Entrepreneurs in the catering business are informed about the risks and they are also encouraged to report intimidation and extortion to the authorities.

Focus on members of outlaw motorcycle gangs employed in public service functions

Membership in an outlaw motorcycle gang is an integrity risk. Therefore, it has to be made clear to employees in public service who are OMCG members that this is unacceptable. This is also laid down in codes of conduct.

RESULTS IN THE NETHERLANDS AND FUTURE CHALLENGES

Apart from prosecutions and fiscal results, one of the principal outcomes of this approach is the increase of knowledge on chapters, individuals and means of intervention. The intelligence available to the organisations involved in the approach has also improved. But most important of all; the awareness of the public administration with regard to OMCG has increased.

However, in response to the success of the multi agency approach, OMCG are changing their modus operandi, e.g. acting more secretly. This calls for new and inventive ways to apply countermeasures within the existing framework.

Furthermore the problems with outlaw motorcycle gangs clearly have an international dimension, since they are active in different Member States. Tackling cross-border crime related to outlaw motorcycle gangs requires a multi agency approach that includes judicial as well as appropriate administrative measures in full compliance with the country specific administrative and legal framework.

3.3. LUXEMBOURG

GENERAL INFORMATION ON OUTLAW MOTORCYCLE GANGS (OMCG)

The OMCG phenomena observed in the Grand Duchy of Luxembourg are quite similar to those found in Switzerland. The national scene is mainly dominated by a single OMCG and its supporting motorcycle club (MC). This dominating position results in difficulties for other OMCG to open new charters/chapters or in local MCs sympathising with a rival movement to be closed or forced to stop their activities.

It is a well-known fact among international OMCG police experts that each of the main OMCG (e.g. Hells Angels, Outlaws, Bandidos, Gremium and Mongols) is either represented in each Member State of the European Union, or exercises significant control in several areas of a given MS. These territorial organisations are the trigger to fights and territorial claims between rival OMCG.

After six years of continuous police investigations and judicial proceedings against the dominant OMCG and the subsequent self-dissolution of this OMCG, a rival group has taken over the Luxembourg territory. After its creation in 2007, the size of this movement has significantly increased and now outnumbers its predecessor. This new OMCG currently counts 8 charters with approximately 80 full members / prospects, but the actual number of supporters is estimated to be higher.

The members of this movement are mostly of German, French, Italian, Portuguese or Luxembourgish nationality. 90% of the members are living in Germany, mainly in the federal states of Saarland, Rhineland-Palatinate, Hesse and Baden-Württemberg.

The main legal activities / publicly accessible businesses (such as cafés, bars, night shops and brothels) are conducted in Germany (federal states of Rhineland-Palatinate and Saarland). In Luxembourg, this movement is not known to have commercial activities. The 8 charters share a single clubhouse in the north of Luxembourg, in a town located near the Belgian border, without public business.

Except for one judicial proceeding in Spain, all criminal activities of the OMCG established in Luxembourg referred to above are being conducted in other MS (such as Germany, Belgium and Spain), but investigations could not reveal enough evidence to be able to qualify these activities as being organised criminality. Such lack of evidence frequently results from the fact that, when arrested, members of a OMCG follow the rules of their movement requiring them to plead guilty in relation to the incriminated acts and deeds in order to prevent the opening of an investigation on organised crime against the mother charter or other members of the club.

In order to fight the OMCG phenomenon in Luxembourg, as described in the first paragraph of this section, and as part of the participation in the exchange of information, the Luxembourg Police services (in particular the national OMCG experts) are in close and permanent contact with their fellow offices in:

- Germany: BKA - SO23 - Rockerkriminalität;
- Belgium: Police Fédérale - Highsider Project;
- France: Police Judiciaire Paris Nanterre - Sirasco Project.

The Luxembourg Police services also take part in the focal point (FP) Monitor managed at Europol level. Further to a general confirmation of information, any evidence will be transmitted to Europol (AWF SOC – FP Monitor) and to all MS participating in this Europol FP. This evidence will then be analysed by the Europol unit as part of an analysis report in order to make the evidence available for local / regional proceedings in each MS in the context of individual cases. Therefore it is also important to provide all the evidence to this Europol FP so that it can analyse the information to determine current and future OMCG trends.

The Luxembourg Police services further use the channel of Interpol (Rockers Project), the Schengen agreement and CCPD (*Centre de Coopération Police-Douanes*). According to the Luxembourg Code on Criminal Proceedings (*Code d'Instruction Criminelle*), the police are allowed to use these four sources of information with the approval of the competent leading examining magistrate.

COMPLEXITY OF PROBLEMS DISCUSSED AT THE PROJECT GROUP MEETINGS IN MAASTRICHT AND DÜSSELDORF

ACTIONS AGAINST OMCG EVENTS

All events organised by the OMCG in Luxembourg are generally monitored by the Luxembourg police in collaboration with the local competent district judicial authority and in accordance with national legislation. All collected data will be transmitted by the different police / judicial channels to the responsible foreign police offices and Europol (FP Monitor). On the occasion of important events of OMCG, the Luxembourg Police services will be supported upon request by OMCG police experts from other MS and Europol (FP Monitor).

SECURITY SERVICE

According to Luxembourg legislation, the establishment of security services / agencies requires a license from the Ministry of the Economy and the approval of the Ministry of Justice. Such license and approval will be granted only after the consultation of the criminal records of the applicant and the relevant files of the competent public prosecution office. In case the license and/or the approval referred to above are denied, the applicant has the right to file a complaint with the administrative court. In this respect, it should be noted that such license and/or approval cannot be refused on the grounds of a proved or supposed membership with a OMCG.

WEAPONS LAW

According to the Luxembourg legislation, two different types of authorisations can be requested and granted:

- authorisation for the possession of firearms (*détention d'armes à feu*);
- authorisation for the carrying of firearms (*port d'armes*).

Regarding the authorisation for the carrying of firearms (*port d'armes*), this will be granted only to members of a shooting club or hunters (*chasseurs*). In both cases, the applicant may only carry a registered weapon to transport it from their home to the shooting range or hunting ground and back.

Concerning an application for a security agent working at an armoured car service, the applicant will need the approval from the Ministry of Justice mentioned in the preceding paragraph. The holder of such approval is only allowed to carry weapons in performance of his duty.

In each case, the weapons should be stored in an armoured storage (safe).

During the authorisation process, the police will make their assessment by consulting the police data, the general conduct of the applicant, etc, but his evaluation is not binding on the authority granting the approval. In case the approval referred to above is denied, the applicant has the right to file a complaint with the administrative court. In this respect, it should be noted that such license and/or approval cannot be refused on the grounds of a proved or supposed membership with a OMCG.

PUBLIC BUSINESS LICENSING LAWS (CAFÉS, BARS, NIGHT CLUBS)

In order to open a café/bar, the applicant requires an approval/authorisation issued by the Ministry of the Economy. Such approval/authorisation will be refused if the applicant has been convicted of an infringement of the Luxembourg tavern law.

Once the approval/authorisation from the Ministry of the Economy has been granted, an additional authorisation will need to be obtained from the Customs administration (*Administration des Douanes et Accises*) which will conduct consultations depending on the type of license applied for.

In contrast to the legislation in Belgium and the Netherlands, Luxembourg legislation does not provide for a number of different legal instruments allowing mayors (*maires*) to take actions against fraudulent local businesses etc., focus on structural screening procedures for OMCG clubhouses, weapon license policies, screenings within the private security sector, ban on assembly between criminal MC members.

Luxembourg does not have any prohibition legislation (*banissement*), such as the typical German ban laws and the ban used and applied by the German Federal Interior Ministry.

CLOSING REMARKS BY THE LUXEMBOURGISH DELEGATION

Luxembourg fully supports the efforts undertaken in drafting administrative measures in order to tackle organised crime in a more effective manner in the Euregion Meuse-Rhine. In this regard, we consider that these recommendations constitute an important breakthrough with a view to optimizing our existing instruments.

However, Luxembourg's legal framework, as well as the fact that Luxembourg does not formally belong to the Euregion Meuse-Rhine, implies that Luxembourg is not legally bound or able to implement in full these ambitious recommendations on its national territory.

3.4. NORTH RHINE-WESTPHALIA – GERMANY

THE ADMINISTRATIVE APPROACH IN NORTH RHINE-WESTPHALIA (NRW) TO FIGHTING CRIME COMMITTED BY OMCG

OMCG SITUATION IN NORTH RHINE-WESTPHALIA

The biker gang scene in NRW is characterised by a significantly accelerated expansion of OMCG. At present there are around 100 charters or chapters with over 2,100 members in NRW.

Findings from investigations and police evaluations independent of criminal proceedings as well as studies synthesising investigations on the national and international levels demonstrate that the OMCG are heavily involved in organised criminal activities. OMCG operate across borders and use their international organisational structure. Their main fields of activity lie in drug and arms trafficking as well as nightlife-related crime. It is precisely these activities in red-light districts and the bouncer milieu that repeatedly lead to violent confrontations, at times involving guns, between rival OMCG.

CONTROL STRATEGY AND INITIATIVES

The Ministry of Home Affairs and Local Government of NRW has declared that combatting crime committed by OMCG is a high-priority objective of the NRW-wide crime control strategy.

On the basis of a strategic-operational framework concept worked out by the German federal government and the states, the NRW police has developed a comprehensive action plan that - alongside resolute fulfilment of the tasks of protecting against threats to public safety and prosecuting criminals - includes intensified police education, proactive public relations work and above all networking and close collaboration with the public administration (administrative approach). The responsible authorities in NRW are pursuing a zero-tolerance strategy to combat crime committed by OMCG and shall not tolerate any law-free zones.

In this context, the NRW State Crime Authority (LKA) published the case study „Fighting crime committed by OMCG - exploiting the full potential of the administrative approach“, which offers an overview of the legal framework conditions and their practical implementation possibilities to all district police authorities in North Rhine-Westphalia. Within this context, the following measures are highlighted as the most effective ones:

Bans on associations

On the basis of police intelligence and judicial investigations, the responsible Ministries of Home Affairs can ban an OMCG or its sub-organisations if their purpose or activities run counter to the criminal laws. Associated with the ban is confiscation of the association's assets as well as a prohibition on displaying the symbols of the respective OMCG (or charter or chapter) in public.

Banning symbols on club vests (“Kuttentrageverbot”)

OMCG use their symbols to demonstrate power, to provoke, and in particular to reinforce their supposed (self-asserted) „territorial claims“. On the basis of the Regulatory Authorities Act [*Ordnungsbehördengesetz*], the responsible authorities in the individual case prohibit the display of typical OMCG symbols, in order to impede violent confrontations between rival gangs, e.g. at public festivals or in connection with court hearings or trials.

“Stop talks” (Gefährderansprachen)

The local police give warnings to potential offenders by talking with functionaries of OMCG, to prevent the formation or further development of OMCG structures at a very early stage. In addition to clarifying the objective of the official measures, the OMCG are informed that all available instruments will be used against them. “Stop talks” are conducted at a low threshold when a local charter or chapter is founded, when looking for club houses or planning biker events. A strong police presence at relevant events and the exercise of high control pressure on the OMCG are corresponding measures.

Preventing commercial activities

In red-light districts and the bouncer scene, OMCG seek to gain influence by running clubs or bars and by providing guard and security services. The measures of the responsible authorities seek to prevent an infiltration of OMCG structures into commercial areas. The authorities strictly check the legally required reliability for the security services sector as well as verifying the requirements for the necessary concession to run clubs and bars. In this context, the use of police or judicial information is always examined. As part of a comprehensive approach, the authorities also check e.g. elements of building law, immissions and infection protections as well as hygiene-law aspects.

Conditions regarding ride outs

Ride outs, or so-called „city runs“, and concentrated gatherings of OMCG members in public areas must be understood as an expression of dominance and as targeted provocation of rival OMCG. They have a high impact on the public and significant effects on public security and order. The road traffic authorities place strict conditions and constraints on the required authorisation, thus making the event less attractive for the participants.

Networking

In North Rhine-Westphalia there are more than 700 networks on the local and regional levels e.g. local law enforcement partnerships between police and administrative authorities for the situation-dependent, case-by-case examination of administrative-law options, which offer a basis for proactively limiting the action possibilities of OMCG.

In the border regions with Belgium and the Netherlands various forms of cooperation have been established, e.g. NeBeDeAgPol and PER - working group of German and Dutch police authorities in the Euregion Rhine-Meuse-North - in order to meet the special regional needs for close cross-border police cooperation. Along with the information channels via Europol and Eurojust, these working groups already offer a forum for an expanded and direct exchange of the police authorities in the Euregions.

Regular exchanges take place with the Netherlands in the form of “work shadowing”, e.g. in the authorities of Aachen, Kleve and Münster. Dutch police officers regularly visit the State Crime Authority (LKA) of North Rhine-Westphalia. Through this initiative - on the basis of the German-Dutch Police and Judiciary Treaty - a permanent network is being developed for the purpose of exchanging information on fighting OMCG-related crime.

Within the framework of the EU-funded encounter programme “door-opener financial investigations” (*Türöffner Finanzermittlungen*) for the Euregion (Gronau/ Enschede), financial investigators from the Euregion with support of the State Crime Authority, the FIU and the RIEC, the government prosecutors as well as Customs and Tax Investigation Offices developed a so-called “Barrier Model”; Financial investigations targeting OMCG.

RECOMMENDATIONS FOR ACTION

Not least the structure controlled from the Netherlands of the - in the meantime banned - „Satudarah MC“ in Germany and its cross-border activities in drug and arms trafficking highlight the necessity of international cooperation to fight crime by OMCG. Currently one can find cross-border criminally and regulatory relevant activities of OMCG in the Aachen region. Overall there is an increase in the cross-border activities of OMCG.

The police and administrative law, bilateral and multilateral treaties and cooperation offer foundations for an intensive international cooperation. Essentially what it comes down to is establishing a cross-border fully comprehensive knowledge base, to evaluate the situation in a coordinated manner and jointly implement control concepts. The representatives of North Rhine-Westphalia in the project group see possibilities for intensifying, structuring to a higher degree and institutionalising the implementation of the administrative approach to fighting OMCG on the international level. The following steps should be examined:

Networking

The network established on the basis of the German-Dutch Police and Judiciary Treaty (Treaty of Enschede) for the purpose of exchanging information between police departments on fighting crime by OMCG of the Dutch police (*Landelijke Eenheid, Eenheden Limburg, Oost- and Noord-Nederland*), of the German Federal Crime Authority, the State Crime Authorities of Lower Saxony and North Rhine-Westphalia can be further expanded. Belgium and Luxembourg should be offered the possibility of participating.

Exchange of experiences/ best practises

The many possibilities of the administrative approach, on the one hand, and its varied forms of implementation in Belgium, Luxembourg, the Netherlands and NRW, on the other, must be made adequately known to the responsible authorities. For this purpose, an international „Administrative Approach – Best Practise“ workshop with corresponding documentation should be organised.

Case conferences

Inter-agency „case conferences“ - where all participating agencies sit down at the same table to jointly assess the situation and work out a harmonised concept for the measures to be taken - have proven exceptionally valuable in North Rhine-Westphalia, e.g. in the context of combatting multiple offenders. In the event of identified cross-border activities of OMCG, one should organise case conferences that are oriented on the administrative approach of North Rhine-Westphalia as well as the Dutch „Barrier Model“ - as necessary via contact partners to be named.

CLOSING REMARKS BY THE DELEGATION OF NORTH RHINE-WESTPHALIA

The conclusions and recommendations in chapter 5 on developing the administrative approach concern - to a great extent - administrative authorities. The organisational and structural framework conditions and jurisdictional boundaries between the police and the administrative authorities in NRW on the one hand, differ fundamentally from the corresponding arrangements in Belgium and the Netherlands on the other. Moreover, there are special features in Germany resp. NRW with regard to the legal possibilities of inter-agency as well as international information exchange.

It should be pointed out that NRW is represented in the project group with police expertise and in the short time available the results could not be coordinated with responsible offices of the administrative authorities.

The representatives of North Rhine-Westphalia emphasise that the recommendations of the project group - against the background of the cross-border relevance - appear, after professional police evaluation, to be reasonable and appropriate for preventing or countering dangers and disruptions of public security and order by criminal OMCG structures, especially infiltrations of the economic sector. Against this background, the representatives of North Rhine-Westphalia express their willingness to collaborate in the further project work. Furthermore, they intend to inform the responsible offices of the administrative authorities about the results of the project group and to recommend an examination of the recommendations and subsequently participation (as appropriate) in their implementation.

4

CROSS-BORDER COOPERATION

International exchange of information is essential to international cooperation in the field of administrative measures. Police and judicial information as well as information provided by public administrations can place administrative authorities in a stronger position to apply measures. On the other hand, information from administrations can be of vital importance to investigations by law enforcement. This chapter examines the bottlenecks in cross-border cooperation on the basis of the existing legal framework for the exchange of information for administrative purposes as well as several cross-border cases.

4.1. LEGAL FRAMEWORK FOR PROVIDING INFORMATION IN THE BENELUX UNION

For a good administrative approach to organized crime, it is essential to rely on an efficient information exchange in the border regions. Although it is possible to refer to public international sources such as files from international business information bureaus as well as the registers of foreign Chambers of Commerce, the need for foreign criminal, legal and fiscal information is huge. Cross-border information exchange is ruled by different treaties, but it is faced with difficulties regarding its use for administrative purposes.

The exchange of personal data within the framework of the administrative approach can take place on the basis of the Convention implementing the Schengen Agreement (CSA). The CSA deals with providing legal information for the needs of a criminal procedure. Data exchange is possible in accordance with article 39 CSA (mutual assistance between police services, more precisely provided for in the Benelux Police Treaty) and article 45 CSA (“spontaneous” information exchange).

However, a number of conditions must therefore be met. If the data are used for an administrative intervention, i.e. for other purposes than foreseen in the CSA, the releasing party must give its approval, and the data must be used with respect of the legislation of the receiving party (art. 126, paragraph 3, under a, CSA).

The formal conditions apply to the spontaneous transmission of police data within the framework of the administrative approach. The releasing party must agree with the use of police data for administrative purposes (art. 129, under a, CSA), and the data can then only be transmitted to the police services. Providing boroughs with information can only take place with the previous consent of the Member State which provides the information (art. 129, under b, CSA).

The Benelux Police Treaty aims at extending the possibilities of police cooperation within the limits of maintenance of law and order, protection of persons and goods, as well as for the prevention and detection of punishable deeds.

Article 10, paragraph 1, of the Benelux Police Treaty states the following:

“The competent authorities of the Contracting Parties can exchange personal data contained in the registers as referred to in annex 4 (for the Netherlands, the register referred to in the law on police data ; for Belgium, the national general database) if this exchange is essential to efficiently carry out police missions in the territory of the Contracting Parties, considering that it is only possible to provide another Contracting Party with personal data in order to prevent a grave and imminent danger or to detect a criminal offence which seriously affected the legal order of the receiving Contracting Party, unless this is a request concerning a specific person or case”.

In compliance with this article, the exchange of personal data for administrative purposes is not possible. In annex 2 to the treaty, the Dutch and Belgian police services are referred to as competent authorities. As a result, personal data cannot be (directly) exchanged with the administrative authorities.

The aims defined in article 10, paragraph 1, do not apply if a request concerns a specific person or case. For the exchange of personal data on demand, article 10, paragraph 2, of the Benelux Police Treaty determines that articles 126-129 CSA apply by analogy.

In accordance with article 129, under b, CSA, it is only possible to provide data given to municipalities after the releasing Party has given its consent to the transmission. In this case, personal data can be sent to the administration, based on art. 10, paragraph 1, of the Benelux Police Treaty.

Beside the exchange on demand, personal data can also be spontaneously communicated in line with article 13 *et seq* of the Benelux Police Treaty. The data relating to a specific person or case can also be transmitted without a corresponding request. In case of a spontaneous transmission of personal data to the police service of a receiving party, the central authority of the releasing party must be immediately informed by the authority which provided the information. As the provisions of 126-129 CSA were not declared applicable, the conclusion is that the direct exchange of personal data within the framework of the administrative approach is not possible on the basis of the Benelux Police Treaty.

4.2. CROSS-BORDER CASES IN THE EUREGION MEUSE-RHINE

BELGIUM

Example in practice: use of the administrative instruments by Belgian municipalities in the Euregion Meuse-Rhine

As a result of the pressure put on the OMCG by the Netherlands and Germany, several municipalities – when confronted with the displacement of the groups to Belgian Limburg – forbid and/or regulated the OMCG activities in the public domain. Other cities tried to prevent the implantation of a local club in their city by using ‘stop talks’, mayor’s decisions and the refusal of licenses. These were however uncoordinated initiatives by individual mayors, beyond which no explicit overall strategy was present.

The provincial level therefore has worked on raising awareness among all Limburg mayors regarding their responsibilities and their instruments in the exclusion of criminal motorcycle gangs. The neighbouring provinces of Antwerp, Flemish Brabant, and Liège were invited to be part of the same dynamic.

Under the coordination of the governor of Limburg, mayors recently decided to jointly adopt a deterrent position when it comes to allowing events in the public domain and the establishment of club houses on their territory.

THE NETHERLANDS

OMCG in the Dutch province of Limburg

The multi-agency approach of the province of Limburg is similar to the national integrated approach to OMCG described in chapter 3 with the addition of an extended international component.

Situated between Germany (North Rhine-Westphalia) and Belgium (province of Limburg, Liège and part of the German speaking community), the influences from the neighboring countries, especially in the OMCG world are absolutely present. The south of Limburg counts 600,000 inhabitants, the Euregion Meuse-Rhine over 4 million.

Seen from an international perspective the OMCG situation becomes more complicated. Chapters of OMCG that are not present on Dutch territory are situated just across the border in Germany and Belgium. The rivalry between the different OMCG is huge. The situation in Germany was and is severe. Luckily the contacts between the OMCG info cells in the three countries are good and information is shared on the different OMCG-related developments.

There is a growing fear of cross-border conflicts between chapters. We see that members of foreign OMCG chapters live in the Netherlands. We follow conflicts between OMCG in Germany and Belgium and judge the consequences for Dutch territory based on information from foreign authorities. On the other hand we are confronted with disputes between OMCG which can be of importance to our neighbouring countries.

Information is shared between police info cells under the construction of the so-called NeBeDeAgpol. Up until now no information is shared between administrative authorities in the mentioned countries. Mayors of municipalities in different countries are in need of cross-border administrative information from their colleagues. Furthermore they want to share best practices in OMCG-related cases.

At the moment there is an EMR initiative to arrange an international structure where administrative information can be shared. For details we refer to the EMR project on administrative approach to OMCG and the proposals made in this report.

CROSS-BORDER CASES IN LIMBURG

A fictive case (based on reality): Belgian rock festival

The Belgian municipality of Maasmechelen rejects a permit for organizing a rock festival. The rejection is based on the fact that the festival will probably be a meeting ground for rival OMCG and that a conflict between these rival OMCG in the past has resulted in the murder of 3 members. The Belgian police suspects that the organizer, after being rejected in Maasmechelen, wants to move the festival to the Netherlands (Limburg region) and apply for a permit there. The Belgian police has important police, judicial and administrative information but does not know in which municipality the organizer will apply.

They turn to the RIEC Limburg, which has an overview of and contacts within all the municipalities of the Limburg region. However, because of legal restrictions, the information can't be shared for administrative purposes. An administrative measure by a Dutch municipality would be based on this information and is therefore prohibited and impossible.

Ride out

According to intelligence from the Belgian police, the Hells Angels Motor Club (HAMC) Rekem wants to organise a ride out in cooperation with the HAMC Kerkrade. This ride out will start in Rekem, Belgium, and will then head to Kerkrade in the Netherlands. This is where the event will be concluded with a barbecue. Because it is unclear which route shall be taken, RIEC Limburg ensures that all 17 municipalities in South Limburg file a cease and desist order to both the HAMC Rekem and the HAMC Kerkrade. There have been no appeals against these decisions. This is why a judge has not reviewed whether these municipal decisions were the correct response to the Belgian intelligence.

Members of foreign chapters

It is a known fact that members of (illegal) German chapters of OMCG are residing in several Limburg municipalities on the German border. The OMCG info cell of the Dutch National Police has access to German police and judicial information. The municipality, however, does not. The question is whether this type of German intelligence can be shared with a Dutch municipality by the Dutch National Police in certain cases, such as permit applications. Experiences with the National Bureau BIBOB (LBB) have taught us that police or judicial information for administrative purposes is rarely received from abroad. Administrative information from other countries is not sought by the LBB when applying the BIBOB Act.

Informing mayors

After what transpired with the HAMC in Kerkrade, it is decided that the mayor will have protection from now on. His colleague in Maasmechelen, Belgium, had to find out about this by reading it in the newspaper. He brings this to the attention of the Belgian public, wondering why a fellow mayor less than 30 kilometers away needs to be protected for being in trouble with OMCG, without anyone informing him about the fact. After all, chapters of rival OMCG are present in Maasmechelen. One of those OMCG is the HAMC.

4.3. CONCLUSION

Especially in the border regions the limitations of cross-border information exchange for administrative purposes make it more difficult to effectively apply administrative measures. The cases show that application of administrative measures by a municipality can be impossible because information from another country cannot be shared for administrative purposes. In some cases information was shared with Dutch municipalities through the RIEC but there is no jurisprudence available yet that confirms that this is allowed. Another problem is the lack of consultations or cooperation between municipalities on both sides of the border as illustrated by the Kerkrade case.

It is essential that the exchange of information for administrative purposes between the countries be improved. With this in mind two proposals have been put forward. First, the Benelux Treaty on Police Cooperation could be amended to facilitate the exchange of information for administrative purposes. Second, it would be useful to examine the possibilities to create a pilot project to set up a structure for a multi-agency cooperation, including administrative authorities, which should include information exchange for administrative purposes in the Euregion Meuse-Rhine.

5

CONCLUSIONS AND RECOMMENDATIONS

In this final section, the Benelux NRW working group on the administrative approach to organised crime formulates the following conclusions and recommendations³:

1. Considering the issue of crime related to OMCG, the information exchange between mayors, administrative authorities and law enforcement agencies in the Benelux in general and in the Euregion Meuse-Rhine in particular has to be reinforced

Mayors in the Euregion Meuse-Rhine call for more instruments to be used against OMCG, such as morality checks within permit demand procedures. In order to strengthen their information position, local and supra-local administrations should be assigned

clearer responsibilities vis-à-vis criminal persons and groups which are trying to force their way into local businesses. More concretely, local administrations should be able to obtain more legal (criminal records, court decisions) as well as fiscal information with regard to questionable and suspicious demands for permits, allowances or subsidizations.

In addition to this, administrations should be supported to fully implement their possibilities to tackle organised crime in general and OMCG in particular.

³ Comments by the delegation of NRW: The conclusions and recommendations on developing the administrative approach concern - to a great extent - administrative authorities. The organisational and structural framework conditions and jurisdictional boundaries between the police and the administrative authorities in NRW on the one hand, differ fundamentally from the corresponding arrangements in Belgium and the Netherlands on the other. Moreover, there are special features in Germany resp. NRW with regard to the legal possibilities of inter-agency as well as international information exchange. It should be pointed out that NRW is represented in the project group with police expertise and in the short time available the results could not be coordinated with responsible offices of the administrative authorities.

The representatives of North Rhine-Westphalia emphasise that the recommendations of the project group - against the background of the cross-border relevance - appear, after professional police evaluation, to be reasonable and appropriate for preventing or countering dangers and disruptions of public security and order by criminal OMCG structures, especially infiltrations of the economic sector. Against this background, the representatives of North Rhine-Westphalia express their willingness to collaborate in the further project work. Furthermore, they intend to inform the responsible offices of the administrative authorities about the results of the project group and to recommend an examination of the recommendations and subsequently participation (as appropriate) in their implementation.

2. An administrative approach to crime related to OMCG implies repressive actions on the administrative level through inspections, control actions and sanctioning mechanisms. In order to effectively apply such measures a cross-border barrier model is developed

In order to effectively counteract criminal OMCG activities, a clear set of multi-agency enforcement actions is essential. High-risk areas and economic sectors vulnerable to misappropriation of funds should be dealt with first. Besides that, a well-considered system of administrative fines or other administrative measures should be implemented and enforced.

As the administrative approach functions as a necessary addition to e.g. the judicial system, linkages and policy fine-tuning are needed between the different methods of law enforcement.

In order to effectively apply all possible instruments, a cross-border barrier model should be developed and disseminated to all partner organisations involved. The barrier model is a method for determining what barriers partner organisations can set up against criminal activities based on existing instruments and laws. For every component it is reviewed which partner is in the best position to prevent criminals from abusing legal structures.

3. A well-considered administrative approach to organised crime brings the detection and repression of organised crime into balance with citizen's privacy protection, the duty of professional confidentiality, the secrecy of investigation and legal protection

Enforcement actions by local and supra-local administrations against organised crime phenomena in general and criminal OMCG activities in particular, require the application of well-defined data protection mechanisms and integrity policies.

4. A strong call to set up a pilot project to introduce an international intelligence and expertise centre on the administrative approach to prevent and tackle organised crime in the Euregion Meuse-Rhine, making use of existing structures

Member States of the Benelux and the German State of North Rhine-Westphalia should consider setting up a pilot project aimed at developing an intelligence and expertise centre in the EMR. This project could work on the roll-out of an administrative approach to organised crime, in close cooperation with national and local administrations, police forces, judicial authorities, and key stakeholders within the Benelux and the German State of North Rhine-Westphalia.

Within this project, policy as well as legal expertise on the issue of organised crime should be developed in order to deliver consultancy to key stakeholders for an effective application of existing legal instruments (permit procedures, event security measures, closing of criminal businesses) and for developing methods for screening. Such a pilot project could assist local administrations in developing standard work processes for an administrative approach and embedding it structurally. Furthermore, this initiative on the administrative approach to organised crime, focusing on OMCG, should organize training on warning detection and awareness-raising of public servants on the infiltration of OMCG in legal businesses.

When considering the establishment of such an organisational structure on the level of the EMR, an application for a European grant should be submitted to the European Commission (EC), as subsidizing government, or to the Interreg Programme.

5. Cross-border cooperation with regard to OMCG in the EMR needs to be regulated, optimized and intensified through an operational Benelux Plus declaration of intent on the cross-border exchange of information

Police forces and judicial authorities in Belgium, Germany, Luxembourg and the Netherlands are at present already cooperating in the fight against OMCG on the operational level. Information is exchanged in compliance with the different national legislations. Therefore several working groups have been installed within police organisations (NeBeDeAgPol incl. EPICC) or Justice (BES). Cross-border exchange of information between local administrations, as well as information exchange between local administrations and law enforcement agencies, is still uncommon.

On the European level, OMCG are now mainly being tracked through Europol's Focal Point Monitor and through subsequent expert and operational meetings that are regularly organised by Europol. The threatening nature of criminal OMCG activities, however, calls for a better international cooperation within the European Union. Operational information exchange protocols should be concluded between administrations on the one hand, and police services and judicial authorities on the other. Blind spots in the current European legal instruments need to be removed.

We would like to mention that not only a legal framework for the exchange of closed information could be developed within the Benelux, but that a more institutional framework could operate for the exchange of public information on criminal OMCG activities, like information on club houses, court cases, newspapers, etc.

The delegations of the Benelux and North Rhine-Westphalia would like to propose the conclusion of an operational cross-border declaration of intent between key stakeholders, through which they declare to be willing to exchange administrative information with regard to the fight against OMCG, this in respect with the several national mechanisms and legal possibilities for the exchange of information.

6. The cross-border administrative approach to organised crime in the Euregion Meuse-Rhine should function as an experimental field for EU activities with regard to the administrative approach

The Dutch EU Presidency 2016 will focus on this topic. Experiences and results of the cooperation between the Member States in the EMR with regard to the administrative approach to OMCG, will be included in the EU activities; the Informal Network on the administrative approach will explore which EU Member States deploy administrative measures in the fight against crime related to OMCG.

Furthermore, the fight against crime related to OMCG will be included in the JHA Council conclusions on the administrative approach. Finally, the results of the EMR pilot, the pilot of an intelligence and expertise centre in the EMR and the plans of the Benelux countries to amend their existing police cooperation treaty in order to facilitate the exchange of administrative information between (local) authorities, will act as test cases for future EU initiatives on the administrative approach.

ANNEXES

ANNEX I BENELUX DECLARATION OF INTENT ON THE ADMINISTRATIVE APPROACH TO ORGANISED CRIME

We, the undersigned,

Have today taken note of the results of the 'Administrative approach to organised crime' colloquium held by the Benelux General Secretariat on 28 November 2014.

And emphasise the wish to strengthen cooperation between the administrative authorities of the Benelux countries, including local and supra-local services, within the framework of preventing and fighting cross-border organised crime.

For this purpose one will strive to form an ad hoc working group, composed of representatives from the above-mentioned services in the Benelux countries, to be entrusted with the following tasks:

- exchange of good work practices;
- organisation of consultation between local and supra-local actors in the Benelux on cross-border organised crime;
- organisation of consultation in the Benelux on future European studies on the administrative approach to organised crime;
- reflection, preparation and if possible development of joint initiatives on a selection of phenomena to be addressed in priority, such as human trafficking, drug trafficking and criminal motorcycle gangs;
- preparation of a progress report for the Committee of Ministers of the Benelux by the end of 2015.

It is the intention that the EU activities (cross-border projects and policy initiatives) within the framework of promoting and developing the administrative approach should serve as a guideline for the drafting of this progress report.

In any event, the activities of the informal administrative approach network, as set up at the request of the JHA Council during the Belgian EU Presidency, must be included therein.

In particular, it is the intention that the progress report review possibilities for cross-border information sharing in the Benelux context, in areas such as human trafficking, drugs or motorcycle gangs, for the benefit of the administrative approach, as well as the start-up and continuation of pilot projects in the border regions.

Signed at **Brussels**, on **28 November 2014**, in the Dutch and French languages, both texts being equally authentic.

Belgium

The Netherlands

Luxembourg

ANNEX II

STEPPING UP REGIONAL COOPERATION BETWEEN GERMANY, BELGIUM AND THE NETHERLANDS AGAINST OUTLAW MOTORCYCLE GANGS

Belgium, Germany and the Netherlands work jointly to tackle cross-border problems with outlaw motorcycle gangs. Belgium, the Netherlands and Luxembourg also cooperate on this topic in the framework of the Benelux.

Belgian minister of the Interior, Jan Jambon, Dutch minister of Security and Justice, Ard van der Steur and German State Secretary of Interior, Günter Krings have identified following area's to further step up their regional cooperation for the purpose of tackling crime related to outlaw motorcycle gangs.

1. Tackling cross-border crime related to outlaw motorcycle gangs requires an approach that includes judicial as well as appropriate administrative measures in full compliance of the country specific administrative and legal framework.
2. Therefore Belgium, Germany, Luxembourg and the Netherlands will identify possible ways of stepping up the exchange of administrative information across the borders by the end of the year.
3. Belgium, Germany, Luxembourg and the Netherlands will share best practices and experiences related to banning of outlaw motorcycle gangs and the investigation and prosecution of these gangs as criminal organisations.
4. The Benelux countries seek to amend their existing police cooperation treaty in order to facilitate the exchange of administrative information between (local) authorities.

Luxembourg, 8 October 2015

Jan Jambon

Günter Krings

Ard van der Steur

ANNEX III

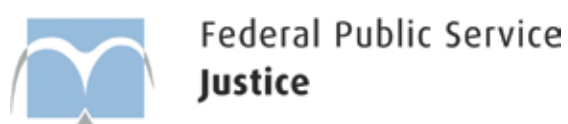
OVERVIEW OF ORGANISATIONS PARTICIPATING IN THE BENELUX & NORTH RHINE-WESTPHALIA WORKING GROUP

BELGIUM

Federal Public Service Home Affairs



Federal Public Service Justice



Federal Police



City of Genk



THE NETHERLANDS

Ministry of Security and Justice



Ministry of Security and Justice

Public Prosecutor's Office

OPENBAAR MINISTERIE

National Police



National Intelligence and Expertise Centre



Regional Intelligence and Expertise Centre



City of Heerlen



LUXEMBOURG

Ministry of Internal Security



Grand Ducal Police



NORTH RHINE-WESTPHALIA – GERMANY

Ministry of Home Affairs and Local Government of the State of North Rhine-Westphalia

Ministerium für Inneres und Kommunales
des Landes Nordrhein-Westfalen



Ministry of Justice of the State of North Rhine-Westphalia

Justizministerium
des Landes Nordrhein-Westfalen



NRW State Crime Authority



BUREAU FOR EUREGIONAL COOPERATION



EUREGION MEUSE-RHINE



GENERAL SECRETARIAT OF THE BENELUX UNION



ANNEX IV

MAP OF THE BENELUX AND NORTH RHINE-WESTPHALIA



