

Process evaluation & Action Research EURIEC

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Process evaluation & Action Research EURIEC

Interim-report

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1. Introduction

Researchers from the Maastricht Institute for Criminal Sciences (MICS) are tasked with the scientific process evaluation of the EURIEC project. The purpose of this interim report is to give a first glance at some of the results and to provide some initial insights. However, it is not the aim to make final conclusions about the project, as the scientific depth of the results is still too limited. The results presented in this preliminary report lean heavily on impressions that have emerged from the empirical research up till now. It lies within the nature of an evaluation of any kind that detailed conclusions can only be drawn after the project has finished.

In the strategical framework of the scientific evaluation of EURIEC, the aim is to identify:

- Expectations of relevant stakeholders concerning the administrative approach (in the national and cross-border context) and the role EURIEC may play in that respect.
- Level of satisfaction of relevant stakeholders concerning the administrative approach (in the national and cross-border context) and the role EURIEC in that respect.
- The scientific basis of strategic and judicial knowledge including the coherence of the administrative approach in a cross-border context.

According to the EU-Commission, scientific evaluations address the effectiveness, efficiency, coherence and/or added value of an intervention, or provide due justification why this is not the case.¹ Evaluations help the Commission and other stakeholders to learn about the functioning of EU-interventions and assess their actual performance compared to initial expectations. They look at the wider perspective and provide an objective judgement of the situation based on the evidence available. A scientific evaluation must be based on a viable problem definition. Defining the problem correctly is an important step in the preparation of a new initiative because if the problem (and its causes) is poorly understood, then it will be difficult to evaluate the implementation and impact of it.

A distinction is made in the literature between evaluations that scrutinize the assumptions that lie at the root of a policy (*plan evaluations*), evaluations that focus on the ways the policy is implemented in daily practice (*process evaluations*) and evaluations that try to measure the impact of policy interventions (*effect or impact evaluations*). The latter is a very complex form of evaluation in policy interventions that are aimed at tackling and preventing organised crime. Three problems are adding to this methodological complexity. One is that organized criminals generally try to hide the illegal nature of their business, which makes it difficult to (re)act to this behaviour. The second is related to causality. The success (or failure) of the administrative approach towards organised crime is hard to visualize and assess. Although from a political perspective it may be tempting to claim successes in this regard, from a scientific point of view such claims are often rather debatable. Third, as the EURIEC was only recently established, it does not make sense trying to measure effects of this policy at this stage.

¹ <https://ec.europa.eu/info/sites/default/files/better-regulation-guidelines-evaluation-fitness-checks.pdf>

Thus, the evaluation of EURIEC does not take the form of an impact evaluation. The nature of the project is a mixture of a plan- evaluation and a process-evaluation. This means that attention is paid to the plans that lie at the root of the (cross-border) administrative approach and the dynamics that shape the way in which policy plans are implemented and executed in daily practice. These dynamics are based on three key elements.² First, the parties and individuals involved must be aware of the intervention (and the underlying policy), know what the intervention is about and what is expected from them. Second, they must be able to execute the policy as planned, which means (amongst others) that they have sufficient manpower and means, skills and expertise, and that they can rely upon appropriate, reliable and valid tools (for instance to share information). Last but not least, the agencies and individuals involved must be willing to co-operate. All these elements are strongly interconnected. The literature shows, however, that the aspect of willingness is often the decisive factor. The implementation of a new policy is destined to fail when general interests do not run in alignment with the interests of the agencies and individuals involved.

EURIEC is by its very design based on a multi-organizational approach involving a variety of different partners and stakeholders from Germany, Belgium and the Netherlands. The scientific evaluation is therefore aimed at identifying and analysing the relevant factors and circumstances that may enhance or impede mutual collaboration between partners, stakeholders and individuals. Consequently, different disciplines may contribute to formulate relevant insights, including sociology, psychology, organizational studies and public administration. This scientific evaluation is supportive in nature for the implementation of EURIEC and can therefore also be considered 'action research'. The starting point of this type of research is to optimize the policy process and to overcome the initial problems that often accompany the introduction of new policies. The EURIEC stakeholders receive direct feedback from the scientists during the research and can then adjust their activities and efforts based on these feedback-loops. This action research approach has been recently implemented successfully in other projects conducted by Hans Nelen and others as well. Particularly, the evaluation study and action research of Maastricht University and Erasmus University of interventions that have been developed in the Netherlands to prevent and contain subversive forms of organized crime (“ondermijning”) should be mentioned. Certain synergy effects that have been identified in this project will be exploited for EURIEC as well.

Within the lifespan of the EURIEC, a number of relevant problems have already been identified and addressed by the project team itself. For example, a growing problem of cross-border activities of organized crime respectively in the Meuse-Rhine border region makes legal cooperation between the Border States (the Netherlands, NRW and Belgium) necessary. The fight against organized crime networks requires not only legal cooperation in criminal matters but also cooperation on an administrative level for example through data exchange. Including administrative measures for law enforcement purposes is generally referred to as the administrative approach. A number of problems and challenges exist concerning

² Leeuw, Nelen (2012) Counter-Terrorism Evaluation. P. 14.

this administrative approach particularly when implemented in a cross-border context. The EURIEC project identified the following problems:

- Different legal frameworks in the three states.
- Competencies, capacities and legal powers of the stakeholders and administrative bodies vary between the three states.
- Possibilities for data exchange over the borders are limited.
- Many stakeholders lack awareness regarding the problem of organized crime activities as well as of the role the administrative approach may play in the fight against it.
- The existing language barrier makes an exchange of data, a coordinated approach difficult and clear case definitions difficult.

The aim of this interim report is to provide some initial insights. Indeed, it lies within the logic of any scientific evaluation that a complete picture can only be derived after the project is finished. At this stage of the project, results are limited since many of the initiatives are not implemented yet. Moreover, the Corona-crisis has resulted in many challenges for EURIEC, as well as for the evaluation process. Among other things, access to interview partners were limited to telephone or video contacts.

2. Context and scope of the scientific evaluation of EURIEC

A scientific evaluation has to orient its scope of research at the goals set out in the project. These goals act like a guideline for the evaluation: they set the standard for the evaluation. While EURIEC has set out to reach a number of complex and diverse goals the following goals were identified as being the most significant for the scientific evaluation:

- Bring together the front workers of all three countries and provide them with an expert platform.
- Bring together experts (legal, law enforcement, administration) to search for
 - a. practical solutions for specific problems related to cross-border cooperation in the fight against organized crime.
 - b. to provide information relevant for the fight against cross-border organized crime and its undermining effects.
- Identify and address problem areas of administrative cooperation over borders.
- Work together, analyze specific cases, and make suggestions for possible intervening measures.

The set out goals are expected to be reached by:

- Developing strategic and judicial knowledge based on collected cases to support and advise stakeholders in the application of legal instruments.
- Developing a screening procedure to prevent and oppress the undermining and infiltration of organized crime.
- Developing and implementing of a standardized procedures of a cross-border administrative approach.

- Training and awareness raising among administrative staff for the administrative approach against organized crime.
- Identifying crime trends.
- Formulate recommendations to optimize legislation.

Specific tasks of EURIEC are:

- To build up a cross-border case collection with cases provided by stakeholders. These cases will be analyzed by the EURIEC team.
- To develop strategic advice concerning the legal framework of a cross-border administrative approach
- To write reports based on the cases to a) identify the problem areas and b) propose legal solutions to the identified problems.
- To develop barrier models
- To develop streamlined definitions of crucial concepts and a comparison of definitions in all three languages.
- To raise awareness among stakeholders about possibilities of the cross-border administrative approach by informing about undermining dynamics and specific possibilities of implementing administrative measures to prevent and fight against them.

While these goals provide a rough benchmark for the scientific evaluation they are neither exhaustive nor do they limit the evaluation process. Based on these goals, the research questions formulated for the evaluation are:

1. How is the implementation of the EURIEC shaped and carried out, what are the assumptions behind it and what are the intended benefits?
2. What learning points can be derived from the implementation process, with regard to the course of the process, the knowledge and resources available and the efficiency of the implementation? What explanatory success and failure factors play a role in this? What possible unforeseen mechanisms occur and how are they dealt with?
3. How do the partners of EURIEC experience the cooperation? How do the most important bottlenecks and points for improvement that those involved bring up, relate to insights from the (scientific) research literature? How can the cooperation be further strengthened?

3. Conceptualization of this scientific evaluation

Designing the evaluation means identifying the nature and sequence of tasks, assessing data and data collection methods and the range of analytical methods to be used to deliver the evaluation. Evaluations require a critical assessment – using robust and reliable data drawn from a range of sources and analyzed in an appropriate manner. Evaluations need to present a clear chain of logic between the data, analysis and conclusions and highlight any particular strengths or weaknesses.

In the framework of a consultation-strategy developed in close coordination with the EURIEC-team a regular communication was established with updates on all activities. The evaluation team has been present at the steering group meetings and was granted access to the case analysis system. A member of the evaluation team has attended team meetings in Hoensbroek and Cologne to achieve a better understanding of workflows and the overall approach. Also, a team member participated in a workshop with majors from German border cities at the Bezirksregierung Cologne. The supervisor of the project gave a number of presentations during meetings of the steering group (“Stuurgroep”) and guidance committee (“Klankbordgroep”). Additionally, data from stakeholders was collected through an ongoing online survey to assess expectations of a cross-border administrative approach. The survey will be conducted over the lifespan of the entire project. Moreover, through semi-structured interviews with a variety of stakeholders – mostly representatives of municipalities and law enforcement agencies (N=10) – more detailed data was collected.

4. Preliminary Results

As aforementioned, detailed data on EURIEC were collected in interviews with stakeholders from all three countries. The content of the interviews focused on the interviewees' expectations of EURIEC, as well as more in-depth questions on the assessment of the greatest challenges for the administrative approach in a cross-border context. The focus was on personal experiences and assessments of the interview partners. Hence, results cannot be generalized easily. Due to the pandemic, the interviews were conducted by telephone or online. Selection was made by means of snowball sampling: contacts were established through a personal approach or by reference from one of the projects stakeholders.

a) Challenges of Cross-Border Data Exchange

Unsurprisingly, almost all interviewees from Germany see the greatest problems in data exchange. The difficulties relate not only to the cross-border exchange of data but also to the exchange of data between German authorities. One interviewee gave the following example: In trade licence proceedings, information about traders can be obtained but not from the tax office. The police, on the other hand, can only obtain information during a formal investigation. Therefore, law enforcement agencies (police, customs, etc.) like to use trade controls to obtain information about certain individuals. Many interviewees therefore saw the possibility of taking

preventive action against individuals, i.e. prohibiting a trade before a police investigation is initiated in Germany, as very limited.

b) Challenges Administrative Approach

The administrative approach is known to German authorities but is still in its infancy. The existing reluctance of German authorities with regard to cross-border data exchange is even greater the further away they are from national borders. This is 'genetic' and internalized. There is little confidence in Belgium and the Netherlands that data will be handled carefully. According to the Aachen police, the administrative approach is practiced regularly, for example, in joint controls by the tax investigation department, the public order department and the fire department. In the area of organized crime, however, the focus is clearly not on the administrative approach. This seems to be consistent with the scepticism of administrative authorities to be involved in the fight against OC structures. In this respect, one interview partner noted that the establishment of EURIEC has indeed been well received by the municipalities. However, there is also a rather wait-and-see attitude and the lack of pioneering spirit typical of German authorities.

c) Challenges Posed by Corona Pandemic

According to the unanimous assessment of the interview partners, the Corona pandemic has had a negative impact on the further development of the administrative approach in NRW as well as on the cross-border cooperation with the Netherlands and Belgium. In this respect, the priorities of the authorities have clearly shifted from fighting crime to fighting the pandemic. Existing capacities can therefore not be used. According to one interviewee, on the other hand, in the Netherlands the pandemic has hardly affected administrative cooperation. Only the tax office and police were briefly unable to carry out some interventions due to the pandemic.

5. Expectations of the interview partners to EURIEC

During the interviews, the respondents highlighted several expectations in relation to cross-border cooperation and the contribution of EURIEC in that respect. The most important ones are summarised below:

- EURIEC should raise awareness of the possibilities of the administrative approach. Also, municipalities should approach EURIEC proactively and get more involved e.g. by providing cases. Overall, the issue needs to become better known in Germany and Belgium.
- Municipalities in Germany seem to turn a blind eye on the problem of 'Ondermijning'. Again, education and raising awareness of the problem needs to take place.
- Confidence building measures are needed. Especially German authorities not close to the border need to be educated about data protection regulations and compliance with European data protection standards in the Netherlands and Belgium.

- Make Dutch authorities more aware that German/Belgian authorities have far less powers. Therefore, if cooperative measures are not realized, it is not always due to a lack of will, but to a lack of possibilities.
- Cooperation across the border requires above all a willingness on the German side to act less bureaucratically and more flexibly.
- Increased networking of police and law enforcement agencies is an important prerequisite for successful cross-border cooperation of administrative authorities, especially because police channels across the border already exist.
- Clarification of the role of mayors in Belgium and Germany. In the political tradition of both countries, the mayor's office is weak from an executive point of view. A shift of power towards more executive powers is delicate from a political point of view.
- In general, data exchange between authorities (both within Germany and across borders) has to be facilitated more directly. The data exchange could initially be limited to specific cases.
- Developing an expert platform to build trust is better than relying solely on purely formal exchange procedures.
- In addition to analysing specific cases, EURIEC might also contribute to analysing crime phenomena in border regions.
- In Germany, enabling bases for data exchange are needed at the state level. Legislation must create the conditions to enable the flow of data across borders. There is a need for a clear allocation of competencies at the municipal level, as the first question that public officials ask themselves when processing cases is: am I responsible and what powers do I have? In concrete terms, for example, this is required: When registering a business in Germany, it must be possible to completely screen the applicant and all available information must be exchanged. It should be noted that the Aachener Declaration is a declaration of intent to strengthen cooperation, but it does not contain the intention to change the legal situation. A corresponding extension of the declaration was cancelled due to the pandemic.

6. An interesting example of administrative cross-border cooperation: the case of Gronau-Enschede

The scientific evaluation of EURIEC also tries to identify best practices for cross-border cooperation by analysing specific projects. The EURIEC project team has recently established various cross-border information and expertise platforms in which representatives of Dutch and German administrative authorities participate. Similar platforms exist in which Dutch and Belgian representatives are active. However, these platforms are rather new and do not provide sufficient insight yet in the dynamics of cross-border cooperation. That's why the researchers of this evaluation decided to focus in the first stage of their project on the cooperation between the cities of Gronau and Enschede. This pilot project is not officially regarded as part of the EURIEC-project. However, as it was already launched in 2018, this project may provide us with preliminary

insights of cross-border co-operation between the Netherlands and Germany. The lessons learned may also be of added value for EURIEC.

The initial spark for the pilot project arose during joint meetings authorities of both cities. There it became apparent that many persons were apparently deliberately exploiting the border for illegal activities as their names appeared repeatedly on both sides of the border. The presence and commitment of pioneers at both sides of the border was decisive for the start of the project. Based on the so-called policy Triangle (police, public prosecutor, mayor), cross-border cooperation between the Netherlands and Germany has been pushed in both cities since 2018. At the core of the project is the question: what is possible in cross-border cooperation at the administrative level, especially with regard to data protection?

Methodologically, the focus is on a case-by-case approach. This explorative approach is intended to identify problem areas. For example, a joint project on predictive policing in the area of burglary in Gronau was terminated because it was not possible to synchronize data processing.

The pilot project focuses on several areas:

- **Creating trust:** One focus of the pilot project is to create trust between the stakeholders. Therefore, the same participants are always involved. Information is shared across borders even if it is unclear whether this is legal. The intention is to let the courts decide in case of doubt. For example, applicants for a business license on the German side are asked for tax information (on a voluntary basis) without any legal basis. So far, none of the applicants has refused, so that there has not yet been a judicial clarification.
- **Integrated approach:** Another focus of the pilot project is on a combination of an integrated and administrative approach. It is evident that in Germany, the police play a strong role and little is possible without them. In the Netherlands, the authorities, based on BIBOB, may use screening mechanisms in licensing procedures and can put pressure on the applicant to disclose extensive information before a license is granted.
- **Identifying the best course of action:** The approach starts by asking who holds the best cards to solve a specific case. Stakeholders (police, municipality, tax office, etc.) sit down at a common table and discuss who can best solve a case or whether a joint intervention would be effective. The task of the municipalities is primarily to draw attention to red flags.

Example: Often shisha bars or betting shops are opened by Dutch citizens in Germany for money laundering purposes. Information from the Netherlands cannot be used for data protection reasons. When a Dutchman opens a business in Germany, especially one that serves alcohol, the German authorities ask to see his police clearance certificate. (Problem: often, straw men with no criminal record, who do not raise immediate suspicion are installed). But beyond that, no data may be exchanged. Often, information is exchanged instead in the context of a trusting telephone conversation with Dutch authorities. However, this information is not kept in a file and therefore does not form the basis for a trade refusal. Nevertheless, this information is often the starting point for further investigations in Germany. But the data exchange goes in both directions across

the border. For example, one problem on the Dutch side is deregistrations from the personal register of persons who then buy a house in Germany near the border, to which the Dutch tax office then no longer has access.

Challenges for the future: Institutionalization of the project so that it becomes less dependent on the commitment of individuals. The Corona pandemic also had a negative impact on the project, so that it came to a temporary standstill.

7. Summary and Outlook

Halfway through its lifespan the scientific evaluation of EURIEC can only formulate preliminary findings. However, these impressions may serve as indicators for a way forward.

The most important results are:

- EURIEC has been able to provide feedback to parties in a considerable number of cases. It developed a number of practical tools and disseminated them (e.g. via its own website)
- The context in which EURIEC has to operate is complex. Even before the Corona crisis broke out, cross-border cooperation needed a new impulse, but as a result of the crisis countries have withdrawn even more behind their own borders;
- EURIEC focuses on administrative cross-border cooperation, but the legal barriers to information exchange remain high.
- Developments in some countries are stagnating (e.g. Belgium in relation to the introduction of BIBOB-inspired legislation and further development of A-RIECs);
- Especially in Germany and Wallonia, more efforts are necessary to convince parties of the added value of an administrative approach;

Based on these impressions the following steps can be formulated for a future outlook:

- Intensify efforts to raise awareness on the phenomena of organised crime and 'ondermijning' and administrative barriers that can be put up to prevent and contain these forms of crime.
- Identify common problems in border regions; build upon local 'ondermijningsbeelden' and the upcoming DrugsEMR crime analysis;
- If possible, try to include other data in your analysis: explore the possibilities of using cryptocommunication data (Enchrchat, SKYECC and others) in the administrative approach;
- Try to identify and build bridges with administrative "pioneers"; mayors/administrators with courage/guts, who are keen on exploring innovative avenues in containing crime;
- Document your best practices and elaborate a good showcase;

- Build bridges with partners from other organisations (police, public prosecution department, tax authorities, private companies in order to prevent administrative cooperation from becoming too isolated from other enforcement efforts.