

# Policing and European Studies: Foreword

Maria O'Neill

*University of Abertay Dundee*

---

THE PARAMETERS OF 'POLICING' DIFFER FROM ONE EU MEMBER STATE TO another. In some, it encompasses leading criminal investigations, whereas in others it includes counter-terrorism protection. Taking a wide definition of 'policing', this special issue is a selection of papers from a conference held on the topic at the University of Abertay Dundee in 2010, which is part of the activities of a UACES-funded research network in this area. In addition, a couple of papers have been added, which originate from a European Commission-sponsored conference on the Area of Freedom, Security and Justice held at the University of Salford, also in 2010. The UACES-funded research network focuses on the law enforcement aspects that arise under the EU Police and Judicial Cooperation in Criminal Matters (PJCCM) developments, an area long neglected in academic discourse. While European Studies normally encompasses, *inter alia*, the disciplines of International Relations, EU law, economics and politics, in order to develop a coherent understanding of PJCCM relevant issues, the disciplines of police studies and security studies have also been added to the mix for the purposes of this area of research. In addition, with the increasing focus on the impact of academic research on the wider world, the feedback from the practitioner community, to include law enforcement officers, is highly relevant to this work. To this end this research network and its output benefit from pre-existing networks with, in particular, the Scottish police forces, which has been developed through the Scottish Institute of Policing Research. Nevertheless all output from this research network is developed from an 'outsider' point of view, with academics not being a position to access the full range of data relevant to this area, as it is only available to the law enforcement community. This is due to data protection and data security laws and regulations, which are in force throughout the EU. It is acknowledged that these laws are in place in order to protect not only the integrity of police investigations, but also the individuals who may become, either correctly or erroneously, caught up in those investigations.

With the above caveats in place, great complexity nevertheless arises from the development of the cross-border policing provisions that are increasingly being legislated for by the EU. Through a variety of opt-in and opt-out provisions, the EU Member States are engaging in a variable geometry approach to the EU policing provisions. The European Free-Trade Area Member States are also highly involved with these developments through their membership of the Schengen Convention that was signed in 1990. In addition, EU international policing provisions have been developing apace, with highly developed relationships *inter alia* with the United States. The Lisbon Treaty, now in force since the 1<sup>st</sup>

of December 2009, has had and will have a very large impact on the development of the legal framework in this area. In addition, the Stockholm Programme, which was published at the end of 2009, has set an ambitious programme in the Area of Freedom, Security and Justice, to include the development of the external relations of the European Union in this area, not only with traditional strategic partners, such as the United States and Australia, but now with a particular focus on the countries of the European Neighbourhood Policy and the Euro-Mediterranean Partnership.

The complexity of this developing area of law, policy and practice is reflected in the papers published in this special issue of the *Journal of Contemporary European Research*. These papers are set out in order to transport the reader from the global to the local, through a variety of crimes and issues that arise in the context of transnational law enforcement, recognising that global crime activities in transnational criminal networks are based in localities and affect local policing. The papers are also written from a variety of academic discipline and jurisdictional perspectives.

The first of the papers in this special issue, from **Alexander MacKenzie**, takes a broad view of the EU's increasing role in foreign policy provisions dealing with counter-terrorism. He recognises that the EU provisions on counter-terrorism cross all three pillars of the pre-Lisbon EU. He engages with these issues in the context of the EU's engagement outside its borders. This engagement crosses not only the military activities of the EU Member States, but also supports external policing activity and the counter-terrorism financing provisions of the EU. He advocates a broad interpretation of what is the EU's foreign policy, in order to truly understand the EU's activities in this area, stating that it "is necessary to distinguish between the external dimension of counter-terrorism and foreign policy counter-terrorism, and there is a need to combine these in order to better understand the EU as a counter-terrorism actor". MacKenzie's focus ranges from the EU's role in Afghanistan, through to the EU-US relationship, and the Commission-based Instrument for Stability (IFS) in order to develop his argument that "the EU has made considerable progress towards creating a multi-faceted counter-terrorism policy in the nine years since 9/11".

Moving from the external aspects of EU counter-terrorism activities, the second paper takes a tighter focus on the police function, engaging in a comparative analysis between European and Australian police cooperation measures. Writing from a legal perspective, **Saskia Hufnagel** examines, using broadly the 'fear of insignificance' concept from social psychology, reactions of law enforcement officers to the legal tools developed for cross border co-operation, at the EU level and within the Australian federal structure. It is interesting to note that both jurisdictions have developed many similar tools and strategies to include "cross-jurisdictional joint investigation teams, the creation of common information databases and the mutual recognition of criminal procedural requirements such as surveillance and arrest warrants". No doubt many lessons learned in one jurisdiction can be transferred to the other, with the intention being that the perceptions of law enforcement practitioners "need to be taken into account with a view to enhancing harmonisation in both systems".

The third paper is written by a former law enforcement officer, who examines "the practices of liaison officers and the background and effects of TREVI and EU policy efforts in that field". In particular the role of liaison officers posted to the Russian Federation is examined in depth, as an example of what essentially happens "in any other country". **Ludo Block** points out that the 'personal preferences of the individual liaison officer' are key to the quality and volume of work that can be conducted through the particular liaison officer. He goes on to point out that an important element to the functionality of the liaison officer is his or her 'ability to build a network of privileged contacts as well as their knowledge of legal and organisational particulars of the jurisdictions between which

they liaise'. Despite the EU's provisions and policy documents in this area the "posting and practices of liaison officers remain largely governed by national preferences and are subject to the specifics of the national police systems".

The fourth paper in this special issue focuses on the key issues of data protection and data security in the pre-Lisbon third pillar of the EU. As one of the main ways that the law enforcement agencies are to operate within the EU is the sharing of intelligence, or data, how that data is processed, and protected, both by way of security classifications, security procedures, and from the point of view of the individual either correctly or erroneously caught up in a law enforcement operation, from a data protection perspective, is key to the general functionality in this area. Gaps and overlaps in the EU legal framework in this area are highlighted, with **Maria O'Neill** taking a legal approach to the issue, pointing out that "newspaper headlines have followed previous failures of law enforcement and intelligence communities to share intelligence due to underlying structural failures". She advocates a review of the legal framework in this area, which is now facilitated by the post-Lisbon EU legal framework.

**Oldrich Bures** writes the fifth paper in this special issue, a paper on Eurojust's fledgling counter-terrorism role. While much work has been done on Europol, little has been written from an international relations perspective on Eurojust, an organisation typically populated by investigating and prosecuting magistrates. Bures points out that "it remains debatable as to whether all EU Member States fully support the strengthening of Eurojust's role in the fight against terrorism". He considers that "the uneven utilisation of Eurojust reflects the deeper and older differences concerning judicial cooperation at the EU level". However, what might also be relevant, as he points out, are the significant "differences in national police and judicial systems" with regard to "the perceptions of the 'proper' relations between judges and policemen". In this Editor's opinion, also relevant would be the allocated roles of 'judges' and 'policemen' in the different EU jurisdictions.

Focusing on the detail of cross-border law enforcement operations, **Laure Guille**, from a criminology background, takes an ethnographic approach to cross-border policing. Guille examines, in particular, cross-border cooperation on the French-Spanish Catalanian border and the Anglo-French border at Folkestone, examining the "gap between policy and practice". As the author states, "[cooperation] at the level of legal negotiations means nothing without the day-to-day work of officers in the field". The work in this paper is based on primary research conducted between December 2002 and June 2006, with some follow-up work being conducted until October 2008. This involved "face to face interviews with police officers, civil servants, prosecutors and liaison magistrates" from the relevant jurisdictions, together with interviews of officials based at Europol, Eurojust and the Council of the EU, together with periods of observation and internships. Of particular interest in this paper was how the "relatively new tools of cooperation" operated in practice.

The final paper focuses on one of the key 'EU crimes', money laundering, from a hybrid law/criminology perspective. Here the UK inter-agency relationships, in particular the Scottish inter-agency relationships, is examined. Given the high level of involvement of the regulated sector in this form of crime control, **Mo Egan** advocates that the traditional definition of 'private police' should be extended to the regulated sector. She examines the "highly precarious position" of the regulated sector within the EU based anti-money laundering framework, which is an area of concern to writers on this topic across the EU. In particular Egan focuses on the latest English case law in this area, and its potential impact in the devolved legal and policing jurisdiction of Scotland.

As Guest Editor, I would like to thank the peer-reviewers for their thorough reviews and helpful comments in assisting the development of all of the articles in this special issue. I would also like to thank the Editors of the JCER, Christian Kaunert and Sarah Léonard, for hosting this special issue and for their assistance at all stages of the publication of these papers, and UACES for the ongoing financial support for the Policing and European Studies research network and its conferences, from where many of these papers emanate.

\*\*\*