ERPA REAP
European Review on Public Administration -
N°2 - March 2016

Internal security in Europe

OFFRE | 2016
FORMATION

› TROUVEZ
UN STAGE, UN ITINÉRAIRE DE FORMATION

› CRÉEZ
VOTRE CATALOGUE OU VOTRE AFFICHE

› INSCRIVEZ
VOS AGENTS EN LIGNE
À NOS FORMATIONS

› N'OUBLIEZ PAS
MOBISTAGE
notre service en ligne
pour faciliter les déplacements
jusqu'à nos formations

Rendez-vous sur
WWW.CNFPT.FR

le cnfpt

QUAND LES TALENTS
GRANDISSENT,
LES COLLECTIVITÉS
PROGRESSENT

europa
Entretiens Universitaires Réguliers pour l'Administration en Europe

EUROPA ASSOCIATION
Based in:
Site des Jacobins - 88 rue du Pont Saint-Martial, 87000 Limoges
Site Internet : www.europaong.org

EDITORIAL STAFF AND SUBSCRIPTION
Tel: +33 6 82 80 21 39
Email: europa@unilim.fr

EDITOR: Hélène PAULIAT, EUROPA

EDITOR
Editor-in-chief: Graham GARBUTT, Vice-president of EUROPA, Visiting Professor, University of West England, Bristol

Editorial Offices: Michel SENIMON, EUROPA general delegate; Christophe BONNOTTE, EUROPA secretary general

Peer reviews: Anne AZAM-PRADEILLES, deputy president for the coordination of EUROPA network; Jean-Luc BODIGUEL, 1st deputy president of the scientific council of EUROPA ; Bernard PERRIN, member of the scientific council of EUROPA

Contributors to this issue:
Germany: Margot BONNAFOUS
Belgium: Jean-François HUART, Dany LESCIAUSKAS, Alice CROQUET
Denmark: Sevasti CHATZOPOULOU, Birgitte POULSEN
Spain: Narciso PIZARRO
France: Anne AZAM-PRADEILLES, Hélène PAULIAT, Pierre BAUBY, Fabien TESSON, Olivier DEGEORGES, Jean-Marc FALCONE, Franck DEHAY, Marie-France MONEGER-GUYOMARC'H, Bernard BOUCAULT
Hungary: István TEMESI **Lithuania:** Egle STONKUTE
Luxembourg: Franz CLEMENT
Portugal: Luis FABRICA, Vasco Nascimento COSTA, Carlos Almeida ROSA
Romania: Oana SABIE, Marius PROFIROIU
United Kingdom: Graham GARBUTT
Slovenia: Barbara KRESAL
Sweden: Kerstin KOLAM
European Union, European Parliament: David DONNERER

PARTNERS OF THE REAP/ERPA PROJECT:
University of Limoges
National Centre of the Territorial Civil Service - CNFPT

SCIENTIFIC PARTNERS OF THE REAP/ERPA PROJECT:
Europol
European Parliament
Euro-Institut Kehl (Germany)
Bucharest Academy of Economic Studies (Romania)
Ministry of Interior (France)

Table of contents

Reminiscences on the EUROPA 2014 symposium: A new idea for Europe

Michel SENIMON
General Delegate of EUROPA

Experts of EUROPA Network surrounded european Deputy Jean Paul DENANOT and Christine JOSSET VILLANOVA Administrator at the National Territorial Public Service Centre (1st row right)

The topic of the 18th symposium of the EUROPA Association was controversy ... and debates were heated, indeed! With representatives of ten European countries: Germany, Belgium, Bulgaria, Denmark, Spain, France, Greece, Lithuania, Luxembourg, Netherlands, Poland, Romania, two MEPs: Jean-Paul DENANOT (PES) and Françoise Castex, a member of the European Commission, Séverin GRANDCOLAS of DG Competition, the symposium was an opportunity to affirm the need to re-legitimise the European idea.

While competition is a means to achieve the internal market objective, to do this, such competition is to be extended progressively to new areas, it should not become a value in its own right. One may well regret that the factsheets on the opening to competition of a number of activities of general interest (public services) are often scarce, although the European Commission has worked hard to produce statistics. But the general opinion is that often, Europe would question the missions of general interest ... And one can wonder about the logic behind the disappearance of state monopolies only to be replaced by private oligopolies, not necessarily more open to the logic of competition.

Assembly Hall of the Regional Council of Limousin: over 150 participants followed the debates of 2014 EUROPA Symposium

The notion of regulation is also very important, but it raises questions because of the heterogeneity of the status of regulatory bodies, the extent of their scope of intervention (general or sectoral, national or European ...). Europe has identified - especially in the Lisbon Treaty, but since the Treaty of Amsterdam, too - shared values, such as transparency, quality of activities of general interest, universality ... these are the values that must restore the meaning in Europe, to ensure that our citizens reinvest public space of discussion and the project.

Now, they are at a loss, when they hear of Europe which focuses on 'austerity packages' to respect 'fiscal orthodoxy', the requirements in terms of deficit that result in bankruptcies of companies and unemployment ...

Policy must not be subordinate to the economy, it must rather manage it, organise it, via, among other things, regulatory mechanisms.

Europe must be based on values which can integrate competition but fair, shared and constructive competition, and not competition which is imposed statistically.

Fair for population, fair for regions, fair in terms of fundamental rights of individuals. It cannot develop to the detriment of freedoms; the concept must be perceived in the context of a project of society that is not economic or financial.

Affirming clear shared values for a European social project .....the EUROPA symposium has posed a challenge for all!

The EUROPA symposium was also the occasion to sign two important partnership agreements for this NGO:

- the first - with the National Centre of the Territorial Civil Service (CNFPT) - strengthens 10-year collaboration with this national training institution and allows EUROPA to pursue its editorial adventure through the publication of the Revue Européenne de l'Action Publique (European Review on Public Administration);
- the second - with the international organisation NISPAcee (Network of Institutes and Schools of Public Administration in Central and Eastern Europe), which includes all Public Administration Schools in Eastern European countries - strengthens the capacity of EUROPA to build and facilitate research projects at European level..

Editorial ERPA

The second issue of the European Review on Public Administration is now out; ERPA is one of the major tools to ensure the visibility of our network, now present in 21 member states. In this second issue the reader will find a variety of topics and columns covered in the first issue.

EUROPOL's director has agreed to give us an interview and hence to be the European 'protagonist' of the ERPA. Rob Wainwright enlightens us on the organisation, operation and role of the European agency for combat against organised crime in today's particularly sensitive context.

The Snapshots ... give an insight into topical events and key moments of the ongoing reforms in various European countries: changes in administrative and territorial organisation in Sweden, Portugal and Hungary; modernisation of the public service and management in Belgium and the Netherlands; social protection and mobility of public officials in the Baltic countries, Slovenia; modernisation of public services in Romania, but also of European law perspective; strengthening the participation of citizens in public decision-making in Germany, the Netherlands and Denmark and the involvement of national and local parliaments in the observance of the principle of subsidiarity; development of public finances with the debates on the horizontal equalization in member states and analysis of the link between public finances and the reform of the state. Bringing these insights to the fore in general columns highlights the main events of public and administrative life in European states.

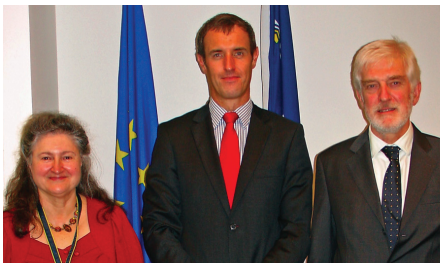
The feature articles of this issue relate to internal security in Europe, as a follow-up on the symposium held by the Europa Association in 2008. Internal security is not always an easy concept to define, it is opposed to international security in the broad terms. The former is based on maintaining law and order in a member state, by a number of forces dedicated to this goal, and in order to ensure a life in society guaranteeing the exercise of fundamental rights and freedoms of citizens. But often in times of international conflicts and difficult international relations, security measures rely on the reflex of fear which makes citizens accept significant constraints in their daily lives. This topic unfolds in four major chapters, all of which present new challenges that governments face in light of expectations of individuals. The threats appear to be relatively new (cybercrime, fraud, sectarian businesses...) and therefore requiring specific answers, and sometimes they are unprecedented. Security, in massive demand by citizens, however, faces another challenge - preserving rights and freedoms; furthermore there are many examples showing that freedoms are sometimes sacrificed on the altar of security, despite the vigilance of the European principles on the matter... In this context, police cooperation is a necessity, both at European and international levels, as well as the sub-national level between national police and municipal police (the topic of local police services in Romania and Hungary reflects the difficulties in this debate), but also between the traditional forces and the rise of private security service providers.

The portrait of the journal is dedicated to Marius Profiroiu and his research team.
Have a very good ... European read!

Graham GARBUTT
Vice-president of EUROPA,
Visiting Professor,
University of West England, Bristol

Hélène PAULIAT
Professor of Public law -
EUROPA President,
President of Limoges University

An encounter with Rob WAINWRIGHT, EUROPOL Director



Rob WAINWRIGHT, EUROPOL Director, with the two deputy presidents of EUROPA, Anne-AZAM PRADEILLES and Graham GARBUTT, The Hague, 24 October 2012 - (Photo AAP/GB)

The procedures for access to EUROPOL's new headquarters on Eisenhowerlaan are both classic and rigorous - adding to the somewhat cosmopolitan and welcoming attitude of a European Union agency. The doors open upon discreet palm verification - iris recognition has been ruled out for reasons of hygiene. The simple architecture of the building combined with very modern furniture confirms this shift away from high-level security stereotypes.

The Director of EUROPOL welcomes the two deputy presidents of EUROPA in a modern office with large windows and hardly visible folders. Rob Wainwright, appointed in April 2009 upon the transformation of EUROPOL into an agency[1], is British, born in Wales in 1967. Having earned a degree in international business studies at the London School of Economics, he joined the MI5 intelligence agency. Specialised in organised crime, he was the head of the UK Liaison Bureau at EUROPOL, and later he was at the lead of of the International Department of the Serious Organised Crime Agency. The appointment of Rob Wainwright was consensual - thanks to his professional experience and the strong support of his country, even if it was still possible that an excellent candidate could emerge from the new member states.

The challenges for EUROPOL: crime without borders, subsidiarity and partnership

Organised crime and terrorism know no borders. Countries cannot fight against them on their own. EUROPOL's mission is to provide that support and promote a culture of international cooperation in the field of security. The director's mission is to make this joint work of states operational.

The challenges are significant as shown in EUROPOL strategy 2010-2014[2].

Justice and Home Affairs (JHA) is an area still largely dominated by the principle of subsidiarity - which can cause difficulties, particularly for cross-border management.

The different rules on evidence, for example, in respect of telephone interceptions complicate joint actions. Meanwhile, criminal and terrorist threats are increasing and are changing. International mafia organizations, in a vein similar multinationals, generate a 'turnover' estimated at EUR 170 billion or more. And the sector is fragmented into 'small and medium-sized businesses' that can emerge, grow and disappear. Smaller mobile groups, often violent and performing a wide range of criminal activities, may emerge in different countries and be very difficult to identify, penetrate and dismantle.

EUROPOL's mission is to improve such situations and not to intervene directly. The agency provides basic services, including its intelligence resources, and makes efforts to converge procedures. This synergy is based on networking based on trust between partners. But the EUROPOL personnel tend to favour established contacts and connections without always tapping all agency resources. Building a broader context of trust is therefore a precondition for success.

Moreover, culture limiting the transmission of information to only those 'having to know' hampers wider dissemination. Thus, critical information may not be incorporated into the database and local crime prevention may miss out on activities and criminal networks operating on a larger scale.

The provisions applied to EUROPOL give it a broader mission without coercive powers on member states. The agency must use its powers of persuasion and must rely on the quality of work to convince. The 20% annual increase of activities is certainly an indicator of success, but in a context of severe budget constraints, the agency must above all remain confined to its role and avoid duplicating national agencies.

This effort is particularly necessary to optimise relations with EUROJUST and INTERPOL. INTERPOL has a global scope and is present in 190 countries, compared to EUROPOL's thirty. The work of the two agencies is complementary. INTERPOL relies on a vast network and EUROPOL focuses on more in-depth work, particularly in terms of high-level security protocols.

The single information system SIENA[3], shared by all EUROPOL members , provides secure access. In France, for example, 1000 terminals are connected to the system, without relying on an Internet connection.

EUROPOL and EUROJUST, established in 2002, signed a cooperation agreement in 2004 and have established joint teams since 2007.

(1) Council Decision of 6 April 2009 establishing the European Police Office (Europol), https://www.europol.europa.eu/sites/default/files/council_decision.pdf
(2) https://www.europol.europa.eu/sites/default/files/publications/europol_strategy_2010-2014_brochure.pdf
(3) Secure Information Exchange Network Application
(4) See some dates and figures in the box. https://www.europol.europa.eu/sites/default/files/publications/anniversary-publication.pdf
(5) In French in the English interview.

EUROPOL, Eisenhowerlaan, The Hague, the Netherlands (Source EUROPOL)

The democratic dimension: accountability, efficiency and single language

While developing its powerful networks and personnel, EUROPOL is involved ever more effectively in cooperation between member states, and European citizens may seek accountability from the agency. The institutional framework has evolved together with the institution itself[4]. In 2014 EUROPOL became accountable to the Parliament and the European Council. The terms of appointment of the director of the agency in particular should be specified.

Like other EU institutions, EUROPOL is facing severe budget restrictions and responds with a constant arbitration of efficiency/quality of service, with an additional dimension of risk to be considered. Despite an increase in activity, internal efforts have enabled a 20% reduction in management costs. And in a somewhat paradoxical way, IT and security services have been outsourced. The search for balance between quality and cost poses a real challenge.

Rob Wainwright points out that the choice of English as EUROPOL's only language - to the contrary of the European multi-lingual practice, was madefor operational efficiency reasons, before his arrival and without the influence of the UK Government. The urgency of crisis situations and the need for direct and fast communication without a risk of distortion or time limits due to translations made states opt for a single working language. The director emphasises the remarkable effort of non-English speaking countries which have accepted it. This has reinforced the *esprit de corps*[5] of some 850 EUROPOL staff and has consolidated a shared culture at the service of security of member states and their citizens.

Today's challenges: CEPOL, EC3 and ARCHIMEDES

The European Union established a European Police College (CEPOL), which became an EU agency in 2005[6] to provide training in police cooperation in the fight against organised crime and terrorism. CEPOL, now based in Hungary, also encourages the sharing of knowledge and best practices to develop a common European culture, particularly in terms of security and maintaining public order.

Since 2012, EUROPOL has hosted the European Cybercrime Centre, or EC3[7]. Its first report, 2014 iOCTA, analyses the threats of organised crime[8] through the internet or cyber crime against governments and administrations, businesses and citizens.

Two years after the meeting in The Hague, the operation ARCHIMEDES[9] between 15 and 23 September 2014 was used to measure the power of EUROPOL in cooperation with EUROJUST and INTERPOL: 34 participating countries, more than 300 actions at 260 locations, with 1,150 individuals arrested, the largest international police operation ever implemented in Europe - with Rob Wrainwright being rather high-profile in the media.
A beautiful image of Europe working together for the safety of its citizens!

EUROPOL in figures and dates[10]

- **850 people, 28 member** states plus partners representing **36 nationalities,** with an international network of 160 liaison officers
- a budget of almost **EUR 85 million** in 2014

1970-90
Trevi informal group of Interior Ministers

1991
Institutionalisation of police cooperation modelled on the FBI

1992
Maastricht Treaty: JHA (Justice and Home Affairs) became one of the three pillars of the European Communities and Article K1 refers to EUROPOL

1993
Establishment of the European Anti-Drugs Unit and decision to locate EUROPOL in The Hague

1997
Treaty of Amsterdam: Community cooperation on justice and police (Article K2)

1998
Official opening of EUROPOL: centre of excellence for cooperation in intelligence and analysis against international crime

1999
Tampere summit - creation of joint investigation teams

2000
The Paris Vision: prioritisation of EUROPOL

2000-09
Design and growth of EUROPOL's information system

2001
Establishment of contact networks on specialised topics

2002-04
Creation of EUROJUST and signing of an agreement with EUROPOL

2004
Creating mobile offices for large events, Athens Olympic Games

2006
1st annual OCTA report on assessment of international crime threats

2007
New EUROPOL strategy, joint EUROPOL - EUROJUST teams

6/4/2009
Council Decision establishing EUROPOL, appointment of the Director, Rob Wainwright

(6) Collège Européen de Police (CEPOL) https://www.cepol.europa.eu/who-we-are/european-police-college/about-us et https://www.cepol.europa.eu/fr, Council Decision 2005/681/JHA of 20 September 2005.
(7) European Cyber-Crime Centre (EC3), https://www.europol.europa.eu/ec3
(8) IOCTA, The Internet Organised Crime Threat Assessment (iOCTA), 2014 https://www.europol.europa.eu/sites/default/files/publications/europol_iocta_web.pdf
(9) https://www.europol.europa.eu/content/operation-archimedes
(10) https://www.europol.europa.eu/category/publication-category/public-documents and the report on the 2011 activities in French https://www.europol.europa.eu/sites/default/files/publications/fr_europolreviewfrench.pdf, Senate Report N° 477 du 17/4/2014 (45 pages), http://www.senat.fr/notice-rapport/2013/r13-477-notice.html

The reform of the so-called 'grades légaux' in the Walloon Region of Belgium

Jean-François HUART
Financial Director of the Public Centre for Social Welfare of Liege
President of the Walloon Federation of Local Collectors

On 17 April 2013 the Walloon Parliament passed the decrees on the reform of the status of managing officials - the so-called 'grades légaux' or high-ranking positions - of the local authorities of the Walloon Region of Belgium. These decrees will change the administrative organisation of 262 municipalities, 262 public centres for social welfare and 5 provinces.

In its regional policy statement of 2009, the Walloon Government pledged to develop new mechanisms to supervise local authorities; these include the establishment of a new organisational structure to improve their operation. Special attention was paid to the role of the two leading officials, each placed under the authority of the executive body (the College or the Permanent Bureau), namely the Secretary (who heads the administration, keeps records, is the chief of staff and is the 'notary' of decision-making and executive bodies) and the Collector (which is the financial advisor to the administration and responsible for accounting, treasury, debt collection and expenditure control and receipts).

The main axes of the reform

First, it is worth mentioning the conclusion of a ***performance contract*** between the executive body and the general director. It contains the description of statutory tasks and any quantifiable and achievable goal relevant to the tasks, as well as budgetary means and human resources allocated.

Afterwards a ***steering committee*** bringing together the general director, the financial director and other officials chosen by the general director is set up. Being a cross-sectoral body under the chairmanship of the latter, it deals with all matters relating to the organisation and functioning of the administration.

Finally, the reform integrates two key elements relating to ***the status of high-ranking officials***, namely on the one hand, an update of the rules for recruitment , promotion, training and remuneration, and on the other hand, the establishment of an appraisal process based on a grid assessing the performance of statutory tasks, both general and individual goals.

The general director's tasks

The above tasks are maintained but they are consolidated through the reform. Besides drafting the contract of objectives, the role of chief of staff is reinforced in the implementation of the human resources management policy, which includes recruitment, skills, internal mobility, and appraisal of agents and minor disciplinary penalties.

The financial director's tasks

The tasks of the former above mentioned Collector were developed as follows.

A key element of the reform is the independent provision of an opinion on any binding draft decision whose financial impact is greater than €22,000. This opinion may also be submitted at his/her own initiative for any draft whose impact is under €22,000, and on request of the local government bodies.

Another important feature is the cancellation of personal financial accountability of the Collector. Until now he/she was the sole official personally accountable in an environment where he/she did not always make the decisions.

Finally, the decrees set out that the financial director reports independently to the Council on the implementation of his/her task to provide an opinion (to which is added a presentation of the statement of cash and evaluation of the budget).

A first analysis based on the texts discloses a rather positive impression of the reform, consisting in the fact that it offers a new approach to business and a transverse vision of the management of the administration. Its success will, however, be linked to the consultation and collaboration procedures (or even division of labour) to be established between the two high-ranking positions and heads of various departments of the administration.

Portuguese Constitution

Vasco NASCIMENTO COSTA
Deputy Director of the Caixa Geral de Depositos, Member of the Legal Committee of the European association of public sector pension institutions

According to the Portuguese Constitution:

- The Portuguese State respects in its organization and operation the autonomous regions regime and the principles of subsidiarity, autonomy of local government and democratic decentralization of public administration (article 6);
- The democratic organization of the State comprises the existence of local governments, which are territorial bodies with representative organs aiming to fulfill their population needs (article 235);
- There are two categories of local governments: municipalities («municípios») and parishes («freguesias»). Each municipality - they are 308 - has several parishes (article 236);
- The Public Administration shall be structured in a way that the administrative activity is provided both by local services of the direct administration and by other public bodies (article 267).

Financial Assistance

Within the framework of European Union financial assistance to Portugal, it was signed, on the 3rd May 2011, a Memorandum of Understanding (MoU) on Specific Economic Policy Conditionality [1].

The Chapter of the MoU on Public Administration stated that the government would develop a consolidation plan to significantly reduce the number of local government administration entities (comprising 308 municipalities and 4 259 parishes).

These changes would come into effect by the beginning of the following election cycle (2013-2017) and would enhance service delivery, improve efficiency and reduce costs.

The government was also tasked to ascertain potential duplication of activities between the central administration, local administration and locally-based central administration services and to eliminate the identified inefficiencies.

Finally, the number of local branches of line ministries (e.g. tax, social security, justice) was set to be reduced. Those services would be merged in citizens' shops covering a greater geographical area and developing further the e-administration.

Measures

The scope of the undergoing reform is not to transform the main characteristics of the Portuguese political and territorial organization but to address structural causes of public expenditure.

More important than the goal of the reform or its results, it's the criteria that were followed: reduce / close meaningless local branches, due to low population / demand, but always ensuring easy access to same public services nearby.

Merger of parishes

In terms of local government, it was decided not to change municipalities, which have deep historical and cultural roots, besides political meaning, and instead reduce the number of parishes (from 4 259 to 3 091), through a merger operation.

New judicial map

A new judicial organization, based on a court per district (23), is being implemented in Portugal. That court will function in sections - which will have generic or specialized competence, depending on a series of factors - throughout its territorial base.

From the existing 311 courts, 264 will be converted into 218 central instance sections (more complex and serious cases - over 50 000 euros or prison over 5 years) and 290 local instance sections.

The courts having less than 250 new cases per year located in areas will fair transportation conditions (20) will be closed and 27 other are converted into proximity sections (few new cases per year but poor transportation conditions).

In the proximity sections, it is possible to submit documents and to query processes and, should the judge decide, carry out trials. These proximity sections function as an extension of the court.

Reduction of tax local branches

It is also being studied the reduction of the number of tax local branches. The PRACE - Central Administration Restructuration Program - proposed to close 121 of those local branches.

The PRACE also suggested the merger of tax administration and social security local branches billing services with the local governments billing services.

(1) On the 8th of April 2011, the Eurogroup and ECOFIN Ministers issued a statement clarifying that EU (European Financial Stabilisation Mechanism) and euro-area (European Financial Stability Facility) financial support would be provided on the basis of a policy programme supported by strict conditionality and negotiated with the Portuguese authorities, duly involving the main political parties, by the Commission in liaison with the ECB, and the IMF.

Administrative and territorial organisation of states in Europe - Hungary

István TEMESI
Ph.D., Associate Professor,
National University of Public Service Budapest

Despite the adoption of a new Constitution called 'Fundamental Law' of 2011 and a new Local Government Act, Hungary has retained its traditional administrative and territorial structure. However, one can see that certain modifications represent some diversion from the previous institutional systems.

The Fundamental Law of Hungary, adopted on 25 April 2011, does not change the territorial division of the state. Pursuant to Article F, Section 2, the territory of Hungary is divided into counties, cities and towns and villages. Cities can be divided into districts. Although one can see the change of the text from the old 1949 Constitution[1] concerning the division of the country, there are few changes indeed.

The administrative organisation follows this division in principle defined by the constitution with some digressions in the system of local government and also in the system of deconcentrated institutions. Examining the administrative organisation of Hungary shows that the local government system keeps the duality created in 1990[2]. In this dual system of local administration, general administration is represented by local elected authorities and the special administration is represented by deconcentrated bodies.

Most provisions of the new Local Government Act[3] entered into force on 1 January 2013. This law has expanded the types of territorial units of the decentralised administration under the Constitution. The new law keeps the municipality - including the village (2706), the town (304) and the city (23) - and the county (19), and the capital and its districts (23) as units of local authorities. It also keeps the two-tier system. But among the municipalities, the law

introduces a new type of local government: the city which is a district centre. When the law was passed districts did not exist. The text designating these district centres suggested the emergence of districts in the near future. In the past, the Hungarian public administration knew the districts which were the units of the state administration already before the communist era and the territorial units until 1971[4]. The current district itself is not a unit or a new level of local government system. Meanwhile, if the centre of the district is a city, there will be additional functions to those of towns or villages. As for villages, the law provides for the use of the concept 'big village' for villages of over 3,000 inhabitants and also for those which already obtained it before 1 January 2013.

Districts do not have the status of local communities, they are not decentralized bodies and the law only envisaged the creation of districts without detailing their legal status, functions or number of entities. Later in June 2012 the Parliament adopted Act No. XCIII of 2012 on the creation of districts. This law authorised the government to define the functions of districts and to determine the district division of the country by arranging the creation of districts. By Decree No 218 of 13 August 2012 the government established 175 districts.

This reorganisation of local government began in 2010 with the adoption of Act No CXXVI of 2010, which established new bodies representing the government in the 19 counties and in the capital. The new government offices[5] have integrated 17 decentralised state services as of 1 January 2011[6] and exert a stronger legal control over local authorities since 1 January 2012. The deconcentrated administration of the state will have two levels from 1 January 2013. At the territorial level we find three types of organisations. Government offices in counties and in the capital, the deconcentrated bodies of the National Tax and Customs Administration and other decentralised bodies[7] that will not be affected by the integration of the administration of the state. Locally there are 175 districts and 23 counties which have equivalents in the capital. The districts have been in charge of the integration of the 6 deconcentrated services of the State at local level since 1 January 2013 and the Government is authorised by law to delegate additional functions in the future.

(1) «The territory of the Republic of Hungary is divided into administrative units: the capital, counties, cities and municipalities. The capital is divided into districts. Cities can be divided into districts. (Article 41 of the 1949 Constitution).

(2) Act No. LXV of 1990.

(3) Act No. 2011 CLXXXIX.

(4) The districts as territorial units of the state were finally abolished in 1983.

(5) According to the model of French prefectres.

(6) This number was already 18 in 2012.

(7) Immigration, statistics, and social affairs bodies are organised into 7 regions constituting the NUTS III. Police, defence and treasury departments operate at the level of the county.The environment, water, mining and national parks administrations operate as special territorial units.

Swedish Local Government

Kerstin KOLAM
Umea University Sweden

The present system with local government in Sweden was established in 1862, but already during the Middle Ages there was a strong tradition of local government among the peasants in rural areas. They gathered to make decisions concerning mutual interests in the villages. Cities and towns were equally free. However, during the centuries there has been period of both centralisation and decentralisation

The modern municipality started to develop when the first Local Government Act was introduced in 1862. This was a period of decentralization influenced by liberal thoughts in Europe according to several scholars. In order to meet the changes it was decided to establish local governments of a more modern type. Up until 1982 it had mainly been the parishes that were responsible for education and poor relief. The new Local Government Act gave municipalities full responsibility for education and social welfare, among other things.

During this time Swedish government in general was modernized. One important change was the introduction of a new Parliament with two chambers. Another reform was the establishment of county councils, a new regional body. County councils got the responsibility of health care mainly, but also some specific education like schools of household management for girls and forest management for boys. There were also some other important changes, for example the abolishment of the guild system, that affected society as a whole.

In the late 1920s the Social Democrats launched the idea of the welfare state. Every citizen would be taken care of by the state from "cradle to grave". However, the second World War put a halt to the reforms. After the war the government continued with the intended policies by introducing several reforms, for example a universal pension reform and child allowance.

In the late 1940s it became obvious that the municipalities were not able to carry out all the responsibilities as intended because of their size. Two major problems were identifies: certain public services required a minimum number of citizens, and in order to finance the activities municipalities needed a more solid tax base. The government faced two options: either the welfare services were to be centralized to the national level or local governments should be merged into larger units in terms of number of inhabitants.
The first merger was carried out in 1952 decreasing the number of municipalities from around 2.500 to about 1.000. This reform only affected the rural municipalities. However, the development of the welfare state continued and it soon became clear that a second amalgamation reform was needed. The local units were still too small. Between 1970 and 1974 the number of municipalities decreased to 277. Both rural areas and cities/towns were involved. Since then the number of local governments have increased to 290 since some of the mergers were not successful.

The relationship between the central and the local level has been, and still is, discussed extensively. A government committee published five principles in 1974 that were to guide decisions on which level should be responsible for which tasks (SOU 1974:84). One general rule has been that tasks should be dealt with at the most appropriate level from the citizens' point of view. These principles have not been challenged as such, but it is obvious that from time to time is has been a matter of interpretation when concluding if an activity is a central or a local task, i e "at the most appropriate level".

At the time for the approval of the European Charter of Local Self Government in 1989 the Swedish Government decided that the Local Government Act already was in line with the Charter so no changes were needed in Swedish legislation (Madell 2012). One could say that Sweden embraced the principality of subsidiarity a long time ago.

Swedish local government of today has a strong position in the governance of the country. The strength is based on some important characteristics: the local assembly is elected by the people, municipalities are granted the right to levy their own taxes and to decide upon their own tax rates (without the interference of central government), and citizens have the right to appeal against local government decisions. Furthermore, local self-government is protected by the Constitution (Lidström 2011, Madell 2012).

The development of local government is closely related to the development of the welfare state. Most welfare services are produced at local level. The tasks may be divided into mandatory and voluntary tasks (Madell 2012). All municipalities have about the same responsibilities, but there is a growing tendency of co-operation between local governments in certain tasks in order to avoid new mergers. The central government sets up national goals for the mandatory tasks, but it is the individual municipalities that decide how to carry out the activities. This is in line with the concept of New Public Management that was introduced in the early 1990s, including management by objectives, privatization in education and care for the elderly etc.

One way to ease the burden for the State has been to open up for privatization. Many welfare services are today provided for by private actors. In the main these actors get public funding from the State. There is a current debate about the fact that some of the companies make big profits that go to the pockets of the shareholders. In some cases the services are of poor quality, according to the media that keeps a close eye on the developments. There is a public cry for more control and stricter rules, not only because of the profits as such, but because large sums of the taxpayers' money disappear to tax heavens abroad.

As mentioned above, one of the cornerstones in Swedish local government is the right to levy income tax and to decide the rate of the tax. Only about 16% is grants from the state. In order to make sure that municipalities with a weak tax base, i e small number of citizens paying taxes, also manage to keep up the services, there is an equalization system. The State collects the taxes from local governments and then redistribute the resources. This way also the smallest municipality with about 2.000 inhabitants can survive, although very small local governments usually co-operate with others in their geographical area. The heaviest obligations for local governments are childcare and pre-school, primary and secondary education and care of the elderly (Madell 2012, p 674-675).

Swedish local government faces some challenges, as does the welfare state, since they are closely interconnected (Lidström 20121). One challenge is related to the changes in demography, i e an aging population and decreasing numbers of young people. Many of the young leave the rural areas and move into the big cities, leaving the old people behind. Care of the elderly faces a critical situation, because this is a work field that does not attract the younger generation. The restructuring of working life, combined with a higher level of education among citizens, has made the middle class grow. People in general are aware of their rights and protect their individual interests, a situation that adds to the pressure on public authorities and private providers regarding the quality and quantity of welfare services.

At the same time there is a growing ethnic diversity. About 14 % of the population is of foreign origin where both parents are born abroad. People of foreign origin often have problems in getting work or, if they have work, often end up employed in low wage positions, regardless of their educational background.

Restructuring the economic basis means a change from …"industrial employment to new forms of production based on services, knowledge, and information" (Lidström 2011, p 274). Technological developments within health care have led to better methods and solutions to health problems, particularly for the older generation. Thus, people live longer but at the same time a growing number is in need of extensive health care which increases the costs.

It is also a fact that many decisions today are made by EU institutions and this affects both the national and the local decision making power. One particular concern is that, according to researchers in Law, there seems to be a "blindness" (Kommunalblindheit in German, see Madell 2012) regarding local authorities, their conditions and importance in governing the welfare states, for example in planning and developing infrastructure, and in social services.

The question is how much freedom of action and capacity for action the Swedish municipalities have in reality today. More tasks are made mandatory for local governments, but the state does not always provide funding, restricting both freedom and capacity at local level. New legislation is being introduced narrowing the capacity for action. Legislation is usually so called frame laws with few details. In the process of implementation central agencies interpret the laws by publishing guidelines for municipalities. Through the juridification the State reinvents steering since local governments have to follow the law. Inspection agencies are introduced to evaluate how successful municipalities are in carrying out the decisions. Some actors at local level interpret this as a lack of trust from the State. The highly decentralized system of government seems to be under pressure. Is Sweden experiencing a recentralization of tasks and responsibilities within the public sector? Only time will tell!

Participation of local and national parliaments in monitoring compliance with the subsidiarity principle in the European Union

Fabien Tesson
LECTURER AT THE UNIVERSITY OF ANGERS

The subsidiarity principle as enshrined in the Lisbon Treaty seems to be a guarantee of autonomy of the state and local entities in areas where competences are shared between the states and the European Union. Indeed, its purpose is to ensure that the actions envisaged, for example regarding the environment or transportation, are carried out by the level most appropriate to implement them. The subsidiarity principle appears essential in ensuring a smooth European integration at every territorial level; hence the issue of compliance and the role of local democratic institutions in the monitoring process thus arises very naturally.

The Lisbon Treaty has brought a major change in terms of monitoring the compliance with the principle of subsidiarity by the institutions of the European Union. The new treaty in force provides for an alert mechanism to be triggered by the national representative bodies. In addition to the local dimension of the consultation to be undertaken by the European Commission before adopting a draft act, Article 6 of Protocol No 2 to the Lisbon Treaty stipulates that 'any national Parliament or any chamber of a national Parliament may *[...] send to the Presidents of the European Parliament, the Council and the Commission a reasoned opinion stating why it considers that the draft in question does not comply with the principle of subsidiarity.*' These reasoned opinions are then considered by the European Commission. If the number of reasoned opinions is more than a third of all the votes allocated to national parliaments, the draft must be reviewed by the Commission which should justify its decision to keep, modify or revoke it. If the number of reasoned opinions reaches a simple majority, obviously the Commission must review its proposal, but if it takes a position in favour of upholding it, the European Parliament must vote and determine, based on the national opinions and that of the Commission whether or not the proposed act is consistent with the principle of subsidiarity. The application of this mechanism, for example, made the Commission withdraw a draft regulation on workers' right to go on strike in the framework of the provision of services.

This innovative mechanism leaves room for manoeuvring for local democratic bodies. Indeed, again Article 6 of Protocol No 2 sets out that 'it will be for each national Parliament or each chamber of a national Parliament to consult, where appropriate, regional parliaments with legislative powers.' Thus, the local assemblies can participate in the issue of a reasoned opinion. However, this possibility is left to the goodwill of national authorities which remain free to turn to local elected bodies. This is the path that seems to be taken, for example, in Belgium, which recognised in an annex statement the parliamentary assemblies of the Communities and Regions as regards 'the competences exercised by the Union, as components of the national parliamentary system or chambers of the national Parliament.'

This preventive mechanism is a way to ensure control by democratic institutions in respect of the principle of subsidiarity by the institutions of the European Union. If ineffective, it may be replaced by a corrective mechanism, since the Lisbon Treaty provides that a national Parliament may bring an action against a legislative act of the European Union if it considers it violates the principle of subsidiarity.

Citizen participation strengthened in Baden-Württemberg

Margot BONNAFOUS
SENIOR PROJECT MANAGER, EURO-INSTITUT KEHL

In Baden-Württemberg, a German federal state located in the southwest of the country, parliamentary elections held in March 2011 produced a spectacular result. After 58 years of Christian Democrats in government, the Land is now ruled by a coalition of Greens and Social Democrats. The head of government, Winfried Kretschmann, belongs to the Green Party.

Citizen participation and the 'political style' are among the major topics on the agenda of the new government. The coalition agreement concluded between the Greens and Social Democrats, for example, explicitly states that Baden-Württemberg will become a 'model state' of participatory democracy. Several government projects are in line with this statement: All forms of citizen participation will be developed with the objective of strengthening the role of civil society. The government plans to introduce new elements of direct democracy or improve existing tools, at the state level as well as at the municipal level. As for referenda at Land level, obstacles, material until then, must be reduced. The reforms mainly concern deadlines, very short now, and the required quora. The intention to introduce direct elections for Landräte which is already a practice in other federal states, however, is still at a standstill.

To step up these developments, Baden-Württemberg has set, being the only German state to do so for now, a Staatsrätin for civil society and citizen participation. Ms Gisela Erler, in charge of these functions, wishes to promote the dynamics triggered following the change of government by developing the tools needed for stronger participation at state and local levels. This new feature will set an example as a platform for other ministries: the aim is to

incorporate citizen participation in the action of the administration at all levels. To this end, the government of Baden-Württemberg, among others, passed an administrative directive by which the Land is committed to involving citizens early in the planning of development and infrastructure projects. Note that this directive in its own right was prepared through a participatory approach. The Staatsrätin initially sought to receive the opinion of experts in the field and only then to hear that of state officials who will be responsible for enforcing the directive. The third stage of decision-making was devoted to a broad citizen participation. The approach aims rather to create basic standards and to ensure greater transparency regarding major development and infrastructure projects. According to Ms Erler, transparency vis-à-vis citizens has been insufficient until now.

> All forms of citizen participation will be developed with the objective of strengthening the role of civil society.

(1) Coalition agreement between the Greens and the Social Democrats of 9 May 2011.

(2) They manage Landkreise, supra-municipal authorities with state functions.

(3) Minister without portfolio.

(4) http://beteiligungsportal.baden-wuerttemberg.de/de/mitmachen/planungsleitfaden/ up-to-date as of 1 June 2014.

Luxembourg adapts to cosmopolitan economy

Franz CLÉMENT
Ph.D. in sociology, Luxembourg Institute of Socio-Economic Research (LISER)

Luxembourg is a cosmopolitan country attracting a large number of foreigners and cross-border workers. At 31 December 2013, all employees included 71.4% foreign residents and cross-border workers and 28.6% resident employees of Luxembourgish citizenship. Since February 2013, reforms have been emerging and the country is adapting its institutions to citizenship changes.

First, a law was passed to open the mandates of members of the Economic and Social Council to people of non-Luxembourgish nationality. The justification of the original bill indicates that the composition of this advisory institution must match the economic realities.

These changes and the need to integrate more foreigners in society had also been highlighted by the Economic and Social Council in its own opinion on the role of the State of 31 October 2001 whereby it supported in particular an active policy of integration of non-nationals to ensure social cohesion and peace.

The proposed change in the citizenship law aims to facilitate the granting of Luxembourg citizenship to non-nationals of Luxembourg. The draft ensures the facilitation and simplification of certain conditions for granting citizenship, but also reduces the deadlines for acquiring citizenship. The opinions issued to date by sectoral chambers also support these changes justified by the internationalisation of the country and its residents. It opens up the possibility of expanding the right to vote in parliamentary elections. The objective of the reform is to consolidate and integrate foreigners living in the Grand Duchy. The Government wants to facilitate the access to Luxembourgish nationality, while ensuring the cohesion of the national community. Hence the importance of language requirements in the proposed reform.

> This discussion leads up to a change of concepts as several stakeholders in the country expect the Grand Duchy to have residence-based citizenship rather than nationality-based citizenship.

The third change worth noting to date has been the subject of a simple debate, but a bill has not yet been tabled: it addresses the possibility of opening the vote in parliamentary elections to people of non-Luxembourgish nationality. Shall we have MPs in future who are not of Luxembourgish nationality? Are we speaking of active or passive voting rights, that is to say, the right to vote but also to be elected? It is too early to tell, but the discussion has kicked off. It is also justified by the importance of the contribution of non-Luxembourgers to the national economy and the labour market, through the use of foreign languages,as working languagesin the country.

This discussion leads up to a change of concepts as several stakeholders in the country expect the Grand Duchy to have residence-based citizenship rather than nationality-based citizenship.

The Danish collaborative governance of policy coordination

Sevasti CHATZOPOULOU
Visiting professor at the Institute for Society and Globalisation, Roskilde University, Denmark
Birgitte POULSEN
Associate Professor at the Institute for Society and Globalisation, Roskilde University, Denmark

The Danish governance of the policy making is characterized by hierarchy combined with broader forms of collaboration among both formal and informal actors such as politicians, parliamentarians, public officials and those groups affected by specific policy decisions. In Denmark, strong corporatist structures are apparent in especially institutionalized areas such as the labor market and agriculture. Network governance which draws on corporatist structure includes broader parts of the civil society with diverse actors that may or may not be part of the formal institutionalized corporatist structures.

The combination of hierarchy with network governance enhance coordination among the different partners and the flow of information concerning the policy making allows the inclusion of the diverse interests of the different actors in the specific policy area who at the same time provide constructive input to the political decisions but also strengthen and ensure the effective implementation of the policy decisions (Bouckaert et al. 2010, 35).

Through the participation and interactions of the actors new forms of communication and discourses emerge that often lead to innovative modern administrative practices. Besides they contribute to the building of more sustainable structures that are not based on command and control (hierarchies) or personification and clientelism but trust and broader forms of network governance which enhances the legitimacy of these decisions because all parts have been involved in the decisions making process.

Moreover, it is worth noting that the Danish political and administrative system to a large extent is characterized by consensual decision making, which is related to the corporatist tradition in Denmark (Pedersen 2000, 221). This consensus driven decision making is strongly embedded in the political system.

Through the participation and interactions of the actors new forms of communication and discourses emerge that often lead to innovative modern administrative practices

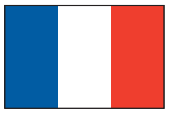
The Agricultural case
Danish agriculture together with the food processing industry have a long history and remain a dynamic sector of economic, political and organisational significance (e.g considerable contribution to exports). The success of the Danish agriculture has been attributed to the combination of hierarchical corporatist with network governance structures that characterise the administration and policy coordination.

These elements aimed not only to effectively comply with the demands imposed by the Common Agricultural Policy at the EU level but also to establish sustainable policy coordination structures.

The Danish agricultural policy is formally characterized by a high level of centralisation of powers and competences in the political system, an indication of the hierarchical structures that enhance the strong and harmonious relation among the political leadership, the various institutions, the administrative bureaucracy and the sectoral organisations.

The small number of powerful actors in the policy making process, articulated in corporatist structures (state-society relations) is combined with the high level of consensus that does not permit for large disagreements and conflict on political issues with respect to agriculture. This consensus driven policy making process is even strengthened by the liberal attitudes toward change by all the involved actors (either political or sectoral).
However, the agricultural policy making in Denmark allows for consultation among the actors involved from the agricultural sector which enhances collaboration within the formal and informal corporatist domestic agricultural patterns and corroborates the smooth administration of the EU CAP while ensuring the domestic agricultural interests.

Due to the particularity of the policy area and the necessity for exchange of information on specialised expertise knowledge and highly technical issues, the relationship between the political leadership, the bureaucracy and the sector was and remains close and continuous. This relationship enhances the sector's influence on the political leadership's decisions. As a result, the sectoral organisations have become indirectly involved in the decision making process despite the lack of formal decisive powers which made them influential actors through time and led to the emergence of network governance structures that are broader, reduced the monopoly of information of Danish agricultural organisations (especially after the Danish EU membership 1973) and the introduction of new issues (food safety) and actors after 2001. This close relation and the inclusion of the broader actors in the policy process legitimize the decisions.



Are market failures a prerequisite for the existence of a public service or service of general interest?

Pierre BAUBY
President of RAP association (Rebuilding Pubic Action), Member of EUROPA scientific concil, Associate professor at Paris VIII University and Science Po Paris

In three judgments of September 2013 (T-79/10, T-258/10 and T-325/10), the Court of First Instance of the EU clearly suggested that 'the existence of a market failure is a prerequisite for qualifying an activity as SGEI' (paragraph 154 T-79/10). The Court seems to refer to all SGEI in the judgment it has issued in the dispute regarding electronic communications network at very high speed. It builds on the Commission's Community Guidelines on the application of rules on state aid in relation to the rapid deployment of broadband communication networks (OJ 2009, C 235).

This restrictive approach to the definition of a public service or service of general interest marks a change compared with the Court's previous case law, even though the Lisbon Treaty now provides new safeguards for public authorities at national, regional and local level.

Thus, in the 2005 Olsen case (T-17/02), the Court used applied a criterion to the effect that ' if the market did not have sufficient incentive to provide connections similar to those offered (...) in terms of continuity, regularity and frequency on all the routes operated' 'it has not been established that those authorities exceeded the limits of their discretion.'

In a 2011 judgment [C-544/09P] on the introduction of digital terrestrial television in the Berlin-Brandenburg region, the Court points out that the 2003 Commission communication [COM (2003) 541] 'indicates that public intervention can be justified in two cases, namely when 'general interests' are at stake or where there is a market failure' (paragraph 53).

These elements have also been reinforced by the Lisbon Treaty, which established a European concept of services of general interest. It states that 'the Union shall respect the equality of Member States before the Treaties as well as their national identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government.'

(Article 4 TEU). It underlines that 'competence of Member States, in compliance with the Treaties, to provide, to commission and to fund' SGEI (Article 14 TFEU). Article 36 of the Charter of Fundamental Rights obliges the Union to recognise and respect 'access to services of general economic interest as provided for in national laws and practices'.

Protocol 26 refers to 'the competence of Member States to provide, commission and organise non-economic services of general interest' (Article 2) and insists on 'the essential role and the wide discretion of national, regional and local authorities in providing, commissioning and organising services of general economic interest as closely as possible to the needs of the users' (Article 1).

Public action based on ensuring internal and external security for each community, was taken not only to define and ensure the rules allowing the market to operate in a logical and proper way and later to correct its failures (concentration and monopolisation, externalities, especially environmental, economic, social, territorial biases, generational). It was also taken to provide strategic guidance for economic and social development, ensuring solidarity and economic, social and territorial cohesion in the long term. Public services or services of general interest have been developed within this framework.

In fact, the precondition mentioned by the Court reveals the stakes for the future of SGI. For some at the European Commission, especially its Directorate General for Competition, SGI are exceptions that must be designed as 'safety nets' for the poor, insecure, excluded or in isolated areas. Instead of this residual vision, the Treaty of Lisbon incorporates a universal design of SGI based on the wide discretion of national, regional and local authorities. This option is in the heart of the future of the European Union.

Modernization of public services in romania

Oana SABIE
Ph.D. Lecturer, Faculty of Administration and Public Management
Bucharest-University of Economics Studies

The change and the modernization are the key-words marking the evolution of public services. Society is strongly characterized and influenced by the concept of 'change', by the constant search of ideas, models and better solutions. Seen from this perspective, management of public services has to be able to develop pro-active strategies oriented towards improving organizational The change and the modernization are the key-words marking the evolution of public services. Society is strongly characterized and influenced by the concept of 'change', by the constant search of ideas, models and better solutions. Seen from this perspective, management of public services has to be able to develop pro-active strategies oriented towards improving organizational structures, enhancing the efficiency of government acts, accentuating transparency decision-making, increasing responsibility for the public good, in relation with the obligations imposed by the European standards in matter of public administration system. Either we refer to the necessary change of techniques and methods of management used within public services or to the significant changes of the environment in which institutions operate, it is clear that the management of public services faces great challenges.

Public services, understood in a broad sense, represent ensembles of activities that are created in order to satisfy a public need under the authority and control of a public community.

The diversity of social requirements necessitates making a distinction between public services and services of public interest. The primary distinction is that a public service is organized by a state organization and the service of public interest is accomplished by a non-state organization.

Beyond state services, in various countries there are services provided by intermediary communities (regions, departments, provinces, and counties).

Some services can be adequately delivered on the local level, others on the central or intermediate level. Urban services (water, gas and electric power) are better suited for local responsibility. The large networks of transport, social insurance, and energy production are under national competence. One of the main changes concerned the design and improvement of the legislative framework for public administration and services.

> In order to improve the process of public services delivery, we should think of stimulating measures for the re-organization and re-grouping of agents-providers. At the same time, civil society should be more encouraged to participate to service delivery, especially by transferring the activities of monitoring to volunteers *(ex. citizen consultation groups).*

The Law on Local Public Administration no. 215/2001 (republished under art. 3, from Law no. 286/2006) represents the general framework of regulation for local public services. Section 2, chapter IV of this law provided for 'public services of commune, town and own specialized body of local public administration authorities' emphasizes two categories of local public services:

Public services organized by local public administration authorities (autonomous administrations, trading companies or other public or private forms that deliver a public service to a commune or town);

Public services subordinated to local public administration authorities (public services from the organizational chart of the local council).

Law 189/1998 (republished Law 273/2006, modified by GEO 47/2012) ensures a large amount of local autonomy in public finance, aiming to solve short comings like: insufficient financial resources; the inability to stimulate local public administration authorities to discover new resources; deficiencies in the administration of local budgets; the inadequate criteria and means for the quality and efficient management of the public services sector; a lack of specialized staff.

Law on the regime of concession 219/1998 (modified by GEO 34/2006, updated in 2013 by GEO 77/2012-amending and supplementing GEO 34/2006 regarding the award of public procurement contracts, public works concession contracts and services concession) ensures the regulation and organization of the regime of concession for:

(a) Goods in the public or private ownership of the state, county, town or commune;
(b) Activities and public services of national or local interest.

Concession is based on a contract that states that the conceder transmits (on a period of no more than 49 years) the right and obligation to exploit goods, activities or public services to the concessionaire, who acts on his own risk and accountability in exchange for a fee.

The law stipulates the object of a concession, namely the goods, activities or public services from the following fields: public transport; highways, bridges, and tunnels with pay-tolls; road, rail, harbor infrastructures and civil airports; the construction and exploitation of new water power stations, including those under preservation; postal services; the range of frequencies and networks for the transportation and distribution of telecommunication; economic activities related to natural and artificial waters, works for water administration, power plants, equipment for hydrological, meteorological and water quality measurements, and fishery endowments; lands in public ownership, beaches, quays

and free zones; transport and public distribution net works for electric and thermal power; etc, any other goods, activities or public services that are not forbidden by special organic laws. The concession represents a modality to attract budgetary funds and is achieved by public tender or direct negotiation.

Law 326/2001 stipulates provisions related to the following principles governing local public services: sustainable development; local autonomy; decentralization; accountability and legality; citizen participation and consultation; inter-communal association and partnership; correlating requirements with resources; protecting and preserving the natural or built environment; efficient administration of public goods and administrative-territorial units; ensuring a competitive environment; publicity and free access to public information; universality; security; fair charging; service quality, established by competent public authorities; effectiveness; democratic control, transparency and accountability; coordinating all of the involved factors.

This law was updated and completed by law no 51/2006 (republished) regarding the municipal services of public utilities (revised in February 2008). In 2006 was approved the secondary legislation on services of public utilities (water supply and sewerage service, public local transport services, sanitation service, public lighting service, public services of power and heating).

The second change necessary for the modernization of public services consisted in the design of a strategy. The strategy was based on the following key objectives: decentralizing public services; improving the accountability of local authorities for the quality of public services delivered to the population; extending the system of basic services and increasing the degree of access to those services; restructuring the mechanisms of social protection and reconsidering the relation price/quality; promoting the principles of a market economy and reducing the degree of monopolization; attracting private capital for financing investments in local infrastructure; institutionalizing local credit and extending its contribution to financing communal services; promoting measures for sustainable development.

A third major change refers to the adoption of public-private partnership law (178/2010), which comes with benefits like: the reduction of necessary expenses from the local budget; the improve deficiency of service delivery and reduction of costs; achieving investments, and developing endowments on the expenses of the private sector; the ability to regulate the private sector by norms issued by public administration (quality standards, licenses, facilities for those that are making investments in the public domain etc); the ability of the local public administration to withdraw public service management, if the provider does not achieve its obligations.

Another major change came with the development and use of Information and Communication Technologies. Services can be performed and provided more effectively and a lower cost by using electronic, interactive services. Major Romanian market opportunities will arise for companies that develop and supply new types of services, products and technical solutions. The aim of e-services within intelligent cities is to explore new opportunities for sustainable development of those cities through the intelligent and interactive use of ICT.

In order to modernize the process of public services delivery, we should think of stimulating measures for the re-organization of agents-providers. At the same time, civil society should be more encouraged to participate to service delivery, especially by transferring the activities of monitoring to volunteers. Various types of information for service monitoring are important. Some of these information types are now developing: client information-surveys, focus groups, information about the controlling bodies - recently, high attention has been paid to audit activities.

Références
Alexandru I., Matei L., Servicii Publice, Editura Economica, Bucuresti, 2000, p.90-97
Plomb I., Androniceanu A., Abaluta O., publice de serviciilor de Managementul, Editura ASE, Bucuresti, 2003

European mobility of civil servants. The social security perspective

Carlos Almeida ROSA
Lawyer and legal consultant
in Public Administration and Social Security

The free movement of workers within the European Union and worldwide is increasingly a concern, imposing the need for international coordination of social law, in order to provide effective social protection.

The target of these agreements is to ensure coordinated and coherent implementation of national laws, without interfering in the substance and autonomy of each country.

At the level of pensions, and specifically regarding civil servants, there are currently three tools that allow different ways to achieve this goal:

1. Multilateral coordination of social security legislation: The inclusion of the special schemes for civil servants in this international coordination only occurred with the entry into force of Regulation (EC) No 1606/98 of 29 June 1998, that extended the scope of Regulation (EEC) No 1408/71 of 14 June 1971 and Regulation (EEC) No 574/72 of 21 March 1972, to public officials.

This cross-border aggregation of insurance periods for entitlement to pension rights is currently contained in the Regulation (EC) No 883/2004 of 29 April 2004, and the Regulation (EC) No 987/2009 of 16 September 2009, which constitutes the third set of rules since the inception of the European Community in 1958, following Regulations 3/58, 4/58 and the above-mentioned Regulations 1408/71 and 574/72, and does not involve the transfer of rights from one scheme to another. The aim of the Regulations is to protect the acquired social security rights

of those moving within the European Union and does not pretend to harmonise the systems. In the framework of coordination, Member States retain their own rules, however, Community law imposes certain detailed rules and principles so as to ensure that application of the different national systems does not harm persons who exercise their right to free movement.

2. Bilateral coordination of social security legislation: In addition to multilateral coordination within the European Community, a large number of bilateral agreements have been concluded worldwide, covering different social security systems and enabling people with contribution records in one country, but living or working in another, to claim and qualify for pension rights.

But these Conventions on social security shall only apply in cases of matters not covered by the European Regulations. As an example, Portugal has recently concluded an agreement whit Brazil (not yet in force), concerning the extension of the existing agreements to civil servants' social security schemes.

The aim of the regulations is to protect the acquired social security rights of those moving within the European Union and does not pretend to harmonise the systems. A large number of bilateral agreements have been concluded worldwide, covering different social security systems and enabling people with contribution records in one country, but living or working in another, to claim and qualify for pension rights.

3. Transfer of pension rights: Another tool of coordination and portability of pension rights is the possibility, given to officials of the European Communities, of cross-border transfers to/from the European Institutions, involving the transfer of the equivalent value to pension rights from one scheme to another (Regulation (EEC, Euratom, ECSC) No 259/68 of 29 February 1968 laying down the Staff Regulations of officials of the European Communities, with several amendments).

However, in this case, the option granted to the public official, to have the actuarial equivalent of his pension rights transferred, only occurs after he ceased its activity with the national administration or with the European institution.

Nevertheless, despite those three different ways to achieve mobility of workers and their social security rights, obstacles remain concerning countries not covered by coordination systems, given the absence of legal support to provide communication between them.

Recent developments of public expenditure on social protection in Estonia, Latvia and Lithuania

Prof. Dr. Eglé STONKUTE
Vytautas Magnus University, Kaunas, Lithuania

The magic of the fast economic and social prosperity after the accession into European Union (EU27) in three new EU member countries in Baltic region – Estonia, Latvia and Lithuania was shaken at the end of 2008 due to world financial economic crisis. The reliability of financial and economic systems as well as that of social protection was tested under severe conditions.

The level of general governmental expenditures in all three Baltic countries remains one of the lowest among EU27 countries and it ranges from 37 to 39% of their respective GDP, while in EU27 it reaches 49% of EU27 GDP. The general governmental expenditure on social protection is also relatively more modest in all these three countries and accounts for some 14% of their GDP, while these expenditures in EU27 – 19% of EU27 GDP.

The level of current expenditures on social protection in three Baltic countries was on the rise from the beginning of the crisis due to two main factors: a sharp and sudden contraction of their economies and sharp and sudden increase in demand for social assistance (due to high unemployment).

The situation in all three countries are, with rather similar level general government expenditures on social protection, were developing in a different context. Knowing that all three countries were revising their pension systems putting them on the right foot for long term sustainability, the financing of these expenditures resulted in important increase of public debt in Lithuania, the need to revert to International Monetary Fund in Latvia and rather limited increase of public debt in Estonia.

Despite relatively better economic recovery patterns in these three countries compared to other European Union countries, high unemployment rates (especially long term unemployment) remains the main concern and need additional inputs from social protection systems in these countries. With further incentives to increase general government expenditures on social protection in line with European Union's welfare region's vision, these expenditures, even after their reforms for long-term sustainability, should increase further.

However, the long-term sustainability and increase of general governmental expenditures on social protection is facing a challenge of fast deteriorating demographic situation in these countries suffering from ageing population, rather low fertility rates and, in case of Latvia and Lithuania, important emigration of potential tax payers which seemed to be accelerated by the last crisis.

With all that in mind, additional efforts in all these three countries will be needed to avoid being trapped in relatively modest social security system lowering the quality of life in these countries and relenting the creation of welfare states in Baltic region.

Pension System Developments in Estonia, Latvia and Lithuania

Prof. Dr. Eglé STONKUTE
Vytautas Magnus University, Kaunas, Lithuania

Pension systems in three Baltic countries are based on three pillar systems: first pillar being covered by PAYG schemes, second one - private mandatory funded pension schemes, and the last one - voluntary private funded and occupational pension schemes. The third pillar in all three countries remain rather modest as voluntary private pension systems as well as occupation pension systems are underdeveloped due to lack of traditions, trust, and dominating relatively low income population.

During still present hard times financial unsustainability of pension systems, the importance and viability of each pillar were discussed in Baltic countries. These discussions were dominated by distrust being expressed over private mandatory pension schemes as being highly dependent on financial markets and, with short and midterm economic and financial development perspectives in mind, potentially generating ambiguous results.

Despite a huge criticism expressed towards financial institutions and private mandatory funded pension schemes, it seems that in all three countries three pillar based pensions systems will remain in place with more importance being shifted to the second pillar as a tool to guarantee pensions replacement rate and to provide a mechanism to increase in the future these relatively low pensions dominating in Estonia, Latvia and Lithuania (average pension in Estonia was EUR 316, in Latvia - EUR 271, and in Lithuania - EUR 237 in the first quarter of 2013, while it accounted for 35% in Estonia, 39% in Latvia, and 37% in Lithuania of average gross wage in the same period in respective countries).

> Estonia, Latvia and Lithuania are facing their reforms in order to support one common objective of long term financial sustainability of pension systems.

Dealing with long term financial sustainability of pension systems decisions to increase pension age are made in all three countries. It is decided that gradually pension age will reach 65 years for men and women in 2025 in Latvia and in 2026 in Estonia and Lithuania.

Three Baltic States transfers (as a percentage points of social taxes) to private pensions funds were sharply reduced from the beginning of the crisis: from 5.5 % to 1.5% in Lithuania, from 8% to 2% in Latvia and even from 6% to 0% in Estonia. From 2012 past reductions are fully restored in Estonia and further increases are already decided (from 6% to 8% starting from 2014). Transfers will increase in Latvia from 2% in 2012 to 6% in 2013. Together with these increases two percentage points increase in social security tax rate for employees is made in Latvia. In Lithuania It is already decided that transfers will increase from 1.5% in 2012 to 2.5% in 2013, however, from 2014 it should be reduced to 2% and then in the long perspective gradually increased to 6%.

In Estonia and Lithuania there are important intention expressed to reform existing special regime pensions systems (state pension system, special regimes for public officials), integrate them into common pension system or at least to increase transparency in these.

Extremely shaken by economic and financial crisis of 2008 in times of ageing European population, still being under severe financial pressure and struggling for its financial sustainability pension systems in Estonia, Latvia and Lithuania are facing their reforms in order to support one common objective of long term financial sustainability of pension systems.

Pension reform in Slovenia: gradual increase of the retirement age

Prof. Dr Barbara KRESAL
Ph.D., Associate professor, Faculty of social work, Ljubjana University

LThe last pension reform in Slovenia entered into force on 1 January 2013. It was a compromise between social partners and certain other civil society associations and a result of long and heavy negotiations. The new law introduced the gradual increase of the retirement age as well as the equalisation of the retirement conditions for men and women. According to the new rules, the retirement age is 65 years of age and the minimum retirement age for entitlement to an early old-age pension is 60 years of age; however, there are some exceptions. A transitional period until the year of 2020, with some special rules, is foreseen.

In Slovenia, there is one uniform compulsory pension insurance scheme, which covers the entire territory of Slovenia and all insured persons (employees, including public servants, self-employed persons, farmers and persons carrying out another gainful activity within Slovenia as well as persons receiving certain social benefits, for instance, unemployment benefit, parental benefits, etc.). There is no special separate pension insurance legislation for public servants.

Pension insurance is based on a multi-pillar structure. The most important is still the mandatory first pillar, which is a public insurance scheme, based on a pay-as-you-go system. The law also regulates the voluntary supplementary pension insurance, financed by the premiums which can be paid by the employer and/or the insured person. It can be subsidized by the state in the form of tax reductions. Within the second pillar (individual or collective supplementary insurance) and the third pillar (private pension insurance), different voluntary supplementary pension insurance schemes are offered which are carried out by pension funds regulated in detail by the law.

A person is entitled to an old-age pension when reaching 65 years of age under the condition that he or she has been insured at least 15 years long before the retirement. However, if a person has at least 40 years of pension period (insurance period as well as certain other periods added to it), he or she is entitled to an old-age pension under the condition that he or she has reached 60 years of age. As already mentioned, transitional periods during which conditions for men and women will gradually be equalized and increased are foreseen.

There are many exceptions and special rules to this general scheme for retirement which cannot be described in detail. In certain cases, a person can retire earlier (for example, caring for a child during the first year, mandatory military service, employment before reaching 18 years of age).

The amount of an old-age pension is calculated out of the pension calculation basis which depends on the average monthly salaries or other income out of which the contributions have been paid. The period of time which is taken into account for the calculation of the average salary has been prolonged from 18 to 24 months. That means that, as a rule, the calculated average salary, and consequently the pension calculation basis will be lower than before the pension reform. The minimum and maximum pension calculation bases are set by the law as well. The calculation percentage depends on the insurance period fulfilled by the insured person. Bonuses and maluses are foreseen. In case a person defers a retirement, the percentage is increased and in case of an early retirement, the percentage is reduced.

According to the Slovenian pension legislation, a person can claim the right to a partial old-age pension (still working on a part-time basis) as well as an early old-age pension. Besides, pensioners are entitled to certain additional old-age benefits. A widow/widower's pension and a family pension are foreseen in the legislation as well.

In Slovenia, as in other European countries, the society is ageing. The number of the recipients of old-age pensions is growing (in 2013, approx. +4%). The ratio between the number of the insured persons and the number of the pensioners was around 1.4 in 2013. In Slovenia, the average retirement age is growing and it is around 61 years of age for men and around 58.5 years of age for women. Average old-age pension amounts to around EUR 600 per month (March 2014)[1].

[1] www.zpiz.si (National Pension and Disability Insurance Institute).

The CNFPT at the heart of european affairs

At a time of globalisation and of debate over the political future of the European Union, of the crises over refugees and the Greek debt, of global warming and territorial reforms, the European action of local authorities is reshaped. What interest is there in European and international action for local authorities? How can this policy be complementary to local public action from local authorities and reinforce them?

Citizens, elected representatives, civil servants and local authorities live in a European space. European policies are at the heart of national and local public action, European legislation strongly impacts national law and European funds are now managed by regions in France. European and international affairs impact the way jobs are undertaken in a concern to reinforce a European and global citizenship.

So why and how act, implicate oneself, master and secure public action ? How to render more coherent the increasing europeanisation of our territories?
The CNFPT offers training that responds to European issues for local civil servants and chief executives.

7 « European » cycles:
- «Development and management of European projects»
- «External action of local authorities»
- «Transborder cooperation»
- «Management and control of European funds»
- «Local authorities in the European Union»
- «History and issues of European policies»
- «European Comparative Approaches»

1 figure : 400% increase in the number of trainings on European affairs in 2015 compared to 2014
Events :
- the Strasbourg European Rendez-Vous
- the European Funds Days
- the European and International Local Encounters

And, as European policies are at the heart of local public policies, all CNFPT trainings include a European dimension (political, legal, financial...). Comparative approaches between local authorities are favoured in order to share, exchange and confront views for how can one think and innovate local public action without looking at other horizons?

A co-constructed european expertise

To build its trainings in close accordance with local authority current and future needs, the CNFPT collaborates with universities, experts, local and State civil servants, members of the European commission and other European institutions, and local/national as well as European elected representatives.

He has built a diverse network of partnerships with institutions, schools and institutes:
- **universities and 6 European university networks :** Research Group on Local Administration in Europe (GRALE), Regular University Encounters for Administration in Europe (EUROPA), Observatory for Local Authorities in Europe (OLA), European Group of Public Administration (EGPA), ...

- **schools and institutes of public administration worlwide and international networks :** European Institute of Public Administration (EIPA) in Maastricht, National Institute of Public Administration in Madrid, Speyer University, International Association of Schools and Institutes of Administration (of which the CNFPT hosted the 2015 annual conference), European Social Network (ESN)...

- **European institutions such as the Council of Europe, the European Council of Municipalities and Regions, the Committee of Regions**, the CGET, the General Secretariat for European Affairs (SGAE), the European commission, the European Parliament...

- **associations of elected representatives:** Association des Régions de France (ARF), Assemblée des départements de France (ADF), Assemblée des communautés de France (AdCF), France Urbaine, Association française du conseil des communes et régions d'Europe (Afccre)...

- local actors in public administration training, Including on European affairs within the Strasbourg European Centre for public administration (PEAP)...,

The cnfpt : for a quality local public service

Local civil servants work daily to improve the quality of life of all citizens: education, urban transport, waste management and recycling, social benefits, management of roads and green areas, management of school buildings, municipal police...

The National Centre for Local Civil Service (CNFPT) accompanies local civil servants in their mission of general interest by training them throughout their professional career.

The cnfpt training offer regarding public safety and security

In France, the National Centre for Local Civil Service (CNFPT) is responsible for the exclusive implementation of compulsory trainings in the public safety / municipal police sectors whose durations are set by law.

As single operator, the CNFPT accompanies both the quantitative evolution of the municipal police personnel but also meets the new needs of local authorities on this topic.

The responsibility of the CNFPT in these trainings is major and the institution is particularly vigilant about its interventions in a field that involves not only the daily security of local civil servants but

also the peace and tranquillity of all citizens.

The mandatory initial training of «municipal police guards» (C category)

This training is intended for graduates of the municipal police guard examination and staff ranked at a similar level (guard, brigadier or brigadier-chef).

It meets the following specific objectives enabling:

- to acquire the knowledge required for the performance of all tasks of a municipal police officer,
- to apply this knowledge in a professional situation,
- to observe professional practices in the municipal police personnel environment,
- to become a local civil servant,
- to become an actor of urban policy,
- to integrate effectively a local authority.

The training course, of a total duration of 120 days, alternates theoretical and practical training sessions in local authorities and in partner organisations: national gendarmerie, national police, customs administration, prisons, fire services, social services, police courts, court houses, etc.

Each group of trainees is followed by a training committee including and institutional and training tutor, a professional tutor (municipal police officer) and a relational tutor (psychosociologist).

During his practical training, each trainee is accompanied by a personal tutor, who follows the training progress and ensures application of the theoretical knowledge.

Pendant ses stages pratiques, chaque stagiaire est accompagné par une ou un tuteur, qui suit la progression pédagogique et assure la mise en application des acquis théoriques.

The mandatory initial training of «head of municipal police unit» (B category)

This training is intended for graduates of the head of municipal police unit examination and staff ranked at a similar level.
The training content, fixed by law, is organised as follows:

- the functioning of institutions ;
- the professional environment ;
- human resource management ;
- management of a municipal police service ;
- security and public safety.

The initial training programme of the head of municipal police unit alternates theoretical and practical training sessions in local authorities.

According to the trainee profiles, the training includes:

- tthree phases (a total of 183 days) for candidates who did not follow the municipal police officer initial training, or
- 2 phases (a total of 120 days) for the other candidates.

As with all initial training courses, each group of trainees is followed by a training committee and each trainee is accompanied by a personal tutor.

The initial training of municipal police director (A category)

This training is intended for graduates of the municipal police director examination and staff ranked at a similar level.
They are appointed as municipal police director trainees for a one-year period.

The course starts with a 9-month training period. The duration of this training can be reduced to 6 months:

- Candidates who have previously completed the mandatory training provided to municipal police officers,
- The head of municipal police units justifying 4 years of experience as head of a municipal police unit.

Civil servants admitted to a professional examination and recruited by a municipality or intermunicipality (EPCI) are appointed as municipal police director trainees for a six-month period. The course begins with a 4-month training period.

The programme is based on the principle of a strong alternation between theoretical and technical training, practical training through traineeships in local authorities and under the supervision of a tutor (municipal police director), and a time of observation and discovery of main partners of a municipal police station.

Apart from developing the capacity to exercise the missions of a municipal police director, the initial training also aims to:

- facilitate the integration of municipal police directors in the local civil service;
- allow municipal police directors to establish a network with other public safety and security actors;
- place their missions within the framework of public policies related to security and urban management;
- acquire the management and leadership tools necessary for their function.

For all initial trainings, after the training period, the President of CNFPT informs the local authority through a written assessment of the skills acquired by the trainee and the skills she / he has demonstrated during training.

The written assessment is also sent to the prefect and state prosecutor for recruitments from 1st January.

The double accreditation (prosecutor and prefect) and the certificate issued by the CNFPT allow the agent to exercise as a municipal police officer.

Mandatory continuous training

Mandatory continuous training is done throughout the career and allows the maintenance or improvement of the professional qualification of agents and their adaptation to exercise their functions in the light of developments in the legal, social, cultural and technical missions they are assigned.

- For category C staff: 10 days minimum training over a period of 5 years.
- For staff in category B and A: 10 days minimum training over a period of 3 years.

Mandatory continuous training consists of a core curriculum linked to the fundamentals of the job, and specialised courses and traineeships in response to the diversity of missions.

The core curriculum must allow agents to acquire knowledge related to the rapidly changing professional environment. They are adapted to their level of responsibility and supervision.

The specialised modules in turn take into account the diversity of powers devolved to municipal police officers through specific courses and traineeships of over sixty different themes. (see box)

Specific training courses for specialised units

The CNFPT offers training for specialised motorcycle and mounted police units.

For motorcycle police units, the CNFPT offers a 10-day training. It is organised in partnership with the national motorcycle training center of the national police or with the national training centre for road safety of the national gendarmerie.

For mounted police, the CNFPT offers a 10-day training organised in partnership with the "Garde républicaine".

Training and certification of municipal instructors for weapons

Under certain conditions, municipal police officers can be trained to obtain an instructor certificate. They are proposed by their employment authority to the CNFPT.

The training provided to obtain the instructor certificate includes legal, technical and educational courses. The overall duration of the training is one hundred and eighty hours. It is organised in partnership with the national police and gendarmerie.

Following this training, the National Centre for Local Civil Service (CNFPT) delivers a municipal police instructor certificate in weapons handling, valid for five years and renewable after a refresher training course.

The municipal police instructors are intended to provide the training in the use of weapons to all municipal police officers organised by the National Centre for Local Civil Service (CNFPT) under conditions determined by the latter.

Weapons training for the armed municipal police

It is the mayors' decision to arm all or part of his municipal police force. To do this, under specific conditions, he must first obtain the authorisation of the prefect.

Municipal police officers have access to a list of weapons in the following categories:

- Category B1er, 3e, 6e and 8e: revolvers, semi-automatic pistols, defense bullet launchers, tasers and teargas and riot guns.
- C3e Category: defense bullet launchers.
- D2e Category: "defense stick" or "Tonfa" telescopic defense sticks or tonfas, teargas and riot guns, hypodermic throwers against animals.

All agents at their first request for carrying a weapon of categories B1er, 3e, 6e and 8e and/or C3e are subject to a training that includes:

- a legal 12-hour training module;
- technical modules whose duration varies according to the nature of the weaponry.

After this training, the CNFPT determines whether the civil servant is ready to be armed on the street and informs the prefect.

Armed officers in category B1er, 3e, 6e and 8e and/or C3e are also subject to a minimum of two training sessions per year, organised by the CNFPT. These training courses enable to maintain the level of competence required for the handling and use of weapons.

Example of topics covered by the mandatory continuous training of municipal police officers in 2014

The municipal police and traffic police

Interventions due to noise pollution

Review of identification and detection of false documents

The power of the mayor in urban planning

Public interventions: Level 1

Public interventions: Level 2

Gestures and professional intervention techniques Level 1

Gestures and professional intervention techniques Level 2

The regulations regarding dangerous dogs

Impoundment and immobilisation

Minor victims and in danger

Sales - markets

Advertising Police

Ruins and dangerous buildings

The fight against drugs

Bars, pubs and taverns

Elements of special criminal law applicable to municipal police

Legal and jurisprudential approach of self-defense

Coastal law and police powers of mayors

The electronic record

The drafting of legal writings

The municipal police and burglary

Community policing

The discovery of explosive devices

The municipal police and the environment

The municipal police and mediation

Internal security, guarantee of freedom or threat to fundamental rights?

Hélène PAULIAT
Professor of Public Law - University of Limoges
EUROPA president

Guaranteeing the security of citizens means confining their activities and the performance of certain actions. This relatively simple approach to security is not exhaustive thereof, far from it. While it is probably relatively pointless getting into doctrinal debates, lasting elsewhere for over a century, it is however worth pointing out, as Professor Olivier Renaudie said that 'internal security helps alleviate differences between the police and public service' ('Police et service public', in C. Vautrot-Schwarz (ed.), La police administrative, PUF, 2014 p. 39, spec. p. 52) - a distinction which is among the principles in French administrative law. This gradual convergence between the concepts considered initially as perfectly contradictory (the public service is a service provision activity, the police is an enforcement activity) is a recent concrete expression in the existence of what Professor Renaudie calls 'a new figure' - that of the user of the security services ... that we could consider, until recent years, indirect beneficiaries of such an activity.

Internal security, in France or in Europe, is currently facing so many issues (I) and involves various stakeholders (II). This is what this section of the Review aims to present, highlighting the similarity of questions posed in different European states. All threats are not of the same nature, but the discussions held by the authorities in each country show some convergence regarding selected or proposed solutions.

Challenges of internal security: a problematic diversity

'In the contemporary context, and especially since the tragic events of 11 September 2001, our societies seem besieged by threats and collective fears; these issues concern the states and make the anxiety of leaders and populations legitimate. Is the price to pay necessarily a restriction of freedoms and fundamental rights of citizens?', Professor Ali Sedjari is asking (La sécurité intérieure en Europe, PULIM). The fear is indeed fundamental, our citizens are particularly sensitive to any form of risk. That is why the notion of security has so invaded all fields of social life (food safety, industrial security...). We are hence witnessing a wide diversity of threats (A) but in the backdrop of a unity in responses, largely detrimental to the rights and freedoms (B).

Diversity of threats linked to the development of techniques

LFear then acts as the basis for the intervention of security stakeholders; a citizen who is afraid expects the government to act to eliminate the risk. Narciso Pizarro is therefore right to focus his thoughts on public security and policy of fear. He had already insisted at the symposium organised by Europa in 2008 on this obsession with security and the new threats that had to be taken into account by governments; but this fear-based demand for security is analysed according to him in another way: 'Safety first is the elimination of potential threats to our lives, replacing the random by determination. If citizens all seek security, they risk seeing fundamental rights and freedoms disappear; it is probably because they are no longer in a position to face the risks, they do not want to respond to a number of challenges, they are reserved to innovation ... But a society whose members have this reasoning is doomed to disappearance or sclerosis. The new threats are themselves perfectly real: cybercrime, addressed by Jean-Marc Falcone and F. Dehay - leading to the demand for cybersecurity - is a scourge that would cost more than EUR 280 billion to businesses worldwide (rtbf.be info of 20 October 2014; this Belgian website states that a coalition for cybersecurity was formed, bringing together the public, academic and corporate circles). In the troubled current contexts, sects can be a particularly significant risk to individuals, as shown by Dany Lesciauskas. The fraud, in all its forms, is also a major threat to internal security, since it can facilitate money laundering or corruption; then it is essential not to stick to purely national tools to combat these scourges, that's what David Donnerer states, referring to the office of European Public Prosecutor within the European Union.

The responses to these threats for states often are found in restricting political freedoms.

Consistency of responses: the restriction of rights in the name of security

LPublic authorities must respond to the new threats, but also to the new expectations of citizens in the field of security. But at what price? How to find ways to ensure the best possible security while respecting citizens' rights? We know how, after the attacks of 11 September 2001, the United States, yet particularly committed to freedom, opted for restrictions on rights, even to practice acts against the dignity of detainees suspected of participating in one way or another in terrorist actions. The demand for security must not lead to the annihilation of fundamental freedoms.

The primary objective, the maintenance of public order, remains, as Fabien Tesson says 'under European influence.' And if the concept of public order changes precisely under the influence of EU law, citizens obtain guarantees about protection under the Council of Europe law, mainly in the European Convention on Human Rights. The concept of public order experiences in France profound changes; the order introduced by the State Council in January 2014 confirming the prohibition of Dieudonné show, The Wall, reconsidered the definition of public order. In its report of 25 March 2010 on the legal possibilities for a ban on wearing the face-covering veil, the State Council stated that public order could be defined as meeting a 'minimum set of reciprocal demands and essential guarantees of life in society', which, like pluralism, 'is so fundamental that they condition the exercise of other

freedoms'. Public order touches on fundamental features of life in society. And the 'positive definition of public order' proposed by the highest authority, not as a bulwark against the abuses of the exercise of certain freedoms but as 'the bedrock of fundamental requirements to guarantee their free exercise', is a kind of a new social contract. An order issued earlier this year follows this idea, partly by focusing the argument on the need to respect human dignity. A humourist or a self-proclaimed one can engage in provocations and incitement to racial hatred based on historical events that disrespect human dignity. Public order becomes immaterial and receives a positive approach in the light of life together. It justifies the restriction to certain freedoms, as in this case, freedom of expression.

But demand for security cannot justify everything; the will of each state to protect itself against external aggression or even from within has led to very serious abuses and disrespect of human rights. David Donnerer reminds us of a recent scandal - the NSA, friendly countries wiretapping each other at the risk of no longer spying on his enemies ... It therefore appears essential to avoid such excesses, and in France, the requirements of ethics are particularly strong. Marie-France Monéger Guyomarc'h explains, through the reform of the General Inspectorate of the National Police, the role of the service, before investigations into alleged serious offences at the police; but insists above all on the reform that led to this unique service, with a will in particular to promote the alerts via a dedicated platform. This is a translation of a rationalisation of structures to be more effective in a bid to face threats.

Once the objectives are set, the stakeholders are to fulfil them. But the stakeholders are very diverse in the field of security, raising many questions about the consistency of public policy

The stakeholders of internal security: penalising disparity?

The stakeholders of internal security are primarily the states. But it is impossible for a state to act on its own; so it should work in close cooperation, firstly with other states at European level, and on the other hand with communities and more broadly internal territories.

Indispensable cooperation between states

It is the states which hold sovereign prerogatives and which, according to a standard formula, have the monopoly of legitimate coercion. They must ensure, with their forces and according to legal rules, security on their territory. Such a mission can be problematic when the attack is conducted on a coastal territory; how in fact to prosecute the offender, where the offence was committed or the pursuit should be carried out in another state or in international waters? It is this question discussed by Luis Fabrica in the Canadian border and the hot pursuit ... But beyond this particular case, it is certain that only very intensive cooperation in the field of security can be effective at European level and internationally. Two particularly significant examples provide food for thought to readers: Margot Bonnafous discusses Police Cooperation in Europe - the example of a French-German border region, giving a concrete example of cooperation in a border region between France and Germany, with cross-border prosecution, joint patrols ... Franz Clement elaborates on police cooperation in the Greater Region and in Benelux, i.e. among several neighbouring States.

But this European cooperation is not enough. It must be present also within the States, in the territories.

Necessary territorial cooperation

Internal security also goes through a daily work in the vicinity, in the territories. The debate has been heated in France over the past twenty something years regarding the recognition or not of municipal police forces in other European states. This is the case today in Hungary (the reflection is proposed by Gyula Koi) and Romania (Oana Sabie wonders about the future of these services). The network of structures is not easy to manage; sometimes there is a risk that too many players in security cannot properly maintain public order. In this respect, Bernard Boucault examined the example of the Parisian urban police force and discussed this issue from the perspective of the territorialisation of public action. But Paris is an ongoing field experiment ... So the mayor of Paris, unlike his counterparts in other cities, does not have all of the competences in general administrative police, although they have been substantially expanded in recent years, since certain tasks are still under the Paris Prefect of Police. But if we add to this the fact that intermunicipal entities in France may have special police powers, even one wonders if some do not foreshadow general police powers, we measure the difficulty of clear articulation for various stakeholders ... Does the solution then lie at our Belgian friends? Alice Croquet describes the integral security concept; Indeed, in Belgium this integrates, on the one hand, the 'two levels of the integrated police (local and federal) and, on the other hand, the various links in the security chain (political level - policy - justice) centred around a common management of public security'. Priority objectives defined at the central level follow a Federal Security Plan, translated into a national level and a zonal security plan. The objective is to articulate the best possible actions, keeping stakeholders involved in their respective fields but with common goals ... This vision may still be imperfect as it leaves out private security stakeholders, (X. Latour, 'La place du secteur privé dans la politique moderne de sécurité', AJDA 2010, p 657; P. Cossalter, 'L'intervention du secteur privé dans les activités de sécurité publique: à la recherche d'une limite' in La sécurité intérieure en Europe : entre protection des citoyens et frénésie sécuritaire ?, PULIM 2010), representing a market of about EUR 8 billion? But they then act essentially as security service providers and are not associated with a general system established by the government to maintain public order. The border is sometimes very tenuous, however. Since the Act of 13 July 1983, which defined the legal framework for private security activities in France, private security has evolved considerably, becoming 'an indispensable interlocutor of the State' (X. Latour, 'TLe droit de la sécurité privée en 2013 : entre permanence et changements', JCP-A 2014, 2077). It contributes, alongside the State, to general security, as underlined in the Act of 21 January 1995 regarding security guidance and programming. For its part, the Act of 14 March 2011 regarding internal security guidance, programming and enforcement created a National Council of Private Security Activities (CNAPS), a public administrative body designated by the decree of 22 December 2011, see X. Latour and P. Moreau, 'Les premiers textes d'application du Conseil national des activités privées de sécurité', A JCP, 2012, 2118); the Constitutional Council, under the Constitution Law, recalled 'that authorising any legal entity to have surveillance devices around its buildings and facilities and designating private operators to operate video surveillance systems on public roads and to monitor images on behalf of public entities, these provisions enable private individuals to invest in general surveillance of public roads; each of these provisions makes possible delegation to a private person of general administrative police powers inherent in the exercise of 'public force' necessary for the guarantee of rights that prohibits the basic text (decision 2011 -625 DC of 10 March 2011, cons 19; see also X.

Latour and P. Moreau, Délégation et activités de police : stop ou encore ?, JCP A 2012, 2117). Finally, it is worth noting that the internal security code, Chapter VI of the regulatory part entirely focuses on private security activities, which are on an equal footing with conventional public activities (Decree of 18 August 2014 on private security activities). The French situation is replicated in Europe; each European country has developed a more or less restrictive regulation in this area to ensure the legitimacy and ethics of these stakeholders (White Paper on participation of private security in overall security in Europe, 2008); 93% of states have adopted a regulation that affects the private security sector, but only 30% of European countries have set up national standards specific to the market of private security activities. We even see that very many public security stakeholders choose the private security sector to provide retraining opportunities ... The phenomenon is so wide-ranging and raises the question, at European level, of the legitimacy of this outsourcing security tasks.

Internal security remains an ambiguous concept. But this topic in the European Review on Public Administration is meant to highlight its diversity, actions taken, the difficulties it causes in different Member States. Between general reflections and concrete cases, the topic is therefore an overview of the joint missions and competencies of the different stakeholders in Europe.

Public security and fear-based policy

Narciso Pizarro
Professor of Political Science and Administration
Civil Administrator of the State
Complutense University of Madrid

For at least ten years we have witnessed a proliferation of the discourse on public security - internal, external, as well as individual. This discourse was the product of the governments of large Western states. The discourse on security is centred around the affirmation of the existence of dangers and risks of any kind for the life and property of individuals. Intentional or not, this rhetoric breeds fear, the most widespread and also the strongest of human emotions.

Fear, denial of uncertainty and randomness in human life made acceptable for the population the public policy stating a goal of reduction, even the elimination of the risks inherent in life - this unchosen adventure, by eliminating more freedoms and rights of citizens. The success of this rhetoric in increasing the intensity of fear and the dangers perceived by individuals is based on security demands that states are always ready to satisfy.

Security demands are not only satisfied by public administration, but also by private institutions. The emergence of insurance services on the market, in addition to being a good deal that has made many companies in this sector major players in global financial markets reinforces the fear, which is the main motivation to buy for their end customers. Advertising of insurance companies paves the way and makes credible the discourse about the needs for individual and collective security.

Chance, ubiquitous in the universe, is not accepted: nothing should be left to chance. And since unfortunately it is not possible to do so, we can at least take advantage of the situation. The way to proceed is simple: since we cannot act on the causes, at least we can address the outcome. It makes individuals who, in one way or another, may not have foreseen and prevented the fatal event guilty of the effects of the fatal event. If someone slips on the edge of a swimming pool, it is the owner's fault. Hence, lawyers have work and make good money. And insurance companies sell ad hoc products.

There is a convergence between public and private discourses about the existence of dangers and the needs of individual and collective security. This convergence sets up a positive feedback loop, amplification of the effects of argument of all. And that helps transform citizens into children who need protection, which they will receive from the state, which still is - always - the father who knows, who acts for his sons and daughters. The father protects his children from all dangers and is authorised to protect them from themselves. To do this, he puts bans and he has the right to punish: the one who loves well, punishes well.

But this benevolent father (the fatherly state) is not and cannot be democracy; citizens are no longer citizens, but subjects to a sovereign power to which they have sold their freedom in exchange for delusional security. Democratic institutions designed for a nation of adult citizens are emptied of their meaning and then become forms which citizens - turned into children - now have no commitment to and no respect of.

Substituting analysis of the causes of social facts for search and punishment of the guilty is not just a rhetorical trick reserved for political discourse: the so-called social science is not any different. The theories of action are only the purely nominal reformulation of the most rancid moral discourse, that of the Thomistic morals. Philosophers, sociologists, political scientists and economists, sometimes minor and sometimes prestigious theorists have earned their reputation based on the repetition of the same discourse. Instead of explaining facts, these theories are just trying to identify the responsible stakeholders, guilty of the events. This transformation of rational explanation into police and judicial logic is handy: power likes this way of speaking, which does not question its role; it remains well above the fray ...

We are no longer there. The concern we have about the effects of security policy and the discourse on the existence of dangers for democratic Institutions is exceeded. The existence of individual and collective security threats is enhanced by a new threat: democracy and its institutions begin to be perceived as threats and dangers.

Indeed, the subprime crisis which started in 2007 in the United States quickly turned into a global financial crisis and this was despite the attempts of states to confine and curb the scope of the phenomenon. Global financial entities constitute a network with very dense interconnections which results in basically instantaneous transmission of fluctuations. These entities are linked by movements of capital, loans and borrowings between each other. Default of payment of one of them results in the default of another, in turn, that they cannot pay.

The financial crisis became an economic

crisis: States were trying to save "their" banks from bankruptcy by providing public money. But to this end, they borrowed money in turn, and the public debt increased. To limit that increase, as well as the interest rate cost paid they applied everywhere the so-called austerity policies. They simply consist in reducing public expenditures that result in bank bailouts and repayment of debt. But this reduction of public spending is done by reducing wages and benefits in education, healthcare, social assistance, etc.

Thanks to these policies, the demand for goods and services diminished, unemployment rose, many companies went out of business and globally, poverty increased. In many cases, the measures taken by governments broke the laws. The argument of the governments in the public debates is simple: these policies, painful as they may be, are essential and will be applied at all costs.

Numerous economists and experts say that the austerity policies are, above all, ineffective, as we have witnessed in countries where they have been applied. They cannot solve the debt problem and lead to severe recession in economies. However, they manage to transfer wealth to financial institutions and to transform private losses of banks into public debt.

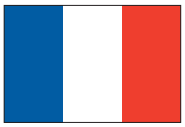
But arguments and facts are of little importance. The key idea here is that public opposition is weak and that political parties do not act. And when people protest, governments threaten and punish.

Once well established and deeply rooted in the minds of citizens, fear not only serves to justify policies for suppressing freedoms but also to sell insurance contracts of all kinds. It also helps make possible and acceptable the so-called austerity policies, which lead to the impoverishment of individuals in favour of financial institutions.

Since 2008, with the economic crisis we have gone further in the destruction of institutions that founded the social state of the rule of law: democracy has become, too, a danger. Politics, public affairs, is not a matter within the competence of citizens or of democratic institutions, which are only obstacles and threats for governments.

The private and public security of individuals was the argument that States have used to limit freedoms and rights. The state was a protective father for citizens who play the role of children. But since the beginning of the economic crisis, to launch this giant transfer of wealth from the poor to the rich, from the people to banks, governments have threatened and have repressed popular movements and have increased fear.

Promoting fear as a measure to reduce rights and civil liberties is now used to increase the powers of financial institutions. Fear is a tool of subjugation. This is not new: all authoritarian regimes from the Old Regime to contemporary dictatorships have used fear to subjugate populations.



Fight against terrorism and cybercrime, National Police adapts its responses to new threats

Jean-Marc FALCONE
The General Director of the National Police (DGPN)

Internet has changed profoundly human organisation worldwide. This still recent phenomenon offers on a daily basis remarkable progress helping push the limits that man struggles to set. Our attitudes have changed our way of thinking too, and many of our actions are facilitated by the use of new technologies, many of them not being possible otherwise. Having become a must for the majority of the world's population, the Internet is a target of threats, when it is not the threat itself. Illegal content dissemination, cyberattacks to corporate networks, violations of intellectual and industrial property rights, fraud, the Internet hides a new kind of risk against which governments are mobilising. The fight against cybercrime and terrorism must adapt incessantly to changing methods used by crime and the emergence of new phenomena that threaten the security of the population on a daily basis. The Directorate-General of the National Police watches closely existing or emerging threats and undertakes appropriate measures to these alarming issues. Interview with Jean-Marc Falcone, managing director of the national police.

The General Director of the National Police Jean-Marc FALCONE and his collaborators in the new ultra-modern crisis room built under the place Beauvau

Fight against terrorism:

The need to coordinate the different services involved in the fight against terrorism has emerged in response to the development of this phenomenon in the early 1980s. In France there is no single department responsible for the fight against terrorism: the basic principle in

the fight against terrorism is a permanent mobilisation of all services, contributing to the prevention and the suppression of acts terrorists, they are part of the Ministry of Interior or another government department. In fact, namely coordination ensures the consistency and efficiency of the national system. Thus, on 8 October 1984 under the direct authority of the DG of NP a coordination unit in the fight against terrorism (UCLAT) was set up.

The French general rules against terrorism are based on three pillars which are personnel specialisation, centralisation of judicial investigations in Paris and coordination of services. The terrorist threat is subject to a weekly evaluation under the aegis of the coordination unit of the fight against terrorism. Directly reporting to the DG of NP, the UCLAT, under the management of the general controller, Loic Garnier, supports the issues of 'protection and security', 'monitoring terrorist groups', 'international' and the 'fight against radicalisation' through four departments. Set up in May 2014, the department of the fight against radicalisation is intended to ensure the implementation and monitoring of certain provisions of the plan against violent radicalisation and terrorist sectors drawn up by the interior minister on 23 April 2014. 'This plan aims to counter travels to Syria, to fight more effectively against the channels, to intensify international cooperation with other countries of transit and finally to take a series of preventive actions and operations likely to contradict radical discourse. '.

In France, the scale of recruiting candidates for jihad in Syria remains a concern. 800 young people are concerned.

The coordination unit of the fight against terrorism which has its own budget is made up of 43 people and is divided into three territorial entities:

- headquarters based on the island Beauvau in Paris, 8th arrondissement (31 employees)
- the UCLAT office in Pau whose primary mission is anti-terrorism coordination against the ETA Basque separatist movement is located on the premises of the Prefecture of Pyrénées-Atlantiques (12 employees);
- finally, the unit has 5 liaison officers seconded abroad (Meckenheim in Germany, London, Rome and in two officers in Madrid).

300 of them have already left for jihadist operations in Syria, others have expressed their willingness to go or are likely to leave any time now. Thirty have died there, 180 are on the road, a hundred would materialise their desire to get there and over a hundred would be on their way back. Among them, there are more and more women and minors.

Among the key measures of this system, the creation of a national centre for help and radicalisation prevention is meant to collect complaints and provide counselling to families while communicating some information to prefectures for their social care. The CNAPR handles phone calls of the hotline 0800 05 696 and complaints filed via the form available on the website of the Ministry of Interior.

KEY NUMBERS

Being the foremost internal security force, the national police have nearly 143,000 employees of which 111,000 active policemen. It has the responsibility for security in 90% of problematic neighbourhoods and acts in 69 priority security zones, including 7 shared with the police. It handles 70% of delinquency cases, 80% of serious crime and trafficking and drug sale cases.
82 internal security attachés cover 153 countries around the world: this is the first global network of international police cooperation.

Fight against cybercrime

The use of new technologies is spreading among offenders and is in line with the general context of mobilisation of public institutions to provide answers to threats from cybercrime. In coordination with Interpol - which recently developed a global complex for innovation - and Europol which has developed its centre for the fight against cybercrime named EC3, the Central Directorate of the Judicial Police created a department of fight against cybercrime enabling it to develop a comprehensive policy to fight against the phenomenon. Responsible for defining the strategy and doctrine for the whole unit, the office of strategic coordination includes a communication unit and an inter-ministerial platform bringing together key players. The unit is organised into two entities - the central office of fight against crime related to information and communications technology (OCLCTIC) and division of forecasting and analysis The OCLCTIC consists of 4 sections:

-The Internet section consists of the "PHAROS" platform dedicated to the treatment of illegal Internet content that after a feasibility study will accommodate a centre (or platform) for handling online scams responsible for the collection of online complaints, their overlapping and their operation, which will include a national telephone platform for information and prevention of scams. The section also includes a "web desktop" to centralise the benefit of investigators, useful information to facilitate operational exchanges with service providers and web hosters and content publishers. It will be responsible for establishing and updating the coordinates of Internet stakeholders and will disseminate them nationwide.

- The Operational Section responsible for curbing offences related to attacks on automated data processing systems (hacking), fraud at electronic communications operators (SMS scams and premium-rate telephone numbers, hacking operating systems of smartphones and switchboards), scams on the Internet and infringement of payment systems;

- the section of technical support, research and development comprising an operational technical assistance taskforce, remote data capture taskforce for spyware development and a platform for research and development responsible in particular for the technical monitoring and the development of operational technical solutions. These last two entities will be implemented and will become operational from 2015;

- The training section in charge of the initial training of first case-handlers and cybercrime investigators, as well as the development, facilitation and regulation of an exchange forum designated for network of 'cyber' experts. This forum will enhance the exchange of information and experience on these evolutionary technical issues;

- The international relations section including a unit of international cooperation, operational documentation and a unit of syntheses and analyses.

Another innovation is the division of forecasting and analysis which will ensure a

public response to the needs of individuals and SMEs, not identified as vital operators, which yet become prime targets of cyber attacks. According to Jean-Marc Falcone, it will be "closer to the population through awareness-raising, prevention and counselling before or after the incident.' As necessary, the centre will collect and channel evidence about the opening of criminal investigations from the most serious cyberattacks or the most organised ones.

Within the Central Directorate of the Judicial Police, a new sub-direction fighting against cybercrime

JUntil 1941, the police in France was municipal. The law of 23 April 1941 set up the National Police in all municipalities of over 10,000 inhabitants, and in smaller towns designated by an order of the Interior Minister. Paris retained its special status. After the Liberation, the order of 16 November 1944 re-established the National Security DG. Within the Interior Ministry, it includes four directorates: judicial police, public security, general information and monitoring of the territory, as well as administrative directorates: staff and administration, resources, foreigners. The law of 9 July 1966 established the National Police, which brought together the staff of the National Security and the Paris police prefecture. While a branch of the national police was created within the Interior Ministry, the Paris Police Prefect remains the head of the police and the intermediary in charge of security.

The Directorate-General of the National Police is under the authority of the Ministry of Interior, alongside the Directorate-General for Civil Security and since 2009, the Directorate-General of the National Gendarmerie.
The National Police carries out its tasks in urban areas, while the national gendarmerie is rather responsible for rural areas. Meanwhile, municipal police contribute, under the authority of mayors, to strengthening security in collaboration with the state security forces.
The National Police is notably composed of central departments of public security, judicial police, republican security units, border police, but also of international cooperation, resources and skills of the national police.
The General Inspectorate of the National Police exercises internal control.

Sectarian organisations: a myth or a threat to our democracy?

Dany LESCIAUSKAS
Judicial Superintendent at the Belgian Federal Police.
Head of Harmful Sectarian Organizations Group in the Anti-Terrorism Division of the Federal Judicial Police in Brussels

The phenomenon of 'sects' or 'harmful sectarian organisations' (HSO) is a recurring concern for Belgian and French authorities which have set up several parliamentary committees on this issue . These committees have led to the creation of the Centre for Information and Reviews of Harmful Sectarian Organisations (CIAOSN) in Belgium and the MILS (Interministerial Taskforce for Fight against Sects) which in 2002 became the Taskforce of Vigilance and Fight against Sectarian Excesses (MIVILUDES) in France.

Terminology varies depending on where the problem of sectarian organisations is discussed. Belgium refers to 'harmful sectarian organisations' (HSO) while France speaks rather of 'sectarianism'. However, the problem is the same as well as the interest of the different authorities in it and the concerns it raises.

Legal definition of harmful sectarian organisation

By the law of 2 June 1998 the Belgian law-makers defined a harmful sectarian organisation as 'any group of philosophical or religious vocation, or claiming such, which in its organisation or practice, engages in harmful illegal activities detrimental to individuals or undermining human dignity.'

Three necessary and sufficient conditions define a harmful sectarian organisation: a condition of grouping, a condition of vocation and a condition of harmfulness. The law of 2 June 1998 also states that the satisfaction of the condition of harmfulness must be assessed in respect of the principles set out in the Constitution, the law and the conventions protecting human rights. Thus, besides committing illegal acts, the report of the parliamentary investigation has established the following criteria of harmfulness:

1. Affecting the mental or physical health of the follower or his/her fundamental rights:
   Mental integrity: abuse of the position of weakness of the follower, use of serious and repeated psychological pressure to subjugate the other, that is to say to submit to the authority or to the group's will or to that of the manager,Physical integrity: abuse, incitement to deprivation of adequate care or suggestion of inadequate care, Fundamental rights: interference with privacy, freedom of thought and expression, of movement, etc.

2. Use of misleading or abusive recruitment practices;
3. Difficulty or even impossibility of leaving the group freely and without coercion;
4. Exploitation of the follower in favour of the group or its leader;
5. Disproportionate financial requirements;
6. Recruitment of children, sometimes under parental authority de facto from the group or its leader;
7. Induced separation of the follower from his/her original environment or from society
8. Antisocial discourse reflecting a desire to transform society, deemed bad or hostile, for the image or the benefit of the group or its leader, or even to destroy it;
9. Infiltration in the area of politics, media or economic interference in public institutions or private companies.

These solely indicative criteria are neither cumulative nor exhaustive. This reveals the difficulties inherent in determining an entity as a harmful sectarian organisation..

Structures of harmful sectarian organisations

The analysis of the on-site situation allows us to categorise sectarian organisations as follows:

- organisations with a highly hierarchical pyramid structure and international dimension,
- structures of local dimension involving a limited number of followers,
- networks made up of members following a basic doctrine and participating in training, courses without adhering to a well-defined hierarchical structure,
- self-proclaimed "gurus", often narcissistic perverts, surrounded by several people fully under his/her control.

The sectarian problem: a myth or a reality?

Given the relatively small number of judgments delivered to date in respect of sectarian organisations in Belgium (four judgments, a dozen legal proceedings), it may appear legitimate to think that this marginal phenomenon mobilises, at the public administration level, excessive and unnecessary human and financial resources. This way of thinking neglects the extreme complexity of the sectarian phenomenon and the various psychological processes it implies. Indeed, the implementation of different depersonalisation strategies allows for an almost absolute control over the daily behaviour of individuals who are victims.

Regarding the exit from a sectarian group, ex-followers face enormous difficulties to rebuild their life because of the repeated and prolonged trauma they have suffered. They are deeply dysfuncitonal, lost and have a sense of shame. This explains why so few followers deny having been victims. It is therefore difficult to keep statistics on the scale of the phenomenon, but we can assume that the number of victims is much higher than the number of complaints. So is it a myth or reality?

Freedom of thought and freedom of worship: yes, rights, but ...

When the judicial or administrative authorities detect offences committed by a sectarian group, they find that the religious or spiritual dimension is systematically presented as an inviolable right protected under Article 19 of the Belgian Constitution. It reads:

'Freedom of worship, its public practice and freedom to demonstrate one's opinions on all matters are guaranteed, but offences committed when this freedom is used may be punished.' which corresponds to Article 9 of the European Convention on Human Rights (ECHR).

Surprisingly, only the part relating to the freedom of thought is in the limelight, but the last part of Article 19 which clearly states "... but offences committed when this freedom is used may be punished" (ditto Article 9(2) of the ECHR) is systematically left out .

The spiritual dimension is of relative interest for the authorities but the existence of particular beliefs should not prevent the stakeholders of democracy to act when offences are detected.

The hidden agenda

This freedom of thought can be abused in favour of the proliferation of organisations using religious alibi to establish structures of real control over individuals. These organisations pursue one goal: to create new paradigms, even the most powerful of them are in a position to set up a virtual country whose leaders hold legislative, executive and judicial powers. The only purpose is to establish a 'new world order' or a 'theocratic kingdom' which only 'elected' will have access to.

These organisations have substantial financial resources, often without limits, and human capital. Indeed, followers show total, unlimited, unconditional and unalterable loyalty to the cause and devote their entire time to the tasks entrusted by their 'master'.
Moreover, these structures do not hesitate to call for legal offices and renowned experts and make every effort to ensure effective lobbying at all levels of decision-making both nationally and internationally (the Council of Europe, OSCE. ...).

In contrast, the state services are provided by qualified staff of course, but too often faced with a plethora of files to be managed in a hurry and do not have the time and resources necessary to devote to the handle sometimes highly technical cases. Furthermore, given the difficult European socio-economic environment, spiritual or religious issues are far from being a priority for our institutions. Thus, politicians are often pressed for time, do not always take the time needed for in-depth analysis of certain proposals, amendments to laws or regulations proposed by associations that are not very often overt sectarian organisations. They unfortunately are not aware of the long-term consequences of these changes.

If it is almost accepted that the cult formed around a self-proclaimed "guru" is a danger to manipulated individuals, it is however not the case in regard to major international organisations. Yet, the risk posed by these organisations should not be underestimated; this risk could be minimised by a benevolent public response skipping over the danger they represent for future societies.

For an adequate response

Belgium created the CIAOSN responsible for the study of harmful sectarian organisations on the territory and their international networks. In order to fulfil its statutory tasks of information and counselling, the Centre has been collecting the necessary data since its inception and provides access to a library of multidisciplinary works including in the areas of sociology, philosophy, law, psychology and criminology, reviews and monographs on the movements, as well as publications from movements themselves . It is imperative to maintain and create at the European level similar centres in order to establish a more offensive information policy and warn both citizens of our political dangers of cults for our democratic societies.

There is also specific training in France on the sectarian problem for judges and other civil servants (the National School for the Judiciary) and a unique university education in Europe (Paris Descartes University - Faculty of Biomedical Sciences) . This type of training should be able to find intermediaries across Europe, not as part of a 'witch hunt', but in the spirit of awareness of real threats vis-à-vis our democracies.

(1) Belgique : Rapport d'Enquête Parlementaire visant à élaborer une politique en vue de lutter contre les pratiques illégales des sectes et le danger qu'elles représentent pour la société et pour les personnes, particulièrement les mineurs d'âge - Chambre des Représentants de Belgique, 28/04/1997 : France : Rapport n° 2468, Commission d'enquête sur les sectes, Alain Gest et Jacques Guyard, 22 décembre 1995. Rapport n° 1687,Commission d'enquête sur la situation financière, patrimoniale et fiscale des sectes, ainsi que sur leurs activités économiques et leurs relations avec les milieux économiques et financiers, Jacques Guyard et Jean-Pierre Brard, 10 juin 1999. Rapport n° 3507 Commission d'enquête relative à l'influence des mouvements à caractère sectaire et aux conséquences de leurs pratiques sur la santé physique et mentale des mineurs, Georges Fenech et Philippe Vuilque, 12 décembre 2006.

(2) Centre fédéral belge créé par loi du 2 juin 1998 donnant suite à l'une des recommandations de l'enquête parlementaire (ibid. pt 1) demandant la création d'un observatoire des sectes en Belgique.

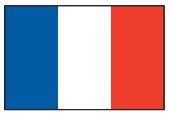
(3) http://www.derives-sectes.gouv.fr/

(4) Article 9 : 1)) Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance. 2) Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the maintenance of law and order, health or morals, or for the protection of the rights and freedoms of others. - Convention for the Protection of Human Rights and Fundamental Freedoms - Rome 04.11.1950.

(5) http://www.ciaosn.be/

(6) http://www.ciaosn.be/rapport_bisannuel2011-2012.pdf

(7) http://www.scfc.parisdescartes.fr/index.php/descartes/formations/biomedicale/du-emprise-sectaire-processus-de-vulnerabilite-et-enjeux-ethiques/(language)/fre-FR



Fighting fraud through the establishment of a European Public Prosecutor's Office

David DONNERER
currently Trainee at the Information Office of the European Parliament in Strasbourg

It is an idea that has been circulating since the 1990s: in order to protect the EU's financial interests and harmonise criminal law in the Union, the Commission issued in July 2013 a proposal for a Council regulation on the creation of a European Public Prosecutor's Office (EPPO). The EPPO would have the task to probe cases of fraud against the EU budget. Subject to high controversy up until now, it remains unsure whether it will be fully operational by 2015 as desired by the Commission. If there is one thing that politicians need in the EU, it is patience. Often many years need to pass by before an idea can develop into legislation and come into force in all 28 member states. This is mainly because the EU with its 28 member states and population of 507 million people is a heterogeneous entity that brings together often very distinct legal, societal and cultural traditions. It is a difficult task for EU politicians and officials to successfully impose a proposition in this kaleidoscope and satisfy everyone equally.

This has been the case regarding the establishment of a European Public Prosecutor's Office (EPPO), an issue that has already been hotly debated for over 20 years. It is only in July 2013 that the Commission, engine of European integration, tabled a proposal for a Council regulation on the creation of the EPPO.

The motive behind the EPPO is first and foremost a financial one. The EU budget, which amounts to over EUR 150 billion each year, has been highly vulnerable to fraudsters. Commission estimates suggest that between EUR 500 and 700 million are stolen each year from the EU coffers, for example through embezzlement of subsidies, which happens oftentimes in the agricultural sector.

There are several reasons why criminals have been able to pocket a vast amount of EU taxpayer's money so easily. The level of protection and enforcement has been varying greatly among member states. In total, only around half of the EU fraud cases are tackled in the member states, and of these cases, only 42.3 percent result in a successful prosecution, according to numbers published by the Commission. Frequently, criminals are not prosecuted because of the gap between member states' criminal systems - meaning that they get away because competencies stop at national borders. When it comes to transnational fraud cases for instance, prosecutors often have trouble to carry out investigations in other member states because of uncooperative authorities or abandon this step in their work altogether and just focus on the domestic part of the case. Moreover, none of the existing EU bodies – the European anti-fraud office OLAF, Europol or the European agency for criminal justice cooperation (Eurojust) – has been granted the competence to conduct criminal investigations or to prosecute fraud cases.

Basically, the logic behind the Commission proposal for the establishment of the EPPO is to create a federal instrument to protect the federal budget that is the EU budget, thereby taking up a competence that has been up until now in the hands of the member states. The legal basis for the EPPO is laid down in the Lisbon Treaty, more specifically in Article 86 of the Treaty on the Functioning of the EU: 'In order to combat crimes affecting the financial interests of the Union, the Council, by means of regulation adopted in accordance with a special legislative procedure, may establish a European Public Prosecutor's Office from Eurojust'.

According to the Commission proposal, the EPPO should be an independent, decentralised prosecution office which would have the exclusive competence for investigating, prosecuting and bringing to judgement crimes against the EU budget. This competence is limited to offences against the EU's financial interests, such as the embezzlement of subsidies, but could be later on expanded to 'transnational' crimes such as terrorism according to OLAF officials. The EPPO would be led by the European Public Prosecutor (EPP), who would be appointed by the Council with the consent of the Parliament upon a list of candidates prepared by the Commission.

The EPP would direct all activities and supervise prosecutions and investigations for a term of eight years, with no possibility

of being re-elected. Four deputies would assist the EPP in his work as well as so-called European Delegated Prosecutors (EDP). The EDPs, one from each member state, would be appointed by the EPP and have the same power as national prosecutors. Their main task would be to carry out the operations of the EPPO from their locations in the member states and in line with the law of that member state.

By drawing from member states' capacities and expertise, as e.g. the knowledge of the national justice systems, the Commission expects swift decision-making and a more efficient fight against EU budget fraudsters. The investigative powers of the EPPO would range from searching premises, seizing objects to even intercepting phone conversations.

Through the EDPs, the EPPO would have cross-border investigative powers in all member states and would not have to rely on instruments of legal assistance. The investigative measures of the EPPO would need the authorisation of national courts and its actions could also be challenged before them. Regarding the procedural rights of suspected persons, the proposal states that they should have all rights granted by EU legislation and the EU Charter of Fundamental Rights.

The Commission expects the EPPO to deal with roughly 2500 cases each year, and it would be assisted in its work by Eurojust and OLAF. Once the EPPO has been established, OLAF would lose the right to carry out administrative investigations into crimes affecting EU's financial interests and would only remain responsible for investigations that don't fall under the competence of the EPPO, such as serious misconduct or crimes committed by EU staff without a financial impact.

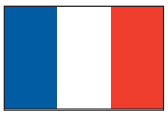
Far from everyone is satisfied in the EU with the EPPO as it is envisaged by the Commission. In October 2013, 14 chambers in eleven national parliaments – UK, Czech Republic, Cyprus, France, Hungary, Ireland, Malta, Netherlands, Sweden, Romania and Slovenia - got enough votes to issue a so-called yellow-card against the EPPO proposal. The yellow card means that the Commission must review its proposal and then has to decide whether it wants to amend, withdraw or stand by it. Next to the EPPO case, this procedure was only triggered once before on posted workers' rights. National parliaments criticized that the EPPO is not needed as OLAF, Eurojust and national authorities are sufficient to tackle fraud against the EU budget. Furthermore, the proposal would not respect the principle of subsidiarity - a principle that states that the EU should not act where member states can act on their own – and would basically lead to a harmonised European criminal law. Moreover, the exclusive competence of the EPPO would disregard the principle of proportionality – criminal investigations and prosecutions should be a matter of national sovereignty and a supranational EPPO would limit the national competence in a disproportionate way. National parliaments also fear that fundamental rights of suspects would not be sufficiently guaranteed by the Commission proposal. The Commission appeared rather unimpressed by the yellow card and decided to stand by its proposal, stating that 'the protection of the EU budget against fraud can be better achieved at EU level'.

> "Basically, the logic behind the Commission proposal for the establishment of the EPPO is to create a federal instrument to protect the federal budget that is the EU budget, thereby taking up a competence that has been up until now in the hands of the member states"

Criticism has also come from the legal community in the EU, which fears that the fair trial principle may be in danger once the EPPO is operational, because there would be no equal fire power between the EPPO and suspects. The EPPO would not only have the option to issue investigative measures in all member states, but could for instance in transnational cases choose the member states where it expects the most efficient prosecution (forum-shopping).

In the Parliament, the LIBE committee (Committee on Civil Liberties, Justice and Home Affairs) has demanded in its interim report stronger rights for suspects who face EPPO investigation and also the possibility to challenge EPPO actions before the European Court of Justice. The third-largest faction ECR has fervently opposed the EPPO proposal, because it fears that it may lead to a continent-wide criminal justice system.

The Commission wants the EPPO to be fully operational by January 2015, but it remains uncertain whether this will happen. Despite the fact that Parliament backed a slightly modified proposal in the plenary in March 2014, it is unsure whether it will gain the unanimous vote that is needed in the Council. After all, the proposal has barely been changed despite the yellow card triggered by national parliaments. What is certain is that Denmark will not participate in the EPPO (opt-out option), as well as the UK and Ireland, who have decided not to use their opt-in option for this new EU body. But even if the EPPO proposal doesn't achieve unanimity in the Council, it is possible that the Commission still goes ahead under the so-called enhanced cooperation procedure, which means that just nine EU countries can trigger new initiatives. But nine countries participating in the EPPO would be far from fully operational, and it is questionable whether the new office would be able to combat fraud against the EU budget much more efficiently that it has been done up until now.



The reform of the General Inspectorate of the National Police

Marie-France MONEGER-GUYOMARC'H
HEAD OF THE GENERAL INSPECTION OF THE FRENCH NATIONAL POLICE

After the radical reform of 2013, the General Inspectorate of the National Police is an essential player in the internal control of the national police. Separated into two entities covering the police prefecture and the rest of the national police, since 2 September 2013 the GINP has had a single inspectorate, competent in respect of all services of the national police, regardless of the geographical remit. This merger goes well beyond the mere territorial dimension since the new inspectorate itself has two objectives, both to harmonise internal control for all services within the national police, but also to provide the same service to users, whether they live in Paris, across the country and, as of September 2014, in overseas territories. In this respect, the GINP takes an active part in strengthening the link between the police and the population.

A key player in the internal control of the National Police

The police, like the gendarmerie, are subject to numerous external controls (judicial authorities; rights campaigners, the general controller of prisons, the National Commission on Informatics and Liberty, etc ...). The internal control function in the national police force is provided by the General Inspectorate of the National Police. This is the meaning of Article 1 of the Decree of 28 August 2013 which states: 'The General Inspectorate of the National Police is an active service of the General Directorate of the National Police. Under the management of a director, the head of the General Inspectorate of the National Police, it controls the directorates and services of the Directorate General of the National Police and the police prefecture. '

This monitoring activity is manifested at two levels:

- The GINP is an internal control agent.
- It is referred to in judicial and administrative investigations of serious incidents and breaches reported against the police. Hence the GINP conducted 832 investigations in 2013.
- It conducts inspections and audits to ensure control over the essential risks induced by the police activity (public reception, management of arms and ammunition, seized assets, police files, working hours, accounting operation ...). 204 inspections were carried out in 2013.
- Finally, the GINP conducted studies of legal, professional or ethical nature on its own or in cooperation with other inspectorates of the Interior Ministry (IGA, IGGN, GSCI) or with other interministerial inspectorates. 26 study reports were drawn up in this context in 2013.
- The GINP is also the coordinator of internal control in the national police, as provided in Article 3 of the Decree:

'It ensures the coordination and monitoring of the control activity directorates and services of the Directorate General of the National Police and the police prefecture. It controls the monitoring of the implementation of sanctions imposed by the disciplinary authority. '

Now a single inspectorate

The reform of 2 September 2013 has resulted in the merger of the General Inspectorate services operating in Paris and the inner suburbs within the General Inspectorate of the National Police competent on the rest of territory. The merger was accompanied via a two-tier move:

- regarding the remit of the police prefecture, the establishment of the new GINP allowed to complete the tools of internal control, benefiting to the Parisian inspection and audit services from which they were excluded until then;
- regarding the rest of the territory, the GINP completed its territorial network by opening three new delegations in Rennes, Lille and Metz and an office in Nice. As of September 2014, a new delegation will be opened in Fort-de-France bringing the number of provincial structures to eight.

A double ambition: to ensure more for the police services and users

- Facilitating police work

In the area of investigations, the GINP has established a coordination unit whose mission is not only to harmonise the work of its investigators, but also to provide new tools to police services in charge of first-level internal controls. Thus a guide to pre-disciplinary administrative investigations has been drafted, disseminated and discussed with all the services of the national police.

Regarding inspections and audits, the 500 inspections performed at all service for 3 years (including the police prefecture since 1 September 2013) have shown that internal controls are not equal in all services. Many measures have been taken to improve the situation locally, instructions have been issued at national level and training actions have been implemented to strengthen hierarchical control. The GINP's underlying ambition is to equip the directorates with tools for monitoring and control of top-level risks.

Finally, the reform was an opportunity for the GINP to develop a new support and consultancy task in favour of the police, particularly in the field of organisation and management.

To meet this strong demand, the GINP has established a team specialising in provision of support and consultancy, consisting of policemen and two contractors from the private sector. The support and consultancy function is equipped with a procedure, a method and appropriate tools to enable it - via ethics and values explicitly presented to services - to assist them in projects (e.g. reorganisation) or intervene in degraded situations.

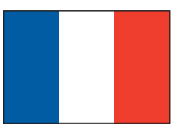
- Contributing to closing the gap between the police and the population

A key objective of the reform was to facilitate the user's access to the inspectorate. The territorial network of the GINP was completed namely in this spirit. However, it was not possible to ensure, as is the case in Paris, a reception of users anywhere on the territory.

To facilitate access to the GINP for all, regardless of the place of residence, an internet reporting platform was launched on 2 September 2013. It receives about 250 complaints a month that are subject to routine monitoring, usually by referral to the departments concerned, sometimes by direct inspection of the GINP.

Moreover, it was important that the GINP is accountable for its actions, including before the general public. Namely in this spirit of openness since 2013 the annual report of the GINP has been made available to staff representatives and the media.

Finally, the GINP reform was accompanied by the creation of a steering committee of internal control of the national police. Consisting equally of representatives of the institution (including representatives of the majority trade unions for each of the three bodies part of the National Police) and external representatives (a magistrate of the judiciary, a human rights defender, the general controller of prisons, elected officials, a lawyer, a journalist, an academic, an association president), the Committee meets every six months, reports on the activities of the inspectorate and updates the issues reported by its members.



Public order under the influence of the European Union

Fabien TESSON
Prof. at the University of Angers

The European Union institutions have always emphasised the national nature of the definition of public order and the measures to enforce it. However, the texts and the jurisprudence of the Union contribute to the emergence of a concept if not, at least a European framework of the concept of public order, when confronted by freedoms protected in the legal order of the European Union.

Noting that because it 'brings fear and repressive demand, insecurity in France is a request of the state' , sociologist Hugues Lagrange brings to the fore the national nature of the demand for security and its

treatment. However, in his work, the author also shows the European nature, if not Western, of the current need for security. This paradoxical observation raises questions about the possible emergence of a European concept of legal support that allows the apprehension of security issues: the concept of public order. Indeed, in French law, the concept of public order allows national authorities to justify the adoption of measures that constitute restrictions on freedom. Traditionally, public order covers three objectives: public security, public safety and public tranquillity. We can add to this list morality and dignity of the human being.

Of course, a measure that aims to preserve public order can be translated into practice by limiting freedom. Prohibiting a demonstration, issuing a deportation order, limiting the exercise of a professional activity are attempts at limiting the freedom of expression and assembly, freedom of movement, freedom of enterprise. It also goes without saying that such measures may specifically be detrimental to certain freedoms, including economic, that are at the heart of the European Union law. Thus, a national authority may adopt a measure restricting the free movement of persons, goods, services and capital and freedom of establishment, otherwise guaranteed by the Lisbon Treaty. Ensuring the safety of citizens therefore is not regarded today only as a balance between public order and internal design of public freedoms, but as a compromise with European standards. This inevitable confrontation has given rise to an autonomous framing of public order by the institutions of the European Union, despite the recognition of the national freedom to determine the measures relating to internal security.

The freedom of the national authorities in maintaining public order is recognised

The Treaty of Rome does not leave out the concept of public order. Moreover, whenever the regime of freedom is detailed there, the possibility of restricting the latter is correspondingly considered.

On free movement of goods, Article 36 sets out that states may implement 'prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants; the protection of national treasures possessing artistic historic or archaeological value; or the protection of industrial and commercial property.' Public order, public security and public health are also used to restrict the free movement of workers. This is also the case in the field of freedom of establishment or freedom to provide services. This reserve of public order finally allows Member States to restrict the free movement of EU citizens, as shown by Directive No 2004/38 of 29 April 2004.

This possibility of restricting freedoms guaranteed by the Treaty on the initiative of the Member States was confirmed by the Court of Justice of the European Union. Most notably, a court in Luxembourg has confirmed the national freedom to determine the content of the goal of public order, and this has been so since the mid-1970s. So the EU judge has ruled that states 'which retain exclusive competence as regards the maintenance of public order and the safeguarding of internal security, enjoy a margin of discretion in determining, according to particular social circumstances and to the importance attached by those States to a legitimate objective under Community law, [...] the measures which are likely to achieve concrete results.' This gives room for manoeuvring to the national authorities. However, autonomy left to the administrative authorities is not absolute and is limited by a framework for bodies of the European Union.

Ensuring the safety of citizens therefore is not regarded today only as a balance between public order and internal design of public freedoms, but as a compromise with European standards

An actual framework of the concept of public order set by the European Union

Due to the lack of definition, the court of the European Union said what can be a goal related to public order acceptable to restrict the exercise of freedom. The Court of Justice of the European Union was able to reject with a relative severity the reasons given by some Member States. Thus, economic objectives cannot constitute a goal of public order, nor a reason for general prevention - that is to say, not based on special circumstances - in respect of a national of European Union or a member of his/her family, not even national.

Conversely, for the court in Luxembourg, objectives of security of energy supply, the fight against trafficking of stolen goods, preserving the dignity of the human being or 'the fight against illegal activities, such as tax evasion, money laundering, drug trafficking and terrorism' are consistent with the law of the European Union.

Beyond the aim of the measure is the proportionality of the latter that will complete the framework of the European concept of public order. In fact, if most of internal security objectives appear to be accepted by the Court of Justice of the European Union, namely the proportionality of the interference with protected freedoms in relation to objectives will lead to the most important framework of the scope of national authorities. The Member State must prove that the action taken was necessary to achieve certain objectives. To illustrate the control operated by the judge of the European Union, we take the example of an obstacle to the free movement of capital consisting of a prior declaration system. Regarding this measure, the Court of Justice of the European Union ruled that it would be disproportionate to the objectives of Spain if the same objective could be achieved by a less restrictive system, like the declaration a posteriori .

It therefore appears that the law of the European Union constitutes a framework, an effective limit, at the invocation of public order by national authorities as justification for the restriction of freedom. This new balance between public order and freedoms protected by the EU is becoming fully integrated by the national court, including French, which does not hesitate to punish national measures designed to protect internal security on the basis of the infringement of the major freedoms of the Union.

However, this conclusion cannot stop here since we must discuss the possible development of a European concept of public order. While until now the institutions of the Union did not accept or reject certain national justifications based on maintaining public order, it is now possible to think that these same institutions may try to go beyond this single pointsman role to that of a prescriber. Often the administrative

authorities adopt a measure for reasons of public order when they try to prevent a criminal offence. The link between crime, public order and maintaining security seems obvious. The European Union is now able to enact legislation prescribing to the states to impose criminal punishment of certain behaviour, such as in the field of the environment. Thus, identifying the behaviour to be sanctioned and thus prevented, the law-maker of the European Union seems likely to define - to some extent - the content of public order to be imposed on member states. The legislator will thereby apply the autonomisation of a European notion of public order or even a real approach to security across the European Union.

(1) H. LAGRANGE, Demandes de sécurité France, Europe, Etats-Unis, Paris, Seuil, 2003, p.60.

(2) C.J.C.E. 15 juin 1999, Heinonen, aff. C-394/97, Rec. p. 3599, pt. 43

(3) C.J.C.E. 23 février 1995, Procédures pénales contre Aldo Bordessa, Vicente Marí Mellado et Concepción Barbero Maestre, aff. C-358/93, Rec. p. 361, pts. 19 et suiv.

(4) C.J.C.E., 17 juillet 2008, Commission c/ Espagne, aff. C-207/07, Rec. p. 111, pt. 48

NSA-Scandal: European Parliament reacts and brings forth 'European Digital Bill of Rights'

David DONNERER

Schumann-Trainee at the Information Office of the European Parliament in Strasbourg

The revelations of whistleblower Edward Snowden that the NSA and its partners had engaged in electronic mass surveillance of EU citizens have not only shaken the very foundations of EU-US relations, but also raised serious concerns whether privacy remains a fundamental right for EU citizens. The European Parliament has reacted to this affair by conducting a thorough inquiry and issuing a "European Digital Bill of Rights" that aims at safeguarding the digital security and liberty of EU citizens.

"Friends and partners do not spy on each other". This statement by Viviane Reding, Vice President of the European Commission, exemplified the furor of EU leaders after media reports uncovered in June 2013 that the NSA had monitored communication of German chancellor Angela Merkel, EU institutions and EU citizens. It was certainly only one of the many facets of the NSA espionage scandal, but it was an important one, as it severely rattled trust between the EU and the US. The revelations of the NSA mass surveillance practices by whistleblower Edward Snowden also affected trust within the EU, as journalists unveiled through Snowden's documents that surveillance bodies in several member states had cooperated with the NSA to enable mass surveillance on citizens and breach their privacy in a manner never witnessed before.

Faced with the fact that a foreign intelligence agency was able to trample on the fundamental rights of 500 million EU citizens, the European Parliament (EP) charged its Committee on Civil Liberties, Justice and Home Affairs (LIBE) in July 2013 to investigate into the electronic mass surveillance by the NSA and its partners in a timeframe of six months. British MEP Claude Moraes from the Progressive Alliance of Socialists and Democrats (S&D) was rapporteur for this inquiry - the member responsible for drafting the report on the inquiry. At this time the EP pioneered as it was the first parliament to conduct an inquiry in the NSA scandal, since the Bundestag in Germany only set up an investigation committee in April 2014. In its period of investigation, the LIBE committee of inquiry held 15 hearings with EU and US experts, including Snowden (video-conference), and sent a delegation to Washington in the end of October 2013 to meet with top US officials such as NSA director Keith Alexander. On the 12th of February 2014 the final report of rapporteur Moraes was voted on in the committee, with 33 members in favour, 17 against and seven abstentions. The EP debated the report - which is in fact a non h and adopted it on the following day with a simple majority.

How the EP dealt with the NSA scandal is extraordinary in two ways - not only in terms of what it issued in its political resolution, but also in terms of procedure. The report brought forth by the LIBE Committee represents a "European Digital Bill of Rights" that highlights the fundamental rights of citizens in the digital era, harshly condemns and calls for the end of the mass surveillance practices of the NSA and its partners and urges for a redefinition of the IT infrastructure of the EU. Most importantly, it requests as the first parliament in Europe a European whistleblower protection programme that grants whistleblowers "international protection from prosecution".

The text also specifically criticizes member states such as France, Germany and especially the UK for their alleged cooperation with the NSA in its mass surveillance activities. It also calls upon the US to provide judicial redress for EU citizens whose fundamental rights (e.g. data protection) have been violated. Paragraph 74 of the final resolution establishes a clear link between the US spying activities and the TTIP negotiations.

The EP threatens to withhold its consent to the new EU-US free trade agreement currently under negotiation as long as the NSA continues to spy on EU citizens. This would mean that it couldn't enter into force. Moreover, the EP requests the member states to install "meaningful oversight of intelligence activities", which it had already done in 2001 when it had investigated the espionage network "Echelon" operated by the "Five Eyes" alliance (UK, US, Canada, New Zealand and Australia). 13 years later, history repeats itself. Furthermore, the resolution evokes the need for an EU IT academy, more EU IT independence through own search engines, social networks and IT service providers. Furthermore, the EP challenges the US by demanding the suspension of two vital agreements, Safe Harbour (enables EU firms to transmit legally personal data into the US) and TFTP (Terrorist Finance Tracking Program) until two conditions have been met: the conclusion of the EU-US Umbrella agreement (data protection and redress mechanisms for EU citizens in the US) and the conduction of 'thorough investigations' to dismantle doubts about potential loopholes in Safe Harbour.

Overall, the report of EP's LIBE committee is politically charged, controversial and very critical of big member states like the UK. Additionally, the resolution was forwarded to an unusually high number of different organizations, institutions and countries. In addition, MEPs tabled a total of 521 amendments to the draft report of rapporteur Moraes. MEPs bargained for almost every phrasing of the report and aimed to frame the resolution towards their political goals. The UK-dominated ECR for instance tried to dilute the explosive nature of the text to make it as US-friendly as possible and also wanted to delete all major

points of the European Digital Bill of Rights. The Greens on the other side attempted to accentuate the report even more by calling for a statement that the EU should grant asylum to Snowden. Moreover, the largest political group EPP (Conservatives) did not succeed in introducing a request for the establishment of a European Counter Intelligence Service. The Greens did not get a majority in the committee to get their Snowden-amendment through, but managed to include tougher phrasing in certain points. The ECR on the other hand was not able to get any of their major amendments included in the final report. It doesn't come as a surprise that the ECR rejected the report in the committee vote.

So what conclusions can be drawn from this European Digital Bill of Rights? A major cornerstone of the resolution is the request for a European whistleblower protection programme - in this regard the EP has pioneered in Europe. Moreover, the LIBE committee managed to invite several key players of the NSA affair, such as investigative journalists Glenn Greenwald (formerly The Guardian) or Jacob Appelbaum. Furthermore, Snowden and other whistleblowers like former NSA official Thomas Drake could be interviewed, as well as officials from Internet giants like Google. They were submitted to tough questioning by the LIBE committee members and provided valuable insight on the NSA scandal, especially regarding the scope of the programs the NSA operates to monitor communication worldwide. As Appelbaum said: 'The NSA can now break into any network of someone's house...compared to that, Echelon was kid's stuff'. Finally, the EP resolution has set the table for a redefinition of the EU's relationship with the US in crucial fields such as data protection, privacy and security.

But the MEPs had to face setbacks during their inquiry. A large number of major players refused to attend the committee hearings, such as high-rank intelligence officials from the UK (GCHQ) and also NSA director Alexander. Internet giants Amazon and Yahoo as well as major telecommunication firms like Vodafone also didn't send any representatives. And although the EP adopted the resolution, its position is not the strongest, since parts of the largest faction EPP and also the ECR rejected the report. In the plenary debate on the 11th of March, ECR's Timothy Kirkhope scourged the resolution for containing 'some of the most irresponsible recommendations and threats I have ever seen as a MEP'. EPP's Wim Van de Camp lamented the report's harsh phrasing directed towards the US and warned that 'the United States is not a leper'. On the other hand, factions like the Greens were dissatisfied that the resolution did not include an asylum offer for Snowden. 'Snowden is a hero. He has uncovered a gigantic spy system that goes beyond what George Orwell imagined in his worst nightmares. It's... an obligation to give him asylum and protection', as MEP Christian Engstroem said.

> As the first parliament in Europe, the EP requests in its resolution on the NSA scandal a European whistleblower protection programme'.
> The EP report has set the table for a redefinition of the EU's relationship with the US in crucial fields such as data protection, privacy and security

Despite all this, the EP's resolution has achieved an important goal: it has kept the NSA scandal on the EU agenda and put pressure on the Council, the Commission and the US to act. After all, a lot is at stake in EU-US relations: if the US government continues to surveil EU citizens, this could endanger EP's consent to the TTIP agreement. This EP has set in motion a process that could lead to the adoption of whistleblower protection legislation by the new EP in the years to come. How the new EP actually builds on this resolution will depend nonetheless on its constitution after the elections in May. The EP has exercised its responsibility in the NSA scandal, and in terms like whistleblower protection, it can be considered as historic. As Josef Weidenholzer from S&D said during the plenary debate: 'We are debating this issue because we have a sense of responsibility towards future generations. After all, I do not want my grandchildren to grow up in a world without privacy'.

The canadian border
Hot pursuit in the Iberian peninsula (1)

Luis FABRICA
PROFESSOR OF LAW, FACULTY OF LAW OF THE PORTUGUESE CATHOLIC LISBON UNIVERSITY

1. Alcañices, 12 September 1297. In a small pueblo at the border, King Denis of Portugal and the Algarve offered his daughter in marriage to King Ferdinand IV of Castile and Leon and with the future son-in-law establish the borders between the two kingdoms. The border will remain unchanged basically to date: it is the oldest in Europe.

Pontevedra, 19 May 1988. Seven hundred years after that Friday in September, elsewhere at the same side of the border, local authorities of the two countries were drafting the minutes of a routine meeting. Besides the usual bureaucratic issues - tourism, customs controls - they expressed before the governments concerns about the strategy of smugglers who seek refuge in the territorial waters of the neighbouring state, thereby escaping pursuit from the police authorities of the other State. Like in old Hollywood movies about the Canadian border, police chase to the borders of territorial waters of the neighbouring state had becomes the favourite sport of smugglers and other criminals. Therefore, the governments were recommended to allow the pursuit to continue beyond the Portuguese-Spanish maritime border, in the territorial waters of the other State, while ensuring that seized goods are presented to the authorities of the latter.

2. This idea was not entirely new. The international maritime law has guaranteed over the decades the right to hot pursuit, namely, the right of the competent authorities of a coastal State to prosecute and search ships that fled across international waters, from the moment where pursuit is justified by a strong suspicion of violation of the laws of that state, had begun in its internal waters or within its territorial waters and continued, without interruption, to international waters. The right to hot pursuit originally enshrined in the Geneva Convention on the High Seas (1958), was set out in the United Nations Convention on the Law of the Sea, adopted in 1982. But there is an essential

difference between this right to hot pursuit and the content of the proposal made to the Portuguese and Spanish governments. In the first case, the pursuit can continue to international waters, but it must necessarily cease when the ship pursued enters the territorial sea of another State. In the second case, the idea is exactly the opposite, that is to say that we allow the continued pursuit if the suspected vessel enters the territorial waters of the neighbouring state.

In other words, in both cases, the powers of a sovereign state authority are exercised outside its territorial borders, away from a centuries' old legal principle; but whereas in the case of the right to hot pursuit, these powers of authority are exercised in international waters, where there are no competition authorities in the other cases, the powers of authority are exercised in the territorial space of another sovereign state. Anyway, the notion of hot pursuit will be used in this text to refer to both situations.

3. To measure the scope of the proposal, reference should be made to the famous definition of the State proposed by Max Weber: 'Staat ist diejenige menschliche Gesellschaft, welche innerhalb eines bestimmten Gebietes [...] le Monopol legitimer physischer Gewaltsamkeit für sich (mit Erfolg) beansprucht' (the state is a human society which claims a monopoly of the legitimate use of physical force).

It is important, however, to accurately determine whether (and how) the exercise of powers by the sovereign state authorities on the territory of another state is equivalent to sharing or alienation from part of its sovereignty.

The answer must be obviously negative when it comes to applying the law of a state in the territory of another state. The fact that on the territory of a State not only the standards of its legal system apply, but also standards of other legal systems, including state systems, which is a peacefully accepted reality. The prerogatives of sovereignty are challenged when the rules of a foreign legal system are applied in the territory of a state, even if they are enforced by foreign state bodies on its territory (consular entities, for example). Moreover, the existence of rules applied only on the territory of other States is common in many national legal systems: this is the case of rules of electoral law governing the vote of citizens abroad; or standards such as Article 15 of the Portuguese Constitution - 'The Portuguese citizens who are located or reside abroad shall enjoy state protection in the exercise of their rights and be subject to all the duties that are not incompatible with their absence from country.'

However, the issue of sovereignty and integrity legitimately arises when one abandons the legislative plan for the administrative or judicial level, particularly when it comes to the exercise of powers of authority in the territory a state, or even material enforcement powers by the authorities of a foreign state.

But the essential prerogatives of sovereignty need not be affected, even when it comes to the exercise of enforcement powers by foreign stakeholders. Indeed, it should be noted that the use of force by foreign authorities in the territory of a state may be legitimate when it authorises it and the conditions under which it is permissible are met. The consent of a state to the exercise of coercive powers by the authorities of another state on its territory does not constitute a waiver of part of its sovereignty, but rather the full exercise of sovereignty. The state which gives its consent (reciprocal or not) actually exercises full sovereignty. In other words, it is not about sharing sovereignty, but only about sharing the exercise of coercive powers on its territory.

This view was defended in 1989 by the principal advisory body of the Portuguese State in response to the government's request to assess the proposal of local authorities to grant the Portuguese and Spanish police the right to pursuit in territorial waters of the neighbouring state. Briefly, the Advisory Council of the Office of Attorney General issued the following opinion:

1. The state's sovereignty acts on foreign territory are not governed by the rules of international law;
2. On its territory, the Portuguese state holds all powers and the monopoly of jurisdiction;
3. Therefore, the Spanish authorities are not allowed under the rules of international law to intervene in Portuguese territory, crossing the border to pursue fugitive offenders;
4. However, nothing prevents the state, by an act of will, to allow foreign authorities to perform certain acts of sovereignty over its territory, respecting the established conditions;
5. There are no legal obstacles to the conclusion of an agreement between Portugal and Spain to allow under certain conditions the intervention of the authorities of each country in the territory of the other, including crossing the border in case of pursuit of fugitive offenders.

4. However, while the Portuguese government has accepted the conclusions of that opinion, the negotiation process for an international agreement to provide to the police, reciprocally, the right to enter the territory (including the territorial waters) of the neighbouring country to prosecute suspects has been suspended. The explanation lies in all probability, in the accession of the two states in 1991 to the Schengen Agreement and its implementing convention.

Indeed, the content of Article 41 of the Convention addresses the concerns expressed in 1988 by the Portuguese and Spanish local authorities before their governments, since it stipulates that officers of one of the Contracting Parties who are pursuing in their country an individual caught in the act of committing or of participating in one of the offences are authorised to continue pursuit in the territory of another Contracting Party, given the particular urgency of the situation, it is not possible to notify the competent authorities of the other Contracting Party to entry into that territory or where these authorities are unable to reach the scene in time to take over the pursuit. Also according to this provision of the Convention, the pursuing officers must turn to local authorities when crossing the border which will decide on the termination of the pursuit. It is also up to local authorities, at the request of officers in hot pursuit, to identify and arrest the accused.

The Schengen Convention sets, however, only a general framework on hot pursuit, and allows signatories to choose between different configurations more or less detailed as regards the scope of the Convention and the operational modalities. In fact, it is expected that at the time of signature, each state declares vis-à-vis each of the neighbouring signatory states the arrangements for pursuit it accepts in its territory. And although such a statement is madefollowing consultation with the States in a 'spirit of equality between the applicable regimes on both sides of internal borders,' there is no obstacle to a proliferation of solutions: the pursuit may be limited to a certain time period, at a certain distance from the border, or to a certain geographical area, or detention may take place only in a specific geographic or temporal framework; etc.

It is therefore not surprising that the experience of the implementation of the Convention shows an exuberant and disturbing heterogeneity in the various regimes applicable to internal borders. Limitations on the conduct of the police of a state which occupies a central

geographical location, with several land borders, and can be a real nuisance: the pursuit rules of the German police, for example, are significantly different depending on whether the pursuit takes place on French territory (without limits of space or time), on Danish territory (up to 25 km from the border), in the Netherlands (up to 10 km from the border) or in Belgium (limited to 30 minutes).

5. In addition, the Convention provides for the possibility for neighbouring states to extend, by a bilateral agreement, the scope planned for hot pursuit and to establish additional enforcement provisions.

Thus Portugal and Spain signed in 1998 an Agreement on Transboundary Pursuit, whose rules are presented as Additional provisions for the implementation of Article 41 of the Convention implementing the Schengen Agreement on cross-border pursuit.

The first observation about this bilateral agreement is that the parties did not choose to extend the hot pursuit beyond the land borders. This option is not easy to explain. Firstly, the limitation of the Convention to land borders has sparked some criticism in its own right, since the purpose of pursuit on the territory of the neighbouring state refers also to territorial waters (and even airspace); moreover, it reminds that the cross-border pursuit has its historical origin as part of maritime navigation. On the other hand, in the case of the Spanish-Portuguese border, the urgency of the designation of pursuing rights in the territorial waters of the neighbouring state was applied several times, it reminds of the proposal that local authorities submitted to the respective governments in 1988. So it seems that the two countries have lost a great opportunity to expand the hot pursuit for their maritime boundaries, and specifically regulate this mechanism in the rivers that separate their two territories. The particular situation of international bridges might also have justified some special rules.

Secondly, the Parties have agreed that the offences which may justify cross-border pursuit are those laid down in Article 41(4) (a) of the Convention, thus excluding the alternative criterion under paragraph (b) for offences which may lead to extradition.

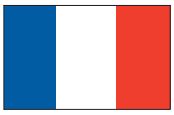
Thirdly, the pursuit must be limited to a distance of 50 km from the border, and cannot last for more than two hours after entering the territory of the neighbouring State.

Fourth, foreign officers have no authority to arrest the suspect.
Fifth, the agreement lists the authorities of each State have jurisdiction to conduct the pursuit, cooperate with the authorities in hot pursuit, determine the identity of the suspect and carry out the arrest, and to receive the request for authorisation for entry into the territory or communication of the start of the pursuit and the information on its results.

6. Portugal and Spain also reached in 2005 an Agreement on Transboundary Cooperation in Police and Customs Matter, which sets out, among other mechanisms, the existence of mixed police patrols to monitor public events that concern both Parties. Thus, at Easter 2014, Portuguese officers accompanied the students on holiday in the south of Spain and Spanish officers supported their compatriots who went to visit Lisbon. However, contrary to what happens in cases of hot pursuit, these officers are not authorised to execute autonomously police measures on foreign soil.

(1) I thank my colleague Myriam Ouaki for linguistic revision.

(2) Pueblo in Spanish means a village.



Police cooperation in Europe the example of a Franco-German border region

Margot BONNAFOUS
Senior Project Manager, Euro-Institut Kehl

The free movement of goods, persons, capital and services, the four freedoms, and the creation of the single market are undoubtedly a huge step forward for European integration. However, no one is aware that these developments also imply negative effects, namely illegal immigration or increasing cross-border crime.

The police and judicial services then ended up facing new challenges in the fight against cross-border crime. It seems clear that joint efforts are needed to respond to this situation. Also, cooperation instruments, partly on the basis of existing agreements and initiatives were created and continue to emerge, with the aim of developing the area of freedom, security and justice.

Regarding judicial cooperation, it is based, in the years following the creation of the common market, first on the conventions of the Council of Europe. Since then, remarkable progress has been made in the European Union. It is worth noting, among others, the principle of mutual recognition of decisions and the creation of Eurojust, a European agency which assists Member States in judicial cooperation (cf. Sauron / Beard / Huberdeau / Puisais-Jauvin, 2011, p. 150).

> It seems clear that joint efforts are needed to respond to this situation
>
> These can range from informing citizens to the hot pursuit through the organisation of joint patrols

On the cooperation of police services, an important key concept is that of 'compensatory measures', that is to say measures that strengthened police cooperation to 'compensate' the difficulties that open borders can represent. This enhanced cooperation has been made possible by the Convention implementing the Schengen Agreement of 1990. The Schengen Agreement and the Convention implementing the Schengen Agreement (CISA) represents, originally, intergovernmental agreements concluded by France, Germany, Belgium, the Netherlands and Luxembourg. Thereafter, the Schengen acquis was first partially integrated into Community law by the Treaty of Amsterdam. Since the entry into force of the Lisbon Treaty and the merger of the three pillars, policies related to the area of freedom, security and justice have been fully communitarised. This of course facilitates on the one hand legislative procedures, because measures for certain areas, such as trafficking in human beings,

are no longer shared between two pillars as was the case after the Amsterdam Treaty (cf. Monar, 2001, p. 278). On the other hand, the adoption of the ordinary legislative procedure for this area, that is to say, a greater involvement of the European Parliament, suggests strengthening the powers of the latter. Some exceptions, such as the unanimous decision for certain policies reminiscent of the 'intergovernmental past' of this former third pillar, however, will persist (cf. Sauron / Beard / Huberdeau / Puisais-Jauvin, 2011, p. 128; Monar, 2010, p.46 et seq.). The dilemma between the supranational organisation and intergovernmental trends in this policy that affects national sovereignty and civil liberties still exists, as shown by the conflict between the Council and the European Parliament about a draft reform of the Schengen area (cf. Le Monde.fr, 12 June 2012).

What then does the existence of the European area offreedom, security and justice mean to the reality of services and inhabitants in a border region? Let's try to answer this question by considering the border region between Alsace and southern Germany. Being a police officer in Strasbourg and Kehl, its German neighbouring town, may involve special challenges, little known to officials posted away from the border. This can range from information for citizens to the hot pursuit through the organisation of joint patrols. Information for citizens - French in this case - for example, turns out to be necessary every year during the days preceding New Year's eve. As in Alsace the use of powerful fireworks is prohibited, some fans do not hesitate to "refuel" in Germany and thus defy the ban. For several years, the French police are therefore present in late December in Kehl stores to inform customers about the French ban on importing the products in question to France.

Apart from this, offences such as burglaries, armed robberies to murder and organised crime require the investigators to have highly specific expertise and know-how. How to react if for example, after a robbery, the thief managed to cross the border? What are the opportunities for cooperation if the body of a missing person is found at the other side of the border? How to carry out an investigation on a national of the neighbouring country? The Convention implementing the Schengen Agreement provides for extremely useful measures for these situations common in the border area. In what follows, we will discuss in particular Articles 39, 40 and 41, then 'the Swedish initiative'. Article 39 allows, under certain conditions, the direct exchange of information between police services, and Article 40 entitles investigators to continue the surveillance of an individual in the neighbouring country. It goes without saying that many rules have to be observed, and especially that cross-border surveillance cannot take place but for some well-defined criminal offences, including murder and assassination, or illicit trafficking of drugs. Under certain conditions, investigators have the opportunity to continue the pursuit of a person caught while committing an offence, without authorisation on the territory of another country in the Schengen area. These measures are defined in Article 41 of the CISA. Of course, also here, very precise conditions, in particular regarding the offences, communication and weapons accompany these measures.

Framework Decision 2006/960/JHA of 18 December 2006 on simplifying the exchange of information and intelligence between law enforcement authorities of Member States of the European Union, also known as the Swedish initiative, aims to further facilitate the exchange of information between law enforcement authorities of EU states. It repeals certain provisions of Article 39 of the CISA.

Another innovation made possible by the CISA is the creation of police and customs cooperation centres (PCCC) between two or more States (cf. Barbe, 2007, p. 97-98). These centres do not have operational tasks as part of the investigation, but play a vital role regarding the exchange of information, support services for investigators, also in emergency situations, as well as expertise in the application of legislation in terms of police and judicial cooperation. Furthermore, language skills and knowledge of the police and judicial system of the partner country are needed.
The Franco-German police and customs cooperation Centre in Kehl, the first in Europe, was established in 1999 and brings together 30 French police and customs officials and about the same number of officers from the German federal police services, the German customs and police of Baden-Württemberg. The entity operated by a French coordinator and a German coordinator handled 16,480 requests in 2011, particularly in the areas of road offences, burglaries and with regard to rights of foreigners and the right of asylum. The Situation Room, which operates round the clock, is one of the highlights of the activity of PCCC. German and French officials are 24 hours at the disposal of investigators, for example, to identify a vehicle registered in neighbouring countries in real time, conduct a cross-border comparison of fingerprints or provide support in situations of cross-border observation or pursuit. The 41 cooperating agencies that currently exist are a real network, which promotes, where necessary, cooperation at a European level. It is certain that this Franco-German platform that represents the PCCC is essential in facilitating police and customs cooperation.

Furthermore, the training of all relevant stakeholders appears to be an essential element of success. Also, the French and German police offer, besides technical training, apprenticeship programmes in languages, sometimes organised jointly. It is worth mentioning also a training cycle conducted by the Euro-Institut Kehl in cooperation with police services that brings together on a regular basis magistrates of both countries. The contents of these courses are various: police and judicial systems of the neighbouring country, the legal framework of police and judicial cooperation and enforcement, as well as specific criminal phenomena in the border situation, such as drug trafficking.

Références :

Barbe Emmanuel : L'espace judiciaire européen, 2007, Paris (La documentation française),

Monar Jörg : Justice and home affairs after Amsterdam, in : Monar J. / Wessels W (eds.), The European Union after the Treaty of Amsterdam, 2001, London (Continuum), p. 267-295

Monar Jörg : The institutional framework of the AFSJ: Specific challenges and dynamics of change, in : Monar Jörg (ed.) : The institutional dimension of the European Union's area of freedom, security and justice, 2010, Brussels (Peter Lang), p. 21 à 49

Rapport annuel 2011 CCPD Kehl

Sauron Jean-Luc / Barbe Emmanuel / Huberdeau Philippe / Puisais-Jauvin Emmanuel : Comprendre l'Union Européenne, 2011, La documentation française, p. 128 - 151

Stroobants Jean-Pierre : Schengen : le Parlement européen part en guerre contre les ministres de l'intérieur, Le Monde.fr, 12 juin 2012

(1) The author would thanks Alexander ULMER German Kehl CCPD coordinator for his valuable informations (07/2012).

Police cooperation at Grande Région and Benelux level

Franz CLEMENT
Ph.D. in sociology, Luxembourg Institute of Socio-Economic Research (LISER)

Luxembourg and its neighbours have developed various forms of cross-border cooperation over the last few years in order to implement police and customs cooperation. In this article we will look at the mechanisms and geographical area involved in this cooperation, and the history of its development.

At Grande Région level[1]

The creation of a first Franco-Luxembourgish office, named the Centre for Police and Customs Cooperation (CCPD), was provided for by an agreement concluded on 15 October 2001 . A second body, the Joint Police Cooperation Bureau (BCCP), was established by an agreement concluded on 25 February 2003 between the authorities of Belgium, France, Germany and Luxembourg. Since 2003, the exchange of information between the countries involved has taken place via the BCCP and the CCPD, which have their offices in Luxembourg.

The principal mission of these bodies is to facilitate the transfer of information. The Joint Bureau regularly performs the following tasks on the basis of existing agreements: evaluation, exchange and management of all information in accordance with a common standard, regular joint evaluation of the cross-border situation, participation in information transfer and the coordination of requests in the fight against threats to security and public order, prevention and investigation of punishable offences and assistance in the preparation of requests, and participation in joint cross-border control actions.

The authorities of the participating countries which are involved are as follows: in Germany, the state police forces of Rhineland-Palatinate and Saarland, the Federal Police, and, where necessary, the Federal Criminal Police Office; in Belgium, the Federal Police and local police forces; in France, the National Gendarmerie, elements of the National Police and elements of the national customs authorities; and in Luxembourg, the Grand Ducal Police and the Customs and Excise Administration.

All units located in the border region can use the structure to introduce requests for information by first submitting these to their national bureau, which then transmits these to the other bureaux involved. The requests are then dealt with by these bodies and a response is sent via the same national bureau to the requesting unit. The delegated officers at the Joint Bureau act on the behalf of the authority which posted them, following the instructions given to them by this authority. Within the framework of their respective competences, cooperation takes place without these officers taking operational measures on their own initiative and or getting ahead of the implementing measures.

This cooperation at Grande Région level was then further strengthened. On 24 October 2008, the interior affairs and justice ministers of Luxembourg, France, Belgium and Germany signed an agreement on strengthening cross-border cooperation between their respective police and customs authorities . Since the signing of the Schengen Agreement in 1990, police and customs cooperation has developed greatly in this part of Europe, which sees such an intense circulation of people and goods and a large volume of trade.

Encouraged by the success of police and customs cooperation in the fight against cross-border crime, launched on the basis of the agreements concluded in 2001 and 2003, the participating countries decided to reaffirm and strengthen this ground-breaking centre of cooperation in Europe, which brings together the competent authorities of four different countries. The agreement also marks a new stage in cross-border cooperation to better ensure security in border areas and strengthen the fight against the most serious forms of criminal activity: human trafficking, drug smuggling, illegal immigration, serious damage to property. Located in Luxembourg, the Joint Centre is mainly responsible for gathering, analysing and exchanging information required for police and customs cooperation, including the regular joint evaluation of the border situation. It also facilitates the preparation and execution of cross-border police and customs missions, enabling the coordination of operations where necessary.

The operational area of the CCPD covers the following parts of Germany: in Rhineland-Palatinate, the police districts of Rheinpfalz, Westpfalz and Trier; in Saarland, the entire region. In Belgium, it covers the judicial districts of Dinant, Arlon, Neufchâteau, Marche-en-Famenne and Eupen, in France, the departments of Moselle, Meurthe-et-Moselle, Ardennes and Meuse, and in Luxembourg, the entire territory of the country. The Joint Centre has a staff of 31 persons: 14 for France, 5 for Germany, 6 for Luxembourg and 6 for Belgium.

At Benelux level[4]

On 6 June 2014, chaired by the Luxembourg authorities, a joint meeting took place between the Minister of the Interior and the Grande Région of Luxembourg, the Minister of the Interior of Belgium, and the Ministers of Security and Justice of the Netherlands. They met in their capacity as members of the Committee of Ministers of Benelux , and signed a third action plan, entitled “Senningen”, which covers the years 2013-2016. This strategic plan establishes the main points of structural cooperation between the three countries in the area of internal security. In particular, it aims at strengthening and improving security for citizens. The new plan sets out 16 objectives which lead to a deepening of mutual assistance and a strengthening of cross-border police cooperation and crisis management.

As regards police cooperation, the ministers placed specific emphasis on the importance of the deployment of liaison officers from Benelux in third countries, the organising of joint specialised training, the rapid and efficient exchange of information between police forces, and the importance of a truly effective fight against all forms of computer crime.

In terms of crisis management, it is essential to have good communication between the crisis centres of the three countries, as well as the rapid provision of information to the public in the event of a cross-border or other large-scale disaster. The representatives of Luxembourg, Belgium and the Netherlands were also anxious to ensure that this plan integrated as far as possible the various elements designed to increase cooperation between emergency services in border areas, and wished to ensure that, in case of necessity, consideration is given to the evacuation of citizens to another Benelux country.

The meeting also allowed an in-depth exchange of ideas on certain important and pressing matters which require consideration at Benelux level, including the theft of metals, drug tourism and human trafficking.

At Benelux level, the field of security, including the aspects of prevention, public awareness and crack-downs on crime, is one of the areas best suited to productive cooperation between neighbouring countries. This area features as one of the three main priorities of the new Benelux Treaty signed on 17 June 2008.

The Treaty reaffirms certain main principles of the Benelux organisation: dialogue, coordination and cooperation. Various forms of cooperation between the police forces of the three countries are being progressively built-up. In light of the changing nature of modern habits and developments within the European Union, the authorities involved were confident that Benelux cooperation would be able to reach a new level, and that forms of police cooperation which until now had been informal could now be regulated in a more effective way. The result is the Benelux treaty on cross-border police operations, which entered into force on 1 July 2006. Since then, it has not been rare to encounter Belgian, Luxembourgish or Dutch police operating beyond their respective national frontiers. Among many examples, it is worth noting the major international events which have been supervised by mixed groups, and the joint controls and other operations frequently carried out in border areas. This cooperation relates to one of the objectives of the new Benelux Treaty, which is to consolidate Benelux's role as the perfect idea laboratory for European Union integration, and a pioneer for closer cooperation between neighbouring countries.

Here we can list several examples of this cooperation. First of all, commodate loans. The Benelux treaty on policy cooperation authorises cross-border operations by various police forces on their various territories, with certain conditions. The deployment of heavy equipment abroad is also a consequence of the treaty, and a practice which the public has already grown accustomed to. The first step was the deployment of Belgian water cannons in Luxembourg during a demonstration by steel workers in 2003, three years before the signing of the treaty, on the basis of a bilateral agreement between the two countries. The Luxembourg authorities were concerned about possible trouble at the demonstration, and it was therefore agreed that Belgium would provide water cannons and armoured vehicles to ensure public order.

Operations and exercises are performed on a joint basis. On the day of the national holiday in the Netherlands in 2011, the Dutch royal family had been invited to various localities in the north of the province of Limburg for the cortège and the traditional festivities. The Limburg-Noord police force was responsible for the security of the Queen, other members of the royal family and tens of thousands of visitors who had travelled to the Netherlands from neighbouring countries. Belgium offered to lend assistance to the 1,300 officers of Limburg-Noord and other Dutch police forces which had been mobilised for the occasion. Dutch and Belgian police officers formed teams of two to carry out joint patrols.

At Benelux level, the area of security, including the aspects of prevention, public awareness and crack-downs on crime, is one of the areas best suited to productive cooperation between neighbouring countries. This area features as one of the three main priorities of the new Benelux Treaty signed on 17 June 2008.

Joint training has also been organised. The SIG (specialised intervention) force of the Belgian Federal Police includes the VAG team, which is an abbreviation of "Vaardigheden Aanhouden in Groep", or "Group Arrest Specialists". This is a type of police body which has already existed for some time in the Netherlands, where the concept was developed. Created in 2007, the Belgian VAG team forms an intermediate link between the specialised missions of the CGSU (Special Units Directorate) and basic police work. The Netherlands has had teams of this type since 1989, which are assigned to make high risk arrests, but within the framework of operations not involving risk to life or the potential use of firearms. These arrests can take place in public places, in buildings or in vehicles. However, the missions performed by the VAG team exceed the risk level to which regular officers are exposed in the normal exercising of their duties. Given the long experience of the Dutch police in this field, it was decided to send Belgian teams to attend three weeks of specialised training at the Ossendrecht Police Academy in the Netherlands.

Actions have also been carried out in connection with terrorism and conflict prevention. Terrorism is a cross-border phenomenon par excellence. Within the framework of the Belgian COPPRA project (Community Policing and Prevention of Radicalisation), one of the key areas of the fight against radicalisation and terrorism lies at the level of front-line police and work in the community. This method is also used by other European police forces, in particular in the Netherlands and in Luxembourg. During the Belgian Presidency of the Council of the European Union in 2010, the Belgian integrated police presented the initial results of the COPPRA project. The general objective of the project is to assign the task of detecting radicalisation and raising the alert to officers on the ground, who have a unique observation position within the community.

(1) The "Grande Région" consists of the following entities: the Grand Duchy of Luxembourg, the region of Lorraine, the states of Saarland and Rhineland-Palatinate, the region of Wallonia, the French-speaking Community of Belgium and the German-speaking Community of Belgium.

(2) The Brochure "Bureau Commun de Coopération Policière. Gemeinsame Stelle der Grenzüberschreitenden Polizeizusammenarbeit. Centre de Coopération Policière et Douanière ".

(3) Government of the Grand Duchy of Luxembourg, press release of 24 October 2008.

(4) The Benelux Union, founded in 1944, consists of Belgium, Luxembourg and the Netherlands.

(5) Government of the Grand Duchy of Luxembourg, press release of 7 June 2013

(6) Senningen is a small town in Luxembourg where the first of these action plans was signed.

Territorialisation of internal security policy within the framework of the Paris metropolitan Police

Bernard BOUCAULT
POLICE PREFECT OF PARIS

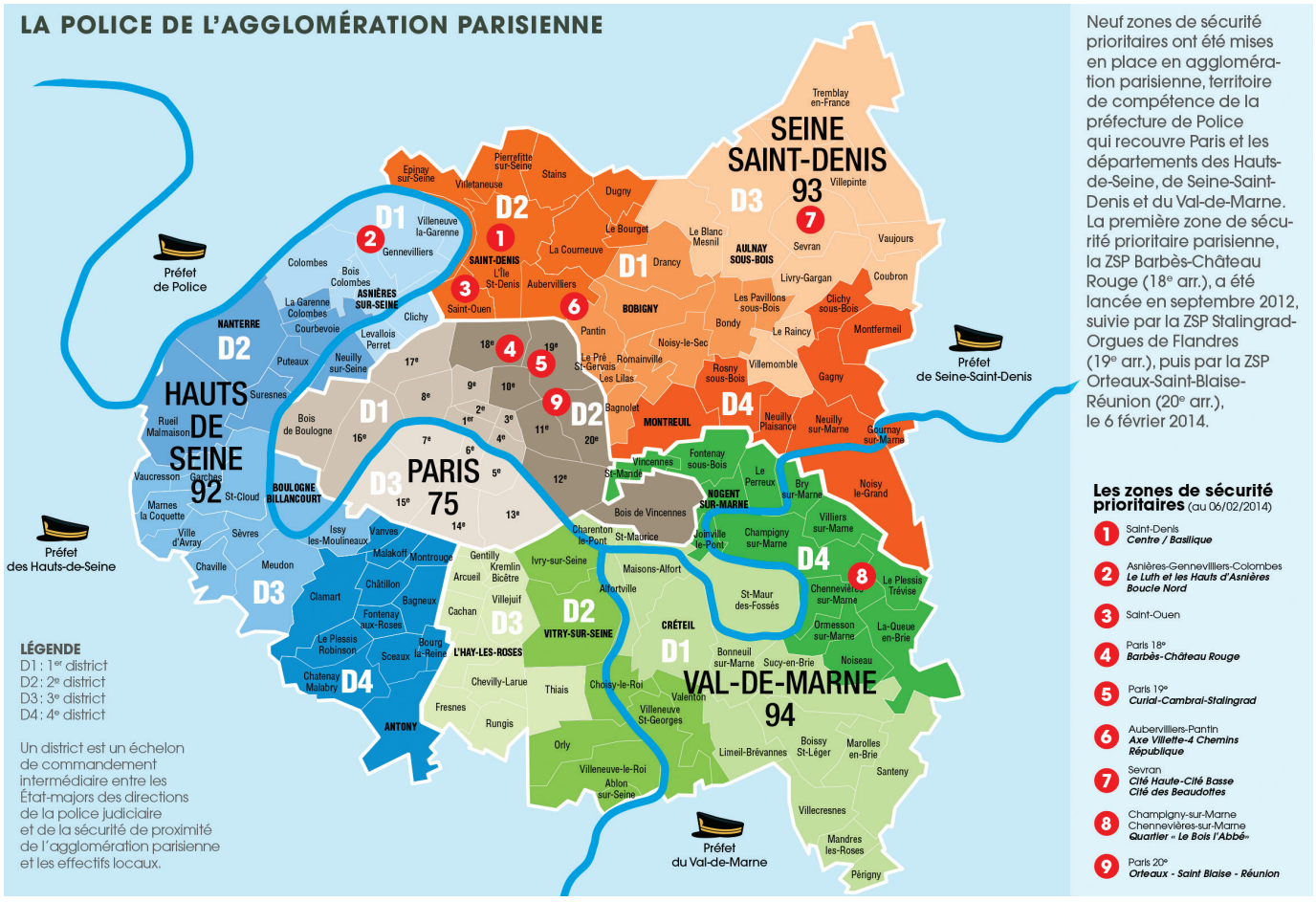
The development and reorganisation of territories, whether decentralised structures of the state or local authorities, have been at the heart of ambitious decentralisation policies for 30 years now. These issues are central to a very recent law on the modernisation of territorial public action and on affirmation of metropolises (MAPAM) and to the ongoing discussions about merging regions and disappearance of general councils. These reforms share the same goal: to adapt our structures to the social, economic and behavioural changes we are witnessing for the past several years. As the President of the Republic pointed out on 3 June as regards the territorial reform, it is about 'meeting the concerns of citizens who live away from the most dynamic centres and feel abandoned by the state in rural areas.'

In Ile-de-France, two flagship projects embody this ambition: the Grand Paris Express, the future public transport network structuring the capital region, and the

Bernard BOUCAULT, Police Prefect of Paris

Metropolis of Greater Paris, an ad hoc public institution which will involve the municipalities of Paris and the three departments of the inner suburbs and, under certain conditions, municipalities of the outer suburbs. With our citizens rightfully placing security on top of their concerns, security services and primarily the head of the police prefecture could not fail to begin their reform.

Created by an Act of 28 Pluviose year VIII (1 July 1800), the prefect of the police was designated from the outset for the management and prevention of all risks related to security in Paris. To perform its tasks, it has a wider scope of administrative powers devolved also to the mayor or the prefect of the department: public order, identity documents and residence permits, driving licences, unsanitary conditions or hazards, throughput controls, etc. It also has operational services of police and rescue. All the levers of action on safety and security in the capital are well placed



Neuf zones de sécurité prioritaires ont été mises en place en agglomération parisienne, territoire de compétence de la préfecture de Police qui recouvre Paris et les départements des Hauts-de-Seine, de Seine-Saint-Denis et du Val-de-Marne. La première zone de sécurité prioritaire parisienne, la ZSP Barbès-Château Rouge (18e arr.), a été lancée en septembre 2012, suivie par la ZSP Stalingrad-Orgues de Flandres (19e arr.), puis par la ZSP Orteaux-Saint-Blaise-Réunion (20e arr.), le 6 février 2014.

in the hands of a single authority, the risks being the subject of prompt, coordinated and coherent treatment. Guaranteeing the efficiency of security in general terms, the White Paper on Defence and National Security is actually part of the DNA of the police prefecture. The same concern for effectiveness and efficiency of research has also led to where police prefecture services have evolved today, as part of the urban police force (police d'agglomération), over a large area of the inner Parisian suburbs, or sometimes even beyond.

To draw the line and identify the prospects of this ambitious reform five years after its implementation, it is essential to return to its origins and foundations.

Origins and foundations of the urban police force

To enhance their effectiveness, the police services have redefined their framework for action and optimised the use and management of their resources.

Setting a framework for the most suitable actions

Every day, there are 41 million inbound trips to the Paris region, of which 70% are to the suburbs , against 30 million by 1980. The increase in the number of trips, becoming denser and faster, allowed delinquency to develop in this context. Its causes, its effects, as well as the actions to be taken, cannot be separated geographically, as evidenced by the cases of urban violence in 2005, the presence of thugs during certain events, particularly in 2006, fighting in the North Station in 2007 or between rival gangs in 2008. These events illustrate perfectly the potential capacity of a local event to be replicated elsewhere in the metropolitan area, the issue of inflow is at the heart of safety and security policies.

This led to the strengthening of police prefect's powers, first by controlling traffic. Also, the police prefect was vested with the management of actions and the recruitment of law enforcement officers in traffic safety on structural axes as well as public transport by rail in Ile-de-France. In this respect, the creation of the service of the regional traffic police in 2003 stepped up the development of scalable and integrated police responses over a large area.

The government wished to go much further than just traffic surveillance and regulation so that the police can coordinate and adapt the safety regulations in an urban area with similar characteristics: very high population density, significant urbanisation, many transport connections.

Optimisation of resources available in the territory

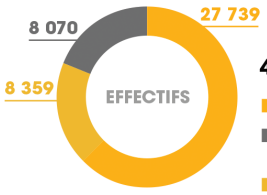
Before the urban police force, the action of each active service in the police prefecture was hampered by the territorial limits of competences.

The information was sectored: the information directorate of the police prefecture had competence in Paris, while the departmental general information services (SDIG) were for the inner suburbs. The Public Order and Traffic Directorate (DOPC) could act only in the capital, both in terms of road safety and demonstrations. The Community Policing Directorate (DPUP) was in charge of public security in the capital. In inner suburbs, the departmental public security directorates (DDPS) performed on their own all these tasks without any possibility of sharing.

By creating the urban police force , the government has brought together the intervention scope of each service. The SDIG was integrated as a territorial service in the information directorate of the police prefecture. DOPC has been given the

PRÉFECTURE DE POLICE • **AU SERVICE DU PUBLIC**

EFFECTIFS (31/01/2014)



44 168 fonctionnaires

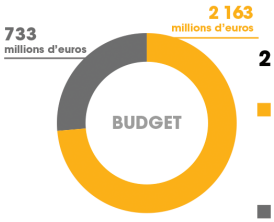
- fonctionnaires de police
- sapeurs-pompiers de Paris (hors détachements)
- agents administratifs, techniques et scientifiques

PATRIMOINE ET MATÉRIEL

- 1,1 million m² shon* de locaux répartis en 407 sites pour Paris et la petite couronne, 384 400 m² shon de locaux répartis en 132 sites pour la grande couronne,
- 7805 véhicules soutenus sur les 6 sites d'Île-de-France dont :
  - 5805 véhicules légers et utilitaires,
  - 213 véhicules de maintien de l'ordre,
  - 73 poids-lourds,
  - 1714 deux-roues motorisés,

  S'ajoutent à ces véhicules : 15 bateaux dont 2 remorqueurs, 4 vedettes, 3 pneumatiques sur remorque, 6 demi-rigides, 2 hélicoptères dont 1 mis à disposition et 733 vélos.
- 1 imprimerie, 18 millions de documents imprimés.

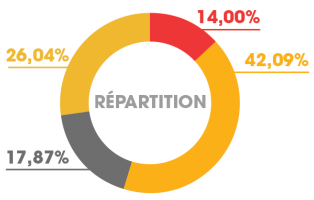
BUDGET PRÉVISIONNEL 2014



2 896 millions d'euros

- Budget de l'État
  crédits d'État ordonnancés par le préfet de police sur l'ensemble du périmètre de la zone de défense et de sécurité de Paris, masse salariale comprise.
- Budget spécial
  voté par le Conseil de Paris, il est alimenté par la Ville de Paris, l'État, les trois départements et les 123 communes de la petite couronne parisienne. Il finance les missions à caractère municipal, dont relèvent notamment les services administratifs de la préfecture, les agents de surveillance de Paris et les sapeurs-pompiers de Paris.

Répartition globale du financement du budget spécial
(selon les domaines financés, la répartition entre collectivités contributrices est variable)



- Ville de Paris
- État
- Collectivités locales de la petite couronne
- Recettes propres

*surface hors œuvre nette

|23|

responsibility of traffic control, road safety and management of sensitive or exceptional events, both in Paris and its suburbs. Finally, DPUP and DDSP of Hauts-de-Seine, Seine-Saint-Denis and Val-de-Marne merged in the community security directorate of the Paris area (DSPAP).

Three basic principles govern this ambitious reorganisation of services.

First, it was to encourage the smooth exchange of information inthe Paris area. DSPAP has been equipped with a centre of information and command in permanent contact with the territorial directors and their staffs.

Second, it was to provide the agglomeration with deployable forces in response to changing needs. The involvement of DOPC in large-scale demonstrations and gatherings in the city and the creation of specialised units at DSPAP, including a daytime security company and night-time anti-crime brigade, to meet this need. Where a risk has been identified, the agglomeration is thus able to mobilise suitable specialised forces and deploy them in the sector concerned. The versatility of the local workforce, which involved redefining its priorities for action according to the situation, has given way to increased mobility of specialised units. However, the territorial units, where necessary, can be projected in other departments. This is a real and effective pooling of the staff in question for the benefit of the whole Paris urban area.

Third, by giving the police a more integrated chain of command and facilitating cooperation between directorates, the urban police force to deploy control strategies to fight consistently and simultaneously delinquency throughout the area.

First results and prospects of the urban police force

The resilience and capacity for action of these forces were reinforced through the reorganisation.

Promising first results have provided a solid foundation ...

The adaptation of police structures, such as the overhaul of the staff of the DSPAP or return within the police headquarters of the departmental structures in charge of territorial intelligence, enabled the connection of the three departments of the inner suburbs under good conditions. This is also the case with DOPC, which has assumed responsibility for more than 500 services in the inner suburbs, to the satisfaction of territorial directorates which have reassigned their public roads personnel to the fight against crime. Similarly, service harmonisation - closing down directorates in the same districts, establishment of security and intervention companies, same restructuring all police stations in two services - have contributed to the emergence of a true spirit of agglomeration, which promotes the convergence of practices.

The collaboration of different directorates is expressed through specific plans to combat: narcotics, armed robbery and violent crime, gangs or burglaries. On this last point, besides the increased police presence on the streets, training was conducted for the staff reading signs and indications. A burglary surveillance unit at the agglomeration level was also created within the DSPAP to identify in the best way procedures and offenders. Furthermore, the creation of new structures, such as 'urban' groups at DRPJ, the unit of coordination of the fight against illegal immigration of DSPAP, specialised field brigades, appear as devices for tangible improvements in the situation of neighbourhoods of degraded countenance, the restoration of equal access to the safety of all our citizens, ensuring the congruence of the urban police force. In addition, the recent creation of a sub-directorate of training within the human resources department will standardise practices and procedures for operational training.

The government elected in the general elections of spring 2012 has maintained, amplified and adapted the reform of the urban police force, to grant to department prefects, on behalf of and under the control of the Police Prefect, the daily management of security, the fight against crime and maintaining order. This proximity, inadequately granted under Act I to the urban police force, gave a new impetus and direction to the urban police force: the pooling and coherence of police action at the scale of an as populous and vast territory as the Paris metropolitan area are essential but we should not forget that our fellow citizens also need close and decentralised management led by local stakeholders identified. Today, the first conclusive results of the urban police force should be revisited in the light of the establishment of Greater Paris.

... to strengthen cooperation in the field of security

Established in July 2012, priority security areas (SPAs) have the objective of strengthening the security of some neighbourhoods particularly affected by a deterioration of public order and peace: robberies, burglaries, curbsiders, drug trafficking in the hallways of buildings or in public places, etc. They are co-led by the prefect of police, the prosecutor and the mayor, who define the priorities for action. In everyday life, the police prefect and representatives of the partners (the judiciary, education, customs, local authorities, associations, transport networks ...) inform and coordinate their actions, thus applying provisions which therefore are based on a real implementation of the principle of subsidiarity. These provisions have shown, since 2012, the effectiveness of the partnership approach not only in the field of security but also in favour of 'living together'.

Like the local cooperation arrangements, the safety of our citizens cannot be built only around the actors' capacity to work together, locally and across the agglomeration. Interregional and even international cooperation - the police prefecture works on a regular basis with the Romanian police too - is equally essential. Such cooperation should also include a thematic dimension, which allows the participation of all stakeholders. The police prefecture has developed a set of partnerships to provide the most appropriate response to delinquency. For example, I would mention the participation of the Ministry of Tourism, the city of Paris, the Tourist Office, the Champs Elysées Committee, main attractions and department stores as well as public transport operators in the safety of tourists in the capital. The future of the urban police force is therefore based on the adequacy of the territorial scope and the area of public security, the development of specialised multimodal collaboration and the quality of exchanges that the stakeholders of public security develop.

By drawing an increasingly integrated Paris area, the projects of Grand Paris Express and Metropolis involve, at least, strengthening police cooperation at this level and increased capacity to act fully in that territory. Again, it is necessary to implement a consistent security policy set out in the MAPAM law as 'after consultation with the metropolitan council for security and crime prevention, the police prefect and the prefect of the region of Ile-de-France, the prefect of Paris, jointly determine the metropolitan delinquency prevention plan.' With all the stakeholders of public safety, the police services of the prefecture will be enthusiastic to face this challenge of the 21st century: the success of Greater Paris of Security.

(1) Enquête globale transports, la mobilité en Ile-de-France, n°1, septembre 2012

(2) Decree No° 2009-898 of 24 July 2009

Municipal policing in france: presentation, challenges, prospects

Olivier DEGEORGES
Training development directorateHead of the Competence Unit,
Security, Municipal Police National Territorial Public Service Centre

In May 2010, the death of Aurelie Fouquet, a young municipal police officer, during a shooting between armed commandos and the police in the Paris suburbs dramatically provoked the national debate on the place and role of the municipal police in France. At the same time, the National Council of Cities drew a parallel 'between scaling down jobs at the police and the national gendarmerie and the increase of the workforce of the municipal police (...). The mayors end up not only investing in the field of crime prevention, but also required to take measures in the field of security - in its public tranquillity component - state security forces focusing on public order and judicial police investigations.' Thus, community policing, which was within the remits of the National Police from 1998 to 2003, now seems vested in the municipal police.

With municipal police staffing more than tripling in 20 years, to nearly 20,000 local government officials across the country, the municipal police, complementing the national gendarmerie and the national police, is now clearly identified and recognised as the third internal security force. Physical emanations of the legal responsibility of the mayor to maintain public order, safety, security and public health appear more and more as the key elements of the expression of a local public security policy. In testimony thereof, the National Territorial Public Service Centre lists 4009 communities which chose to have a municipal police service. If it is solely up to the municipal authority to decide on the establishment of a police service, local contexts related to insecurity, and furthermore, the feeling of insecurity, lead or push more municipalities in that direction.

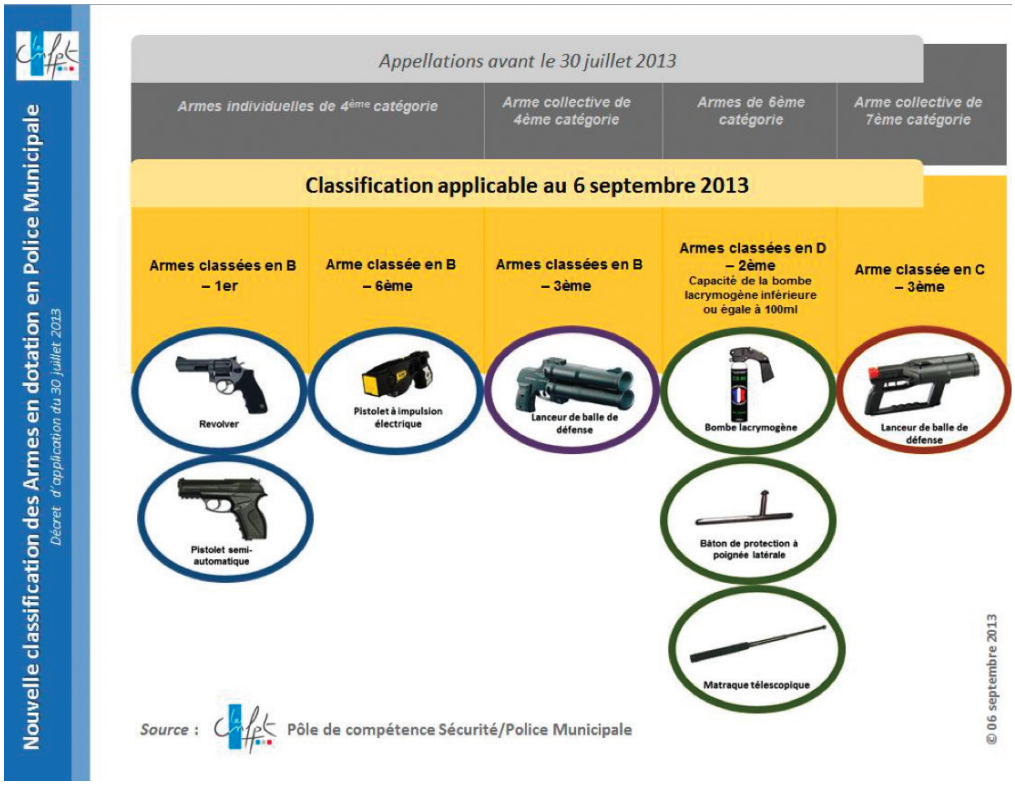
The multiplicities of various contexts, whether historical, geographical, demographic, social or economic, had the logical corollaries to produce different types of municipal police. Via this plural form, the Parliament now finds it self-explanatory that one should speak only about municipal police services.This distinction is above all statistical. With a national average of just over four police officers per unit, it seems easy to conclude that the French municipal police forces are small administrative units. If it is indeed common to see, on the least densely populated territories, an agent as the only member of the municipal police, this conclusion is not resistant to some 370 officials of the municipal police of Nice, with 326 of the Lyon or 114 agents of the capital of Flanders: Lille.

Beyond this digital reading, the diversity of services is inherent to missions that the territorial authority entrusts to the police. In fact, the scope of interventions is very broad nowadays, ranging from the replacement of the national police and gendarmerie in the fight against crime to a field of intervention limited to its smallest share of public road surveillance. This picture is hardly understandable for the citizen who sees that in this community the municipal policeman is armed (see the box) and does not seem to exercise the same profession as the unarmed counterpart in the neighbouring town. This heterogeneity caused a real identity crisis among municipal police. The main purpose of the claims: the creation of a single employment doctrine clarifying and harmonizing the tasks, on the one hand, formulating the role of municipal police officers vis-à-vis the sovereign security forces, on the other.

A principle of response could be provided by the proposed law on territorial police adopted at first reading by the Senate on 16 June. This text, based on the work of senators François Pillet and René Vandierendonck, first provides for the merger of the rural police and municipal police in a single framework. Everyone can carry out in the future all the tasks currently divided between the two functions. Moreover, the future law would strengthen and facilitate inter-municipal arrangements in the field of prevention of crime or that of the security of urban transport for example.

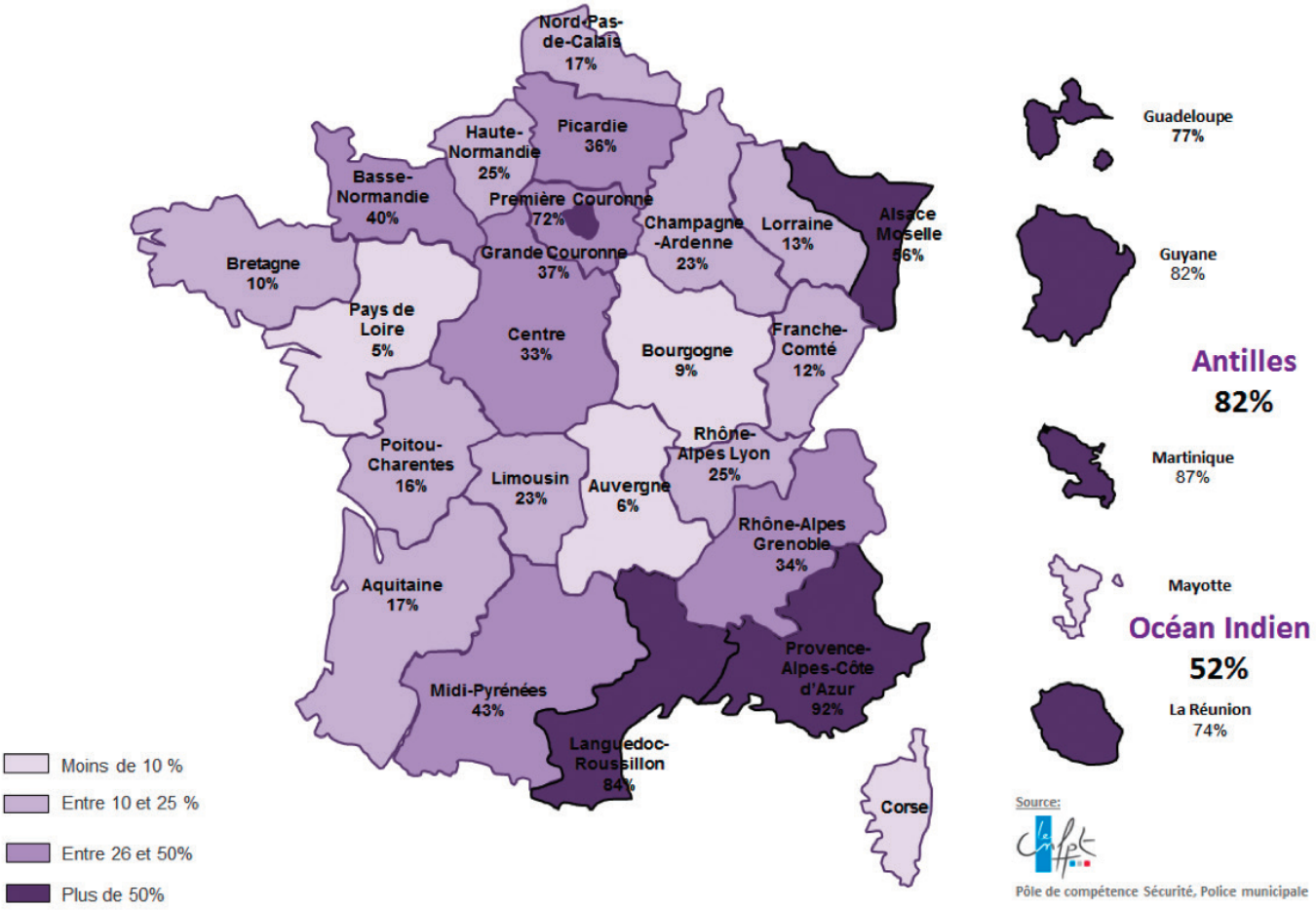
It remains to determine the modalities for the territorial police of the future to ensure harmonised missions across the territories, complementary to those of the national police and gendarmerie, preserving this vital connection which guarantees the quality of local public service: proximity.

L'armement des policiers municipaux



In 2011, a bill to generalise the allocation of municipal police in handguns, vigorously relaunched the political debate on the weaponry of the third internal security force. With 40% of armed personnel to date, or approximately 7,000 officers, many local government officials are questioning the relevance of the choice of weaponry for their territorial officials. But beyond the political will, the weaponry of the municipal police needs to fulfil the necessary regulatory preconditions. The existence of a coordination agreement with the various administrative steps to obtain a weapon permit, the steps can be complicated, prolonged and costly. Having assessed all individual responsibilities in this regulation, it is yet to define a strategy: Who should be armed? For which tasks? With what class and what kind of weapon?

Répartition des agents de police municipale dotés d'armes de catégorie B ou C (en %)



Romania's local police. Current issues and future directions

Oana SABIE
Faculty of Administration and Public Management,
Bucharest University of Economics Studies

It is important to examine the history of Romanian police in order to understand its progress over time. Alterations to the purpose, duties, and structure of Romanian police institutions have allowed this profession to evolve into a more effective entity that meets the European Union requirements. The novelty of the Romania's local police and that it has on its back other two institutions - the Public Guardians and Community Police - reveals the need to improve the system, to ensure public order and local alignment with the new requirements of the millennium.

When the Law of Local Police (155/2010) was approved, the Community Police in Romania became history, and was replaced by the Local Police. The new institution formed has additional powers after it took a number of departments from the City Hall. It's duties are to protect the fundamental rights and freedom of individuals, private and public property, prevention and detection of crime, in the areas of the public order and security of goods, driving on public roads, construction discipline and advertising panels, environment protection, entrepreneurship, accounting of, and other areas established by law.

Thus, since 2011, the local police is the institution that shall ensure compliance with legal regulations on discipline construction, environmental protection, advertising and commerce. The new functions listed above, will be managed by three newly created services within the Local Police: Construction Discipline and Street Advertising Service, Environment Protection Service and Commercial Inspection Service.

The local police operates as a functional department under mayor as a specialized unit, being directly subordinate to the deputy, and the work is fully financed from the local budget.

Strengths

1. Local police offers a diversified service as the resources involved are specialized in different fields;
2. Effective intervention is provided and is suitable in different areas due to constant staff training, providing them real-time adaptation to changes in legislation;

> The year 2010 was one of the most significant in reorganization of the defense system of local police and, today, the local police institution is indeed a guarantor of social security by the contribution they make to its prosperity.

3. Increased funding of assets between 2009-2011, provides a framework for future development of services;
4. Close cooperation between local police, traffic police, constabulary and Inspectorate for Emergency Situations lead to higher service quality.

Weaknesses

1. Overcharging activity generated by to many powers attributed to local police employees so that their yield may decrease;
2. Lack of correlation between the current needs with those on the medium and long term and with financial allocations, that are declining in recent years;
3. Infrastructure available to local police is not well developed - in the opinion of the employees (personal communication) there are not spaces for specialized training, response equipment must be improved, etc;
4. Lack of indicators to measure the response time, the favorable settlement, to reveal the opinions and suggestions of the citizens, to be updated in real time, because in many cases communication with citizens is achieved through a register;
5. Insufficient financial funds due to changes in the structure of City Hall priority public services from one year to another.

Opportunities

1. Opportunity to benefit from expertise, best practices and knowledge of local police working with National Federation of Local Police in Romania;
2. Possibility of accessing European funds for various projects;
3. International cooperation, partnerships with other organizations, to exchange experiences and gain new knowledge;
4. Implementation of an integrated quality management;
5. Implementation of new technologies in the field of weapons equipped for efficient intervention actions and better case handling;
6. Adoption of new methods of intervention, more effective, practiced in other countries that would achieve the standards set out in this field at international level;
7. Development of information technologies to streamline activities, monitoring, possibility of introducing performance indicator.

Threats

1. The legal framework within which local authorities have been forced to reduce its budget by 25% as a result of the financial crisis;
2. Institutional framework - being subordinated to the mayor, it is possible to give less importance to this service, focusing his attention on other areas;
3. Impending oil crisis could affect the availability of fuel that this service needs to fulfill its tasks.

Future directions. In order to improve the quality of local police public services, we think that a number of changes could be done. These would serve to increase the quality like promptness, speed of intervention, efficiency, training.

Regarding the average age of employees, we believe that they can integrate a policy of phasing in the organization of young employees. They can bring a "fresh perspective" on service and come up with new ways of working with new approaches to community problems. By getting closer to young people in the city, you can create a link that will facilitate communication with youth groups, so that local authorities be able to realise different activities better, for example: the protection of citizens trying to combat racing, or youth groups that consumes substances prohibited by law.

Another recommendation should take into consideration human resources degree of motivation. Local police employees are weak motivated because material and non-material benefits are reduced, so there is no incentive to increase efficiency and to motivate them to become more involved in their work.

The possibility of promotion is another way to motivate employees, their incentive to permanently overcome their limits in order to have access to higher stages in terms of hierarchy. Promoting employee stimulate lifelong learning need, their willingness to carry on as best to meet the standards set by the superiors.

In the absence of funds for salaries the local authorities may choose to introduce non-material benefits in the local police services, correlated with physical and mental request of employees. Among the non-material benefits, you can choose to create a pleasant environment, a mechanism for good results recognition of the organization. Employees feel the need for training activities. For continuous improvement of performance, one element is the permanent training of employees to update knowledge and to adapt them to the current working environment.

Another relevant problem in the local police on motivating employees is the system of performance indicators that could be placed in the service. During the discussions with several employees form the local police we found out that such a system would be useful. Among the proposals we can mention: promotion based on merit, bonus wages based on results (for example, "to be paid by results"). Takeing this into consideration, a number of dependable performance indicators can be created in order to facilitate evaluation of the employees quality work and of quality services offered to citizens by this service. We believe that in this public service is appropriate to have a computer system used to implement electronic record into its operations. This system, based on a specialized software is designed to continuously monitor the activities developed, its efficiency through real-time view of historical data (for example, if there are other requests in the past for the same person-employee, what was its' nature?, etc.). It also facilitates electronic record setting performance indicators for both the service itself and the activities developed by employees (degree of public satisfaction, response time for complaints, the average number of complaints handled by each employee, etc). To implement this system, European funds could be attracted by the Sectoral Operational Programme Increase of Economic Competitiveness, Priority 3: Information and Communication Technology for the private and public sectors, Key Area of Intervention 3.1 - Support the use of information technology.

Finally, we consider that a closer look at the essence of public service shows that the establishment of local police brings major benefits in the fight against generators of crime factors. The year 2010 was one of the most significant in reorganization of the defense system of local police and, today, the local police institution is indeed a guarantor of social security by the contribution they make to its prosperity. It remains to be seen the direction it will follow once we will overcome the difficult national and international times we are living for several years now.

Références :

Nr de Hotărârea de Guvern. 1332/2010 regulamentului d'aprobarea de privind - funcționare de și de cadru de organizare un lieu de poliției, în M.O., nr de publicată de Partea I. 882 decembrie 2010 du vacarme 29

Nr de lieu de poliției de Legea. 155/2010, Al României, Partea I, nr de l'în M.O. de publicată. 483 iulie 2010 du vacarme 14

Police reform and security policy in Belgium(1)

Alice CROQUET

PhD student at the Centre for research and sociological interventions (CRIS) - University of Liège

In 1998, after years of tergiversation, Belgium began a complete overhaul of the police system. This emerges in a national and supranational context marked by a crisis of confidence and legitimacy of state institutions which has peaked in the Dutroux case . The reform that followed, enshrined in the 1998 Act and implemented in January 2001, not only revolutionised the structural pan, but also renewed the police management of internal security.

A reshaped policing landscape

Before the reform, the Belgian policing landscape was composed of three general services independent in terms of authorities, legislation and distinct organisational principles: communal police, gendarmerie and judicial police reporting to the prosecution office. This highly decentralised system and multiple command centres engendered fragmentation of skills and territories, sources of major structural failures between services.

Before the reform, the Belgian policing landscape was composed of three general services independent in terms of authorities, legislation and distinct organisational principles: communal police, gendarmerie and judicial police reporting to the prosecution office. This highly decentralised system and multiple command centres engendered fragmentation of skills and territories, sources of major structural failures between services.

Bringing everything together under a single law and statute, the 1998 law set up a new integrated structure consisting of two functionally connected separate levels: the federal and local levels. Now, the federal police, the result of the merger of the former judicial police and specialised services of the former gendarmerie, is responsible for the whole of Belgium, under the supervision of the Minister of Justice and the Minister of Interior. It performs specialised and supra-local tasks (organised crime, banditry, ...) and provides support for the local police. The local police, composed mainly of former municipal police and local taskforces of the former gendarmerie, is divided into 195 areas, constituting autonomous police forces under the management of a commanding officer. About a quarter of these areas cover the territory of a single municipality ('monocommunal' areas) and are under the authority of the relevant mayor. The remaining three quarters covering the territories of several communes ('pluricommunal' areas) and are therefore placed under the authority of the various mayors. Every police force is in charge of basic police functions (working area, patrolling, action, etc.) for the supply of a minimum service to the population as well as some tasks of federal nature. These frontline policing tasks are under the dual authority of a mayor(s), for administrative tasks (keeping public order) and the public prosecutor for tasks of judicial nature (investigation of crimes). Finally, embodying the spirit of the new integrated police system, the 1998 Act has created

consultative intermediary bodies and articulation principles between the federal and local levels whereby the new security policy plays a major role.

The new security policing policy

Alongside the structural aspects mentioned above, the 1998 reform was also an opportunity to reconsider the approach to security policing. This is a classic finding of the analysis of public policies - it pertains first of all to the continuity in terms of clear shift away from what had already been experienced before. Reflecting the transformations of public action and the discourse on security ongoing since the 1980s, broad political and security arrangements were introduced in the new policing landscape. It is founded mainly on the dual assumption that a full and rational management of security is the key to a safer society.

Integrated security management

The Federal Plan for security and prison policy presented in 2000 by the Minister of Justice referred for the first time to the concept of integrated security in Belgium. In practice, it consists of 'a comprehensive approach that takes into account all factors that threaten or promote security' . Centred around this overall design, security policy comes in the form of a large arrangement integrating on the one hand, both levels of the integrated police (local and federal) and, on the other hand, the various components of the security chain (political level - police - justice) around a common management of public security. The whole system is based on a framework prepared every four years by the Ministers of Interior and Justice, which sets a number of priorities, based on which the federal police and each zone of local police respectively develop a national security plan and zonal security plan. At local level, zonal security plans should also take into account the criminal policy of the public prosecutor and the concerns of mayors. Taken together, these stakeholders are then required to meet in a consultative body established by law to determine together and consensually the zonal security plan.

As shown by the distribution of national objectives and methodological tools provided to support the development of the zonal plans, but also the approval of plans by the Ministry of Interior, the security policy is subject to an initial framing by the State, expected to bring integration and efficient processing of insecurity in Belgium. However, at the same time, the entire security zonal planning process reflects an important local presence, whereby we can bring closer the decentralisation of public action witnessed in contemporary Western States for about thirty years. The zonal police territory and local security stakeholders are considered most relevant to the designation of public safety issues and developing appropriate solutions. Clearly, the security zonal plan takes the form of a top-down framework (state), but is negotiated bottom-up (police zones) by local stakeholders within the consultation bodies in a multidisciplinary approach and based on local specificities.

Rational management of security

Like in most Western states, the Belgian police force cannot do without modernisation of public administration, which was launched in Belgium by the Flemish Liberal government headed by Verhofstadt in the 2000s (the Copernicus plan). In its nature, the security policy reflects very clearly the significance of New Public Management, which can be interpreted as the transfer to the public sector of management principles from the private sector to ensure greater efficiency. Indeed, in practice, the main function of this policy of security lies in multi-annual strategic planning of police work and police capacity around objectives considered priority at internal level (organisational functioning: communication, staff training, ...) and at external level (insecure phenomena: burglaries, drugs, lack of road safety, ...). Furthermore, in line with the managerial requirements that influenced the grind, this management based on the achievement of objectives must be accompanied by a measurement system for the evaluation and monitoring of police action. The zonal security plans are therefore also an excellent way to meet the transparency requirements of the police operation, widely claimed by the official discourse of reform echoing the crisis context in which it emerged.

Ultimately, the security zonal plan is the instrument to implement security policy that has its local dimensions while being enshrined in a national framework. In this, the Belgian policing policy gives evidence in turn for calling into question the traditional model imposing a unilateral regulation of public action. The choice of an integrated security management, coordinated between the various local institutional stakeholders and the zonal level, in a largely managerial perspective, are all developed methods that seem to crystallise a new way of 'ensuring public safety' in contemporary Western societies.

(1) Study carried out within the project PAI "Justice & Populations" (PVII/22), Pôles d'attraction interuniversitaires – Politique scientifique fédérale.

(2) The Dutroux case is a criminal case of a paedophile which shocked Belgium between 1996 and 1998.

(3) The law of 7 December 1998 organising a two-tier integrated, structured police service, Moniteur Belge, 5 January 1999.

(4) Doc. Parl., Sénat, 1999-2000, n°2-461/1, p. 13. This plans was the first framework of security policies developed by the government; later it was replaced by « Note-cadre de sécurité intégrale ».

The Bucharest Academy of Economic Studies

Faculty of Administration and Public Management

The Faculty of Administration and Public Management was created at the beginning of the 2010-2011 academic year, starting from the idea that the functioning of a modern, transparent, flexible and efficient public administration is a prerequisite for structural transformation of Romanian society and its adaptation to globalisation.

The establishment of this facility met the need to change the perception of the role of public officials and to promote a new generation of leaders in the Romanian public administration, ready to implement modern principles of public management and values the European Administrative Space

The Faculty of Administration and Public Management provides training for experts in the field of public affairs of Romania and the European Union and research in the field of public administration through the following actions:

- development of scientific research in the field of administrative science;
- development of professional skills of lecturers;
- interactive participation of students in training and learning;
- interventions of specialists in administration and public management, exercising their functions in the public sector, private consulting, academic research or private or***ganisations working for the public service***.

The curriculum aims to:

- provide general knowledge in the field of public administration through the acquisition of fundamental knowledge in administrative sciences, management, economics and law. Solid training in these areas is an important factor for building a career in the administration, at private consulting firms for the public sector, public affairs, management of EU funds, etc.
- provide expertise in the management of public sector organisations, the formulation, implementation and evaluation of public policies and development of human resources of the administration,
- prepare and train students to become career civil servants at public institutions by meeting a real need for professionalisation in this area,
- develop skills for the public sector.

The theoretical training of students is complemented by practical work done in the three computer labs of the faculty and practical training at public organisations in Romania but also in France, Spain, Brussels or Amsterdam.

Under the management of Professor Constantin Marius Profiroiu, Dean of the Faculty, the teaching and research staff of the Faculty of Administration and Public Management consists of five professors, four lecturers, 9 assistant professors and research assistants.

Our team has achieved the following results:

- Our faculty ranks on top in terms of curriculum in the field of administrative science in Romania, allowing the Bucharest Academy of Economic Studies to join the Universities of advanced education and research in Romania.
- The development of partnerships with prestigious universities in Romania (Babes-Bolyai University of Cluj-Napoca), Europe (University of Social Sciences of Toulouse, Limoges University, Complutense University of Madrid), the US (Martin School of Public Policy and Administration, Kentucky) and Australia (Monash University, Melbourne).
- The integration of FAMP within the network of schools and institutes of public administration from Eastern Europe (NISPAcee), the Association of Schools and Institutes of Public Administration of Romania (ASIAP) and the International Association of Schools and Institutes of Administration (IASIA).

.

To learn more
www.amp.asc.ro

Marius PROFIROIU, Deputy President of EUROPA and Dean of the Faculty of Administration and Public Management, Bucharest University surrounded by the members of his team.

Ça, c'est l'agglo

La communauté d'agglomération Limoges Métropole améliore votre quotidien

Limoges Métropole
Communauté d'agglomération

LIMOGES MÉTROPOLE : PREMIER PÔLE ÉCONOMIQUE DU CENTRE-OUEST

• Zones d'activité

Limoges Métropole est le plus vaste espace économique entre le Massif central et l'Atlantique. Elle offre 1.350 ha de zones économiques sur son territoire dont 1.112 ha de zones publiques. Actuellement, l'agglo compte huit zones d'activité d'intérêt communautaire (hors ESTER) et aménage celle dite de « La Grande Pièce » (40 hectares)

• ESTER Technopole

Créée en 1993, ESTER réunit sur un même site au Nord de Limoges industries, recherche et formations. Deux pôles de compétitivité, deux écoles d'ingénieurs, quatre centres de transfert de technologie, près de 2.000 emplois, 174 raisons sociales, des entreprises de pointe, des bâtiments HQE : développement économique et développement durables parfaitement conjugués

• Installez-vous

Gestion d'un parc immobilier pour les jeunes entreprises d'ESTER et le pôle Elopsys, dispositif d'aide à l'immobilier pour l'installation et la maintien durable des entreprises

Vivre ensemble

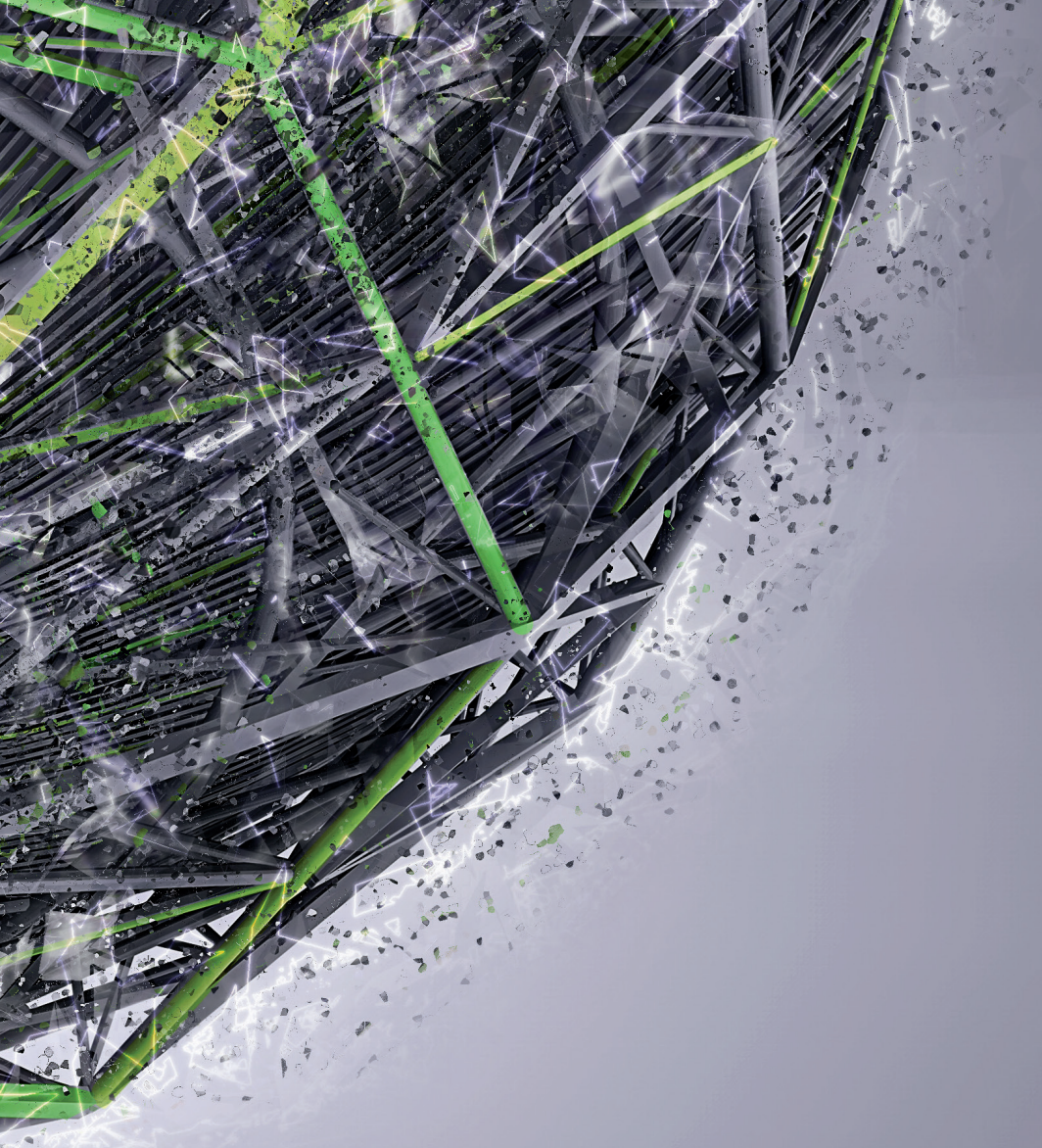
Habitat et accueil
Programme local, logements sociaux, accueil des gens du voyage, rénovation urbaine.

Insertion et emploi
Mission locale, plan local pour l'insertion et l'emploi, clauses sociales sur les travaux, contrat urbain de cohésion sociale.

Politique de la ville
Aide au développement dans des quartiers ciblés.

19 communes, 1 projet commun...
05.55.45.79.00 - www.agglo-limoges.fr

Aureil • Boisseuil • Bonnac-la-Côte • Condat-sur-Vienne • Couzeix • Eyjeaux • Feytiat • Isle • Le Palais-sur-Vienne • Le Vigen
Limoges • Panazol • Peyrilhac • Rilhac-Rancon • Saint-Gence • Saint-Just-le-Martel • Solignac • Verneuil-sur-Vienne • Veyrac



DIGITAL TRANSFORMATION MANIFESTO

LES FONDAMENTAUX D'UN MONDE QUI SE TRANSFORME

WWW.YOURDIGITALTRANSFORMATION.FR

EMAKINA